

150306 SubRules.

**REPORT OF THE SUBCOMMITTEE ON REVIEW
OF THE ASSEMBLY RULES TO THE RULES
COMMITTEE ON PROPOSED AMENDMENTS TO
THE NA RULES: CHAPTERS 1 TO 9**

4 FEBRUARY 2015

REVIEW OF THE NATIONAL ASSEMBLY RULES

INTRODUCTION

1. The first democratic Parliament, elected in 1994, inherited the rules and orders of the previous legislature. The Interim Constitution provided that these would apply for a transitional period while a new regulatory framework was developed. Some important preliminary changes were adopted in 1994-5, but new Rules covering Questions, the committee system, the legislative process and the processing of written instruments were finally agreed in 1997 after the new Constitution came into effect.
2. The rules have since been amended, mostly on an ad hoc basis, to provide for new policies and procedures. At the same time new parliamentary conventions and practices have developed. However, the first nine chapters of the Assembly's Rules, which also cover House sittings, have not been comprehensively revised since 1994. In this respect it has proven necessary for the National Assembly to reassess its procedures to ensure they allow for the legislature to optimally discharge its responsibilities.
3. In 2012, the Rules Committee mandated the Subcommittee on Review of the National Assembly Rules to conduct a comprehensive review of the rules. With regard to the review process, the Rules Committee stated the following: "There are a number of drivers of the proposed review of the rules. There is, for example, the need to determine how the Assembly wants to give expression to being an African Parliament and a people's Parliament. Issues around the ethos and culture of Parliament and how they find expression in the processes and proceedings of the House need to be clarified. Matters of decorum also need to be addressed, as do some institutional reforms that are required".
4. In preparation for the review, the Subcommittee held a workshop in August 2012 during which local and international parliamentary procedural experts shared their experiences. The Subcommittee also contracted the former Secretary to the National Assembly, Mr K Hahndiek, and a number of former members to participate in the process. A task team was then established to grapple with the substance of the rules and to oversee the drafting process. The approach of the task team was two-pronged. First, it considered each rule and developed appropriate technical amendments. These resulted mostly from outdated

terminology and practices. The team then analysed the more substantive submissions and presented different options. The task team completed drafting and submitted its report at the end of 2013.

5. The team identified a number of premises which underpinned the review. First, the rules and practices had to be aligned with the Constitution to eliminate inconsistencies. It was felt that the Assembly should be proactive in establishing rules and practices that would stand the test of time and not lead to repeated court challenges. Second, it was recognized that the rules should not attempt to manage politics but instead create an enabling environment for members to carry out their responsibilities. Third, the rules should endeavour to capture the best conventions and practices developed over the past two decades. Lastly, the rules should serve to promote the image of Parliament with the public.
6. The Subcommittee could not, however, complete its deliberations before the end of the Fourth Parliament and the work effectively lapsed. The Rules Committee on the Fifth Parliament revived the matter and instructed that the new Subcommittee proceed with the review. As a first step, the Subcommittee agreed to conduct workshops to revisit what had been done by the Task Team and to introduce the new members and parties to the work that had been done to date.
7. Following the workshop, the draft rules and a summary of proposals were distributed to the political parties for their inputs. The Subcommittee then met on Chapters 1-9 to hold final discussions on the inputs. Attached is the product of the review to date.
8. In the text itself it should be noted that underlined text is added to the original rules. **Highlighted, bracketed text** is removed including any text that appears to contain amendments. Such amendments are from the Task Team version of the rules. This is the essentially the same method used for amending bills.

PROPOSED RULE AMENDMENTS: CHAPTERS 1 TO 9

(DRAFT 2)

CHAPTER 1

SOURCES OF AUTHORITY OF ASSEMBLY AND THEIR APPLICATION

Part 1: Definitions

1. Definitions

In these Rules, unless the context otherwise indicates—

["Act" means the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004;]

[Definition inserted, 21 November 2008]

[Note: The "Powers and Privileges Act" as a shortened reference to the full name of the Act in the text of the Rules will provide greater clarity. A definition of "Powers and Privileges Act" is therefore inserted, below. All references to "the Act" in the text of the Rules should therefore be amended accordingly.]

"Assembly" means the National Assembly;

"ATC" means the document entitled Announcements, Tablings and Committee Reports, which supplements the Minutes of Proceedings of the Assembly;

"attendance" means a member's presence at a sitting of the House, a meeting of a mini plenary session or any other committee or forum, or at any other official parliamentary activity;

"Chamber" means the Chamber of the National Assembly or any other chamber in which the proceedings of the House and its forums are conducted;

[Note: Taken from Sec 2(1)(a) of the Powers and Privileges Act]

"Chief Whip" means the chief whip of the majority party;

[Note: A proposal that there be a "Chief Whip of the National Assembly" was flagged for further consideration.]

"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;

"committee" means any committee, forum or other structure of the Assembly formally established by the Assembly;

"constitutional institution" means —

- (a) any State institution mentioned in section 181 of the Constitution; or

(b) any other institution established, or of which the establishment is required, in terms of a specific provision of the Constitution, including the constitutional institutions listed in Schedule 1 of the Public Finance Management Act, 1999 (Act No 1 of 1999);

[Note:

(1) This definition was flagged for further consideration. It was suggested that constitutional institutions are also “organs of state” as contemplated in Section 55 of the Constitution. Whether a separate definition of “constitutional institution” was needed depended on references in the Rules.

(2) Note further that “organs of state” and “constitutional institutions” are currently separately mentioned in Rules 201 and 206 relating to the functions of portfolio committees and the Committee on Public Accounts, respectively.

(3) See also the definition of “organ of state” added below.]

“constitution amendment bill” means a bill to which section 74 of the Constitution applies;

“Council” means the National Council of Provinces;

“document” means any written instrument, and includes any electronic or other device in or on which information, including visual material, is recorded, stored or kept;

“duration of the House” means the term of the House or the remaining part of its term at any time;

“formal motion” means a motion of a procedural nature that in terms of Rule 97 does not require notice;

[Note: In Rule 29, “Sequence of Proceedings”, “motions without notice” has been added after “notices of motion” and before “formal motions”.]

“Gazette” means the national *Government Gazette*;

“House” means the Assembly unless otherwise specified;

“JTM” means the Joint Tagging Mechanism established by Joint Rule 151;

“member” means a member of the Assembly;

“misconduct” in these Rules means a breach of the standing rules of Parliament by a member, except a breach of the Code of Conduct contained in the Schedule to the Joint Rules or conduct amounting to contempt of Parliament as defined in the Powers and Privileges Act;

[Definition inserted, 21 November 2008]

[Note:

(1) This definition was flagged for further consideration, as it was suggested that the definition was not broad enough.

(2) The term “misconduct” is used in Rule 194, concerning the functions of the Powers and Privileges Committee, and in the Schedule to the Assembly Rules. Both the Rule and the Schedule distinguish between misconduct and contempt of Parliament. The offences provided for in the Powers and Privileges Act constitute “contempt of Parliament” in terms of Section 13 of the Act. The Committee was however intended to serve as a disciplinary committee as well as a committee to investigate possible actions constituting contempt of

Parliament.

- (3) The definition could be altered to read: "... means a breach of the standing rules and orders of the Assembly [of Parliament] or any other conduct of a member related to the member's parliamentary activities that is found to be unbecoming of a member as determined by the Powers and Privileges Committee, except ...]

"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;
[Note: If the proposed Rules relating to the processing of "mixed bills" (NA Rule 283 and Joint Rules) are dispensed with, this definition could be deleted.]

"money bill" means a bill that appropriates money or imposes taxes, levies or duties and to which section 77 of the Constitution applies;

"motion" means -

- (a) a proposal made by a member in the form of a draft resolution that the Assembly do something, order something to be done or express an opinion concerning some matter, or
- (b) a proposal made by a member that the Assembly discuss a subject presented by the member for that purpose;

"official parliamentary activities" means any business or activity of Parliament, including plenary sittings, committee meetings, study tours, workshops, parliamentary forums or any other parliamentary activity sanctioned by the Assembly, or its committees or presiding officers, as duly authorised;

"organ of state" means any executive organ of state in the national sphere of government as contemplated in Section 55(2) and defined in Section 239 of the Constitution.

"Parliamentary protection services" means security personnel appointed by Parliament to provide protection within the precincts and includes security services performing a policing function within the precincts with the permission or under the authority of the Speaker in terms of Section 4 of the Powers and Privileges Act;

"party whip" means a member designated by the leadership of a party to oversee and guide the conduct of its Members in relation to the Rules and the decorum and business of the House or a Committee and to perform such further functions as the House may prescribe;

"person in charge" —

- (a) with reference to a bill introduced by a Cabinet member, a Deputy Minister or an Assembly member, means that Cabinet member, Deputy Minister or Assembly member;
- (b) with reference to a bill introduced by an Assembly committee, means the chairperson or any other member of the committee designated by the committee;
- (c) with reference to a money bill, means the Minister of Finance or another Minister referred to in Rule 286;
- (d) with reference to a section 76(2) bill introduced on behalf of a Cabinet member or Deputy Minister in the Council, means that Cabinet member or Deputy Minister;
- (e) with reference to a section 76(2) bill introduced in the Council, other than

bills referred to in paragraph (d), means the Assembly member designated in terms of Joint Rule 217(2);

(f) with reference to a committee report, means the member who introduces the report in the House on behalf of the committee; and

(g) with reference to a motion, means the member who gives notice of the motion and/or moves the motion in the House.

[Note: Paragraph (c) of this definition is flagged for further consideration with reference to Rules 285 and 286 and the Note in the Rules following Rule 286.]

“point of order” means a matter related to the procedure or practice of the House, or a complaint of unparliamentary conduct or behaviour on the part of another member, which a Member is entitled to raise during the sitting of the House or Committee when seeking guidance and a ruling on the matter from the Presiding Officer;

“Powers and Privileges Act” means the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act No 4 of 2004);

[Note: See Note to definition of “Act”, above.]

“precincts of Parliament” means the precincts referred to in Section 2 of the Powers and Privileges Act;

“private member” means any member other than a Minister, a Deputy Minister and the Speaker;

[Note: This has a bearing particularly on private members' bills, members' motions and members' statements. See Rule 103(1) and the Note thereto.]

“question” except in respect of question time or period and a question of privilege, means a proposal presented to the Assembly or a Committee of the Assembly by the presiding officer for consideration and decision or disposal in some manner;

“question of privilege” means any report of an act which may constitute a breach of privilege or contempt of Parliament in terms of the Powers and Privileges Act;

“Question Paper” means, as applicable, the Question Paper produced for a particular question day or an Internal Question Paper containing all current questions that have still to be replied to.

“recess”, with reference to the Assembly, means a period determined as a recess by the Programme Committee, or by resolution of the Assembly, during which, subject to Rule 138, no [the] business of the Assembly is conducted [interrupted];

“Secretary” means the Secretary to Parliament;

“section 75 bill” means a bill to which the procedure prescribed in section 75 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;

“session” means an annual session of a Parliament;

“sitting day” means a day on which the Assembly sits or a mini plenary session is held;

“special petition” means a petition requesting a pension or other specific or personal relief from the State which is not authorised by law;

[Note: This definition is flagged pending finalization of petitions by another forum.]

“subject of a Bill” means the objects of the Bill as introduced in the Assembly and the substance of the Bill to give effect to those objects;

“substantive motion”, with reference to a member or the holder of an office specified in Rule 66, means a self-contained proposal of which notice is duly given but which is neither incidental nor relating to a proceeding or order of the day already before the House, for separate consideration by the House, relating to any charge against that member or office-bearer;

“tabling”, in relation to any document or paper, means the official presentation of the document or paper in the House, or, if not presented in the House, the publication in the ATC of the document or paper after it has been officially submitted to the Speaker [placing of a document on the Table of the Assembly];

“term” in relation to the Assembly, means the period for which the Assembly is elected in terms of section 49(1) of the Constitution;

“working day” means any day of the week except —

- (a) Saturday and Sunday;
- (b) a public holiday in terms of the Public Holidays Act, 1994 (Act [No] 36 of 1994); and
- (c) a Monday following any of these public holidays that falls on a Sunday.

Part 2: Sources of authority of National Assembly

1A. Introduction

The sources of authority of the National Assembly are -

- (a) the Constitution;
- (b) the Powers and Privileges Act and any other applicable legislation;
- (c) the Rules of the National Assembly;
- (d) the Joint Rules of Parliament, if and when applicable;
- (e) orders or any other binding decision of the National Assembly;
- (f) directives and guidelines of the Rules Committee, as approved by the National Assembly;
- (g) rulings by the Speaker and other presiding officers; and
- (h) any conventions or practices, which have been established in the National Assembly by agreement and usage over a period of time.

2. Rules of National Assembly

- (1) The Rules of the National Assembly are adopted by resolution of this House in accordance with section 57 of the Constitution.

(2) The Rules remain in force until amended or repealed.

(3) The Rules must be strictly adhered to by a member.

