

GAUTENG PROVINCIAL LEGISLATURE

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

Wednesday, 14 June 2023

ANNOUNCEMENTS

none

TABLINGS

none

COMMITTEE REPORTS

1. The Chairperson of the Committee for the Scrutiny of Subordinate Legislation (CSSL), Hon. S M Letsie-Mogale, tabled the Committee's Report on the Gauteng Community Safety Oversight Bill [G003-2020] as it relates to regulations, as attached:



GAUTENG
LEGISLATURE
Your View ~ Our Vision

**COMMITTEE ON THE SCRUTINY OF SUBORDINATE
LEGISLATION (CSSL)**

**ADOPTED REPORT ON THE
GAUTENG COMMUNITY SAFETY OVERSIGHT BILL
[G003-2020]**

03 MAY 2022

I, Maphefo Letsie – Mogale, the Chairperson of the Committee on the Scrutiny of Subordinate Legislation (“CSSL”), hereby presents and tables on behalf of the previous Chairperson, Hon. DK Adams the Committee’s Report on the Empowering Provision that grants power to make Regulations on the Gauteng Community Safety Oversight Bill [G003-2020] follows:-

1. INTRODUCTION

On the 11th of August 2020, the former Member of the Provincial Legislature, Hon JC Moodey introduced the Gauteng Community Safety Oversight Bill [G003-2020] (“the Bill”) in the Gauteng Provincial Legislature. In terms of **Rule 200 (3) (c)** of the Standing Rules of the GPL, the Speaker to the Gauteng Provincial Legislature formally referred the Gauteng Community Safety Oversight Bill [G003-2020] for consideration and reporting to the Joint Committee.

The Committee’s report is sanctioned by Rule 235 (1), which provides for the CSSL to consider a provision that grants power to adopt subordinate legislation to ensure that they meet the requirements of Rule 235 (2). Rule 237 (2) provides that, the Report of the Committee for the Scrutiny of Subordinate Legislation on a Bill must be tabled in the House together with the report on the Bill of the relevant Portfolio Committee.

The CSSL considered the clause 31 of the Bill, which was an empowering provision that grants power to the MEC to make Regulations, on the Gauteng Community Safety Oversight Bill.

The Bill seeks:-

- To provide for the carrying out and the regulation of the functions of the Province and the Department of Community Safety under Chapter 11 of the Constitution of the Republic of South Africa, 1996;
- To provide for the support of and cooperation with the Civilian Secretariat and the Provincial Secretariat established in terms of the Civilian Secretariat for Police Service Act (No 2 of 2011);
- To provide for directives for the establishment of community police forums and boards in terms of the South African Police Service Act No 68 of 1995;
- To provide for the accreditation of organisations and associations as neighbourhood watches;
- To provide for partnerships with community organisations;
- To establish and maintain an integrated information system and a database of organisations;
- To provide for the voluntary registration of security service providers on the database of organisations;
- To establish the Office of the Gauteng Provincial Police Ombudsman to investigate complaints regarding the police;
- To regulate reporting on the police service;
- To establish the Provincial Safety Advisory Committee and to provide for matters incidental thereto.

2. PROCESS FOLLOWED

The Gauteng Community Safety Oversight Bill was referred by the Speaker, Hon N Mekgwe in terms of Rule 155 (1)(2)(3) of the Standing Rules to the Standing Committee on Scrutiny of Subordinate Legislation for consideration and reporting on 15 July 2020.

On Tuesday, 29th of June 2021, a Committee meeting was convened to consider the presentation on the Gauteng Community Safety Oversight Bill, 2020. The Committee further received a legal opinion and socio-economic analysis on the Section 31 of the Bill. After careful deliberations, the Committee decided to note the Bill as presented, so as to consider inputs and comments gathered from the public hearings convened by the joint Committee.

The joint Committee undertook public hearings on the Gauteng Community Safety Oversight Bill in the regions of the Province as follows:-

- **Cullinan Library Park Hall, Tshwane** on the 3rd of February 2022.
- **Centenary Hall, Krugersdorp**, on the 7th of February 2022.
- **Ekurhuleni**, on the 17th of March 2022.

