

*Monday, 13 December 2021]*

No 169—2021] THIRD SESSION, SIXTH PARLIAMENT

**PARLIAMENT**

**OF THE**

**REPUBLIC OF SOUTH AFRICA**

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**ANNOUNCEMENTS,  
TABLINGS AND  
COMMITTEE REPORTS**

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MONDAY, 13 DECEMBER 2021

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# ANNOUNCEMENTS

## National Assembly and National Council of Provinces

### The Speaker and the Chairperson

#### 1. Draft Bills submitted in terms of Joint Rule 159

- (1) **Marine Pollution (Prevention of Pollution from Ships) Amendment Bill, 2021**, submitted by the Minister of Basic Education.

Referred to the **Portfolio Committee on Transport** and the **Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure**, for information.

## National Assembly

### The Speaker

#### 1. Introduction of Bills

- (1) **The Minister of Forestry, Fisheries and Environment**

- (a) **National Veld and Forest Fire Amendment Bill** [B 24 - 2021] (National Assembly – proposed sec 75) [Explanatory summary of Bill and prior notice of its introduction published in *Government Gazette* No 45449 of 9 November 2021.]

Introduction and referral to the **Portfolio Committee on Forestry, Fisheries and Environment** of the National Assembly, as well as referral to the Joint Tagging Mechanism (JTM) for classification in terms of Joint Rule 160.

In terms of Joint Rule 154 written views on the classification of the Bill may be submitted to the JTM. The Bill may only be classified after the expiry of at least three parliamentary working days since introduction.

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# TABLINGS

## **National Assembly and National Council of Provinces**

### **1. The Minister of Finance**

- (a) Report and Financial Statements of the Reconstruction and Development Programme (RDP) Fund for 2020-21, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2020-21.
- (b) Consolidated Annual Financial Statements for the year ended 31 March 2021.

## **National Council of Provinces**

### **1. The Chairperson**

- (a) Report of the National Council of Provinces (NCOP) Rules Committee on the 9<sup>th</sup> Edition of the NCOP Rules, dated 10 December 2021.

Report of the National Council of Provinces  
(NCOP) Rules Committee on the 9<sup>th</sup> Edition of the NCOP Rules

Rules as adopted by the NCOP Rules Committee.

**Words in bold and brackets indicate deletions.**

**Words that are underlined are proposed amendments.**

**Definitions**

“**classification**” with reference to a Bill, means the classification of a Bill in terms of **joint rule 160** (6) or the reclassification of a Bill in terms of **joint rule 163**, and **“tagging”**, **“classify”** and **“classified”** have corresponding meanings;

**“Constitution”** [constitution] **Amendment** [amendment] **Bill**” means a Bill to which section 74 of the Constitution applies;

**“Constituency day”** means a day determined by the Programme Committee or by resolution of the Council on which no business of the Council is scheduled, unless determined otherwise;

**“Constituency period”** means a period determined by the Programme Committee or by resolution of the Council during which the business of the Council is interrupted;

**“Chairperson”** means Chairperson of the National Council of Provinces referred to in section 64(2) of the Constitution;

**“Chief Whip”** means the Chief Whip of the Council elected in terms of rule 13 of these Rules;

**“Council”** means the National Council of Provinces referred to in section 42(1)(b) of the Constitution and NCOP and has a corresponding meaning;

**“special [member] delegate”** means a special delegate to the Council envisaged in section 60(2)(a) of the Constitution;

**“Head of Delegation”** means a Premier or a member of the province’s delegation designated by the Premier contemplated in section 60(3) of the Constitution.

**“House Chairperson”** means a delegate elected in terms of section 64(7) of the Constitution;

**“Leave period”** means a period determined by the Programme Committee or by resolution of the Council as a leave period during which the business of the Council is interrupted;

**“mixed section 75/76 Bill”** means a Bill that contains provisions to which section 75 of the Constitution applies and provisions to which section 76 applies;]

**“motion”** means a proposal made by a delegate that the House or a committee does something, order something to be done or express an opinion concerning a particular matter;

**“notice of motion”** means a notice given on any sitting day for a motion to be moved on the next succeeding sitting day and is usually preceded by the words “Honourable Chairperson I hereby give notice that I shall move in the next sitting that the House. . .”;

**“motion without notice”** means a proposal made by a delegate that the House or a committee does something, order something to be done or express an opinion concerning a particular matter and is usually preceded by the words “Honourable Chairperson I hereby move without notice that the House . . .”;

**“Officer Presiding”** means the delegate presiding over the proceedings of the House;

**“Party Representative”** means a delegate, other than a Provincial Whip, designated as such to represent a party in any structure established by the Council;

**“Party Whip”** means a delegate, other than a provincial whip, designated as such to represent a party in any structure established by the Council provided the party is represented by 7 or more members in the Council;

**“Permanent Deputy Chairperson”** means Deputy Chairperson of the Council elected in terms of section 64(2) of the Constitution;

**“permanent member”** means a permanent delegate to the Council designated as such [envisaged] in terms of section 60 (2)(b) of the Constitution;

**“person in charge”, (c) in the Assembly, means a Council Member designated in terms of joint rule 217(1).]**

**“petition”** means a complaint or request or a representation or a submission addressed by a petitioner to the Council seeking redress on any matter falling within the jurisdiction of the Council;

**“Programming Whip”** means the Whip responsible for programming matters referred to in rule 13C;

**“Provincial Whip”** means a permanent delegate to the Council who is appointed as a whip of the provincial delegation and acts as a link between the Council and provincial legislature;

**“section 75 Bill” [, and includes a money bill];**

**[“section 76 Bill” means a Bill to which the procedure prescribed in section 76 of the Constitution applies;**

**“section 76(1) Bill” means a section 76 Bill introduced in the Assembly;**

**“section 76(2) Bill” means a section 76 Bill introduced in the Council;]**

**“section 76(3) Bill” means a Bill to which the procedure prescribed in section 76(1) or (2) of the Constitution applies;**

**“section 76(4) Bill” means a bill to which section 76(1) of the Constitution applies;**

**“section 76(5) Bill” means a bill to which section 76(1) of the Constitution applies;**

**“Secretary” means, unless the context indicates otherwise, the Secretary to [Parliament] the Council;**

**“special [member] delegate**

**“sitting day”, with reference to the Council, means a day on which the Council sits [in plenary] and it includes committee meetings;**

**“Parliamentary Protection Services” means any person employed, appointed, assigned, delegated or contracted by Parliament to perform security and protection functions within the precincts of Parliament;**

**“Whipery” means the Chief Whip, Programming Whip and Provincial Whip**

**Application of Rules to [non-member participants] members of the national executive, local government representatives or officials**

1. Except where **[clearly inappropriate]** provided otherwise, these Rules apply to delegates, a Cabinet member, a Deputy Minister, a local government representative or an official in the national or a provincial executive participating in the proceedings of the Council as the case may be, in terms of sections 66 **[or]** and 67 of the Constitution. **[as they apply to a member of the Council.]**

### **Public participation and access**

5. (c) responding to public or specific invitations to comment in writing or make verbal representations on bills or other matters before, or which are due to come before, the Council.

- [(i) to comment in writing on Bills or other matters before, or which are due to come before, the Council;**
- (ii) to make representations or recommendations in writing on such Bills or other matters; or**
- (iii) to give evidence or to make representations or recommendations before Council committees on such Bills or other matters, either in person or through a representative.]**

- (2) Public participation in terms of sub-rule (1) is subject to, and must be exercised in accordance with, the applicable provisions of these Rules and the Constitution.
- (3) The public has access to all official notices to delegates **[members]** and to all documents tabled in or submitted to the Council, **[subject to reasonable measures taken by the Chairperson of the Council to regulate such access,]** in a manner consistent with **[national laws]** the Constitution, these Rules and any other relevant legislation.

### **Election of Chairperson and Deputy Chairpersons of the Council**

6. (1) Whenever it is necessary to elect a Chairperson **[or a Deputy Chairperson of the Council]** the Secretary must **[,]** inform the Council of that fact **[,]** and **[the Council must summarily, or at the time announced by the Secretary]** after consultation with the Chief Justice, announce a time at which the Council



must proceed to elect a Chairperson **[or Deputy Chairperson]** in accordance with section 64 **[and Part A of Schedule 3]** of the Constitution.

(2) Whenever it is necessary to elect a Deputy Chairperson the Secretary must inform the Council of that fact, and after consultation with the Chairperson of the Council, announce a time at which the Council must proceed to elect a Deputy Chairperson in accordance with section 64 of the Constitution.

(3) Whenever it is necessary to elect a Second Deputy Chairperson the Secretary must inform the Council of that fact, and after consultation with the Chairperson of the Council, announce a time at which the Council must proceed to elect a Second Deputy Chairperson in accordance with section 64(3) of the Constitution.

#### **Election of other presiding officers**

**7(1)** The Council may elect from among its **[members a House Chairperson Committees and House Chairperson Oversight and Institutional Support]** delegates other presiding officers to assist the Chairperson and Deputy Chairpersons of the Council in the performance of their functions in accordance with section 64(7) of the Constitution [as additional presiding officers].

(2) A **[member]** permanent delegate elected under this rule holds office until that person's term as a permanent **[member or period of designation as a special member]** delegate expires or when that person resigns or is removed from office in terms of rule 14.

#### **[Function of Chairperson] Consultation**

**[8. The Chairperson of the Council must exercise the powers and perform the functions of the office of Chairperson after consulting the Deputy Chairpersons, other presiding officers, the delegation heads, the whips and any relevant committee wherever these Rules or the proper functioning of the Council requires such consultation.]**

8. The Chairperson of the Council must exercise the powers and perform functions of the office of the Chairperson after consulting other presiding officers and the Chief Whip wherever these Rules or the proper functioning of the Council requires such consultation.

**[Assignment of functions to Deputy Chairperson, Committees and members]**

**Delegation of functions**

9. The Chairperson of the Council may **[authorise a]** delegate, a Deputy Chairperson, other presiding officers, **[or]** a committee or **[member]** delegate, any function vested in **[in terms of these Rules in the Chairperson]** him or her.

**Acting Chairperson**

**10. [(b)The rotating Deputy Chairperson]**

(b) The House Chairpersons

**[(3) For the purpose of subsection (2) a reference in these Rules to the Chairperson of the Council must be read as a reference also to the permanent Deputy Chairperson of the Council if –**

- (a) the Chairperson is absent or unable to perform the functions of Chairperson;**
- (b) there is a vacancy in the office of Chairperson; or**
- (c) the Chairperson is not available to perform a function or exercise a power conferred on the Chairperson in terms of these Rules.]**

**Functions of the Permanent Deputy Chairperson**

**11. The Permanent Deputy Chairperson shall-**

- (1) convene the three spheres through Sector Parliament programmes with the focus of catalysing priorities emanating from the Constitution and other legislative and policy instruments;**
- (2) facilitate executive compliance with respect to recommendations set out in Sector Parliaments and executive commitments made during sectoral parliaments;**
- (3) track and monitor implementation progress to inform the oversight mandate of Parliament in respect of sectoral parliaments and ministerial briefings;**

- (4) develop and oversee an institutional deliberation tracking system for executive commitments made during sectoral parliaments and ministerial briefings;
- (5) develop a spatial-intelligence oversight strategy, to complement existing processes and systems;
- (6) exercise political oversight and three-sphere coordination in the referral and processing of executive undertakings, so as to track NCOP oversight deliverables; and
- (7) Oversight Advisory Committee

### **Relief of Chairperson**

**12.** A Deputy Chairperson or **[House Chairperson Committees or House chairperson Oversight and Institutional Support or another member]** another presiding officer or a delegate must take the Chair during a sitting of the Council whenever requested to do so by the Chairperson of the Council.

### **Absence of all presiding officers**

**13.** If all the presiding officers are unavoidably absent, the Council may **[summarily]** elect one of its members to act as Chairperson of the Council for that day only, the question being put by the Secretary.

### **Election of Chief Whip of the Council**

**14.** (1) The Council must elect from among its permanent **[members]** delegates a Chief Whip of the Council.

(2) A **[member]** delegate elected under this rule holds office until that person's term as a permanent delegate expires or resigns as the Chief Whip of the Council or is removed from office in terms of rule 21.

### **Functions of the Chief Whip of the Council**

**15.** (1) The Chief Whip of the Council shall:

- (a) co-ordinate the business of the House;
- (b) ensure quorum in the House and that members attend and participate in

- programmes and business of the Council;
- (c) coordinate the Speaker's list;
- (d) oversee the effective functioning of the Whippers; and
- (e) perform any other function that the Chairperson of the Council or the House may from time to time assign to him or her.

### **Acting Chief Whip**

16. (1) Whenever the Chief Whip is absent, he or she may designate any member of the Whippers to fulfil his or her function until his or her return.
- (2) Whenever the Chief Whip is unable to perform his or her functions, the Chairperson may appoint an Acting Chief Whip.

### **The Whippers**

#### **Establishment**

17. There is a Whippers.

#### **Composition**

18. (1) The Whippers consists of –
- (a) the Chief Whip of the Council;
  - (b) the Programming Whip; and
  - (c) the Provincial Whips.
- (2) A political party represented in the Council that does not have a Provincial Whip will be represented by a party representative.
- (3) A political party represented in the Council that does not have a Provincial Whip and has seven or more members is entitled to a Party Whip.

#### **Appointment of Provincial Whips**

19. (1) A provincial legislature may designate one of the permanent delegates in its delegation as a Provincial Whip.
- (2) In the absence of the Premier, the Provincial Whip performs the functions of the head of delegation.

## **Functions of the Provincial Whips**

### **20. The Provincial Whip must**

- a. co-ordinate the business of the provincial delegation;
- b. assist the Chief Whip in fulfilling his or her duties;
- c. ensure a link between the NCOP and provincial legislatures;
- d. coordinate the participation of the provincial delegation in the NCOP processes and proceedings;
- e. facilitate the briefing of the provincial legislature on legislation; or any other matter that is before the Council; and
- f. perform any other function that the Chairperson, the Chief Whip or the Council may assign to him or her.

## **Acting Provincial Whip**

### **21. Acting Provincial Whip**

- a. If the Provincial Whip is absent, the Provincial Whip may appoint a permanent delegate from the delegation of the province concerned, to act as Provincial Whip.
- b. Whenever the Provincial Whip is unable to perform the functions of the Provincial Whip, the Chief Whip may designate a delegate from the delegation concerned, to perform the functions of the Provincial Whip until the Provincial Whip returns or a new Provincial Whip is designated.
- c. An acting Provincial Whip has the responsibilities, powers and functions of the Provincial Whip.

## **Programming Whip**

**22. (1) The Council must elect from among its permanent delegates a Programming Whip of the Council.**

- (2) A delegate elected under this rule holds office until that person's term as a permanent delegate expires or resigns as the Programming Whip or is removed from office in terms of rule 21.

## **Functions of the Programming Whip**

### **23. The Programming Whip must**

- (1) ensure drafting of the parliamentary programme in consultation with the Chief Whip and Presiding Officers;
- (2) ensure proper programming of plenaries, meetings of committees and other activities of the Council; and
- (3) brief the Whippery and Programme Committee on the Programme of the Council.

### **Committee Whips**

**24.** The Chief Whip may, from time to time, designate a member of the Whippery to assume the responsibility of a Committee Whip of the Select Committee.

### **Functions of Committee Whip**

**25.** The Committee Whip must:

- (1) enforce discipline in the attendance of meetings of select committees; and
- (2) ensure that select committees conduct their business without disruption.

### **Removal of presiding and other officers from office**

**26.**(1) The Council may, by a resolution moved by the head of a provincial delegation and **[seconded by heads of at least three other delegations]** supported by at least five provincial delegations, remove from office the Chairperson or a Deputy Chairperson of the Council or another presiding officer or the Chief Whip of the Council.

(2) A draft resolution **[calling for the removal from office of the Chairperson, a Deputy Chairperson or another presiding officer or the Chief Whip]** –

(a) may not be placed on the Order Paper unless the **[delegation head]** head of delegation giving notice of the draft resolution has the support of at least **[three]** five other **[delegation head]** heads of delegation;

(d) may provide for the **[removal of the officer concerned with immediate effect upon adoption of the resolution or from a later date mentioned in the resolution]** date on which the removal will be effective.

- (3) The officer concerned may not preside over proceedings of the Council when his or her [that officer's] removal from office is considered.
- (4) After the draft resolution has been moved [**and seconded**] –
- (a) the mover [proposer] may explain the reasons for the proposed removal in a speech not exceeding 10 minutes;
- (c) each [**delegation head**] Provincial Whip, in a speech not exceeding three minutes, may explain the reasons for the vote of the province concerned.
- (5) The draft resolution lapses if [**on being put to the vote it is neither passed nor rejected by the votes of at least five provinces**] it is not moved on the day on which it is scheduled for debate or, on being put to the vote, it is rejected by the votes of at least six provinces.

### **Functions of the House Chairpersons Committees**

**27.(1)** The House Chairperson Committees shall perform the following in addition to any functions which the Chairperson of the Council or the Council may, from time to time delegate to him or her.

### **Functions of the House Chairperson Oversight and Institutional Support**

**27.(2)** The House Chairperson Oversight and Institutional Support shall perform the following in addition to any functions which the Chairperson of the Council or the Council may, from time to time delegate to him or her.

### **Proof of appointment or designation**

**28.(1)** When a provincial legislature appoints a person as a permanent [**member**] delegate or designates a person as a special [**member**] delegate [of] to the Council, the appointment or designation must be [**substantiated by an official communication to**] communicated in writing to the Secretary [**from or on behalf of**] by the legislature concerned.

- (2) When the Premier of a province designates a member [**of a delegation**] to head the delegation on Premier's behalf, the designation must be [**substantiated by an official communication to the Secretary from or on**

**behalf of the Premier]** communicated in writing to the Chairperson of the Council by the Premier.

- (3) A communication in terms of subrule (1) or (2) **[must be in writing, which may include electronically transmitted print and]**, whatever the case may be, must indicate –
- (a) the date from which the appointment as a permanent **[member]** delegate takes effect;
  - (b) the period or purpose for which the designation as a special **[member]** delegate is made; or
  - (c) the period for or the circumstances in which the **[delegation member]** delegate is designated to head the delegation on the Premier's behalf.

#### **Oath or solemn affirmation**

**29.** (1) Before permanent **[members]** delegates begin to perform their functions in the Council they must swear or affirm faithfulness to the Republic and obedience to the Constitution **[as prescribed by section 62 (6)]** in accordance with item 4 to Schedule 2 of the Constitution.

**[(2) The oath or solemn affirmation of members must be in accordance with item 4 of Schedule 2 of the Constitution and must be made-**

- (a) before the Chief Justice or a judge designated by the Chief Justice; unless**
- (b) it is a person filling a vacancy in a delegation; or**
- (c) a person appointed in terms of section 61 (2)(b) of the Constitution as amended, before any presiding officer of the Council.]**

(3) The oath or solemn affirmation by permanent delegates must be made before the Chief Justice or a judge designated by the Chief Justice unless it is by permanent delegate filling a vacancy in a delegation, in which case it may be made before a presiding officer of the Council.

#### **Absence of permanent [members] delegates**



30. (1) A person ceases to be a permanent **[member] delegate** of the Council if that person is, voluntarily and without leave, absent from sittings of the Council and meetings of its committees **[on each of]** for 15 consecutive **[sittings of the Council and the committee of the Council] days**.
- (2) A permanent **[member] delegate** seeking leave of **[to be absent]** absence from the Council for **[a period covering]** 15 or more consecutive **[sittings of the Council and committees of the Council] days** must apply for such leave **[to] from** the Council.
- (3) The application for leave of absence must state the reasons for the leave of absence and the period for which leave of absence is sought.
- (4) If the leave of absence is rejected by the Council, the reasons for such rejection must be communicated to the affected delegate.

#### **Loss of Membership due to absence from sittings of House-**

31. (1) Where a delegate loses membership as a result of absence referred to in rule 25, the Chairperson of the Council must without delay inform the delegate, the provincial legislature, the party that nominated the delegate and the Provincial Whip concerned.