3. Suspension of Rules

(1) **Any provision of these Rules relating to the business or proceedings at a meeting of [this] the House, of an extended public committee (?), or of a committee of [this] the House, may be suspended by resolution of [this] the House.**

(2) **The suspension of any provision [shall] must be limited in its operation to the particular purpose and period for which such suspension has been approved.**

3. Suspension or Supplementing of Rules

(1) Any provision of these Rules relating to the business or proceedings at a sitting of the House or a mini plenary session, or of a committee of the House or any other forum of the House, may be suspended by resolution of the House.

(2) The suspension of any provision shall be limited in its operation to the particular purpose and period for which such suspension has been approved.

(3) A majority of the members of the House must be present before a decision may be taken to adopt or amend any Rule or to suspend any provision of these Rules.

(4) The National Assembly may by resolution, subject to these Rules, make an order supplementing these Rules in accordance with section 57 of the Constitution; Provided that -

(a) a standing order of the House remains in force until amended or repealed; and

(b) a sessional order of the House, identified as such by the House, remains in force -

(i) until the period of its validity, as specified in the order, has expired; or

(ii) until the end of the last sitting day of a term of the Assembly, or when the Assembly is dissolved.

[Note: The new Rule 3 replaces the earlier proposed Rules 3, 3A and 4.]

4. Non-diminution or non-limitation of Rules and orders

No convention or practice shall limit or inhibit any provision of these Rules or any order of the House.

[This Rule replaces the earlier proposed amended Rule 6D.]

5. Unforeseen eventualities

(1) The Speaker may give a ruling or frame a Rule in respect of any eventuality for which these Rules or orders of the House do not provide, having due regard to the procedures, precedents, practices and conventions developed by the House and on the basis of constitutional values and principles underpinning an open, accountable and democratic society.

(2) A Rule framed by the Speaker remains in force until the House, based on a recommendation of the Rules Committee, has decided thereon.

[Note: Consider adding the requirement that the Rules Committee should meet at least once a month.]

[This Rule replaces the earlier proposed amended Rule 5.]

5A. Directives and guidelines of Rules Committee

- (1) The Rules Committee may, in terms of Rule 161, issue directives and lay down guidelines to assist with the implementation or observance of these Rules and orders of the House.
- (2) Members must comply with any such directives and observe any guidelines.
[Note: It was agreed that directives issued by the Rules Committee must be enforceable.]

5B. Rulings

- (1) The Speaker must perform the functions as provided for in these Rules and may make rulings in applying and interpreting these Rules, orders of the House and directives and guidelines approved by the Rules Committee.
- (2) The Speaker and other presiding officers may make rulings in accordance with Subrule (1) in respect of procedural matters that arise when they are presiding at a sitting of the House or a mini plenary session.
- (3) Members must comply with rulings made by presiding officers.
- (4)
 - (a) A member may request that a ruling be referred to the Rules Committee for and report.
 - (b) In considering a ruling referred to it in terms of Subrule (4)(a), the Rules Committee must confine itself to the principle underlying, or subject of, the ruling in question.

5C. Conventions and practices

- (1) Conventions and practices relating to the business of the House and its committees and other forums are established by agreement amongst political parties and parliamentary office-bearers, and may be varied by agreement amongst them.
- (2) Conventions and practices must be consistent with the provisions of the Constitution, these Rules, orders of the House, rulings, and directives and guidelines of the Rules Committee.
- (3) Presiding officers may request members' compliance with established conventions and practices.

5D. Contempt

A member who wilfully fails or refuses to obey any Rule, order or resolution of the House may be found guilty of contempt of Parliament in terms of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act No 4 of 2004).

[Note: Flagged for further consideration whether reference to the code of ethics (in the Joint Rules) should be included here.]

[Note: Rules 5A-D were Rules 6A, B, C and E in the earlier version. The earlier 6D becomes Rule 4]

6. Application to President of the Republic and other non-members

[When the President of the Republic takes his or her seat in a Chamber, these Rules shall apply to him or her as they apply to a Minister.]

- (1) These Rules and orders of the House apply, as appropriate, to the President of the Republic as they apply to a Minister.
- (2) A reference in these Rules and orders of the House to a member or a Minister **[shall] must, where applicable,** be construed as a reference also to the President of the Republic **[while taking his or her seat in a Chamber]**, and to the Deputy President, or a Minister or Deputy Minister who is not a member of **[this] the** House.

[Note: Subrules (1) and (2) were the separate Rules 5 and 6 in the existing Rules.]

CHAPTER 2

PROCEEDINGS IN CONNECTION WITH COMMENCEMENT OF SESSION

7. Convening notice read [and oath or affirmation by members]

At the commencement of the proceedings of the [**House**] National Assembly on the first day of its first session the Secretary, or an officer of Parliament nominated by him or her, [**shall**] must read the notice convening [**this**] the House under section 51(1) of the Constitution.

7A. Oath or affirmation by members

[(2) Whenever necessary] When the convening notice has been read at the commencement of the proceedings of the House on the first day on which it meets after a general election at which members of the House were elected, such members [shall] must be sworn or make affirmation before the Chief Justice or a judge designated by the Chief Justice, in accordance with Section 48 read with Schedule 2 of the Constitution.

[Note: The new Subrule 7A was previously the revised Subrule 7(2).]

[8. Election of President of the Republic

At its first sitting, [**this**] the House [**shall**] must in accordance with Section 86(1) and (2), read with Schedule 3 to the Constitution, elect one of its members as the President of the Republic.

9. Election of Speaker and Deputy Speaker

At its first sitting, after the election of the President of the Republic, [**this**] the House [**shall**] must, in accordance with Section 52(1), (2) and (3), read with Schedule 3 to the Constitution, [**proceed to the election of**] elect one of its members to be the Speaker [of this House] and thereafter another to be the Deputy Speaker of [**this**] the House.]

8. Election of Speaker and Deputy Speaker

At its first sitting after its election, the National Assembly must, in accordance with Section 52(1), (2) and (3), read with Schedule 3 to the Constitution, elect one of its members to be the Speaker and thereafter another to be the Deputy Speaker of the House.

9. Election of President of the Republic

At its first sitting, after its election of a Speaker and a Deputy Speaker, the House must in accordance with Section 86(1) and (2), read with Schedule 3 to the Constitution, elect one of its members as the President of the Republic.

[Note: Rules 8 and 9 replace the existing Rules 8 and 9. It was agreed to elect the Speaker and Deputy Speaker and then the President in that order.]

9A. Opening of a Parliament

(1) At the commencement of the first session of a Parliament after its election the President shall deliver an Opening Address at a date and time to be announced by the Speaker.

(2) The Speaker shall thereafter place the Opening Address on the Order Paper for discussion.

[10. Opening of Parliament or annual session

The Speaker shall inform this House of the time at which the President will open Parliament or an annual session of Parliament, and the proceedings shall then be suspended until the President has delivered his or her Opening Address.]

10. Commencement of annual session

The Speaker must inform the House of the date and time on which an annual session of the House will commence, as determined by the Programme Committee.

10A. President's State of the Nation Address

The Speaker must inform the House of the date and time for the President's annual State of the Nation Address.

11. [Opening Address] State of the Nation Address reported

The Speaker **[shall report to this House the President's Opening Address]** must publish the President's State of the Nation Address in the Minutes of Proceedings.

12. [Opening Address] State of the Nation Address placed on Order Paper

When the President has delivered **[his or her Opening Address,]** the State of the Nation Address, the **[Secretary to Parliament] Speaker [shall]** must place it on the Order Paper of **[this] the** House for discussion.

CHAPTER 3

PRESIDING OFFICERS AND MEMBERS

Part 1: Presiding Officers

13. Election of Speaker and Deputy Speaker

- (1)
 - (a) Whenever it is necessary to elect a Speaker **[or a Deputy Speaker]**, the Secretary or an officer of Parliament nominated by him or her, **[shall] must** inform **[this House]** the National Assembly accordingly, whereupon **[this]** the House **[shall] must** immediately **[forthwith]** or at a time announced by the Secretary or such officer proceed to the election in terms of section 52 of the Constitution.
 - (b) The Chief Justice or another judge designated by the Chief Justice presides over the election of the Speaker.
- (2)
 - (a) Whenever it is necessary to elect a Deputy Speaker, the Speaker must inform the National Assembly, whereupon the House must immediately or at a time announced by the Speaker proceed to the election in terms of section 52 of the Constitution.
 - (b) The Speaker presides over the election of a Deputy Speaker.
- (3) The member elected **[shall] must**, from his or her place, express his or her sense of the honour conferred upon him or her.

[Note: Consider whether expressing a sense of the honour conferred should be compulsory. It could be altered to: "...must be given the opportunity, from his or her place, to ...".]

14. Election of other presiding officers

- (1) **[This] The** House must elect three members as House Chairpersons for the duration of the House.
- (2) The Speaker must allocate functions and responsibilities to the House Chairpersons and announce such allocations in the ATC.

15. [Relief of Speaker] Officers presiding in the House

The Deputy Speaker or a House Chairperson must preside during a sitting of the House whenever requested to do so by the Speaker.

16. [Absence of Speaker] Acting Speaker

- (1) Whenever the Speaker is absent or unable to perform the functions of the office of Speaker, or whenever that office is vacant, the Deputy Speaker **[shall] must** act as Speaker.
- (2) Whenever both the Speaker and the Deputy Speaker are absent or unable to perform the functions of the office of Speaker, the Speaker or, if the Speaker is not available, the Deputy Speaker, must designate one of the House Chairpersons to act as Speaker.

17. [Continued absence of Speaker and Deputy Speaker] **Acting House Chairperson**

Whenever [this] the House has been informed of the likelihood of the continued absence of both the Speaker and the Deputy Speaker for longer than seven consecutive parliamentary working days, [this] the House may [appoint] elect a member to act as House Chairperson while the House Chairperson so designated acts as Speaker, until the Speaker or the Deputy Speaker becomes available or [this] the House decides otherwise.

17A. General authority and responsibility of Speaker

- (1) In exercising the authority of the Speaker, as provided for in Constitution and legislation and the Rules of Parliament, the Speaker must:
 - (a) ensure that the National Assembly provides a national forum for public consideration of issues, by passing legislation and by scrutinizing and overseeing executive action in accordance with section 42(3) of the Constitution;
 - (b) ensure that all parties represented in the National Assembly participate effectively and efficiently in the proceedings of the Assembly and its committees and forums and facilitate public involvement in the processes of Parliament in accordance with sections 57 and 59 of the Constitution;
 - (c) observe and promote compliance with the principles of co-operative governance and intergovernmental relations in accordance with Chapter 3 of the Constitution; and
 - (d) whenever possible, consult with relevant office-bearers and structures within Parliament to achieve the efficient and effective functioning of Parliament in a transparent and accountable manner.
- (3) The Speaker shall maintain and preserve the order of and the proper decorum in the House, and uphold the dignity and good name of the House..
- (4) The Speaker is responsible for the strict observance of the Rules of the House and shall decide questions of order and practice in the House.
- (5) The Speaker shall act fairly and impartially and ensure that the rights of all parties are protected.

18. [Absence of presiding officers] **Election of temporary presiding officer to act as Speaker**

Whenever the House has been informed that [all] the elected presiding officers are unavoidably absent, the House [shall forthwith] must immediately elect one of its members to act as Speaker for that day only, the question being put by the Secretary.

18A. Removal from office of Speaker or Deputy Speaker

- (1) The House may remove the Speaker or Deputy Speaker from office by resolution in terms of Section 52(4) of the Constitution.
- (2) A motion for the removal of the Speaker from office must comply, to the satisfaction of the

Deputy Speaker, with the prescripts of any relevant law or any relevant rules and orders of the House and directives and guidelines recommended by the Rules Committee and approved by the House, before being placed on the Order Paper, and must include the grounds on which the proposed removal from office is based.

- (3) In respect of a motion for the removal of the Deputy Speaker from office, the Speaker must approve compliance as contemplated in Subrule (2).
- (4) The Deputy Speaker or Speaker, as applicable, may request an amendment of or in any other manner deal with a relevant motion that does not comply with the requirements as contemplated in Subrule (2).
- (5) The Deputy Speaker or Speaker, as applicable, must accord an approved motion under this Rule due priority and, before scheduling it, must consult with the Chief Whip of the Majority Party.
- (6) The debate on a motion under this Rule may not exceed the time allocated for it by the Deputy Speaker or Speaker, as applicable, after the required consultation.
- (7) A majority of the members of the Assembly must be present when the resolution is adopted.

[Notes:

(a) This Rule replaces the earlier proposed Rule 18A.

(b) The Rule covers a removal on political grounds. If a removal were proposed on grounds of misconduct, the same process would apply as for members, namely substantive motion and fair administrative procedures.]

Part 2: Members

19. Oath or affirmation

- [(1) Other than immediately after a general election, new members may, at a sitting of the House, be announced [introduced] and conducted to the Table by not more than two members in order to be sworn or to make affirmation before the presiding officer in accordance with Item 4(2) of Schedule 2 to the Constitution.**
- [(2) When the House is not sitting, new members may be sworn or make affirmation before the Speaker in the Speaker's chambers, the Speaker reporting accordingly to the House at the first opportunity.]**

Other than immediately after a general election, new members may, in accordance with Item 4(2) of Schedule 2 to the Constitution –

- (a) at a sitting of the House, be announced and conducted to the Table by not more than two members in order to be sworn or to make affirmation before the presiding officer, or
- (b) at any time by arrangement be sworn or make affirmation before the Speaker in the Speaker's chambers, the Speaker reporting accordingly to the House at the first opportunity.

