Powers and Privileges Committee Hearings

INDEX

1.	Minutes of Proceeding of Mini-plenary of NA 11 July 2020	1-2
2.	Affidavit – Lesley Anne Brian	3-4
3.	Unrevised Hansard Mini-plenary Vote 9 – Public Enterprises E259 on 11 July 2019	5-96
4.	Affidavit – Sinovuyo Tshomela	97-98
5.	Affidavit – Zonwabele Mngese	99-101
6.	ATC of 15 July 2019 Referral of matter to Subcommittee on Physical Removal of Member from Chamber	102-196
7.	Report of House Chairperson MG Boroto as Presiding Officer on Incident of 11 July 2019	197-218
8.	Final Report of Subcommittee on Physical Removal of member from Chamber on removal of members 11 July 2019	219-222
9.	Draft minutes of NARC of 10 September 2019	223-229
10.	Adopted minutes of Powers and Privileges Committee Meeting 25 February 2020	230-232
11.	Adopted minutes of Meeting of PPC 4 March 2020	233-237
12.	Draft minutes of Meeting of PPC 11 March 2020	238-242
13.	Draft minutes of Meeting of PPC 15 September 2020	243-250
14.	NA Rules 9th Edition	251-490
15.	Photobook of Assembly EFF members as on 18 September 2019	491-497
16.	Notifications of charges	498-601

17.	Letter to Acting Secretary of Parliament – 11 November 2020	602-604
18.	Acting Secretary's Response – sent on 12 November 2020	605-607
19.	Letter to Acting Secretary of Parliament – 13 November 2020	608-614
20.	Acting Secretary's Response – 16 November 2020	615-618
21.	Letter to Acting Secretary of Parliament – 18 November 2020	619-626
22.	Acting Secretary's Response – 19 November 2020	627-629
23.	Letter to Acting Secretary of Parliament – 23 November 2020	630-631
24.	Letter to Acting Secretary of Parliament – 24 November 2020	632

REPUBLIC OF SOUTH AFRICA

MINUTES OF PROCEEDINGS

OF

MINI PLENARY SESSION

OF

NATIONAL ASSEMBLY

THURSDAY, 11 JULY 2019

1. Members of the mini-plenary session met in Committee Room E249 at 16:43.

2. House Chairperson Ms M G Boroto took the Chair and requested members to observe a moment of silence for prayer or meditation.

3. FIRST ORDER [16:44]

   Debate on Vote No 9 – Public Enterprises, **Appropriation Bill** [B 6 - 2019] (National Assembly – sec 77).

   [16:44] Mr N S Matiase having disregarded the authority of the Chair was ordered by House Chairperson Boroto to withdraw from the Chamber for the remainder of the day's sitting.

   The member refused to leave the Chamber and proceeded to approach the Minister of Public Enterprises at the podium, joined by members of the Economic Freedom Fighters present and further engaged in grossly disorderly conduct in contravention of Rule 69.

   Due to the reasonable prospect of violence or serious disruption the House Chairperson Boroto called upon the Parliamentary Protection Services to assist in removing the members from the Chamber in terms of Rule 73.

   Debate concluded.

4. The mini-plenary session rose at 18:58.

P N TYAWA
Acting Secretary to Parliament

AFFIDAVIT

LESLEY ANNE BRIAN,

do hereby make oath and say:

1. I am an adult female employed as a Control Editor in the Hansard Reporting Unit ('Hansard') that forms part of the Knowledge and Information Services division in the Parliament of the Republic of South Africa ('Parliament').

2. The facts deposed to herein are within my personal knowledge and belief, except where the context shows otherwise, and are true and correct.

3. Hansard's function is to record and transcribe everything that occurs in the houses of Parliament, i.e., the National Assembly, the National Council of Provinces and in mini-plenary sessions. As a Control Editor my responsibilities include transcribing, editing and collating debates from the audio recordings made of the various sittings, and these transcriptions then make up what is known as the Hansard record of all debates. I have been performing this function for approximately 25 years.

4. I transcribed the audio recordings of the proceedings held in Committee Room E249 on 11 July 2019. The transcript attached hereto marked 'A' was created by me based on the recording provided to me of the proceedings in Committee

Room E249. The transcript has not been edited or altered in any way, is authentic and reliable and truly reflects what it purports to reflect.

LESLEY ANNE BRIAN

I certify that the deponent has acknowledged that she knows and understands the content of this declaration, has no objection to taking the prescribed oath and considers the prescribed oath to be binding on her conscience. The dependent thereafter uttered the words: '*I swear that the contents of this declaration are true, so help me God.*' The dependent signed this declaration in my presence in **CAPE TOWN** on this the 20th day of **NOVEMBER** 2020.

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THURSDAY, 11 JULY 2019

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PROCEEDINGS OF MINI-PLENARY SESSION – COMMITTEE ROOM E249

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Members of the mini-plenary session met in Committee Room E249 at 16:43.

House Chairperson Ms M G Boroto took the Chair and requested members to observe a moment of silence for prayer or meditation.

The HOUSE CHAIRPERSON (Ms M G Boroto): Order! Hon members, let me first welcome all the guests in the gallery. We appreciate your presence at this debate in this Chamber.

APPROPRIATION BILL

Debate on Vote No 9 – Public Enterprises:

The MINISTER OF PUBLIC ENTERPRISES: Hon House Chair, my Deputy Minister Masualle, hon members, members of the new portfolio committee led by its chairperson Mr Mkhacani Maswanganyi ...

Mr N S MATIASE: House Chair?

The HOUSE CHAIRPERSON (Ms M G Boroto): Why are you rising, hon Matiase?

Mr N S MATIASE: I rise on Rules 78 and 79 in their concurrent applications.

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, I’m listening.

Mr N S MATIASE: Madam Chair, as Members of Parliament, we took an oath of ... [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members ... [Interjections.] Hon members! Hon Gordhan, just stand there please. He can’t sit down. There’s no chair. Hon Paulsen?

Mr M N PAULSEN: Chair, may I have your attention please?

The HOUSE CHAIRPERSON (Ms M G Boroto): We are waiting ... Hon Paulsen, your member is standing on a point of order. [Interjections.] Just be quiet. Let me listen to the point of order. You said you were standing on Rule ...78?

Mr N S MATIASE: Madam Chair, may I repeat myself? I said that I was rising in terms of Rules 78 and 79 in their concurrent application. We, as Members of Parliament, individually and collectively, were sworn in here and took an oath of office, and that called on us as Members of Parliament to take a higher level of responsibility and obligation.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, what is your point of order? I don’t need a speech. [Interjections.] Hon member ... [Interjections.] I am talking to the member who is at the podium. [Interjections.] Hon members, I am not going to allow that.

Mr N S MATIASE: Madam Chair, allow me to speak.

The HOUSE CHAIRPERSON (Ms M G Boroto): No, no. We don’t speak. We raise points of order.

Mr N S MATIASE: ... raise a point of order?

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, do that.

Mr N S MATIASE: We have an obligation to protect Chapter 9 institutions, particularly the Office of the Public Protector.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, that is a point of debate and not a point of order.

Mr N S MATIASE: The Minister who stands before us here is obliged like all of us ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Matiase, I am not going to listen to you anymore because that is not a point of order.

Mr N S MATIASE: ... to respect the remedial actions of the Public Protector.

The HOUSE CHAIRPERSON (Ms M G Boroto): Unfortunately, we don’t have hon members as guests.

Mr N S MATIASE: And in his failure to do so he rendered himself a constitutional delinquent.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Matiase ...

Mr N S MATIASE: We see no need to listen to a constitutional delinquent.

The HOUSE CHAIRPERSON (Ms M G Boroto): Unfortunately, hon members ... [Interjections.]

Mr N S MATIASE: And we cannot listen to him ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members!

Mr N S MATIASE: ... and therefore cannot allow him to address this House. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, I am not going to listen to you. [Interjections.] That’s a point of debate.

Mr N S MATIASE: We cannot allow him to address this House.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Matiase, please take your seat. That’s not a point of order.

Mr N S MATIASE: We cannot allow him to address this House, because he is a constitutional delinquent. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Can I respond to you? [Interjections.] Can I respond to you? Please, hon members, please be quiet. Hon Matiase, you must raise a point of order. That thing is not a point of order. It is a point of debate. [Interjections.] Whatever you are saying ... Hon Paulsen, I am talking to him. So that is not sustained. Continue, hon Minister.

