



NATIONAL ASSEMBLY PROGRAMME COMMITTEE

Chairperson:
Speaker

Committee Secretary:
A Mbanga x 3218

DRAFT MINUTES OF PROCEEDINGS

Thursday, 18 October 2018, E249

Present:

S L Tsenoli (Deputy Speaker)

Bhengu, F	Mazzone, N W A
Frolick, C T (House Chairperson)	Mthembu, J M (Chief Whip of the Majority Party)
Khubisa, Prof N M	Singh, N
Koornhof, Dr G W (Parliamentary Counsellor to the President)	Steenhuisen, J H (Chief Whip of the Opposition)

Staff in attendance:

M Xaso (NA Table), Dr T Ganyaza-Twalo (Committees), N Bell and Adv C R van der Merwe (Constitutional and Legal Services Office).

1. Opening remarks

The Deputy Speaker opened the meeting at 08:32 and welcomed all present.

2. Apologies

Apologies were tendered on behalf of the Speaker, House Chairpersons Ms A T Didiza and M G Boroto, Ms D E Dlakude (Deputy Chief Whip of the Majority Party), Messrs E I Ebrahim (Parliamentary Counsellor to the Deputy President), M Waters and N L S Kwankwa.

3. Consideration of draft agenda

The draft agenda was adopted as proposed.

4. Consideration of draft Minutes of 6 September 2018

On the proposal of Mr Bhengu, seconded by Mr Singh, the minutes of 6 September were adopted with a textual correction that 'Questions to the Deputy President were scheduled for Wednesday, 12 September' instead of Questions to the President was scheduled for that day.

5. Matters arising

The Chief Whip of the Opposition asked if there had been progress in the filling of the vacancy of the Chairperson of the Joint Standing Committee on Intelligence, which occurred due to the resignation of Mr C Nqakula. He further indicated that in the absence of a chairperson the committee was not able to convene and had therefore not met for three months. The Chief Whip of the Majority Party reported that the delay was due to the vetting process required before an appointment could be made and he requested that the Deputy Speaker raise the matter with the relevant authorities in order to facilitate the conclusion of these processes as speedily as possible.

6. Report by the Committee Section

In her presentation on Bills and other matters before committees, Dr Ganyaza-Twalo highlighted the following:

The Joint Constitutional Review Committee on Review of Section 25 of the Constitution would be hearing additional oral representations on 25 and 26 October and a presentation on the consolidated report was proposed for 30 October. The Ad Hoc Joint Committee on Parliamentary and Provincial Medical Aid Scheme Act (Parmed) had established a subcommittee to facilitate its deliberations. The Ad Hoc Committee on the Filling of Vacancies in the Commission for Gender Equality would be electing a chairperson on 24 October and intended to finalise its report by 16 November.

The Portfolio Committee on Communications would be interviewing candidates for the filling of vacancies on the Boards of the South African Broadcasting Corporation and Media Development and Diversity Agency, respectively, on 30 October.

The Chief Whip of the Opposition asked when the draft report of the Portfolio Committee on Public Enterprises on the Eskom inquiry would be considered by the committee. It was further indicated that a great deal of resources had been used and credible work had been done by this committee and its findings could possibly be of use to other inquiries such as the Zondo Commission of Inquiry on State Capture. It was stated that it would be desirable for the report to be considered by the House before the end of the term of the Fifth Parliament. House Chairperson Mr Frolick indicated that the committee had made a request to meet to consider the draft report in the coming weeks.

The Chief Whip of the Opposition asked why the Portfolio Committee on Water and Sanitation

had held a closed meeting the previous day as the information shared in the meeting was not of such a nature that it warranted closure of the meeting in terms of Assembly Rule 184. He said that applications to close meetings should be carefully considered and balanced against the requirements of the Constitution and the rules of Parliament and that the institution should rather err on the side of transparency.

House Chairperson Mr Frolick clarified that the request was made on the basis of briefings by the Special Investigation Unit's ongoing investigations done by the National Prosecuting Authority and a briefing by the Directorate of Priority Crimes on its own investigations.