Stakeholders made oral and written submissions on the Bill, however there were no submissions which related to the empowering provision of the Bill that the Committee needed to take into consideration.

3. DETAILS OF THE ENABLING PROVISION OF THE BILL

The Committee noted that Section 31 of the Bill provides that:-

31. The MEC may make regulations regarding:—

[(a) any matter in respect of which this Act requires or authorises regulations;]

- (b) the functions and duties of the MEC or the Ombudsman;
- (c) the receipt and processing of complaints submitted in terms of section 16;
- (d) the methodology for conducting an investigation of complaints submitted in terms of section 16;
- (e) the format and the procedure to direct persons under section 18(1) or to request an explanation under section 18(2);
- (f) requirements for reporting by the Provincial Commissioner or an executive head of a municipal police service in terms of this Act;
- (g) the format of any report required in terms of this Act;
- [(h) the determination of key indicators and types of empirical data that must be included in a report required in terms of this Act;]**

- (i) measures to ensure confidentiality, control of and access to information obtained through the integrated information system;
 - (j) the requirements for authorisation and screening of employees, investigating officers and other persons authorised by the MEC to perform functions in terms of this Act;
 - (k) indicators to oversee and assess the effectiveness and efficiency of the police service; or
- [(l) any other matter necessary for the effective execution of the functions in terms of this Act.]”**

4. SOCIO-ECONOMIC ANALYSIS ON THE ENABLING PROVISION

The Committee noted that all the aspects of Section 31 of the Gauteng Community Safety Oversight Bill, have included necessary aspects needed to fully operationalize the Bill. Socio-economic impact thereof could not be fully determined, the Department was however encouraged to continuously consider the social and economic impact when drafting regulations.

5. LEGAL IMPLICATIONS OF THE BILL

The Committee through the prism of this constitutional and legislative matrix analyzed the Clause 31 and concluded the following:-

The proposed Clause 31 (a) be revised to read as follows, to avoid any ambiguity or endowing the MEC with plenary legislative powers:-

“The MEC may make regulations, not inconsistent with this Act, prescribing: —

- (a) matters required or permitted to be prescribed under this Act”

The word “methodology” under Clause 31(d) was deleted and replaced with the word “procedure”

- “(d) the **[methodology]** procedure for conducting an investigation of complaints submitted in terms of section 16”

Paragraph (h) was deleted as it was largely covered by paragraph (g), and paragraph (l) was also deleted as paragraph (a) have covered it. This was to avoid any ambiguity or even possibly giving the MEC unintended plenary legislative powers.

6. COMMITTEE POSITION

The Committee noted that, during the Public Hearings proceedings, there were no comments raised which relates to Regulations.

The Committee further noted that the amended section 31 of the Gauteng Community Safety Oversight Bill was in line with the legislative drafting principles.

7. ACKNOWLEDGEMENTS

Special thanks are due to the following Honourable Members: MH Ciroti; MS Shackleton; KC Mazwi; TE Magagula; DP Malema and AA Ndlovana.

The Committee would further like to thank the following support staff for their dedication: Group Committee Coordinator, M Vaas; Senior Committee Coordinator, N Dlamini; Committee Coordinator, C Senoko; Committee Administrator, L Lamola; Manager Proceedings, R Chiloane; Principal Table Assistant, K Senkokile; Manager NCOP/Legal, S Ncube; Legal Advisor, Adv Laizer Mudau; Committee Researcher, S Buthelezi; Senior Information Officer, N Ntlebi; Communications Officer, T Mashifane; Hansard Recorder, S Baloyi and Service Officer, P Ximba.

8. ADOPTION

In accordance with Rules 163, 164, and 201 of the Standing Rules of the Gauteng Provincial Legislature, the CSSL Committee adopted the Report on the Gauteng Community Safety Oversight Bill.