#### **Conduct of business and proceedings**

32. The Council must conduct its business and those of its committees in accordance with the Constitution, these Rules, **[the Joint Rules]**, resolutions of the Council and parliamentary practice, **[in-**

- (a) plenary; and**
- (b) committees and subcommittee.]**

#### **Sitting days**

33.(1) The Council sits only on a working day, unless determined otherwise by resolution of the Council.

#### **35. [Venue] Seat of the Council**

### **Order Paper**

**36.** The business of the Council to be attended to at a sitting of the Council must be set out on an Order Paper arranged by the Chief Whip of the Council after consulting the Chairperson of the Council.

### **Minutes of Proceedings**

**37.** The proceedings **[in]** of the Council must be minuted by the Secretary and formally recorded in the Minutes of Proceedings.

### **Opportunity for silent prayer or meditation**

**38.** At the **[start]** commencement of the proceedings of the Council the officer presiding must afford **[members]** delegates an opportunity for silent prayer or meditation.

### **Interruption, suspension or adjournment of proceedings**

**39.**(1) The officer presiding at a sitting of the Council may interrupt or suspend or adjourn the proceedings **[or may adjourn]** of the Council to another day.

### **Admission of the public**

**40.** (2)(b) determine the entrances and routes through which the public **[can obtain]** may gain access to **[these]** those places.

(3)(a) to regulate public access, including access of the media, to the Council and its committees;

(b) to **[prevent and control misconduct]** regulate the conduct of the public in the public gallery; and

(c) to provide for the searching of any person, **[including that person's vehicle]** or other property in that person's possession, and, where appropriate, the refusal of entry to, or the removal of, any person from the proceedings of the Council or those of its committees.

### Orders to leave sittings

41. The officer presiding at a sitting of the Council may order a member of the public to leave the Chamber when it is necessary to give effect to the measures **[taken by the Chairperson of the Council]** referred to in **[under]** rule 35(3).

### Removal of persons

42. When instructed by the officer presiding **[officer]**, the Usher must remove or arrange for the removal of a person –

- (a) who, without permission, is present in that part of the Chamber designated for **[members]** delegates only or in another place which is out of bounds for that person; or
- (b) who disrupts the proceedings of the Council, causes a nuisance or does not withdraw from the Chamber when ordered to **[withdraw under]** do so in terms of rule 36.

### Visiting Heads of State

43. The Chairperson of the Council, after consultation with the **[delegation heads]** Provincial Whips, may invite any Head of State who is on a state visit to the Republic, to address the Council.

### Freedom of speech

44. **[Members]** Delegates -

- (a) have freedom of speech in the Council and in its committees and subcommittees, subject to these Rules and the Constitution; and

### Movement in Chamber

45. A **[member]** delegate may not –

- (a) pass between the **[Chair]** officer presiding and a **[member]** delegate addressing the Chair;
- [(b) pass between the Chair and the Table;]** or
- [(c)]** (b) stand in any of the **[passages]** passageways in the Chamber.

### **[Members]** Delegates may not converse aloud

46. During a debate in the Council no **[member]** delegate may converse aloud.

**[Members] Delegates may not be interrupted**

47. No **[member]** delegate may interrupt another **[member]** delegate who is addressing the Chair, except to call attention to a point of order or a question of privilege.

**Order at adjournment**

48. When a sitting of the Council adjourns, the **[members]** delegates must rise and remain in their places until the officer presiding has left the Chamber.

**Precedence of presiding officer**

49. Whenever the officer presiding rises during a debate in the Council, a **[member]** delegate addressing or seeking to address the Chair must **[sit down]** take his or her seat and allow the officer presiding to be heard without interruption.

**Irrelevance or repetition**

50. The officer presiding may order a **[member]** delegate addressing the Chair to stop speaking if that **[member]** delegate, despite warnings from the Chair, persists in irrelevant or repetitive arguments.

**[Member] Delegate ordered to leave**

51. (1) The officer presiding may order a **[member]** delegate to leave the Chamber immediately for the remainder of the day's sitting if the officer presiding is of the opinion that –

- (a) the **[member]** delegate is deliberately contravening a provision of these Rules;
- (b) the **[member]** delegate is in contempt of or is disregarding the authority of the Chair; or
- (c) the **[member's]** delegate's conduct is grossly disorderly.

(2) A **[member]** delegate ordered to leave the Chamber may not participate in any parliamentary activities during that day.

### **Censure of [member] delegate**

52. (1) If an officer presiding is of the opinion that the behaviour of a **[member] delegate** is of so serious a nature that an order to leave the Chamber for the remainder of the day's sitting is inadequate, the officer presiding may order the offending **[member] delegate** to leave the precincts of Parliament until the Chairperson of the Council has announced what action is to be taken against the **[member] delegate**.

(3) The Chairperson may–

- (a) **[must report the offending member]** if the offending [member] delegate is a special delegate, report him or her to the provincial legislature concerned; **[and] or**
- (b) suspend the offending **[member] delegate** if that **[member] delegate** is a permanent **[member] delegate**.

### **Period of suspension**

53. (1) The suspension of a permanent **[member] delegate** on the first occasion during an annual session continues for **[five] 5** working days, on the second occasion for 10 working days, and on any subsequent occasion for 20 working days.

(2) During a suspension the permanent **[member] delegate** concerned may not enter the precincts of Parliament.

### **Apologies**

54. (1) A permanent **[member] delegate** who has been suspended or whose suspension is being considered may submit a written apology to the Chairperson **[of the Council]**.

(2) The Chairperson may accept or reject the apology, and if accepted –

- (a) may revoke the suspension, **[where the member has been suspended]**  
or
- (b) where the suspension was under consideration, authorise the **[member] delegate** to return to the precincts of Parliament; and

- (3) An apology accepted by the Chairperson **[of the Council]** must be recorded in the Minutes of Proceedings.

### **Debating of charges against [member] delegate**

56. If a charge for contravention of these Rules is made against a **[member] delegate**, that **[member] delegate** must be given the opportunity to be heard.

### **[Members] Delegates to address Chair**

57. A **[member] delegate** must address the Chair when speaking and, if possible, must stand while doing so.

### **Calling of [members] delegates**

58. (1) A **[member] delegate** may speak in a debate in the Council only when called upon to do so by the officer presiding.

- (2) (a) a list of [scheduled] speakers for the debate; and

- (b) the times allocated for speeches by delegates [members representing different provinces or parties].

- (3) The list of [scheduled] speakers must be prepared by the **[delegation whips] Chief Whip after consultation with chairperson of a relevant committee or the provincial whip, [or] and**, if the debate concerns a matter to be decided in terms of section 75 of the Constitution, the party representatives or party whips.

### **Time limits for speeches**

59. (1) Except where these Rules provide otherwise, **[members] delegates** may not speak in a debate in the Council for longer than the time allocated to them in the list of **[scheduled]** speakers.

- (2) If **[or in so far as]** times have not been allocated-

- (a) the President, the Deputy President, and the **[member] delegate** in charge of the business before the Council, may speak for as long as **[they need] it is necessary**; and
- (b) other **[members] delegates** may not speak on a budget vote for longer than 10 minutes at a time, or, on any other business before the Council, for longer than 30 minutes at a time.

### **Offensive and unbecoming language**

**60.** No **[member] delegate** may –

- (b) deliberately make a statement **[in the Council]** which the **[member] delegate** knows **[is] it to be** false.

### **Reference to a delegate by name**

**61.** No **[member] delegate** shall refer to any **[member] delegate** by his or her first name or names only.

### **Reflection upon previous Council decisions and on judges, etc**

**62.** (1) No **[member] delegate** **[,while addressing the Council,]** may reflect upon any decision of the Council taken in the same annual session, except for the purpose of moving that such decision be amended or rescinded.

- (2) No **[member] delegate** **[,while addressing the Council,]** may reflect upon the honour of a judge, or of the holder of an office whose removal from office is dependent upon a decision of the Council, except upon a substantive motion in the Council alleging facts which, if true, would in the opinion of the Chairperson **[of the Council]** warrant the removal from office of the judge or the holder of that office.

### **Matters pending before the courts**

**63.** No **[member] delegate** **[, while addressing the Council,]** may reflect on the merits of any matter on which a judicial decision is pending.

### **Rule of anticipation**

**64. (1)** No **[member] delegate** [, **while addressing the Council,**] may anticipate the discussion of a matter appearing on the Order Paper.

### **Explanations**

**65. (1)** (a) During a debate in the Council a **[member] delegate** may be allowed to explain a previous speech but only when and to the extent that the speech has been misquoted or misunderstood in a material respect.

(b) The **[member] delegate** giving the explanation may not introduce any new matter.

**[(c) No debate on the explanation may be allowed.]**

(2) (a) A **[member] delegate** may, with the prior consent of the officer presiding, explain a matter of a personal nature to the Council.

(b) The **[member] delegate** may not speak for longer than three minutes and is strictly confined to vindicating own conduct.

**[(c) No debate on the explanation may be allowed.]**

### **[Points or order**

**When a point of order is raised, the member addressing the Chair must stop speaking and sit down, and after the point of order has been stated the officer presiding may summarily give or reserve the Chair's ruling or decision.]**

### **Acting for absent **[member] delegate****

**66.** If the **[member] delegate** in charge of a motion or an order of the day is absent from the Council, another delegate authorised by the absent delegate may take charge of the motion or order.

### **Rights of **[member] delegate** to speak**

**67. (1)** **[A] No [member] delegate** may **[ speak in the Council ] interrupt another delegate whilst speaking, except** —

(a) **[when called by the officer presiding]** to call attention to a point of order;

**[or**



**[(b) to a point of order]** (b) a question of privilege; or

(c) at the discretion of the presiding officer, on a point of clarity to request permission to put a question to the delegate speaking.

### **Points of order**

68. (1) A delegate may raise a point of order at any time during the proceedings of the House by stating that he or she is rising on a point of order.

(2) A point of order must be confined only to a matter of parliamentary procedure or practice, or a matter relating to unparliamentary conduct, as defined, and must be raised immediately when the alleged breach of order occurs.

(3) (a) The delegate raising the point of order must refer to the exact rule, or at least the principle or subject matter, on which the point of order is based.

(b) If the delegate does not do so, the presiding officer may require him or her to do so, and if he or she fails or does not adequately do so, the presiding officer may summarily rule that it does not amount to a point of order or that the matter is out of order.

(4) The presiding officer may, at his or her discretion, allow delegates to address the presiding officer briefly on a point of order that has been raised.

(5) The presiding officer must give a ruling, and may give his or her ruling or decision on the point of order immediately, or defer the decision to the earliest opportunity thereafter by way of a considered ruling.

(6) No point of order may be raised in response to a ruling in terms of sub-rule (5)

(7) No other delegate may raise another point of order before the presiding officer has ruled on the first point of order.

(8) No delegate may raise a point of order again or a similar point of order, if the presiding officer has ruled that it is not a point of order or that the matter is out of order.

(9) Delegates may not disrupt proceedings by raising points of order that do not comply with this rule.

(10) When a point of order is raised during a debate, the delegate called to order must resume his or her seat, and after the point of order has been stated to the presiding officer by the member raising it, the delegate raising the point of order must likewise immediately resume his or her seat when he or she has concluded his or her submission or if the presiding officer asks him or her to do so.

(11) The presiding officer's ruling on a point of order is final and binding, and may not be challenged or questioned in the House.

(12)(a) A delegate who is aggrieved by a presiding officer's ruling on a point of order may subsequently in writing to the Chairperson of the Council request that the principle or subject matter of the ruling be referred to the Rules Committee.

(b) The Rules Committee may deal with the referral in terms of Paragraph (a) as it deems fit, provided that it must confine itself to the principle underlying, or subject matter of, the ruling concerned, and may not in any manner consider the specific ruling which is final and binding.

### **When reply allowed**

**69.** A reply must be allowed by the **[member] delegate** –

### **Debate closed**

**70.** A reply to a debate closes a debate **[in the Council]** unless the officer presiding decides otherwise **[allows further discussion]**.

### **Determination of a day for decision of postponed questions**

**71.** Whenever expedient the Chairperson **[of the Council]** may determine a day for the decision of questions by the Council.

### **Question fully put**

**75.** (1) No **[member] delegate**, except a **[member] delegate** who is permitted to make a declaration of vote, may speak to any question after it has been fully put by the presiding officer.

(2) A question to be decided by the votes of individual **[members] delegates** is fully put when the voice of both the "Ayes" and the "Noes" has been given on it or electronic voting thereon has been closed.

(3) A question to be decided by the votes of **[provinces] provincial delegations** is fully put when **[put immediately before an opportunity for declaration of votes is or may be given]** heads of delegations or a person designated as such votes on the question.

### **Absence of quorum for decisions**

**76.** (1) When a question before the Council is to be decided by the votes of individual **[members] delegates** and fewer than one third of the **[members] delegates** are present when the vote is to be taken the bells must be rung for three minutes.

(1) If at least one third of the **[members] delegates** are still not present after the bells have been rung, the officer presiding must postpone the decision of the question.

### **[List of special members to be submitted**

**62.** (1) Each delegation head must from time to time submit to the Secretary a list of the names of persons who serve as special delegates in the provincial delegation for the respective matters on the Order Paper which must be decided by the votes of individual members.

(2) A dispute on which person is entitled to vote as a special member on any particular question must be settled by referring to the latest relevant list before the vote on that question is taken]

## **PART 2: VOTING BY INDIVIDUAL [MEMBERS] DELEGATES**

### **Declaration of vote**

77. When a question to be decided by the votes of individual **[members]** delegates has been fully put, the officer presiding may allow each political party in a speech not exceeding three minutes, to state the reasons why the party is in favour of or against the question.

### **Recording of opposition**

78. **[(1)]** Whenever a question to be decided by the votes of individual **[members]** delegates is put by the officer presiding, any **[member]** delegate, instead of demanding a division, may request the **[opposition]** objection of that **[member]** delegate or party, **[or of that member's party, to]** be formally recorded in the Minutes of Proceedings.

**[(2) The officer presiding may order a division if four or more members request that their objections be formally recorded.]**

### **Demand for division**

79. (1) After a question has been put and the officer presiding has indicated whether the "Ayes" or the "Noes" have it, any **[member]** delegate may demand a division.

(2) If fewer than four **[member]** delegates support the demand for the division, the officer presiding must forthwith declare the decision on the question.

(3) If four or more **[member]** delegates support the demand, a division must take place without debate.

### **Procedure for divisions**

80. (a) The officer presiding must order the bells to be rung for three minutes or less if agreed to by the Provincial Whips, and, after the bells have rung **[for three minutes]**, order the doors to the Chamber to be locked.

(b) The bells need not be rung if all the delegates entitled to vote are present in the Chamber.

**[b] (c)** When the doors have been locked, no [members] delegate is allowed to enter or leave the Chamber until the result of the division has been declared.

**[(c) The officer presiding must put the question again and then instruct the “Ayes”, the “Noes” and members abstaining to take their seats in areas designated by the officer presiding. Any persons referred to in section 66 and 67 of the Constitution must withdraw to a neutral part of the Chamber.]**

(d) The officer presiding must put the question by calling delegates to vote “in favour”, “against” or “abstain”.

(d) The Secretary must record the names and **[numbers] votes** of the **[members] delegates [in the various designated areas, but the officer presiding may appoint tellers from among the members present to assist in recording the names and numbers].**

(e) When the names and **[numbers] votes** have been recorded the officer presiding must declare the result of the division.

### **Confusion or error during division**

**82.** In the event of confusion or error in a division, the procedure set out in rule 75 must be repeated. **[, but if] If** there is an inaccuracy in the numbers of the votes and these numbers can **[accurately]** be corrected in another **[,less cumbersome]** way, the procedure need not be repeated.

### **Bells to be rung before questions are put**

**84.** (1) Before a question that is to be decided by the votes of provinces is put, the officer presiding must **[order the bells to be rung three times for 30 seconds at a time, separated by 10- second interval]** enquire if all heads of delegations are present in the Chamber.

(2) If less than five heads of delegations are present, in case of section 76 bill or any other question to be decided by a vote of at least five provinces, the officer presiding must order the bells to be rung for three minutes.

(3) If less than six heads of delegations are present, in case of section 74 legislation or any other question to be decided by a vote of at least six provinces, the officer presiding must order the bells to be rung three minutes.

(4) If after the bells have been rung in terms of sub-rules (2) and (3) and the required number of heads of delegations is not present, the officer presiding must postpone the decision on the question.

(5) The bells need not be rung if all the [delegation heads] heads of delegations are present in the Chamber.

### **Declarations of vote**

**85.** If all the delegation heads are present [ **or if not all the delegation heads are present and at least three minutes have elapsed since the bells have stopped ringing,**] the officer presiding –

(a) must put the question; and

(b) **[on request,]** may allow each province, in a speech not exceeding three minutes by the **[delegation head] heads of delegation** or another **[member] delegate** authorised by the **[delegation head] head of delegation**, to state the reasons why the province is in favour of or against the question.

### **Voting**

**86.** (1) After the question has been put and the rule **80(b)** declarations of vote (if any) have been made, the **[delegation heads] Provincial Whips or heads of delegation** present must cast the provinces' votes in accordance with their mandates.

**[(2) Voting takes place by allowing each delegation head in turn to cast the province's vote, which vote must be recorded in the Minutes.]**

[3](2) After the votes have been cast and recorded the presiding officer must declare the result of the vote, which vote must be recorded in the Minutes of Proceedings.

### **Mandates**

87.(1) Mandates [in respect of a bill before the Council] must be [–

(a) an official communication from the provincial legislature to its delegation;

(b) in writing, which may include electronically transmitted print; and]

[(c)] in a [uniform] format [as may be prescribed by the Secretary after consultation with the Rules Committee] in terms of the Mandating Procedures of Provinces Act.

[(2) The head of a provincial delegation is responsible to communicate the official mandate of the province to the Council.]

### **Voting on International Agreements**

88.

(2) In the absence of the head of the provincial delegation a [member] delegate may vote on behalf of the province.

(3) A decision is agreed to when at least five or more provinces vote in favour of the adoption of an international agreement.

### **Nature of motions**

89. Any [member of the Council] delegate may propose –

(a) a matter for discussion in the Council; or

(b) a draft resolution for approval by [as a resolution of] the Council.

### **Motions without notice**

92.(e) the delegate [member] in charge proposes a draft resolution on the report of a committee immediately after the debate on the report has been concluded;

(f) all the **[delegation heads]** heads of delegation or Provincial Whips present unanimously **[concur]** agree that the motion be dispensed with without notice;

(h) the officer presiding rules that notice may be dispensed with in any particular case; and

(i) must adhere to the prescribed format.

(2) Motions without notice must comply with the following criteria as are applicable to all motions requiring a decision of the House:

Such a motion —

(a) must be consistent with the Constitution, the law and these rules,

(b) must deal with substantive matters which fall under competence of the Council,

(c) must consist of a clear proposed resolution,

(d) may not be the same in substance as a draft resolution that has been approved or rejected by the House during the same session,

(e) may not propose to issue an instruction to the executive,

(f) must observe the principles of co-operative government in accordance with

Chapter 3 of the Constitution,

(h) may not take longer than one and a half minutes to read out; and

(i) if objected to or after expiry of time limit, may not be proceeded with and becomes a notice of a motion to be printed in full in the Order Paper, unless otherwise directed by the presiding officer.

2. If a proposed motion is preceded by another motion of the same substance that has already been approved or rejected by the House on the same day, the proposed motion falls away and may not be read out and moved.