House Chairperson Mr Frolick also indicated that acceptance of such requests were granted in exceptional cases. Ordinarily, all meetings are open to the public but that he did not have the benefit of hindsight to know what was actually discussed at the meeting. He added that there was sufficient ground for the Portfolio Committee on Water and Sanitation to meet in closed session. The Chairperson of the Committee would be consulted to obtain feedback on how the meeting proceeded. He also proposed that there should be cooperation between members of the committee, as a decision was made that the meeting would be closed prior to that.

The Chief Whip of the Majority Party added that committees should first undergo a consultative process regarding the closing of a meeting and that the announcement in parliamentary papers should be clear that such a meeting would be closed so as to avoid any inconvenience to the media and the public. He said that what was disturbing and aggravated the matter was that a large number of members of the Protection Services unit were called in. The Chief Whip of the Opposition added that the Chairperson of the Committee should report to House Chairperson Mr Frolick on the matters raised. House Chairperson Mr Frolick indicated that he would be meeting with members of the Parliamentary Press Gallery Association later that day for discussions on the matter. The Chief Whip of the Majority Party was in agreement that sufficient notice of a meeting being held in closed session should be given and that the presence of the Parliamentary Protection Services at committee meetings should be managed, taking into account the circumstances of each meeting.

7. Report by Bills Office

Mr Bell presented a report on Bills before committees and indicated that the *Electronic Communications Amendment Bill*, *Child Justice Amendment Bill* and *Electoral Laws Amendment Bill* had recently been introduced.

Constitutional Court deadlines

Adv Van der Merwe presented a report on legislation with Constitutional Court deadlines and highlighted the following:

- (1) Drugs and Drug Trafficking Act 140 of 1992 -ss 4(b) and 5(b) read with Part III of Schedule 2 and Medicines and Related Substances Control Act 101 of 1965 – s22A(9)(a)(1)
A Bill had not yet been introduced.
- (2) National Prosecuting Authority Act, 1998 (Act No. 32 of 1998) - Section 12(6)
A Bill had not yet been introduced.
- (3) Promotion of Access to Information Act 2 of 2000
A Bill had not yet been introduced.
- (4) Criminal Procedure Act 51 of 1977 — section 18
The *Criminal Procedure Amendment Bill* [B15-2018] deals with the matter. It is currently before the Portfolio Committee on Justice and Correctional Services.
- (5) Recognition of Customary Marriages Act 120 of 1998 - section 7(1)
The department advertised a draft Bill in April for comment.
- (6) Immigration Act 13 of 2002 - Section 34(1)(b) and (d)
The Portfolio Committee on Home Affairs is processing a Committee Bill and the department was consulting further to consider the policy that will inform the Bill.
- (7) Local Government: Municipal Systems Amendment Act 7 of 2011
A Bill had not yet been introduced and the Chairperson of the Portfolio Committee on Cooperative Governance and Traditional Affairs was consulting with the Minister on the delay in introducing the Bill. The deadline is 8 March 2019.
- (8) The Restitution of Land Rights Amendment Act, 2014 (Act No. 15 of 2014)
A Private Member's Bill [B19-2017] is currently being processed by the Portfolio Committee on Rural Development and Land Reform.
- (9) Independent Police Investigative Directorate Act 1 of 2011 - Sections 6(3)(a) and 6(6)
The *Independent Police Investigative Directorate Amendment Bill* [B25-2018] is currently before the Select Committee on Security and Justice. To allow the National Council of Provinces sufficient time to process it, an application is before the Constitutional Court for extension of the deadline.
- (10) Estate Agency Affairs Act, 1976 (Act No. 112 of 1976) - Section 32A
The *Property Practitioners Bill* [B21-2018] is currently being considered by the Portfolio Committee on Human Settlements and is part of the prioritised legislation.

The Deputy Speaker enquired as to what the implications of the judgment on the use or otherwise of cannabis or hemp were for Parliament. Adv Van der Merwe explained that hemp

was not affected by the legislation as it was classified as a different product and available on the shelves for sale.

