Guide to Legislatures and Legislative Processes Affecting Mining Communities in South Africa

Mining Communities Matter Project

In partnership with Bench Marks Foundation, Bafokeng Land Buyers Association and ActionAid South Africa
This publication has been produced with the assistance of the European Union. Contents are the sole responsibility of The International Alliance on Natural Resources in Africa and can in no way be taken to reflect the views of the European Union.
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1. About this Guide

The purpose of this guide is to (1) provide information generally about legislative processes in the National and Provincial legislatures; and (2) focus in on key areas where mining affected communities and NGO's might intervene; and (3) provide ways to intervene. This guide is not exhaustive as there is much information in the public domain that can be accessed – especially online – which provides easy to understand discussions of the legislatures and their responsibilities and how to conduct advocacy with them. A critical aspect of this guide is also to highlight resources that can be accessed online.

This Guide was compiled through the work of the International Alliance on Natural Resources in Africa (IANRA) and its member organisations – in particular, the South African member organisations who participated in the Mining Communities Matter project, also called Building participation and advocacy among mining communities, CSO’s and legislatures for inclusive development. This project is co-funded by the European Union, with match funding also received from The Ford Foundation and Heinrich Böll Stiftung.
2. About the International Alliance on Natural Resources in Africa (IANRA)

IANRA is a network of 50 non-governmental and community based organisations in 14 countries in Africa and 1 in Europe working for more just and sustainable use of natural resources in Africa. NiZA – Netherlands Institute for Southern Africa (now ActionAid Netherlands) convened the first meetings of the founding members of IANRA in 2009, leading to its formation and then formal registration as a non-profit organisation in South Africa in 2012.

Critically important is the community-driven nature of IANRA. IANRA is about communities. It is about supporting communities affected by natural resource investments and policies to organise and advocate for their rights. Supporting communities affected by mining and other extractive industries has been a significant portion of our work. This also includes supporting communities in their advocacy and learning in relation to building relationships with parliamentarians and other government officials so that they can participate in government processes and provide information to officials regarding the challenges that they face.

IANRA as a collective has been building relationships with parliamentary bodies and intergovernmental parliamentary bodies, including through its member organisations, since 2010. IANRA has collaborative relationships with the SADC Parliamentary Forum, the Pan African Parliament, the International Conference of the Great Lakes Region Forum of Parliaments, the East African Community, ECOWAS, the African Minerals Development Centre of the AU, the African Commission on Human and Peoples’ Rights and the African Union Commission. In addition, IANRA has worked with the European Union Parliament and the United Nations Economic Commission for Africa. IANRA continues to provide technical assistance and educational opportunities to these bodies and their Members.
3. Legislative Structures

3.1 National Assembly and National Council of Provinces (NCOP)

The National Assembly is elected to represent the people and to ensure government by the people under the Constitution. It does this by choosing the President, by providing a national forum for public consideration of issues, by passing legislation and by scrutinising and overseeing executive action.¹

The National Council of Provinces represents the provinces to ensure that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces.²

The following chart provides an overview of the Scope, Powers and Public Participation Requirements of the National Assembly and the NCOP:

<table>
<thead>
<tr>
<th>SCOPE</th>
<th>NATIONAL ASSEMBLY</th>
<th>NCOP</th>
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<tr>
<td>Article 42 of the Constitution provides the mandate for the National Assembly: The National Assembly is elected to represent the people and to ensure government by the people under the Constitution. It does this by choosing the President, by providing a national forum for public consideration of issues, by passing legislation and by scrutinising and overseeing executive action.³</td>
<td>Article 42 of the Constitution provides the mandate for the NCOP: The National Council of Provinces represents the provinces to ensure that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces.⁴</td>
<td></td>
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¹ Constitution of the Republic of South Africa, Section 42
² South African Constitution, Section 43
³ Constitution of the Republic of South Africa, Section 42
⁴ Constitution of the Republic of South Africa, Section 42
<table>
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<tr>
<th><strong>POWERS</strong></th>
<th><strong>NATIONAL ASSEMBLY</strong></th>
<th><strong>NCOP</strong></th>
</tr>
</thead>
</table>
| Powers of the National Assembly are: | To amend the Constitution  
• To pass legislation  
• To assign legislative powers to any other legislative body, except the power to amend the Constitution  
• To oversee all organs of state, including the executive, ensuring that they are all accountable to it. | Powers of the NCOP are:  
• To participate in amending the Constitution  
• To pass legislation  
• To consider legislation passed by the National Assembly  
• Require a Cabinet member, a Deputy  
• Minister or an official in the national or a provincial executive to attend a meeting of the NCOP or its Committees. |