### **Notice of motion**

**93. [(1)When giving notice of a motion a [member] delegate must –**

**(a) read it aloud and deliver at the Table a signed copy of the notice; or**



**(b) deliver to the Secretary a signed copy of the notice on any working day, for placing on the Order Paper.**

**(2) [Written] Notices of motion delivered to the Secretary after 12:00 on any working day may be placed on the Order Paper only after the expiry of 24 hours unless the Chairperson of the Council directs otherwise.**

**(3) No motion may be moved on the day on which notice is given, except if all the [delegation heads] heads of delegation present unanimously [concur] agree.**

**(4) Be adhere to the prescribed format.]**

A notice of motion in the form of a draft resolution must —

(a) be submitted in writing;

(b) deal with a subject within the competence of the Council;

(c) be concise;

(d) refer to a single substantive matter;

(e) may not take longer than 90 seconds to read out;

(f) if it exceeds the time limit may not be proceeded with and will be printed in full in the Order Paper; and

(e) comply with any other rules and orders of the House and relevant guidelines approved by the Rules Committee.

#### **Acting for absent [member] delegate**

**94.A [member] delegate authorised by an absent [member] delegate may give notice of a motion on behalf of the absent member.**

#### **Chairperson may amend notices**

**95.A notice of motion which offends against practice, [the Council Rules] these Rules, [or the Joint Rules,] or the Constitution may be amended or otherwise dealt with as the Chairperson [of the Council] may decide.**

### Question of privilege

96. An urgent motion directly concerning the privileges of the Council takes precedence over other motions and **[over]** orders of the day.

### Withdrawal and lapsing of motion

97.(1) A **[member]** delegate who has proposed a motion may **[propose]** move without notice that it be withdrawn.

### Debates on Presidential Addresses

**[83. (1) When the President has delivered the Opening Address, the Chief Whip of the Council may place it on the Order Paper of the Council for discussion.]**

**[2] 98 (1) The **[Midyear]** Annual Address by the President or Deputy President must be debated in the Council immediately after the President or the Deputy President has delivered the **[address]** Address.**

### **Ministerial Briefings**

99. (1) After consultation with other Presiding Officers and the Chief Whip and in accordance with the NCOP Programme, the Chairperson may, from time to time, schedule a sitting of the Council for ministerial briefing sessions by members of the national executive, provincial executive and organized local government to brief delegates on matters affecting the three spheres of government.

(2) The rules of debate apply to Ministerial Briefings.

### **Matters of public importance**

**100. (1) A **[member]** delegate may on any sitting day of the Council request the Chairperson **[of the Council]** in writing to allow a matter of public importance to be **[discussed]** debated by the Council.**

**(2) **[If the matter affects the provinces or one or more of them]** The**

Chairperson may grant the request and –

- (a) place the matter on the Order Paper or, if it is an urgent matter and the Council is sitting, allow the **[discussion] debate** to take place on the day the request is made after having considered the availability of special **[members] delegates** or relevant Cabinet member or Deputy Minister or a member of the Executive Council to participate in the debate;
- (b) allocate **[a period of]** time for the **[discussion] debate**; and
- (c) arrange for a Cabinet member **[,]** or a Deputy Minister **[,]** or a member of a **[provincial] E[e]xecutive C[c]ouncil** **[or other person]** to **[reply to] participate in** the debate.

(3) Such a **[discussion] debate** may not exceed the time allocated for it by the Chairperson.

**[(4) If 15 minutes before the expiration of the allocated time a member, other than the person replying to the debate, is speaking, the officer presiding must interrupt the member and allow that person to reply if that person so wishes.]**

**[(5) (4)(a) Questions of privilege may not be **[discussed] debated** under this rule.**

(b) Matters already **[discussed] debated** by the Council during an annual session may not be **[discussed] debated** under this rule during the same session.

**[(6)](5) Rule 49 does not apply **[during such a] to this** debate.**

### **Public debate on constitutional amendments**

**101. (1) The particulars of a proposed constitutional amendment **[that must be submitted to the Council in terms of section 74(5)(c) for a public debate] referred to in section 74(5)(c) of the Constitution**, must be submitted to the Chairperson **[of the Council]** within seven days after those particulars were published in the Gazette in accordance with section 74(5)(a).**

## **Virtual and hybrid meetings and sittings**

### **General**

- 102.(1) (a) Pursuant to rule 2(1) of the Rules, the Chairperson of the Council has made the Rules which shall apply to virtual or hybrid meetings of Committees, the Sitting of the House and voting by Delegates.
- (b) For the purposes of these Rules, “virtual or hybrid meetings or sittings” mean meetings or sittings conducted by any form of technology or physical presence of Delegates at the Chamber or Committee Room.
- (c) In terms of rule 2(2) these Rules shall remain in force until the Rules Committee decides thereon.
- (d) These rules are supplementary to the Rules of the Council.
- (e) These Rules shall be referred to as Rules of Virtual or Hybrid Meetings and Sittings.

### **Application of the rules**

- (2) These Rules apply to virtual or hybrid -
- (a) meetings of committees;
- (b) sittings of the House;
- (c) briefings of provincial legislatures by Permanent Delegates on bills or any matter affecting provinces;
- (d) the consideration of mandates or any matter affecting provinces; and
- (e) facilitation of public involvement.

### **Notice and documents**

- (3) (a) All meetings of Committees or Sittings of the House shall be in accordance of the Programme of the Council (the Programme).
- (b) For the purposes of a -

- (i) Sitting of the House, the Programme shall be sufficient notice of such a Sitting; and
- (ii) Committee meeting, the chairperson of that Select Committee shall be responsible for the issuing of all notices of the meeting.
- (c) All documents relating to Committee meetings and Sittings of the House shall be distributed by any electronic means to which Members have access.

### **Quorum**

(4) The quorum requirements for Committee meetings or Sittings of the House shall be those as determined by the Constitution and the Rules Council.

### **Voting**

(5) (a) In a Select Committee meeting or a Sitting of the House Delegates shall be entitled to cast their votes either electronically or by voice.

(b) For the purposes of voting -

(i) in a Sitting of the House, the Secretary of the Council shall maintain a system that is capable of verifying the votes of delegates cast either electronically or by voice; and

(ii) in a Select Committee meeting, the officers responsible for supporting the Select Committee shall maintain a system that is capable of verifying the votes of delegates cast either electronically or by voice

### **Briefing by departments or any entity**

(6)(a) Departments may brief Select Committees on any matter by electronic or physical means determined by the Select Committees.

(b) Where a matter affects provinces, Members of the relevant committee of a provincial legislature may access the briefing of the Select Committee by the department or any other entity appearing before the Select Committee.

- (c) The Chairperson of the relevant Select Committee must inform a provincial legislature where a matter affects provinces or any other entity or members of the public of the date and time of the meeting at least three days or within a reasonable time before the meeting.
- (d) The place of the briefing shall be deemed to be the National Council of Provinces.
- (e) Where members of the relevant committee of the provincial legislature had access to the initial briefing, a briefing by the Permanent Delegates shall not be necessary.
- (f) The Rules of the Council shall apply to the briefing.

### **Rules applicable to briefings by permanent delegates**

- (7) In the event that the relevant provincial legislature committee could not access the briefing as provided for in 6(b) above, the following Rules shall apply:
  - (a) Each Permanent Delegate shall be afforded an opportunity to brief his or her provincial legislature on a Bill or any matter affecting provinces which is before the Council at the time appointed for such briefing.
  - (b) The place of the briefing shall be deemed to be the provincial legislature.
  - (c) The Rules of that provincial legislature shall apply.

### **7.1 Chairperson**

- (a) The meeting shall be chaired by the chairperson of the relevant committee of that provincial legislature.
- (b) The chairperson shall have the powers of the chairperson of a committee as provided for in the Rules of that provincial legislature.

## **7.2 Minutes and Records**

(a) The provincial legislature must maintain the minutes and records of the proceedings.

(b) The minutes referred to in (a) above shall constitute the records of that provincial legislature.

## **Conferral of negotiating and final mandate**

(8)(a) Subject to the provisions of the Mandating Procedures of Provincial Legislatures Act, the relevant committee of each provincial legislature shall, in terms of the processes determined by that provincial legislature confer on its Delegates the authority to either negotiate or vote on the matter that serves before the relevant Select Committee of the Council.

(b) The authority so conferred shall be communicated to the relevant Delegate and the Secretary to the Council by electronic means to which a Delegate and the Secretary to the Council have access.

(c) The chairperson of the relevant Select Committee of the Council shall call upon a Delegate of each of the provinces to state the negotiating or final position of a province on a matter before the Select Committee.

(d) Production of an electronic or hard copy of such authority shall be a prima facie proof of the conferral of such authority, unless the contrary is proved.

(e) The venue of the meeting shall be deemed to be the National Council of Provinces.

(f) For the purposes of voting -

(i) in a Sitting of the House, the Secretary of the Council shall maintain a system that is capable of verifying the votes of delegates cast either electronically or by voice; and

(ii) in a Select Committee meeting, the officers responsible for supporting the Select Committee shall maintain a system that is capable of verifying the votes of delegates cast either electronically or by voice.

### **Powers, privileges and immunities**

(9) Delegates have the same powers, privileges and immunities which they ordinarily enjoy in Committees and House proceedings.

### **Compliance with hybrid meetings or sittings**

(10) (a) Delegates who are physical in the Chamber or Committee Room must-

- (i) connect to the virtual platform as well as insert their cards to register on the Chamber system;
- (ii) switch off the sound on their gadgets;
- (iii) ensure that the microphones on their gadgets are muted and remain muted at all times;
- (iv) use the floor microphones;
- (v) wear face masks at all times;
- (vi) occupy seats marked for that purpose;
- (vii) switch on their videos if they want to speak/ address the Chair; and
- (vii) at all times maintain social distancing (a distance of least one and a half meters from each other).

(b) Any Delegate who wishes to speak must use RAISE HAND function.

(c) All Delegates may participate in the discussions through the chat room.

### **Facilitation of public involvement**

(11) Subject to section 72(1)(a) of the Constitution, a Select Committee must facilitate public involvement on matters before it by electronic or physical means determined by the Select Committee.



## **ANNEXURE A**

### **Technical support**

- (a) Each legislature is responsible for technical support at its site.
- (b) A legislature that initiates a meeting must co-ordinate that meeting.
- (c) The technical support teams must be given at least 3 days' notice of the meeting.
- (d) The technical support team must perform pre-conference testing at least a day before the meeting.
- (e) The technical support team must be available at all times during the briefing.

### **Council committees**

**103. (1)[(c) the Committee on Petitions and Members' Legislative Proposals]**

**[(d)] (c) the select committees;**

**[(e)] (d) the Committee of Chairpersons established [by] in terms rule of 141;**

**[(f) any *ad hoc* committees;]**

**[(g)] (e) any other committees established by the Rules Committee or the Chairperson of the Council or by resolution of the Council.**

**[(3) Special members may be members of committees.**

**(4) When committee members are appointed, the need for women to be fairly represented on committees must be taken into account. If women are not fairly represented on Council committees, the Chairperson and the delegation heads must consider methods of achieving fair representation.]**

### **Application of Rules to committees and subcommittees established in terms of legislation**

**105.** These Rules also apply to a committee or subcommittee established in terms of Legislation, **[and in such application] and for that purpose, such [the]** committee or subcommittee must be regarded as having been established in

terms of these Rules.

### Composition of committees

**106.** (1) Each province [**Provinces**] is [**are**] entitled to be [**equally**] represented by at least one delegate in a committee [**committees**] except –

- (a) where these Rules provide otherwise [**;** or
- (b) **in the case of matters to which section 75 of the Constitution applies**].

- (2) (a) [**a province**] the Chairperson on the recommendation of the Chief Whip if the [**member**] delegate represents a province in the committee; or
- (b) a party, if the [**member**] delegate represents a party in the committee.

(3) Special delegates have the same rights in committees as permanent delegates.

(4) When committee members are appointed, the need for women to be fairly represented in committees must be taken into account. If women are not fairly represented in committees, the Chairperson of the Council, the Chief Whip and the heads of delegation must consider methods of achieving their fair representation.

[3] (5) The names of the members of a committee or subcommittee must be [**announced**] published in the ATC in the name of the Chairperson.

### Alternates

**107.** (2)(b) has vacated his or her [**office**] seat, until the vacancy is filled.

### Chairperson

**108.** (1) Unless these Rules provide otherwise [**in a specific case**]-

- (a) a committee must elect one of its members as the chairperson of [**the**] that committee; and

(b) the principal **[parent]** committee of a subcommittee must appoint the chairperson of **[the]** that subcommittee.

(2) The chairperson of a committee or subcommittee, subject to **[the provisions of]** these Rules and the directions of the committee, or the principal **[parent]** committee in the case of a subcommittee –

- (a) chairs **[presides at]** the meetings of the committee or subcommittee;
- (c) performs the functions, tasks and duties and exercises the powers that these Rules, legislation, resolutions of the Council and the committee, or the principal **[parent]** committee in the case of a subcommittee, assigns to **[the chairperson]** him or her.

### **Acting chairperson**

**109.**(1) If the chairperson of a committee or subcommittee is absent or unable to perform the functions of chairperson, the committee or subcommittee may elect one **[another]** of its members as acting chairperson unless these Rules provide otherwise **[in a specific case,]**.

### **First meetings of committees**

**110.** (2) If the Council is in recess the Secretary must, at least 10 working days before the meeting, notify the relevant House Chairperson, the members of the committee and [,] the Chief Whip **of the Council** [and the most senior whip of each of the other parties] of the time and place of the meeting. **[at least 10 working days before the meeting]**

### **Meetings of [Council] committees and subcommittees**

**111.** (1)**[Council]** Committees and subcommittees meet whenever necessary and as determined in accordance with these Rules, the Programme of the Council and the decisions and directives of the relevant House Chairperson **[Committees-]**.

- [(a) acting within the guidelines of the Programme Committee; and**
- (b) taking into account requests of committees to meet urgently or to meet with Assembly committees]**

(2) When determining the frequency with which committees must meet, the Programme Committee or the relevant House Chairperson must take into account requests of committees to meet urgently or to meet jointly with Assembly committees.

**[(2)]** (4) (b) by the chairperson of the principal [parent] committee.

(6) A meeting which has as an agenda item a matter affecting provinces [a section 76 agenda item] must be called with at least 72 hours' notice, except in an exceptional case and after the chairperson of the relevant committee has consulted with the **[delegation]** Chief Whip and provincial whips.

### **Meetings and functioning of committees and subcommittees**

**112.** (1) The **[Chairperson of Committees]** House Chairperson responsible for committees is responsible for scheduling and co-ordinating meetings of all committees and subcommittees, and must for this purpose consult the committee chairpersons and the whips.

(2) The **[Chairperson of Committees]** House Chairperson responsible for committees **[after having consulted the committee chairpersons and the whips]**, may issue directives and guidelines on

### **Quorums and decisions**

**113.** (1) A committee may proceed with business irrespective of the number of **[members]** delegates present, but, when a question is to be decided, **[members]** delegates representing at least five provinces must be present.

(2) A question is decided by a supporting vote of at least five provinces **[or, if it is a constitutional amendment, at least six provinces]**.

**[(3)]** **Sub-rules (1) and (2) do not apply to select committees.]**

### Order in meetings

114. Rules [32]41, [33]42, [36]45, [41]50, [46]55 and [48]58, with the necessary changes required by the context, apply to meetings of committees and subcommittees.

### [Attendance by members

99. A person loses membership of a committee or subcommittee if –

- (a) that person is absent from three consecutive meetings of the committee or subcommittee without the leave of the chairperson of the committee or subcommittee; and
- (b) in the opinion of the Chairperson of the Council, that person did not have good reasons to be absent from the meetings.]

### Charges against delegates [members]

115. If any information charging a [Council member] permanent delegate comes before a committee, the committee may not proceed upon that information, but must report it to the Chairperson [of the Council] without delay.

### Interruption, suspension or adjournment

116. The [member presiding at a meeting] chairperson of a committee or subcommittee may interrupt or suspend the proceedings or adjourn the meeting, and may change the date for the resumption of business in the committee.

### Referral of official written instruments to committees

117. (1) Except where these Rules provide otherwise, the Chairperson [of the Council] must refer to [an appropriate] a relevant committee -

- (2) If there is doubt as to which committee is the [appropriate] relevant committee, the [Chief Whip of the Council] Chairperson must [decide] refer the issue subject to these Rules or any directions of the Rules Committee or a resolution of the Council.

(3)(b) which of them must report [, if a report is required].

**[(4) A committee must deal with an instrument referred to it in terms of subrule (1) in accordance with any applicable procedures. If the committee is not required in terms of such procedures to report to the Council on the matter concerned, it may nevertheless submit such a report.]**

### **Referral of Strategic Plans, Annual Performance Plans**

- 118.** (1) After submission by Ministers, the Chairperson must in terms of Rule 101, refer strategic plans, annual performance plans and any relevant documentation related to the budget to relevant Select Committee/s for the assessment of the policy performance of the departments and their entities.
- (2) Each committee must prepare a Policy Assessment and Recommendations (PAR) Report detailing recommendations for improvements in policy implementations to strengthen and improve service delivery.
- (2) The Policy Assessment and Recommendations (PAR) Report must be tabled as part of the policy debates of the budget votes of a department and its entities.
- (3) Each Minister must be allowed time to respond to the Policy Assessment and Recommendations (PAR) Report of a committee during a policy debate or within six months after the tabling and or adoption of a policy assessment and recommendations (PAR) report.

### **Reporting**

- 119.(1)**
- (a) when the Council is to decide the matter in terms of the Constitution, these Rules, **[the Joint Rules,]** a resolution of the Council or legislation; **[or**
- [(c) if the committee is unable to decide a matter referred to it for a report;]** and
- (c) on all other decisions taken by it, except those decisions concerning its internal business.

(2) A committee must report to the Council on [-] its activities at least once per quarter.

- [(a) all other decisions taken by it, except those decisions concerning its internal business; and**
- (b) its activities at least once per year.]**

**(3) A report of a committee -**

- (a) must be submitted to the Council by the chairperson or another member of the committee designated by the committee; and**
- (b) may request that the chairperson or another member of the committee designated by the committee introduces or explains the report in the Council.]**

(3) A chairperson or another delegate designated by the committee –

- (a) must present a committee report to the Council and
- (b) may request to explain the report in the Council.

(5) If a committee reports on a matter other than matter mentioned in subrule (1)(a) and is of the view that its report, or a specific matter mentioned in the report, should be considered by the Council, it may make a request to that effect in the report. When such a request is granted **[made]** the matter must be placed on the Order Paper.

**(6) [A committee of the Council representing the Council on a joint committee of the Council and the National Assembly].** The co-chairperson of a joint committee or another delegate designated by the co-chairperson [may] must present [its own] the report to the Council and may request to explain the report.

A subcommittee must report to its principal **[parent]** committee.

### **General powers of committees**

**120.**(1) For the purposes of performing its functions a committee may, subject to the Constitution, legislation, **[the other provisions of]** these Rules and resolutions of the Council –

**[(d) permit oral evidence, representations and submissions;]**

**[(e)] (d) determine its own procedure;**

**[(f) meet at a venue determined by it, which may be a venue beyond the seat of Parliament if the Council is not in session;**

**(g) meet on any day and at any time, including-**

**(i) a day which is not a working day;**

**(ii) a day on which the Council is not sitting;**

**(i) at a time when the Council is sitting; or**

**(iv) during recess; or]**

**(h) (e) exercise any other powers assigned to it by the Constitution, legislation, **[the other provisions of]** these Rules or resolutions of the Council.**

(2) A committee may sit at a venue beyond the seat of Parliament, or on a day that is not a working day, or at a time the Council is sitting, or a day on which the Council is not sitting or during recess of the Council –

(a) only with the permission of the relevant House Chairperson **[: Committees]** and after consultation with the Chief Whip of the Council **[, provincial whips and whips designated by parties];** and

**[(3) A committee referred to in rule 86(1)(f) has the powers listed in subrule (1) only when assigned to it in terms of these Rules or by a resolution of the Council.]**

#### **121. [Joint meetings] Conferral of committees**

**[(2) When a matter is referred to two or more committees meeting jointly, the Council or the Chairperson must identify one of the committees as the committee in charge for administrative purposes. The chairperson of the committee in charge presides over joint meetings, but the committees involved must present a single report.]**

**(2) When a matter is referred to two or more committees, the referral may be accompanied by an instruction that the committees must confer.**



(3) The Council or the Chairperson of the Council must identify one of the committees as the committee in charge. The chairperson of the committee in charge presides over meetings, but the committees involved must present a single report.

