

Parliament of the Republic of South Africa



# PROCEDURAL DEVELOPMENTS IN THE NATIONAL ASSEMBLY

Second Session – Second Parliament  
January to June 2000

# 2

Produced with the assistance of:



The European Union  
Parliamentary Support Programme  
Tel: (021) 422-0080



Parliament of  
the Republic of  
South Africa

## PROCEDURAL DEVELOPMENTS IN THE NATIONAL ASSEMBLY

A record of recent events and developments of a procedural nature in the National Assembly of the Parliament of the Republic of South Africa. This second issue covers the period from the start of the second session of the Second Parliament from January up to and including June 2000.

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This material may also be found on the webpage of the Parliament of South Africa

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## PRESIDING OFFICERS

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### 1. DEPARTURE OF THE DEPUTY CHAIRPERSON OF COMMITTEES

On 21 June the House adopted a motion by Mr J H van der Merwe, senior whip of the IFP, noting the imminent departure from Parliament of Dr K Rajoo, the Deputy Chairperson of Committees, and congratulating him on his appointment as Consul-General in Illinois, USA.

Parties were accorded the opportunity to wish Dr Rajoo well on his appointment.

### 2. ELECTION OF MEMBER AS PRESIDING OFFICER FOR DAY'S SITTING

The Rules of the National Assembly provide for the election of a member of the House as temporary presiding officer only when all presiding officers are unavoidably absent; in which case the House elects one of its members to act as Speaker for the day.

On Friday, 26 May 2000, only one presiding officer being available, the House adopted a motion moved by the Chief Whip of the Majority Party, resolving that the House elect Ms G L Mahlangu to preside over the House on that day's sitting when requested to do so by a presiding officer.

Ms Mahlangu duly presided over part of the day's proceedings. [Minutes p 443]

## PROCEDURAL AND RELATED ISSUES

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### 3. SPEAKER'S DEBATES

Speaker's debates were first introduced during 1999. These are debates on topics of special importance, which are initiated by the Speaker and slotted into the programme of business by the Programme Committee. Unlike other debates, Speaker's debates are not intended to be conducted primarily along party-political lines, although party views may of course be aired.

The following three Speaker's debates were accommodated in the first half of the year:

#### (a) How developing countries cope with natural disasters (4 April).

This debate was held partly in preparation for Parliament's participation at the Inter-Parliamentary Union Conference in Jordan in early May, where the South African delegation submitted this topic as a supplementary agenda item.

The debate, of 60 minutes' duration, was introduced by the Speaker from the Chair. At the conclusion of the debate the Speaker, reflecting on the nature of the debate, commented (Hansard, col 1959):

I acknowledge that political parties are prone to attack their opponents at every opportunity, but it is very unfortunate that

some members in this House have used the entire time allocated to them to score points off each other.

She then directed an appeal to all members – ... Individually and collectively, to reflect on this debate, and to consider how we have contributed to solutions and whether we have contributed by the way in which we have addressed the subject matter today.

Immediately after the debate, the Deputy Chief Whip of the Majority Party without notice moved a draft resolution on the subject, which was adopted (Minutes p 280).

#### (b) SADC regional integration (6 April)

The Speaker's debate on regional integration within the Southern African Development Community (SADC) was introduced by the Speaker from the Chair. The debate was allocated 80 minutes.

#### (c) Africa Unity Day – formation of the OAU (25 May)

A Speaker's debate on this subject was held on 25 May to mark the 37th anniversary of the Organization of African Unity. The debate was introduced by the Deputy Speaker from the Chair, and was allocated 60 minutes.

### 4. REQUESTS FOR SNAP DEBATES

Seventeen requests for snap debates were received between February and June 2000. The following three requests were granted:

- a) The effects of recent floods on communities (22 February);
- b) The recent subpoenas that the Human Rights Commission served on representatives of the media regarding alleged racism in the media (1 March); and
- c) The President's apparent refusal to accept the main-stream scientific view that HIV causes AIDS (19 April).

Although not required to do so by the rules, the Speaker or Deputy Speaker gave reasons for declining requests. Some of these were:

- other opportunities to raise the subject;
- the subject had already been dealt with in the same session and there had been no new development in respect of the matter;
- a Minister had asked to make a statement on the subject;
- a request did not raise a definite and specific matter.

A request for a snap debate made by the majority party was turned down on the grounds that the Chief Whip of the Majority Party could consult the Leader of Government Business and the Programme Committee and arrange for the matter to be placed on the Order Paper.

The Speaker urged parties not to make submissions while Parliament was not in session.

## **5. INTERPELLATION AND RELATED SNAP DEBATE DEALT WITH ON SAME DAY**

A debate on a matter of public importance (snap debate) was approved for 1 March 2000 on subpoenas served by the SA Human Rights Commission on representatives of the media regarding alleged racism in the media. Subsequently an interpellation to the Minister for Justice and Constitutional Development was placed on the Question Paper for the same day on a related subject, namely –

Whether, in light of the current inquiry into racism and the subpoenas served on certain editors of newspapers, he is considering further amendments to the Human Rights Commission Amendment Bill ...

Interpellations, which are effectively mini-debates, take precedence over other business on Wednesdays.