19A. Declaration of private interests

If a member has a personal or private interest or business interest in any matter before a forum of the Assembly of which he or she is a member, he or she must at the commencement of engagement on the matter by the forum immediately declare that interest in accordance with Part 2 of the Code of Conduct for members and comply with the other provisions of the Code.

[Note: The Code of Conduct for members is included as a schedule to the Joint Rules. Part 2, covering ethical conduct, could be included as a schedule to the Assembly Rules for easy reference.]

19B. Raising a question of privilege

- (1) A member who wishes to raise a perceived breach of privilege must report it to the Speaker without delay.
- (2) If the alleged breach of privilege is in the Speaker's opinion adequately substantiated and may affect a sitting of the House on the day on which the question of privilege is reported or in the immediate future, the Speaker may -
 - (a) make an immediate ruling on the matter and announce it in the House, or
 - (b) provide the member with an opportunity during the sitting to move an urgent motion without notice in terms of Rules 97(1)(b) and 101.
- (3) If the alleged breach of privilege does not directly affect a sitting of the House in the immediate future, the Speaker must refer the matter to the Committee on Powers and Privileges and inform the House accordingly, either immediately or at the earliest opportunity.

20. Leave of absence

- (1) **A member who wishes to absent himself or herself from sittings of [this] the House, or of any other Parliamentary forum of which he or she is a member, for 15 or more consecutive days on which [this] the House or such forum sits, [shall] must, before so absenting himself or herself, [obtain the leave of this House or of a committee of this House authorised to grant such leave] apply to the Speaker to be granted such leave.**
- (2) **The grant of such leave by this House shall be moved by the chief whip of the party to which the member desiring the leave belongs or by the Leader of [the House] Government Business.**
- (3) **If such leave is granted by a committee, a report by the committee to that effect shall be presented to this House and be published in the Minutes of Proceedings.]**

[NOTE: This rule is deleted and replaced with rules 21CA to 21CG in a new Part 3 to this Chapter]

21. Leader of the Opposition

- (1) The leader of the largest opposition party in the Assembly must be recognised as the Leader of the Opposition as contemplated in Section 57(2)(d) of the Constitution.
- (2) In the event that two or more opposition parties qualify as the largest opposition party in that

they hold an equal number of seats in the House, the leader of the opposition party that obtained the most votes in the election must be recognised as the Leader of the Opposition.

New Rule 21A replacing earlier version:

Rule 21A: Appointment, removal and responsibilities of Whips

- (1) At the first meeting of the Rules Committee after an election, or as soon as possible thereafter, the Rules Committee must determine the number of whips to be allocated to parties represented in the House.
- (2) The Speaker must appoint whips on the recommendation of the leaders of the parties which qualify for whips.
- (3) Parties which do not qualify for a whip may jointly request the Speaker to appoint one or more whips from amongst their number to represent their interests, and, if appointed, the Speaker may prescribe any conditions deemed fit, for example, the possibility of rotating of such whips or the obtaining of mandates from parties being represented by such whips on certain issues.
- (4) The names of the appointed whips must be published in the ATC.
- (5) The functions of the Whippers are:
 - (a) in general, to collectively be responsible for the maintenance of the proper decorum of the House and the orderly conduct of the business of the House; and
 - (b) to co-ordinate the business of their parties in Parliament for purposes of facilitating the political management of Parliament; and
 - (c) the Chief Whip of the Majority Party and other Chief Whips must additionally perform the functions prescribed in the rules; and
 - (d) the House may approve directives, recommended by the Rules Committee, to provide for any further responsibilities, duties or functions of the parliamentary whippers.

[Notes:

(a) A more comprehensive list of important functions could be captured in guidelines.

(b) Option: Insert a subrule (6) as follows: (6) The Speaker may request the leader of a political party to remove a party whip if good cause exists.

(c) Option: To avoid using an hypothesis as in subrule (3) - "for example" - consider providing for the Speaker to apply appropriate guidelines approved by the Rules Committee.]

Rule 21B: Designation of Parliamentary Counsellors

- (1) The Speaker may, on the recommendation of the President and the Deputy President, designate two members as Parliamentary Counsellors to the President and the Deputy President, respectively.

- (2) The Parliamentary Counsellors must facilitate communication between the National Assembly and the offices of the President and Deputy President, respectively.
- (3) The names of the designated Parliamentary Counsellors must be published in the ATC.

[Note: The new Rule 21B covers the old Rule 319 which should be deleted.]

INSERT AFTER RULE 21B THE FOLLOWING NEW PART AND RULES dealing with MEMBERS' ATTENDANCE OF PARLIAMENT

Part 3: Members' attendance

21CA. Definitions

[Note: Deleted; definitions moved to Rule 1, "Definitions"]

21CB. Members' attendance

- (1) Subject to minimum standards as provided for in these Rules, members' attendance of official parliamentary activities is regulated by their political parties.
- (2) A member's absence from Parliament during a parliamentary session, other than during a formal recess or resulting from the member's suspension in terms of these Rules and orders of the House, must be approved by the member's political party in Parliament.
- (3) A member, or the party whip assigned responsibility for members' leave by the party, must inform -
 - (a) the party's duty whip, or
 - (b) the chairperson of a relevant committee, of the member's approved absence from a sitting of the House or a committee meeting, respectively.
- (4) All political parties must -
 - (a) maintain proper leave records for their members in accordance with an attendance policy for members formally approved by Parliament, as provided for in Appendix A to these Rules; and
 - (b) annually within 14 days after the last sitting day of an annual session submit the attendance records of their members to the Speaker for publication in the ATC.

NOTES: Appendix A needs to be drafted.

21CC. Absence from sittings of the House

- (1) The period for which leave may be granted to a member by the member's party, other than maternity leave and parental/adoption leave as provided for in the approved attendance policy, may not exceed 15 consecutive sitting days.
- (2) Leave may be requested of the House by motion for a member's absence in excess of 15

consecutive sitting days, the leave to be requested not later than by the close of the fifteenth consecutive sitting day of the member's absence.

- (3) The motion presented to the House must state the reasons for the request and the period for which continued leave of absence is sought.
- (4) If the motion requesting leave of absence is rejected by the House, the reasons for such rejection must be put to the House by way of a formal amendment to the motion, and the motion as amended must be supplied to the member and the member's party in Parliament without delay.

21CE. Absence from meetings of a committee

- (1) A member may not without his or her party's approval be absent from more than two consecutive meetings of a committee to which the member has been appointed as a full member in terms of the Rules.
- (2) A member's approved absence from a meeting of a committee referred to in Subrule (1) must be recorded in the minutes of the meeting as formally adopted by the committee.
- (3) The secretary to a committee must without delay send a copy of the formal minutes of each meeting of the committee to the responsible whip of each of the parties represented on the committee.
- (4) The Secretary must every three months within an annual session submit a report to the Speaker on all members who have been absent from three or more consecutive meetings of a committee without approval as recorded in the committee's minutes.

21CF. Sanctions for extended unauthorised absence from meetings of a committee

- (1) A member who is absent from three or more consecutive meetings of a committee referred to in Rule 21F(1) without his or her party's approval may be fined R1 000 for each day of absence.
- (2) The Speaker must inform the member without delay of the imposition of a fine in terms of this Rule.

21CG. Appeal against application of sanctions

- (1) A member who feels aggrieved by the sanction imposed upon him or her in terms of Rules 21E or 21G may lodge a formal appeal with the Speaker within 14 days of being notified of the application of the sanction.
- (2) If the Speaker is unable to resolve the appeal on reasonable grounds, the Speaker must refer the appeal to a committee to be determined by the Rules Committee.
- (3) The committee must report its findings to the House.

NOTE: QUERY: Would the House be required to adopt the committee's recommendation or would it be authorised to make a finding on its own? Also, a process for dealing with such appeals would

have to be decided on.

- (4) The Speaker must report any sanction imposed or appeal processed in terms of these Rules to the House.

[General Notes:

Further to these Rules which reflect the approved leave policy, some further issues require policy review:

(a) Whips to develop preliminary warning steps in respect of a member's extended absence before the 15 consecutive days' absence is reached.

(b) A member may be present in Parliament, for instance in a committee, but not attend the House sitting.

(c) It will be important to have a reliable process for members to register their presence in the House.

(d) Note that a member's absence may also affect deductions for tax purposes.

(e) Provide for recording of attendance of alternates replacing full members of committees by arrangement.

(f) The Handbook for committees must be brought into line.]

CHAPTER 4

SITTINGS OF THE ASSEMBLY

Part 1: General

22. Forums for [public] proceedings of National Assembly

(1) Subject to the Constitution and [to] these Rules, [and practice,] proceedings of the National Assembly may be conducted at sittings of the House or in mini plenary sessions of the House.

[are conducted in public —

- (a) at meetings of this House;
- (b) in extended public committees of this House; and
- (c) in appropriation committees of this House.]

[Note: Chapters 4 to 11 specifically relate to plenary meetings of the Assembly, including possible mini plenary sessions. Committees of the House, including their sitting days and times, are dealt with separately in Chapter 12.]

(2) Subject to Section 59 of the Constitution, sittings of the House and its forums in terms of subrule (1) must be held in public.

23. [Sitting] Working days and hours of sitting

(1) Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, excluding official public holidays, [shall be] are parliamentary working days.

(2) **[The business of this House may be considered by it on these days, and the hours of sitting on these days shall be as follows]:** Unless otherwise determined by the National Assembly Programme Committee, the House may consider business on these days during the following times:

Mondays to Thursdays:

14:00, or such later time as the Speaker determines, to adjournment.

Fridays:

09:00, or such later time as the Speaker determines, to adjournment.

(3) The Speaker may in exceptional circumstances, after consultation with the Leader of Government Business and party whips, allow the House to sit on any other day.

[(3) **On Wednesdays before the Easter recess the business of committees shall be considered by them between 09:00 and 12:45 and between 14:15 and 16:30, unless special circumstances require otherwise.**

(4) **New Year's Day, Human Rights Day, Good Friday, Family Day, Freedom Day, Workers'**

Day, Youth Day, National Women's Day, Heritage Day, the Day of Reconciliation, Christmas Day and the Day of Goodwill shall not be sitting days of this House or any committee: Provided that, if any of these days falls on a Sunday, this House or any committee shall not sit on the following Monday.]

[Note: It was agreed to delete subrules (3) and (4). A definition of "working day" is contained in Rule 1, Definitions.]

24. Change of venue

[Before directing under section 51(3) of the Constitution that this House shall sit at a place other than the Houses of Parliament in Cape Town, the Speaker shall consult the Leader of the House and the Chief Whip of each party represented in this House.]

(1) The Speaker may in an emergency or on grounds of security -

- (a) in terms of Section 51(3) of the Constitution after consultation with the Leader of Government Business and the chief whips or party representatives of each party in the House, direct that the National Assembly sit at a place other than the seat of Parliament in Cape Town; and
- (b) after consultation with the Leader of Government Business and the chief whips or party representatives of each party in the House, direct that a sitting of the House be held, or resumed, in a different chamber within the precincts.

(2) The Assembly may on grounds of public interest or convenience, in terms of Section 51(3) of the Constitution resolve to sit at a place other than the seat of Parliament in Cape Town, provided that the resolution -

- (a) identifies the public interest or convenience that is the reason for the change of venue; and
- (b) approves the change of venue to a specified place and for a specific period.

24A. Arrangement of business on Order Paper

[The Chief Whip must arrange the business of the Assembly on the Order Paper, subject to these Rules, the directives of the Programme Committee and the concurrence of the Leader of Government Business when any government business is prioritised.]

(1) The Chief Whip shall, with the concurrence of the Speaker and after consultation with the Leader of Government Business, arrange the business of the Assembly on the Order Paper, subject to these Rules and the decisions of the Programme Committee.

(2) The Secretary shall, on the signed instruction of the Speaker, publish the Order Paper for each sitting in accordance with subrule (1).

[Note: The proposed new Rule 24A must be read together with Option 1 of the proposed revised Rules 187 – 190A relating to the functioning of the Programme Committee which provides for the majority party by weighted vote to decide issues in that Committee (a copy of the Option is attached)].

Part 2: Sittings in plenary

25. [Quorum] [Members' attendance] **Quorum required only for taking decisions**

[(1)] The Assembly may proceed with its business irrespective of the number of members present, but may vote on a bill or decide on any question only if a quorum is present in terms of [Subrule (2)] Rule 74A.

[(2)] [Except where the Constitution provides otherwise -

- (a) a majority of the members of the National Assembly must be present before a vote may be taken on a bill or an amendment to a bill;
- (b) at least one third of the members must be present before a vote may be taken on any other question before the Assembly.

