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**SELECT COMMITTEE ON PETITIONS AND EXECUTIVE UNDERTAKINGS: DRAFT EXECUTIVE UNDERTAKINGS GUIDELINES**

1. **PREFACE**

In the course of responding to questions in the House or during discussions on Bills, Resolutions and the like, Ministers or Heads of Government Departments, from time to time, give or make Executive Undertakings on behalf of Government either to consider a matter or to take action or to furnish the House with additional information at a later stage. However such Executive Undertakings, in themselves, are not and cannot be sufficient unless they are implemented by Government. And in terms of its oversight role, the House is entitled to know whether Government has fulfilled the undertakings or assurances it has made or given on the floor of the House.

Up until recently there were no mechanisms in place to ensure that Executive Undertakings given or made by Ministers or Heads of Government Departments on the floor of the House are not only implemented but implemented within a reasonable time. Further up until recently, the only recourse open to Members, in this regard, was to give notice of fresh questions or raise the issue during discussions on the budget and this naturally involved delays and Members had no means of knowing whether or not all undertakings or assurances made or given by Ministers on the floor of the House have been implemented.

The absence of mechanisms, within the Parliamentary framework, to ensure the implementation of Executive Undertakings given or made by Ministers or Heads of Government Departments on the floor of the House, was identified in the Oversight and Accountability Model (Model). Parliament adopted the Model in 2009 in an effort to provide Parliament with a framework within which it can best exercise its oversight role. The Model further enabled Parliament to identify and develop new mechanisms for conducting oversight. And one of the mechanisms identified in the Model is the existence of a committee within Parliament with the distinct mandate of scrutinising the implementation of Executive Undertakings given or made, from time to time, by Ministers or Heads of Government Departments on the floor of the House. And with the rising of the Fifth Parliament, the Committee was given the additional and distinct mandate of scutinising the implementation of Executive Undertakings.

1. **DEFINITIONS**

In these Guidelines, unless the context indicates otherwise, the following words carry the meaning set out below –

“**administrative support staff**” means the administrative support appointed to support the Committee to enable it to perform its functions and duties including but not limited to the Committee Secretary, Committee Researcher, Content advisor assigned to the Committee;

“**Chairperson**”means the Chairperson of the Committee;

“**Committee**” means the Select Committee on Petitions and Executive Undertakings or any other committee of Parliament mandated with scrutinising the implementation of Executive Undertakings and consisting of Members of Parliament;

“**Council**” means the National Council of Provinces;

“**Constitution**”means the Constitution of the Republic of South Africa, 1996 (Act No.108 of 1996);

“**Department**” means a Government Department or state organ or entity;

“**Executive Undertakings**” means any assurances, commitments, resolutions, pledges or promises that are given or made by the Ministers or Heads of Government Departments, from time to time, on the floor of the House. Such executive undertakings may be made or given during question hour, statements, speeches, presentation or tabling of reports and debates, during discussions on Bills, resolutions, motions or any other proceedings of the House;

“**Government**” means the government of the Republic;

“**Guidelines**” means the guidelines contained in this document;

“**Head of Department**” means the Head of a Government Department or state organ or entity;

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

“**Member**” means a member of the National Council of Provinces;

“**Minister**” means a Minister or Deputy Minister of a Government Department;

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

“**prescribed time**” means the time period prescribed by the Committee for the implementation of an Executive Undertaking by a Department;

“**Presiding Officer**” means the Chairperson of the National Council of Provinces;

“**Procedural Officer**” means the Procedural Officer in the National Council of Provinces assigned to assist the Committee in its functions;

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

“**Rules**” means the Rules of the National Council of Provinces as approved by the National Council of Provinces;

“**stipulated time**” means the time stipulated by the Department in relation to the implementation of an Executive Undertaking.

1. **INTEPRETATION**

Any person applying or interpreting these Guidelines must interpret their provisions so as to give effect to sections 42(4), 92(2) and 92(3)(a) and (b) of the Constitution and the relevant Rules of the Council.