<table>
<thead>
<tr>
<th><strong>PUBLIC PARTICIPATION</strong></th>
<th><strong>NATIONAL ASSEMBLY</strong></th>
<th><strong>NCOP</strong></th>
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<tbody>
<tr>
<td>The National Assembly must: facilitate public involvement in legislative and other processes of the Assembly and its committees; conduct its business in an open manner and hold meetings in public. Reasonable measures may be taken to regulate public access, including access of the media, to the Assembly and its committees. The Assembly may also have people searched, refuse entry to people and have them removed in reasonable circumstances. The National Assembly may not exclude the public, including the media, from a sitting of a committee unless it is reasonable and justifiable to do so in an open and democratic society.</td>
<td></td>
<td>The NCOP must: facilitate public involvement in the legislative and other processes of the Council and its committees; and conduct its business in an open manner, and hold its sittings, and those of its committees, in public. Reasonable measures may be taken to regulate public access, including access of the media, to the Council and its committees. The NCOP may also have people searched, refuse entry to people and have them removed in reasonable circumstances. The NCOP may not exclude the public, including the media, from a sitting of a committee unless it is reasonable and justifiable to do so in an open and democratic society.</td>
</tr>
</tbody>
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### 3.1.1 PUBLIC PARTICIPATION

**Parliamentary Democracy Offices**

The National Parliament has established Parliamentary Democracy Offices in Western Cape (Central Office - national office), Northern Cape, Limpopo and North West Provinces. The functions of these offices are to:

- Provide information about parliament and its work
- Conduct public education and empowerment programmes about Parliament
• Provide a platform for the public to access, be involved and participate in the processes of parliament
• Provide support to parliamentary programmes
• Coordinate and cooperate with other spheres of government.

The PDO’s programmes include:

**Environmental Scanning:** Offices identify and gather information on community issues, needs and concerns in order to inform Parliament and ensure that their programmes’ envisaged objectives are achieved.

**Stakeholder Empowerment Workshops:** The purpose of these workshops is to empower stakeholders and community structures with the understanding and knowledge of parliament and its legislative processes, in order to enable them to effectively facilitate community matters pertaining to parliament and participate meaningfully in parliamentary processes and activities.

**Public Awareness:** This programme provides members of the public an opportunity to engage with the Members of Parliament and other spheres of government in connection with their issues. This platform is further used to inform the public, facilitate inputs and feedback on matters before Parliament.

**Support to Parliamentary Programmes:** Offices provide support to all parliamentary programmes in the provinces, particularly to both Houses, namely, the National Assembly and National Council of Provinces and their Committees.

**Annual Reviews with Stakeholders:** The purpose of the reviews is to provide a space for the stakeholders, communities and to provide feedback and input which is used to inform and improve parliament programmes. Stakeholders from the intended target areas are also invited.

Participating in these PDO programmes can assist mining communities. For example, providing information for the Environmental Scanning programme regarding the latest situations facing their communities can create more awareness and knowledge among MP’s and Parliament which can be used in its decision making processes. Communities and NGO’s can participate in the Stakeholder Empowerment Workshops to learn more about the legislature and ask questions about how to approach advocacy on certain issues. The Public Awareness programme activities can be used to give input and feedback to parliament as well. The Annual Stakeholder Reviews are an important avenue to give comments on the work of parliament for the year and provide information on what they did well or what they could improve on for the coming year.

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5 Available at: https://www.parliament.gov.za/parliamentary-democracy-offices
6 Available at: https://www.parliament.gov.za/parliamentary-democracy-offices
The following are the Parliamentary Democracy Offices:

<table>
<thead>
<tr>
<th>CENTRAL PDO</th>
<th>PDO LIMPOPO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office 52, Good Hope Building, Parliament of RSA, Cape Town, 8000</td>
<td>One Stop Shop Centre, Ga-Matlala Thaba, 0756</td>
</tr>
<tr>
<td>T: 021 403 3373 / 8215</td>
<td>PO Box 1516, Bakone, 0746</td>
</tr>
<tr>
<td>F: 021 403 3118</td>
<td>T: 015 227 0050/6</td>
</tr>
<tr>
<td>E: <a href="mailto:pdo-info@parliament.gov.za">pdo-info@parliament.gov.za</a></td>
<td>F: 015 227 8900</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PDO NORTHERN CAPE</th>
<th>PDO NORTHWEST</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 Meul Singel, PO Box 754</td>
<td>Old Municipal Building / Old Governor’s House, Phola Section, Ganyesa</td>
</tr>
<tr>
<td>Kakamas, 8870</td>
<td>PO Box 561, Ganyesa, 8613</td>
</tr>
<tr>
<td>T: 054 431 0508</td>
<td>T: 053 998 4262</td>
</tr>
<tr>
<td>F: 054 431 1951</td>
<td>F: 053 998 4261</td>
</tr>
</tbody>
</table>

### 3.1.2 PARLIAMENT'S OVERSIGHT ROLE

Ministers (The President's Cabinet) and Deputy Ministers are “accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions.” They must provide “full and regular reports” from their Departments. The Constitution requires parliament to oversee all organs of state, including the executive, ensuring that they are all accountable to it.

