

PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

FRIDAY, 6 OCTOBER 2023

COMMITTEE REPORT

(Negotiating mandate stage) Report of the Standing Committee on Infrastructure on the Housing Consumer Protection Bill [B 10B–2021] (NCOP), dated 31 July 2023, as follows:

The Standing Committee on Infrastructure, having considered the subject of the Housing Consumer Protection Bill [B 10B–2021] (NCOP) referred to the Committee in accordance with Standing Rule 217, confers on the Western Cape's delegation in the NCOP the authority to support the Bill with the following recommendations:

1. General concerns and proposed amendments

Clause 16: Conditions of appointment of Chief Executive Officer and Chief Financial Officer

16(1) The appointment of the Chief Executive Officer and the Chief Financial Officer is subject to the conclusion with the Board of an annual performance contract, which must provide for the grounds on which the appointment of the Chief Executive Officer and the Chief Financial Officer may be terminated.

Clause 12: Committees of Board

12(4) The aspect of remuneration of co-opted members of committees of the Board must be determined by the Board with oversight by the Minister in consultation with the Minister of Finance.

Clause 13: Delegation and assignment of functions by Board

13(6) Remuneration agreements must be concluded in consultation with the Minister and the Minister of Finance.

Clause 14: Functions of Council

14(1)(n) Council must be obliged to consult with the provinces regarding developing and prescribing the requirements for the approval of a certification body and the listing of a competent person.

14(2)(a) Council must be obliged to call for comments by the provinces on the approval of a certification scheme and the approval of a certification body.

Clause 63: Administrative non-compliance with Act

63(3) Penalty provisions regarding failure to pay or commensurate with the category of fees payable in respect of a particular category of home of homebuilder must be clarified.

Clause 67: Alternative dispute resolution

67(2)(a) The term “adjudicate” should be re-considered or used in conjunction with other alternative dispute resolution mechanisms such as mediation and negotiation.

2. Technical concerns and proposed amendments

Clause 1: “technical standards” are akin to “Technical Requirements”. Use upper case letters, namely “Technical Standards”.

Clause 5: The word “the” is missing in clause 5(c). It should read as follows: “(c) ensure the structural quality of homes in the interests ...”.

Heading to Chapter III: It is suggested that the heading to this chapter be expanded to apply to the “Registration of Homebuilders and Developers”.

Clause 29: Register of enrolments

29(3) There is a mistake in the citation of the Promotion of Access to Information Act, 2000 in this clause. Correct the citation from “Promotion of Access to Information Act, 2000” to: Promotion of Access to Information Act, 2000 (Act 2 of 2000).

Clause 61: Powers and duties of Compliance and Enforcement Committee

61(1)(a) The references to “section 64(6) ... and section 63(6) ...” should be reversed to reflect the numerical order in which these sections appear in the text. Refer firstly to “section 63(6)” and its attendant provisions and then to “section 64(6)” and its attendant provisions.

Clause 85: Home Building Manual

85(5) The “National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008)” has been defined and the short form of the title to the Act ought to be used for this reason.

It is suggested that the title be amended and that the full citation of the “National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008)” be changed to the shortened form of the Act, namely the “National Regulator for Compulsory Specifications Act, 2008”.

3. Procedural concern

3.1 Concern was raised regarding the non-accessibility of communication in terms of public participation processes at the National Council of Provinces level.

3.2 The Bill contains certain drafting, grammatical and typographical errors. To improve the text, it is **RECOMMENDED** that the author review the Bill using generally accepted Commonwealth legislative drafting practices, as well as enlist the support of a language practitioner familiar with these practices.