26. **Absence of quorum**

If the attention of the presiding officer is called to the absence of the prescribed quorum when a question is put for decision and if after an interval of five minutes, during which time the bells must be rung, there is still no quorum, the presiding officer may suspend the proceedings or postpone the decision of the question.]

[Note: It was agreed that Rules 25 and 26 be moved to the Chapter on Decision of Questions. It may nevertheless be practical to leave a provision stating that no quorum is required to proceed with business when no decision is required. This will also be relevant to epc's, or their equivalent, if retained. Rules 25(2) and 26 have been moved accordingly and are deleted here; Subrule (1) has been amended appropriately.]

27. Deleted (2002)

28. **Opportunity for prayer or meditation**

At the commencement of parliamentary business on every sitting day the presiding officer [shall] must afford members an opportunity for silent prayer or meditation.

29. **Sequence of proceedings**

[Subject to [the provisions of] the Constitution and these Rules, and unless altered by resolution of [this] the House, the business on each sitting day of [this] the House, [shall] must [, where applicable], follow the following sequence of events:

- (1) Opportunity for silent prayer or meditation;
- (2) announcements from the Chair;
- (3) notices of motion;

(3A) motions without notice;

- (4) formal motions;
- (5) opportunity for statements by members;
- (6) opportunity for statements and personal explanations by Cabinet members;
- (7) petitions;
- (4) Orders of the Day and notices of motion on the Order Paper, which [shall] **must** be dealt with in sequence: Provided that precedence [shall] **must** be given to questions [and interpellations] on Question Days.]

(1) Subject to the Constitution and these Rules, and unless altered by resolution of the House, the business on each sitting day of the House must follow the following sequence of events:

- (a) Opportunity for silent prayer or meditation;
- (b) Announcements from the Chair;
- (c) Swearing in of new members;
- (d) Formal motions moved by Chief Whip;
- (e) Statements by Cabinet Members; and
- (f) Orders of the Day and notices of motion on the Order Paper, which must be dealt with in sequence: Provided that precedence must be given to questions on Question Days.

(2) Subject to subrule (1), and unless altered by resolution of the House, the business on any sitting day of the House may additionally include any event below, after the business under subrule (1) has been completed and if included during any sitting must follow the following sequence of events:

- (a) Any other formal motions;
- (b) Motions without notice;
- (c) Opportunity for statements by members and responses to statements by Cabinet members;
- (d) Notices of motion; and
- (e) Petitions.

[Note: Option: (2)(a) could be omitted as "formal motions" as defined refer only to motions of a procedural nature.]

30. Interruption, suspension or adjournment of proceedings

- (1) [The proceedings of this House or a committee of this House shall be interrupted, suspended or adjourned by the presiding officer.] The presiding officer may interrupt, suspend or adjourn the proceedings of the House.
- (2) The presiding officer may in consultation with the [Leader of this House] Leader of Government Business adjourn [this] the House until a [later] Parliamentary working day other than the [following] next scheduled sitting day as determined by the Programme

Committee: Provided that during such adjournment the Speaker may accelerate or postpone the date for the resumption of business.

[Part 3: Extended public committees]

Part 3: Mini Plenary Sessions

NOTES: *The existing Rules 31-34 are deleted and replaced by the following new Rules 31-38:*

31. Business of mini plenary sessions

- (1) The Speaker refers matters for consideration in a mini plenary session with the concurrence of the Programme Committee.
- (2) Any matter may be discussed or debated in a mini plenary session.
- (3) More than one mini plenary session may take place simultaneously.
- (4) Mini plenary sessions are held in the precincts of Parliament, but in special circumstances the Speaker may direct that a mini plenary session may be held elsewhere.

32. Members attending

- (1) A mini plenary session in respect of a budget vote of a particular department or on a bill or oversight matter related to that department shall consist of the members of the corresponding portfolio committee, and all other Assembly members who attend the proceedings of the mini plenary session.
- (2) A mini plenary session in respect of any matter other than a matter referred to in subrule (1) shall consist of all Assembly members who attend the proceedings of the mini plenary session.

33. Quorum

A mini plenary session may proceed with its business irrespective of the number of members present.

34. Decisions

- (1) No decisions shall be taken in a mini plenary session.
- (1) **[In the event that a decision is required on a budget vote debated in a mini plenary session, such decision shall be deferred to be taken by a plenary session of the House, provided that no further debate or declaration of vote on the matter shall be allowed preceding or during the taking of such decision in that plenary session.]**
- (2) In the event that a decision is required on a budget vote debated in a mini plenary session, such decision shall be deferred to be taken by a plenary session of the House, provided that when the decision is taken in the House -

- (a) no further debate on the matter shall be allowed, and
(b) declarations of vote shall be permitted subject to Rule 81(4).

[Note: A new Subrule (2) has been proposed to replace the previous version, as indicated.]

35. Speakers' list

- (1) A mini plenary session shall not make use of a speakers' list, except in the event of a debate on a budget vote when a speakers' list must be used.
- (2) When a speakers' list is not used, the presiding officer shall, in a balanced manner, allow speakers from all parties to participate in the debate or discussion, subject to any time limit the presiding officer may impose.
- (3) A member may participate in a debate in a mini plenary session more than once if recognised by the presiding officer.

[Note: A global time may be set for a particular debate. The mechanics may need further attention by the Rules Committee in due course]

36 Presiding officer

The Chair of a mini plenary session shall be taken by an elected presiding officer or by another member appointed by the Speaker for that purpose.

37. Relief of presiding officer

A member attending a mini plenary session shall take the Chair whenever requested to do so by the presiding officer.

38. Order in meetings and Rules of debate

In addition to these Rules, the rules generally applicable to plenary sessions of the House are also applicable to the proceedings of a mini plenary session.

[Note: The existing Rules 35-9 on Appropriation Committees are deleted]

Part 4: Public access

POLITICAL DECISION: *Should provision be made in the Rules that members, may be searched or screened on authority of the Speaker? And what about the President and Executive? And what about presiding officers and senior staff? If not what rules should be provided in respect of security in relation to members? A political decision is required.*

40. [Admittance of strangers] Admission of Visitors

[The power to admit [strangers] visitors to the places set apart for them in the Chamber and public galleries of the Chamber [precincts of this] in which the House or an extended public

committee (?) [or an appropriation committee of this House and the places set apart for them in a Chamber, shall] is meeting vests in the Speaker, subject to Section 59 [the provisions] of the Constitution.

- (1) The power to admit visitors to the places set apart for them in the Chamber or public galleries of the Chamber or in any other venue in which the House or a mini plenary session or a committee of the House is meeting, or to regulate or limit any activity, access or movement of visitors whilst within the precincts of Parliament or a venue utilised for parliamentary work, vests in the Speaker, subject to Section 59 of the Constitution.
- (2) All visitors shall, in an appropriate manner, be subjected to a security check or screening before entering the precincts of Parliament or the Chamber or any venue utilized for parliamentary work and, if reasonable cause exists, any visitor may at any time whilst within the precincts of Parliament or a venue utilised for parliamentary work, be subjected to a security check or screening.
- (3) If any visitor refuses in any manner whatsoever to comply with the procedures in subrules (1) and (2), such visitor can be refused access to the precincts of Parliament or any such venue or may be immediately removed from the precincts of Parliament or such venue by the Parliamentary Protection Services.
- (4) The House may approve guidelines, as recommended by the Rules Committee, for the exercise of this function.

[Note: See definition of "Parliamentary Protection Services" in Rule 1, Definitions.]

40A. Access for non-members to floor of the Chamber

The Speaker may give a non-member access to the floor of the Chamber during a sitting of the House or a mini plenary session in special circumstances.

40B. Conduct of visitors

Visitors admitted in terms of Rule 40 may not disrupt the proceedings and must adhere to the directives of the presiding officer.

[Note: Taken from Rule 6 of the W Cape Legislature]

41. Withdrawal of strangers] visitors

The presiding officer may, whenever he or she thinks [fit] it reasonable and justifiable in an open and democratic society to do so, order [strangers] visitors to withdraw from the precincts of the House or a mini plenary session and the places set apart for them in a Chamber, or from the precincts of Parliament.

42. Serjeant-at-Arms to remove [strangers] visitors

[Subject to the provisions of Rule 43 the Serjeant-at-Arms shall remove, or cause to be removed, any stranger from any part of a Chamber which has been set apart for members only, and also any stranger who, having been admitted into any other part of the Chamber, misconducts himself or herself or does not withdraw when strangers are ordered to withdraw.]

When instructed by the presiding officer, the Serjeant-at-Arms must remove, or arrange with the Parliamentary Protection Services for the removal of, any person who -

- (a) without permission is present in that part of the Chamber designated for members only or in another place within the precincts of Parliament or any other venue utilised for parliamentary work, which is out of bounds for that person; or
- (b) disrupts the proceedings of the House or a mini plenary session or a committee or any other forum of the House or does not withdraw when duly ordered to do so.

43. [Visiting Heads of State] Invitation to Head of State, Head of Government or other person to address House

(1) The Speaker, after consultation with or at the request of the [Leader of the House] Leader of Government Business, may invite **[any]** a Head of State or a Head of Government who is on **[a State]** an official visit to the Republic, to address **[this]** the House.

(2) The National Assembly may by resolution invite any person to address the House.

CHAPTER 5

ORDER IN PUBLIC MEETINGS AND RULES OF DEBATE

Part 1: Order in meetings

44. Freedom of speech [and debate]

(1) In accordance with section [55(2)] 58(1)(a) of the Constitution, [1993, there shall be freedom of speech and debate in or before this House and any committee thereof, or any joint committee of Parliament] Cabinet members, Deputy Ministers and members of the National Assembly have freedom of speech in the Assembly and in its committees, subject to its rules and orders[only to the restrictions placed on such freedom in terms of or under the Constitution, any other law or these Rules].

(2) In accordance with section [55(3)] 58(1)(b) of the Constitution, [1993,] Cabinet members, Deputy Ministers and members of the National Assembly are not liable to civil or criminal proceedings, arrest imprisonment or damages for anything that they have said in, produced before or submitted to the Assembly or any of its committees, or anything revealed as a result of anything that they have said in, produced before or submitted to the Assembly or any of its committees. [and subject to these Rules, a member of this House shall not be liable to any civil or criminal proceedings, arrest, imprisonment or damages by reason of anything which he or she has said, produced or submitted in or before or to this House or any committee thereof, or any joint committee, or by reason of anything which may have been revealed as a result of what he or she has said, produced or submitted in or before or to this House or any such committee.

(3) The provisions of subrules (1) and (2) also apply to proceedings in a mini plenary session.

Note for further consideration: It was suggested that freedom of speech is governed not by Sec 58 but by the Bill of Rights and Sec 36 of the Constitution.

45. Conduct of members

[1) Every member [is to be uncovered when he or she enters or leaves the Chamber, or moves to any other part of the Chamber during a debate, unless the Speaker directs otherwise, and shall] must bow to the Chair when entering or leaving the Chamber [in passing to or from his or her seat].

(2) No member [shall] may pass between the Chair and the member who is speaking, nor between the Chair and the Table, nor stand in any of the [passages or gangways] aisles or cross aisles.

(3) Members must at all times conduct themselves in a manner befitting the dignity and decorum of the Assembly.]

Members shall at all times accord the presiding officers of the National Assembly and members due respect and conduct themselves with dignity and in accordance with the decorum of the House and are required:

- (a) to enter or leave the House with decorum;
- (b) to be seated when the bells stop ringing to mark the start of proceedings;
- (c) to bow to the Chair when entering or leaving the Chamber;
- (d) to not pass during proceedings between the Chair and the member who is speaking, nor between the Chair and the Table, nor stand in any of the aisles or cross aisles, nor to cross the Floor of the House in front of the benches;
- (e) not to bring dangerous or threatening articles or objects into the Chamber, excluding cultural objects approved by the Speaker;
- (f) to dress [according to their personal tastes, provided that no party symbols may be displayed and provided further that such dress is in accordance with the dignity and decorum of the House;] in a manner befitting the dignity and decorum of the House as provided for in a dress code approved by the Rules Committee, provided that no party symbols may be displayed;

[Note: The dress code may need to make separate provision for House meetings and committee meetings.]

- (g) to not take photographs during proceedings in the Chamber, speak on a cellphone, eat or read newspapers or in any other way conduct themselves in a manner unbecoming the dignity and decorum of the House; and
- (h) on adjournment of the House, to rise and remain in their allocated seats until the presiding officer has left the podium.

[Note: A new definition of "Chamber" in Rule 1 ensures that these provisions cover all debating chambers]

46. Members not to converse aloud

[During debate no member shall converse aloud] Members may not converse aloud during debate.

47. Member not to be interrupted

No member **[shall]** may interrupt another member whilst speaking, except -

- (a) to call attention to a point of order or a question of privilege, or
- (b) at the discretion of the presiding officer, to request permission to put a question to the member speaking.

48. Order at adjournment

When a meeting adjourns, members who are able to do so **[shall]** must rise and remain in their places until the presiding officer has left the **[Chamber]** Chair.

Note: Delete if Rule 45(h) is accepted.