Mindful of the Rule of Anticipation (Rule 68) which states that “no member shall anticipate the discussion of a matter appearing on the Order Paper”, the Deputy Speaker, before proceeding to the interpellation in the House, informed members that the House should avoid conducting the same debate twice and therefore requested members, when debating the interpellation, not to anticipate the snap debate that would take place later that afternoon, but to “confine themselves to the specific question contained in the interpellation, namely whether the Minister is considering further amendments to the relevant bill”. (Hansard – Interpellations, Questions and Replies: Col 205)

## **6. SPEAKER, FROM CHAIR, PROPOSES AMENDMENT TO MOTION**

On 25 January 2000, the second sitting day of the session, the Chief Whip of the Majority Party moved a motion in the House to alter the hours of sitting of the House “for the remainder of 2000”. After the Chief Whip of the Official Opposition complained that his party had not been consulted on the matter, the Speaker from the Chair indicated that the motion was intended to be immediately effective. She therefore suggested that the motion be amended to read “for the remainder of this week”, which would allow time for consultation amongst parties.

As there were no objections to the Speaker’s proposal, the motion was put to the House from the Chair in the altered form and adopted. (Hansard, cols 157 – 9)

The Rule governing hours of sitting was formally amended by the House by resolution a week later (see Item 30 below).

## **7. DEPUTY SPEAKER INTRODUCES DEBATE ON INTERNATIONAL WOMEN’S DAY FROM CHAIR**

On Wednesday, 8 March 2000, the Assembly held a debate on the subject “International Women’s Day”, which is celebrated on that date. The debate appeared on the Order Paper as a subject for discussion in the name of Ms L M T Xingwana, but it was introduced by the Deputy Speaker from the Chair.

In her opening remarks, the Deputy Speaker said that she was making some remarks from the Chair in response to a request from Ms Xingwana (Hansard, col 1217). At the conclusion of the debate, the Deputy Speaker formally recognized and welcomed the women on the public gallery.

Later on that day, after Questions had been dealt with, the House adopted a motion, moved without notice by the Chief Whip of the Majority Party, formally recognising the significance of International Women’s Day (Minutes p 168).

[Note: For other debates introduced from the Chair, see “Speaker’s debates” above.]

## **8. MOTION CONDONING EARLY START**

On Tuesday 8 February, owing to a full programme of business for that day, the House started proceedings at 14:00 notwithstanding Rule 23 which stipulates that proceedings begin at 14:15 on Tuesdays. On commencement of the sitting, a motion by the Chief Whip of the Majority Party was unanimously adopted condoning the earlier start of proceedings [Minutes p 78].

## **9. DECLARATIONS OF VOTE**

In terms of Rule 81(1), when a decision is to be taken by the House the presiding officer has discretion to permit one member of each political party to state, in a speech of not more than three minutes, his or her party’s views on the question to be decided.

On 14 June, faced by a series of decisions on the Votes and Schedules of the *Appropriation Bill*, the House resolved, upon a motion moved by the Deputy Chief Whip of the Majority Party, that on that occasion the time allowed for each such declaration of vote not exceed two minutes.

## **10. SIGN LANGUAGE INTERPRETER ON FLOOR OF HOUSE**

On 9 May 2000 the Deputy Speaker approved the presence on the floor of the House of a sign-language interpreter for a deaf member. (This was done in terms of Rule 40, which empowers the Speaker to admit strangers to the precincts of the House.)

The interpreter was given a microphone, and stood on the floor of the House in the line of sight of the member, who spoke from the podium in the normal way.

In granting permission, the Deputy Speaker stated that this would be done as a trial run, and added that the matter could be referred to the Rules Committee. Since this initial occasion, however, the presence on the floor of an interpreter for speeches by the deaf member has become standard practice.

## **11. DOG ON PUBLIC GALLERY**

On 19 May 2000 permission was granted to a member of the public to be accompanied by a dog while following the debate on the Environmental Affairs and Tourism Budget Vote from the National Assembly public gallery. The person in question suffers from a mental disorder and depends on the

dog for support as part of therapy. During the course of the debate Mr M I Moss, ANC MP, in the context of his speech on the accessibility of tourism to disabled people, referred to the person in question in the public gallery.

## QUESTION TIME IN THE HOUSE

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### 12. NEW PROCEDURE

At the beginning of the year, the Chief Whips' Forum initiated a review of Question and Interpellation Time in the National Assembly. The following reasons for the review were cited in a memorandum submitted to the Forum on 26 January by the majority party:

- Interpellations (15-minute mini-debates) were not seen as an effective form of interaction between Ministers and members;
- There was insufficient time to answer the large majority of oral questions on the Question Paper each week;
- Very few Ministers had the opportunity to answer questions verbally;
- The "first come, first served" basis of tabling questions did not always allow for a fair spread of the opportunity among all parties;

After deliberation in the Forum, a resolution on questions and interpellations was tabled in the Assembly on 16 March and adopted after a division. The resolution provided that from 5 April until 23 June 2000, interpellations would be suspended, while questions for oral reply would be dealt with in accordance with the following provisions:

- (a) question time to be increased from 30 minutes to 2 hours per week;
- (b) questions to have precedence on Wednesdays from 15:00;
- (c) clusters of Ministers to take turns to answer questions on a weekly rotation basis;
- (d) each Minister may be asked a maximum of eight questions on any question day;
- (e) each party be allocated a number of question opportunities as contained in the guidelines;
- (f) a maximum of two urgent questions may be put on any question day to Ministers whose turn to answer questions is not due;
- (g) time limits be set for the answering of questions and for supplementary questions;
- (h) questions to the President to be scheduled for once a quarter; and
- (i) notwithstanding the Rules, the Chief Whips' Forum develops a set of guidelines to govern the interim question procedure and adjust these guidelines as necessary from time to time on the basis of continuous monitoring of the system.