~~[(3)]~~(4) Each province has only one vote at a **[joint]** meeting of Council committees referred to in sub-rule 1. When a matter falls under section 75 of the Constitution, the participation and voting rights of **[party members]** delegates on committee **[sitting jointly]** meetings referred to in sub-rule 1 are the same as the rights that they have on the separate committees.

#### **[Exchange of views between committees**

**105.(1) A committee may invite another committee to meet with it to exchange views on a matter of common interest.**

**(2) The Council or the Chairperson of the Council may instruct a committee to consult another committee when it considers a particular matter.]**

#### **Subcommittees**

**122.(1) (a)** is accountable to its principal **[parent]** committee;

(b) must carry out its **[task and responsibilities]** functions and exercise its powers within a **[policy]** framework determined by its principal **[parent]** committee and in accordance with these Rules and any directives, **[or]** guidelines **[or regulations]** issued by the parent committee;

(c) may consult another subcommittee or any **[joint committee or House]** other committee;

(d) may only make recommendations to its principal **[parent]** committee; and

(e) must report to its principal **[parent]** committee regularly or when requested by the principal **[parent]** committee.

**(3) (a)** must define the subcommittee's **[task]** functions;

(c) may determine a period within which the subcommittee must **[complete its task]** report to it; or

**[(d) must determine the extent, nature and form of the subcommittees report to the committee, and time limits for the submission of the report]**

**[(e)]** (d) may delegate any of its powers to the subcommittee which the subcommittee requires for the performance of its **[task] functions**.

(4) (a) when it has completed the functions **[task]** for which it was established; or

**[Presence of other Council members] Attendance by non-members**

**124.** A **[Council member]** delegate who is not a **[member]** delegate of a committee or subcommittee –

(a) **[be present at]** attend a meeting of the committee or subcommittee;

and

(b) **[except when the vote is cast as an alternate]**.

**Local government representatives**

**125.** **[When the interests of local government are affected by a matter that is being discussed in a]** A representative of organized local government designated **[to represent local government in the Council]** in terms of section 67 of the Constitution-

(a) may **[be present at a]** attend the meeting of the committee or subcommittee; and

(b) may speak **[on that matter subject to any reasonable restrictions the member presiding at the meeting may impose]** in the meeting but may not vote.

**Admission of the public**

**126.**(1) Meetings of committees and subcommittees are open to the public, including the media, and the **[member presiding]** chairperson may not exclude the public, including the media, from the meeting, except when –

(a) the Constitution, legislation, these Rules or resolutions of the Council provide for the committee or subcommittee to meet in closed session; o

(2) **[the chairperson of]** (a) before the start of **[or during]** the meeting **[rule]** decide that the meeting must take place in closed session [, **but the**

**committee or subcommittee may at any time after the start of the meeting open the meeting];** or

(c) The committee or subcommittee may at any time during the meeting open the meeting to the public.

(3) **[during]** for committee and

(b) determine the entrances and routes through which the public can **[obtain]** gain access to the places where committees and subcommittees meet.

(4)(a) to regulate public access, including access of the media, to the meetings of committees and subcommittees;

**[(b)to prevent and control misconduct of the public during committee and subcommittee meetings;]** and

**[(c)]** (b)**[including that person's vehicle]** or other property in that person's possession, and, where appropriate, the refusal of entry to, or the removal of, any person from a committee meeting.

### **Exclusion of members of the public from meetings**

**127.** The **[member presiding at a meeting]** chairperson of a committee or subcommittee may –

### **Removal of persons**

**129.** When instructed by the **[member presiding]** chairperson, the Usher of the **[Council]** Black Rod must remove or arrange for the removal of any person who

### **Publication of proceedings, evidence, reports, etc.**

**130.**(1)(a) the **[presiding member]** chairperson places the document or causes or permits the document to be placed before the committee or subcommittee;

**[(c) are confidential in terms of legislation;]**

**[d]** (c) are subject to a media embargo, until the embargo expires; or

**[(e)]** (d) are of such a nature that their confidential treatment is for any other reason reasonable and justifiable in an open and democratic society.

### Composition

132. (1) (d) the House Chairpersons **[Committees, Oversight, Co-operative Government and Intergovernmental Relations;**

**House Chairperson: International Relations and Members Support]**

(f) **[two representatives from each provincial delegation one of whom must be a permanent delegate] provincial whips;**

**[(2) A political party represented in the Council that is not represented in the Rules Committee, may designate a Council member to attend, and to speak in, the Committee but that Council member may not vote]**

(2) A party that does not have a Provincial Whip may be represented by a party representative in the Rules Committee.

(3) A party that is entitled a Party Whip may be represented by such a Whip in the Rules Committee.

### Chairperson

133. **[(2)If the Chairperson of the Council is not available the permanent Deputy Chairperson of the Council performs the functions of the chairperson of the Committee.]**

### Functions and Powers

134.(1)(a)**[(i) the management, administration and functioning of the Council;**

**(ii) the financial management and policy of the Council, including the sources of funding, the budget, income and expenditure of the Council;]**

**[(iii)] (i) the proceedings, procedures, rules, orders and practices concerning the business of the Council; and**

**[(iv)the provision of facilities and other support for Council members;]**

**[(b)make recommendations to the Council concerning the Council's annual budget;**

- (c) monitor and oversee the implementation of policy on all matters referred to in paragraph (a);]**
- [(d)] (b) make recommendations to the Joint Rules Committee on any matter falling within the functions and powers of that Committee;**
- [(e) lay down guidelines, issue directives and formulate regulations regarding any aspect of policy referred to in this rule;]**
- [(f)] (c) appoint subcommittees to assist it with the performance of any of its functions or the exercise of any of its powers;**
- [(g) recommend to the Council rules and orders concerning the business of the Council, including amendments to these Rules;]**
- [(h)] (d) perform any other functions assigned to it by legislation, **[the other provisions of ]** these Rules or resolutions of the Council.**

#### **[Implementation of policy**

**119. The responsibility for the implementation of policy determined by the Rules Committee vests in the Chairperson of the Council, subject to the decisions of the Rules Committee and resolutions of the Council.]**

#### **Subcommittees**

**136.(1) [(a) the Subcommittee on the Council Budget;]**

**[(b)] (a) the Subcommittee on Review of the Council Rules;**

**[(c) the Subcommittee on Internal Arrangements;**

**(d) the Subcommittee on Delegated Legislation;**

**(e) the Subcommittee on International Relations;**

**(f) the subcommittee on Parliamentary Powers, Privileges;**

**(g) the subcommittee on Support for Council Members;]** and

**[(h)] (b) any other subcommittees appointed in terms of rule 126(1)(c).**

**(2) [- (a) is not restricted to the members of the Rules Committee; and**

**(b) ] may appoint any delegate [Council member] who is not a member of the Rules Committee.**

**[(4)A subcommittee of the Rules Committee may take a matter to the Joint Rules Committee or a Joint Subcommittee of the Joint Rules Committee only if authorised by the Rules Committee.**

**(5)A subcommittee of the Council’s Rules Committee may not issue directives relating to any aspect of the control and management of the administration of the Council.**

## **[SUBCOMMITTEE ON THE COUNCIL BUDGET**

### **Composition**

**122. The Subcommittee on the Council Budget consists of the Council members appointed in such a way that –**

- (a) the majority party has three representatives; and**
- (b) two members, each of whom must belong to a different minority party, represent the minority parties.]**

### **Chairperson**

**121. (1)The Rules Committee must appoint one of the members of the Subcommittee as the chairperson of the Subcommittee.**

**(2) If the chairperson is not available or is unable to perform the functions of the chairperson the remaining members must elect another member to act as chairperson.**

### **Functions and powers**

**122. The Subcommittee may –**

- (a) make recommendations to the Rules Committee on the development, formulation and adoption of policy regarding –**
  - (i) the financial management of the Council;**

- (ii) the sources of funding, resources, income and expenditure of the Council; and
  - (iii) the preparation of the Council's input for Parliament's annual budget;
- (b) make recommendations to the Rules Committee on the development, formulation and adoption of policy regarding the provision of facilities and other support to Council members;
- (c) monitor and oversee the implementation of policy on matters referred to in paragraphs (a) and (b) and make recommendations in this regard to the Rules Committee; and
- (d) perform any other function and exercise any other power assigned to it by the Rules Committee.

#### **Decisions**

123. (1) A question before the Subcommittee is decided by consensus.

(2) If consensus cannot be reached all views in the Subcommittee must be reported to the Rules Committee.

#### **SUBCOMMITTEE ON SUPPORT FOR MEMBERS OF THE COUNCIL**

##### **Composition**

125A. The Subcommittee on Support for Members of the Council consists of the Council members appointed in such a way that –

- (a) the majority party has three representative; and
- (b) two members, each of whom must belong to a different minority party, represent the minority parties.

### **Chairperson**

**125B. (1) The Rules Committee must appoint one of the members of the Subcommittee as the chairperson of the Subcommittee.**

**(2) If the chairperson is not available the remaining members must elect another member to act as chairperson.**

### **Functions and powers**

**125C. The Subcommittee may –**

- (a) make recommendations to the Rules Committee on the development, formulation and adoption of policy regarding the provisions of facilities and other support for Council members;**
- (b) monitor and oversee the implementation of policy on matters referred to in paragraphs (a) and make recommendations in this regard to the Rules Committee; and**
- (c) perform any other function and exercise any other power assigned to it by the Rules Committee.**

### **Decisions**

**125D. (1) A question before the Subcommittee is decided by consensus.**

**(2) If consensus cannot be reached all views in the Subcommittee must be reported to the Rules Committee.]**

## **SUBCOMMITTEE ON REVIEW OF THE COUNCIL RULES**

### **Composition**

**137.**The Subcommittee on Review of the Council Rules consists of permanent delegates [**Council members**] appointed in such a way that –

### **Chairperson**

**138. (1) The Rules Committee must appoint[**s**] one of the members of the Subcommittee as the chairperson of the Subcommittee.**



### **Functions and powers**

**139. [(ii)the development, formulation and adoption of policy on a matter mentioned in subparagraph (i); and]**

## **[SUBCOMMITTEE ON PARLIAMENTARY POWERS AND PRIVILEGES**

### **Composition**

**129A. The Subcommittee on Parliamentary Powers, Privileges consists of Council members appointed in such a way that –**

- (a) the majority party has three representatives; and**
- (b) two members, each of whom must belong to a different minority party, represent the minority parties.**

### **Chairperson**

**129B. (1) The Deputy Chairperson of the Council is the chairperson of the Subcommittee.**

- (2) If the chairperson is not available or is unable to perform the functions of the chairperson the remaining members must elect another member to act as chairperson.**

### **Functions and powers**

**129C. The Subcommittee may –**

- (a) review existing legislation, the common law and practices relating to parliamentary powers, privileges and immunities;**
- (b) make recommendations to the Rules Committee to propose amendment to the existing law and practice on parliamentary powers, privileges and immunities; and**
- (c) perform any other function, and exercise any other power assigned to it by the Rules Committee.**

## **Decisions**

**129D. (1) A question before the Subcommittee is decided by consensus.**

**(2) If consensus cannot be reached all views in the Subcommittee must be reported to the Rules Committee.**

## **SUBCOMMITTEE ON INTERNAL ARRANGEMENTS**

### **Composition**

**130.(1)The Subcommittee on Internal Arrangements consists of the permanent Deputy Chairperson of the Council and other Council members appointed in such a way that-**

- (a) the majority party has three representatives; and**
- (b) two members, each of whom must belong to a different minority party, represent the minority parties.**

### **Chairperson**

**131.(1) The permanent Deputy Chairperson is the chairperson of the Internal Arrangements Committee.**

**(4) If the permanent Deputy Chairperson is not available the remaining members must elect another member to act as chairperson.**

### **Functions and powers**

**132. The Subcommittee on Internal Arrangements may –**

- (a) make recommendations to the Rules Committee on the development, formulation and adoption of policy regarding the administration and management of the Council, including –**
  - (i) staff;**
  - (ii) infrastructure;**
  - (iii) household services and catering for members;**
  - (iv) development and training of members;**

- (v) information systems and the library for members; and
  - (vi) public relations and public education;
- (b) monitor and oversee the implementation of policy on the matters referred to in paragraph (a) and make recommendations in this regard to the Rules Committee; and
- (c) perform any other function and exercise any other power assigned to it by the Rules Committee.

### **Decisions**

133. (1) A question before the Subcommittee is decided by consensus.
- (2) If consensus cannot be reached all views in the Subcommittee must be reported to the Rules Committee.

## **SUBCOMMITTEE ON INTERNATIONAL RELATIONS**

### **Composition**

134. The Subcommittee on International Relations consists of the Chairperson of the Council, the permanent Deputy Chairperson of the Council and other Council members appointed in such a way that -
- (a) the majority party has three representatives; and
  - (b) two members, each of whom must belong to a different minority party, represent the minority parties.

### **Chairperson**

135. (1) The Chairperson of the Council is the chairperson of the Subcommittee.
- (2) If the chairperson is not available the permanent Deputy Chairperson of the Council acts as chairperson.

### **Functions and powers**

136. The Subcommittee may –

- (a) make recommendations to the Rules Committee on the development, formulation and adoption of policy regarding the Council's international relations, including –
- (i) relations with other Parliaments and international organisations;
  - (ii) membership of international parliamentary organisations;
  - (iii) visits by Council members; and
  - (iv) the hosting and receiving of delegations from abroad;
- (b) monitor and oversee the implementation of policy on the matters referred to in paragraph (a) and make recommendations in this regard to the Rules Committee; and
- (c) perform any other function or exercise any other power assigned to it by the Rules Committee.

## **SUBCOMMITTEE ON DELEGATED LEGISLATION**

### **Composition**

137. The Subcommittee on Delegated Legislation consists of Council members appointed in such a way that the provinces have one member each.

### **Chairperson**

138. (1) The Rules Committee must appoint one of the members as the chairperson of the Subcommittee.

(2) If the chairperson is not available the remaining members must elect another member to act as chairperson.

### **Functions and powers**

139. The Subcommittee –

- (a) must investigate and make recommendations to the Rules Committee on possible mechanisms that could be used –

- (i) by legislators to maintain oversight of the exercise of legislative powers delegated to the executive; and
  - (ii) by the Council to perform the functions conferred on the Council in terms of section 146 of the Constitution; and
- (b) must perform any other function and may exercise any other power assigned to it by the Joint Rules Committee.

### Decisions

140. (1) A question before the Subcommittee is decided by consensus.
- (2) If consensus cannot be reached all views in the Subcommittee on the question must be reported to the Rules Committee.]

### Composition

142. (1) [(c) [two representatives from each provincial delegation one of whom must be a delegation whip and the other a special member in the delegation;
- (d) the House Chairperson Committees;
  - (e) the House Chairperson Oversight and Institutional Support]
  - (c) the House Chairpersons;
  - [(f)] (d) the Chief Whip of the Council;
  - (e) the Programming Whip; and
  - [(g)] [the whip of a party represented in the Council] (f) the Provincial Whips
- (2) A party that does not have a Provincial Whip may be represented by a party representative.
- (3) A party that is entitled a Party Whip may be represented by such a Whip.

**[(2)A whip referred to in subrule (1)(c), (f) or (g) who is unable to attend a meeting of the Committee may designate another whip to attend the meeting]**

### **Chairperson**

**143. [(2) If the Chairperson of the Council is not available the permanent Deputy Chairperson of the Council performs the functions of the chairperson of the Committee.]**

### **Functions and powers**

**144. [(c) must implement the Council rules regarding the scheduling or programming of the business of the Council, and the functioning of the Council committees and subcommittees;]**

**[(d)] (c)** may make recommendations to the Joint Programme Committee on any matter falling within the functions and powers of that Committee;

**[(e)] (d)** may take decisions and issue directives and guidelines to prioritise any business of the Council; and

**[(f)] (e)** must perform any other function and may exercise any other power as may be assigned to it by resolution of the Council.

### **[Establishment**

**147.(1) The Committee on Petitions and Members' Legislative Proposals consists of one Council member from each province designated by the delegation head.**

**(2) A political party represented in the Council that is not represented in the Committee, may designate a Council member to attend, and to speak in, the Committee, but that Council member may not vote.**

### **Chairperson**

**148.(1) The Committee on Petitions and Members' Legislative Proposals must elect one of its members as Chairperson of the committee.**

**(2) If the chairperson of the committee is not available the remaining members must elect another member to act as Chairperson.**

### Functions and powers

**149. (1) The Committee on Petitions and Members' Legislative Proposals must consider and make recommendations to the Council on all legislative proposals made by Council members intending to introduce Bills and referred to the Committee in terms of rule 179.**

**(2) Consider all petitions referred to in terms of rule 234.**

### Decisions

**150. A question before the Committee on Petitions and Members' Legislative Proposals is agreed when at least five provinces vote in favour of the question.]**

### Establishment

**147.(1)The Rules Committee must, for the duration of the Council, establish select committees to deal with legislation, oversight and other matters concerning the affairs of government.**

**(3) The Rules Committee must determine the number of members of each select committee provided that wherever possible each provincial delegation shall have at least one representative.**

### Publication of names of committee members

**148. The Chairperson of the Council must table in the Council a list of names of all permanent [**members**] delegates of the Council appointed to [**a**] select committees.**

### Election of Chairperson of Committee

**149. (1) [A select committee must elect a chairperson from among its members before it does any other business.] Whenever it is necessary to elect a chairperson of a committee, a committee must elect one of its members as the chairperson of the committee. The question must be put by the secretary to the committee.**

(2) The question may be decided only if a majority of the members of the committee is present.

(3) The question is decided by a majority of the votes cast.

**[(2)]** (4) If the chairperson is not available, the remaining members must elect another of its members to act as chairperson.

### **Acting chairperson**

**150.** If the chairperson is not available or is unable to perform the functions of the chairperson, the remaining members of the committee must elect another of its members to act as chairperson.

### **Composition**

**151.** The membership of a select committee must be composed so as to deal both with matters falling under section 75 of the Constitution and **[with]** other matters as follows:

(a) Each province is entitled to at least one **[an equal number of]** permanent **[members]** delegate nominated by its **[delegation head]** provincial whip.

**[(b)Each party represented in the Council is entitled to proportional representation or, if proportional representation is not possible on account of the party's size, to one representative on the committee.**

**(c) Each delegation head may whenever necessary authorise one or two special members to attend a committee meeting.]**

### **Quorums and decisions**

**152.**(1) Except when a question is to be decided, business may proceed irrespective of the number of **[members]** delegates present.



(2) **[that does not fall under section 75 of the Constitution]** is to be decided in terms of section 65 of the Constitution –

(3) (a) **[the question may be decided only if a majority of the permanent members of the committee is present]** at least one third of the members of the committee must be present before a vote may be taken on a question;

### **Establishment**

**153.** There is a Committee on Finance.

### **Composition**

**154.** The Committee on Finance consists of the number of delegates as the Rules Committee may determine provided that wherever possible each provincial delegation shall have one representative.

### **Chairperson**

**155.** (1) The Committee on Finance must elect one of its members as the chairperson of the committee.

(2) If the chairperson is not available or is unable to perform the functions of the chairperson the remaining members must elect another member to act as chairperson.

### **Functions and powers**

**156.** The Committee on Finance has those powers and functions referred to in section 4(2) of the Money Bills Amendment Procedure and Related Matters Act, 2008.

### **Consultation with the National Assembly Committee on Finance**

**157.** The Committee on Finance may meet or consult or exchange views with the National Assembly Standing Committee on Finance on matters of common interest or when directed to do so by the Chairperson or resolution of the Council.

**Establishment**

**158.** There is a Committee on Appropriations.

**Composition**

**159.** The Committee on Appropriations consists of the number of delegates as the Rules Committee may determine provided that wherever possible each provincial delegation shall have one representative.

