



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

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16 October 2014

SELECT COMMITTEE ON PETITIONS AND EXECUTIVE UNDERTAKINGS: DRAFT GUIDELINES ON THE CONSIDERATION AND PROCESSING OF PETITIONS

1. Preface

Section 17 of the Constitution guarantees amongst others a person's right to petition. Sections 56(d) and 69(d) of the Constitution provide that the two Houses of Parliament, namely the National Assembly and the National Council of Provinces, and their committees may receive petitions, representations or submissions from any persons or institution. Even though sections 57 and 70 of the Constitution do not prescribe the processes and procedures around the receipt of petitions by both Houses, the stated sections do however give both Houses of Parliament the power to determine their own internal rules and procedures in relation to their business. As such, the purpose of these guidelines is to guide Parliament in relation to the consideration and processing of petitions submitted to it.

2. Purpose

In addition to guiding Parliament, in particular the Committee, in relation to the consideration and processing of petitions, these guidelines also seek to do some of the following:

- a) To give realisation to sections 17, 56(d) and 69(d) of the Constitution;
- b) To define a petition in respect of amongst others its purpose, scope and requirements;
- c) To establish and lay down general principles and process for the submission of a petition to the Committee of Parliament and for public participation in the processes of Parliament;
- d) To set out the process and procedure of the consideration of petitions by the Committee; and
- e) To provide clarity on the role, function and powers of the Committee.

3. 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, Researcher, Content advisor and table staff from the Houses of Parliament ;



“Chairperson” means the Chairperson of the Committee;

“Committee” means the Select Committee on Petitions and Executive Undertakings or any other committee of Parliament mandated with the consideration and processing of petitions in terms of the Rules and consisting of members of Parliament;

“Constitution” means the Constitution of the Republic of South Africa;

“Member” means a member of the Parliament of the Republic of South Africa;

“National Assembly” means the National Assembly as contemplated in section 42(a) of the Constitution;

“National Council of Provinces” means the National Council of Provinces as contemplated in section 42(b) of the Constitution;

“Parliament” means the Parliament of the Republic of South Africa;

“petition” means a complaint, request, a representation or a submission by a petitioner to the Chairperson of the National Council of Provinces in terms of the Rules;

“petitioner” means a person who submits a petition in terms of the Rules and includes Members and juristic person;

“Presiding Officer” means the presiding officers of Parliament, namely, the Chairperson of the National Council of Provinces or the Speaker of the National Assembly;

“Republic” means the Republic of South Africa;

“Rules” means the Rules of the National Council of Provinces or the National Assembly or the Joint Rules, which are made for conducting the business of Parliament;

“Secretary” means the Secretary of the National Council of Provinces or the National Assembly, the most senior officials in each of the Houses of Parliament and appointed in terms of relevant legislation.



4. General Principles

The Committee must -

- a) Take appropriate steps to encourage and facilitate participation by the public in the processes of Parliament, particularly, among the previously politically, socially and economically excluded communities within the Republic;
- b) Enhance democracy by exercising maximum accountability and transparency;
- c) Respect the rights of petitioners and those affected by the petition; and
- d) Ensure that persons or groups or categories of persons previously disadvantaged by unfair discrimination, enjoy full participation in the process of governance.

A right conferred in terms of these guidelines shall be exercised in a manner, which is reasonable and justifiable.

Every petitioner shall have the right to submit a petition in any of the official languages of the Republic.

5. Right to petition

Subject to the provisions contained in these guidelines, the Constitution and any other law, a person has the right to submit a petition.

A petition may be submitted by a person who acts -

- a) In his or her own interests;
- b) In the interest of another person who is for whatever reason not in a position to submit a petition in his or her own name or its name;
- c) As a member of or in the interest of a group or class of persons; or
- d) In the public interest.

6. Purpose of petition *↳ Post - Chapter 9*

The purpose of a petition is to seek relief from Parliament where all other lawful avenues of relief have been exhausted by a petitioner.

7. Scope of petition

A petition and the relief it seeks must be constitutional and fall within the legislative and executive competence of Parliament.

The relief that a petition seeks may be specific or general relief.



A petition seeking general relief emanates from an individual and can even emanate from a group of individuals or organisations who share similar views on a certain complaint or request and seeks general relief from government i.e. that is relief authorised by the law.

A petition seeking specific relief is petition is one in which an individual makes a specific request or asks for personal relief from the State, which is not authorised by law, such as access to a pension.

A petition may also be – *Definition*

- a) A single petition, which in an individual submission from a single petitioner, concerning a particular matter;
- b) An association petition, which is a submission from an association or single petitioner mandated by an association to submit the petition, concerning a particular matter;
- c) A collective petition, which is a collection of signatures from a number of petitioners concerning a particular matter;
- d) A mass or group petition, which comprises of individual or group submission from a number of petitioners, concerning the same or a substantially similar matter.

A petition must comply with the requirements set out in 8 below.

