

**STATUS REPORT ON WORK OF AD HOC COMMITTEE ON REVIEW OF
POWERS AND PRIVILEGES ACT**

10 October 2017

1. BACKGROUND

On 19 May 2016, the National Assembly established an Ad Hoc Committee on the Review of the Powers and Privileges Act to review the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act (No 4 of 2004) (“the Act”), taking into account the Constitutional Court judgment in *Democratic Alliance v Speaker of National Assembly and Others* [2016] ZACC 8, to bring the Act in line with developments relating to parliamentary powers and privileges, and introduce a bill in accordance with Chapter 13 of the Assembly Rules.

The Committee, at its first meeting on 27 May 2016, discussed its terms of reference and, inter alia, agreed that a comparative study on parliamentary powers and privileges could facilitate its task of reviewing the Act. In this regard, the National Assembly Table (NA Table) undertook a comparative study on international experiences relating to parliamentary powers and privileges. The study also looked at recent developments in these Parliaments in respect of powers and privileges. A questionnaire consisting of five questions was sent to several Parliaments, and responses were received from Kenya, the United Kingdom, Canada, Australia and New Zealand. The research paper was circulated to members of the Committee on 24 March 2017.

The Committee held its second meeting on 2 September 2016. At this meeting, the Constitutional and Legal Services Division [“Legal Services”] presented an overview of the Constitutional Court judgment (*Democratic Alliance v Speaker of the National Assembly and Others* (CCT86/15) [2016] ZACC 8 (18 March 2016)) and its impact on the Act. The Committee Bill process and timeframes were also outlined, taking into consideration the deadline set by the Assembly for the Committee to complete its task.

The Committee held its third meeting on 14 September 2016 and received a briefing from Legal Services on the minority judgment pertaining to *Democratic Alliance v Speaker of the National Assembly and Others* (CCT86/15) [2016] ZACC 8 (18 March 2016). The legal advisers further highlighted the provisions of the Act that were directly impacted upon by the court judgment, and presented proposals for amending provisions of the Act that required corrections. No further meetings were held after 14 September 2016.

2. TIMEFRAMES

The timeframe set by the Assembly for the Committee to complete its task of reviewing the Act was **28 October 2016**. The Committee however was unable to meet this deadline as it still needed to complete certain tasks, namely, conduct a detailed clause by clause analysis of the Act, and receive a briefing on the comparative research. Furthermore, inputs from

political parties within Parliament as well as the provincial legislatures were requested and still needed to be considered by the Committee.

In light of the above, the Committee requested an extension of its deadline to complete its task by **30 June 2017**. This request was agreed to by the Assembly on 25 October 2016. The Committee however has been unable to schedule meetings in 2017 due to the congested parliamentary programme. The Committee did not meet its second deadline of **30 June 2017** and was granted a further extension to **30 November 2017**.

3. COMMENTS FROM POLITICAL PARTIES

In order to ensure an effective review of the Act, the Chairperson, on behalf of the Committee, made a formal call for submissions from political parties within Parliament and the Provincial Legislatures on sections of the Act that they felt needed to be reviewed and any other proposals they wished to make related to the Act. The memorandum requesting inputs from the provincial legislatures was not processed by the presiding officers. Parties were given until 30 June 2017 to submit responses. To date, no responses have been received from political parties.

4. RECENTLY SCHEDULED MEETINGS

The Committee was scheduled to meet on Tuesday, 31 October 2017 but due to prior commitments, most members were not available. The meeting was postponed and scheduled for Thursday, 2 November 2017. Due to the unavailability of members, the meeting of 2 November 2017 was cancelled.

5. WORK STILL TO BE DONE BY THE AD HOC COMMITTEE

Presentations in respect of the comparative study on international best practices on parliamentary powers and privileges, and proposed amendments to the Act must still be presented to the Committee. A draft Bill (Committee Bill) for consideration by the National Assembly and the National Council of Provinces must still be formulated.
