

New laws planned for South Africa – including changes to police, banks and when you can use a gun - BusinessTech

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Government has approved two new bills for public comment which are likely to have a far-reaching impact on the everyday lives of South Africans.

The first bill introduces a number of changes to the South African Police Service (SAPS) as well as a number of other important security considerations.

The second bill, gazetted by the National Treasury, will introduce further rules around banks and how they treat their customers.

The proposed pieces of legislation are outlined in more detail below.

Security

Cabinet has approved the new South African Police Service Amendment Bill for public comment, which promises a shake-up for the country's policing and security.

Police minister Bheki Cele said the amendments are long overdue.

“While all officers are guided by Section 205 of the Constitution of the country, there was a need to bring this bill in line with the Constitution to ensure optimal policing within the current environment,” he said.

The police minister outlined some of the most important changes as follows:

- **The integrity of the SAPS** – The amendments seek to address matters of vetting and integrity testing of those employed within the SAPS through lifestyle audits and conflict of interest. Those joining the service will also need to be subjected to processes to ensure the integrity of the organisation is maintained. Police recruits will be expected to also submit a buccal sample for DNA testing;
- **More powers for the minister** – The act will empower the Minister of Police to make regulations for the roles, functions, duties and obligations, requirements for appointment and disciplinary matters of deputy national and divisional commissioners;
- **Regulation of community policing**– The legislation will seek to enhance community policing and oversight of the Community Policing Forums over the police. The coordination between the police service and municipal police services needs to be improved in terms of the concept of single police service. It will enhance the

framework for the establishment, powers, functions and control of municipal police services;

- **New rules around firearms** – The amended bill will also give effect to the Farlam Commission recommendations. This includes the assurance that no automatic rifles may be used in crowd control, and that lethal force may not be used for protection of property only. The bill states that only whenever life and property is endangered simultaneously will the use of lethal force be warranted.

Cele said that the bill provides a way to improve relationships between the police service and the community by ensuring that police members deal with the public with dignity and respect the rights of the public, especially the rights of women, children and persons with disabilities.

“These amendments make room for accountability and discipline within the police service and I believe they will go a long way in ensuring that the SAPS better serves the people of this country whilst at the same time, boost the trust between communities and the men and women in blue,” he said.

Banking

The National Treasury has also published the second draft of the Conduct of Financial Institutions (Cofi) Bill for public comment.

The bill aims to significantly streamline the conduct of South Africa’s financial services sector including implementation of the Treating Customers Fairly (TCF) principles.

TCF is designed to ensure that regulated financial institutions deliver specific, clearly set-out fairness outcomes for financial customers. These include:

- Customers can be confident they are dealing with firms where TCF is central to the corporate culture;
- Products and services marketed and sold in the retail market are designed to meet the needs of identified customer groups and are targeted accordingly;
- Customers are provided with clear information and kept appropriately informed before, during and after point of sale;
- Where advice is given, it is suitable and takes account of customer circumstance;
- Products perform as firms have led customers to expect, and service is of an acceptable standard and as they have been led to expect;
- Customers do not face unreasonable post-sale barriers imposed by firms to change product, switch providers, submit a claim or make a complaint.

Treasury said that while these principles exist in South Africa, they are currently not enforceable, and while customer outcomes may have somewhat improved, this has not been consistent across the sector.

The bill will ensure that the TCF principles are legally binding and enforced on all financial institutions, it said.

Other proposed changes in the bill include:

- **Transformation** – This includes the requirement for financial institutions to have transformation policies are refined to require the policies to more closely align to the achievement of tangible targets. The revised draft also allows for the FSCA to issue directives in relation to transformation policies and clarifies that the FSCA may use its supervisory and enforcement powers to ensure that a financial institution’s governance frameworks – including in relation to transformation – are adequate and adhered to.
- **Further powers to the Financial Sector Conduct Authority (FSCA)** – The FSCA will thus be empowered through the conduct standard making provisions in the FSR Act to set conduct standards under the COFI Act. The bill will also allow the FSCA to better exercise its powers in conjunction with other relevant legislation, and other regulators with jurisdiction in the financial sector.
- **Licensing** – Provisions have been expanded and strengthened to provide for a more comprehensive licensing framework for the Twin Peaks regulatory authorities.