**Report of the Subcommittee on Physical Removal of Member from Chamber on Removal of members from Committee Room E249 during mini-plenary debate on Budget Vote 11: Public Enterprises on 11 July 2019, as adopted on 25 July 2019**

1. **Background**

The Subcommittee must consider the circumstances of the physical removal of a member from the Chamber as reported to it by the Speaker in terms of Rule 73(12), taking into account all relevant aspects including the conduct of the member concerned; the ruling by the relevant presiding officer; and the manner in which the member was removed.

In carrying out its function, the Subcommittee may exercise such powers contained in Rule 167, as it may require. It is important to note that the Subcommittee’s mandate in considering the circumstances referred to it does not extend to disciplinary proceedings against the member nor a formal review of the presiding officer’s ruling.

The National Assembly Rules (9th Edition) defines the “Chamber” to mean the Chamber of the National Assembly or any other Chamber in which proceedings of the House and its forums are conducted.

**B. Introduction**

The Speaker referred the circumstances of the physical removal of members of the Economic Freedom Fighters from the mini-plenary on Vote 9 – Public Enterprises on Thursday, 11 July 2019, together with the unrevised Hansard, Minutes of the Proceedings and a video recording of the proceedings in question to the Subcommittee on Physical Removal of Member from Chamber for consideration, in terms of Assembly Rule 73(12).

The Subcommittee met on 24 July 2019 in order to consider the circumstances of the physical removal of the members, as referred to it by the Speaker. The members of the Subcommittee viewed the video recording of the incident and considered House Chairperson Boroto’s report on the incident (presiding officer), as well as the contextual remarks pertaining to the incident and the confirmation of the Subcommittee’s functions and powers as outlined by the Undersecretary to the National Assembly Table, Mr C Mahlangu. It was noted that the Whip from the Economic Freedom Fighters (EFF) was not present at the meetings, and that he had not tendered an apology.

1. **Findings**

The following members involved in the incident were identified in terms of the Hansard and the video footage: Mr N S Matiase, MP, Mr M N Paulsen, MP, Mrs N K F Hlonyana, MP, Ms R N Komane, MP, Mr K Ceza, MP, Mr M M Chabangu, MP, Ms M S Khawula, MP, Mr T M Langa, MP, Mr B S Madlingozi, MP, Mrs M R Mohlala, MP, Ms M O Mokause, MP, Mrs S M Mokgotho, MP, Mr H A Shembeni, MP, Ms N P Sonti, MP, Dr S S Thembekwayo, MP, Mrs L F Tito, MP, Mr M K Montwedi, MP, Mrs T P Msane, MP, Mr D F Mthenjane, MP, Adv T E Muluadzi, MP, Mrs N J Nolutshungu, MP and Mrs Y N Yako, MP.

It was noted that the facilities available to the presiding officer in the Committee Room E249 were not the same as that available in National Assembly Chamber, i.e. there is no button that the presiding officer could press to control the microphones in the Committee Room E249, as provided for in terms of Rule 80. The rule provides that in the event of a member not showing due respect to the authority of or not obeying an order or ruling or direction of the presiding officer, or acting in a disruptive or grossly disorderly manner in the House, the presiding officer may disable or switch off the microphone being used by such member or order that that be done.

The Subcommittee unanimously agreed that the presiding officer’s ruling, that the members be removed from the Chamber, was correct. It was found that she was patient and listened to the points of order members had raised. In instances where she had ruled on a point of order, with her ruling being final, members should not have stood up to raise further points of order on the same matter. When Mr Matiase, MP indicated that the presiding officer must name each member individually, she complied with his request and started by naming him. He then proceeded onto the floor of the Chamber in the direction of the podium where the Minister was standing, with other EFF members following him. The behaviour of the EFF members exceeded the grounds of reasonableness and could have turned violent.

Members of the Subcommittee viewed the action of the EFF members to enter the floor space of the Chamber, and stand in front of the Minister, thereby preventing him from speaking, as intimidating. It was argued that their actions posed a threat of violence potentially breaking out during the proceedings of the mini-plenary. It was observed that members from other parties had joined the Minister on the floor, presumably to protect the Minister, in view of the imminent threat posed by the EFF members.

The removal of the EFF members from the Chamber was consistent with Rule 70(1), in that the members were deliberately contravening a provision of the Rules and disregarding the authority of the Chair. Due to the imminent threat of violence breaking out during the proceedings, the presiding officer was correct to call in the Parliamentary Protection Services to remove the members.

Although Rule 70(2) requires that members who are ordered to withdraw from the Chamber must immediately withdraw from the precincts of Parliament, it was noted that some of the EFF members removed from the mini-plenary attended another mini-plenary debate in the National Assembly Chamber thereafter. This is also a breach of Rule 73(9), which requires that members physically removed from the Chamber be escorted off the precincts by the Parliamentary Protection Services and are not allowed to enter the House or the precincts of Parliament as the rules prescribe. In this instance, it would have been for the remainder of the day.

1. **Conclusion**

Having considered the Hansard, the Report of the presiding officer and having viewed the video recording of the proceedings, the Subcommittee concluded that the presiding officer had no choice but to order the removal of the members from the Chamber. The manner in which the members were removed was in line with the rules that pertain to the removal of a member and did not result in any harm to person or property.

1. **Recommendations**

The Subcommittee recommends the following to the National Assembly Rules Committee for consideration:

1. There should be a review of the Rules to ensure that rules ‘touch the pockets of members’ in circumstances such as the one referred to the Subcommittee.
2. Deliberately stepping onto the floor of the House to prevent a member from performing his or her duties, should be made an offence as the sanctity of the floor deliberately existed to allow members to speak freely.
3. The movement of the EFF members onto the floor space of the Chamber, to prevent the Minister from delivering his speech and/or to intimidate him, constituted a breach of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004, and the Speaker should refer this matter to the Powers and Privileges Committee, as this amounts to a violation of parliamentary privileges.
4. The facilities available in the mini-plenary venues should be the same as those available in the National Assembly Chamber. Specifically, a ‘mute’ button should be installed in these venues as the presiding officer should be able to control the microphones of members, as provided for in Assembly Rule 80.
5. Parliamentary Protection Services personnel should at all times be stationed outside the meeting venues of mini-plenaries and committee meetings, as is the case with plenary meetings of the Assembly. Furthermore, they should escort members, including large groups, who have been removed from the Chamber or committee meeting, off from the precincts of Parliament, in line with Assembly Rule 73(9).
6. Parliamentary Protection Services personnel should wear uniforms, in order for them to be clearly identifiable at all times especially when they are required to remove members from the Chamber or a committee meeting.