8. Substantive and formal requirements of petitions and relief sought

A petition must also comply with the following formal requirements -

- a) Be legible;
- b) Not contain defamatory or improper language or statements;
- c) Contain a request that Parliament takes or refrains from taking certain action in response to the petition;
- d) Be signed by the petitioner or in the case of a petitioner who is for any reason is unable to write, he or she must make a mark in the presence of two witnesses who must also sign in their capacity as witnesses;
- e) Not have been considered by the Committee previously, except if that petition, in the opinion of the Committee contains new information that may materially impact on the outcome of re-consideration of the matter; and
- f) Not be in respect to a matter that a petitioner has not yet brought to the attention of a relevant body or if the petitioner has brought it to the attention of the relevant body, the relevant body has not been afforded reasonable time to consider the matter.

A petition must comply with the following substantive requirements -

- a) Fall within the legislative and executive competence of Parliament;
- b) Not concern a matter pending in a court of law, tribunal, forum, investigative institution or body contemplated within the Constitution or any other law;



- c) Not be in connection with the conviction and sentencing of a person by a criminal court or judgment made by a civil court of law;
- d) Not originate from a prisoner and connected to his or her case;
- e) Not seek to review or overturn the proceedings of judgment of a competent court;
- f) If submitted by a Member, not deal with a matter that is already before the Committee.

A petition must request a form of relief, be it general or specific, which can entail the following-

- a) The amendment of pending or enacted legislation;
- b) The reconsideration of a general or administrative decision affecting the petitioner;
- c) Reasonable and practicable steps to be taken to grant relief to the petitioner; and
- d) Any other form of relief deemed by the Committee to be reasonable.

The Committee may refuse to consider a petition which does not comply with the abovementioned formal and substantive requirements.

9. Submission of petition

A petition must be deposited with the Secretary or any person authorised by him or her must receive a petition for at least one day.

The Secretary is thereafter required to submit the petition to the Presiding Officer for approval.

Once the Presiding Officer has approved the petition, it must be referred to the Committee for consideration and processing in terms of the Rules.

The Committee must consider every petition referred to it in terms of the Rules.

10. Procedures relating to petitions

The administrative support staff must –

- a) Register every petition referred to the Committee;
- b) Open a file for every petition;
- c) Prepare every referred petition for consideration by the Committee, which preparation may include the correction, if possible, in consultation with the petitioner, to ensure a petition complies with the provisions of these guidelines and the translation of a petition;
- d) Prepare a comprehensive list of outstanding petitions addressed to Parliament, and make it available at each meeting of the Committee; and
- e) Present a petition prepared for consideration to the Committee.

The Committee must notify a petitioner within four (4) weeks of the date on which a petition was referred to the Committee of –

- a) The manner in which a petition is being dealt with; and



- b) The reasons why it is being dealt with in that particular manner.

The Committee must, after concluding its consideration of a petition, submit the petition file and its recommendations to the Presiding Officer.

After the submission of a petition to the Presiding Officer, the Presiding Officer must scrutinise the contents of the file within two (2) weeks.

The Presiding Officer may –

- a) Refer the file to the Committee for reconsideration; or
- b) Refer the file to the Committee for closure, providing written reasons for such action.

A Member may object to the closing of the file, and must provide reasons for his or her objection.

Subject to the right of the Committee to continue to act on the complaint or request if the Committee deems the matter to be of public importance, a petitioner may withdraw a petition.

11. Functions of the Committee

The Committee must –

- a) Receive every petition referred to it in terms of these guidelines;
- b) Subject to section 9, consider every petition properly submitted in terms of the guidelines;
- c) Record the oral submission or evidence of a petitioner in terms paragraph 12 below;
- d) If a petition has been referred to a member of a national or provincial department or a national or provincial department –
 - (i) Direct the person or body to whom the petition was referred to consider the petition, make a decision or recommendation in respect of that petition or otherwise dispose of the request raised in the petition; and
 - (ii) Require the person or body to whom that petition was referred to furnish the Committee within four (4) weeks of that referral in writing with a detailed report on the steps taken by that person or body to address the complaint, request, recommendation or instruction by the Committee, as the case may be, and the reasons for those particular steps;
- e) If it takes the decision not to consider a petition in terms of paragraph 8 above because it does not meet the formal and substantive requirements set out in these guidelines, in writing inform the petitioner of that fact as well as the reasons for its decision; and
- f) On a quarterly basis report to the House on the petitions referred to it during that period and all its activities in respect thereof, including the responsiveness, efficiency and timeousness with which petitions were dealt with and the efficacy of the petitions process and procedures;



The Committee must also instruct the administrative support staff to inform a petitioner timeously –

- a) From time to time, of progress in respect of the consideration of a petition;
- b) Of any decision taken by the Committee in respect of a petition, and the reasons for that decision;
- c) If the petitioner has been invited by the Committee to make an oral submission;
- d) Of the date, time and venue when the petition is to be considered and that the petitioner may attend that sitting of the Committee;
- e) Of any referral to any person or body contemplated in the guidelines;
- f) Of other remedies available to the petitioner; and/or
- g) Of the fact that the petitioner has access to the petition file at all reasonable times.