The MINISTER OF PUBLIC ENTERPRISES: Thank you, Chairperson ...

Mr N S MATIASE: House Chair, you cannot rule on a point of order you have not heard out.

The HOUSE CHAIRPERSON (Ms M G Boroto): No. I listened to you. You are giving a speech.

Mr N S MATIASE: You have not heard out my point of order.

The HOUSE CHAIRPERSON (Ms M G Boroto): I am not going to listen to your speech. I need a point of order.

Mr N S MATIASE: The point of order is that before us stands a constitutional delinquent, a man who faces serious ... [Inaudible.]

The HOUSE CHAIRPERSON (Ms M G Boroto): No, no. Hon Matiase, now I am asking you for the last time: Take your seat ... [Interjections] ... or leave the House ... [Interjections.] ... or leave the House. [Interjections.] Order! Please continue, hon Minister.

The MINISTER OF PUBLIC ENTERPRISES: Hon House Chair, Cabinet colleagues, Deputy Minister, members of the portfolio committee, sanibonani.

Mrs K N F HLONYANA: On a point of order, House Chair! On a point of order ... on a point of order!

The MINISTER OF PUBLIC ENTERPRISES: In a few days' time ...

Mrs K N F HLONYANA: On a point of order, House Chair! Please rule. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): ... [Inaudible.] What is your point of order? Please state the Rule on which you want to raise your point of order.

Mrs K N F HLONYANA: Member Matiase has raised that Rule, and you, Chairperson, are not listening. You did not even allow him to speak and finish. You just rejected and you were just not listening. [Interjections.] This man is not going to speak today. It is not going to happen. [Interjections.] It is not going to happen. And we are not going to leave the House. We are not leaving the House and he is not going to speak today. He is not going to speak. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): ... [Inaudible.] What's happening with the microphone? Oh. May I please say this, hon members, politely so: This member who is in front of us is a member of the National Assembly. At the same time, he is our Minister of Public Enterprises. [Applause.] [Interjections.] If you are not ... [Interjections.] I am still talking. If you are not going to listen to the Minister, you can go. We are not going to allow disruptions. That is disruption. Continue, hon ...

Ms R N KOMANE: On a point of order, Chairperson. Point of order.

The HOUSE CHAIRPERSON (Ms M G Boroto): What is your point of order? On what point are you rising?

Ms R N KOMANE: The point I am rising on is the very same point that MP Matiase rose on. Chairperson, we did not come here ... We have a responsibility as Members of this Parliament.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, it is not the time for speeches.

Ms R N KOMANE: No, no, no, Chairperson. We did not come here on your call, Chairperson. We came here ... [Inaudible.] ... the people. We will not listen to you whilst you are not rational. You must be rational on the matter, Chair. We came here to protect the members of the ... [Inaudible.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, please take your seat.

Ms R N KOMANE: No.

The HOUSE CHAIRPERSON (Ms M G Boroto): You are not going to take your seat?

Ms R N KOMANE: But, Chairperson ... [Inaudible.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, take your seat.

Ms R N KOMANE: On a point of order, Chairperson ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Take your seat. Let me tell you what the point of order is. The point of order is on Rule 92. Read it. [Interjections.]

Ms R N KOMANE: Ag, Chairperson ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Continue, Minister.

Ms R N KOMANE: But MP Matiase has risen on the Rules of this House. He has risen on the Rules of this House.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, unfortunately, I can’t name you because I don’t know your name.

Ms R N KOMANE: I am hon Komane.

The HOUSE CHAIRPERSON (Ms M G Boroto): But I am going to ask you to leave the House.

Ms R N KOMANE: No, no, Chair. I am hon Komane. I am hon Komane.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member ...

Ms R N KOMANE: I am hon Komane.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Komane, thank you for sitting down. Whoever stands on the same matter will have to leave us in peace. [Interjections.] To the hon members of the EFF, may I ask this question: Is that what all of you are saying - that he will not speak? [Interjections.] Thank you very much. All hon members of the EFF, please leave the House. [Interjections.] [Applause.]

Mr N S MATIASE: House Chair, what you are doing is unlawful; it is unprocedural. We are not a group here. We are individual Members of Parliament, and if you want to eject us from this House you are compelled by the Rules of this House to name us. [Interjections.] Until you do that, you have no authority whatsoever to treat us the way you are treating us.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Matiase ... You know that you are giving me a task. I will start with you, hon Matiase. Hon

Matiase, are you saying that the hon Minister is not going to speak here? [Interjections.] I need an answer.

Serjeant-at-arms ... Serjeant-at-arms ... Serjeant-at-arms? Parliamentary security, please come in. Parliamentary Protection Services, please come in. Parliamentary security, please come in. Parliamentary security, please come in.

Mr N S Matiase, having disregarded the authority of the Chair, was ordered by House Chairperson Boroto to withdraw from the Chamber for the remainder of the day’s sitting.

The member refused to leave the Chamber and proceeded to approach the Minister of Public Enterprises at the podium, joined by members of the Economic Freedom Fighters present and further engaged in grossly disorderly conduct in contravention of Rule 69.

Due to the reasonable prospect of violence or serious disruption the House Chairperson called upon the Parliamentary Protection Services to assist in removing the members from the Chamber in terms of Rule 73.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, let me apologise for what has just happened, and I also apologise to our guests. I now allow the hon Steenhuisen.

The CHIEF WHIP OF THE OPPOSITION: Madam House Chair, may I address you in terms of Rule 69 of the Rules of the National Assembly?

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes.

The CHIEF WHIP OF THE OPPOSITION: Madam House Chair, what we have just witnessed here is probably one of the grossest violations of parliamentary privilege I have ever seen. To prevent an elected member of this House from speaking in the House and then not only doing that but exacerbating that by physically threatening the member is a gross violation of not only the traditions of Parliament but the Rules of this House. I ask you, House Chairperson, as a House Chair of this House, in terms of Rule 69, to refer all the members here – and, I'm sure they will be able to be identified on from the camera footage – to the appropriate forum and that they be charged with gross disorderly conduct in terms of the Rules. We can't have a place where this place becomes a battle of who can un-chew the hardest, or who can chew out the person. We use arguments, not force, in this House. And I ask, in order to restore the dignity

of this House and try to clean the stain that has been put on the floor of this House today, that appropriate action is taken against those members. Thank you. [Applause.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you, hon Steenhuisen. Hon Radebe?

Mr B A RADEBE: Chairperson, I totally agree with what the hon Steenhuisen has just said: that this behaviour cannot be tolerated anymore. I think that this is a democracy where the people must express their views, but in a proper way and not in the way they have done. Thank you, Chair.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you very much. That will be looked into. Hon Singh?

Mr N SINGH: Thank you, hon Chair. Chair, I want to also agree with what the hon Steenhuisen and the hon member Radebe have said. On behalf of the IFP, we also feel that this matter should be investigated at the highest level. We cannot allow this kind of disorderly conduct in the House.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you very much. Luckily, we do have the footage, and I will communicate that to the Speaker’s Office.

Mr A M SHAIK EMAM: Chair, on behalf of the NFP, I also want to concur with my colleagues. I think that what happened here today was totally unacceptable. I want to agree with what the hon Steenhuisen said. But, I think, what is more important, Chair, is this: I think that for every crime there must be a sanction that fits the crime, and I think that that is the problem we have in this House. If we could just address that, I think we will go a long way in ... [Inaudible.] Thank you, Chair. Hon Swart?

Mr S N SWART: Thank you, House Chair. What actually aggravated the situation to become even worse today was the threatening attitude towards the Minister ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Moving towards him.

Mr S N SWART: Exactly. I felt constrained to stand next to him. I think that is absolutely disgraceful, and it is a higher level of threats in this House that must be addressed. So, I concur with every speaker. Thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you very much. Do we have any other party leader here? No. Thank you to all of you, and we will definitely take this to the relevant forum and the Speaker will be notified of what happened here today. We will be advised as to how we proceed with the matter. Thank you very much. I apologise to our guests for witnessing that. This is Parliament anyway. Thank you. Hon Minister, this is your chance.