**Chairperson**

**160.** (1) The Committee on Appropriations must elect one of its members as the chairperson of the committee.

(2) If the chairperson is not available or is unable to perform the functions of the chairperson the remaining members must elect another member to act as chairperson.

**Functions and powers**

**161.** (1) The Committee on Appropriations has those powers and functions referred to in section 4(3) of the Money Bills Amendment Procedure and Related Matters Act, 2008.

**Consultation with the National Assembly Committee on Appropriation**

**162.** The Committee on Appropriations may meet or consult or exchange views with the National Assembly Standing Committee on Appropriations on matters of common interest or when directed to do so by the Chairperson or resolution of the Council.

**Publication of names of committee members**

**163.** The Chairperson of the Council must table in the Council a list of names of all permanent delegates of the Council appointed to the Committees on Finance and Appropriations.

**Composition**

**165.** (a) the House Chairperson Committees **[and Oversight;**

**(b) the House Chairperson; [Oversight and Institutional Support]**

Members' Support and International Relations; and

**(c) the chairperson[s] of [each select] a committee[s] [or a member of that committee designated by the chairperson].**

**[(2)The Committee may co-opt the chairperson of an ad hoc committee as a member of the Committee.]**

### **Chairperson**

**166.(1)** The House Chairperson responsible for committees [Committees presides at meetings of the Committee of Chairpersons] is the chairperson of the Committee of Chairpersons.

(2) If the House Chairperson responsible for committees [Committees] is not available or is unable to perform the functions of the chairperson another House Chairperson **[Oversight and Institutional Support presides at a meeting]** acts as the chairperson of the Committee.

(3) If both House Chairpersons are unavailable, the Committee may elect one of its members to perform the functions of the chairperson.

### **Functions and powers**

**167.** The Committee of Chairpersons may make recommendations to the Rules Committee or the Programme Committee regarding any matter **[affecting]** relating to the scheduling or functioning of any Council committee [,] or subcommittee **[or other Council forum]**.

### **Establishment**

**168. (1) (b) [and the most senior whips of each of the parties].**

**[(2) (a) Any decision by the Chairperson of the Council to appoint an ad hoc committee in terms of subrule (1) (b) must be tabled in the Council for ratification by the Council.**

**(b) The decision in terms of subrule (1) (b) must be tabled in the Council on its first sitting day after the decision was taken.]**

(2) A decision by the Chairperson of the Council to establish an ad hoc committee in terms of subrule (1) (b) must be tabled in the subsequent sitting day after the decision was taken.

(5) An ad hoc committee has those **[of the]** powers listed in rule 112 only as are specified in the resolution or decision establishing the committee.

(6) An ad hoc committee ceases to exist -

(b) if it is dissolved earlier by the Council or the Chairperson of the Council.

### **Composition**

**169.** (1) The resolution establishing an ad hoc committee must either specify the number of members to be appointed or the names of the members who are appointed to the committee.

### **Legislative powers of Council**

**170.** (1) The national legislative authority as vested **[by the Constitution]** in Parliament in terms of section 44 (1) of the Constitution confers on the Council **[, in terms of section 44 (1) of the Constitution,]** the power—

(3) (a) Any Bill falling within a functional area listed in Schedule 4 **[, excluding a money Bill].**

(4) In exercising its legislative powers, the Council may in terms of section 68 of the Constitution **[may]** -

(b) initiate or prepare legislation falling within a functional area listed in Schedule 4 or other legislation referred to in section 76(3) [which may be introduced in the Council], but may not initiate or prepare money bills.

### **Initiation of legislation by [Council] delegates or committees**

**171.** (1) **[The Council initiates legislation through its committees and members acting with the permission of the Council in terms of these Rules.] Delegates or committees may, in terms of the Constitution and these Rules, initiate legislation. [with the permission of the Council.]**

- (2) **[Any]** Only a committee or [member] delegate [of the Council] may in terms of section 73(4) of the Constitution introduce a Bill in the Council **[that has been initiated in terms of subrule (1)].**

#### **Initiation of legislation by national executive or provinces**

- 172. [(1) If the national executive or a provincial executive or legislature initiates and prepares legislation for introduction in the Council, that legislation may only be introduced by a Council member or committee in terms of these Rules.]**

(1) Legislation initiated by the national executive or a provincial executive or legislature for introduction in the Council may in terms of these Rules, be introduced only by a Council member or committee.

#### **PART 2: SECTION 76[1] (3), (4) OR (5) BILLS**

##### **Chairperson's functions when section 76 [(1)] (3), (4) or (5) Bills are received from Assembly**

- 174. (1)** When a section 76 **[1] (3), (4) or (5)** Bill has been passed by the Assembly and is referred to the Council in terms of **[J]joint [R]rule 184(1)**, the Chairperson of the Council must –
- (a) **[send a copy or electronic transmission of the Bill and] submit a copy of the bill or an electronic copy thereof together with the annexures if, any** to the Speaker of each provincial legislature **[for purposes of enabling the legislature to confer authority on its delegation] for consideration and the conferral of authority on their delegations** to vote on the Bill; **[and]**
- [(b) table the Bill in the Council or, if the Council is not sitting, table the Bill on the day on which the Council resumes its sittings.]**
- (b) inform the Council accordingly; and
- (c) refer the bill to the relevant committee.

### **[Referral to committee**

**167. (1) When the Bill has been tabled or if the Council is not scheduled to sit for at least two working days after the Bill has been referred from the Assembly to the Council, the Chairperson of the Council must refer the Bill and its annexures to the appropriate select committee or, after consulting the delegation whips, to any other Council committee.**

**(2) The Chairperson may place the Bill on the Order Paper for debate and decision if the Bill has been agreed to by a joint committee during the Assembly proceedings.**

### **Opportunity for public input**

**175. (1) If a Bill has not been published for public comment in the Assembly proceedings, the Council committee to which the Bill is referred, on request by at least five delegations, may, after consulting the Chairperson of the Council and the person in charge of the Bill, direct that the Bill be published in the *Gazette* or in such other way as the committee may determine.]**

**[(2)] (1) When a [committee has directed that the Bill be published, the Secretary must publish the Bill in the *Gazette* or in such other way as the committee has determined, together with a notice inviting interested persons and institutions to submit representations on the Bill to the committee before a date determined by the committee and mentioned in the notice] bill has been referred to a committee, the committee may arrange its own business in a manner as to allow the facilitation of public involvement in the process.**

### **Committee's functions**

**176.(1)** The **[select committee or other Council]** committee to which the Bill is referred –

- (g) may recommend that the time limit for the Council’s consideration of the Bill **[as may have been set in terms of the Joint Rules,]** be extended;
- (j) may in accordance with provincial mandates, recommend approval or rejection of the Bill or present an amendment Bill; and

**[Suspension of further consideration of Bill by committee**

**170.** When the committee has concluded its deliberations under rule 162 it may suspend its further consideration of the Bill until a later date within the time limit as may have been set in terms of the Joint Rules, or any extended time limit agreed to in terms of the Joint Rules.]

**Committee[’s] report**

**176.** (1) (c) the **[supporting memorandum]** Explanatory Memorandum which was introduced with the Bill or, if the **[memorandum]** Explanatory Memorandum has been amended by the committee, the amended **[memorandum]** Explanatory Memorandum.

(2) In its report the committee –

- (a) must in accordance with provincial mandates, state whether it recommends approval of the Bill with or without amendments, or rejection of the Bill;
- (c) must **[certify]** indicate that –
  - [(i)]**specify **[in which respects there was not consensus]** how many of the provinces have voted against the bill..; and
  - (ii)** in addition to the majority report, express the views of any minority concerned];

**Consideration of committee report and Bill by Council**

- 177.** (1) The Chairperson of the Council must place the **[committee's report and the Bill presented to the Council]** Bill and the committee **[’s]** report thereon on the Order Paper for consideration.
- (2) The chairperson or other member of the committee who tables the report in the Council on behalf of the committee, may, if the committee has so recommended in its report, **[address the Council in order to]** explain the report.
- (3) A Bill is passed by the Council if it is supported by at least five provinces [agreed to by the Council in terms of section 65(1) of the Constitution].

**[Amendments after Bill placed on Order Paper**

- 173.** (1) (a) **After a Bill has been placed on the Order Paper but before the Council decides the Bill, a member may place amendments to the Bill on the Order Paper.**
- (b) **If the Bill has not been agreed to by the committee or if the committee has recommended its rejection, the Bill may not be amended under this rule.**
- (2) **Amendments delivered to the Secretary after 12:00 on any working day may be placed on the Order Paper only after the expiry of 24 hours, unless the Chairperson of the Council directs otherwise in a particular case.**
- (3) (a) **The following amendments are out of order and may not be proposed under this rule:**
- (i) **Amendments that affect the principle of the Bill and in respect of which the Council has not given any instruction.**
- (ii) **Amendments that change the classification of the Bill.**



- (iii) Amendments that would render the Bill constitutionally or procedurally out of order within the meaning of Joint Rule 161.
  - (iv) Amendments that are out of order for any other reason.
- (b) The Chairperson's ruling on whether an amendment is out of order or in order, is final. If the JTM has made a finding on the amendment the Chairperson is bound by the finding.
- (4) No amendment which has the same effect as an amendment previously rejected by the committee may be placed on the Order Paper, unless the Chairperson directs otherwise.
- (5) If an amendment has been placed on the Order Paper for the day on which the Bill is to be put for decision by the Council, the Chairperson may, before putting the question on the Bill –
- (a) recommit the Bill for reconsideration to the Council or joint committee which considered the Bill together with the amendment; or
  - (b) put the amendment for decision by the Council and then the Bill as a whole, including any approved amendment.
- (6) A Council committee to which a Bill is recommitted must deal with the Bill in terms of rule 174. A joint committee to which a Bill is recommitted must deal with the Bill in terms of Joint Rule 170.
- (7) A Bill may not be recommitted to a committee more than once in terms of this rule.

#### **Referral of amendments proposed in Council to Council committee**

- 174.(1) If a Bill is recommitted in terms of rule 173(5)(a) to a Council committee, the committee –

- (a) may consider only the clauses in respect of which amendments have been placed on the Order Paper and consequential amendments that have to be effected;
  - (b) may consult the JTM on whether any of the amendments –
    - (i) affect the JTM’s classification of the Bill; or
    - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of Joint Rule 161;
  - (c) must mention in the report each amendment agreed to by the committee; and
  - (d) must specify in the report each amendment placed on the Order Paper in terms of rule 173(4) but rejected by the committee;
  - (e) may not agree on any amendment that –
    - (i) changes the classification of the Bill; or
    - (ii) renders the Bill constitutionally or procedurally out of order within the meeting of Joint Rule 161; and
  - (f) must table its report together with the Bill in the Council.
- (2) The report of the committee must be placed on the Order Paper for the consideration of –
- (a) any amendments agreed to by the committee; and
  - (b) any amendments specified in the report in terms of sub rule(1)(d) and moved in the Council.
- (3) A motion in terms of sub rule (2)(b) may be moved without notice.
- (4) The Council must first decide on the amendments and then on the Bill as a whole, including any approved amendments.]

**Consequences of approval of amendment or rejection of section 76[1](3), (4) or (5) Bills**

**178.** A section 76 [1] (3), (4) or (5) Bill must be referred –

- (a) to the President in terms of **[joint rule 185 (1) (a)]** section 76(1)(b) of the Constitution and Joint Rule 185(1)(a) if the Council approves the Bill as passed by the Assembly;
- (b) to the Assembly in terms of **[joint rule 185 (1)(b)]** section 76(1)(c) of the Constitution and Joint Rule 185(1)(b) if the Council amends the Bill as passed by the Assembly; or
- (c) to the Mediation Committee in terms of **[joint rule 186 (1)(a)]** section 76(1)(d) of the Constitution and Joint Rule 186(1)(a) if the Council rejects the Bill as passed by the Assembly.

### **Process if mediation successful**

**179.** (1) The Chairperson of the Council must table a notice in the Council stating that the Council's version has been agreed on by the Mediation Committee if the Mediation Committee has agreed on the Bill as amended by the Council and as referred to the Assembly in terms of **[rule 175 (b)]** section 76(1)(g) of the Constitution and rule 171 (b).

(2) (b) **[a version that differs from any version of the Bill as passed by either the Assembly or the Council]** another version of the Bill.

**[(3) If, after consultation with the delegation whips and the chairperson of the select committee or other Council committee concerned, the Chairperson of the Council is of the view that the Council debate on the Bill in terms of subrule (2) may be facilitated by a report of the select committee concerned or any other appropriate Council committee, the Chairperson must first refer the Bill to the committee for a report before placing the Bill on the Order Paper.**

**(4) If the Bill is referred to a committee, the committee may –**

- (a) consult with the appropriate Assembly committee or the chairperson of that committee; and**

(b) not propose any amendments to the Bill.

(5) The committee must table in the Council –

(a) the committee's report; and

(b) the version of the Bill as agreed on by the Mediation Committee.

(6) The debate in the Council on the Bill agreed on by the Mediation Committee must be confined [–]

[(a)to the matters dealt with in the committee's report, if the Bill was referred to a committee; and

[(b)]to the question whether the Bill as agreed on by the Mediation Committee should be passed.]

#### Process if mediation unsuccessful

180. [A section 76(1) Bill must be referred back to the Assembly if mediation is unsuccessful.] If the Mediation Committee is unable to agree within 30 days of the bill's referral to it, the bill lapses.

#### PART 3: [SECTION 76(2)] BILLS IN TERMS OF SECTION 76(2)

Procedure before introduction of [Section 76(2)] Bills initiated by Council members in terms of section 73(4)

#### Council's [permission] requirements for Bill introduction

181. A Council member intending to introduce a [section 76(2) Bill] bill in the Council in terms of section 73(4) [in an individual capacity] (other than on request by the national executive or a provincial executive or legislature) must [for the purpose of obtaining the Council's permission in terms of rule 163(1),] submit to the Chairperson of the Council a [m]Memorandum which –

Referral of proposals to the relevant committee [on Petitions and Members' Legislative Proposals]

**182.** (1) The Chairperson of the Council must refer the member's memorandum to the relevant committee [**Committee on Petitions and Members' Legislative Proposals**] for consideration and report.

**[(2) The Committee must consult the select committee within whose authority the subject of the proposal falls.**

**(3) If the Committee after such consultation is of the view that the member's proposal warrants further investigation, but that it has financial implications for the state that may be significant enough to affect its desirability, the Committee must request the Chairperson of the Council to refer the member's memorandum to the appropriate select committee for report on the financial implications of the proposal.**

**(4) After considering the member's memorandum and the select committee's report, if there is such a report, the Committee must recommend that permission either –**

- (a) be given to the member to proceed with the proposed legislation; or**
- (b) be refused.]**

**[(5)] (2) If the Committee recommends that the proposed legislation be proceeded with, it may [–]**

**[(a)] express itself on the desirability of the proposal[;].**

**[(b)] recommend that the Council approve the member's proposal in principle; or**

**(c) recommend that the permission be given subject to conditions.]**

#### **Council's consideration of proposal**

**183.** (1) The Chairperson of the Council [**The member's memorandum and the recommendation of the Committee on Petitions and Members'**

**Legislative Proposals, including any views of a select committee on the financial and other implications of the proposal,] must-**

- (a) **[be sent] send the memorandum to the Speaker of each provincial legislature to enable the legislature to develop its position with regard to the proposed legislation [; and**
- (b) **be placed on the Order Paper for a decision in terms of section 65 (1) of the Constitution.**

**(2) The Council may –**

- (a) **give permission that the proposal be proceeded with;**
- (b) **refer the proposal back to the Committee or the select committee concerned for further consideration and report; or**
- (c) **refuse permission.**

**(3) If the Council gives permission that the proposal be proceeded with, it may, if it so chooses –**

- (a) **express itself on the desirability of the proposal; or**
- (b) **subject its permission to conditions.]**

#### **Council's [permission] require[d]ments for Bill introduction**

**185. (1) A Council committee intending to introduce a bill in terms of section 73(4) [76(2) Bill] in the Council must [, for the purpose of obtaining the Council's permission in terms of rule 163(1),] table in the Council a memorandum which-**

**(2) [(b)place the proposal on the Order Paper for debate and decision].**

#### **Consideration of proposal**

**186.(1) [(a) give permission that the proposal be proceeded with; (b) refer the proposal back to the committee for reconsideration; or (c) refuse permission.**

**(2) If the Council gives permission that the proposal be proceeded with, it may, if it so chooses-]**

[(a)] express itself on the desirability of the proposal [; or  
 (b) **subject its permission to conditions**].

**[Consideration of draft Bill before introduction] Consultation with affected parties**

188. (a) must arrange its business in such a manner that interested persons and institutions have a [period of a] at least three weeks after the draft Bill, or particulars **[of the draft Bill,] thereof** have been published **[in terms of rule 186,]** to participate in the processing of the **[comment on]** the proposed legislation;

**[(b) must give officials of any relevant state department or other executive organ of state a sufficient opportunity to state their case before the committee;]**

**[(c)] (b)** must consult the JTM for advice on the classification of the draft Bill; and

**[(d)] (c)** may in view of any comments received in terms of paragraph (a) **[or (b)],** or advice given in terms of paragraph **[(c)] (b)** **[adjust] amend** the draft Bill before its introduction.

**PUBLICATION OF BILLS INTRODUCED IN TERMS OF SECTION 76(2) [BILLS]**

**Prior notice and publication of draft legislation.**

189. (1) A **[section 76(2) Bill]** bill to be dealt with in terms of section 76(2), whether initiated by a Council member or committee or **[which is to be]** introduced by a Council member or committee on request of the national executive or a provincial executive or legislature, may be introduced in the Council only if -

(b) an **[explanatory summary]** Explanatory Memorandum of the Bill, or the draft Bill **[as it is to be introduced],** has been published in the Gazette. The draft Bill **[itself, as it is to be introduced,]** must be published if the Chairperson of the Council so **[orders]** directs.

(2) The notice referred to in subrule (1)(a) must contain an invitation to interested persons and institutions to participate in the processing of

**[submit written representations on]** the draft legislation **[to the Secretary]** within a specified period.

**[(3) The Council committee or member intending to introduce the Bill must consult the Chairperson on whether the Bill itself or an explanatory summary should be published.]**

### **Notice withdrawing proposed legislation**

**190.** (1) If a Council committee or member decides not to proceed with the introduction of a Bill after rule 182 has been complied with, the committee or delegate **[member]** must without delay inform the Secretary in writing of the decision.

### **INTRODUCTION OF BILL TO BE DEALT WITH IN TERMS OF SECTION 76(2) [BILLS]**

#### **Method of introduction**

**191.** (1) A Council member or committee **[introduces]** may introduce a **[section 76(2)]** Bill by submitting either to the Chairperson of the Council or the House –

(a) a copy of the Bill or **[ if the Bill as it is introduced was published in terms of rule 186]** a copy of the Gazette referred to in rule **182(1)(a); [(b)the explanatory summary referred to in rule 186(1)(b), if the Bill itself was not published;]** and

**[(c)] (b) [a supporting memorandum] an Explanatory Memorandum** which must –

(i) state that the Bill is introduced **[as a] in terms** of section 76(2) **[Bill];**

(ii) give an account of the financial implications of the Bill **[for the state; and]**

**(v) a certificate that the Bill is constitutionally in order.**



- (2) (a) a reference to the name of the member or committee **[as the member or committee]** introducing **[the Bill]** it; and

### **Classification of Bills**

**192.** (1) When a Bill is introduced in the Council in terms of rule 184, **[the Secretary]** the Chairperson of the Council must refer the Bill to the JTM for classification **[of the Bill]** in terms of joint rule 160.

- (2) The classification of the Bill and all findings of the JTM must be –  
 (a) conveyed to the select committee or other Council committee **[considering]** to which the Bill was referred; and

### **Reintroduction of Bills ruled out of order by JTM**

**193.** (1) If the JTM classifies a Bill as constitutionally or procedurally out of order the Bill may not be proceeded with.