Guidelines were published in the ATC on 20 March (p 245) amplifying the resolution by providing for detailed procedures for question time, including –

- Details of 'clusters' of portfolios (Peace and

Security, Social Services and Governance; and Economics);

- A procedure for urgent questions to Ministers not due to answer in that week;
  - An order in which questions are asked, based on numerical strength of party;
  - A maximum of two questions per member on one question day;
  - An instruction to parties to prioritise their questions;
  - Time limits for different types of response. Three minutes were set for the initial response to a question and two for responses to supplementary questions. A maximum of five supplementary questions (to be asked within a time limit of one minute) was set;
  - Questions to the Deputy President: Four such questions could be answered at the start of each Question Time except on those days set aside for the President to answer questions.
  - Questions to the President: The President would answer questions of national or international importance, complying with certain criteria. On such days questions would not be asked of Ministers, and the President would answer a maximum of six questions, with supplementaries.
- In addition, procedures were laid down for questions not answered at the end of the session, and questions standing over, and for other procedural matters relating to questions.

The new system was introduced on 5 April. It was evident that in comparison with the previous system, the smaller parties benefited from the new system, in the sense that these parties asked a greater proportion of questions than under the previous system.

## PARLIAMENT AND THE EXECUTIVE

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### 13. MESSAGE FROM PRESIDENT ON EMPLOYMENT OF SANDF

In terms of the Constitution [Section 201(3)] the President, as head of the national executive, must inform Parliament of the employment of the South African National Defence Force in co-operation with the police service, in defence of the Republic, or in fulfilment of an international obligation.

On 29 February the President informed Parliament about the employment of the South African Defence Force for services related to floods in the Gaza, Maputo and Sofala provinces in Mozambique. The report contained details of the reasons for such employment, the number of personnel to be deployed and the total cost of the operation. [See also Item 28]

### 14. EXECUTIVE CODE OF ETHICS

The *Executive Members' Ethics Act* (Act 82 of 1998) makes provision for a code of ethics for the Executive, as required by the Constitution (sections 96 and 136). On 13 April, in terms of the Act, a

Draft Code of Ethics for Members of the Cabinet and Executive Councils, as submitted by a Committee of Ministers convened by the Minister of Education, was tabled in both Houses of Parliament by the presiding officers, and referred to the Portfolio Committee on Public Service and Administration. The committee's report [ATC 25 May p435] was debated on 26 May. On conclusion of the debate, the House resolved, on a motion by the Chief Whip of the Majority Party, that the report be adopted with amendments to its recommendations. (The amendments adjusted the recommendations to be in line with the functions and areas of jurisdiction of the relevant institutions of government.) The amended recommendations read as follows:

1. That the National Assembly endorses the Draft Code tabled by the Committee of Ministers.
2. That the Joint Subcommittee on Ethics and Members' Interests conduct a review one year after the promulgation of the Draft Code.
3. That the House refers to the Joint Rules Committee the proposal that Parliament, specifically the Joint Subcommittee on Ethics and Members' Interests, assume responsibility for the production of an information pamphlet for the general public on the ways in which the public can hold executive members accountable for their conduct, and the kinds of sanctions which may be applied by the relevant executive head and the relevant legislature.
4. That Parliament extends the application of the Code to all members of Parliament, with such modifications as may be appropriate, and that such Code be adopted by the Joint Rules Committee of Parliament by the end of the year.
5. That the House recommends that provincial legislatures, through their appropriate structures, similarly extend the application of the Code to all members of provincial legislatures, with such modifications as may be appropriate, by the end of the year.
6. That the House recommends that a Code of Conduct for local government employees be put in place by 1 January 2001, in accordance with the earlier recommendation of the Committee in this regard.
7. That the Department of Public Service and Administration and the Public Service Commission be requested to report to the Committee on progress made in respect of the development of an asset register for senior civil servants during the third quarter of 2000.

The recommendations relating to Parliament were not implemented during the period under review.

#### 15. MINISTERIAL AND EXECUTIVE STATEMENTS

The following Ministers applied and were given permission to make Ministerial Statements on the subjects mentioned:

- Minister of Water Affairs and Forestry (for the Minister for Provincial and Local Government)

- (25 January) – Disaster Management.
- Minister of Health (5 April) – The drug Nevaripine.
- President (10 May) – Democratic Republic of Congo.
- Minister of Minerals and Energy (6 June) – Petrol price structure.
- Deputy President (22 June) – Situation in Nongoma, KwaZulu Natal.
- Minister of Finance (21 June) – The proposed acquisition of Stanbic by Nedcor.

In instances where provision was made for party responses to the statements (ie all statements except those by the Deputy President and the Minister of Finance) a motion was adopted in advance specifying party speaking times.

## MEMBERS

### 16. TRAINING OF MEMBERS ON PROCEDURAL AND OTHER MATTERS

A training session for Members took place under the auspices of the Joint Subcommittee on Support for Members during the week of 27 January to 3 February. Training was provided in computer skills and in parliamentary and related matters. Presenters from both within and outside Parliament presented a variety of subjects, including the following: Diversity in a changing environment; A Member's obligations as a taxpayer; Members' benefits; How to read a Bill; Motions; Questions and interpellations; House procedures; and Rules of debate.

Feedback from Members indicated that more such training was desired. Further limited training was conducted in the second week of June, for the most part relating to taxation issues for Members.