The MINISTER OF PUBLIC ENTERPRISES: Thank you House Chair, let me start again. Hon House Chair, Deputy Minister Masualle, hon members from all the parties, boards, chairpersons and members of state-owned enterprises boards, executives that are running our state-owned enterprises and fellow South Africans. Firstly, let me thank – I will come back to that in a moment. In a few days' time we will be celebrating Mandela Day. It is also appropriate to acknowledge the 55th anniversary of the Rivonia Trial today. This trial and those that faced the might of the apartheid state, reflected the political moral and social courage of our leaders. The Rivonia trial is emblematic of the resistance to an evil system and demonstrated unrelenting courage to oppose injustice, racial oppression and economic exploitation. This should remind all South Africans, particularly after what we have witnessed, and hon members of what it means to be bold in the face of adversity and uncompromising in

fighting any form of malfeasance and corruption, and to that house Chair we can add attempted violence and intimidation.

I have the honour to present the Budget Vote for the Department of Public Enterprises for the 2019-20 financial year. State-owned enterprises constitute a key part as we all would acknowledge of our national life and our national assets. They are central to our developmental and economic agenda. The reform of state-owned enterprises is part of a broader agenda of structural reforms in our country.

The department provides strategic direction and oversight to the SOEs that it has been charge with the responsibility for, so that their businesses are aligned with the national growth strategies arising from the National Development Plan, the medium terms strategic framework and other guiding policies of government.

> Over the last 18 months, we have attended to many crises at our SOEs. We have also increasingly understood the deep damage that has been visited upon these institutions; and the far reaching consequences of state capture for the economy at large, and if I may add, what you have witnessed is a defence of state capture [Applause.] One must ask; what is it that motivates

ordinary members of Parliament whichever party they come from, to engage in such a intimidating tactics? The question you, ourselves and the public must ask; is what do they have to hide? What are the guilty of? What is it that they don't want to be locked behind bars for? Intimidation of this kind- let me say very clearly and categorically; is not going to intimidate me and stop us to fight the good fight [Applause.]

Many of my comrades on my right have been in detention, have been in solitary confinement, have in prison for one reason or another and the face the might of apartheid state, this is something that we are not going to give in to, let me make it very clear. We have survived apartheid; we will survive this fascist populism.

The consequences of the damage to SOEs are felt in particular by the millions of the poor people of our country in the form of unemployment, poverty and inequality. This has had a negative impact on government's ability to deploy SOEs in addressing our developmental objectives. The quantitative damage is immense and will only unfold overtime. To date the department has collected some 3000 forensic reports, 3000 forensic reports from just 708 SOEs. So far, an estimated R600 million has been identified as collectable

and due to the state. The Department is collaborating with the law enforcement authorities to ensure that criminal actions are reported and that civil recoveries are undertaken.

The Investigating Directorate in the National Prosecuting Authority, NPA, will fast-track investigations including from the evidence presented to the Zondo Commission. The Special Investigangs Unit, SIU Special Tribunal will adjudicate upon any civil dispute brought before it by a Special Investigating Unit or any interested party.

In June this year, a full bench of the Gauteng High Court, set aside a multi million rand contract unlawfully entered into between Eskom and Trillian, a Gupta linked entity. The court was scathing about collusion between former Eskom officials and the directors of Trillian and has ordered the company to repay almost R600 million of fees it illegally received from Eskom. Can I ask to join me in congratulating the Eskom board [Appluase.] In this regard, I am sure we do it better than that [Appluase.] of course there is billion more to collect.

Previously, McKinsey, another consultancy, repaid close to R1 billion to Eskom from the same contract. Similarly, Transnet has instituted legal claims to recover large amounts from the

beneficiaries of the 1064 to what famously is referred to as 1064 locomotives acquisition tender and related transactions. The Special Investigations Unit is investigating another 30 Transnet contracts, including property and Information Technology, IT, contracts, the largest of which was worth more than R7 billion.

Recently, the Deputy Director of Public Prosecutions, Ms Hermione Cronje said that; "The cost of state capture hovers around R1,5 trillion over the second term of the Jacob Zuma administration". That is what these members who demonstrated their impatience earlier on to call it politely – are defending. We must be frank that after a decade of mismanagement, negligible board and executive fiduciary accountability for poor performance, malfeasance that enabled state capture, and rampant corruption, amongst our biggest SOEs, many are in deep financial difficulties and will be unable – as the President earlier pointed out several times - to trade their way out of their difficulties.

The flight of management and technical skills, who were chased out by "capitalists of these institution" has negatively impacted upon our SOEs, it has also impacted staff morale and work culture, especially from those who did not want to partake in corrupt activities - and of those I am sure they are vast majority in many

of these entities. In the last 18 months, we have begun the process of restoring good governance, skills management and effective operations at the SOEs. Financial sustainability of the SOEs requires a lot more work, of course. Several state-owned companies face negative cash flows and are financing operations from debt, which has become increasingly difficult to raise.

On 23rd May 2018, Cabinet approved a new permanent board for Transnet, similarly for Denel and many of the other entities as well, including SA Express. Many of these entities of course are also facing a changing global environment, that they have taken into account both now and in shaping their future business models.

The Department in turn, will have to be cognisant of the changing international space, if you like. The decline in trade intensity driven growth – in other words, the amount of trade that has happened over the last 20 or 30 years across different countries is about to change as a results of kind of protectionism that some of the bigger economies in the world are practising.

The impact on global value chains and the emergence of global protectionism – as I pointed out; will have an impact on SOE businesses and operating environment and models as well. So if I

there is less containers being moving around that will impact upon Transnet business for example. The role of our department is going to change as well. We now have an opportunity to develop the department into a modern ethical and effective representative of government as a shareholder of SOEs. This will also entail a new sense of pride and promotion of our collective national interest among the staff. The department must and will develop into a centre of government excellence where the best experts and skills in the various sectors in which SOEs operate can be found.

There is a need to re-look the role of the department as a Shareholder Ministry, to give a lot more content and meaning to what oversight over these entities actually means. I see there is cyber crime going on, the timing clock is disappearing. As far as a new approach to shareholder oversight is concerned, we want to outline the following, which we will elaborate on as we go on: The first in respect of governance and accountability; boards must be increasingly accountable for the financial and operational performance and repositioning of SOEs.

The new approach will necessitate that we revisit all the instruments of SOE oversight, including the Strategic Intent Statement, the Shareholder, the Compacts; Memorandum of

Incorporation; and SOE Performance Appraisal Systems. Secondly the SOEs must be more aware of the positive impact that can and should have on the economy of the country, by increasing investment in the economy, crowding in private sector investment in more of their project and infrastructure. Reducing the cost in doing business and cosy of living by reducing logistic costs and tariffs for example and promoting the growth of manufacturing linked to local procurement and localisation.

In addition, it can make a positive impact on the economy by creating both small and medium size businesses in larger numbers and contributing to the skills development, in our economy and society as well. Looking into the future the boards will be asked to: reviewing current business model – some of them have been doing so already - and developing models appropriate to the conditions that are unfolding both within the country and outside. They should also develop financial sustainability plans, over the next few months to ensure that SOEs are financially self reliant in the medium term. In giving effect to its renewed efforts to turn around the SOEs, the department will over the next six to eight months work with the boards of the SOEs to develop new operating models for their businesses, and develop a financial sustainability plan, for approval of government.

This will focus on governance and accountability and as I pointed out conscious effort to become more positively in our economy, and ensure that more enterprises are created because that is what economic growth is all about at the end of the day. With specific reference with to some of the SOEs, Eskom as we all know and as the President has pointed out and the board as on many occasions, faces operational, financial and structural challenges, which are driven by massive cost and time overruns on the new build program, some difficulties and collapse in governance over the period of time, unsustainable debt levels which stands at about R420 billion at the moment, under investment, and poor maintenance of plants and several other factors that we have outlined before.

In seeking to stabilise the financial situation at Eskom in the short term, the Minister of Finance as the President indicated, will introduce a Special Appropriations Bill in Parliament in the near future. He speaks later today and I am sure he will give an indication to Parliament in this regard. As far as our operational performance of Eskom is concerned, what we will be looking at in the coming months is how the different episode of load shedding can be avoided in the future and Eskom the department with the assistance of the Department of Energy and Mineral Resources, and the National Treasury, will be producing a paper as the President pointed out in

his response to the state of the nation address debate. This paper will give an insight and indeed a forward looking view on what the future of Eskom will be and will outline the future energy environment, the financial arrangements for Eskom, address the indebtedness of Eskom and lastly the kind of restructuring phases that Eskom will undergo as we get into the future.