Mr Singh indicated that he was concerned about the non-compliance by Parliament with the Constitutional Court deadlines, and requested a report on the Local Government: Municipal Systems Amendment Act 7 of 2011 in the following week, with detailed timeframes. The Deputy Speaker also indicated that presiding officers should be made aware of any matters that require their attention as soon as possible, as far as requests for extension of deadlines were concerned.

The Chief Whip of the Majority Party indicated that it was costly for Parliament to advertise separately for public hearings in the two Houses and proposed that consideration be given to joint advertising. The Chief Whip of the Opposition stated that the two Houses were created constitutionally and that it was therefore appropriate for the other House to conduct its own and distinct processes. He said that he concurred that it was costly, but Parliament should be careful not to fuse the distinctive roles of the two Houses.

8. Consideration of draft Parliamentary programme

Mr Bhengu presented the draft programme for the Fourth Term and highlighted the following:

Questions to the President, which were initially scheduled for that afternoon, were rescheduled for 6 November.

The Second Reading debate on the *Competition Amendment Bill*, consideration of *Plant Improvement Bill* and *Plant Breeders' Rights Bill*, the *Report of the Portfolio Committee on Trade and Industry and Standing Committee on Finance on Review of 2002 Southern African Customs Union (SACU) Agreement*, *Agreement establishing the African Continental Free Trade Area (AFCFTA)* and *Agreement Amending Annex 1 (Co-Operation on Investment) of the SADC Protocol on Finance and Investment (FIP)*; including the *Protocol on Finance and Investment* as well as a debate on “*The VBS Mutual Bank Report titled “The Great Bank Heist”, as a matter of importance*” were scheduled for Tuesday, 23 October.

The Medium Term Budget Policy Statement was scheduled for Wednesday, 24 October.

The following reports of Portfolio Committee on Justice and Correctional Services were scheduled for Thursday, 25 October:

- *Provisional suspension from office of Mr M D Hinxha, Chief Magistrate at Bloemfontein in terms of section 13(3)(b) of Magistrates Act, 1993*

- *Provisional suspension from office of Ms L B Freeman, Senior Magistrate in Mossel Bay in terms of section 13(3)(b) of Magistrates Act, 1993*
- *Withholding of remuneration of Mr M J Kgomo, Additional Magistrate at Randburg, in terms of section 13(4A)(b) of Magistrates Act, 1993*
- *Suspension from office of Mr I W O M Morake, Magistrate at Lichtenburg in terms of section 13(4)(a)(i) of Magistrates Act, 1993*
- *Withholding of remuneration of Ms V T Gqiba, Chief Magistrate in East London in terms of section 13(4A)(b) of Magistrates Act, 1993*
- *Withholding of remuneration of Ms J F van Schalkwyk, Chief Magistrate at Kempton Park in terms of section 13(4A)(b) of Magistrates Act, 1993*

Questions to the Deputy President, which were initially scheduled for 25 October, were rescheduled for 15 November.

The Chief Whip of the Opposition suggested that, based on the document on Bills to be Prioritised by Parliament in 2018, there should be serious consideration for an additional sitting week in December in order to finalise the prioritised 18 pieces of legislation listed on the document. The Deputy Speaker clarified that most of the Bills were already before committees, but that it was merely a request from the Executive for them to be prioritised. The Chief Whip of the Majority indicated that he would have preferred that the document was in the name of the Leader of Government Business and that the deadline for passing of legislation in the current term, namely 30 May 2018, had passed. The Deputy Speaker explained that parliamentary counsellors in the presidency were in a position to advise Parliament on behalf of their principals as provided for in the rules.

Mr Xaso advised that a motion on the extension of the reporting deadline of the Constitutional Review Committee on Review of Section 25 of the Constitution and the re-establishment of the Ad Hoc Joint Committee on Parmed, which had ceased to exist as its reporting date had passed, would have to be considered by the House in the following week. The Chief Whip of the Majority Party proposed that the deadlines for both structures to report should be 30 November 2018.

9. Announcements

The Deputy Speaker announced that Mr Moss Chikane, a former Member of Parliament and ambassador to Germany, had passed away that morning.

10. Closure

The meeting adjourned at 09:40.