## LEGISLATION AND COMMITTEES

### 17. BILL SENT TO PRESIDENT FOR ASSENT IN ONE OFFICIAL LANGUAGE ONLY

The Constitution provides, in Section 6(3), that the national government (of which Parliament is a component) must use at least two of South Africa's 11 official languages for the purposes of government. Joint Rule 221 accordingly states that when a bill is sent to the President for assent, the official text (the language version in which the bill was initially introduced in Parliament) must be sent, which must be accompanied by one or more official translations.

The *Promotion of Equality and Prevention of Unfair Discrimination Bill [B 57-99]* was introduced in Parliament on 27 October 1999 and was one of 4 bills which according to constitutional requirements had to be enacted by 4 February 2000. The bill was passed by the National Assembly on 26 January and by the National Council of Provinces on 28 January. Although the official text, in English, was then ready to be sent to the President for assent, an official translation in isiZulu was still in preparation and

indications were that it would not be available in time to meet the requirements of Joint Rule 221 if the bill was to be enacted by the constitutional deadline.

Accordingly the Speaker and the Chairperson of the National Council of Provinces, in terms of House Rules, jointly issued a directive to the Secretary to Parliament on 3 February notwithstanding the requirements of the Joint Rules immediately to submit the available official text to the President for assent, pending finalisation of the official translation.

The Presiding Officers' directive was announced to both Houses on 11 February (ATC, p 89). The official translation of the bill was sent to the President on 7 February.

#### **18. CORRECTION OF BILL BEFORE HOUSE**

The *Division of Revenue Bill* (B 8-2000) was tabled by the Minister of Finance on 23 February 2000 and referred to the Portfolio Committee on Finance. The Committee with its report presented an amended bill, which was placed on the Order Paper for debate in the House on 9 March. However, information was received that the amended version (B 8B-2000) of the bill, as printed and placed before the House, contained two technical errors which resulted in the bill not reflecting accurately amendments as approved by the Committee.

In order to ensure that members considered the correct text in the House, the Chairperson of the Portfolio Committee, who was also the first speaker in the debate on the bill, informed the House in her speech of the alterations that would be administratively effected (Hansard, col 1390).

In the formal message from the National Assembly transmitting the bill to the National Council of Provinces for concurrence after the bill had been passed by the National Assembly, a note was included informing the NCOP of the technical alterations which would be effected administratively. (ATC, 10 March 2000, p 200)

#### **19. SPLITTING AND FAST-TRACKING OF REMUNERATION OF PUBLIC OFFICE BEARERS AMENDMENT BILL [B11-2000]**

The *Remuneration of Public Office Bearers Act* of 1998 provided, *inter alia*, that public representatives are entitled to remuneration from the date of the publication of the lists of names of representatives (that is, from the day they are designated as public representatives).

On 6 March, an amending bill was introduced and referred to the Portfolio Committee on Provincial Affairs and Local Government (National Assembly). The Joint Programme Committee, whose functions include the monitoring and overseeing of Parliament's annual legislative programme and setting of deadlines for the introduction of bills, took a decision in accordance with Joint Rule 216 (which deals with the fast-tracking of urgent legislation) that the bill be fast-tracked. (The decision was ratified by the Houses the following day.) On 7 March,

the Committee reported the bill with amendments. In its Report, the Committee requested that the bill be split and some clauses omitted in order to fast-track Clause 2 (which dealt, *inter alia*, with the date from which representatives, including members of the provincial legislatures, are entitled to remuneration) and Clause 4 (which dealt, *inter alia*, with the date from which the Premier and Members of the Executive Councils of the provinces are entitled to remuneration).

In its Report, the Committee also recommended that the omitted Clauses be introduced in a separate bill. The House adopted the Report on 9 March.

On 13 April, the House adopted without amendments the *Remuneration of Public Office Bearers Second Amendment Bill, 2000*, which contained the Clauses omitted from the original amending bill.

#### **20. APPOINTMENT OF CHAIRPERSON AND NATIONAL ASSEMBLY MEMBERS OF THE JOINT STANDING COMMITTEE ON INTELLIGENCE**

On 17 February 2000, in accordance with the *Intelligence Services Control Act* of 1994, as amended, the Speaker of the National Assembly and the Chairperson of the National Council of Provinces announced that Ms N N Mapisa-Nqakula had been appointed Chairperson of the Joint Standing Committee on Intelligence. [See also paragraph 35 of Procedural Developments in the National Assembly, First Issue 1999]

On the same day, the Speaker announced the appointment of 12 National Assembly members to the above-mentioned committee in accordance with a formula determined in section 2(c) of the *Intelligence Services Control Act*, as amended. [ATC p 101]

In terms of the Act, members of the Joint Standing Committee on Intelligence require security clearance from the National Intelligence Agency (NIA) and swear an oath before a Supreme Court judge to take cognisance of the provisions of section 5 of the Act regarding secrecy and the protection of national security.

The member nominated by the DP was initially not granted security clearance by the NIA, but at his request and that of his party, the matter was reviewed. The NIA subsequently granted the member security clearance and he was thereupon appointed to the Joint Standing Committee with effect from 27 July 2000.