49. Precedence of presiding officer

Whenever the presiding officer **[rises]** **[intervenes]** addresses the House during a debate, any member then speaking or offering to speak **[shall]** must resume his or her seat, and the presiding officer **[shall]** must be heard without interruption.

50. Irrelevance or repetition

The presiding officer [, **after having called attention to the conduct of a member who persists in irrelevance or repetition of arguments, may direct the member to discontinue his or her speech**] may order a member addressing the House to stop speaking if that member, despite warnings from the Chair, persists in irrelevant or repetitive arguments.

[Note: Wording taken from Council Rule 36].

Proposed new Rule 50A:

50A. Grossly disorderly conduct.

[Conduct is grossly disorderly if Member or Members concerned:] Members may not engage in grossly disorderly conduct in the House and its forums, including -

- (a) deliberately creating [an actual] serious disorder or disruption [in the House];
- (b) in any manner whatsoever physically intervening, preventing, obstructing or hindering the removal of a member from the House who has been ordered to leave the House;
- (c) repeatedly undermining the authority of the presiding officer or repeatedly refusing to obey rulings of the presiding officer or repeatedly disrespecting and interrupting the presiding officer while the latter is addressing the House;
- (d) persisting in making serious allegations against a member without adequate substantiation or following the correct procedure;
- (e) using or threatening violence against a member or other person; or
- (f) acting in any other way to the serious detriment of the dignity, decorum or orderly procedure of the House.

Option: Remove (a) and (c).

51. Member ordered to [withdraw] leave Chamber

(1) If the presiding officer is of the opinion that a member is deliberately contravening a provision of these Rules, or that a member is [in contempt of or is] disregarding the authority of the Chair, or that a member's conduct is grossly disorderly, he or she may order the member to [withdraw immediately from] leave the Chamber immediately for the remainder of the day's sitting.

(2) A member ordered to withdraw from the Chamber shall immediately withdraw from the precincts of Parliament.

Notes: See definition of "Chamber" in Definitions Rule to cover any venue where the House may sit.

52. Naming or suspension of member

[(1) If a presiding officer is of the opinion that a contravention committed by a member of

[this] the House is of so serious a nature that an order to [withdraw from] leave the Chamber for the remainder of the day's sitting is inadequate, the presiding officer may —

- (a) if he or she is the Speaker -
 - (i) order the member to leave the Chamber immediately and additionally prohibit the member from participating in any parliamentary activities for the remainder of that day;
 - (ii) order the member to leave the Chamber and the precincts of Parliament immediately for the remainder of that day; or
 - (iii) suspend the member; or
- (b) if he or she is not the Speaker, [name] censure the member and order him or her to leave the Chamber immediately and not participate in any parliamentary activities until the Speaker, after consultation with the presiding officer, has announced what action is to be taken against the member in terms of these rules, [whereupon the Speaker, after consultation with the presiding officer, may take such action as he or she deems necessary.

(2) If a member suspended in terms of Subrules (1)(a)(iii) or (1)(b) subsequently so requests in writing to the Speaker, the Speaker must refer the request to the Powers and Privileges Committee for review of the decision to suspend, taking into account all the circumstances that led to the suspension.]

Proposed new Rule 52:

If a presiding officer is of the opinion that a contravention committed in terms of Rule 51 by a member of the House is of so serious a nature that an order to leave the Chamber for the remainder of the day's sitting is inadequate, the presiding officer may -

- (a) if he or she is the Speaker, suspend the member for a period provided for in Rule 54; or
- (b) if he or she is not the Speaker, name the member and order him or her to leave the Chamber immediately and not participate in any parliamentary activities until the Speaker, after consultation with the presiding officer, has announced what action is to be taken against the member in terms of these rules, including whether such member will be suspended for a period provided for in Rule 54.

[Note for further consideration: Should a presiding officer be able to punish/suspend a member without due process by way of a committee.]

53. [Member to withdraw from precincts of Parliament] Action against member to be announced in House

[(1) A member ordered to withdraw from the Chamber or suspended or named shall, subject to Subrule (2), forthwith withdraw from the precincts of Parliament.

(2) If a presiding officer other than the Speaker orders a member of this House to withdraw from the Chamber and the member is a Minister or a Deputy Minister, the Speaker shall, after consultation with the presiding officer, order the member to withdraw from the precincts of Parliament or take such other action as the Speaker deems necessary.

- (3) The action taken against a member by the Speaker under Rule 52(1)(b) [or Subrule (1) of this Rule shall] must be announced in [this] the House.
- (4) A member of this House who has been named shall not return to the precincts of Parliament before the action taken against him or her by the Speaker has been announced.]

The action taken against a member by the Speaker under Rule 52(b) must be announced in the House.

Proposed new Rule 53A:

53A. [54A] Removal of member from Chamber

- (1) If a member refuses to leave the Chamber when ordered to do so by the presiding officer in terms of these Rules, the presiding officer may instruct the Serjeant-at-Arms to remove the member from the Chamber.
- (2) If the Serjeant-at-Arms is unable in person to effect the removal of the member, the presiding officer may further direct that the Serjeant-at-Arms may call upon the assistance of the Parliamentary Protection Services in accordance with section 11 of the Powers and Privileges Act to secure the member's removal.
- (3) A Member who is removed from the Chamber in terms of subrules (1) or (2) is thereby immediately automatically suspended for the period applicable as provided for in Rule 54.
- (4) The House may approve guidelines, recommended by the Rules Committee, for the exercise of this function, in particular in relation to the use of any State law enforcement agency in the performance of this function.

[Notes:

- (a) There was agreement in principle that it must be possible under the authority of the Speaker to have a member removed from the Chamber.*
- (b) It was noted that the Powers and Privileges Act provides in Sec 4(2) that when there is immediate danger to life or property, the State security services may enter the precincts and take action to avert the danger without first obtaining the permission of the Presiding Officers.*
- (c) There was some concern expressed at the use of the security services in any other circumstances. A suggested option was, in the interests of the principle of the separation of powers, to create a separate security service for Parliament under Parliament's exclusive control.*
- (d) The alternative, as proposed in subrule (4), is to determine in guidelines prepared by the Rules Committee, the details of the circumstances in which permission may be given to the security services to perform a policing function in the precincts under the authority of the presiding officers.*
- (e) A definition is given of "Parliamentary Protection Services" in the Definitions Rule.*
- (f) One party objects strongly to the principle of allowing physical confrontation in the House except when lives are in danger.]*

Rule 54 in existing form:

54. Period of suspension

The suspension of a member [shall] on the first occasion during a session continues for 5 [P]parliamentary working days, on the second occasion for 10 [P]parliamentary working days, and on any subsequent occasion for 20 [P]parliamentary working days.

Task Team's proposal:

The period of suspension on any occasion continues for 3 parliamentary working days.

Alternative proposal before Subcommittee:

54. Period and consequences of suspension

- (1) If a Member is suspended under rule 52 or automatically suspended under rule 53(3), then the suspension on the first occasion shall be for five working days including the day of suspension; on the second occasion during the same session for ten working days, including the day of suspension; and on the third occasion during the same session for twenty working days, including the day of suspension; or any subsequent occasion during the same session for thirty working days, including the day of suspension.
- (2) A Member who is suspended from the Assembly under Rule 52 shall forfeit all remuneration and allowances payable during the period of such suspension, unless the Speaker orders otherwise subject to any conditions he or she deems fit.
- (3) A Member who is automatically suspended from the Assembly shall forfeit all remuneration and allowances payable and any other benefits afforded to such member by Parliament during the period of such suspension.

[Notes:

- (a) Three alternatives are presented above. At issue is that punishment by suspension must have the desired outcome and protect sittings of the House. (See also Rule 52, above).*
- (b) The successively longer periods of suspension (during one annual session) and the option of withholding remuneration and possibly other benefits may at some level become subject to due process under fair administrative justice requiring a committee hearing.*
- (c) The options are to be further considered after the Judge Davis judgement of 23 December 2014 has been obtained and considered.]*

55. Expression of regret

- (1) A member of [this] the House who has been suspended or [named] censured may submit to the Speaker a written expression of regret, and if the Speaker approves such expression of regret, he or she may discharge the suspension or other action taken against the member [permit the member to take his or her seat], or reduce the period or severity of the censure, and the Speaker [shall] must inform [this] the House accordingly.

[Note: The option of reducing the "sentence" has been added.]

- (2) An expression of regret approved by the Speaker [shall] must be recorded in the Minutes of Proceedings.

56. [57.] Member to withdraw while his or her conduct is debated

Whenever a charge is made against a member, he or she **[shall] must**, after having been heard from his or her place, withdraw from the Chamber while such charge is being debated.

*[Notes: (a) As requested, a check was made whether the eventuality provided for in this rule is covered in the Powers and Privileges Act. It is not covered in the Act.
(b) The sequence of Rules 56 and 57 has been reversed.]*

57. [56.] Grave disorder

In the event of grave disorder at a meeting, the presiding officer may adjourn the meeting, or may suspend the proceedings for a period to be stated by him or her.

Part 2: Rules of debate

58. Member to address Chair

(1) Every member desiring to speak [shall] must, if possible, stand while addressing the Chair.

(2) At a sitting in the Chamber of the National Assembly a member may -

- (a) only speak from the podium during debate and whenever else the presiding officer so directs, and at all other times address the Chair from a microphone on the floor of the Chamber; or [except —**
- (b) to raise a point of order or a question of privilege; and**
- (c) to furnish an explanation in terms of Rule 69(1), when he or she may]**
- (d) deliver his or her address in such other manner as the member is physically able to do and agreed to by the presiding officer.]**

(1) Every member desiring to speak must, if possible, stand while addressing the Chair.

(2) At a sitting in the Chamber of the National Assembly a member may -

- (a) only speak from the podium during debate and whenever the presiding officer so directs, and at all other times address the Chair from a microphone on the floor of the Chamber; or
- (b) deliver his or her address in such other manner as the member is physically able to do and agreed to by the presiding officer.

(3) (a) The Speaker and Deputy Speaker shall be referred to as “Honourable Speaker”, or “Honourable Deputy Speaker” or “Mister” or “Madam Speaker” and “Mister” or “Madam Deputy Speaker”, as the case may be, and the other presiding officers shall be referred to as “Honourable Chairperson”.

(b) No name to impugn the dignity or undermine the authority or legitimacy of any presiding officer may be used.

[59. [Calling of members] Opportunity to speak

- (1) A member may speak only when recognised by the presiding officer.
- (2) Subject to subrule (1), a member may draw the attention of the presiding officer to a point of order or a question of privilege at any time during proceedings.
- (3) [A member shall be called in] In a debate [by] the presiding officer **must recognise a member in accordance with a list of members who are to speak in the debate and the times allocated for speeches by members of different parties.**

New Rule 59 proposed:

59. Member to speak

- (1) Subject to rule 58, a member may speak only when recognised by the presiding officer.
- (2) Subject to subrule (1), a member may draw the attention of the presiding officer to a point of order or a question of privilege at any time during proceedings.
- (3) In a debate the presiding officer must recognise a member in accordance with a list of members who are to speak in the debate and the times allocated for speeches by members of different parties.

New Rule 59A proposed:

59A. Control of microphones in the Chamber

- (1) In the event of a member not showing due respect to the authority of, or not obeying an order or ruling or direction of the presiding officer, or acting in a disruptive or grossly disorderly manner in the House, the presiding officer may order that the microphone being used by such member be disabled or switched off.
- (2) When issuing such an order, the presiding officer must inform the House accordingly.

60. [Time limits for speeches] List of speakers and time limits for speeches

[Unless otherwise provided in these Rules, members shall be restricted, in regard to the length of time they may speak, to the times allocated to them in the list contemplated in Rule 59, and if or in so far as times have not been so allocated —

- (a) **the President, Deputy President, the Leader of the Opposition and the member in charge of the business before a meeting, shall not be restricted in regard to the length of time they may speak; and**
- (b) **members other than those mentioned in paragraph (a) may not speak for longer than 10 minutes at a time on a vote in the schedule to an appropriation bill or 30 minutes at a time on any other business before a meeting.]**

- (1) Unless otherwise provided in these Rules and subject to Rules 73 and 74, members speak in a debate in accordance with a list of speakers compiled by the Chief Whip in consultation with

the Whips or party representatives of the other parties represented in the House

- (2) The list of speakers must accommodate all parties represented in the House that wish to participate in the debate.
- (3) Members on the list may speak for the time allocated to them on the list, which may not be less than three minutes unless by agreement with the member concerned.
- (4) If a list of speakers is incomplete in respect of the identification of members who are to speak in a debate or the time allocated to each, or in the absence of a list of speakers, the Speaker must determine speaking arrangements for the debate in accordance with this Rule after consultation with the party Whips.
- (5) If amendments are proposed to the question before the House at a late stage in a debate, the presiding officer may, at his or her discretion, extend the debate after consultation with the party Whips to allow members the opportunity to respond to the amendments.

61. Reference to member [by name] as “honourable”

- (1) In the House and in mini plenary sessions members shall refer to one another as “honourable”
- (2) Further to subrule (1), no member [shall] may refer to any other member by his or her first name or names only.
- (3) No name to impugn the dignity of any member may be used.

