



Report: Subcommittee on the Review of the National Assembly Rules

24 June 2015

1. The Subcommittee on the Review of the National Assembly Rules was instructed to develop measures to address disruptions in the National Assembly, for submission to the National Assembly Rules Committee, scheduled to meet on Wednesday, 24 June 2013. Consequently the Subcommittee met on Tuesday, 23 June 2015 to deliberate on such measures.
2. At the meeting, the Secretary to the National Assembly presented a discussion document on measures to address disruptions during proceedings. The document reflected on statutory provisions and the rules, proposed draft rules and standard operating procedures. The draft rules were developed from the work previously carried out by the Subcommittee during its comprehensive review of the rules. The standard operating procedures are designed to supplement the rules. There was broad agreement on the proposals made among the political parties present.
3. The Economic Freedom Fighters, however, objected to the draft rules and the standard operating procedures.
4. Attached is the discussion document as presented along with a summary of issues raised on the document at the Subcommittee. Other relevant documentation is also provided.
5. It is recommended that both the draft rules and the standard operating procedures be affirmed by the Rules Committee but referred back to the Subcommittee to address technical issues and submit a final report to the Rules Committee.

Annexure A

DISCUSSION DOCUMENT: KEY ISSUES RAISED BY THE SUBCOMMITTEE ON 23 JUNE 2015.

1. Parliamentary Protection Services or Parliamentary Guard, and not the police, should be responsible for removing members from the Chamber when necessary, and its activities should be clearly defined and regulated.
2. Legal Services to provide an opinion on the legal authority of the Parliamentary Protection Services, as far as removing members is concerned.
3. The security personnel should be accountable only to Parliament, and be trained in non-invasive tactics.

4. "Minimum force" to be used in removing a member may need to be explained, alternatively the rule should read "may use such force as may be reasonably necessary to overcome any resistance".
 5. The Police should still be able to remove members of the public from the gallery who act disorderly.
 6. The Police should be able to enter the Chamber when there is a threat to the physical safety of a person or damage to property (Section 4(2) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures, Act 4 of 2004).
 7. If proceedings are suspended for the purposes of removing a member, all other members must remain in their seats.
 8. The matter of automatic suspension of a member who has been removed from the Chamber requires consideration. Some members supported the idea of suspension without pay.
 9. Concern has been raised about suspension without due process, including when the suspension is without pay.
 10. There is agreement that generally Protection Services and police should not be armed when they enter the Chamber on the order of the Speaker. Protocols would need to be entered into with police management to ensure that it is possible for them to be unarmed if they have to enter the Chamber on the order of the Speaker.
 11. The EFF objected to the proposed draft rules and operating procedures, on the basis that:
 - a. the current disorder was not a result of the rules but a political issue.
 - b. members should only be removed from the House in cases of grave disorder or in cases in which there was a threat to life. Due process should always be followed.
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PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

PO Box 15 Cape Town 8000 Republic of South Africa
Tel: 27 (21) 403 2911
www.parliament.gov.za

Annexure B

DISCUSSION DOCUMENT: DISRUPTIONS DURING PROCEEDINGS (As at 23/6/15)

A. Statutory Provisions

1. In terms of section 57 of the Constitution, 1996, the National Assembly may determine its own internal arrangements, proceedings and procedures and make rules and orders concerning its business with due regard to representative and participatory democracy, accountability, transparency and public involvement.