12. Powers of the Committee

In considering and processing a petition referred to it, the Committee may subject to relevant legislation –

- a) Invite a petitioner to supplement the petition with additional oral or written submissions and/or call a witness to present oral or written evidence to the Committee;
- b) Require the attendance of a person before the Committee to produce any paper, book, record or document under his or her or its control;
- c) Recommend to an appropriate person or body to settle the petition in order to do justice to the petition;
- d) Recommend an appropriate person or body the general approach to be followed in future in settling a similar request or complaint;
- e) If requested by the petitioner, resolve a dispute or complaint, reverse an action or rectify an omission, regarding any matter which is regulated by legislation, by way of negotiation or mediation;
- f) Conclude its consideration of a petition if it resolves that no steps or no further steps, as the case may be, can be taken to settle the matter to the satisfaction of the petitioner;
- g) Delegate any of its functions or powers in terms of paragraph 19 of these guidelines; or
- h) Close the petition file if the petition has been settled to the satisfaction of the petitioner.

The Committee may also refer a petition or any part thereof with a specific directive or recommendations to –

- a) Parliament;
- b) Another committee of Parliament;
- c) A national or provincial department;
- d) A member of a national or provincial department;
- e) An institution strengthening constitutional democracy established by Chapter 9 of the Constitution;
- f) The National Prosecuting Authority or any investigative body or authority;
- g) Any other competent organ of state.



If a petition has been referred to an official of a national or provincial department or a national or provincial department and that person or body has failed to respond or gives a dissatisfactory response to the House, the Committee must –

- a) Make a complaint to the Public Protector in terms of the Public Protector Act, 1994 (Act No. 23 of 1994); or
- b) Take any other appropriate steps which it may deem just and equitable.

13. Composition of Committee

The Committee consists of those Members as determined from time to time by Parliament.

14. Sitting of the Committee

The Committee may in order to hear evidence and to consider a petition, sit and meet at a date, time and place anywhere in the Republic determined by the Chairperson.

The Chairperson may give public notice of a meeting in accordance with the Rules.

The administrative support staff must timeously –

- a) Ensure that an invitation, instruction or summons to appear before the Committee has been properly issued;
- b) Inform the petitioner in writing of a matter that the petitioner is entitled to be informed of in terms of the Act or any other law;
- c) If necessary, ensure that the contents of a petition file is translated into a working language of the Committee; and
- d) Perform all other necessary duty, to enable the Committee to consider a petition and exercise its functions and duties in terms of these guidelines.

Evidence which is presented before the Committee must be heard in public unless it is –

- a) In the interest of justice; or
- b) In the interest of safety of the petitioner or a witness that the evidence be heard behind closed doors.

15. Witnesses

For the purpose of ascertaining a matter relating to the subject of its investigation, the Committee may –

- a) Summon a person to attend a sitting of the Committee as a witness in order to give evidence, or produce any book, document or object if the Committee requires it; or
- b) Subpoena a person to attend a sitting of the Committee as a witness in order to give evidence, or produce any book, document or subpoena.



The subpoena contemplated above must be signed and issued by the Chairperson and served on the person subpoenaed either by registered letter sent through the post or delivery by a person authorised thereto by the Chairperson or by any method determined by the Presiding Officer.

A witness must, before giving evidence, take an oath or make an affirmation administered by the Chairperson or such Member or member of the administrative support staff of the Committee as the Chairperson may designate.

A person who has been subpoenaed to attend a sitting of the Committee as a witness or who has given evidence before the Committee, is entitled to the same witnesses fees as if he or she has been subpoenaed to attend or had given evidence at a criminal trial in the High Court.

16. Retention of books, documents or objects by the Committee

The Committee may retain, for a reasonable period after sitting, a book, document or object that it has requested or subpoenaed a person to produce in terms paragraph 14 of the guidelines.

17. Delegation of powers by Committee

The Committee may delegate any of its duties, functions or powers in respect to a particular petition to a Member of the Committee or a subcommittee of the Committee.

The Chairperson must provide written and signed authorisation to a Member or a subcommittee to consider a particular petition.

The Chairperson may at any time withdraw the authorisation for delegation.

The Member or subcommittee must after conclusion of the consideration of a petition report the outcome of this consideration to the Committee.

Nothing prevents the Committee from exercising the powers delegated to a Member or subcommittee in terms of this section of the guidelines.

A Member or subcommittee appointed in terms of this section has all the powers by implication necessary to enable him or her or it to fulfil his or her or its function.

18. Accountability of Committee

The Committee must report to Parliament as contemplated in section 10(g).

A debate on an issue raised in a report of the Committee to the House must take place if more than five (5) Members so demand.



Parliament may refer a matter emanating from a report of the Committee back to the Committee for reconsideration.

A Member of Parliament has access to a petition file at any reasonable time.

Parliament may whilst the Committee is considering a petition only conduct an interpellation in respect of that petition relating to the process of considering the petition and not in respect of the merits thereof.

A Member of Parliament may, whilst the Committee is considering a petition, only put a question in respect of that petition relating to the process of considering the petition and not on the merits thereof.

19. Supplementary guidelines

The Presiding Officer, in consultation with the Committee, may make supplementary guidelines to complement and better achieve the purpose of these guidelines.