[Options:

- (a) *Additionally allow members to refer to one another as “comrade”;*
- (b) *Allow members simply to refer to one another as “Mr”, “Mrs” or other such title; or*
- (b) *Provide simply that members must refer to one another respectfully.]*

62. Member not to read speech

A member shall as far as possible refrain from reading his or her speech, but may refresh his or her memory by referring to notes.

[Note: An initial proposal to delete this Rule was reversed, on the grounds that the words “as far as possible” provided the necessary flexibility.]

[63. Offensive language

No member [shall] may use offensive or unbecoming language.]

Proposed new Rule 63:

63. Unparliamentary or unacceptable language or gestures

No member shall use offensive, abusive, insulting, disrespectful, unbecoming or unparliamentary

words or language, nor offensive or unbecoming gestures.

63A. Reflections upon members, the President and Ministers or Deputy Ministers who are not members of the Assembly

- (1) No member may impute improper motives to any other member, or cast personal reflections on a member's integrity or dignity, or verbally abuse a member in any other way.
- (2) A member who wishes to bring any improper or unethical conduct on the part of another member to the attention of the House, may do so only by way of a separate substantive motion, comprising a clearly formulated and properly substantiated charge that in the opinion of the Speaker *prima facie* warrants consideration by the House.
- (3) Subrules (1) and (2) apply also to reflections upon the President and Ministers and Deputy Ministers who are not members of the House.

64. Reflections upon decisions or statutes of same annual session

[No member [shall] may, for the remainder of the term of the House, reflect upon any -

- (a) decision of [this] the House [of the same session] directly relating to any specified person, except for the purpose of moving that such decision be amended or rescinded; or
- (b) statute of the same annual session, except for the purpose of moving for its amendment or repeal.]

No member may -

- (a) for the remainder of the term of the House, reflect upon any decision of the House that directly refers to any specified person, except for the purpose of moving that such decision be amended or rescinded; or
- (b) reflect upon any statute of the same annual session, except for the purpose of moving for its amendment or repeal.

Proposed new Rule 64A:

64A Reflections upon the House and its proceedings

No member may reflect in a disrespectful manner on the House or Committee and its proceedings.

[65. Reflections upon statutes]

NOTE: Delete this rule.

66. Reflections upon judges and certain other holders of public office

No member [shall] may reflect upon the competence or [honour] integrity of a judge of a superior court, the holder of a public office in a State institution supporting constitutional democracy referred to in Section 194 of the Constitution, or any other [of the] holder of an office (other than a member of the Government) whose removal from such office by law is dependent upon a decision of [this] the House, except upon a substantive motion in [this] the House [alleging facts]

presenting clearly formulated and properly substantiated charges which, if true, would in the opinion of the Speaker *prima facie* warrant such a decision.

[Notes:

(a) *It was agreed that apolitical office-bearers should be protected as provided for.*

(b) *Politicians (all politicians including the President and Ministers) are excluded from this Rule as indicated by the phrase "(other than a member of the Government)". Politicians are now covered by the new Rule 63A. In that context the key concern raised was what constitutes a "properly substantiated charge", and it was agreed that the test should not be too strong.*

(c) *Further consideration to be given to whether a substantive motion against a judge can be entertained since the removal from office of a judge is dependent on a finding initially of the Judicial Service Commission in terms of Sec 177 of the Constitution.]*

67. Matters sub judice

[[No member shall refer to any matter on which a judicial decision is pending.] No member may reflect on the merits of any matter on which a judicial decision is pending.]

No member may reflect on the merits of any matter on which a judicial decision in a Court of Law is pending.

68. Rule of anticipation

- (1) No member **[shall]** may anticipate the discussion of a matter appearing on the Order Paper or agreed upon by the Programme Committee for scheduling.
- (2) In determining whether a discussion is out of order on the ground of anticipation, the presiding officer **[shall have regard to the probability]** must consider whether it is probable that the matter anticipated will be discussed in [this] the House or at a joint sitting within a reasonable time.

69. Explanations

- (1) **A member may, with the prior consent of the presiding officer, make an explanation during debate only if [An explanation during debate is allowed only when] a material part of [a] the member's speech has been misquoted or misunderstood: Provided that--**
 - (a) **[but] such member [shall not be permitted to] may not –**
 - (i) speak for longer than three minutes; and**
 - (ii) [may not] introduce any new matter[,]; and**
 - (b) **no debate is [shall be] allowed upon such explanation.]**

Proposed new subrule (1):

- (1) **A member may, with the prior consent of the presiding officer, make an explanation at a time approved by the presiding officer after the conclusion of the debate from which the complaint arises, but only if, during that debate, a material part of the member's speech has been misquoted or misunderstood: Provided that--**

- (a) **such explanation shall be limited to reading into the record a correction as agreed in principle by the presiding officer, not to exceed three minutes in**

duration; and
(b) no debate is allowed upon such explanation.

- (2) A member may also, with the prior consent of the presiding officer, **[also]** explain matters of a personal nature, but such matters may not be debated, and the member shall confine himself or herself strictly to the vindication of his or her own conduct and may not speak for longer than three minutes.

70. Points of order

- [(1) A point of order must be confined to matters of parliamentary procedure and practice and must be raised immediately when the alleged breach of order occurs.**
- (2) When a point of order is raised during debate, the member called to order [shall] 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 presiding officer [shall] must give his or her ruling or decision thereon [either forthwith or subsequently] immediately, or at the earliest opportunity thereafter by way of a considered ruling.
- (3) The presiding officer may, at his or her discretion, allow members to address the Chair briefly on a point of order that has been raised.**
- (4) The presiding officer's ruling on a point of order is final and may not be challenged or questioned.**
- (5) A member who is aggrieved by a presiding officer's ruling may subsequently in writing to the Speaker request that the subject of the ruling be referred to the Rules Committee for consideration and report.]**
- (1) A member may raise a point of order at any time during the proceedings of the House, in terms of the procedure prescribed in Rule 47, 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) The member raising the point of order must commence by quoting the exact rule or standing order, or at least the principle or subject matter, upon which the point of order is based. If he or she does not do so, the presiding officer can insist on him or her doing 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 the matter is out of order.

Option: Insert "as far as possible" in first line; otherwise this subrule is too prescriptive.

- (4) The presiding officer may, at his or her discretion, allow members 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 considered ruling in terms of subule (5).
- (7) No other Member may raise another point of order before the presiding officer has ruled on the first point of order.
- (8) No member 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) Members 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 debate, the member 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 Member raising the point of order shall 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 member who is aggrieved by a presiding officer's ruling on a point of order may subsequently in writing to the Speaker request that the principle or subject matter of the ruling be referred to the Rules Committee. The Rules Committee may deal with it as it deems fit, provided that it confines 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.

[Note: Consider whether the level of detail in this rule should in preference be the subject of guidelines made by the Rules Committee.]

71. Acting for absent member

[A member may take charge of a motion or an order of the day in the absence of the member in charge, provided he or she has been authorised to do so by the absent member.] If the member in charge of a motion or an order of the day is absent, another member authorised by the absent member may take charge of the motion or order after having timeously notified the presiding officer, where possible.

[Note: Wording of Council Rule 52 followed.]

[72. Right of members to speak

A member may speak —

- (a) **when called upon to do so by the presiding officer; or**
- (b) **to a point of order.]**

[Note: This Rule is deleted as it has been incorporated in a revised Rule 59]

73. When reply allowed

[A reply shall be allowed to the] The member [introducing a subject for discussion (except in the case of the President's Opening Address) or to the member] in charge of a motion or an order of the day, including an executive statement, is allowed to reply.

74. Debate closed

A reply to a debate closes the debate.

[Note: Members agreed that in certain circumstances the presiding officer must have the discretion to extend the debate – before the reply. This has been accommodated in Rule 60 relating to speakers' lists.]

CHAPTER 6

DECISION OF QUESTIONS

74A. Quorum

[(1) In terms of Section 53 of the Constitution, -

- (a) a majority of the members of the National Assembly must be present before a vote may be taken on a bill or an amendment to a bill;
- (b) at least one third of the members must be present before a vote may be taken on any other question before the Assembly.

(2) Such other attendance of members is required before a vote may be taken on any matter as may be provided for in other sections of the Constitution or in these Rules.]

In terms of Section 53 of the Constitution, except where the Constitution or these Rules provide otherwise -

- (a) a majority of the members of the National Assembly must be present before a vote may be taken on a bill or an amendment to a bill; and
- (b) at least one third of the members must be present before a vote may be taken on any other question before the Assembly.

[Note: Reference to a list of matters requiring a special majority has been moved to Rule 76A.]

Proposed new Rule 74AA:

74AA. Questions to be decided by majority

In terms of Section 53 of the Constitution, except where the Constitution provides otherwise, all questions before the Assembly are decided by a majority of the votes cast.

74B. Absence of quorum

- (1) If the attention of the presiding officer is called to the absence of the prescribed quorum when a question is put for decision, the presiding officer may suspend the proceedings, postpone the decision of the question or direct that the bells be rung for [and if after an interval of five] _ five minutes, or such longer time as the presiding officer may direct [during which time the bells must be rung].
- (2) If the bells are rung and, after the interval referred to in Subrule (1), there is still no quorum, the presiding officer may suspend the proceedings or postpone the decision of the question.
- (3)
 - (a) For the purpose of establishing whether a quorum is present, the presiding officer may, at his or her discretion, utilise the electronic voting system; and
 - (b) all members present in the Chamber when the electronic voting system is used must record their presence as directed by the presiding officer.

(4) The presiding officer must be counted for the purpose of establishing whether a quorum is present.

[Notes:

(a) Any screening of members coming into the building could impact on achieving a quorum under this Rule; such screening must be further discussed by the whippers.

(b) It was agreed that the responsibility lies primarily with the majority party to ensure that there is a quorum present when a decision must be taken. Nevertheless subrule (3)(b) should be retained.]

[76] 75. Decision of question postponed

When the debate on a question has been concluded in **[this] the** House, the presiding officer may postpone the decision of the question.

[75] 76. Decision of postponed questions

Whenever it is expedient to do so, the Speaker may after consultation with the Programme Committee or, if the Programme Committee is not due to meet in time, after consultation with party Whips, determine a day [may be determined] for the decision of postponed questions by [this] the House.

[Notes: Rules 75 and 76 have been reversed.]

76A. Decision of questions requiring special majorities

(1) A question requiring a special majority in terms of the Constitution or these Rules must be decided by voting whether or not a division is demanded.

(2) (a) In accordance with Section 53(2)(b) of the Constitution, the presiding officer may cast a deliberative vote when a question must be decided with a supporting vote of at least two thirds of the members of the Assembly.

(b) Whenever a presiding officer casts a deliberative vote, he or she must inform members accordingly.

Note: For a list of issues requiring a special majority in terms of the Constitution, see Appendix B to these Rules.

76B. Casting of votes

Unless the Constitution provides otherwise, voting takes place in accordance with Rules 77 or 77A.

[Option: Provision for a secret ballot in respect of no-confidence motions under Sec 102 of the Constitution is to be considered as an option. It was suggested by some members that other questions could also be decided by secret ballot if 15% of members so decide by motion, as argued in a written submission (dated 28 January) which has been separately circulated.]

77. Electronic voting system

- (1) At a sitting of **[this]** the House held in a Chamber where an electronic voting system is in operation, unless the presiding officer directs otherwise, questions **are [may at the discretion of the presiding officer be]** decided by the utilisation of such system in accordance with a procedure **[determined]** predetermined by the Speaker and directives as announced by the presiding officer.

[Note: The EFF proposes the deletion of the discretion of the presiding officer]

- (2) Members may vote only from the seats allocated to them individually in the Chamber.
- (3) Members vote by pressing the “Yes”, “No” or “Abstain” button on the electronic consoles at their seats when directed by the presiding officer to cast their votes.
- (4) A member who is unable to cast his or her vote, must draw this to the attention of the Chair and may in person or through a whip of his or her party inform the Secretary at the Table of his or her vote.
- (5) When all members have cast their votes, the presiding officer must immediately announce the result of the division.
- (6) Members' names and votes must be printed in the Minutes of Proceedings.

77A. Manual voting procedure

- (1) Where no electronic voting system is in operation **[or when the presiding officer so directs]**, a manual voting system may be used in accordance with a procedure predetermined by the Speaker and directives to be announced by the presiding officer [where such a system is in operation but not utilised, questions shall be decided in accordance with the provisions of Rules 78 to 93].
- (2) When members votes have been counted, the presiding officer must immediately announce the result of the division.
- (3) If the manual voting procedure permits, members' names and votes must be printed in the Minutes of Proceedings.

[Note: Rule 77A(1) was Rule 77(2)]

78. Postponed question put without further debate

A question referred to in rules 75 and 76 **[to be decided after the debate thereon has been concluded in this House or in an extended public committee (?) or in an appropriation committee of the House, shall]** shall be put without further debate.

79. Question put again

If the presiding officer has put a question and it is not heard or understood, he or she **[shall]** must put it again.