#### **21. REFERRAL OF BILL TO JOINT MONITORING COMMITTEE ON QUALITY OF LIFE AND STATUS OF CHILDREN, YOUTH AND DISABLED PERSONS, EMPOWERING IT TO CONSIDER BILL**

In terms of Joint Rule 32(2), "no joint committee may consider legislation in the legislative process unless expressly empowered to do so". The Joint Monitoring Committee on Quality of Life and Status of Children, Youth and Disabled Persons was

expressly empowered to consider legislation when, on 12 May, the House referred the *National Youth Commission Amendment Bill* [B25-2000] – subject to the concurrence of the National Council of Provinces – to the committee for consideration and report. The committee was for this purpose given the powers of a committee that deals with legislation. The referring motion specified that questions before the committee would be decided by agreement between the two House components, by votes taken in terms of their respective House rules.

The bill was passed by the National Assembly on 2 June and the NCOP on 6 June.

## 22. REPORT OF AD HOC JOINT COMMITTEE ON OPEN DEMOCRACY BILL – SPLITTING OF BILL

On 24 January the *Ad Hoc* Joint Committee on the Open Democracy Bill presented the *Promotion of Access to Information Bill* [B 67B-98] for consideration (the bill had been introduced as the *Open Democracy Bill* [B 67-98]).

This bill resulted from the constitutional obligation to enact legislation giving effect to the right referred to in *inter alia* section 32 of the Constitution, namely the right of access to any information held by the state or by another person that is required for the exercise or protection of any rights.

In its original form the bill had included a chapter on the protection of employees disclosing unlawful or irregular conduct on the part of superiors, or “whistle blowers”. The Committee reported that this chapter would be redrafted as a separate piece of legislation. (This resulted in the passing on 21 June of the *Public Disclosures Bill* [B 30B-2000] by the National Assembly [*Public Disclosures Act* No 26 of 2000].)

The National Assembly adopted the *ad hoc* committee’s report and passed the *Promotion of Access to Information Bill* on 25 January 2000.

## 23. REPORT OF AD HOC JOINT COMMITTEE ON PROMOTION OF EQUALITY AND PREVENTION OF UNFAIR DISCRIMINATION BILL

On 21 January the *Ad Hoc* Joint Committee on the Promotion of Equality and Prevention of Unfair Discrimination Bill, appointed the previous year, reported on the *Promotion of Equality and Prevention of Unfair Discrimination Bill* [B 57 – 99]. In terms of section 9(4) of the Constitution the bill was required to be enacted by 4 February 2000.

In its report, the Committee identified some outstanding issues that needed to be taken further by the Executive, and requested Parliament to establish an *ad hoc* committee to oversee the implementation of this Act.

The National Assembly adopted the Report on 26 January. The request to establish a committee has been referred to the Joint Rules Committee.

## 24. AMENDMENT TO SCHEDULE OF BASIC CONDITIONS OF EMPLOYMENT ACT, 1997

Section 95(3) of the *Basic Conditions of Employment Act*, 1997, provides that the Minister may in certain circumstances add to or change Schedule Three (transitional provisions) of the Act. It is stipulated that any such change made by the Minister –

- must be tabled in the National Assembly; and
- will take effect only if the Assembly does not within 14 days pass a resolution that such change is not binding.

On 16 February the Portfolio Committee on Labour, having considered a proposed amendment to Table One of Schedule Three to the *Basic Conditions of Employment Act*, 1997, recommended in a report published in the ATC that the amendment was in order and that the House take no further action.

By this action the provisions of the Act were satisfied. The report was not placed on the Order Paper, and when opportunity for consideration of the amendment expired on 21 February, the proposed amendment became part of the Act.

## PROGRAMMING OF BUSINESS

### 25. FAST-TRACKING OF BILLS

The Rules make provision for urgent legislation to be “fast-tracked”. Fast-tracking is a form of prioritisation by which some steps and time limits in the rules are dispensed with. The Joint Programme Committee (JPC), or its subcommittee established in terms of the rules for this purpose, must take a decision to fast-track a bill. The following bills were fast-tracked in this way:

- Chiropractors, Homeopaths and Allied Health Service Professions Amendment Bill* on 9 February;
- Tourism Amendment Bill* on 29 February;
- Remuneration of Public Office Bearers Amendment Bill* on 29 February;
- Lotteries Amendment Bill* on 8 March 1999;
- Local Government: Municipal Electoral Bill* on 17 May 2000; and
- Cross Boundary Municipalities Bill* on 8 June 2000.

As required by the rules, the decisions to fast-track these bills were tabled for ratification in both Houses. This is normally done by way of a vote of the House on a notice motion.

However, in respect of the *Lotteries Amendment Bill*, the Deputy Speaker made an announcement of the decision of the Committee and put a question for its ratification to the Assembly from the Chair for decision. The House ratified the decision.

Fast-tracking decisions were taken without guidelines until 21 June 2000, when the Joint Programme Committee considered and adopted guidelines in terms of which the JPC or its subcommittee must decide whether a request for the fast-tracking of a bill is properly motivated, and also determine the appropriate response.



The guidelines *inter alia* require the Leader of Government Business (LGB) to do the following:

- (a) Show that prompt passage of the bill is a matter of urgency; and indicate:
  - i) why fast-tracking is necessary under the circumstances;
  - ii) whether a delay in the passage of the bill will seriously affect the interests of the state or the general public; and
  - iii) how those interests will be affected;
- (b) Give the committee an indication of the content of the bill;
- (c) Specify –
  - i) whether the bill introduces significant changes in policy;
  - ii) whether public participation took place before the request for fast-tracking was made;
  - iii) Whether there is any opposition to the bill;
  - iv) Whether the bill is technical in nature; and
  - v) The length of the bill.
- (d) If the bill extends the term of office of a council or statutory body, the request for fast-tracking must explain why the bill in question was not introduced in Parliament before the council or statutory body's term of office expired or was close to expiration.
- (e) The LGB must show that the request for fast-tracking can be adequately accommodated within the current parliamentary programme.