Mining communities and NGO's can assist with this function by providing information on the impacts of the work of the different departments on these communities. This includes the impact of mining on communities. Communities and NGO's can build relationships with Members of Parliament and Members of Provincial Legislatures and their staff to provide regular information on what is happening in their communities.

**Examples of evidence and information might include:**

- Providing photographic evidence of spillage of toxic sludge from mine pipes and results of tests performed on the sludge about toxic content, including showing where the spillage runs to and if it is exposed to children or other community members, or if it runs off into gardens or crops.
- One might also provide 1-page updates to MP’s/MPL’s related to problems faced by communities.
- Research reports conducted by communities, NGO’s, universities or institutes, or students. Brief key highlights from the research could be put into a 1-page document to highlight to the MP’s some of the issues that are of the most concern to the community as sometimes MP’s don’t have time to read many longer documents.

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7 Constitution of the Republic of South Africa, Section 92
8 Constitution of the Republic of South Africa, Section 92
• Policy proposals – this could include identification of a policy or aspect of policy or legislation that impacts a community or many communities and suggestions for changing it.

• Documentation from community monitors from Bench Marks Foundation as well as documentation provided by ActionAid’s community representatives, MACUA, WAMUA and BLBA.

• Satellite maps, community-drawn maps that show the scale of mining operations and encroachment onto community land, rivers/water sources, ploughing and grazing fields and so on.

Suggestions when providing information:

• Clear photos with brief, clear descriptions would assist in putting pressure as well as providing information to legislatures on these issues.

• Information can even be provided through WhatsApp or Email to the staff or the MP’s/MPL’s themselves.

• Written information should be as clear and brief as possible. One wants the MP/MPL or staff person to be easily digest the information and decide what to do about it.

• Try to always include simple suggestions on what the MP/MPL, staff person or Committee can do as far as taking steps regarding the action – be as specific as possible but be brief.

• Provide brief highlights on a cover page (just 1 page) with page references from a report for the reader to focus on when reading the larger document.

• Providing evidence is almost always beneficial and will strengthen the case being made to the legislatures.

• Be sure that claims and accusations are backed by credible information – try to be as specific as possible using numbers, amounts and percentages – general, vague statements do not make as much of an impact.

• Cite success stories from other communities, provinces or countries that have implemented proposals that are included in your advocacy. For example, places that have taken on implementing free, prior and informed consent or included it in policies or legislation.

3.1.3 PARLIAMENTARY COMMITTEES

Committees generally meet once per week when Parliament is in session, about 28 weeks per year. On the Parliamentary Monitoring Group’s website, people can follow particular Committees to see all their work and access documents at https://pmg.org.za/committees
Committee Schedules can be accessed here: https://www.parliament.gov.za/committee-schedules
and the parliamentary programme can be accessed on the front page of the website.
Proceedings of the National Assembly are available here: https://www.parliament.gov.za/minutes-proceedings
and papers tabled to Parliament can be accessed here: https://www.parliament.gov.za/tabled-papers

3.1.3.1 National Assembly Committees

The following section lists the Committees of the National Assembly as of May 2020
and issues of concern to mining communities that might be brought to each Committee. This list is not exhaustive, there are many more examples of issues that might be brought to Committees.

Portfolio Committee on Mineral Resources and Energy

Examples of what can be brought to the Committee:

- Problems with allocation of mining rights
- Environmental impacts of mining on communities, health, water, land, air
- Beneficiation
- Compensation for loss of land due to mining operations
- Worker rights at the mines, including subcontracted companies
- Problems with Social and Labour Plans
- Issues of Free, Prior and Informed Consent: taking land without consent, forcibly removing communities, grave removal without consent
- Intimidation of activists by mining company

Portfolio Committee on Environment, Forestry and Fisheries

Examples of what can be brought to the Committee:

- Problems with Environmental Impact Assessments and Environmental Management Plans
- Environmental impacts of mining on communities, health, tap water, rivers/stream/lakes/dams, land, air, crops, cattle and other livestock
- Intimidation of environmental activists
- Problems with water licences
- Conflicts between mining company and community on environmental issues
- Violations of environmental laws and regulation by the mining company
Portfolio Committee on Health
Examples of what can be brought to the Committee:
• Diseases and health conditions that are related directly or indirectly to mining: for example, asthma, radiation illness related to gold mine dumps and uranium mining, cancer, asbestosis, silicosis, tuberculosis, HIV/AIDS, other sexually transmitted diseases, methemoglobinemia (caused by exposure to high levels of nitrates, often resulting from mining in mining areas – although mining companies debate this)
• Lack of adequate health services in relation to the diseases above

Portfolio Committee on Agriculture, Land Reform and Rural Development
Examples of what can be brought to the Committee:
• Loss of ploughing and grazing land for mining
• Problems with replacement land after relocation
• Mining’s impact on growth/health of crops, cattle, other livestock
• Loss of land to mining without free, prior and informed consent
• Development/community projects related to the mine

Portfolio Committee on Human Settlements, Water and Sanitation
Examples of what can be brought to the Committee:
• Cracked houses from mine blasting
• Lack of foundations for houses in relocation areas
• Contamination of water due to mining – levels of heavy metals, in drinking water, for example
• Poor construction of toilets and other sanitation infrastructure in relocated communities
• Other problems with housing

Portfolio Committee on Women, Youth and Persons with Disabilities
Examples of what can be brought to the Committee:
• Discrimination against women for mine jobs
• Harassment against women and women mineworkers at the mine
• Impacts of mining on women, such as loss of water sources making women walk longer distances to access water which may be less safe and take more time
• Miscarriages due to exposure to radiation
• Skin blisters or rashes from accessing water sources that might be contaminated from the mine
• Burdens placed on women as caregivers when mineworkers get sick, when community members and children get sick (unpaid care work)
• Lack of jobs for young people and people with disabilities in the mining community provided by mine
• Lack of education and training opportunities
• Problems with schools being moved, removed or the threat thereof

**Portfolio Committee on Employment and Labour**
Examples of what can be brought to the Committee:
• Discrimination in relation to mine jobs
• Violations of worker rights – harassment/violence against union members, firing of workers for standing up for their rights
• Health and safety concerns of workers – lack of safety equipment; exposure to toxic chemicals, dust, water, sludge
• Harassment against women and women mineworkers at the mine
• Burdens placed on women as caregivers when mineworkers get sick
• Lack of jobs at the mine for young people and people with disabilities
• Lack of education and training opportunities that would lead to mine jobs
• Transition to a carbon-free society, e.g., one million climate jobs campaign

**Portfolio Committee on Governance and Traditional Affairs**
Examples of what can be brought to the Committee:
• Harassment of traditional leaders for standing up for community rights related to the mine
• Arrest and harassment of traditional leaders for protecting their ancestral land
• Challenges with sons or daughters of traditional leaders trying to usurp the role of chief, chieftainess, headman, headwoman
• Corruption of traditional leaders

**Portfolio Committee on Basic Education**
Examples of what can be brought to the Committee:
• Removal/closure or threats of removal of schools
• Mine blasting disturbing school classes or damaging school buildings or infrastructure
• Contamination of water due to mining – water at schools near mines should be regularly tested

**Portfolio Committee on International Relations and Cooperation**
Examples of what can be brought to the Committee:
• Concerns about multinational companies can be shared with this Committee

**Portfolio Committee on Trade and Industry**
Examples of what can be brought to the Committee:
• Concerns about mining companies can also be shared with this Committee
• Presentations regarding jobs and development that can be created through development of alternative energy sources (transition to a just carbon-free society, one million climate jobs campaign)

**Portfolio Committee on Police**
Examples of what can be brought to the Committee:
• Issues related to harassment and intimidation by police
• Police corruption in relation to the mine
• Mining communities/activists being denied human rights by the Police

**Portfolio Committee on Public Works and Infrastructure**
Examples of what can be brought to the Committee:
• Issues related to dams giving most of the water they produce to mines, bypassing local communities
• Road and bridge infrastructure problems related to the mines

### 3.1.4 NCOP COMMITTEES

The following section identifies some of the Committees of the NCOP as of May 2020 and issues of concern to mining communities that might be brought to each Committee:

