

Parliament would have key role in Info Bill

Parliament would have a key role to play when it came to the classification of information under the Information Bill, while the authority to classify information as protected or not would not lie solely with the Minister of State Security, the Office of the Chief State Law Advisor says.

In its current form, the Protection of State Information Bill, under Section 3.2, gives the Minister of State Security, as well as oversight bodies and the national executive, the authority to determine whether or not to classify certain information and also gives the minister room to ask other bodies or organs for assistance in deciding whether to classify information or not.

However, the DA wants Parliament to first approve the classification of any protected information, before the Minister of State Security can classify it.

However, senior state law advisor Monwabisi Nguqu said in the bill's current form, the national executive and not the minister has ultimate authority when it comes to national security, while Parliament would have a key role to play in the classification of information as protected.

Briefing the National Council of Provinces' (NCOP) ad hoc committee set up to debate the bill, Nguqu said as the national executive is accountable to Parliament, it would therefore be expected to report any decisions it makes to MPs.

Nguqu also stated that the section in the Information Bill, which gives the Cabinet, security services and oversight bodies referred to in Chapter 11 of the Constitution, the authority to classify information as protected, is in keeping with the Constitution.

Case laws

He singled out various case laws, as well as Section 239 of the Constitution and Section 19, which states that national security is subject to the authority of the national executive and of Parliament.

After being tasked last week by the committee with looking at those areas that needed rephrasing, the state law advisor's office today also presented committee members with a document that contained the new insertions and deletions and those clauses where members expressed disagreement and where they had proposed insertions.

However, committee members were concerned, saying the state law advisor's office had not produced a document that was easy to read, with an ANC member saying that some of the ANC proposals seemed to be missing from the state law advisor's document.

Committee chairman Raseriti Tau recommended that members should look at the working document as a reference point rather than as a bill - and that members go through the document chapter by chapter and flag any further issues for later discussion.