## 26. CONSTITUTIONALLY REQUIRED BILLS

In terms of sections 9(4), 32(2), 33(3) and 217(3) respectively, the Constitution requires legislation to be passed to:

- (a) Prevent or prohibit unfair discrimination;
- (b) Give effect to the right of access to information held by the state or another person;
- (c) Give effect to right to lawful, reasonable and procedurally fair administrative action; and
- (d) Prescribe a framework within which a policy for preferential procurement and protection or advancement for previously disadvantaged persons could be implemented.

Schedule 6 of the Constitution (items 23 (1) and 21 (4)) provides that the legislation must be passed within three years of the date on which the new Constitution took effect. This period expired on 4 February 2000.

Arising out of these provisions, the following bills were introduced and considered in the National Assembly:

- *Promotion of Equality and Prevention of Unfair Discrimination Bill* on 21 October 1999;
- *Open Democracy Bill* on 9 July 1999;
- *Administrative Justice Bill* on 21 October 1999; and
- *Preferential Procurement Bill* on 29 November 1999.

All the bills were adopted by the constitutional deadline, some with amended titles, as follows:

- *Preferential Procurement Policy Framework Bill* [B 66B-99] on 21 January 2000

- *Promotion of Access to Information Bill* [B 67B-98] (introduced as *Open Democracy Bill*) on 25 January 2000
- *Promotion of Administrative Justice Bill* [B 56B-99] on 25 January 2000 and
- *Promotion of Equality and Prevention of Unfair Discrimination Bill* [B 57B-99] on 26 January 2000.

## CEREMONIAL

### 27. MOTIONS OF CONDOLENCE

A motion of condolence on the death on 13 January of the late Minister of Foreign Affairs, Mr Alfred Nzo, was moved by the Chief Whip of the Majority Party on 22 January. The motion was adopted after all parties had been accorded the opportunity to express their condolences.

Motions of condolence were moved on the death of a variety of persons in the course of the session. In respect of such motions pursuant to the death of members of the House, the practice was observed that all members rose on adoption of the motion and observed a moment of silence.

### 28. MOTION INVITING MEMBERS OF SANDF TO VISIT PARLIAMENT FOR COMMENDATION

On 14 March the House adopted a motion without notice moved by the Chief Whip of the Majority Party, honouring the personnel of the South African National Defence Force who assisted in Mozambique during the floods that occurred earlier in the year. In terms of the motion, the House invited all those individuals "... who played an extremely courageous and noble role in saving thousands of babies, women and children to visit Parliament and receive our commendation."

The visit was to take place later in the year. [See also Item 13]

### 29. SYMBOLS CAMPAIGN

As part of an ongoing process and in the spirit of a motion adopted by the House on 22 September 1999, the Joint Rules Committee resolved on 15 June 2000 to accept a proposal by the presiding officers that Parliament proceed with its campaign to invite submissions on new symbols for Parliament, since all parties had agreed to a specific set of guidelines. These guidelines include deadlines in respect of the following provisions:

- Parliament will advertise in the media, inviting submissions.
- All submissions will be reviewed by a small sub-committee, which will then draw up a shortlist.
- The shortlisted submissions will be displayed in Parliament and will be available for viewing by members and the public.
- A final selection will be made by the presiding officers and an all-party committee.
- The agreed symbols will be published before being adopted by both Houses.

[See also paragraph 24 of *Procedural Developments in the National Assembly*, First Issue 1999]

## RULES AND RULE CHANGES

### 30. ASSEMBLY RULE AMENDMENTS

#### Amendment to Rule 23:

On 8 February the House agreed to a motion by the Chief Whip of the Majority Party to amend Rule 23 (sitting days and hours of sitting) to the effect that the House could begin its work at 14:00 instead of 14:15 from Monday to Thursday and at 09:00 instead of at 10:00 on Fridays.

A motion had been adopted on 28 June 1999 which changed the starting times as above for the remainder of that year. [See also Item 6 above]

#### Amendments to Rules 161, 162 and 165:

On 7 March the House agreed to proposed amendments contained in the First Report of the Rules Committee of the National Assembly for 2000 (ATC p 152). The amendments sought to bring the Rules into line with changes to the Joint Rules effected in November 1999. These changes to the Joint Rules had been necessitated by problems experienced in the interpretation of the Rules and the structures created for the management of Parliament. The amendments to the Assembly rules sought to remove ambiguity by –

- clarifying that in laying down guidelines, issuing directives and formulating regulations, the Rules Committee was confined to dealing with policy matters;
- deleting a provision that the control and management of matters relating to the administration of the Assembly vested in the Speaker subject to the decisions of the Rules Committee and the plenary; and
- providing that a subcommittee of the Rules Committee may not issue directives relating to any aspect of the control and management of the administration of the Assembly.

### 31. JOINT RULE AMENDMENT – CHAIRS OF JOINT SUBCOMMITTEE ON SUPPORT FOR MEMBERS

On 16 March the House agreed to a proposal contained in the First Report of the Joint Rules Committee for 2000 (ATC, p 202) to amend Joint Rule 71 (on Chairpersons of the Joint Subcommittee on Support for Members). This amendment had the effect of making the Chairperson of the Assembly Subcommittee and the Chairperson of the NCOP Subcommittee co-chairpersons of the Joint Subcommittee on Support for Members. The co-chairpersons are the Deputy Speaker and the permanent Deputy Chairperson of the NCOP.

