

## **Parliament's NHI Process: ConCourt Tests Public Input On NHI**

**Business Day 4 May 2026**

**SOUTH Africa's highest court will this week scrutinise Parliament's NHI Process in two challenges that could reshape the National Health Insurance (NHI) rollout.**

**The Constitutional Court has set aside three days, from 5 to 7 May 2026, to hear applications brought by the Board of Healthcare Funders (BHF) and the Western Cape government.**

**The cases do not yet test the full substance of the NHI model. Instead, they focus on whether Parliament and the National Council of Provinces (NCOP) met constitutional duties to facilitate meaningful public involvement.**

**The rulings could determine whether the law-making process must be re-run, or whether a wave of paused challenges can restart.**

### **Parliament's NHI Process Faces A High-Stakes Test**

**At stake is what happens next for the NHI Act. If the applicants succeed, Parliament may have to reconsider the legislation. That could trigger amendments and delays at a sensitive political moment. The ANC no longer holds an outright majority, which raises the likelihood of negotiated changes if the process is reopened.**

**If the applicants fail, other legal challenges that were paused pending this week's outcome are expected to proceed. Several organisations have indicated they are ready to revive substantive attacks on parts of the Act once the procedural issues are resolved.**

### **How The NHI Bill Moved Through Parliament**

**The NHI Bill was introduced in August 2019. Parliament's health portfolio committee ran public hearings in provinces, called for written submissions, and held oral hearings in Parliament. Yet critics say the final text shifted little before the Bill moved to the NCOP in September 2023. It was passed months later and signed into law by President Cyril Ramaphosa on 15 May 2024, shortly before the national election.**

### **Parliament's NHI Process Under Fire From BHF**

**The BHF argues that the public consultation programme looked busy on paper but failed in practice. It says lawmakers did not properly weigh warnings from medical schemes, administrators, and other stakeholders. In its filings, the BHF claims Parliament adopted complex legislation without resolving key questions on cost, design, or impact on access to care.**

**Parliament's response is blunt. It says it worked hard to gather input, but it was not obliged to accept proposed amendments. In other words, Parliament argues that listening does not require agreement, and that the absence of major textual changes is not proof that consultation was unreasonable. Published by Health Matters: [trevor@health-matters.io](mailto:trevor@health-matters.io)**

### **Western Cape Claims The NCOP Rubber-Stamped The Bill**

**The Western Cape government's case targets the NCOP process. It argues that the select committee moved too quickly, rejected requests for more time, and failed to consider provincial reports and proposed amendments properly. The province says this undermined the NCOP's role as the channel for provincial participation in national law-making.**

**Parliament disputes that claim and says timetable shifts were allowed. It argues that the Western Cape sought extra time because it delayed its own hearings. Parliament also maintains that it considered the province's input in good faith, even if it did not adopt the province's position.**

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### **NHI Constitutional Court Challenge: What's At Stake**

**Business Day 1 May 2026**

**SOUTH Africa's National Health Insurance Act is one of the most ambitious legislative reforms since the advent of democracy. Its goal, universal health coverage, is widely supported. But ambition alone does not make legislation constitutional.**

**The Board of Healthcare Funders (BHF) will appear before the Constitutional Court from 5 to 7 May. Its case centres on a fundamental question: did Parliament meet its constitutional obligation to facilitate meaningful public participation when passing the NHI Act?**

**The BHF says it did not.**

## **The Core Legal Argument**

**Sections 59 and 72 of the Constitution require Parliament to facilitate genuine public involvement in the legislative process. This is not a formality. It is a safeguard designed to ensure that legislation reflects the concerns of those it will affect.**

**The NHI Bill attracted an unprecedented volume of public submissions. South Africans and healthcare stakeholders raised substantive concerns over more than a decade of policy debate - dating back to the introduction of the NHI Green Paper in 2011.**

**Those submissions questioned the feasibility, affordability, and implementability of the proposed reforms. They raised concerns about the absence of a clear funding model, the lack of detail on benefits, and the concentration of decision-making power.**

**Key policy decisions were deferred to future regulations rather than resolved during the legislative process. The BHF argues that without access to this critical information, meaningful participation was not possible. The public was asked to comment on a proposal whose most fundamental features remained undefined.**

### **Was Public Participation Meaningful Or Merely Symbolic?**

**The Constitutional Court has previously ruled that public participation must be meaningful - not symbolic. Hearing submissions is not enough. Parliament must demonstrate that it engaged with those submissions substantively and that the input had a genuine opportunity to influence outcomes.**

**The BHF's concern is not that Parliament failed to hold hearings. It is that the breadth and depth of public submissions appear to have had little effect on the final legislation.**

**Legal researchers and BHF member organisations argue this falls short of the constitutional standard - particularly for a reform of this magnitude. Published by Health Matters: [trevor@health-matters.io](mailto:trevor@health-matters.io)**

**Healthcare financing, institutional design, and resource allocation are all fundamentally restructured under the NHI Act. Reforms of this scale demand a process that is inclusive, transparent, and genuinely responsive.**

### **What The Outcome Could Mean**

**This case has implications well beyond the NHI itself.**

**The court's ruling will set a benchmark for the standard of public participation required in major South African legislation. It will determine whether stakeholder engagement in this country is substantive or merely procedural.**

**For executives in both the public and private healthcare sectors, the stakes are significant. The NHI Act affects every part of the health system - from how care is financed to how it is delivered and governed.**

**If the court finds that the legislative process was constitutionally deficient, Parliament may be required to revisit aspects of the Act. That would not necessarily kill the reform. It would, however, require a more rigorous process before it proceeds.**

### **Reform, Yes, But Done Properly**

**The BHF has been clear that this is not an attempt to block universal health coverage. The organisation supports the goal of a health system that delivers access, quality, and sustainability for all South Africans.**

**But the BHF argues that durable reform cannot be built on a flawed foundation. Legislation that has not been properly tested through public engagement is more vulnerable to implementation failure, legal uncertainty, and erosion of public trust over time.**

### **A Defining Moment For Health Policy And Democratic Process**

**The NHI Act Constitutional Court challenge is a defining moment - not just for healthcare, but for South African democracy.**

**The outcome will signal whether major policy reforms can be fast-tracked without adequate engagement, or whether the Constitution demands more. For healthcare industry leaders, legal practitioners, and policy professionals, the hearings this week are essential watching.**

**\*\*Related Keywords:\*\* NHI Act, National Health Insurance, Constitutional Court, Board of Healthcare Funders, BHF, public participation, universal health coverage, NHI Bill, South Africa health reform, healthcare funding, parliamentary process, constitutional challenge**

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