

# NATIONAL ASSEMBLY RULES COMMITTEE

**Chairperson** **Committee Secretary**

Speaker of the National Assembly Tharina Abell x2262

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#### DRAFT MINUTES OF PROCEEDINGS

**Wednesday, 20 March 2013 (16:00), Old Assembly Chamber**

**Chairperson: Deputy Speaker of the National Assembly**

Present:

Frolick C T (House Chairperson); Jeffery, J H (ANC); Kalyan, S V (DA); Kilian, J D (Cope); Koornhof, N J J van R (Cope); Masutha, T M (ANC); Mulder, C P (FF Plus); Schäfer, D A (DA); Steenhuisen, J H (DA); Oriani-Ambrosini, M G R (IFP) and Waters, M (DA)

#### Staff in attendance:

M Xaso (Secretary to the N A); C van der Merwe (Legal Adviser) and T Abell (NA Table).

**1. Opening and welcome**

The Deputy Speaker, as chairperson, opened the meeting at 16:21.

**2. Apologies (Agenda item 1)**

Apologies were tendered on behalf of the Speaker, Kubayi, M T (Acting Deputy Chief Whip of the Majority Party); Motshekga, M S (Chief Whip of the Majority Party); Ntapane, S Z (UDM); Watson, A (Chief Whip of the Opposition) and Van der Merwe J H (IFP).

**3. Final discussion of measures to make appropriate provision for Motions of No Confidence in the Rules of the National Assembly (Agenda item 4)**

The Deputy Speaker noted that the meeting did not constitute a quorum, but requested that the meeting continue as agreed at the previous meeting to establish whether parties had reached consensus on the matter.

Mr Jeffery informed the meeting that consensus on some matters had been reached; however, further discussions were still required. He said that the ANC needed further discussions with their legal team and within the study group. He said that it was not a matter that should be rushed, and hoped that with the support of all parties a rule could still be drafted, however, that would not be possible before the court date. He further said that the court case would deal primarily with other matters.

Ms Schäfer informed the meeting that a new proposal had been given to the ANC on the previous Monday but discussions could not continue before feedback was received. There was agreement on some matters, but consensus could not be reached on others. Discussions would continue as soon as the ANC was ready with a mandate.

Dr Oriani-Ambrosini reiterated the fact that, as the meeting did not constitute a quorum, no decisions could be taken, but said that matters could be placed on record. He said that the events that brought the committee to that point were 60 hours of deliberations in the sub-committee on this subject matter. The discussions with options were documented and procedurally should have been submitted to the Rules Committee for consideration. Only at the Rules Committee meeting did the ANC present a document that was not included in the options discussed by the sub-committee. In reaction to that, the opposition parties compiled a joint document in which some of the options discussed in the sub-committee were included, as a counter proposal to the ANC document. He said that no counter proposals had formally been submitted by the ANC on the opposition parties’ proposal, specifically on the issues of “whether”, “when”, “how” and “how long” and also on the matter of the discretion of the Speaker to decide whether the Motion of No Confidence would be heard.

The Deputy Speaker requested Dr Oriani-Ambrosini to confine his input to the question whether consensus was reached on the matter.

Mr Masutha raised a point of order that Dr Oriani-Ambrosini was raising his views on how matters had transpired in the sub-committee meeting, which was not a true reflection of what actually transpired.

Dr Oriani-Ambrosini requested that the records of the meeting should reflect that he was not allowed to put on record the facts of the matter.

Mr Jeffery indicated that a range of issues still needed to be discussed, and that it was not only a matter of the DA waiting for the ANC to respond.

Ms Kilian informed the meeting that, as the records of the committee would reflect, proposals were received from both the ANC and the opposition parties and that members were working on a third version in an attempt to reach a common ground. She said that there were currently three or four issues that the parties could not reach agreement on.

The Deputy Speaker said that, as was the position the previous day, there was no consensus amongst parties. She said that although parties had discussed the matter, it seemed there was no eagerness to reach consensus, in spite of the approaching court date and deadline given to the Speaker as 1st Respondent.

She added that she was convinced that members would not like the courts to take away the role of drafting Parliamentary Rules from Parliament. Whilst parties were still trying to reach consensus on the matter, the Speaker would file his answering affidavit, which would include the following proposals:

1. A member may propose a motion of no confidence in the President or Cabinet in terms of section 102 of the Constitution for approval as a resolution of the House, and must state the grounds for the motion.
2. The Speaker must schedule the motion after consultation with the Leader of Government Business, the Chief Whip of the Majority Party and the Chief Whips’ Forum.
3. When it is scheduled, consideration of the motion of no confidence by the House must take place within a reasonable time, but no later than twenty parliamentary working days.
4. If a motion of no confidence cannot reasonably be scheduled by the last sitting day of an annual session, it must be scheduled for consideration as soon as possible in the next annual session as if notice had been given on the first sitting day of that session.
5. The debate on a motion of no confidence shall not exceed the time allocated for it by the Speaker, after consultation with the Chief Whip of the Majority Party as chairperson of the Chief Whips’ Forum.
6. If a motion of no confidence is proposed a second time the Speaker may schedule the motion after:-
7. The consultation contemplated in sub-rule (2) above; and
8. Having considered whether another motion of no confidence, brought on the same or materially similar grounds, was rejected during that annual session.
9. If a motion of no confidence in terms of section 102 is approved by the House, the Speaker must inform the Leader of Government Business in writing forthwith.

The Deputy Speaker informed the meeting that the Speaker was forced to compile the response while waiting for parties to reach consensus on the matter. Thus, the Speaker had tried to take a neutral position and included what he deemed best for the institution.

Ms Schäfer pointed out that while the Speaker had filed papers on the matter, he could have requested to file supplementary papers if he wished to do so. She also requested clarity on the status of the document (Speaker’s response), in light of the fact that the National Assembly had not approved the submission.

The Deputy Speaker responded that the document would be submitted to the court as the Speaker’s proposal and not as a product of the National Assembly Rules Committee. The Speaker would inform the court that parties had reached consensus on certain matters, but that deliberations on other matters were still continuing. She further said that discussions on the matter must henceforth be guided by the submission of the Speaker and any subsequent ruling by the court.

Dr Oriani-Ambrosini said that he had cautioned the Speaker not to submit the document as he had no authority to phrase a rule, as he himself stated under oath in the Constitutional Court. He added that he felt that the Speaker would act beyond his capacity if he submitted the proposal; he further cautioned that the current meeting was not properly constituted and the document was therefore not tabled before the NARC.

Mr Jeffery said that his understanding was that the Speaker’s response would be submitted for information purposes as the proposal of the 1st Respondent in the case. He said that it was his understanding that the court wanted a progress report and not a final rule.

The Deputy Speaker confirmed Mr Jeffery’s view that the document would be submitted to the court as the input from the Speaker in the absence of consensus amongst parties.

**4. Closing**

The meeting adjourned at 16:47.

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**N C Mfeketo MP**

**Deputy Speaker of the National Assembly**

**APPROVED ON:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**