(2) Subrule (1) does not prevent a Bill

(a) from being corrected and reintroduced, if it was found to be defective because of its content; or

(b) from being reintroduced in accordance with the correct procedure, if it was found to be procedurally defective.

- (3) A Bill reintroduced in the Council in terms of [joint rule 162(2)] this rule must follow the same procedure as if it were introduced for the first time, except that the steps prior to introduction as prescribed by the Council Rules do not apply if no substantive new provisions were added to the Bill.

### **[CONSIDERATION OF SECTION 76(2) BILLS]**

#### **Procedure after introduction**

#### **Chairperson's functions when section 76 (2) Bills are introduced**

**[191. (1) When a section 76 (2) Bill is introduced in the Council the Chairperson of the Council must -**

- (a) send a copy of the Bill and the annexures to the Speaker of each provincial legislature for purposes of enabling the legislature to confer authority on its delegation to vote on the Bill; and
- (b) table the Bill in the Council or, if the Council is not sitting, table the Bill on the day on which the Council resumes its sittings.]

**194.** (1) After a Bill is introduced in terms of section 76(2) the Chairperson of the Council must –

- (a) refer the Bill to the relevant select committee; and
- (b) send a copy of the Bill and the annexures thereto, if any, to the Speaker of each provincial legislature for consideration and conferral of authority on its delegation to vote on the Bill.

(2) A committee to which the Bill has been referred must deal with the Bill in accordance with rule 168.

(2) Rules 170, 173 and 174 apply.

**[Referral to committee**

**192. (1) When the Bill has been tabled or if the Council is not scheduled to sit for at least two working days after the Bill was introduced, the Chairperson of the Council must refer the Bill and its annexures –**

- (a) to the appropriate select committee or, after consulting the delegation head, to any other Council committee; or**
- (b) to a joint committee, if this is required by a decision in terms of joint rule 166.**

**(2) If the Bill is referred –**

- (a) to a Council committee, the committee must deal with the Bill in accordance with rules 193 and 196; or**
- (b) to a joint committee, the Joint Rules apply.**

### **Committee's functions**

**193. The select committee or other Council committee to which the Bill is referred –**

- (a) must enquire into the subject of the Bill; and**
- (b) if it is a Bill amending provisions of an Act, may seek the permission of the Council to enquire into amending other provisions of that Act;**
- (c) may, or if ordered by the Chairperson of the Council must, consult with any other committee that has a direct interest in the substance of the Bill;**
- (d) may consult the person in charge of the Bill;**
- e) consult with the appropriate Assembly portfolio committee or chairperson of that committee;**
- (f) may consult the JTM on whether any amendments to the Bill proposed in the committee –**
  - (i) may affect the classification of the Bill; or**
  - (ii) may render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;**
- (g) may not propose an amendment that –**
  - (i) changes the classification of the Bill;**
  - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;**
- (h) may recommend approval or rejection of the Bill or present an amendment Bill; and**
- (i) must report to the Council in accordance with rule 196.**

### **Suspension of further consideration of Bill by committee**

**194. When the committee has concluded its deliberations under rule 193 it may suspend its further consideration of the Bill until a later date.**

### **Referral to Council committee if joint committee fails to report**

- 195. (1) If the Bill has been referred to a joint committee in terms of rule 192 (1) (b) and that joint committee fails to present a report or fails to reach consensus on the Bill, the Chairperson of the Council must refer the Bill and its annexures –**
- (a) to the select committee within whose authority the subject of the Bill falls; or**
  - (b) by resolution of the Council, to any other Council committee.**
- (2) The committee to which the Bill is referred must deal with the Bill in accordance with rules 193 and 196.**

#### **Committee's report**

- 196. (1) The committee to which a Bill is referred must table in the Council**
- (a) its report;**
  - (b) the Bill that has been agreed on by it, or, if it has not agreed on a Bill, the Bill as referred to it; and**
  - (c) the supporting memorandum which was introduced with the Bill or, if the memorandum has been amended by the committee, the amended memorandum.**
- (2) In its report the committee –**
- (a) must state whether it recommends approval of the Bill with or without amendments, or rejection of the Bill;**
  - (b) must specify each amendment if an amendment Bill was agreed on by it, and each amendment that was considered and, for a reason other than its being out of order, was rejected by it;**
  - (c) must certify that –**
    - (i) all amendments are constitutionally and procedurally in order within the meaning of joint rule 161; and**
    - (ii) no amendment affects the classification of the Bill;**

- (d) must, if it is not a unanimous report –
  - (i) specify in which respects there was not consensus; and
  - (ii) in addition to the majority report, express the views of any minority concerned;
- (e) may specify such details or information about its enquiry and any representations or evidence received or taken by it, as it may consider necessary for the purposes of the debate on the Bill;
- (f) may report on any matter arising from its deliberations on the Bill but which is not necessarily related to the Bill; and
- (g) may recommend to the Council that any matter contained in the report be placed on the Order Paper for separate consideration either before or after the Council considers the Bill.

#### **Consideration of committee's report and Bill by Council**

197. (1) The Chairperson of the Council must place the Council or joint committee's report and the Bill presented to the Council on the Order Paper.
- (2) The chairperson or other member of the committee who tables the report in the Council on behalf of the committee, may if the committee has so recommended in its report, address the Council in order to explain the report.
- (3) A Bill is passed by the Council if it is agreed to by the Council in terms of section 65 (1) of the Constitution.

#### **Amendments after Bill placed on Order Paper**

198. (1)(a) After a Bill has been placed on the Order Paper but before the Council decides the Bill, a member may place amendments to the Bill on the Order Paper.

- (b) If the Bill has not been agreed to by the committee or if the committee has recommended its rejection, the Bill may not be amended under this rule.
- (2) Amendments delivered to the Secretary after 12:00 on any working day may be placed on the Order Paper only after the expiry of 24 hours, unless the Chairperson of the Council directs otherwise in a particular case.
- (3) (a) The following amendments are out of order and may not be proposed under this rule:
- (i) Amendments that affect the principle of the Bill and in respect of which the Council has not given any instruction.
  - (ii) Amendments that change the classification of the Bill.
  - (iii) Amendments that would render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161.
- (iii) Amendments that are out of order for any other reason.
- (b) The Chairperson's ruling on whether an amendment is out of order or in order, is final. If the JTM has made a finding on the amendment the Chairperson is bound by the finding.
- (4) No amendment which has the same effect as an amendment previously rejected by the committee may be placed on the Order Paper, unless the Chairperson directs otherwise.
- (5) If an amendment has been placed on the Order Paper for the day on which the Bill is to be put for decision by the Council, the Chairperson may, before putting the question on the Bill –

- (a) recommit the Bill for reconsideration to the Council or joint committee which considered the Bill together with the amendment; or
  - (b) put the amendment for decision by the Council and then the Bill as a whole, including any approved amendment.
- (6) A Council committee to which a Bill is recommitted must deal with the Bill in terms of rule 199. A joint committee to which a Bill is recommitted must deal with the Bill in terms of joint rule 170.
- (7) A Bill may not be recommitted to a committee more than once in terms of this rule.

#### **Referral of amendments proposed in Council to Council committee**

199. (1) If a Bill is recommitted in terms of rule 198 (5) (a) to a Council committee, the committee –
- (a) may consider only the clauses in respect of which amendments have been placed on the Order Paper and consequential amendments that have to be effected;
  - (b) may consult the JTM on whether any of the amendments –
    - (i) affects the JTM's classification of the Bill; or
    - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
  - (c) must mention in the report each amendment agreed to by the committee; and
  - (d) must specify in the report each amendment placed on the Order Paper in terms of rule 198 (4) but rejected by the committee;
  - (e) may not agree on any amendment that –
    - (i) changes the classification of the Bill; or
    - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of joint rule 161; and

- (f) must table its report together with the Bill in the Council.
- (2) The report of the committee must be placed on the Order Paper for the consideration of –
  - (a) any amendments agreed to by the committee; and
  - (b) any amendments specified in the report in terms of sub rule (1)(d) and moved in the Council.
- (3) A motion in terms of subrule (2)(b) may be moved without notice.
- (4) The Council must first decide on the amendments and then on the Bill as a whole, including any approved amendments.

**Referral to an Assembly committee if joint committee fails to report**

200. (1) If a Bill is recommitted to a joint committee in terms of rule 198(5) and that joint committee fails to present a report or fails to reach consensus on any amendments, the Chairperson of the Council must refer the Bill and its annexures –
- (a) to the select committee within whose authority the subject of the Bill falls; or
  - (b) by resolution of the Council, to any other Council committee.
- (2) The committee to which the Bill is referred must deal with the Bill in terms of rule 199.]

**Consequences of approval or rejection of bill dealt with in terms of section 76(2) [Bill]**

195. A bill dealt with in terms of section 76(2) [Bill] –
- (a) must be referred to the Assembly in terms of joint rule 184(2) if the Council passes [approves] the Bill; or



**RECONSIDERATION OF A BILL DEALT WITH IN TERMS OF SECTION 76(2)  
[BILLS] IF AMENDED BY ASSEMBLY**

**Bill [to be placed on Order Paper or] referred to select committee**

**196.** (1) If the Assembly amends a Bill referred to it in terms of joint rule 184(2) the Chairperson of the Council must refer the amended Bill to the relevant committee for consideration and report.

**[(a) place the Bill on the Order Paper for debate and decision if the chairperson of the select committee concerned or other relevant Council committee so requests; or**

**(b) submit the amended Bill to the select committee concerned or any other appropriate Council committee for a report and recommendations on the Assembly's amendments.]**

(2) The committee to which the **[Assembly's amended Bill]** Bill as amended by the Assembly is referred –

(a) may consult the **[appropriate]** relevant Assembly committee or the chairperson of that committee;

**Committee[']s] report**

**197.** (1) The committee to which the **[Assembly's amended]** Bill as amended by the Assembly is referred must table in the Council –

(b) the **[Assembly's amended]** Bill agreed to by the committee.

(2) When the report is tabled the Chairperson of the Council must place the report and the Bill **[Assembly's amended]** on the Order Paper for debate and decision.

### **Debate and decision**

- 198.** (1) The debate on the report and the **[Assembly's amended]** Bill as amended by the Assembly must be confined to –
- (2) No amendments may be proposed to the **[Assembly's amended]** Bill as amended by the Assembly.
- (3) If the Council passes the Bill **[Assembly's amended]** in accordance with section 65(1) of the Constitution, the Secretary to Parliament must without delay submit the Bill to the President for signature and assent.
- (4) If the Council **[refuses to pass the Assembly's amended]** rejects the Bill, the Bill as amended by the Assembly must be referred to the Mediation Committee in terms section 76(2)(d) of the Constitution and joint rule 186(2)(b).

### **Process if mediation successful**

- [178. (1) The Chairperson of the Council must table a notice in the Council stating that the Council's version of the Bill has been agreed on by the Mediation Committee, if the Mediation Committee has agreed on the version of the Bill as originally passed by the Council before its amendment by the Assembly.**
- (2) The Chairperson must place a Bill agreed on by the Mediation Committee on the Order Paper for debate and decision if that Bill is –
- (a) the Assembly's amended Bill which the Council has refused to pass as stated in rule 204 (4); or
  - (b) a version that differs from any version of the Bill as passed by either the Assembly or the Council.
- (3) If, after consultation with the delegation whips the Chairperson of the Council is of the view that the Council debate on the Bill in terms of subrule (2) may be facilitated by a report of the select committee concerned or any other appropriate Council

committee, the Chairperson must first refer the Bill to the committee for a report before placing the Bill on the Order Paper.

- (4) If the Bill is referred to a committee, the committee may –
  - (a) consult with the appropriate Assembly committee or the chairperson of that committee; and
  - (b) not propose any amendments to the Bill.
  
- (5) The committee must table in the Council –
  - (a) the committee's report; and
  - (b) the version of the Bill as agreed on by the Mediation Committee.
  
- (6) The debate in the Council on the Bill as agreed on by the Mediation Committee must be confined –
  - (a) to the matters dealt with in the committee's report, if the Bill was referred to a committee, or to the clauses of the Bill which differ from the clauses of the Bill as originally passed by the Council, if the Bill was not referred to a committee; and
  - (b) to the question whether the Bill as agreed on by the Mediation Committee should be passed.]

199. (1) If the Mediation Committee has agreed on the Bill as passed by the Council or the Bill as amended by the Assembly or another version of the Bill as contemplated in sec 76(1)(d)(ii) or sec 76(2)(h) of the Constitution, the Chairperson of the Council must-

- (a) table a notice in the Council indicating the version on which the Mediation Committee has agreed; and
- (b) place the Bill agreed on by the Mediation Committee on the Order Paper for debate and decision

(2) Rule 173, with the necessary changes required by the context, applies.

### **Unsuccessful mediation**

**200. [A section 76(2) lapses if mediation is unsuccessful] If the Mediation Committee fails to agree on the Bill 30 days after the Bill has been referred to it, the Bill lapses.**

### **Chairperson's functions when section 75 Bills received from Assembly**

**201. (1) (a) send a copy of the Bill and the accompanying memorandum to the Speaker of each provincial legislature for information [purposes]; and**  
**[(b) table the Bill in the Council or, if the Council is not sitting, table the Bill on the day on which the Council resumes its sitting]**  
(b) refer the Bill to the relevant committee for consideration and report.  
(c) Rules 168, 169 and 170(1) and (2) apply.

### **[Referral to committee**

**208. (1) When the Bill has been tabled or if the Council is not scheduled to sit for at least two working days after the Bill has been referred from the Assembly to the Council, the Chairperson of the Council must refer the Bill and its annexures to the appropriate select committee or, after consulting the party whips, to any other Council committee.**

**(2) Despite subrule (1), the Council may decide that the Bill must be placed on the Order Paper for consideration without referral to a committee of the Council.**

### **Bill not referred to committee placed on Order Paper**

**209. (1) A Bill not referred to a committee of the Council in terms of rule 208 (2) must be placed on the Order Paper for consideration.**  
**(2) The Bill is passed by the Council if it is agreed to by the Council in terms of section 75 (2) of the Constitution.**

### **Committee's functions**

- 210. (1) The select committee or other Council committee to which the Bill is referred –**
- (a) must enquire into the subject of the Bill; and**
  - (b) may, or if ordered by the Chairperson of the Council must, consult any other committee that has a direct interest in the substance of the Bill;**
  - (c) may consult the person in charge of the Bill;**
  - (d) may require any suitable person to brief the committee on the objects and substance of the Bill;**
  - (e) may consult the appropriate Assembly portfolio committee or chairperson of that committee;**
  - (f) may recommend that the time limit for the Council's consideration of the Bill as may have been set in terms of the Joint Rules, be extended;**
  - (g) may consult the JTM on whether any amendments to the Bill proposed in the committee -**
    - (i) may affect the classification of the Bill;**
    - (iii) may render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;**
  - (h) may not propose an amendment that may –**
    - (i) change the classification of the Bill;**
    - (iii) render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;**
  - (i) may recommend approval or rejection of the Bill or present an amendment Bill; and**
  - (j) must report to the Council in accordance with rule 211.**

### **Committee's report**

- 211. (1) The committee to which a Bill is referred must table in the Council**
- (a) its report;**

- (b) the Bill that has been agreed on by it, or, if it has not agreed on a Bill, the Bill as referred to it; and
  - (c) the supporting memorandum which was introduced with the Bill.
  
- (2) In its report the committee –
  - (a) must state whether it recommends approval of the Bill with or without proposed amendments, or rejection of the Bill;
  - (b) must specify each amendment if an amended Bill was agreed on by it, and each amendment that was considered and, for a reason other than its being out of order, was rejected by it;
  - (c) must certify that –
    - (i) all amendments are constitutionally and procedurally in order within the meaning of joint rule 161; and
    - (ii) no amendment affects the classification of the Bill;
  - (d) must, if it is not a unanimous report –
    - (i) specify in which respects there was not consensus; and
    - (ii) in addition to the majority report, express the views of any minority concerned;
  - (e) may specify such details or information about its enquiry and any representations or evidence received or taken by it, as it may consider necessary for the purposes of the debate on the Bill;
  - (f) may recommend to the Council that any matter contained in the report be placed on the Order Paper for separate consideration either before or after the Council considers the Bill.
  
- (3) The report of the committee together with the Bill, any proposed

amendments and the memorandum must be placed on the Order Paper for consideration.

- (4) **The Bill, subject to proposed amendments where applicable, is passed by the Council if the Bill and any amendments are agreed to by the Council in terms of section 75(2) of the Constitution.]**

**Amendments after Bill placed on Order Paper**

202. (1)(a) After a Bill has been placed on the Order Paper but before the Council decides on the Bill, a **[member] delegate** may place **[proposals for amending the Bill] proposed amendments to the Bill** on the Order Paper.

- (b) If the Bill **[was referred to a committee of the Council and the committee did not agree to it] has not been agreed to by the committee or if the committee has** recommended its rejection, no amendments may be proposed under this rule.

- (2) **[Amendment proposals] The proposed amendments** delivered to the Secretary after 12:00 on any working day may be placed on the Order Paper only after the expiry of 24 hours, unless the Chairperson of the Council directs otherwise **[in a particular case]**.

- (b) The Chairperson's ruling on whether an amendment is out of order **[or in order,]** is final. If the JTM has made a finding on the amendment the Chairperson is bound by the finding.

- (4) **[If the Bill was referred to a committee of the Council, no] No** amendment **[proposal]** which has the same effect as an amendment **[proposal]** previously rejected by the committee may be placed on the Order Paper, **[except by the person in charge of the Bill]** unless the Chairperson directs otherwise.

(5) If **[any amendment proposal]** a proposed amendment has been placed on the Order Paper for the day on which the Bill is to be put for decision by the Council, the Chairperson **[must]** may, before putting the question on the Bill –

- (a) **[if the Bill was referred to a select committee or other committee of the Council, submit the Bill together with the amendment proposal for reconsideration to the committee which considered the Bill]** recommit the Bill together with amendments, if any, for reconsideration to the committee or joint committee which considered the Bill or another committee; or
- (b) put the **[amendment proposal]** proposed amendment for decision by the Council and then the Bill as a whole, including any approved amendment **[proposals]**.

(6) A Council committee to which a Bill is recommitted must deal with the Bill in terms of rule 174. A joint committee to which a Bill is recommitted must deal with the Bill in terms of Joint Rule 170.

**[6]** (7) A Bill may not be recommitted to a committee more than once in terms of this rule.

### **Report to and decision of Council on amendments**

**203.** (1) **[A committee to which the Bill has been recommitted for reconsideration together with any amendment proposal]** If a Bill is recommitted in terms of rule 195(5)(a) to a Council committee, the committee –

- (a) may consider only the clauses in respect of which amendments **[amendment proposals]** were placed on the Order Paper and consequential amendments that have to be effected;



- (b) may consult the JTM on whether any of the **[amendment proposals]** amendments –
  - (c) must mention in the report each amendment **[proposal]** agreed to by the committee; and
  - (d) must specify in the report each amendment **[proposal]** placed on the Order Paper in terms of rule 195(4) but rejected by the committee;
- (2) (a) any proposed amendments **[amendment proposals]** agreed to by the committee; and
- (b) any proposed amendments **[amendment proposals]** specified in the report in terms of sub-rule (1)(d) and moved in the Council.
- (4) The Council must first decide on the amendments **[proposals]** and then on the Bill as a whole, including any approved amendments [proposals].
- (5) A Bill is passed if the Bill and any amendments are agreed to by the Council in terms of section 75(2) of the Constitution.