Included in this will be an indication of further cost saving majors, in relation to coal costs, staffing costs and the introduction of capital efficiency. Operationally sustaining a high level energy availability is going to be an important task that the operation people within Eskom are required to give their attention to.

The department will cooperate also with my colleague Minister Mantashe, to finalise the National Energy Regulator, NERSA, Amendment Act to establish a proper recourse for regulatory decisions, should Eskom or any other party wishes to challenge those. In the news, very much there has been the Chief Restructuring Officer and careful consideration is being given this by both ourselves and the Treasury and hopefully soon rather later an announcement will be made in this regard.

As far as Transnet is concerned, Transnet's focus going forward is to improve the efficiency, reliability and cost effectiveness of its freight transportation by reducing the cost of doing business and improving the competitiveness of the country's exports. This is in line with the commitment government has made as part of the stimulus package that a review of port and rail prices will be undertaken, in addition boosting exports and making South African industry more competitive than it is.

We have confidence in the Board led to realise the objectives we have set for it. The process of recruiting the new executive leadership at Transnet and in other entities is in progress as well and we are expecting that the boards will put forward names of competent and capable member of executive team that to lead this entity into the future.

Transnet's operational performance can no doubt be improved further. Rail volumes have remained stagnant over the last Medium Term Strategic Framework, MTSF, period, and well below the target of 330 mega tons per annum set for the company. There has to be an increased effort to understand and respond to the needs of business, thereby contributing to economic growth and efficiency.

The board and management will be set targets in the Shareholder Compact, as would other boards and management as well, to achieve these objectives. My colleague, the Deputy Minister will address issues around Denel and Alexkor.

As I come to the end, say the following in relation to the program overview of the department. As far as the 2018-19 expenditure overview is concerned, the department was allocated R6,52 billion for 2018-19. Included in the departmental allocation was an amount of R5 billion for South African Airways, SAA, recapitalisation and R1.2 billion for SA Express. The allocation for the department itself was R273,9 million. The under spending of R48 million was the result of vacancies and frankly I didn't to make any changes in the department pending the election that have just occurred, so that we have a better sense for what the President has in mind. Once a departmental restructuring has been completed in the current financial year, many of these posts particularly those involving experts in the different fields will be filled.

As far as the 2019-20 allocation is concerned, the department has been allocated a budget of R293 million in 2019-20 and R312 million in 2021 and R332 million in 2021-22. The allocation represents an average growth rate of 6,5%, this is just above inflation. The

department's focus over the medium-term will be largely on enhancing the capabilities of the department in performing its oversight role on the various SOEs by ensuring that the pool of highly skilled professionals is augmented, as I pointed out earlier on.

Programme one which is administration and cooperate management, the aim of the branch is to provide strategic management and support to the department, but of course it includes the ministry as well. Programme two, State-Owned Companies Governance Assurance. The priorities for this programme over the year will the goal of finally producing a Government Shareholder Bill which could be adopted in the next year or so, which would then create an overaching legislation for SOEs under the control of government.

This will amongst address governance, SOE mandates, funding models and so on. SOE reform is on going process and we will continue to review the SOE landscape emanating from the report of the Presidential Review Commission, that was reported upon earlier on around 2010-11. The main principles have already been approved by Cabinet. These seek to assess the SOE landscape and to ensure that there is regularity in terms of what happens in different SOEs in relation to remuneration, the appointment of boards and the reform processes that are undertaken.

Finally, Programme three, which is Business Enhancement, Transformation and Industrialisation. The priorities here will be examining on an ongoing basis the maintenance plans, operational practices, electricity generation and distribution in case of Eskom and other factors similarly in relation to other SOEs. Optimise the various assets that held in different entities some which as I said the Deputy Minister will address.

Monitoring progress and working with Transnet in improving the cost-effectiveness, efficiency and reliability of its freight transportation system and achieving a modal shift from road to rail Something that we have talked about a lot a government, as the SOEs and indeed as private sector but haven't done enough at this point in time.

Finally let me take this opportunity to thank, the outgoing Chairperson of the SAA Board, Mr Magwaza who has tendered his resignation for personal reasons and the vacancies on that Board will be filled shortly. Secondly to thank the chairperson of various boards for the leadership and intelligence under very difficult circumstances and for the board members with the manner in which they have applied themselves both to managing the crisis but also beginning to turn around as we would say, the various entities.

I want to pay particularly thanks to the outgoing Chief Executive Office, CEO, of Eskom Mr Hadebe who is present amongst us, who has played an important part in sustaining Eskom during a very difficult period and at least solving some of its financial problems as he goes about doing it. Finally, I wish the committee well, in its deliberations and want to thank Mr Thuto Shomang former official from Treasury who went to private sector four years ago and responded to the Thuma Mina call to come and help us in the department for last seven or eight months. He says government work is too easy he needs do a more difficult job in the private sector but owe huge depth of gratitude for the excellent work that he has done for the department [Applause.]

Finally, finally as they say in the ANC, to the members of the EFF, in they are listening, they better adopt a different approach because intimidation and slurring once integrity and casting aspersion is not going to work. If they have stolen money from a bank or anywhere else, they should own up to it and face the consequences [Applause.] Thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you, hon Minister. Hon members that are still coming to the podium – that is not just a

computer there is red colour there, once the red colour vanishes it means ‘your time is up’ thank you.

Mr K E MAGAXA: Hon House Chairperson, Minister, Deputy Minister and all protocol observed, on 9 July 1987, a young revolutionary fighter Ashley Kriel, affectionately known as Che Guevara of the Cape Flats, was brutally murdered by the apartheid police at a safe house in Athlone. His assassination, 32 years ago, robbed our struggle of the brave, fierce and courageous revolutionary. His untimely murder inspired more gallant efforts leading to our ultimate triumph in 1994.

This speech is therefore dedicated to the memory of the Che Guevara of the Cape Flats.

Throughout the course of our history, the liberation movement has always been able to analyse concrete South African and global reality in order to provide lasting solutions. It was under the same guiding force of the liberation movement that the multitudes of South Africans gathered in Kliptown in 1955 and adopted the Freedom Charter as a basis and a minimum programme of the Revolutionary Alliance to combat the reality of colonialism of a special type in our country.

House Chairperson and hon members, there are still many stubborn vestiges of colonialism of a special type. The only way to fight the legacy of colonialism is thorough execution of the National Democratic Revolution. For the ultimate resolution of the three major contradictions of our struggle which are race, class and gender, we must aggressively execute the revolutionary programme of fundamental change which the people overwhelmingly support.

Minister, the President highlighted seven priorities for the new administration and whilst all are equally important, I would like to lift two that are extremely significant for this portfolio, particularly in pursuit of our developmental state agenda and they are: Firstly, economic transformation and job creation. Secondly, building a capable, ethical and developmental state.

These priorities constitute the cornerstone of our agenda to reorientate our state-owned entities towards the attainment of the democratic and capable developmental state as a practical expression of our commitment to execute the National Democratic Revolution. We are in a revolution.

To be clear, our understanding of the developmental state is a state that derives political legitimacy from its record in economic

development, which it tries to achieve mainly by use of selective industrial policy.

Hon Minister, we support the Budget Vote of the department precisely because we understand fully well that our pursuit of developmental objectives to overcome the legacy of apartheid depends on capabilities geared towards a state-led reindustrialisation process.

Our state-owned entities are the economic levers through which the democratic state holds the possibility of directing investment for inclusive economic growth.

We must allow the department to embark on institution building, development of planning capacity as well as ensure asymmetries between incentives and subsidies and ultimately revenue generation within our strategic state-owned enterprises. In the final analysis, we need a capable and ethical developmental state to be able to hold the private capital accountable on investment priorities and the general developmental trajectory.

Comrade Minister, hon members, let me hasten to say there will be rhetorical posturing from the far right and delusional fantasies from the populist fascist who pretend to be in the left by the way.

This, I characterise as criticism without critical thought. It has become predictable that neoliberal circles parrot tired tactics and agendas that advocate for the privatisation of the state-owned enterprises.

