

Portfolio Committee on Trade, Industry and Competition

Briefing by the dtic on the Revised APP and Implementation of legislation and progress on upcoming legislation

17 JUNE 2025



the dtic

Department
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

the dtic - together, growing the economy

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Purpose

- **the dtic** briefed the PC on 22 April 2025 on its APP, Strat Plan and Budget.
- The purpose of this presentation is to brief the Committee on the revisions to the APP, as tabled on 13 June 2025; and to brief the PC on the legislation, including the implementation and progress thereof.

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- Revisions to the APP targets
- Implementation and progress on upcoming legislation

Legislative Context & Alignment

- Submitted in line with Section 10(1)(c) of the Money Bill Amendment Procedure and Related Matters Act (2009)
- Guided by economic volatility, FATF greylisting pressures, and slow recovery
- Aligned with National Budget (21 May 2025) and Fiscal Framework (11 June 2025)
- Executive directive to revise APPs by 13 June 2025
- Supports fiscal alignment and Ministerial priorities

APP Review – Approach & Key Milestones

- Comprehensive technical review undertaken
- Emphasis on measurable indicators, strategic relevance, and Growth Path alignment
- Milestones:
 1. EXBO deliberations: Assessed and refined departmental inputs
 2. Ministerial engagements: Reviewed in light of National Growth Path
 3. Entity alignment sessions: Addressed spatial development & transformation
 4. Final refinements: One indicator removed in Programme
- Entities with revised APPs: IDC, NCC, Competition Commission, Companies Tribunal
- General Improvements: Enhanced Technical Indicator Descriptions (TIDs)
- Demonstrates commitment to responsiveness, innovation, continued impact, programme clarity improved
- Revisions reflects context, fiscal direction, and policy intent
- Reinforces dtic's mandate to deliver tangible results for South Africans

the dtic budget was not amended

Programme Revisions – Part I

Programme 1:

Administration -

Expanded forensic scope; metro investment indicator removed; new productivity indicator

- Expanded the scope of forensic investigations to include cases received via whistleblowing channels (e.g. National Anti Corruption Hotline (NACH), Minister's office, Presidency, Parliament, etc), now housed under the Internal Audit function. This is with the understanding that a majority of cases are finalised and feedback provided within 45 days for NACH cases.
- Removed the indicator on unlocking R1 billion per annum for economic infrastructure investment in three metros. Since municipal interventions through Operation Vulindlela led by the Presidency and National Treasury, and **the dtic** has a limited mandate to intervene in municipalities. This indicator has therefore been withdrawn.
- Number of funded skilled internships for municipalities indicator has been amended for renewed focus towards skills upgrading in firm productivity. With the revised indicator targeting the *Number of worker champions in receipt of skills upgrading for increased firm productivity*.

Programme 2:

Trade -

Adjusted targets reflecting US trade framework negotiations

- Adjusted targets to reflect developments in engagements with the United States, including negotiations toward a framework agreement aimed at enhancing mutually beneficial trade and investment relations.

Programme 4:

Clarity in indicators; EV battery policy target added

- Minor refinements to align annual and quarterly targets.
- Adjusted the Output Indicator wording for clarity in relation contributing to reduced importation of rail and transport equipment.
- Added a quarterly target for submitting a policy to support local EV battery production.

Programme Revisions – Part 2

**Programme 6:
Incentives** - GBS
jobs target revised
to target new jobs
created

- The target for jobs created through the Global Business Services (GBS) incentive has been revised.
- The GBS incentive will now report only on new jobs created. As a result, the component related to sustained jobs has been removed from the APP. The revised target of 4,000 new jobs is informed by previous performance and the available budget, in contrast to the earlier combined target of 50,000 jobs created and sustained.
- The previous combined target was separated into distinct components. Given budget constraints and past performance, the focus is now solely on new job creation, with the target adjusted from 50,000 to 4,000.

**Programme 9
Research:** Year 1
of venture capital
fund will focus on
benchmarking and
guideline
development

- For the venture capital fund initiative, Year 1 will focus on completing a global benchmarking study and developing implementation guidelines. This is a multi-year output, with implementation to follow in the outer years.