2. Section 7 of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures, Act No 4 of 2004 (the Act) provides, among others, that a person may not improperly interfere with or impede the exercise or performance by Parliament or a House or committee of its authority or functions; improperly interfere with the performance by a member of his or her functions as a member; while Parliament or a House or committee is meeting, create or take part in any disturbance within the precincts; or fail or refuse to comply with an instruction by a duly authorized staff member regarding the presence of persons at a particular meeting in the precincts.
3. Section 1 of the Act defines “disturbance” as any act which interferes with or disrupts or which is likely to interfere with or disrupt the proceedings... of a House while section 27 (1) states that a person, including a member, who contravenes Section 7...commits an offence and is liable to a fine or imprisonment (for up to three years.)
4. In terms of section 4(1) of the Act, members of the security services may enter the precincts to perform any policing function only with the permission and under the authority of the Speaker or the Chairperson.
5. Section 199(1) of the Constitution states that security services consist of a single defence force, a single police service and any intelligence services established in terms of the Constitution. In terms of section 199(3), other than the security services established in terms of the Constitution, armed organizations or services may be established only in terms of national legislation.
5. Section 4(2) of the Act provides that when there is immediate danger to the life or safety of any person or damage to any property, members of the security services may without obtaining such permission enter upon and take action in the precincts in so far as it is necessary to avert that danger. Any such action must as soon as possible be reported to the Speaker and the Chairperson.
6. On the principles governing national security in the Republic, section 198 states that national security is subject to the authority of Parliament and the national executive.
7. Section 199(7) adds that neither the security services, nor any of their members may, in the performance of their functions, prejudice a political party interest that is legitimate in terms of the Constitution; or further, in a partisan manner, any interest of a political party.

B. National Assembly Rules

1. National Assembly Rule 51 provides that 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 the Chamber for the remainder of the day’s sitting.

2. Rule 52 empowers the Speaker to suspend a member if a contravention is so serious a nature that the order to withdraw is inadequate or if it is another Presiding Officer in the chair, the Presiding Officer may name the member.
3. A member ordered to leave the Chamber or suspended or named should leave the Chamber and precincts immediately.
4. Rule 54 provides that the suspension of a member may on the first occasion during a suspension continue for 5 Parliamentary working days, on the second occasion for 10 Parliamentary working days, and on any subsequent occasion for 20 Parliamentary working days.

C. Proposed Rule Amendment

With the intention of strengthening and clarifying the procedures, the following rule amendment is proposed

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53A. 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 Rule 51, the presiding officer shall 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 call upon the Parliamentary Protection Services to assist in removing the member from the Chamber.
- (3) A member who is removed from the Chamber in terms of subrule (2), is thereby immediately automatically suspended for the period applicable as provided for in Rule 54, and may not enter the precincts for the duration of the suspension.
- (4) If a member resists attempts to be removed from the Chamber in terms of subrules (1) or (2), the Serjeant-at-Arms and the Parliamentary Protection Services may use minimum force to remove such member [alternatively: such force as may be reasonably necessary to overcome any resistance].
- (5) No member may interfere with the removal of a member in terms of these Rules.
- (6) If proceedings are suspended for the purposes of removing a member(s), all other members must immediately leave the Chamber and the passages surrounding the Chamber, until the bells are rung for the members to return to the Chamber.

(7) The House may approve Standard Operating Procedures, recommended by the Rules Committee, for the exercise of this function, in particular in relation to the use of the Parliamentary Protection Services and members of the security services for this purpose.

D. Draft Standard Operating Procedures: Member refusing to leave Chamber

1. If the member refuses to leave the Chamber, the Presiding Officer asks the Serjeant-at-Arms to remove the member from the Chamber.
 2. The Serjeant-at-Arms approaches the member(s) to explain that the instruction of the Presiding Officer must be adhered to and that Parliamentary Protection Services will have to be called to remove the member or members if they refuse to leave.
 3. If the member still refuses to leave, the Serjeant-at-Arms bows to the Presiding Officer to give an indication of the next step of calling the Parliamentary Protection Services.
 4. The Parliamentary Protection Services personnel enter the Chamber upon direction by the Serjeant-at-Arms, and will proceed to remove the member(s) concerned.
 5. Members who have been removed from the Chamber will be escorted off the precincts and will not be allowed to enter the House or precincts of Parliament as the Rules prescribe.
 6. Members of the public in the gallery who participate in disorderly conduct, will be evacuated by the Parliamentary Protection Services.
 7. In the event of violence ensuing in the Chamber, as a result of a member(s) resisting removal, the Presiding Officer may suspend proceedings, provided that members of the Security Services may intervene in terms of section 4(1) or (2) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act No 4 of 2004.
 8. Members of the Parliamentary Protection Services and the security services may not be armed when entering the Chamber on the order of the Presiding Officer.
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