Previously, the Joint Rules Committee had appointed the co-chairpersons.

## STATUTORY FUNCTIONS OF THE NATIONAL ASSEMBLY AND RELATIONS WITH OTHER STATE BODIES

### 32. REPORT BY PUBLIC PROTECTOR ON SFF ASSOCIATION

On 21 November 1997, the Democratic Party had moved a motion requesting the Portfolio Committee on Public Accounts to investigate allegations made by the then Minister of Mineral and Energy Affairs about the Auditor-General's report on the Strategic Fuel Fund Association (SFF). The motion had been defeated by a majority party amendment which requested the Public Protector to investigate and report to the National Assembly on "the alleged irregularities with regard to the affairs and financial statements of the SFF Association" and on whether the reports thereon by the Auditor-General had been correct.

In response to this resolution of the National Assembly, the Public Protector issued a report dated 20 December 1999, which was subsequently tabled on 21 January 2000. The report *inter alia* criticised the Minister's conduct in regard to the accusations made, and recommended:

... that the Speaker of the National Assembly takes the necessary steps to ensure that not only this Report but also more specifically matters regarding to sections 181 and 41 of the Constitution [concerning the relationship among organs of state] be raised in the Legislature with a view to a pronouncement regarding the accountability of the Minister and any possible sanction which the Legislature might consider appropriate.

In terms of Rule 214(1)(b) (which allows the Speaker to appoint a committee in the recess, after consulting the senior whips of all parties) an *ad hoc* committee was appointed to consider the report.

The committee issued an interim report on 25 February indicating that it required more time to complete its investigations. In a further report tabled on 7 June, the committee stated that after further investigations it had concluded that a comprehensive investigation was advisable and requested a further extension of its deadline until 31 August. This report was adopted without debate on 9 June.

### 33. SPECIAL REPORT BY AUDITOR-GENERAL ON SOUTH AFRICAN TELECOMMUNICATIONS REGULATORY AUTHORITY

On 11 November 1999, after a division, the House had adopted a report of the Portfolio Committee on Communications which pointed to problems in the South African Telecommunications Regulatory Authority (SATRA) and recommended *inter alia* that the Auditor-General urgently conduct an audit of the activities of SATRA for the period 1998 to the time of the report, with special reference to

allegations concerning irregularities in the process for granting a third cellular telephone licence in South Africa. As a result of this request, the Auditor-General published a Special Report which was tabled and referred to the Portfolio Committee on Communications on 22 February 2000. The Special Report stated that due to time constraints and financial restrictions, the extent of investigations conducted was limited and not detailed enough to draw any final conclusions.

The portfolio committee presented its report on 13 March 2000 in which it stated that on the basis of the Auditor-General's report, it could take the matter no further, and consequently regarded the matter as closed.

SATRA has been disbanded and replaced by a new body, the Independent Communications Authority of South Africa (ICASA) in terms of the *Independent Communications Authority of South Africa Act* passed in April.

#### **34. NOMINATION AND TERM OF OFFICE OF COUNCILLORS OF THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)**

In terms of section 5 of the *Independent Communications Authority of South Africa Act*, Act 13 of 2000, the National Assembly must recommend seven persons to the President for appointment as ICASA councillors. The President must thereupon appoint one of the seven as Chairperson of the Council. Of the remaining six, three are appointed for an initial term of 2 years only (the standard term of office is four years). The three councillors appointed for two years, are identified by a process of drawing of lots carried out by the National Assembly in accordance with a procedure provided for in detail in a schedule to the Act.

On 21 June the House adopted the report of the Portfolio Committee on Communications, which recommended seven persons to be appointed as councillors to ICASA. The Speaker thereupon announced that in terms of the Act, once the President had appointed the councillors, the National Assembly would determine which three councillors would hold office for two years.

#### **35. NATIONAL YOUTH COMMISSION.**

In a letter received in May from the Minister in the Office of the President, Parliament was asked to appoint a committee to advise the President on the appointment of members of the National Youth Commission. This request was made in terms of the National Youth Commission Act as amended, which requires such appointments to be made by the President on the advice of a committee of Parliament on the basis of: participation by the public in the nomination process; transparency and openness; and the publication of a shortlist of candidates for appointment.

The letter was referred to the Joint Monitoring Committee on Improvement of the Quality of Life

and Status of Children, Youth and Disabled Persons for consideration in terms of the Act.

The matter was not finalised during the period under review.

#### **36. PUBLIC SERVICE COMMISSION REPORT**

On 29 March, a Report of the Public Service Commission (PSC) entitled *Evaluation of Departments' Annual Reports as an Accountability Mechanism* was received from the Public Service Commission. The Report evaluated South African departmental reporting requirements, assessed the usefulness of current reports as an accountability mechanism, and proposed changes to both the formal reporting requirements and content, in order to improve the quality of information provided. The changes proposed were –

- the development of new instructions and guidelines for annual reporting;
- the design and launch, by the PSC, of a programme to actively promote the setting up of monitoring, evaluation and information mechanisms in departments; and
- the investigation by the PSC of ways to improve reporting on important cross-departmental government policy initiatives.

The Report was referred to the Joint Standing Subcommittee on Oversight and Accountability for consideration and report, and to all portfolio committees and select committees and the Standing Committee on Public Accounts for consideration.