**Select Committee on Land Reform, Environment, Mineral Resources and Energy**
Examples of what can be brought to the Committee:
• Problems with allocation of mining rights
• Environmental impacts of mining on communities, health, water, land, air
• Beneficiation
• Compensation for loss of land due to mining operations
• Worker rights at the mines, including subcontracted companies
• Problems with Social and Labour Plans
• Issues of Free, Prior and Informed Consent: taking land without consent, forcibly removing communities and similar problems
• Intimidation of activists by mining company
• Problems with Environmental Impact Assessments and Environmental Management Plans
• Environmental impacts of mining on communities, health, tap water, land, air, crops, livestock, rivers
• Intimidation of environmental activists
• Problems with water licences
• Conflicts between mining company and community on environmental issues
• Violations of environmental laws and regulation by the mining company
Select Committee on Health and Social Services
Examples of what can be brought to the Committee:
• Diseases and health conditions that are related directly or indirectly to mining: for example, asthma, radiation illness related to gold mine dumps and uranium mining, cancer, asbestosis, silicosis, tuberculosis, HIV/AIDS, other sexually transmitted diseases, methemoglobinemia (caused by exposure to high levels of nitrates, often resulting from mining in mining areas – although mining companies debate this)
• Lack of adequate health services in relation to the diseases above

Select Committee on Cooperative Governance and Traditional Affairs, Water and Sanitation and Human Settlements
Examples of what can be brought to the Committee:
• Harassment of traditional leaders for standing up for community rights related to the mine
• Arrest and harassment of traditional leaders for protecting their ancestral land
• Challenges with sons or daughters of traditional leaders trying to usurp the role of chief, chieftainess, headman, headwoman
• Cracked houses from mine blasting
• Lack of foundations for houses in relocation areas
• Contamination of water due to mining – levels of heavy metals, in drinking water, for example
• Poor construction of toilets and other sanitation infrastructure in relocated communities
• Other problems with housing

Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure
Examples of what can be brought to the Committee:
• Issues related to dams giving most of the water they produce to mines, bypassing local communities
• Road and bridge infrastructure problems related to the mines

Select Committee on Education and Technology, Sports, Arts and Culture
Examples of what can be brought to the Committee:
• Removal/closure or threats of removal of schools
• Mine blasting disturbing school classes or damaging school buildings or infrastructure
• Contamination of water due to mining – water at schools near mines should be regularly tested
3.1.5 FORMAL ADVOCACY MECHANISMS AT THE NATIONAL PARLIAMENT

3.1.5.1 Make a Submission to a Committee

Submissions are usually in written form, and they must be clear and easily understandable by the Members of the Committee. It can be supported by oral presentation. They are submitted to the committee secretary – requesting proof of receipt of the submission is highly recommended and any submissions received after the required deadline will not be considered by the Committee. For more information, the parliamentary webpage on submissions is: https://www.parliament.gov.za/submissions

Critical Information to Include in a Written Submission

- Address to Committee with its full title
- Name of Bill or Issue at Hand
- Insert the name & position of who is putting forward the submission with Contact Details
- Name of Organisation/s
- Include request to address the Committee if you would like to

Content of a Written Submission

- Focus on providing a critique on the topic or the Bill in question rather than being accusatory or disrespectful of people
- Be clear, concise, accurate – get straight to the point, avoid long sentences.
- Once you’ve made your point - move on
- Use evidence to support your critique and you can also refer to scholars, community members, academics, other ngo’s, government documents and reports on the issue or Bill
- Use respectful language
- Ensure your submission is relevant to the topic or Bill
- Conclusion: Summarise the main points of your submission
- Recommendations: Provide suggestions for specific policies, content of the Bill, or for what the Committee should do in relation to the topic

Oral Submissions

- These types of submissions are presentations in support of a written submission
- The Committee Secretary will provide the timeframe for the oral submission
- Visual Aids, such as a PowerPoint Presentation, can be of assistance if clear and to the point
- Any one of the official languages of South Africa may be used, but the Committee Secretary should be informed in plenty of time to prepare for an interpreter
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• Video, audio or transcripts of other submissions can be researched to assist in preparation

3.1.6 LODGE A PETITION

A petition is a formal request to the parliament to intervene in a matter of concern. According to the Constitution, “Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.”

Types of Petitions

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<tr>
<th>2 MAIN TYPES OF PETITIONS</th>
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<tr>
<td>SPECIAL PETITION</td>
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<tr>
<td>An individual may submit a petition requesting that parliament intervene on a matter.</td>
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<tr>
<td>GENERAL / PUBLIC PETITIONS</td>
</tr>
<tr>
<td>A group of citizens comes together to file a public petition to ask for intervention or redress.</td>
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</table>

How to Write A Petition

Petitions must be very carefully put together and worded. It may be useful to ask an MP or an MP's staff to help put a petition together as you develop a relationship with them.

Petitions are submitted to the Secretary of Parliament by an MP on behalf of the petitioners. The Secretary of Parliament reviews it to ensure it is in the correct format and that the content is acceptable. Then the Secretary forwards the petition to the Speaker of the National Assembly or the Chairperson of the National Council of Provinces.