The advocates of this discredited orthodoxy do not have the interest of our people because if they did, they would desist from advocating for appropriation of social and collective assets for private wealth accumulation. They advocate for giving free license for primitive accumulation by people who only socialise the risks and losses yet privately appropriating the gains.

Objections to the mantra of wholesale privatisation derive from, among other things, the observation by renowned scholar Noami Chomsky when he said, I quote: “It [predatory capitalism] is incapable of meeting human needs that can be expressed only in collective terms, and its concept of competitive man who seeks only to maximize wealth and power, who subjects himself to market relationships, to exploitation and external authority, is antihuman and intolerable in the deepest sense.”

Hon Minister, we concur with the President's view that Eskom as well as other state-owned enterprises are too important for our economy

to be allowed to fail. We must state categorically clear that Eskom and all these state-owned enterprises must be stabilised and all corrupt elements weeded out in order to return to revenue generating path for economic development.

In this respect, we must commend the work of the Portfolio Committee on Public Enterprises of the Fifth Parliament. That one is very important. We must commend the work of the Portfolio Committee on Public Enterprises of the Fifth Parliament in unearthing the scandalous corruption and governance decays that plagued our most vital state-owned enterprises. These actions actually are still resisting the work of that committee.

We must call upon the Special Investigative Unit and the National Prosecuting Authority to expedite investigations and prosecute all those implicated. We must see people being arrested for wrong doing.

In this age of renewal, we have a duty to act and root out corruption and we must do so with speed and efficiency. We can’t wait for the Commission of Zondo to finish. This, we must do it in the interest of restoring the credibility of the state and the revolution. For it was the German Philosopher Karl Marx who once observed that, I quote: “The philosophers have only interpreted the

world in various ways; the point, however, is to change it.” Let’s change it.

So, let’s follow this instructive observation and act swiftly and change the narrative and improve the image of our country. The Department of Public Enterprises currently oversees and is government’s shareholder representative for about seven state-owned enterprises.

There is no doubt that these state-owned enterprises have a huge responsibility towards fundamental socioeconomic development. The Budget Vote is essential to the department's oversight function.

In 2019-20, a total of R293 million is allocated to the department. [Time expired.] [Applause.]

Ms N W A MAZZONE: House Chairperson Boroto, hon Minister, hon Deputy Minister, fellow Members of Parliament, ladies and gentlemen, allow me to demonstrate how one disagrees as a democrat and not like fishiest behaviour we have just witnessed in this House. I now serve my third term as a Member of Parliament, member of the National Assembly of the Republic of South Africa and I serve my seventh year

as a member of the Portfolio committee on Public Enterprises. I am now more convinced than ever that this department should not exist.

It is public knowledge that the Department of Public Enterprises was established as a catalyst for privatisation of the public entities that will be put under the control of the department. It makes no sense otherwise for Eskom not to belong to Energy and Mineral Resources, Transnet should belong to Transport, Denel should belong to Military Defense, Alexkor should belong to Energy and Mineral Resources, SAA, SAX & Mango should belong to Transport and Safcol should also belong to Energy and Mineral Resources.

The problem here is that political expediency and differences in ideology have trumped pragmatism and good governance. An opportunity was exploited to use state-owned entities as an employment agency for the ANC and for a cash cow for their investment wings and election campaigns. It was just too easy to use the public enterprises to siphon billions and billions of rands to politically connected families and companies, not to mention, the lining and building up of pension funds of politicians, with the odd general thrown in just for good measure.

We have to be the only country in the world which has allowed people who are well known to have carried out one of the greatest heists of our time to go unpunished. In fact, in South Africa, you can admit that you attempted to bribe someone on instruction from criminals and remain not only a Member of Parliament, but a chairperson of that same Parliament.

In South Africa, the Department of Public Enterprises is the proof that all international investors use to measure our corruption levels is the cause their choice of investment destination to be anywhere but in South Africa.

It matters not how big the Department of Public Enterprises is, it matters not how small the Department of Public Enterprises is, it is a superfluous entity and it should not exist. I recently wrote to the Minister of Public Enterprises, Minister Gordhan, asking for an official comprehensive review be conducted of the state-owned entities. The reply I received came as no surprise. Again, the ever famous, yet ever allusive Presidential Review Committee established in 2010 was referred to as the guiding framework for the department.

In response, an inter-Ministerial Committee was established that was then was then converted to a Presidential state-owned entities

council. This council is supposed to reposition the SOEs as an instrument of economic development. Now, we had review after review, task team after task team, commission after commission but here is the fact, state-owned entities are archaic in their design and they should not be used for economic development, it does not work.

The economy should be growing through supporting a free market system which gives South Africans choice and which gives South Africans opportunity to create a conducive environment for national and international investment.

You cannot grow an economy when you are held ransom by unions who cripple state-owned entities when they feel their demands are not met. You cannot grow the economy when your energy supply is not completely secure and you cannot grow the economy by pouring billions and billions of rands into already failing entities.

South Africans are literally starving; 10 millions South Africans are unemployed. South Africans do not have homes, they do not have water, they do not have electricity, they do not have basic services, our schooling is rated as one of the worst in the world, our crime rate is completely out of control, but yet, South Africans are still expected to fork out billions and billions of rands in

bailout for these failing entities. It is an absolute disgrace and is simply not condonable, no matter what your political ideology is, nor what your political background is.

The Department of Public Enterprises has absolutely zero power to hold our entities to account. The boards do as they please; unions play the Minister like the fiddle that Nero played while Rome burnt. The situation is unfixable.

Quite simply my friend, the cow has run out of milk, the goose has laid the last golden egg; the fiscus is collapsing under the weight of corruption and mismanagement. It is hard to imagine that in the year 2019, in a country as fiscally unstable as ours, we still have a government who dares to justify the blatant theft of South African money.

The most frustrating part of it all is, we actually, really do have the power to completely turn the South African economy around, but, because of the ANC factional battles, because of a sheer lack of guts and determination, because of a fear of retribution, the government lets the criminals win and the South Africans remain poorer, locked in a cycle of poverty and the situation becomes ever more dire.

It's time to put the South Africa people first. Political factionalism in the governing party is literally killing our country day by day. Let us be the Parliament that does the right thing. Let us be the ones who stand up to the looters and criminals. Let us be the ones who are what we intended to be, the custodians of the South African coffers and the defenders of our people. [Applause.]

Inkosi E M BUTHELEZI: Hon Chairperson, Minister and colleagues, allow me to thank the hon President and the Minister for their commitment and political will to turn the things around from the previous administration.

In the past, Ministers defended the rot and attacked members of this house when they were raising issues. The role of this department is to drive investment, productivity and transformation in our state-owned entities, SOEs, to unlock growth, drive industrialisation, create jobs and develop skills.

The success of our SOEs in driving economic growth is critical, yet, this has not quite been the case in the past. Instead, this department is truly the definitive poster child of this government in respect of grand corruption, kleptocracy, nepotism, and cadre

deployment. The crippling of our SOEs has played a major role in the country's drop in international credit ratings.

In fact, it can be easily argued that the last decade in the history of this department was spent building nothing more than patronage networks through the misappropriation of public funds and elites aligning their own pockets.

While we trust that the Minister has the will and expertise to address the failing state of our SOEs, but the question remains. Will the hon Minister have the support from the ANC in cleaning up each SOE from within? That is the question we are asking.

The various challenges faced by SOEs are internal and includes weak, inexperienced and incompetent leadership, which can affect our entities strategically, operationally and financially.

Electricity Supply Commission, Eskom, continues to fail all our people, not only by failing to keep the lights on in the country but it also charges more for poor service through its continual tariff hikes affecting the poorest of the poor.

What is of grave concern is the fact that the government departments, municipalities and cities owe Eskom billions of rands it is unacceptable that these bills have remained unpaid for years, but more importantly, this self-sabotage must be rooted out.

On South African Airways, SAA, another entity of perennial bailouts, staffing issues and dubious senior management appointments, we note many similarities. It is all internal. Is it not time that we cut our losses and consider a public private partnership in this SOEs?

Just two weeks ago Denel had to request a R2,8 billion bailout and could not pay staff salaries in full at the end of June. What does it do for staff morale? What does it say about the competency of senior financial management in this entity? Staff retention is affected due to instability. Who can work for a company when things are unstable internally?