#### **Consequences of approval of amendment or rejection of section 75 Bills**

**204.** (a) the President in terms of joint rule 182 if the Council passes **[approves]** the Bill as passed by the Assembly; or

#### **Tabling of public comments on Bills amending the Constitution**

**205.** When any written comments received from the public and the provincial legislatures on constitutional amendments referred to in section 74(1), (2) or (3)(b) of the Constitution are submitted to the Chairperson of the Council in terms of section 74(6)(b), the Chairperson must **[forthwith]** table them forthwith in the Council **[, or if the Council is not sitting, table them on the day the Council resumes its sittings].**

**[Chairperson's functions] Procedure when section 74 Bills received from Assembly**

206. (a) submit [send] a copy of the Bill and the accompanying memorandum, if any, to the Speaker of each provincial legislature **[to enable the legislature to confer authority]** for consideration and conferral of authority on its delegation to vote on the Bill; and
- (b) **[table the Bill in the Council or, if the Council is not sitting, table the Bill on the day on which the Council resumes its sitting]** refer the Bill to the relevant committee.
- (c) Rules 167, 168, 169 and 170 with the necessary changes required by the context, apply.
207. A Bill is passed by the Council if it is agreed to by the Council with the supporting vote of at least six provinces.

**[Referral to committee**

217. (1) **When the Bill has been tabled or if the Council is not scheduled to sit for at least two working days after the Bill has been referred from the Assembly to the Council, the Chairperson of the Council must refer the Bill and its annexures to the appropriate select committee or, after consulting the delegation whips, to any other Council committee.**
- (2) **Despite subrule (1) the Chairperson of the Council may decide that the Bill must be placed on the Order Paper for consideration without referral to a Council committee.**

**Bill not referred to committee placed on Order Paper**

218. (1) **A Bill not referred to a committee of the Council in terms of rule 217 (1) must be placed on the Order Paper for consideration.**
- (2) **The Bill is passed by the Council if it is agreed to by the Council with a supporting vote of at least six provinces.**

### **Functions of committee on referral**

**219. If the Bill has been referred to a committee of the Council, the committee**

–

- (a) must enquire into the subject of the Bill; and**
- (b) may, or if ordered by the Chairperson of the Council must, consult with any other committee that has a direct interest in the substance of the Bill;**
- (c) may consult the person in charge of the Bill;**
- (d) may require any suitable person to brief the committee on the objects and substance of the Bill;**
- (e) may consult with the appropriate Assembly portfolio committee or chairperson of that committee;**
- (f) may recommend that the time limit for the Council’s consideration of the Bill as may have been set in terms of the Joint Rules, be extended;**
- (g) may consult the JTM on whether any amendments to the Bill proposed in the committee –**
  - (i) may affect the classification of the Bill; or**
  - (iii) may render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;**
- (h) may not propose an amendment that may –**
  - (i) change the classification of the Bill;**
  - (iii) render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;**
- (i) may recommend approval or rejection of the Bill or present an amendment Bill; and**
- (j) must report to the Council in accordance with rule 222.**

### **Opportunity for public input**

**220. (1) If a Bill has not been published for public comment in the Assembly proceedings, the committee to which the Bill is referred, on request by at least five delegations may, after consulting the Chairperson of**

the Council and the person in charge of the Bill, direct that the Bill be published in the *Gazette* or in such other way as the committee may determine.

- (2) When a committee has directed that the Bill be published, the Secretary must publish the Bill in the *Gazette* or in such other way as the committee has determined, together with a notice inviting interested persons and institutions to submit representation on the Bill to the committee before a date determined by the committee and mentioned in the notice.

#### **Suspension of further consideration of Bill by committee**

221. When the committee has completed its functions under rule 219 in respect of a Bill, it may suspend its further consideration of the Bill until a later date within the time limit as may have been set in terms of the Joint Rules or any extended time limit as may be agreed to in terms of the Joint Rules.

#### **Committee's report**

- 222.(1) The committee to which a Bill is referred must table in the Council –
- (a) its report;
  - (b) the Bill that has been agreed on by it, or if it has not agreed on a Bill, the Bill as referred to it; and
  - (c) the supporting memorandum which was introduced with the Bill or, if the memorandum has been amended by the committee, the amended memorandum.
- (2) In its report the committee –
- (a) must state whether it recommends approval of the Bill with or without amendments, or rejection of the Bill;
  - (b) must specify each amendment if an amended Bill was agreed on by it, and each amendment that was considered

and, for a reason other than its being out of order, was rejected by it;

- (c) must, if it is not a unanimous report –
  - (i) specify in which respects there was not consensus; and
  - (ii) in addition to the majority report, express the views of any minority concerned;
- (d) may specify such details or information about its enquiry and any representations or evidence received or taken by it, as it may consider necessary for the purposes of the debate on the Bill;
- (e) may report on any matter arising from its deliberations on the Bill which is not necessarily related to the Bill; and
- (f) may recommend to the Council that any matter contained in the report be placed on the Order Paper for separate consideration either before or after the Council considers the Bill.

#### **Consideration of committee report and Bill by Council**

**223.(1) The Chairperson of the Council must place the committee's report and the Bill presented to the Council on the Order Paper.**

**(2) The chairperson or other member of the committee who tables the report in the Council on behalf of the committee, may if the committee has so recommended in its report, address the Council in order to explain the report.**

**(3) A Bill is passed by the Council if it is agreed to by the Council with the supporting vote of at least six provinces.**

#### **Amendments**

**224.(1) (a) After a Bill has been placed on the Order Paper but before the Council decides the Bill a member may place amendments to the Bill**

on the Order Paper.

- (b) If the Bill was referred to a committee of the Council and the committee did not agree to it or recommended its rejection, the Bill may not be amended under this rule.

(2) Amendments delivered to the Secretary after 12:00 on any working day may only be placed on the Order Paper after the expiry of 24 hours, unless the Chairperson directs otherwise.

(3)(a) The following amendments are out of order and may not be proposed under this rule:

- (i) Amendments that affect the principle of the Bill and in respect of which the Council has not given any instruction.
- (ii) Amendments that change the classification of the Bill.
- (iii) Amendments that would render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161.
- (iv) Amendments that are out of order for any other reason.

(a) The Chairperson's ruling on whether an amendment is out of order or in order, is final. If the JTM has made a finding on the amendment the Chairperson is bound by the finding.

(4) If the Bill was referred to a committee of the Council, no amendment which has the same effect as an amendment previously rejected by the committee may be placed on the Order Paper, unless the Chairperson directs otherwise.

- (5) If any amendment has been put on the Order Paper for the day on which the Bill is to be put for decision by the Council, the Chairperson must, before putting the question on the Bill -
  - (a) recommit the Bill for reconsideration to the committee that considered the Bill, together with the amendment; or
  - (b) put the amendment for decision by the Council and then the Bill as a whole, including any approved amendments.
  
- (5) A Council committee to which a Bill is recommitted must deal with the Bill in terms of rule 219. A joint committee to which a Bill is recommitted must deal with the Bill in terms of joint rule 170.
  
- (6) A Bill may not be recommitted to a committee more than once in terms of this rule.

#### **Report to and decision of Council on amendments**

- 225. (1) A committee to which the Bill has been recommitted for reconsideration together with any amendments must –**
- (a) present the Bill together with its report to the Council;**
  - (b) mention in the report each amendment agreed to by the committee; and**
  - (b) specify in the report each amendment placed on the Order Paper in terms of rule 224 (2) but rejected by the committee.**
- (2) The report of the committee must be placed on the Order Paper for the consideration of –**
- (a) any amendments agreed to by the committee; and**
  - (b) any amendments specified in the report in terms of subrule (1)(c) and moved in the Council.**
- (3) A motion referred to in subrule (2) (b) may be moved without notice.**

- (4) The Council must first decide on the amendments and then on the Bill as a whole, including any approved amendments.]**

**Consequences of approval, amendment or rejection of section 74 Bills**

**208.** A section 74 Bill must be referred to –

- (a) the President **[in terms of joint rule 175 (a)]** if the Council **[approves]** passes the Bill as passed by the Assembly; or
- (b) the Assembly **[in terms of joint rule 175(b)]** if the Council amends the Bill as passed by the Assembly; or
- (c) the Mediation Committee **[in terms of joint rule 177(1)(a)]** if the Council rejects the Bill as passed by the Assembly.

**[Process if mediation successful**

**227. (1) The Chairperson of the Council must table a notice in the Council stating that the Council’s version has been agreed on by the Mediation Committee if the Mediation Committee has agreed on the Bill as amended by the Council and as referred to the Assembly in terms of rule 226 (b).**

- (2) The Chairperson must place a Bill agreed on by the Mediation Committee on the Order Paper for debate and decision if that Bill is –**
  - (a) the version as passed by the Assembly and which the Council has either amended or rejected as stated in rule 226 (b) or (c);**
  - (b) a version that differs from any version of the Bill as passed by either the Assembly or the Council.**
- (3) If, after consultation with the delegation whips and the chairperson of the select committee or other Council committee concerned, the Chairperson of the Council is of the view that the Council debate on the Bill in terms of subrule (2) may be**



facilitated by a report of the select committee concerned or any other appropriate Council committee, the Chairperson must first refer the Bill to the committee for a report before placing the Bill on the Order Paper.

- (4) If the Bill is referred to a committee, the committee may –
  - (a) consult with the appropriate Assembly committee or the chairperson of that committee; and
  - (b) not propose any amendments to the Bill.
  
- (5) The committee must table in the Council –
  - (a) the committee's report; and
  - (b) the version of the Bill as agreed on by the Mediation Committee.
  
- (6) The debate in the Council on the Bill agreed on by the Mediation Committee must be confined –
  - (a) to the matters dealt with in the committee's report, if the Bill was referred to a committee; and
  - (b) to the question whether the Bill as agreed on by the Mediation Committee should be passed.

#### **Process if mediation unsuccessful**

**228. A section 74 Bill lapses if mediation is unsuccessful.]**

#### **Form of petitions**

**209.** Petitions must be in the form prescribed by the Chairperson of the Council in accordance with guidelines determined by the **[Subcommittee on Review of Rules]** Rules Committee.

### **Lodging and approval by Chairperson of the Council**

**212.** Each petition must be deposited **[for at least one day]** with the Secretary, who must submit it to the Chairperson of the Council for approval before it is tabled in the Council.

### **[Tabling**

**198. If approved the Chairperson of the Council must table the petition in the Council.]**

### **Referral of petitions to committees**

**213.** If approved **[After tabling a petition in the Council]**, the Chairperson of the Council must publish the petition on the ATC and refer the petition to the **[Select]** Committee on Petitions and **[Members' Legislative Proposal]** Executive Undertakings for consideration and report.

### **Powers of committee**

**214.** (1) A committee to which a petition has been referred may, with the permission of the Chairperson of the Council, refer the subject matter of the petition to the Executive or a particular government department or other administrative agency for further attention **[subject to the approval of the Chairperson of the Council].**

### **Petitioner and others to be informed**

**215.** At least 90 days after receipt of the petition, the **[The]** committee shall, in writing, inform a petitioner of the outcome **[decision]** or other course of action with regard to the petition and the reasons therefore.

### **Lapsing and resumption of proceedings on Bills and any business before the Council**

**217.** (1) All Bills **[introduced in the Council and]** which have not yet been passed by the Council **[in terms of rule 197],** and any business before the Council when it rises on the last sitting day in any **[annual session],** term

lapses, but may be reinstated on the Order Paper during the next ensuing session by resolution of the Council.

(2) The proceedings on the Bill shall resume at the stage at which the bill was when it lapsed.

### **Legislative cycle**

**219.** (1) All sections 76(3) **[or]**, (4), (5) and 74(1),(2) and (3) Bills should be dealt with in a manner that will ensure that provincial legislatures have sufficient time to consider the Bill, facilitate public involvement in the processing of the Bill, and confer **[mandates]** authority on the provincial delegation to negotiate and vote on the bill.

(2) Depending on the substance of the Bill, the period for the consideration of the Bill is at least eight [may not exceed six] weeks.

(3) In the event that the substance of the Bill requires **[sufficient time beyond]** more time than the eight weeks [six-weeks] period, **[the cycle may be extended with the approval of the Chairperson of the Council]** the Chairperson of the Council may on request by the chairperson of the relevant committee or Speaker of a provincial legislature, extend the period.

### **Withdrawal of a Bill**

**220.** (1) The person in charge of a Bill **[introduced in the Council]** may withdraw the Bill at any time before the Bill has been disposed of in the Council.

(2) A member of Cabinet may, with the permission of the Chairperson of the Council, withdraw a Bill at any time before the Bill has been disposed of in the Council.

(3) A member of Cabinet may, with the permission of the Chairperson of the Council, withdraw a Bill remitted to the Council in terms of Joint Rule 205 (1) or 206 (2)(b).

### **Notice**

**221. (2)** A **[member] delegate** who wants to give notice of a question must deliver to the Secretary for placement on the Question Paper a signed copy of the notice, indicating the day for the question.

(3) A **[member] delegate** may give notice of a question on behalf of an absent member, provided the member has been authorised to do so by the absent member.

### **Question days**

**222.** The Chairperson of the Council, after consultation with the **[whips] Chief Whip**, must from time to time determine days and times for replies to oral questions.

### **Placing and arrangement**

**223. (2)** Subject to this rule, the Secretary must place the questions on the Question Paper in such a way that each party represented in the Council has an opportunity to put a question to a member of the Executive, subject to proportional representation [the order in which they are received].

**[(3) Questions for oral reply must be dealt with in the following order:**

**(a) Questions to the President standing over from previous question days;**

**(b) new questions to the President;**

**(c) questions to the Deputy President standing over from previous question days;**

**(d) new questions to the Deputy President;**

- (e) questions to Ministers standing over from previous question days; and
- (f) new questions to Ministers.]

### **Questions to President**

**224. Questions to the President must be scheduled at least once every six months**

1. The number of questions to the President is limited to six questions per question session.
  
2. (1) Questions for oral reply must be dealt with in the following order:
  - (a) Questions to the President standing over from previous question days; and
  - (b) new questions to the President.
  
- (2) Questions to the President must relate to broad policy matters regarding national and/or international issues within the scope of the official responsibilities of the President.

### **Questions to Deputy President**

**225. 1(a) Questions to the Deputy President must be scheduled for a question day at least once every quarter.**

- (b) The number of questions to the Deputy President is limited to six questions per question day.
  
- (2) Questions to the Deputy President must relate to the functions allocated to the Deputy President by the President.
  
- (3) Questions for oral reply must be dealt with in the following order
  - (a) questions to the Deputy President standing over from previous

question days;

- (b) new questions to the Deputy President;

### **Questions to members of Cabinet**

**226.(1)** Questions for oral reply to members of Cabinet must be dealt with in the following order:

- (a) questions to Ministers standing over from previous question days; and  
 (b) new questions to Ministers.

### **Form of question**

**228.** (1) (a) A **[member]** delegate who wants an oral reply to a question must distinguish it by an asterisk.

(2) Questions for oral reply are limited to four questions per **[member]** delegate per question session [day].

(4) No more than six questions for oral reply may be put to a Minister in respect of any one Government department on any particular question day.

(5) If a **[member]** delegate in whose name [does not rise when] a question for oral reply is standing [in that member's name] comes up for reply is not in the House or is not represented by another delegate, the question lapses unless the person who is to reply to the question elects to reply to the question or tables the reply.

(6) The restrictions imposed by sub-rules (1)(b), (2), (3) **[and]** (4) and (5) do not apply to questions for written reply placed on the Question Paper for oral reply in terms of rule **[239]** 225.

### **Times allotted**

229. (1) Subject to rule 216, a [A] sitting of the Council or part thereof will be dedicated for oral questions

[Messages] **Communication by the President**

- 232.(1)(b) by **[message]** correspondence; or  
 (c) by delegation.

- (2)(a) present any message received from the President to the Council by reading it out at a meeting of the Council or by publishing it on the ATC [printing it in the Minutes of Proceedings]; and

**Debates on Presidential Addresses**

- 233.(1) When the President has delivered the State of the Nation Address, the Chief Whip of the Council may place it on the Order Paper of the Joint Sitting for debate.

- (2) The Annual Address by the President or Deputy President must be debated in the Council immediately after the President or the Deputy President has delivered the Address.

**Executive statement**

234. (2) Except where the Chairperson determines otherwise, the [The] time allocated for executive member making an executive statement in terms of sub-rule (1) may not exceed 20 minutes [, **except with the consent of the Council**].

- (3) Whenever possible, a copy of an executive statement must be delivered to the delegates [members of the Council] at the sitting or before the time that the statement is made in the Council.

- (4) After any executive statement has been made, the executive member concerned may, if applicable, table background information.

- (5) Following any executive statement a delegate **[member]** from each provincial delegation or **[were]** where applicable **[a member of]** each of the **[party]** parties may comment on the executive statement.
- (6) Such comment shall not exceed three minutes per province and **[were]** where applicable per party.

### **Resolutions affecting the executive**

- 235.** Resolutions of the Council affecting the executive must be communicated to the President by the **[Secretary]** Chairperson of the Council, and a response may be communicated to the delegate **[member]** or committee **[who]** that initiated the resolution.

### **Advice, recommendation or approval of the Council or a committee of the Council to the executive**

- 236.** (1) When the Chairperson of the Council receives a request for the advice, recommendation or approval, in terms of an Act of Parliament, **[of the Council or of a Council committee mentioned in the request on or of a matter so mentioned,]** the Chairperson must refer it to the relevant committee for consideration and report or to a committee established for **[the]** that purpose of such consideration and report, as the **[circumstances may require]** case may be.

**[(3) The committee must adopt a report and submit it to the Chairperson for tabling.]**

### **National interventions in provinces**

- 237.** (1) Whenever the national executive intervenes in a provincial **[executive]** administration in terms of section 100(1)(b) of the Constitution, the **[Cabinet member responsible for provincial affairs]** national executive must **[submit a written notice of the intervention in the Council within 14 days after the intervention began]** notify the Council and such notice must contain explanations for the intervention.



**[(2)] The notice must be accompanied by a memorandum explaining the reasons for the intervention.]**

**[3](2)** The Chairperson of the Council must refer the matter to the relevant [appropriate] committee of the Council for consideration and report.

**[4] (3) [(c) confer with the select committee responsible for finance matters, if the intervention is for the purpose of maintaining economic unity;**

**(d) confer with the select committee responsible for security matters, if the intervention is for the purpose of maintaining national security;]** and report to the Council within **[10] 90** days of the matter having been referred to it.

**[5] (4).** The report of the Committee must –

(a) **[contain a recommendation]** recommend whether or not the intervention should be approved; and

**[6] (5)** If the Council approves the intervention, the committee must on a continuous basis **[ investigate whether or not it is necessary to continue]** review the intervention, and report to the Council.

**[(7) The Council must review the intervention regularly and make any appropriate recommendations to the national executive.]**

**[8] (6)** The Chairperson of the Council **[Secretary]** must communicate any relevant resolution of the Council to the national executive, the Speaker of the provincial legislature concerned and to the Premier of the province concerned.

## **Provincial interventions in local government**

238. (1) Whenever a provincial executive intervenes in a municipality in terms of section 139 (1)(b) or (c) of the Constitution, the provincial executive must **[submit a notice of intervention in the Council within 14 days after the intervention began]** notify the Council of the intervention, the notice must explain the reasons for the intervention.

**[(2) The notice must be accompanied by-**

**(a) a memorandum explaining the reasons for the intervention.]**

**[(3) (2) The Chairperson of the Council must refer the matter to the relevant [appropriate] committee of the Council.**

**[(4) (3)(d)report to the Council within [10] 90 days of the matter having been referred to it.**

**[(5) (4) The report of the Committee must –**

**(a) [contain a recommendation] recommend whether or not the intervention should be approved; and**

**[(6) (5) If the Council approves the intervention, the committee must on a continuous basis [investigate] review whether or not it is necessary to continue the intervention, and report to the Council.**

**[(7) The Council must review the intervention regularly and make any appropriate recommendations to the provincial executive.]**

**[(8) (6) The [Secretary] Chairperson of the Council must communicate any relevant resolution of the Council to the Speaker of the provincial legislature concerned, the municipality, and to the Premier of the province concerned.**

### **Establishment**

**239.** There is a standing committee appointed in terms of section 12(2) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004. (the Act)

### **Composition**

**240.** (1) The committee consists of Council **[members]** delegates appointed in such a manner that-

(b) two **[members]** delegates, each of whom must belong to a minority party[, **represent the minority parties**].