80. Question fully put

- (1) No member, except a member who is permitted to make a declaration of vote, [shall] may speak to any question after it has been fully put by the presiding officer.
- (2) A question [shall be] is deemed to have been fully put when the voices [of both the “Ayes” and the “Noes”] in favour of and against the question have been given [thereon].

[Note: The EFF proposes deletion of subrule (2) in favour of the proposal to allow secret ballots.]

81. Declaration of vote

- (1) Subject to Subrule (3), the presiding officer may at any time after a question has been fully put, if so requested, permit one member of each political party[,] to declare its vote by [state] stating on behalf of his or her party **[in a speech not exceeding three minutes,]** the reasons why the party is in favour of or against the question.

[Option: In the case of declarations of vote on a committee report, provide for the relevant Minister also to be allowed to express a view.]

- (1A) The time allocated to a member from each party for making a declaration of vote must be determined by the Rules Committee and must take into account the proportional strength of the party in the House.
- (2) A member addressing the Chair in terms of Subrule (1), may read out aloud a written formulation of his or her party’s viewpoint, and deliver a signed copy thereof at the Table for inclusion in the Minutes of Proceedings.
- (3) No declaration of vote is permitted if the question is put for decision immediately after the debate on the question has been concluded.
- (4) When the budget votes in the schedule to the main Appropriation Bill are to be decided upon, declarations of vote, if requested, shall be limited to a total time for all the budget votes as well as proportional time per party, as allocated for that purpose by the Programme Committee.

[Note: Subrule (1) has been further amended, and a new Subrule (1A) and a Subrule (4) were added after the Subcommittee's meeting on 28 January 2015. Rule 32(4) was also adjusted accordingly.]

82. Recording of opposition

- (1) Whenever a question is put by the presiding officer, any member may, instead of demanding a division, inform the presiding officer that he or she wishes his or her opposition, or that of the party to which he or she belongs, to be formally recorded in the Minutes of Proceedings.
- (2) The presiding officer may order that a division take place in the event of four or more members wishing to record their individual opposition.

[Note: The reference to four members in Subrule (2) could be changed to ten in line with the proposed change to Rule 84, although this is a separate unrelated provision.]

83. Demand for division

After a question has been put and the presiding officer has indicated whether in his or her opinion the [**“Ayes” or the “Noes” have it**] voices in favour of or against the question are in the majority, any member may demand a division, whereupon, subject to Rule 84, a division [**shall**] must], subject to Rule 84,] take place without debate.

84. Fewer than four members supporting demand for division

- (1) Whenever a division is demanded, the presiding officer [**shall**] must, before ordering the division bells to be rung, satisfy himself or herself that at least four members support the demand for the division.
- (2) If fewer than four members rise in support thereof, the presiding officer [**shall forthwith**] must immediately declare the decision on the question.
- (3) The names of the members who indicated their support for the division in terms of Subrule (2) must be recorded in the Minutes of Proceedings.

85. Division bells rung and doors [locked] barred

- (1) If the required number of members support the demand for a division, the division bells [**shall**] must be rung and the doors [**shall**] must be [**locked**] barred as soon after the lapse of [**three**] five minutes as the presiding officer may direct, but if further divisions are required to dispose of the question and such divisions follow immediately upon the first division, the division bells [**shall**] must again be rung and the doors [**shall**] must be [**locked**] barred as soon after the lapse of 15 seconds as the presiding officer may direct.
- (2) When the doors have been [**locked**] barred, no member [**shall**] may enter or leave the Chamber until the result of the division has been declared.

86. Procedure after doors [locked] barred

- [(1) Subject to Subrule (3), the presiding officer shall again put the question when the doors have been locked.]

When the doors have been barred and all members are seated, the presiding officer must inform members of the question to be decided and announce that a division has been demanded.

- [(2) Thereupon the presiding officer shall indicate on which side of the Chair the “Ayes” and the “Noes” shall take their seats and he or she shall appoint tellers for each side.
- (3) After the lapse of the periods prescribed by Rule 85 the presiding officer may again put the question and may declare afresh whether in his or her opinion the “Ayes” or the “Noes” have it, in which case a division shall take place only if such fresh declaration is challenged.]

[Note: Subrules (2) and (3) related to manual voting procedures and have been deleted.]

[87. Minority consisting of fewer than 15 members

When, on a division taking place, fewer than 15 members appear on one side, the presiding officer shall forthwith declare the decision on the question.]

[Note: Rule 87 related to manual voting and has been deleted.]

88. Member calling for division to vote against the question

[A member demanding a division [shall] may not leave the Chamber until the result of the division has been declared and [shall] must vote [with those who, in the opinion of the presiding officer, are in the minority] against the question put by the presiding officer.]

A member demanding a division may not leave the Chamber until the result of the division has been declared and in the event that he or she did not vote, his or her vote must be recorded as against the question put by the presiding officer.

89. Members present must vote

(1) Every member present in the Chamber when the question is put with the doors barred [locked shall] must vote or record an abstention: Provided that in terms of Section 53(2) of the Constitution the presiding officer has no deliberative vote, but -

(a) must cast a deciding vote when there is an equal number of votes on each side of a question; and

(b) may cast a deliberative vote when a question must be decided with a supporting vote of at least two thirds of the members of the Assembly.

***Option:** Members of one party suggested that members should be entitled to remain in the Chamber and not participate in the division. They were requested to make a motivated written submission so that the matter could be discussed further]*

(2) In accordance with Section 54 of the Constitution, the provisions of Subrule (1) do not apply to the President of the Republic or to a Minister or Deputy Minister who is not a member of [this] the House. [[see section 91(3)(c) of the Constitution].]

90. Points of order during division

[While a division is in progress, members may speak to a point of order arising out of or during the division.]

Subject to all other rules relating to the taking of points of order, while a division is in progress, members may only raise points of order on procedure directly related to the procedures during a division.

[91. Result to be declared

The tellers shall sign the division lists and hand them to the presiding officer, who shall declare the result of the division.]

[Note: Rule 91 is deleted.]

92. Confusion or error concerning division

(1) If in the opinion of the presiding officer -

- (a) there is [In the event of] confusion or error concerning a division, the presiding officer may direct that another division [shall] must take place [, unless the numbers can be corrected otherwise.]; or
- (b) the nature of the confusion or the extent of the error does not affect the result of the division, the presiding officer may direct that the numbers be corrected otherwise.

(2) Party whips may, at the request of any affected members, scrutinise the electronic voting results at the Table and under their signature make limited corrections, provided the corrections so made do not affect the result of the division.

93. Correction of Minutes

If [the numbers have been inaccurately reported or] any member, in writing to the Speaker within 24 hours after the Minutes of Proceedings have been published, reports that his or her vote has been mistakenly altered, as recorded, or if any other error occurs in the [names on the division lists] voting results as published in the Minutes of Proceedings, the [presiding officer shall] Speaker may order the Minutes of Proceedings to be corrected.

[Notes:

(a) A time limit has been set within which a member may report in writing to the Speaker so that the process is not open-ended.

(b) The words "mistakenly altered" are used to prevent a member from changing his or her vote afterwards.

(c) The Speaker has been given a discretion through the use of "may".]

CHAPTER 7

MOTIONS

Part 1: General

94. Nature of motions

A member may propose a subject for discussion, or a draft resolution for approval as a resolution of [this] the House, with or without debate.

[Note: Consider whether “draft resolutions” and “subjects for discussion” should be treated separately in the Rules. A new definition of “motion” has been included in the Definitions Rule which may provide the necessary clarity. If the rules for the two types of motion were to be separated, a lot of unnecessary duplication would result as the same rules apply, as appropriate, to both.]

95. Same question Rule

- (1) No matter **[shall]** may be proposed for discussion in **[this]** the House which is the same in substance as a matter that has been discussed in it during the same annual session.
- (2)
 - (a) No draft resolution **[shall]** may be moved in **[this]** the House which is the same in substance as a draft resolution which has been approved, with or without amendments, or rejected by it during the same annual session.
[(b) The order, resolution or vote on such previous draft resolution may be amended or rescinded.]
 - (b) The House may amend or rescind such previous resolution.

[Note: It was suggested that any proposed amendment in terms of (b) should not be limited to reversing amendments that were previously approved by the House.]

96. [No amendment to draft resolution] Amendments to draft resolutions generally

[No amendment to a draft resolution may be moved, except an amendment —

- (a) **to a draft resolution on a question of privilege;**
- (b) **to substitute the name of another member for the name of a member in a draft resolution; or**
- (c) **which is allowed by the presiding officer.]**

Proposed Task Team version of Rule 96:

[(1) A member may propose an amendment to a draft resolution, provided the amendment does not extend the scope of the draft resolution or is ruled out of order for any other reason by the presiding officer.

[(2) Proposed amendments to draft resolutions must be put for decision in sequence, with the last amendment being put first and the original motion, with or without amendments,

last, unless the presiding officer determines otherwise.]

New proposed Rule 96 and 96A:

- (1) Subject to Rule 96A, a member may propose an amendment in writing to a draft resolution, provided the amendment does not extend the scope of the draft resolution or is ruled out of order for any other reason by the presiding officer.
- (2) When an amendment is moved as provided for in subrule (1), a signed copy of the proposed amendment must be delivered to the Secretary at the Table without delay.
- (3) A proposed amendment to a draft resolution which does not strictly comply with subrules (1) and (2) and rule 96A may not be proceeded with in the House.
- (4) Proposed amendments to draft resolutions must be put for decision in sequence, with the last amendment being put first and the original motion, with or without amendments, last, unless the presiding officer determines otherwise.

96A. Amendments to draft resolutions relating to committee reports

No amendment may be proposed to the content and substance of a committee report tabled for adoption by the House, except in respect of any recommendation made in such report for adoption by the House.

Notes:

- (a) *A motion to adopt a committee report can still be altered or amended to refer the report back to the committee, to refer it to another committee, and so on.*
- (b) *The option of a minority report or the presentation of minority views could be considered further under Rule 137 in the Chapter on committees.*

97. Motions without notice

[Every motion requires notice, except a motion —

- (a) **by way of amendment to a draft resolution permitted in terms of these Rules;**
- (b) **raising a point of order or a question of privilege;**
- (c) **for the postponement or discharge of [or giving precedence to,] an order of the day, or giving precedence to an order of the day scheduled for that day;**
- (d) **referring a bill to a committee;**
- (e) **by the [member in charge] Chief Whip, or any other member with the permission of the presiding officer, proposing a draft resolution on the report of a committee immediately after the debate on the report has been concluded;**
- (f) **specially excepted by these Rules; or**
- (g) **in regard to which notice is dispensed with by the unanimous concurrence of all the members present.]**

(1) Every motion requires notice, except a motion —

- (a) by way of amendment to a draft resolution permitted in terms of these Rules;
- (b) raising a point of order or raising a question of privilege when approved by the Speaker in terms of Rule 19B;
- (c) for the postponement or discharge of an order of the day, giving precedence to an order of the day scheduled for that day or giving precedence to any other business;
- (d) referring a bill to a committee;
- (e) by the Chief Whip, or any other member with the permission of the presiding officer, proposing a draft resolution on the report of a committee immediately after the debate on the report has been concluded;
- (f) specially excepted by these Rules; or
- (g) in regard to which notice is dispensed with by the unanimous concurrence of all the members present, subject to Subrule (2).

(2) Motions in respect of which notice is dispensed with by unanimous concurrence in terms of Subrule (1)(g) are accommodated according to the following conditions:

- (a) Members of each party are entitled to move motions without notice, minority parties being given an opportunity to participate in a manner consistent with democracy;
- (b) the number of motions without notice on any sitting day and the period of time within such motions must be completed on that day and the sequence of party participation, must be determined by the Rules Committee;
- (c) unless the Speaker decides otherwise in a particular case, a member shall not be given an opportunity to read out and move a motion without notice in the House unless the following requirements have been met:
 - (i) the member or the member's party must make the text of the motion available to the Secretary before noon on the day on which it is to be moved;
 - (ii) the Secretary must circulate the proposed motion to all parties by noon on that day; and
 - (iii) no member or party has notified the Secretary (and as far as is possible the party of the member proposing the motion) at least 30 minutes before the sitting of the House commences of an objection to it being moved without notice; and
- (d) if a member is not given the opportunity to read out and move the motion without notice in terms of paragraph (c) or, for whatever reason, during the sequence of party participation the member fails to utilise the opportunity to move a motion without notice or there is objection to the member's motion being moved without notice, the party to which that member belongs forfeits that opportunity.

(3) Members must be given an opportunity only on a sitting day of the House when motions without notice have been placed on the Order Paper in terms of rule 24A read with rule 29, to move a motion without notice.

[Notes: Subrule (2) reflects approved guidelines for motions without notice that are subject to

unanimous concurrence under subrule (1). Such motions without notice were intended to be ceremonial or congratulatory and politically uncontentious.

Option: Remove the details as contained in subrule (2) and provide that such motions without notice need to comply with guidelines approved by the Rules Committee.]

98. Notice of motion

(1) Members must be given the opportunity on each sitting day of the House to give notice of a motion, unless the Programme Committee agrees otherwise in respect of a particular day.

