

Legislation: DA's Small Enterprises Ombud Service Bill tabled

The DA's Toby Chance has provided valuable insight into the thinking behind his Small Enterprises Ombud Service [Bill](#), which was tabled on Friday in the National Assembly, reports Pam Saxby for [Legalbrief Policy Watch](#). When an explanatory summary of the proposed new statute was gazetted a week earlier, [Legalbrief Today](#) reported that its purpose would be to provide small, medium and micro-enterprises (SMMEs) with an accessible, affordable 'alternative dispute resolution mechanism' in 'matters pertaining to agreements to which they are a party', focusing on late or non-payment. However, according to Chance government entities and corporates have been known to breach their contractual agreements with SMMEs in other ways, even employing 'bullying tactics' and unfair business practice.

The Bill seeks to address this by establishing an ombud service as a juristic person, operating as a national public entity listed in terms of the Public Finance Management Act, with its executive authority vested in the Minister. To that end, it provides for the ombud's functions, deals in detail with governance matters and spells out the procedures to be followed by an SMME when applying for relief. According to the Bill's clause 39, it is envisaged that this would take the form of: 'payment or repayment of monies owed in terms of a service agreement between the parties; (a) specific performance in respect of the execution of the terms of a service agreement between the parties; (the) cancellation of a service agreement between the parties; or (a) declaratory order clarifying a dispute of rights in terms of a service agreement between the parties'.

Given that the National Assembly's Small Business Development Committee has '*de facto* given its backing to the idea', which has also received the department's support, Chance is confident that the Bill will be taken seriously. Hopefully, in the spirit of President Cyril Ramaphosa's 'new dawn', Minister Lindiwe Zulu will recognise the important contribution an SMME ombud service could make to sustaining and growing a sector so vital to the country's socio-economic development. As [Legalbrief Today](#) has also reported, one of the recommendations in a recent committee [report](#) on the department's 2018/19 annual performance plan was that amendments to the 1996 National Small Business Act should provide for dispute resolution mechanisms that could include a 'small business ombudsman'.