

Row brewing between ANC and South Peninsula Municipality over smoking laws

04.07.2001 Anso Thom

While the rest of country is implementing the new smoking legislation that came into effect on Sunday, Cape Town's South Peninsula Municipality is being accused by the ANC of stalling the process. The municipality is in the process of rescinding a by-law that takes precedence over national law, but the ANC's National Health Secretary Dr Saadiq Karim says they have been given ample time to make the changes and should be fined.

A row is brewing between the African National Congress and Cape Town's South Peninsula Municipality over the council's delay in implementing the new tobacco law banning smoking in public places.

While the rest of the country appears to be implementing the new tobacco law, the South Peninsula Municipality is still in the process of rescinding a by-law that currently takes precedence over the national law.

Legal advisor to the national health minister, Patricia Lambert has indicated that where there is a conflict national law takes precedence.

"However, there is a clause in the tobacco legislation which says that if a local authority had by-laws before the Act was promulgated then those by-laws apply," said Peter Ucko of the National Council Against Smoking (NCAS).

Ucko said the health department and the NCAS could make a case against the South Peninsula Municipality, but that it would "take an age to get to court and would probably have to end up in the Constitutional Court".

He said the municipality had agreed in February to rescind the by-laws.

"They wrote the necessary reports, submitted it to the council and got a resolution authorising them to proceed with rescinding the by-laws," Ucko explained.

Adverts were placed in local newspapers at the end of May and according to Ucko a few objections were received.

A report, that includes the objections, will be submitted to council for consideration at the next meeting on July 25 or August 29.

"We can take them to court, but they are following a process which in any event will be quicker," Ucko emphasised.

But the ANC's National Health Secretary Dr Saadiq Karim said they would treat all non-compliance seriously, and recommend that the minister take legal steps and impose the penalties on the offenders.

"We had looked at the South Peninsula Municipality matter previously...there had been a long enough grace period for all workplaces and businesses to make any adjustments, including structural that was needed in order to comply with the legislation. "This grace period has now lapsed, and the full effect of the law will now come into place," Karim said.

The ban on smoking in public places was enforced from Sunday (July 1).

Smoking is now only allowed in specially designated areas that do not take up more than 25% of the public space and are separated from the non-smoking area by a solid partition.

Air from the smoking area has to go directly outside, and not be re-circulated to any area within the public space.

Currently, four million people die due to tobacco every year. The death toll is expected to rise to 10 million by 2030.