Furthermore, when we talk about Denel, we are not just talking about any company, but one which is part of ensuring the safety and security of our country. If Denel is left to fail, this may pose a risk in future for the sustainability of our national security.

A line must be drawn in the sand, which clearly states and demarcates this far and no further. Corruption must be thoroughly investigated and competently prosecuted at all state-owned entities.

The fact of the matter remains, South Africans can no longer afford to pay more for SOEs who do not fulfil their mandate and do not add any value in as far as this is concerned.

If we look at the strategic objective of all our entities which is economic transformation, there is absolutely no progress in this regard. When it comes to job creation, instead of creating jobs, SOEs can’t even manage to retain jobs.

When it comes to building a capable and ethical state? We’ve got rot that is embodied from within that undermines the very objective. A better Africa and world, how is this even possible when we are currently on our knees?

This is the reality that we face. This department is an enemy of its own and it is counterproductive if it fails to deliver on its own key performance indicators.

However, in our commitment as the IFP to work in the best interest of people of South Africa, the IFP oppose this Budget. I thank you.

Mr W W WESSELS: House Chair, what we saw here today is absolutely disgraceful and hon Minister through you House Chair, we respect you and we stand behind you in your fight against those who looted and who captured the limited resources of our beautiful country.

We want to tell you that don't stop your fight. Don't be intimidated. Don't be held at ransom by those as we saw here tonight who wants to protect themselves. On that point I wonder whether hon Malema is here tonight but if we look at fascism and the history thereof, you also didn't see Hitler anywhere near the trenches over guest chambers.

The hon Malema is most probably sitting in Camps Bay while his troops must protect him. To say though SOEs and our fiscus and so doing our economy, we need the political will to address the problems and to actually get our SOEs back on track. To act against those who transgressed, those who looted and those who stole, but also to prevent it from happening ever again.

You can't also be held at ransom by the alliance partners of your own party. The trade unions can't also be allowed to hold you ransom, not to take decisive action and to actually take bold steps needed to get our SOEs profitable.

Let's compare some of our SOEs to a former wholly state-owned entity Telkom, which is now partially state-owned by 40,5% and is now profitable. The latest financial results show profit after tax of Telkom rose by 11,5%. They also paid in taxes R1,2 billion and R750 million in dividends to government. Then you compare it to SAA and Electricity Supply Commission, Eskom. SAA needs R22 billion for the next three years from our fiscus and Eskom requires R69 billion.

The turnaround for Telkom however didn't happen overnight and that we know, but we need to start somewhere. The trade unions are stopping government from actually doing what is necessary. Also don't be held ransom by ideology. Let's take the steps to save our economy and our fiscus and actually act in the best interest of all South Africans.

Let me also say and take this opportunity to reflect on today. Today is a bad day after what happened here, but it is also a good day.

One hundred and nineteen years ago, today, there was the battle at Silicon’s Neck ...

Afrikaans:

By daardie veldslag is die Engelse oorwin. Dit is ’n baie belangrike stap in die stryd teen kolonialisme. Dit is ’n stryd wat baie jare geduur het, maar ’n belangrike stap. Vandag is ook belangrik, want gister het iets baie belangrik gebeur. Gister is die tendens wat op 8 Mei geskiet het, waar kiesers hulle vertroue in die VF Plus gesit het, voortgesit toe die VF Plus met ’n geweldige meerderheid die DA in Wyk 30 in Stilfontein gewen het.

English:

Not seven votes. We had more votes than all four other parties who contested together so don’t continue with your lies. The voters out there see that there is an alternative. That there are alternative policies which can save South Africa and our SOEs and those voters Mafcity (Mafikeng), Matlosana, in the North West yesterday put their confidence in the FF Plus. That brave war will continue. It will continue towards 2021 and we are saying to the ANC, we will be the opposition that you actually require. We actually oppose your policies.

We don’t only want to win you but we want to oppose and actually work together with you as well to better South Africa in the interest of all South Africans, not only [Inaudible.] but in the interest of all South African and that is what we need.

We need cooperation. We need to us South African all be proud of our SOEs and be proud of our government’s departments. We need to take a stance all of us as South Africans against corruption and the looting, but also against what happened here this evening. Against those who want to act lawless and we must take a stand to the best of all South Africans. I thank you. [Time expired.]

The DEPUTY MINISTER OF PUBLIC ENTERPRISES (Mr G P Masualle): Hon Chairperson, hon Minister Pravin Gordhan members, chairpersons of the boards of state owned companies, SOCs, as well as their executives, guests ladies and gentlemen good afternoon, in the gallery, good afternoon, firstly, I wish to enlist my voice in expressing disgust at the deplorable scenes we have witnessed here at the start of the session.

I am most confident that many peace loving South Africans out there who want peace, prosperity and progress are enraged at witnessing some of those occurrences in this Parliament of theirs. The

expression of their collective power. I have no doubt in the ability of Parliament to ensure that its dignity and standing is protected as well as restored in the face of the people who are yearning for this institution to do what is good for them.

Participating in this debate I wish also just to say, we have been recently to elections and overwhelmingly our people showed their support to the various political parties here. Of course, they also gave the ANC the responsibility to lead governance. In that respect, we have a duty to respond to the cries of our people. We are not going to come here and cry like others, raise our hands in hopelessness. We have got to make sure that we bring fourth the changes that our people aspire. In this respect, the President has in his state of the nation address, Sona, asked of us all to buy into a vision. A vision for this country, a vision that looks beyond the perils and challenges of today, a vision in which we have a sense of view solutions to the problems that we are currently facing. That vision imagines South Africa as a country that has embraced the fourth industrial revolution and in many instances that is exemplary to the world. In that vision, I also imagine that we would see our SOCs, being agile companies, effective businesses that deliver reliable services to the country.

The South African Airways, SAA, that is a beacon of our national air carriers, self sufficient and working efficiently in a united, pan African led air travel ecosystem that competes well in the global air travel space. That vision is not a new one in fact, it is a reimagination of what we once were and could be again. Our SOCs have been plagued by many challenges as have been outlined. This, if left unabated will surely result in their collapse and failure.

It is true that corruption and maleficents has crippled - not only our SOCs but our country as whole. It has tarnished the good standing that some of our SOCs held in the world and brought some of them nearly to their knees. However, we cannot allow this to render us to a failed state.

As the government and the department, resolute behind the leadership of Minister Gordhan we are determined to root of this out at all levels. We are addressing the structural challenges facing our state-owned companies and are taking tangible steps to diversify their service and product offering. They must be market agile and fit for purpose. The interventions we implement must be efficient. It must bring efficient solutions and safeguard the interest of all our people in ensuring that the services are provided in a cost-effective manner.

Specific to the SAA, as the Minister has so indicated in his introduction, we are making a number of interventions in that respect but, we have a concrete reality in which we have got to comprehend with. The reality of our domestic aviation environment is that it is effectively deregulated and therefore robustly competitive. International aviation – although somewhat regulated through a bilateral air agreement system is also by enlarge free and competitive. If our airline assets are to effectively compete and survive in this environment, with a minimal drain on the fiscus, it is imperative that they be turned around and be made fit for purpose.

In this respect, our board in will be working in urgency to address the decline of the airline and its ancillary businesses. This must be founded upon appointment of a world class executive leadership team with credible aviation experience.

As I had indicated, we will not let our SOC's fail. We are committed to ensure they serve and support the national development agenda.

However, having said that the airline must undergo a rigorous and substantial process of reducing costs, improving efficiencies as well as strengthening its operations.

A comprehensive review of its domestic, regional and international routes will be undertaken to minimize losses. None core assets which currently distract the management from attending to its core activities, need to be relooked at and possible disposed of, those that could not be profitable used by the institutions.

We must stress that our SOC's that are working within limited budget framework. We have got to look at the diversity of injections financially so that the fiscus is not exerted unnecessarily.

Hon Chair, time is not on my side, I must try and run very fast. I also have to attend to a few things that have been stated here. In this way, we do want to work collaborately as the President has said because the challenges we face belong to all of us and we must work hand in hand to solve them. It's not only for the department, it's not only for the SOCs, the boards, it is also for all in those entities, labour as well as the private sector. We have got to collaborate to find solutions to some of these difficult questions for which we have begun taking measures in that respect.