The Petition must include the following, according to Parliament's website:

• Be in a form prescribed by the Speaker of the National Assembly (NA) or the Chairperson of the National Council of Provinces (NCOP)
• Include the name/s and contact detail/s of the petitioner/s
• Clearly indicate the intended recipient of the petition (to whom is the petition being addressed)
• Clearly indicate the nature of the request being made (the subject of the petition)
• Include a clear motivation for the petition
• The petition must be in any of the official languages of South Africa
• Be signed by the petitioner(s) themselves (unless the Speaker or Chairperson decides otherwise)
• Not contain improper or disrespectful language; and
• Must indicate the nature of the relief (assistance) asked from Parliament.

9 https://www.parliament.gov.za/petitions
10 https://www.parliament.gov.za/petitions
3.1.7 PARTICIPATE IN PUBLIC HEARINGS

Public hearings are generally conducted by committees of both the national and provincial legislatures. These hearings are often focused on a particular Bill but can also be about an issue or topic such as fiscal frameworks. Many NGO’s and mining community members have participated in public hearings, including ActionAid South Africa, Bench Marks Foundation, Bafokeng Land Buyers’ Association, Mining Affected Communities United in Action (MACUA), Women Affected by Mining United in Action (WAMUA), Center for Applied Legal Studies at the University of the Witwatersrand, Centre for Environmental Rights, Legal Resources Centre, Lawyers for Human Rights, groundwork, Land and Accountability Research Centre at University of Cape Town and others.

3.2 The Legislative Process

When potential legislation is introduced, it is called a Bill. There are 4 types of Bills:

- Section 74 Bills: These are Constitutional Amendments
- Section 75 Bills: These are ordinarily Bills that do not affect the provinces
- Section 76 Bills: These are ordinary Bills which do affect the provinces
- Section 77 Bills: These are called Money Bills. They include Bills which appropriate funds; impose, abolish or reduce national taxes, levies, duties or surcharges; authorises direct surcharges against the National Revenue Fund except a Bill envisaged in section 214 authorising direct charges.

3.2.1 GREEN AND WHITE PAPERS

Before a Bill is introduced to Parliament, there may be Green and White Papers drawn up by the relevant Department:

**GREEN PAPERS**

A Green Paper is a document that talks through the issues related to the potential Bill. It is published so that the public can make comments on it.

**WHITE PAPERS**

A White Paper is a more refined version of the Green Paper after public comments. Members of Parliament may submit amendments and send the White Paper back to the relevant Department for further revisions to be included in the Bill.

3.2.2 INTRODUCTION AND CONSIDERATION OF THE BILL TO PARLIAMENT

An Act of Parliament is introduced to the body as a Bill by a Parliamentary Committee, a Member of Parliament, a Minister or a Deputy Minister. It is usually written up by a government department under the direction of the Minister. Bills are introduced to both bodies of the national Parliament.

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11 Please see Appendices 3 and 4 for additional diagrams on the Legislative Process.
National Council of Provinces:
A Bill is introduced in the NCOP if it affects the Provinces, or a particular Province under Section 76 of the Constitution

National Assembly:
All Non-Provincial related Bills are introduced here under Section 75 of the Constitution

Once introduced to the relevant House it is referred to the appropriate Committee for consideration and published in the Government Gazette for public comment

The Committee Discusses and Debates the Bill, adds amendments

The Bill is sent back to the full NCOP or National Assembly for Debate and Vote

The Bill is sent to the other House of Parliament for Review and Vote

The Bill is sent to the President for Assent (Signing)

Source: Constitution of the Republic of South Africa, Section 73
3.3 Provincial Legislatures

The power of passing provincial legislation is vested in the provincial legislature. They have the power to pass provincial legislation in relation to matters in Schedule 4 and Schedule 5 of the Constitution (See Appendices 3 and 4) or any matter outside those areas that is assigned to them by national legislation. The provincial legislature may also assign legislative powers to Municipal Councils. Provincial legislatures may also pass a Constitution for the province and amend that Constitution.

3.3.1 PUBLIC PARTICIPATION

Provincial legislatures must facilitate involvement of the citizens in legislative as well as other processes of the legislature and its committees and they must hold their sittings and committee meetings in public. The legislatures must facilitate public involvement in their work, although access of citizens and the media to the legislatures and the public can be regulated by the legislatures. The public and the media may not be excluded from its sittings unless “it is reasonable and justifiable to do so in an open and democratic society.”

