PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

NOTICE 243 OF 2018

SMALL ENTERPRISES OMBUD SERVICE BILL, 2018

NOTICE OF INTENTION TO INTRODUCE THE SMALL ENTERPRISES OMBUD SERVICE BILL, 2018, A PRIVATE MEMBER'S BILL, INTO PARLIAMENT AND INVITATION FOR PUBLIC COMMENT THEREON

Mr Toby Chance, MP acting in accordance with section 73(2) of the Constitution of the Republic of South Africa, 1996, intends to introduce the Small Enterprises Ombud Service Bill, 2018 in Parliament during the second/third quarter of 2018. An explanatory summary of the Bill is hereby published in accordance with Rule 276(1) (c) of the Rules of the National Assembly (9th Edition).

Small, medium, and micro enterprises and co-operatives (SMMEs) comprise a large portion of the South African economy. These smaller companies, ranging from street hawkers to small factories, are the heartbeat of our economy and can be considered as the most accessible sector for entrepreneurs and those seeking to establish their product, brand or business. It is estimated that SMMEs generate up to half of gross domestic product (GDP) and nearly 60% of employment in SA. 90% of all new jobs are expected to be created by SMMEs by 2030, according to the National Development Plan. With more than 9.3 million people unemployed, supporting these SMMEs is critical.

Every effort must be made to ensure that SMMEs are given the backing and financial support they require in order to thrive and prosper. One of the key components in this regard is ensuring that SMMEs are paid swiftly and timeously. Without cash flow, SMMEs will struggle and eventually collapse. Furthermore, the current environment in which SMMEs operate is not conducive to the speedy resolution of disputes. SMMEs may not have the necessary financial and human resources infrastructure to sustain the protracted resolution of a dispute.

It is to this end that it is proposed that an Ombud Service be established that will have jurisdiction over those matters pertaining to agreements to which SMMEs are a party. Such an Ombud Service will provide an alternative dispute resolution mechanism to SMMEs, thus freeing these enterprises from delays and extensive costs occasioned by formal legal processes. Furthermore, this service will allow the Minister responsible for SMMEs to provide targeted interventions to assist SMMEs through the Ombud Service.

This Bill provides for:

- The establishment of the Small Enterprises Ombud Service (Ombud Service) as a juristic person;
- The functions, mandate, staff and funding of the Ombud Service;
- The establishment of a Board to the Ombud Service, the appointment of its members, its functions and internal operations.
- Application processes for the settling of disputes where one party is an SMME, which disputes include matters pertaining to the interpretation of service agreements and late- or non-payment of amounts owed and payable;
- The process to resolve disputes and matters related thereto;
- The orders that an adjudicator will be entitled to make upon due consideration of a matter and the right to appeal an adjudicator's order to the High Court on a question of law; and,
- Public access to information concerning orders having been granted against a person in terms of this Bill.

The Bill will be available on the website of the Democratic Alliance (https://www.da.org.za/) once it has been certified by the Chief Parliamentary Legal Adviser or a parliamentary legal advisor designated by him or her as required by Rule 279(4) of the Rules of the National Assembly (9th Edition). It may also, after introduction, be obtained from:

The Democratic Alliance
PO Box 15, Cape Town, 8000
Attention: Mr Alex Tarr / Mr Louw Nel
Telephone: 021 403 8641 / 021 403 3567
Facsimile: 021 466 8394
E-mail: alext@da.org.za / louwn@da.org.za

Interested parties and institutions are invited to submit written representations on the proposed content of the draft bill to the Speaker of the National Assembly within 30 days of the publication of this notice. Representations can be delivered to the Speaker, New Assembly Building, Parliament Street, Cape Town; mailed to the Speaker, P O Box 15, Cape Town 8000 or e-mailed to bmbete@parliament.gov.za and copied to alext@da.org.za.