**Proposals on Procedures for Motions with without Notice**

Prepared for the Subcommittee on the Review of the National Assembly Rules

*(14 September 2016)*

1. **Background**

On 6 September 2016 the National Assembly Rules Committee (the NARC) met to consider, *inter alia*, the procedure for motions without notice. The NARC agreed that the procedure should be referred to the Subcommittee on the Review of the National Assembly Rules (the Subcommittee) for further consideration. It was also agreed that motions without notice would not be scheduled in the House until the procedure was agreed. The National Assembly is scheduled to meet again on 25 October 2016. At the meeting of the NARC received a briefing document on the concept and challenges with notices of motion. This document is attached with the draft NARC minutes.

1. **Decisions of the Rules Committee**

On 6 September 2016, the NARC also agreed that there would be opportunity for 22 motions without notice on days when motions without notice are programmed. In terms of the agreement every party would be given an opportunity to move a motion (provided it complied with the procedural requirements). The sequence will be as follows:

**ANC, DA, EFF, ANC, IFP, NFP, ANC, EFF, UDM, FF Plus, DA, ANC, Cope, ACDP, ANC, AIC, Agang SA, ANC, APC, PAC, DA and ANC.**

It should be noted that whereas 22 opportunities may be provided these need not always be used.

**3. Options for a Procedure on Motions without Notice**

With reference to the discussions at the NARC and the attached minutes and briefing document, a number of options for a procedure for motions without notice seem possible. The procedure can be broadly divided into two stages: dispensing with notice and decision-making in the House. Importantly, the stages are interrelated: the extent of notice has a direct influence on the possibility and need for divisions in the House.

1. **Dispensing with Notice**

As mentioned above, all motions should have notice. Motions without notice therefore require a certain threshold of support, if not unanimous concurrence, before they can be read and moved.

**Option A:** One option is therefore to provide that if any party or member objects to the motion during the circulation process than it cannot be read in the House. This option essentially rests on the principle of unanimous concurrence and requires a measure of political cooperation. This option would also facilitate decision-making in the House.

**Option B:** If this option is not considered desirable a further option would be to amend the rules to provide that if the Majority Party, Largest Opposition Party and three other parties register an objection to a motion during circulation than it cannot be read in the House. This option would place a burden on parties to indicate their objection on each motion as well as the administration who would have to collate and distribute objections each day so that parties would know which motions can be read.

1. **Decision-Making in the House**

As mentioned above, voting on a motion without notice in the House would not necessarily be desirable as it would suggest that the motion is too controversial and should therefore be delivered as a notice. At the same time, it would be unconstitutional to allow motions to be moved in the House without parties having an opportunity to state their objection or divide if necessary. Importantly, objections and the need for divisions would be informed by the extent to which notice is dispensed with (see above). In this regard there seem to be two options available regarding decision-making in the House on motions without notice.

**Option A:** Should a motion meet the procedural requirements for notice it can be moved in the House. Should any party or member then wish to state an objection to the motion being moved, however, the question would not be put for decision but the motion would be transferred to a notice of a motion. Parties could, at least theoretically, have no objection to the motion be moved but still disagree with the contents. In this case the question should be put and a division may be necessary.

**Option B:** A further possibility would be to allow motions, provided they met the procedural requirements, to be moved but stipulate that objections only be allowed and divisions not be permitted. This option would, however, arguably infringe on the rights of parties and members to call for and record their vote.

**Option C:** Another possibility would be to provide that, should a motion meet the procedural requirements for notice, the motion can be moved in the House. The presiding officer would then indicate that the motion is in order and put the question to the House for decision. As noted, the use of this option and the need for divisions would be informed by the extent of agreement regarding the issue of notice.

If no party has voiced an objection during the circulation of a motion than it would be unlikely to lead to a division in the House (see option 3 (1) (A) above). Should the requisite number of objections not be received from the Majority Party, the Largest Opposition Party and three other parties (see 3 (1)(b)) then the possibility of a division maybe diminished but remains possible. Only one party need object and call for a division (provided 4 members supported the call).