

Committee adopts FIC bill with minor tweaks

The second step is a debate, probably next week, in the National Assembly on the slightly amended form of the Financial Intelligence Centre Amendment Bill

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After much heated debate, Parliament's standing committee on finance finally adopted a slightly amended form of the Financial Intelligence Centre (FIC) Amendment Bill on Tuesday.

Minor changes were introduced into the bill by the committee, which did not agree that the provision for warrantless searches was unconstitutional as President Jacob Zuma had suggested might be the case when he referred the bill back to Parliament in November.

The president's concern was that warrantless searches — which are allowed in a raft of other laws, including the Criminal Procedure Act — could represent an unjustifiable invasion of the privacy of the individual searched, especially when this took place on private premises.

The legal opinion sought from senior counsel by the Treasury and Parliament agreed there was nothing unconstitutional about the bill as it was adopted by Parliament in May.

However, Jeremy Gauntlett SC, for the Treasury, proposed that minor amendments could be made to clarify the circumstances in which warrantless searches could be conducted without this infringing on the right to privacy.

The committee decided to adopt this advice, tightening the conditions under which such searches could take place.

Despite pressure from bodies such as the Black Business Council (BBC) and the Progressive Professionals Forum (PPF), which want the bill scrapped entirely, the committee restricted its attention to the question of warrantless searches in line with the joint rules of Parliament, which state that committees can address only those matters raised by the president.

The amended bill will be sent to the National Assembly for consideration. The debate in the National Assembly, probably next week, would also be limited to the concerns raised by the president, committee chairman Yunus Carrim stressed at a committee meeting.

If approved by the National Assembly, the bill will be referred to Zuma, who can either sign it into law or refer it to the Constitutional Court if he still has concerns.

But this might not be the end of the road for the contentious proposals, which aim to heighten vigilance over the financial transactions of prominent influential persons, which include

ministers and senior officials in all spheres of government as well as the executives of private and state-owned enterprises.

The PPF, under the leadership of Mzwanele Manyi, has vowed to take the bill to the Constitutional Court.

It was the PPF and the BBC that petitioned Zuma not to sign the bill.

The consideration of the bill by Parliament and then Zuma in 2016 came at about the same time as four major banks terminated their relationships with Gupta-associated companies.

Reports of suspicious financial transactions to the FIC were at the heart of these actions.

From court papers filed by Finance Minister Pravin Gordhan in his application for a declaratory order that he has no authority to intervene in the decisions of the banks, it emerged that 72 dubious transactions amounting to R6.8bn were made by the Gupta family and their companies over a period of four years.

These suspicious transactions had been reported to the FIC. This was the context for the strong opposition to the amendment bill.