1. **COMPOSITION OF COMMITTEE**

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

1. **FUNCTIONS OF THE COMMITTEE**

The functions of the Committee are to:

1. Scrutinise the Executive Undertakings given or made, from time to time, on the floor of the House and ensure proper implementation of those Executive Undertakings.
2. Comment on delays in the implementation of Executive Undertakings and the adequacy of actions taken in relation to the implementation of Executive Undertakings.
3. Report on the extent to which Executive Undertakings have been implemented and where implemented, whether such implementation has taken place within the stipulated or prescribed time; and
4. Exercise such other functions that are not covered by paragraphs (a) and (b) above as may be allotted to the Committee by the Council from time to time.
5. **FORMS OF ASSURANCES**
   1. To determine what constitutes an Executive Undertaking, the Committee has approved a list of standard statements or expressions which constitute Executive Undertakings (see Appendix A hereto).
   2. The stated list, though not exhaustive, serves as a guide for the culling out of Executive Undertakings from the proceedings of the House.
6. **PROCEDURE AND TIME LIMITS**
   1. The Executive Undertakings given or made on the floor of the House are culled out and recorded by the Procedural Officer from the verbatim proceedings of the House using the list of standard statements of expressions referred to in paragraph 6 above and contained in Appendix as a basis.
   2. Thereafter, the culled Executive Undertakings are subsequently communicated to the relevant Department for taking action thereon as well as to the Committee for approval and tabling by the Presiding Officer.
   3. After the Committee has approved and tabled the Executive Undertakings, it will then request the relevant Departments to provide it with periodic progress reports on the implementation of the Executive Undertakings. This is of course provided that the respective Minister or Head of Department has stipulated the time period within which his or her Department will implement the Executive Undertaking given or made.
   4. In the event that a Minister or Head of Department does not stipulate the time period within which his or her Department will implement an Executive Undertaking given or made within one week of receiving notice that such the Executive Undertaking was recorded by the Presiding Officer, the Committee will without delay formally request the relevant Department to stipulate the time period within which it intends to implement the Executive Undertaking. And in the event that a Department fails to stipulate this time period within one week of receiving the Committee’s formal request, the Committee will then at its first sitting thereafter prescribe the time period within which the Executive Undertaking is to be implemented.
   5. In prescribing this time period, the Committee will take into consideration, amongst others, the nature of the Executive Undertaking given or made, the cost implications of the Executive Undertaking and the public interest in the implementation of the Executive Undertaking.
   6. The Committee is the final authority on whether the time period stipulated by a Department for the implementation of an Executive Undertaking is reasonable or not.
   7. The Committee is also the final authority on whether an Executive Undertaking has been implemented within a reasonable time consistent with the nature of the Executive Undertaking.
7. **PROGRESS REPORTS BY DEPARTMENTS**
   1. The Committee may require a Department to provide it with periodic progress reports in relation to the implementation of an Executive Undertaking.
   2. After scrutinising the action taken by a Department to implement an Executive Undertaking, and the extent to which it has actually implemented an Executive Undertaking and whether such implementation has taken place within the prescribed time or stipulated time, the Committee will then form its own conclusions and makes recommendations which will be embodied in the reports it presents to the House.
8. **EXTENSION OF TIME** 
   1. Where a Department foresees a genuine difficulty in implementing an Executive Undertaking within the stipulated or prescribed time, the Department concerned may seek an extension of time from the Committee, indicating the reasons for the desired extension and the probable additional time required, as soon as the need for such extension becomes apparent. Such a request for further extension to the Committee is to be in writing.
   2. The Committee may accede to a Department’s request for the extension of time, for the implementation of an Executive Undertaking, if it deems the request to be a reasonable one.
   3. Because the timely and proper implementation of Executive Undertakings given or made in the House is an important aspect of the entire concept of accountability of Government to Parliament and, therefore, any laxity shown either in not seeking the timely extension of time for the implementation of Executive Undertakings or causing inordinate delays in the implementation of Executive Undertakings, without any valid reasons or failing to furnish the requisite information requested by the Committee, will be viewed in a serious light by the Committee.
9. **DROPPING OF EXECUTIVE UNDERTAKINGS**
   1. If for any valid or plausible reason a Department indicates that it is not feasible for it to implement an Executive Undertaking and places facts before the Committee in support of this, the Committee may recommend for the dropping of an Executive Undertaking from its reports to the House.
   2. The Committee shall have the final authority to decide whether to accede to a request to drop an Executive Undertaking from its reports by a Department.
10. **REGISTER OF EXCUTIVE UNDERTAKINGS**
    1. The particulars of every Executive Undertaking will be entered into a register of Executive Undertakings by the Procedural Officer.
    2. The register of Executive Undertakings shall reflect all the relevant details relating to all Executives Undertaking given or made in the House such as the Executive Undertakings number, source, date, subject, extent of Executive Undertaking, whether or not extension given and date of implementation.
11. **POWERS OF THE COMMITTEE**
    1. The Committee shall determine its own procedure in respect of all matters relating to the consideration of Executive Undertakings.
    2. During the course of scrutinising the Executive Undertakings referred to it, the Committee may undertake a spot study visit or inspection in loco in order to have first-hand information and ascertain facts relating to the implementation of a particular Executive Undertaking.
    3. The Committee shall have the power to require the attendance of any person (including a Minister and Heads of Department) or the production of papers, records or documents from relevant Departments, with a view to obtaining firs-thand information on pending Executive Undertakings and ensuring their timeous implementation.
12. **REPORT OF THE COMMITTEE**
    1. In accordance with Rule 102 of the Rules, the Committee is obliged to submit reports to the Council in relation to the progress made in the implementation of Executive Undertakings referred to it. The Committee shall submit such reports on a quarterly basis or at the first opportunity after a Department has submitted its progress report as envisaged in paragraph 8 above.
    2. Apart from specific cases of Executive Undertakings, the quarterly report by the Committee shall contain information and analysis on, amongst others, instances where Departments have taken a long time in implementing an Executive Undertakings, requests for extension of time in the implementation of Executive Undertakings, Executive Undertakings which do not appear to have been fully or satisfactorily implemented, reviews on pending Executive Undertakings and Executive Undertakings which have been recommended for dropping.
    3. The report of the Committee shall be presented to the House by the Chairperson of the Committee, or in his absence, any Member of the Committee.
13. **DISSOLUTION OF THE HOUSE**