Regarding Denel, I want to say summarily it's not that doom and gloom. Yes, there are immediate challenges but certainly, there is also a pipe line of opportunities that properly followed, that

institution is poised to change for the better forever and it is possible for the collaborations that one is talking to.

The hon members that spoke before me here particularly, the longest serving member in the portfolio committee in which I attended hon Mazzone, we do appreciate the working collaborations, the views, the inputs from all of us given the nature of the challenges we have. I have heard you and you have repeated that you have corresponded with the Ministry in respect of a request or a proposal that there be a convened or be undertaken another comprehensive review of these SOCs.

If I listen to you, you also say that there has been many of these reviews that has been done and indeed, there seems not to be action, I don't know how different it is going back again doing back again to doing the same thing. I think what we need to be doing is to take forward the work of the Presidential Review Commission. All of us work to make sure that it is successfully implemented and in that respect measures have already been undertaken. The SOC Council has been instituted, we will be coming back to the committee to report progress in respect of the interventions so desired as mapped out from that SOCs Council, as led by the hon President.

That the department need not to exist is not different from those who come here to disrupt proceedings. It just works in the same way but from different angles. I think we must really desist from that. Let’s in constructive way, work to building to take forward some of these than simple just hopelessness and destructiveness in that sense.

I also take the point... In fact, it is completely without justice to say when measures are in place that this government is letting scot-free those who have stolen to run away with it. Certainly, that is not true. If one looks at what has been put in place, the sort of interventions that are... It is a misstatement. Any statement that suggests that government has let scot-free those who have actually stolen from the government, it is a miss representation of facts. Let’s to the measures that have been put in place.

The President has led quite a brave effort to ensure that the National Prosecution Authority, NPA, is given capacity, they are working on it. I think instead of just crying raising hands up, let’s work together to get things done.

Hon Buthelezi, we really are looking to working with all South Africans including political parties in dealing with the challenges

that we have. Certainly, we need that environment in order to see to it that the transformation we really much need can take place. Thank you very much.

Mr M G MAHLAULE: I rise on a Point of order. I did not want to disturb the speaker at the podium. I am raising a concern that hon Mileham at the gallery is tempted to hackle and he is hackling while he is sitting at the gallery which may pose some questions to us that are members in the gallery... He must come to this side.

The HOUSE CHAIRPERSON (Ms M G Boroto): Please refrain from doing that. Thank you very much. There are seats available hon Mileham. Ok. There were no seats available but we now have seats available.

Ms J C N MKHWANAZI: Hon Chairperson, Minister, Deputy Minister, hon members, hon guests and the entire Mzansi Africa, good evening, as we debate this budget, we must be bold, have clear vision and ethical leadership, guided by the ANC policies and the mandate given to us by the millions of South Africans. We must not dare to fail and betray them. Hon Chair, we must not lose focus on the vital role of state-owned companies in generating inclusive growth, providing efficient and cost effective network services and deliver public services to both those who can pay and those who cannot.

Hon Chair, we have a responsibility to restore them to be able to perform their mandate to the best capacity and to encourage significant new investment in our economy with the aim of achieving sustained inclusive growth, and transforming our economy. Hon Chairperson, just to remind us because there are so many howling and misguided concepts out regarding Eskom, the mandate that was given to Eskom is to generate, transmit and redistribute electricity to industrial, mining, commercial, agriculture and residential customers and redistributors. To improve the quality of the country's infrastructure will ensure a reliable and cost effective electricity supply, to its mission and development of economic growth and to deliver on the ANC-led government mandate on its commitment to advance skills development, especially to our young people. Hon Chair, we are noting the challenges facing Eskom, as the hon Minister put it very well on the state of the nation address, Sona, debate 25 of June 2019 I quote:

> A democracy that continues to build on the achievements and successes of the past 25 years; while having the humility to admit the weakness and mistakes of the past.

Yes, we all agree that Eskom is experiencing severe financial, operational and governance challenges and has impacted on the

performance of the economy and placed pressure on our fiscus. The escalation of the municipality bill and Soweto debt plays a huge impact in terms of Eskom cash flow and its growing at R1 billion a month, owing to the difficult economic conditions ...

IsiZulu:

... abantu bakithi abahlala ngaphansi kwazo ...

English:

... and the rampant culture of nonpayment in the country. However, we encourage the Eskom programme and all the stakeholders, including the government departments in dealing with the effectiveness and efficiency on the services given to our people and also working with all the relevant stakeholders to encourage those who can pay to pay for the services. Structurally Eskom lacks transparency regarding costs and allocation of resources, making it difficult to understand its own competitive advantages. Cost overruns and poor performance of the build programs have been observed and the Minister has alluded to that. Medupi and Kusile have suffered a massive delays and cost overruns due to poor planning, poor engineering designs and poor procurement practices that led to systemic corruption has compromised the credibility of Eskom.

Hon Chairperson, guided by the ANC 54th National Resolution 23 that set on the firm action required to improve government and performance of state-owned companies. The lesson learned is clear; for growth, we need a reliable and sustainable supply of electricity. We are on our path to recovery and we note with great hope, hon Chair, the appointment of a new Eskom Board. We find both joy and encouragement from the passion, commitment and excellence among the thousand of South Africans, who really want to make this entity work, not the howlers but the doers, as the President alluded in the Sona.

Amongst other challenges that the Board is addressing currently is readily availability of installed capacity, electricity availability, focus of power stations, ensuring timeous maintenance and quality of work to be delivered to our people. We are not here for the beauty contest, but we are here to make sure that we deliver quality services to our people. [Applause.]

The progress that is made by the Board in installing culture of effectiveness and transparent governance confirming number of fraud and irregularity cases is exciting, as the Minister was reporting on those cases. Those who don’t listen, it’s not our baby. We are continuing. [Siyaqhuba.] ... [Time expired.]

Mr A M SHAIK EMAM: House Chair, I have been running from one House to the other. So, there is a delay on that side as well. At the very outset, let me welcome the report of the Department of Public Enterprises and the NFP will support the report tabled here. [Applause.] Minister, I want to congratulate you on the stance that you are taking. Yes, indeed, I do agree with you that if you want to stop corruption and fraud, then, of course, you have more enemies. When you do the wrong things you have more friends and when you do the right things you have more enemies. So, I congratulate you on the stance that nothing will deter you from ensuring that we live in the society free of any corruption.

Minister, I have previously, on numerous occasions asked: What is the real challenge that we have when a state-owned entity run by the government we have a problem? But when it is in the hands of the private sector, then it is managed and it is profitable. I know one of the reasons and what we have identified was the fact that there has been interference by government officials. There is water private sector and there has been corruption - a whole lot of it. My understanding is this: Would it not be easier and more successful if it had independent management with no interference at all from all of us? So that it is run as a business, it’s profitable but also

provides the services created in terms of its mandate – that is the first thing.

The second problem I have is with SA Airways, SAA. Now Minister SAA came and did their briefing even at the Appropriation Committee wanting an extra amount of about R23 billion or so. You and I understand in terms of business that if you need R23 billion to solve your problems and become even, and start becoming profitable, and if you give somebody in titbit R2 billion, R3 billion and R1 billion it's not going to work. The chief executive officer, CEO, had expressed concern on numerous occasions and I am not surprised that he has resigned. It looked like he was now being set for failure because he was not getting the tools to be able to turn SAA around.

SAA itself is not only the problem if you look at some of the challenges it faces in terms of the rules. You have other airlines and this is where the aviation industry comes in. You give in the rules to other airlines and you expect your own airline to make one. Some would argue and say what about competition. Surely, you need to put the needs of your own people and your country first. You are giving rules, even some of the international airlines are flying where previously our own airline used to transport them from OR

Tambo to Cape Town. That's basically another challenge that we are not addressing. Yet, we expect the SAA to make a turnaround.

I must commend you on the issue of Eskom for the intervention that you put into, Minister. The NFP supports ... [Time expired.]