3.3.2 OVERSIGHT

Provincial legislatures are required to have mechanisms that allow them to oversee state executive organs in the province and ensure accountability of them to the legislature. Any person can be summoned to appear before the legislature in order to testify under oath/affirmation or to provide documents. The legislature can require any institution or person to provide reports to the legislature. Any person can also be compelled to comply with a summons or other requirement as stated in relation to giving evidence or providing documents. The legislature can also receive “petitions, representations or submissions from any interested persons or institutions.”

3.3.3 PETITIONS

Petitions must cover topics under the purview of the legislative or executive authority of provinces and should concern policy or service delivery matters which relate to departments or their entities or municipalities. The relevant Committee will investigate the matter and produce a report with recommendations to be submitted to the provincial legislation to consider.

For more information about how to write petitions, please see Section 3.1.7 of this Guide. Petitions to provincial legislatures can also be submitted online and provincial legislatures have their own guides which can be found at the following online locations:

12 Constitution of the Republic of South Africa, Section 118
13 Constitution of the Republic of South Africa, Section 115
**Gauteng Province**

**North West Province**
A petition can be submitted online here: https://nwpl.gov.za/useful-links/submit-e-petition/

**Mpumalanga Province**
A petition can be filed online here: http://www.mpuleg.gov.za/e-petitions.html

**Limpopo Province**
A form to use for submitting a petition can be found here: http://www.limpopoleg.gov.za/files/other/petition%20form%20amended.pdf

**Western Cape Province**
A form to use for submitting a petition in this province can be found here: https://www.wcpp.gov.za/sites/default/files/New%20Petitions%20Eng%20PRINT%20FILE_1.pdf

**Northern Cape Province**
A petition can be submitted online here and an information sheet on petitions can be downloaded here: https://www.ncpleg.gov.za/engage-with-us/petitions/

**KwaZulu-Natal Province**
This site provides a place to login and file an e-petition here: https://kznlegislature.gov.za/epetitions/

**Eastern Cape Province**
This site explains how to submit petitions to the legislature and provides a sample petition: http://www.eclegislature.gov.za/public_participation/petitions

**Free State Province**
This site is a place to submit a petition online: http://www.fsl.gov.za/e-petitions/index.htm

### 3.3.4 PARTICIPATION IN PUBLIC HEARINGS

Public hearings are held by provincial legislatures around the province in order to gather public comment on Bills in the legislature. Communities and NGO’s can attend these hearings and give testimony about Bills under consideration.
3.3.5 LEGISLATIVE PROCESS

A Member of the Provincial Legislature (MPL), a Provincial Legislature Committee or a Member of the Executive Council (MEC) may submit a Bill to Parliament. The Executive Council receives it and approves it, at which time it is published in the Provincial Gazette. Information about the Bill is published in newspapers in order to inform citizens about the Bill, after which citizens have at least 14 days to submit comments. The Speaker assigns the Bill to a Committee and MPL’s in that Committee discuss and propose amendments to the Bill if necessary. This will usually include processes of public consultation. The House then votes on the Bill and if it passes it is sent to the Premier for assent (signing) or the Bill can be rejected.

4. Resources

1. The Parliamentary Monitoring Group (PMG) has an immensely useful website (www.pmg.org.za) for any questions about Parliament, parliamentary processes, minutes of parliamentary and committee sessions and other parliamentary documents.
   • A resource by PMG on the legislative process: https://pmg.org.za/page/legislative-process
   • A document which reviewed the legislative process in Parliament can be found on the PMG website here: http://pmg-assets.s3-website-eu-west-1.amazonaws.com/docs/100903legislative-edit.pdf
   • Upcoming Bills and petitions being put before Parliament can be found here: https://pmg.org.za/page/parliamentary-programme
   • Committee reports can be found here: https://pmg.org.za/tabled-committee-reports/

2. The National Parliament has the following media platforms:
   • The Parliament is televised on DSTV 408
   • Twitter: https://twitter.com/ParliamentofRSA (Handle: @ParliamentofRSA)
   • Youtube: https://www.youtube.com/user/ParliamentofRSA
   • Facebook: https://www.facebook.com/ParliamentofRSA
   • The National Parliament’s website is https://www.parliament.gov.za/

4. Provincial Legislature Websites:
   - North West Provincial Legislature: https://nwpl.gov.za/
   - Northern Cape Provincial Legislature: https://www.ncpleg.gov.za/
   - Western Cape Provincial Legislature: https://www.wcpp.gov.za/

5. The Climate Reality Project has some excellent resources under its Action 24 project and they can be accessed here:
   http://climatereality.co.za/resources-action-24/