Implementation and progress on upcoming legislation

The implementation and progress on upcoming legislation

- **the dtic** presented the status and update of the implementation of legislation on 22 October 2024 to the Portfolio Committee. Part of the presentation was the review of the legislation.
- The Department has been having extensive discussions and strategic deliberations with **the dtic**, its group of entities and strategic experts on priorities of **the dtic** to solve major constraints in the economy with a focus on the high impact on the investor or user and the economy.
- The Department aims to play a critical role in unlocking bottlenecks and reducing red tape for businesses in South Africa.
- In the 2025/26 APP, **the dtic** is prioritising the Omnibus Bill that will cater for the reduction of several regulatory hurdles, promote investment and create the ease of doing business.
- The process to identify, review and develop a draft comprehensive Omnibus Bill is underway to address economic constraints. Several laws will be prioritised. The focus will also be to support other government Departments where applicable and feasible.
- Part of prioritising the Omnibus Bill will be to identify a list of laws that take the economic situation of South Africa into account. Progress on this process will be reported in the upcoming quarters. The legislation expected by Parliament is also being considered in the context of the Omnibus Bill.
- In addition, the Department will be developing a set of secondary legislation (Regulations) to respond to issues that were raised in the presentation in October 2024. Seven (7) Regulations will be prioritised, developed and gazetted for the public to address regulatory constraints in the economy and in the public interest.

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT, ACT 103 OF 1977 BACKGROUND

1. The administration of the National Building Regulations and Building Standards Act, Act 103 of 1977 resides with the Department of Trade, Industry and Competition. The National Regulator for Compulsory Specifications (NRCS) administers certain aspects of the Act on behalf of the Minister of Trade, Industry and Competition, whereas the municipalities are responsible for the implementation and enforcement of matters provided for in the Act in terms of Part B of Schedule 4 to the Constitution of the Republic of South Africa, 1996.
2. The Act provides for the promotion of uniformity in law relating to the erection of buildings in the areas of jurisdiction of municipalities and for prescribing of building standards and related matters. The primary aim of this legislation is to ensure the erection of safe buildings based on acceptable building science practice, good workmanship and the use of quality materials.
3. The Act is outdated and predates the Constitution. As a result of this, certain Sections of the Act have been successfully challenged in Court, thus necessitating the amendment of the Act to address these Constitutional and other legislative gaps within the current Act.

SECTIONS TO BE AMENDED - 1

- The Act was last amended in 1995, although Regulations were promulgated in 2010. There are two sections of the Act that have been successfully challenged and declared unconstitutional by the Constitutional Court. The proposal is that these sections are remedied in accordance with the Constitution:
- 1. Section 9 of the Act currently includes provisions relating to the Review Board of Appeal, which the Minister appoints, whereas municipalities are responsible for the implementation and enforcement of matters provided for in the Act. On 7 June 2018, in *City of Johannesburg Metropolitan Municipality v Chairman of the National Building Regulations Review Board and Others*, the Constitutional Court confirmed the declaration of invalidity made by the Pretoria High Court on section 9 on the Review Board of Appeal. It was declared unconstitutional by the Constitutional Court as it undermines the executive authority of the Local Authority in terms of section 156 of the Constitution of South Africa.
- To address the unconstitutionality of section 9, the Bill proposes that the executive authority of the relevant municipality must consider appeals as the appeal authority in accordance with section 51 of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013). Because this proposes an amendment, and not only a repeal of the section that was declared unconstitutional, it will necessitate publishing the Bill for public comment.

SECTIONS TO BE AMENDED - 2

2. Section 29(8) of the Act currently provides that a local authority must prior to the making and promulgation of any regulation or by-law that relates to the erection of a building, submit a draft thereof to the Minister for approval. Without such approval, a regulation or by-law promulgated will be void. The Constitutional Court on 23 June 2023, in *City of Cape Town v Independent Outdoor Media (Pty) Ltd and Others* has declared section 29(8) unconstitutional on the basis that it violates the exclusive legislative authority of municipalities by requiring the approval of the Minister before a by-law that “relates to the erection of a building” may be validly promulgated. The ruling found that section 29(8) usurps the powers of the municipality to exercise its original legislative powers by requiring that prior ministerial approval is given for the making of by-laws relating to the erection of a building. The Court ruled that section 29(8) infringes on the separation of powers principle of the Constitution.
 - To address the unconstitutionality of section 29(8) the Bill proposes that it be repealed.
 - The Minister approved the amendment of the Act in its entirety, rather than to deal with only those Sections that were declared unconstitutional.

SECTIONS TO BE AMENDED - 3

- Other areas that will be addressed are:

The Act was erroneously not included in Schedule 1 of the Justice Laws Rationalisation Act, Act No. 18 of 1996 (the Justice Laws Rationalisation Act). The Justice Laws Rationalisation Act extend the operation of certain laws to the whole national territory of the Republic of South Africa. This means that the Act is not applicable in the former homelands and independent states, such as the Transkei, Bophuthatswana, Ciskei, and Venda.