In accordance with established Parliamentary practice, the Executive Undertakings given or made by Ministers or Heads of Government Departments on the floor of the House, which remain pending in their implementation by Departments, do not lapse upon the dissolution of the House. They are therefore pursued by the Committee nominated soon after the rising of the new House.

**APPENDIX A**

**Standard List of Statements or Expressions Constituting Executive Undertakings as Approved by the Committee**:

1. The matter is under consideration.
2. I shall look into it.
3. Enquiries are being made.
4. I shall inform the Honourable Member.
5. This is primarily the concern of the Department.
6. I shall write to the Department.
7. I assure the House all suggestions by Honourable Members will be carefully considered.
8. I shall study the conditions on the spot during my tour.
9. I shall consider the matter.
10. I will suggest to the department.
11. We will put the matter in the shape of a resolution.
12. I shall see what can be done about it.
13. I will look into the matter before I can say something.
14. The suggestions will be taken into consideration.
15. The matter will be considered at the……..to be held on……….
16. The matter is still under examination and if anything is required to be done, it will certainly be done.
17. The matter will be taken up with the Department of ………….
18. I have no information, but I am prepared to look into the matter.
19. Efforts are being made to collect the necessary data.
20. The suggestion will be borne in mind while framing the rules.
21. If the Honourable Member so desires, I can issue further instructions.
22. Copy of the report, when finalised, will be placed in the Library of Parliament.
23. I shall supply it to Honourable Members.
24. I think it can be done.
25. We shall have to find that out.
26. I will draw the attention of the Department who I hope will take adequate steps in this direction.
27. It is a suggestion for action which will be considered.
28. All the points raised by various Members will be considered and the results will be communicated to each Member.
29. Information is being collected and will be laid on the Table of the House.
30. I am reviewing the position.
31. In future their demands will be considered/examined.
32. The case is pending in Court. Steps will be taken to bring the case to its final disposal early.
33. Certainly, action will be taken.
34. It will be executed during the current financial year.
35. It will be included in the…… (year) Budget.
36. It is will be examined in accordance with the financial position.
37. It may be considered after taking into account of the financial resources.
38. All specific points on which information is asked for and promised.

**Adopted on 28 October 2015.**