6. The Dullah Omar Institute at the University of Western Cape has excellent resources, including:
   - Parlybeat which is a newsletter covering what’s happening at Parliament, issues of Parlybeat can be found here:
     https://dullahomarinstitute.org.za/women-and-democracy/parlybeat
   - Parliament Watch or Parlywatch, which reviews the work of Parliament has reports which can be found here:
   - Putting People in the People’s Parliament – more information can be found here:

7. The Center for Applied Legal Studies (CALS) at University of the Witwatersrand has quite a few resources including submissions to Parliament on environmental and mining issues which can be found here:

8. The Land and Accountability Research Centre (LARC) at University of Cape Town has many resources, and a guide to doing submissions and examples of petitions they have submitted are found here: http://www.larc.uct.ac.za/submissions
5. Appendices

5.1 Appendix 1: The South African Legislative Process

Source: www.parliament.gov.za
5.2 Appendix 2: Diagram of How a Law is Made in South Africa (National Parliament)

A Bill is introduced in the National Assembly (NA) or the National Council of Provinces (NCOP)

Referred to relevant Committee and published in Government Gazette for public comment

Debated in the Committee and amended if necessary

Submitted to the House for further debate before vote is taken

Transmitted to the other house for concurrence

To President for assent

Act

Concurrence is when the legislation is sent to the other House to agree or not

Assent is when the President signs a Bill to make it an Act of Parliament and a Law of the Land

Source: www.parliament.gov.za
5.3 Appendix 3: Schedule 4 of the Constitution of the Republic of South Africa: Functional Areas of Concurrent National and Provincial Legislative Competence

PART A

- Administration of indigenous forests
- Agriculture
- Airports other than international and national airports
- Animal control and diseases
- Casinos, racing, gambling and wagering, excluding lotteries and sports pools
- Consumer protection
- Cultural matters
- Disaster management
- Education at all levels, excluding tertiary education
- Environment
- Health services
- Housing
- Indigenous law and customary law, subject to Chapter 12 of the Constitution
- Industrial promotion
- Language policy and the regulation of official languages to the extent that the provisions of section 6 of the Constitution expressly confer upon the provincial legislatures legislative competence
- Media services directly controlled or provided by the provincial government, subject to section 192
- Nature conservation, excluding national parks, national botanical gardens and marine resources
- Police to the extent that the provisions of Chapter 11 of the Constitution confer upon the provincial legislatures legislative competence
- Pollution control
- Population development
- Property transfer fees
- Provincial public enterprises in respect of the functional areas in this Schedule and Schedule 5
- Public transport
- Public works only in respect of the needs of provincial government departments in the discharge of their responsibilities to administer functions specifically assigned to them in terms of the Constitution or any other law
- Regional planning and development
- Road traffic regulation
• Soil conservation
• Tourism
• Trade
• Traditional leadership, subject to Chapter 12 of the Constitution
• Urban and rural development
• Vehicle licensing
• Welfare services

PART B

The following local government matters to the extent set out in section 155 (6) (a) and (7):

• Air pollution
• Building regulations
• Child care facilities
• Electricity and gas reticulation
• Firefighting services
• Local tourism
• Municipal airports
• Municipal planning
• Municipal health services
• Municipal public transport
• Municipal public works only in respect of the needs of municipalities in the discharge of their responsibilities to administer functions specifically assigned to them under this Constitution or any other law
• Pontoons, ferries, jetties, piers and harbours, excluding the regulation of international and national shipping and matters related thereto
• Stormwater management systems in built-up areas
• Trading regulations
• Water and sanitation services limited to potable water supply systems and domestic wastewater and sewage disposal systems

5.4 Appendix 4: Schedule 5 of the Constitution of the Republic of South Africa: Functional Areas of Exclusive Provincial Legislative Competence

PART A

• Abattoirs
• Ambulance services
• Archives other than national archives
• Libraries other than national libraries
• Liquor licences
• Museums other than national museums
• Provincial planning
• Provincial cultural matters
• Provincial recreation and amenities
• Provincial sport
• Provincial roads and traffic
• Veterinary services, excluding regulation of the profession

The following local government matters to the extent set out for provinces in section 155 (6) (a) and (7):
• Beaches and amusement facilities
• Billboards and the display of advertisements in public places
• Cemeteries, funeral parlours and crematoria
• Cleansing
• Control of public nuisances
• Control of undertakings that sell liquor to the public
• Facilities for the accommodation, care and burial of animals
• Fencing and fences
• Licensing of dogs
• Licensing and control of undertakings that sell food to the public
• Local amenities
• Local sport facilities
• Markets
• Municipal abattoirs
• Municipal parks and recreation
• Municipal roads
• Noise pollution
• Pounds
• Public places
• Refuse removal, refuse dumps and solid waste disposal
• Street trading
• Street lighting
• Traffic and parking