### **[Chairperson**

**258.** (1) **The Chairperson of the Council must appoint one of the members of the committee as the chairperson of the committee.**

**(2) If the chairperson of the committee is not available the remaining members must elect another member to act as chairperson.]**

### **Chairperson**

**241.** (1) The Deputy Chairperson is the chairperson of the Committee.

### **[Meetings**

**259.** **The chairperson of the committee convenes meetings of the committee.]**

### **Functions and Powers of the standing committee**

**242.** (1) The Chairperson of the Council may refer **[a]** any matter relating to contempt of Parliament to the standing committee.

**(2) [, by any member, except a breach of the Code of Conduct contained in the Schedule to the Joint Rules].**

**(3) An enquiry by the committee must follow the procedure contained in the Schedule to these Rules [in the rules].**

### **Member adjudged guilty of contempt**

**[230. Any member adjudged guilty of contempt must be committed to the custody of the Usher by order of the Chairperson and dealt with as the Council may direct.]**

### **Fines**

**243.** The amount of a fine leviable under the **[Powers, Privileges and Immunities of Parliament and Provincial Legislature Act, 2004,]** Act for each of the offences mentioned therein, and for each offence referred to in these Rules or any resolution of the Council, must be determined in every case by an order or a resolution of the Council; but such fine may in no case exceed the equivalent of one month's salary and allowances payable to the member concerned by virtue of the Remuneration of Public Office Bearers Act, 1998, except where otherwise provided in the Act.

### **Fines remitted and persons discharged**

**245.** A fine or a portion of a fine may be remitted **[or the commitment of any person may be discharged]** by order of the Council.

### **Complaints by persons other than members**

**[265. On receipt of a written complaint by a person, other than a member, regarding a statement or remark made by a member or a witness in or before the House or committee, or by a member of the House in or before a joint sitting or joint committee, the Secretary must refer the complaint to the Chairperson of the Council.]**

**246.** (1) A person, other than a delegate [member], who feels aggrieved by a statement or remark made by a delegate [member] or witness in or before a House or committee about that person, may submit a written request to the Secretary to have a response recorded.

- (2) The committee referred to in section 12(2) of the Act must, subject to these rules, consider the request and, if approved, publish the response of the person in the appropriate parliamentary paper.

### Minutes of proceedings

248. (1) The Minutes of Proceedings of the Council must be noted by the Secretary, and after having been perused by the Chairperson of the Council [,] be **[printed and] published [supplied to each permanent member]**.
- (2) Minutes of the proceedings of each committee must be noted by an official of Parliament designated by the Secretary, and after having been approved by the **[chairperson of the]** committee or subcommittee, be **[printed and] published in the ATC [supplied to each member of the committee]**.

### Papers

250. (2) Papers are open to all delegates **[Council members]** and to all members of the public, but if the Council has ordered that the content of any paper may not be made public, or if it is marked as being confidential, neither the paper nor its contents may be divulged to anyone except a delegate **[member]**.

### [Submission of documentation to provinces

239. The Secretary must submit to the Speaker of each provincial legislature, either through post or electronic means –
- (a) a copy of the printed Minutes of Proceedings of the Council;
  - (b) all section 74 and 76 documentation tabled in the Council, within three days of tabling, unless another period is prescribed in terms of these Rules for any specific document; and
  - (c) a copy of the minutes of each committee or subcommittee as approved by the committee and subcommittee, within three days of approval.]

## **Procedure to be followed in the investigation and determination of allegations of misconduct and contempt of Parliament**

### **Notification to member**

1. A delegate **[member]** charged with misconduct or contempt must receive written notice of all allegations and charges against him or her. The notification must be delivered to the delegate **[member]** at least five working days before the hearing. The notice must also clearly indicate the date, time and venue of the hearing, that the delegate **[member]** is entitled to be assisted by a fellow delegate **[member]** and that the delegate **[member]** may request the Committee to allow legal representation by a person who is not a delegate **[member]**.
  
2. If it is not possible to serve the notice personally on the delegate **[member]**, the Sheriff may be requested to serve such notice.

### **Outside legal representation**

**[3. In unusual complex cases involving complicated evidence or legal issues where the Committee is of the view that such legal representation might be essential for a fair hearing, the Committee may allow the member charged to be represented by a legal counsel who is not a member.]**

3. Depending on the complexity of the matter the Committee may on application allow the delegate charged to be represented by a legal counsel who is not a delegate.

### **Explanation by delegate [member]**

4. If the delegate **[member]** wishes to give an explanation after receiving the notice, he or she may do so either verbally or in writing. Such explanation may also be presented at the hearing.

## **Initiator**

5. The Committee must nominate a permanent delegate [member] or a person who is duly qualified, but who is not a member of the Committee, to act as the initiator for the duration of the hearing. The initiator presents the evidence regarding the allegations and may cross-examine the permanent delegate [member] and any witness giving evidence on behalf of the permanent delegate [member]. At the conclusion of the hearing, the initiator may address the Committee on the evidence presented before it and may also propose a penalty to be recommended by the Committee in its report.

## **Plea to charge**

6. The initiator must put the charge to the permanent delegate [member] and the Chairperson must request the permanent delegate [member] to plead to the charge(s). If the permanent delegate [member] so wishes, he or she can also give a plea explanation. If the permanent delegate [member] refuses to enter a plea, the Chairperson must enter a plea of not guilty.

## **Hearing**

7. The permanent delegate [member] has a right to be present at the hearing. The Committee, initiator and the permanent delegate [member] may call witnesses and these witnesses may be questioned by the Chairperson, initiator or the permanent delegate [member], either directly or through the fellow permanent delegate [member]. Members of the Committee may also put questions to the permanent delegate [member], but only through the Chairperson or with the permission of the Chairperson. After all the witnesses have been called, the permanent delegate [member] or fellow permanent delegate [member] may sum up the evidence and make a presentation to the Committee.

8. If after receiving the notice, the permanent delegate [member] fails, without just cause, to attend the hearing, the Committee may proceed in the absence of the permanent delegate [member].

## **Penalty**

9.If the Committee finds the permanent delegate [member] guilty of misconduct or contempt, the permanent delegate [member] must be given an opportunity to present mitigating factors or circumstances to the Committee before the Committee reports to the House. Such representation may be verbal or in writing. The initiator may also address the Committee on aggravating factors or circumstances.

## **Suspension of member**

10.In order to facilitate an investigation in terms of section 12 of the [**Powers, Privileges and Immunities of Parliament and Provincial Legislature Act, 2004**](the Act) against a permanent delegate [member] in circumstances where there is a possibility that the permanent delegate [member] may interfere with evidence or witnesses or in circumstances where the allegations are of a very serious nature, the Chairperson of the Council may request the House to suspend the permanent delegate [member]. Such suspension may be with or without remuneration and may not be for longer than 30 days. A permanent delegate [member] who has been suspended must leave the parliamentary precinct, and may not, during the period of suspension, without the permission of the Chairperson –

- **Enter the precinct of Parliament for whatever purpose; or**
- **Participate in any activity of Parliament or any committee.**

11.The Chairperson of the Council must in writing inform the permanent delegate [member] and the Speaker of the relevant provincial legislature of the suspension prior to it taking effect.

## **DRAFT GUIDELINES ON EXECUTIVE UNDERTAKINGS**

### **1. PREFACE**



In the course of responding to questions in the House or during discussions on Bills, Resolutions and the like, Ministers or Heads of Government Departments, from time to time, give or make Executive Undertakings on behalf of Government either to consider a matter or to take action or to furnish the House with additional information at a later stage. However, such Executive Undertakings, in themselves, are not and cannot be sufficient unless they are implemented by Government. And in terms of its oversight role, the House is entitled to know whether Government has fulfilled the undertakings or assurances it has made or given on the floor of the House.

Up until recently there were no mechanisms in place to ensure that Executive Undertakings given or made by Ministers or Heads of Government Departments on the floor of the House are not only implemented but implemented within a reasonable time. Further up until recently, the only recourse open to Members, in this regard, was to give notice of fresh questions or raise the issue during discussions on the budget and this naturally involved delays and Members had no means of knowing whether or not all undertakings or assurances made or given by Ministers on the floor of the House have been implemented.

The absence of mechanisms, within the Parliamentary framework, to ensure the implementation of Executive Undertakings given or made by Ministers or Heads of Government Departments on the floor of the House, was identified in the Oversight and Accountability Model (Model). Parliament adopted the Model in 2009 in an effort to provide Parliament with a framework within which it can best exercise its oversight role. The Model further enabled Parliament to identify and develop new mechanisms for conducting oversight. And one of the mechanisms identified in the Model is the existence of a committee within Parliament with the distinct mandate of scrutinising the implementation of Executive Undertakings given or made, from time to time, by Ministers or Heads of Government Departments on the floor of the House. And with the rising of the Fifth Parliament, the Committee was given the additional and distinct mandate of scrutinising the implementation of Executive Undertakings.

## **2. DEFINITIONS**

In these Guidelines, unless the context indicates otherwise, the following words carry the meaning set out below –

“**administrative support staff**” means the administrative support appointed to support the Committee to enable it to perform its functions and duties including but not limited to the Committee Secretary, Committee Researcher, Content advisor assigned to the Committee;

“**Committee**” means the Select Committee on Petitions and Executive Undertakings or any other committee of Parliament mandated with scrutinising the implementation of Executive Undertakings and consisting of Members of Parliament;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No.108 of 1996);

“**Executive Undertakings**” means any assurances, commitments, resolutions, pledges or promises that are given or made by the Ministers or Heads of Government Departments, from time to time, on the floor of the House. Such executive undertakings may be made or given during question hour, statements, speeches, presentation or tabling of reports and debates, during discussions on Bills, resolutions, motions or any other proceedings of the House;

“**Guidelines**” means the guidelines contained in this document;

“**Head of Department**” means the Head of a Government Department or state organ or entity;

“**Delegate**” means a delegate to the National Council of Provinces;

“**Minister**” means a Minister or Deputy Minister of a Government Department;

“prescribed time” means the time period prescribed by the Committee for the implementation of an Executive Undertaking by a Department;

“Rules” means the Rules of the National Council of Provinces as approved by the National Council of Provinces;

“stipulated time” means the time stipulated by the Department in relation to the implementation of an Executive Undertaking.

### **3. INTERPRETATION**

Any person applying or interpreting these Guidelines must interpret their provisions so as to give effect to sections 42(4), 92(2) and 92(3)(a) and (b) of the Constitution and the relevant Rules of the Council.

### **4. COMPOSITION OF COMMITTEE**

The Committee consists of those Members as determined from time to time by the Rules.

### **5. FUNCTIONS OF THE COMMITTEE**

The functions of the Committee are to:

- (a) Scrutinise the Executive Undertakings given or made, from time to time, on the floor of the House and ensure proper implementation of those Executive Undertakings.
- (b) Comment on delays in the implementation of Executive Undertakings and the adequacy of actions taken in relation to the implementation of Executive Undertakings.
- (c) Report on the extent to which Executive Undertakings have been implemented and where implemented, whether such implementation has taken place within the stipulated or prescribed time; and
- (d) Exercise such other functions that are not covered by paragraphs (a) and (b) above as may be allotted to the Committee by the Council from time to time.

## 6. FORMS OF ASSURANCES

- 6.1. To determine what constitutes an Executive Undertaking, the Committee has approved a list of standard statements or expressions which constitute Executive Undertakings (see Appendix A hereto).
- 6.2. The stated list, though not exhaustive, serves as a guide for the culling out of Executive Undertakings from the proceedings of the House.

## 7. PROCEDURE AND TIME LIMITS

- 7.1. The Executive Undertakings given or made on the floor of the House are culled out and recorded from the verbatim proceedings of the House using the list of standard statements of expressions referred to in paragraph 6 above and contained in Appendix as a basis.
- 7.2. Thereafter, the Executive Undertakings are subsequently communicated to the relevant Department for taking action thereon as well as to the Committee for approval and tabling by the Chairperson of the Council.
- 7.3. After the Chairperson of the Council has approved the executive undertakings, she or he will then request the relevant Departments to provide it with progress reports on the implementation of the Executive Undertakings. This is of course provided that the respective Minister or Head of Department has stipulated the time period within which his or her Department will implement the Executive Undertaking given or made.
- 7.4. In the event that a Minister or Head of Department does not stipulate the time period within which his or her Department will implement an Executive Undertaking given or made within one week of receiving notice that such the Executive Undertaking was recorded, the

Committee will without delay formally request the relevant Department to stipulate the time period within which it intends to implement the Executive Undertaking. And in the event that a Department fails to stipulate this time period within one week of receiving the Committee's formal request, the Committee will then at its first sitting thereafter prescribe the time period within which the Executive Undertaking is to be implemented.

- 7.5. In prescribing this time period, the Committee will take into consideration, amongst others, the nature of the Executive Undertaking given or made, the cost implications of the Executive Undertaking and the public interest in the implementation of the Executive Undertaking.
- 7.6. The Committee is the final authority on whether the time period stipulated by a Department for the implementation of an Executive Undertaking is reasonable or not.
- 7.7. The Committee is also the final authority on whether an Executive Undertaking has been implemented within a reasonable time consistent with the nature of the Executive Undertaking.

## **8. PROGRESS REPORTS BY DEPARTMENTS**

- 8.1. The Committee may require a Department to provide it with progress reports in relation to the implementation of an Executive Undertaking.
- 8.2. After scrutinising the action taken by a Department to implement an Executive Undertaking, and the extent to which it has actually implemented an Executive Undertaking and whether such implementation has taken place within the prescribed time or stipulated time, the Committee will then form its own conclusions and

makes recommendations which will be embodied in the reports it presents to the House.

## **9. EXTENSION OF TIME**

- 9.1. Where a Department foresees a genuine difficulty in implementing an Executive Undertaking within the stipulated or prescribed time, the Department concerned may seek an extension of time from the Committee, indicating the reasons for the desired extension and the probable additional time required, as soon as the need for such extension becomes apparent. Such a request for further extension to the Committee is to be in writing.
- 9.2. The Committee may accede to a Department's request for the extension of time, for the implementation of an Executive Undertaking, if it deems the request to be a reasonable one.
- 9.3. Because the timely and proper implementation of Executive Undertakings given or made in the House is an important aspect of the entire concept of accountability of Government to Parliament and, therefore, any laxity shown either in not seeking the timely extension of time for the implementation of Executive Undertakings or causing inordinate delays in the implementation of Executive Undertakings, without any valid reasons or failing to furnish the requisite information requested by the Committee, will be viewed in a serious light by the Committee.

## **10. REMOVAL OF EXECUTIVE UNDERTAKINGS**

- 10.1. If for any valid or plausible reason a Department indicates that it is not feasible for it to implement an Executive Undertaking and places facts before the Committee in support of this, the Committee may

recommend the removal of an Executive Undertaking from its reports to the House.

- 10.2. The Committee shall have the final authority to decide whether to accede to a request to remove an Executive Undertaking from its reports by a Department.

## **11. REGISTER OF EXECUTIVE UNDERTAKINGS**

- 11.1. The particulars of every Executive Undertaking will be entered into a register of Executive Undertakings.

- 11.2. The register of Executive Undertakings shall reflect all the relevant details relating to all Executives Undertaking given or made in the House such as the Executive Undertakings number, source, date, subject, extent of Executive Undertaking, whether or not extension given and date of implementation.

## **12. POWERS OF THE COMMITTEE**

- 12.1. The Committee shall determine its own procedure in respect of all matters relating to the consideration of Executive Undertakings.

- 12.2. During the course of scrutinising the Executive Undertakings referred to it, the Committee may undertake a spot study visit or inspection in loco in order to have first-hand information and ascertain facts relating to the implementation of a particular Executive Undertaking.

- 12.3. The Committee shall have the power to require the attendance of any person (including a Minister and Heads of Department) or the production of papers, records or documents from relevant Departments, with a view to obtaining first-hand information on

pending Executive Undertakings and ensuring their timeous implementation.

### **13. REPORT OF THE COMMITTEE**

13.1. In accordance with Rule 111 of the Rules, the Committee is obliged to submit reports to the Council in relation to the progress made in the implementation of Executive Undertakings referred to it. The Committee shall submit such reports on a quarterly basis or at the first opportunity after a Department has submitted its progress report as envisaged in paragraph 8 above.

13.2. Apart from specific cases of Executive Undertakings, the quarterly report by the Committee shall contain information and analysis on, amongst others, instances where Departments have taken a long time in implementing an Executive Undertakings, requests for extension of time in the implementation of Executive Undertakings, Executive Undertakings which do not appear to have been fully or satisfactorily implemented, reviews on pending Executive Undertakings and Executive Undertakings which have been recommended for dropping.

13.3. The report of the Committee shall be presented to the House by the Chairperson of the Committee, or in his absence, any Member of the Committee.

### **14. LAPSING OF EXECUTIVE UNDERTAKINGS**

In accordance with established Parliamentary practice, the Executive Undertakings given or made by Ministers or Heads of Government Departments on the floor of the House, which remain pending in their implementation by Departments, do not lapse upon the dissolution of the House. They are therefore pursued by the Committee nominated soon after the rising of the new House.

## **APPENDIX A**



**Standard List of Statements or Expressions Constituting Executive Undertakings as Approved by the Committee:**

1. The matter is under consideration.
2. I shall look into it.
3. Enquiries are being made.
4. I shall inform the Honourable Member.
5. This is primarily the concern of the Department.
6. I shall write to the Department.
7. I assure the House all suggestions by Honourable Members will be carefully considered.
8. I shall study the conditions on the spot during my tour.
9. I shall consider the matter.
10. I will suggest to the department.
11. We will put the matter in the shape of a resolution.
12. I shall see what can be done about it.
13. I will look into the matter before I can say something.
14. The suggestions will be taken into consideration.
15. The matter will be considered at the.....to be held on.....
16. The matter is still under examination and if anything is required to be done, it will certainly be done.
17. The matter will be taken up with the Department of .....
18. I have no information, but I am prepared to look into the matter.
19. Efforts are being made to collect the necessary data.
20. The suggestion will be borne in mind while framing the rules.
21. If the Honourable Member so desires, I can issue further instructions.
22. Copy of the report, when finalised, will be placed in the Library of Parliament.
23. I shall supply it to Honourable Members.
24. I think it can be done.
25. We shall have to find that out.
26. I will draw the attention of the Department who I hope will take adequate steps in this direction.

27. It is a suggestion for action which will be considered.
28. All the points raised by various Members will be considered and the results will be communicated to each Member.
29. Information is being collected and will be laid on the Table of the House.
30. I am reviewing the position.
31. In future their demands will be considered/examined.
32. The case is pending in Court. Steps will be taken to bring the case to its final disposal early.
33. Certainly, action will be taken.
34. It will be executed during the current financial year.
35. It will be included in the..... (year) Budget.
36. It is will be examined in accordance with the financial position.
37. It may be considered after taking into account of the financial resources.
38. All specific points on which information is asked for and promised.

### **Standard Operating Procedures as per Rule 51**

#### **Member refusing to leave Chamber**

- (5) If a delegate refuses to leave the Chamber, the presiding officer asks the Usher-of-the-Black-Rod to remove the delegate from the Chamber.
- (2) The Usher-of-the-Black-Rod approaches the delegate to explain in a respectful manner that the instruction of the officer presiding must be complied with and that failure to do so can constitute a grave offence and have serious implications, including that the delegate may need to be physically removed from the Chamber.
- (3) If the delegate still refuses to leave, the Usher-of-the-Black-Rod indicates to the presiding officer that the member refuses to comply, whereupon the officer presiding informs the House that the Parliamentary Protection Services are to be called upon to assist.

(4) The Parliamentary Protection Services personnel enter the Chamber upon the instruction of the officer presiding, and proceed to remove the member(s) concerned under the direction of the Usher-of-the-Black-Rod.

(5) Members of the public in the gallery who participate in disorderly conduct will be removed by the security services.

*The National Council of Provinces (NCOP) Rules Committee, having considered the amendments to the 9<sup>th</sup> Edition of the NCOP Rules, recommends that the Council adopts the Rules with proposed amendments.*

**Report to be considered**