#### **37. CONSIDERATION OF NOMINATIONS FOR APPOINTMENT OF PERSONS TO THE CENTRAL DRUG AUTHORITY**

Section 2(3)(b) of the *Prevention and Treatment of Drug Dependency Act*, Act No 20 of 1992, provides that the Portfolio Committee on Welfare and Population Development of the National Assembly and the Select Committee on Social Services of the National Council of Provinces are required to make recommendations to the Minister for Welfare and Population Development on the appointment of persons to the Central Drug Authority, after considering nominations received from the Minister. Such nominations are invited through the media and by notice in the *Gazette*.

On 26 January 2000 the House adopted a motion requesting the portfolio committee to consider the nominations and make the necessary recommendations.

The committee, after conferring with the Select Committee on Social Services of the NCOP, published its report on 25 February 2000, recommending the appointment of the following persons:

Bayever, D N; Da Rocha-Silva, L; Fredericks, T J; Hoekstra, M C; Jardine, G F; Malaka, D W; Mathe, S V; Moleko, A S; Moodliar, D C; Mynhardt, D C; Parry, C D H; Rataemane, S.

The House considered and adopted the report without debate on 16 March 2000. [ATC p 119; Minutes pp 34 & 223]

### 38. APPOINTMENT OF INSPECTOR-GENERAL OF INTELLIGENCE

In accordance with section 210(b) of the Constitution national legislation must provide for "... civilian monitoring of the activities of [the intelligence] services by an inspector appointed by the President, as head of the national executive, and approved by a resolution adopted by the National Assembly with a supporting vote of at least two thirds of its members."

In terms of relevant legislation (the *Intelligence Services Control Act*, 1994, as amended in 1999) the appointee(s) must be nominated by the Joint Standing Committee on Intelligence. After considering the nominations for the post of Inspector-General of Intelligence, the Committee, in its report published on 10 April 2000, nominated M F Randerer in terms of section 7 of the Act.

The report was put to the National Assembly for consideration on 11 April 2000, but there were insufficient (289 out of 400) members present to obtain the required two-thirds majority support in terms of the *Intelligence Services Control Act*, 1994, as amended. The decision of question was postponed to the following sitting day, 12 April 2000, on which day the report was adopted with the requisite majority. [See also Item 35 of Procedural Developments in the National Assembly, First Issue 1999] [ATC p 294; Minutes pp 295 & 320]

### 39. RULES OF PROCEDURE FOR COURTS OF LAW MADE BY RULES BOARD FOR COURTS OF LAW IN TERMS OF ACT, TO BE APPROVED BY PARLIAMENT

Section 79 of the *Promotion of Access to Information Bill* [B 67B-98], passed by Parliament in January, provides that certain rules of procedure for law courts, to be made and implemented by the Rules Board for Courts of Law, must be approved by Parliament before publication in the Gazette.

The Act had not yet come into effect during the period under review, and no Rules as contemplated had been submitted to Parliament.

## PARLIAMENTARY INTERNATIONAL RELATIONS

### 40. APPOINTMENT BY THE NATIONAL ASSEMBLY OF SADC PARLIAMENTARY FORUM MEMBERS

Article 6(3) of the Constitution of the Southern African Development Community (SADC) Parliamentary Forum provides that "the SADC Parliamentary Forum shall consist of the Presiding Officers and three representatives elected to the SADC Parliamentary Forum by each national Parliament; provided that in the election of the three representatives to the SADC Parliamentary Forum, each Parliament shall ensure equitable representation at the SADC Parliamentary Forum of women and

political parties that are represented in that Parliament."

On 16 March, on a motion moved without notice by the Deputy Chief Whip of the Majority Party, the House designated the following members to represent Parliament in the Forum in terms of the above provision: Mr C W Eglin (National Assembly) (Democratic Party); Ms S N Ntlabati (National Council of Provinces) (African National Congress); and Mr T S Yengeni (National Assembly) (African National Congress).

### 41. PARLIAMENTARY DELEGATION TO OBSERVE ELECTION IN ZIMBABWE

On 17 May the House adopted a motion without notice by the Chief Whip of the Majority Party noting *inter alia* that the South African Parliament was to send a delegation to observe elections in Zimbabwe. In accordance with a further motion adopted on 6 June subject to the concurrence of the National Council of Provinces (which passed an equivalent motion on the same day), 20 members of Parliament (one a member of the NCOP) were nominated as members of the delegation. The party breakdown of the delegation was: ANC 12; DP 3; IFP 2; NNP 2; and ACDP 1. Mr T S Yengeni, Chief Whip of the Majority Party in the National Assembly, was designated leader.

In terms of the resolution, the delegation was to observe the election campaign in the run-up to the elections, the casting of votes during the elections and subsequently the counting of votes, and after completion, to present a full report to Parliament.

### ABBREVIATIONS USED

ATC	Announcements, Tablings and Committee Reports
IPU	Inter-Parliamentary Union
Minutes	Minutes of the National Assembly
NCOP	National Council of Provinces
JPC	Joint Programme Committee
JPSC	Joint Programme Subcommittee
LGB	Leader of Government Business

#### Parties:

ANC	African National Congress
DP	Democratic Party
IFP	Inkatha Freedom Party
NNP	New National Party
UDM	United Democratic Movement
ACDP	African Christian Democratic Party
FF	Freedom Front
UCDP	United Christian Democratic Party
PAC	Pan Africanist Congress
FA	Federal Alliance
AEB	Afrikaner-Eenheidsbeweging
MF	Minority Front
AZAPO	Azanian People's Organisation