(2) When giving notice of a motion, a member [shall] must —

- (a) read it aloud and immediately thereafter deliver to the Table a signed copy of the notice, which may not differ from the notice as read aloud; or**
- (b) deliver to the Secretary a signed copy of the notice on any Parliamentary working day, for placing on the Order Paper.**

(3) Written notices of motion delivered to the Secretary in terms of Subrule (1)(b) after 12:00 on any Parliamentary working day may be placed on the Order Paper [of the second sitting day thereafter and not earlier] only after the expiry of 24 hours, unless in a particular case the Speaker [determines] directs otherwise.

(4) Except with the unanimous concurrence of all the members present, no motion [shall] may be moved on the day on which notice thereof is given.

(5) Notices of motion must —

- (a) deal with a subject within the competence of the National Assembly;**
- (b) be concise;**
- (c) refer to a single substantive matter; and**
- (d) comply with any other rules and orders of the House and relevant guidelines approved by the Rules Committee.]**

Proposed new Rule 98:

(1) Members of each party are entitled to [move] give notices of motion, [minority parties being given an opportunity to participate in a manner consistent with democracy] when recognised by the presiding officer for that purpose.

(2) The number of notices of motion on any sitting day and the period of time within such motions must be completed on that day [and the sequence of party participation,] must be determined by the [Rules] Programme Committee.

[Note: The amendments to subrules (1) and (2) are intended to do away with a sequencing approach as for members' statements. Instead the presiding officer will give opportunities in turn to all sides of the House.]

(3) Members must be given an opportunity only on a sitting day of the House when notices of motion have been placed on the Order Paper in terms of rule 24A read with rule 29, to give

notice of a motion.

(4) Notices of motion must –

- (a) be submitted in writing [only];
- (b) deal with a subject within the competence of the National Assembly;
- (c) be concise;
- (d) refer to a single substantive matter; and
- (e) comply with any other rules and orders of the House and relevant guidelines approved by the Rules Committee.

(5) [Except with the unanimous concurrence of all the members present, no motion may be moved on the day on which notice thereof is given.]

(6) When giving notice of a motion, a member must —

- (a) read it aloud and immediately thereafter deliver to the Table a signed copy of the notice, which may not differ from the notice as read aloud; or
- (b) deliver to the Secretary a signed copy of the notice on any Parliamentary working day, for placing on the Order Paper.

(7) Written notices of motion delivered to the Secretary in terms of Subrule (5)(b) after 12:00 on any Parliamentary working day may be placed on the Order Paper only after the expiry of 24 hours, unless in a particular case the Speaker directs otherwise.

99. Acting for absent member

A member may give notice of a motion on behalf of an absent member, provided he or she has been authorised to do so by the absent member.

[Note: The Task Team suggested that this Rule be deleted as it is already provided for in Rule 71. However, that Rule covers only motions of which notice has previously been given and orders of the day. Rule 99, relating to giving notice of a motion, has accordingly been retained.]

100. Speaker may [amend] **disallow** notices

[Any notice of a motion which offends against the practice or these Rules may be amended or otherwise dealt with as the Speaker may decide].

The Speaker may [amend or otherwise deal with] disallow notices of motion which contravene the rules and orders of the House or directives and guidelines approved by the Rules Committee

101. Motions on questions of privilege

An urgent motion directly concerning the privileges of **[this] the House [shall]** must take precedence of other motions and orders of the day.

[Note: "privileges of the House" has been clarified in the Definitions Rule.]

102. Withdrawal and lapsing of motion

- (1) A member who has **[moved]** given notice of a motion may **[move without notice that it be withdrawn]** withdraw it at any time before being called upon to move it in the House.
- (2) Once moved in the House, a motion may only be withdrawn with the unanimous concurrence of all the members present.

[Note: Consider providing that, if the member in charge wishes to alter the wording of his or her motion at the time when formally moving it in the House, he or she may only do so with the leave of the House, viz with unanimous concurrence, and if the proposed alteration is not substantive.]

- (3) A notice of motion on the Order Paper lapses -
 - (a) after a period as determined by the Rules Committee from time to time; or
 - (b) at the end of the day as specified in Rule 316.

Part 2: Motions of No Confidence in terms of Section 102 of the Constitution

102A. Motions of no confidence in terms of section 102 of the Constitution

- (1) A member may propose that a motion of no confidence in the Cabinet or the President in terms of section 102 be placed on the Order Paper.
- (2) The Speaker must accord such motion of no confidence due priority and before scheduling it must consult with the Leader of Government Business and the Chief Whip of the Majority Party.
- (3) The motion must comply, to the satisfaction of the Speaker, with the prescripts of any relevant law or any relevant rules and orders of the House and directives and guidelines recommended by the Rules Committee and approved by the House, before being placed on the Order Paper, and must include the grounds on which the proposed vote of no confidence is based.
- (4) The Speaker may request an amendment of or in any other manner deal with a notice of a no confidence motion which contravenes the law, rules and orders of the House or directives and guidelines approved by the House.
- (5) After proper consultation and once the Speaker is satisfied that the motion of no confidence complies with the aforementioned prescribed law, rules, orders, directives or guidelines of the House, the Speaker must ensure that the motion of no confidence is scheduled, debated and voted on within a reasonable period of time given the programme of the Assembly.
- (6) The debate on a motion of no confidence may not exceed the time allocated for it by the Speaker, after aforesaid consultation process.
- (7) 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.
- (8) Rules 95, 97 and 101 do not apply to motions of no confidence in terms of this Rule.

[Note: Some parties propose that no confidence motions in terms of section 102 of the Constitution should be decided by secret ballot.]

CHAPTER 8

DISCUSSION OF URGENT MATTERS OF NATIONAL PUBLIC IMPORTANCE

103. Urgent matter of national public importance

- (1) A private member may request the Speaker in writing to [place] schedule without delay an urgent matter of national public importance [on the Order Paper] for discussion by the House.

[Note: It was agreed that "private member" must be defined in the definitions Rule, and for purposes of this rule must include committee chairpersons, House Chairpersons and the Deputy Speaker. The definition has been drafted accordingly.]

- (2) In submitting the request, the member must motivate why the matter is of so urgent a nature that it should be dealt with in terms of this Rule.
- (3) In granting such a request, depending on the urgency of the matter the Speaker may at his or her discretion -
- (a) if, on a sitting day, the request is received at least [an hour] four hours before the appointed time of the sitting, schedule the discussion for the same day;
 - (b) if the House is not programmed to meet at an early date that will accommodate the urgency of the matter, convene a special sitting of the House for the discussion; or
 - (c) schedule the matter for discussion at the earliest opportunity.

[Option: Consider providing that the Speaker must convene an extraordinary sitting on a matter of national importance once per annum if the request is supported by 20% of the members.]

- (4) If the Speaker grants the request, he or she must without delay inform the House, the Leader of Government Business and the responsible Minister of the date and time set for the discussion.

[(2) The member [shall] **must** make the request to the Speaker before the adjournment of [this] the House on the previous sitting day.]

(5) [(3)] Such a discussion [shall] may not exceed the time allocated for it by the Speaker after consultation with the Leader of [the House] Government Business and the Chief Whip.

(6) [(4) If 15 minutes before the expiration of the allocated time a member other than the responsible Minister is speaking, the presiding officer shall interrupt such member and shall ascertain from the Minister whether or not he or she wishes to reply.] In the absence of the responsible Minister, any other member of the Executive may respond to the discussion on that

Minister's behalf, provided that, at the Speaker's discretion, the discussion may proceed even if no member of the Executive is available to respond.

(7) There may only be one discussion in terms of this Rule on a sitting day, and if the Speaker receives more than one request, he or she must decide which matter is more urgent or important.

(8) [(5)(a) Questions of privilege may not be discussed under this Rule.

(b) In exercising his or her discretion the Speaker must apply the following criteria:

(a) Matters already discussed by [this] the House during the same annual session may not be discussed under this Rule;

[Note: In the context of paragraphs (b), (c) and (e), consider deleting paragraph (a).]

(b) The matter must be raised at the earliest opportunity;

(c) The matter must be -

(i) of so serious a nature that it requires urgent attention, or

(ii) of sufficient immediate public importance to warrant it taking precedence over other programmed business;

(d) The request must deal with a matter of national importance for which the Government can be held responsible, or that falls within the scope of ministerial action;

(e) The subject must relate to a specific matter of recent occurrence, and not to a general state of affairs or to a matter of policy;

(f) The matter must be defined and specific;

(g) The request must deal with only one substantive matter;

(h) The request will not be granted if the matter can be considered by some other means in the near future; and

(i) The *sub judice* rule (Rule 67) applies to such a discussion.

104. Withdrawal of scheduled discussion on matter of public importance

The member who requested the discussion may request the Speaker to withdraw the scheduled discussion, provided that sufficient notice of such withdrawal is given.

[Note: It was agreed that such a scheduled discussion should not be withdrawn other than in exceptional circumstances.]

Note: Old Rule 104 and 104A deleted

CHAPTER 9

MEMBERS' STATEMENTS AND EXECUTIVE STATEMENTS

105. Statements by members

- (1) A member, other than the Deputy President, a Minister or a Deputy Minister, may be recognised by the presiding officer to make a statement on any matter for not more than one and a half minutes.
- (2) Members of each party are entitled to make a number of statements, minority parties being given an opportunity to participate in a manner consistent with democracy.
- (3) If a member, for whatever reason, during the sequence of proceedings, fails to utilise the opportunity to make a statement, the party to which that member belongs forfeits that opportunity.
- (4) The number of members' statements on any day and the sequence of party participation must be [Members of the various parties must be recognised in the order] determined by the Rules Committee.
- (5) [The process in Subrule (4) must continue until statements by members are exhausted or [fourteen] fifteen statements have been made, whichever occurs first.]
- (6) At the conclusion of statements by members, a Minister present may be given an opportunity to respond, for not more than two minutes, to any statement directed to that Minister or made in respect of that Minister's portfolio.
- (7) In the absence of a Minister who may respond to a statement as envisaged in Subrule (6), the relevant Deputy Minister or any other Minister must be given an opportunity to respond on behalf of the absent Minister.
- (8) [Ministerial responses must be taken in the following order of preference:

Minister as envisaged in Subrule (6), the relevant Deputy Minister, or a Minister responding on behalf of the absent Minister.]

[Option: Retain the original wording of Subrules (7) and (8) and specifically direct the Speaker in the Rules to ensure that different Ministers get an opportunity to respond to relevant statements.]
- (9) [A maximum of five Ministers may be given an opportunity to respond to members' statements.] The number of permissible ministerial responses to members' statements must be determined by the Rules Committee.
- (10) Statements are taken on Tuesdays and Thursdays, [and Fridays when the Assembly sits on a Friday,] unless the Programme Committee in respect of a particular day or days determines otherwise.

(11) A member's statement may not be responded to more than once.

(12) The rules of debate apply to members' statements and ministerial responses.]

Proposed new Rule 105:

- (1) A member, other than the Deputy President, a Minister or a Deputy Minister, may be recognised by the presiding officer to make a statement on any matter for not more than one and a half minutes.
- (2) Members of each party are entitled to make a number of statements, minority parties being given an opportunity to participate in a manner consistent with democracy.
- (3) If a member, for whatever reason, during the sequence of proceedings, fails to utilise the opportunity to make a statement, the party to which that member belongs forfeits that opportunity.
- (4) The number of members' statements on any sitting day and the period of time within such statements must be completed on that day and the sequence of party participation must be determined by the Rules Committee.
- (5) At the conclusion of statements by members, a Minister or Deputy Minister present may be given an opportunity to respond, for not more than two minutes, to any statement.
- (6) The number of permissible ministerial responses to members' statements must be determined by the Rules Committee.
- (7) Statements are only taken on any sitting day when placed on the Order Paper in terms of rule 24A read with rule 29.
- (8) The rules of debate apply to members' statements and ministerial responses.

106. Executive statements

- (1) A Cabinet member may request the Speaker for an opportunity for that Cabinet member or the relevant Deputy Minister on behalf of that Cabinet member to make a factual or policy statement relating to government policy, any executive action or other similar matter of which the [Assembly] House should be informed.
- (2) The time allotted to a Cabinet member making an executive statement in terms of Subrule (1) may not exceed 20 minutes, except with the consent of the [Assembly] House.
- (3) Whenever reasonably possible, a copy of an executive statement must be delivered to the leader of each party, or that leader's representative, at or before the time the statement is made in the [Assembly] House.
- (4) After any executive statement has been made, the Cabinet member concerned [must] may[, if applicable,] table [a compendium of background information] relevant supporting papers.

- (5) Following any executive statement, a member or members of each of the parties represented in the House may comment on the executive statement, the time allocated to each party for that purpose and the sequence for party comments to be determined by the Rules Committee. [for not more than three minutes per party, commencing with the [official] largest opposition party and followed by other parties in the order of the size of their membership in the Assembly.]
- (6) Party responses as envisaged in Subrule 5 may be postponed by agreement between the majority of parties represented in the House or by motion without notice in the House to a later date as determined by the Programme Committee.
- (7) At the conclusion of party responses the responsible Cabinet member or Deputy Minister must be given [two] five minutes to reply.