The Act doesn't currently bind the State, departments are not compelled to submit Building Plans for approval.

There have been more than 36 court cases against the Act. The source of the majority of these cases is section 7 of the Act. Section 7 of the Act is subjective in nature as it contains element related to "disfigured", "unsightly", and "objectionable".

The proposed establishment of the Coordinating Committee, to coordinate the work of the different role players within the built environment. It is proposed that this Committee comprise of all relevant government departments and institutions and be chaired by **the dtic**. Its main function will be to coordinate the work of built environment and assist the Minister in drafting the building regulations.

GUIDANCE BY THE OFFICE OF THE CHIEF STATE LAW ADVISER AND SOCIO- ECONOMIC IMPACT ASSESSMENT

- The Bill will be tagged as a Section 76 Bill and will be referred to the National House of Traditional and Khoi-San Leaders in terms of section 39(1)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), since it pertains to matters referred to in section 154(2) of the Constitution.
- The SEIAS was conducted;
- The SEIAS supported the proposed amendments;
- The financial implications were also considered during the SEIAS;
- There are no new financial implications for the State as the municipalities are already mandated by the constitution to administer the matters dealt with in the Act and are already exercising the powers and functions provided for in the Act in terms of their competence.

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- Considering the time that has lapsed since drafted, the documents are stale and the Bill have been submitted to OCSLA for a new pre-certification, SEIAS will be re-obtained and Bill will be resubmitted and presented to the Economic Cluster on 29 July 2025 due to new members in the Committee.
- The intention is for the National Building Regulations and Building Standards Amendment Bill, to be submitted to Cabinet for public comment in August 2025.
- Once approved by Cabinet, it will be published in the Government Gazette for a 30 day comment period; thereafter **the dtic** will go through the comments received and incorporate them in the Bill, where applicable/if needs be.
- The Bill would then be submitted to OCSLA for pre-certification, SEIAS to be re-obtained and Bill submitted to Economic Cluster, before going back to Cabinet for approval to introduce in Parliament.

PATENTS, DESIGNS AND TRADE MARKS LEGISLATIVE CHANGES CONSIDERATIONS

Key legislative changes



Patents Act- To repeal the Patents Act, 1978 (Act No. 57 of 1978), and the accompanying regulations to bring South Africa's outdated Patent regime in line with international best practice, including integrating the WTO TRIPS flexibilities. It will introduce substantive search and examination of patent applications which is a significant departure from the current depository system and will contribute to affordable and equitable access to medicines, among others. It will introduce reforms to provide for broader inclusive participation in the patent system, ensure protection of IP and promote innovation. The Bill was submitted to the Executive Authority. Two public workshop are planned on the proposed amendments and will be held in conjunction with the World Intellectual Property Organisation (WIPO). The workshops are being arranged for August/September 2025. Thereafter the Bill will be publish for public comment.

Designs Act: To amend the Designs Act, 1993 (Act no 195 of 1993). This Bill embodies provisions that are intertwined and should be advanced in parallel with the Patents Bill. The Patents Bill introduces "utility model patents". This utility model system provides more accessible protection for local incremental innovation that is common among small businesses in South Africa. The introduction of a utility model patents regime requires an amendment to the South African Designs Act as certain aspects of the current Designs Act will be rendered superfluous by utility models. The Bill was submitted to the Executive Authority.

Trade Marks Act: Amendments to the Principal Act, to accede and domesticate the Madrid Protocol Concerning the International Registration of Trade Marks adopted at Madrid on 27 June 1989. The Madrid Protocol ensures trade mark protection via a single international registration and promotes efficient protection of trade marks across jurisdictions. The submission to the Executive authority is expected in September 2025.

AMENDMENTS TO THE INTERNATIONAL TRADE ADMINISTRATION ACT

Key legislative changes



International Trade Administration Act (ITA Act): To amend the International Trade Administration Act, Act 71 of 2002, to strengthen and increase the effectiveness of provisions in the ITA Act to deal with fraudulent activities and illegal imports and exports.

Amendments are also being made to clarify the statutory underpinnings of ITAC's Tariff and Trade Remedy investigations and to streamline the process in line with international best practise. The amendments will also ensure efficient implementation of trade defense instruments in view of the current changes in the global landscape.

It is expected that the draft Amendment Bill will be published for initial public comments in August 2025

THANK YOU!