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**Draft Report of Subcommittee on Review of Rules of National Council of Provinces**

This report of the Subcommittee reflects the progress made as at 10 September 2019.

**Matters to be revisited by the Subcommittee:**

* Incorporation of e-petition process into the petitions guidelines.
* Proposed rule on physical division in instances where the electronic system is not functional.
* Alignment of the rules to the conventions of the NCOP.

**Amongst others, the following proposed amendments were agreed to:**

* **Proposed Rule 13A (1), Functions of the Chief Whip**. It was agreed that the roles and functions of Chief Whip should not be detailed in the rules. Overarching provisions should be drafted in order to allow flexibility.

* **Rule 13B (1**) **Acting Chief Whip**: The current proposed amendment was agreed to, which allows for the appointment of the Acting Chief Whip.
* **Rule 13D (1)** **Appointment of Provincial Whips:** It was agreed that the current system of appointment of the Provincial Whips in consultation with the provincial legislatures should be retained.
* **Rotating Deputy Chairperson:** It was agreed that this matter should be dealt with as a matter of policy because it would necessitate amendment of the Constitution.
* **Roles and Functions of Deputy Chairperson and House Chairpersons:** It was agreed that Rules 14A and 14B should be amended to make provision for general functions of the House Chairpersons. Further, that, other roles and responsibilities may be published in the ATC.
* **Leave of absence:** It was agreed that leave of absence should be dealt with within the meaning of section 62(4)(e) of the Constitution read with rule 17 of the Council Rules. Other matters relating to leave of absence may be dealt with in accordance with the Leave Policy of Parliament.
* **Proposed rule 38A, Rule on removal of a member:** It was agreed that the current rules 37 and 38 are sufficient to deal with removal of a member.
* **Procedure for a division (rule 65) - Ringing of Bells:** It was agreed that the rule 65(a) (regarding time allocated for ringing of Bells during Division) may when necessary, be suspended in terms of rule 3 after consultation with the Provincial Whips.
* **Rule 93A, Removal of Committee Chairperson:** It was agreed that it may be undesirable to have a rule to this effect as it may have unintended consequences.
* **Proposal for amendment of rule 238:** It was agreed that rule 238 should be amended to make it clearer to deal with the lapsing of bills as well as any other business that was before the Council at the time when the term of NCOP ends.
* **Chapter 1: Definitions agreed to by the Subcommittee:**
* **Chief Whip** means the Chief Whip of the Council referred to in Rule 13.
* **Constituency day** means a day determined by the Programme Committee or by resolution of the Council on which no business of the Council is scheduled, unless determined otherwise.
* **Constituency period** means a period determined by the Programme Committee or by resolution of the Council during which the business of the Council is interrupted.
* **Head of Delegation** meansa Premier or a member of the province’s delegation designated by the Premier as stated in section 60(3) of the Constitution.
* **Leave period** means a period determined by the Programme Committee or by resolution of the Council as a leave period during which the business of the Council is interrupted.
* **Motion** means a proposal made by a delegate that the House or a committee thereof do something, order something to be done or express an opinion concerning a particular matter;
* **Notice of motion** means a notice given on any sitting day for a motion to be moved on the next succeeding sitting day and is usually preceded by the words “Honourable Chairperson I hereby give notice that I shall move in the next sitting that the House.”
* **Motion without notice** means a proposal made by a delegate that the House or a committee thereof do something, order something to be done or express an opinion concerning a particular matter and is usually preceded by the words “Honourable Chairperson I hereby move without notice that the House.
* **Parliamentary Protection Services** means any person employed, appointed, assigned, delegated or contracted by Parliament to perform security and protection functions within the precincts of Parliament
* **Party Representative** means a delegate, other than a Provincial Whip, representing a party in any structure established by the Council.
* **Petition** means a complaint or request or a representation or a submission addressed by a petitioner to the Committee/Council seeking redress on any matter falling within the jurisdiction of the Council.
* **Programming Whip** means the Whip responsible for programming matters in the Council referred to in Rule 13C.
* **Provincial Whip** means a permanent delegate to the Council who is appointed as a whip of the provincial delegation and acts as a link between the Council and a Provincial Legislature.
* **The Whippery** consists of the Chief Whip, Programming Whip, Provincial Whips and the Party Representatives.

**Chapter 2: Presiding and Other Officers**

Throughout the Rule Book the term **“member”** has been revised to read **“delegate.”**

Rules amended 6, 7, 8, 9, 10, 11, 12, 13, 14.

**Additional rules proposed:**

1. 13A. Functions of the Chief Whip of the Council
2. 13B. Acting Chief Whip -
3. 13C. The Whippery
4. 13E. Functions of Provincial Whip
5. 13F. Functions of Acting Provincial Whip

**Chapter 3: Council Members**

Proposed amendments to rules 15, 16, 17.

**Additional rule proposed:**

1. 17A Loss of membership due to absence from sittings of the committees and House.

**Chapter 4: Sittings of the Council**

Consequential amendments are proposed from rules 18, 21 to 29.

**Chapter 5: Order in the meetings and rules of debate**

Consequential amendments are proposed from rules 30 to 39.

Further amendments are proposed to rules 40, 42, 44 and 53.

**Additional rule proposed:**

1. **53A. Points of order –** The Subcommittee requested that the Rule be expanded in order to regulate the manner in which delegates could address the Chairperson when rising on a point of privilege. Members further requested that the draft rules developed in order to regulate the manner in which points of order can be raised in the House.

**Chapter 6: Decisions and Question**

Consequential amendments are proposed to rules 60 to 74.

Proposed deletion of original rule 62.

Further amendments are proposed to rules 69, 70, 71,72 and 73.

**Chapter 7: Motions**

Consequential amendments are proposed to rules 74, 77, 78, 79, 80, 82 and 83.

**Chapter 8: Matters of public importance affecting provinces**

Proposed amendment to the title/heading of the Chapter.

Deletion of rule 83. The Rule has become obsolete as the State of the Nation Address is currently debated jointly.

Proposed amendments to rule 84 and 85.

**Chapter 9: Committee System**

Proposed amendments to rules 86 to 102, 108,109,110, 121 to 138, 141 to 145.

Proposed deletion of rules 102, (3), 103 (2) (a) (b) (3), 104(2)(3)(a)(b)(4), 105, 117(2),

118(a)(i)(ii)(iv)(b)(c)(e)(g),119,120(a)-(g)(4)(5), 114(4)(c).

**Rules rendered obsolete due to the creation of new structures:**

Original rule 122, 125, rule 129 to rule 140.

**Additional proposed rules:**

a. Part 6A Committees on Finance

1. Part 6B Committee on Appropriations

**Chapter 10: Legislative Process**

Proposed amendments to rules 151 to 200.

Proposed deletion of original rule 167,170,173,174,177,192 to 211, 217 to 228.

**Chapter 11: Questions**

Proposed amendments to rules 201 to 205.

**Additional proposed rules:**

1. 211 Questions to the President
2. 212 Questions the Deputy President
3. 209 Questions to Cabinet Ministers

Consequential amendments are proposed to rules 217 to 215.

**Chapter 12: Miscellaneous**

Proposed amendments to rules 219 to 236.

**Annexures for consideration:**

1. Procedure to be followed in the investigation and determination of allegations of misconduct and contempt of Parliament.
2. Draft guidelines on petitions.
3. Draft guidelines on executive undertakings.
4. Standard Operating Procedures as per Rule 38.