Mr S N SWART: Chairperson, referring to hon Minister, the ACDP fully appreciates the severe challenges the state-owned companies, SOCs, present, not only to the fiscus but to the economy as a whole. We saw 3,2% contraction in gross domestic product, GDP, for the first quarter of the year, which many attribute to Eskom's load shedding. We were given the impression that the massive amount the Treasury set aside each year for 10 years R230 billion would be enough of a bailout for Eskom. Now it appears that this may be insufficient and that Eskom may need more than the first year year's allocation of R23 billion. This is deeply disturbing. We, as parliamentarians, need to exercise our oversight over any proposed bailout unless we will do when the Special Appropriation Bill is introduced.

Now Minister having served on the Eskom oversight inquiry in the last Parliament, with a number of members here like hon Mazzone, we have some idea of the looting that took place. However, the further evidence before the Zondo Commission has given an indication of the

far greater severity of state capture and corruption that occurred at the SOCs.

In this regard, we are however pleased that there has been some recovery and well done to Eskom for the recovery of almost R1 billion, which was repaid by McKinsey - mainly at our encouragement to go after that money and then of course, the R600 million that was recovered from Trillian through a court process. So much more needs to be done in this regard and those that had been involved must not only pay back the money but they must be arrested and charged. I have long said we don't have to wait for the Zondo Commission and another member said we don't have to wait for it. Let us go after those that are involved in state capture.

Now if one also considers the role of certain compromised companies. That must also be considered. The role of Trillian, Tegeta, and McKinsey as well as the role of Bain and KPMG played in the hollowing out of the SA Revenue Service, Sars, these private entities must also be held accountable. The question is as it is indicated Minister whether a ... I think these were your words "hurried apology and the repayment of fees is sufficient." We think not, I mean considering the damage done to the country.

Of course, I also serve on the Justice Committee and we did receive an update from the National prosecuting Authority, NPA, boss, Adv Shamila Batohi, and the new head of the Investigative Directorate, Adv Cronje. They are investigating. Progress is being made, but clearly, there are budget constraints in that regard. These are complex matters. Forensics' are very complex and requiring a lot of funding. In addition, both the Asset Forfeiture and Special Investigation Unit are making progress and we welcome the Special Tribunal which will expedite civil claims to recover ill gotten games expeditiously.

Chairperson, I have also long argued that those units need to have their budgets increased substantially so that they can quickly recover the ill gotten games. Minister just lastly, the extent of the pushback of the reformist agenda and holding to account all those implicated in state capture is evident – no more so than today – with the disgraceful conduct that we saw in this House. We in the ACDP condemn it in the strongest possible terms and we agree that what we witnessed was indeed a defence of state capture.

Minister, you served with us on Eskom Inquiry. I said then as I say today, we, including you, Minister, as you said earlier will not be intimidated. We will stand resolute and determined to expose

corruption and state capture and to hold those involved accountable. May I add in conclusion that as we stand firmly "no weapon that is formed against us shall prosper." Thank you. [Applause.]

Mr N L S KWANKWA: Hon members, despite numerous attempts... I beg your pardon, I should start at the beginning and say, the problem that we have here is that, lawlessness begets lawlessness. This de-generation where we do not respect Parliamentary Rules and conveyances has been allowed to take place overtime, over an extended period of time. Some of us even got the reputation of being condemners, if there is any such word, where we would stand up in the House and condemn. Every time when something wrong happens, we condemn

The issue here Minister Gordhan, I understand the political dynamics around this issue and we condemn it. Parliament must enforce its own rules without fear or favour. That is the important starting point so that we can deal with those people who do not want to respect this institution and so that we can bring back the decorum and the respect of this institution because when if it loses credibility, then we are all doomed as South Africa.

Despite numerous attempts, bailouts and interventions by government to restore good governance and stabilise state-owned enterprises, South Africa's SOEs continue to face or pose rather a serious risk to the fiscus of our country. Therefore, the need for the reconfiguration of some of the SOEs is very important. We want to focus on Eskom in particular because of the systematic risk Eskom poses to the South African economy for obvious reasons. We are not going to restate them.

House Chair, we want to particularly talk about the proposed debt-equity swap for Eskom by the Public Investment Corporation, PIC, which will, without a doubt, improve Eskom's balance sheet and will give the entity some financial room to manoeuvre. However, this should not be done without first addressing the underlying structural and governance challenges facing Eskom. In other words, Mr Minister if we were to give money to Eskom via the debt-equity swap, one might ask as to why we call it giving them money, when it is a debt- equity swap. They will not be servicing any debt. Through the special appropriations Bill announced by President Ramaphosa during the June state of the nation address, without first addressing these challenges, is tantamount to throwing money into a bottomless pit.

Minister, whenever we walk around the country interacting with South Africans, South Africans are asking and they want intricate detail how government intends to unbundle Eskom and the effect of such a strategy on Eskom and electricity generation. This is a question that ordinary members of the public want an answer to and with all the platitudes we have had so far, and all the confusion that has been created, they are concerned about their future including the workers. We support the Board Performance Evaluation Framework for SOEs, because we believe it is a step in the right direction, we support it and we hope that it is going to be prioritised. As we deal with Eskom Mr Minister, we need to deal with the municipal debt which is piling up, and deal precisely with what you prefer to term as: "Soweto exceptionalism". All municipalities, including Soweto need to pay up so that we can improve the cash flow of Eskom. The hypocrisy actually starts with us politicians, when we want votes; we go there and encourage people not to pay up. After elections, we then say to them they need to pay up. It is disheartening. I was listening to an interview when some of the people from Soweto were saying, no I can only afford to pay two rand, I can only afford to par five rand, making a mockery of attempts of get people to encourage them ...

IsiXhosa:

... ukuba babhatale. Sithi aba xa sisiya kweza ngingqi zovoto ... Andikutsho ukuba la masela. [Kwahlekwa].

Ms D D DLAMINI: Hon Minister Hon Deputy Minister Directors Hon members The ANC's 54th National Conference resolved that the main purpose of our SOEs is to operationalise the broad socioeconomic development plan of government. Transnet is one of the seven state owned enterprises under the Department of Public Enterprises. It operates South Africa's ports, freights and pipeline infrastructure. The essential of its core function is to assist in lowering the cost of doing business in South Africa. The corruption, state capture, misallocation of resources, weakening of leadership and the breakdown of control systems has had an adverse impact on the performance of the entity. These challenges have not gone unattended. The ANC government is committed to turning the situation around with our SOEs. The urgency of the situation is expressed by the ANC when it acknowledged and resolved that firm action is indeed required to improve the governance and performance of SOEs. The ANC did not just allude to the problem but also resolved in the same breath that the problem can be solved by ensuring the appointment of skilled staff and qualified board members and protecting public institutions from improper interference.

Hon Chair, I am happy to report that the Department of Public Enterprises has already put its turnaround strategy for Transnet in motion. Acting in accordance with the President’s call, for the strengthening of the SOEs in order to ensure that, these SOEs fulfil their developmental mandate. The ANC-led government appointed new board of directors in May 2018. This board commitment is achieving certain and calculable economic and developmental goals set by the Department of Public Enterprises.

One can begin and explain that the importance of this entity and its socioeconomic impact of this entity is a big contributor for skills development through its various divisions. Through its outreach programme, namely the health care trains, Transnet has provided primary health care services in the rural communities along Transnet’s strategic corridors. In the last financial year more than 400 000 lives were touched by this entity. This is what our... The two trains through their clinics provided General health and education, dental, eye, and pharmacy services. Transnet has remained financially sustainable since its inception. The last time any guarantees were issued was in 1999, these will expire in 2029.

This budget is important because it has allocated funds to allow for the proper implementation of the department’s turnaround strategy.

The allocation for programme 2 and 3 give the department capacity to perform its oversight function and turn the situation around.

For the first time in many years Transnet received a qualified audit opinion for the 2017/18 financial year. The opinion was based on the fact that the auditors could not verify the Transnet's irregular expenditure, which increased from R692 million in 2016/17. Minister, this must be attended to as a matter of urgency and a report to the committee be given to prove progress in this regard. We note that performance in port operations improved by 6% from 4396 twenty-foot equivalent units in 2016/17 to 4664 in 2017/18. In the same vein we equally note the pipeline volume decreased by 3.9%, from 16.9 billion litres due to a two-month closure of the fuel. [Time expired]. The ANC Supports the budget.

Mr S N GUMEDE: House Chair, Minister and Deputy Minister, members of the portfolio committee. Chair, all others members present here as well as members of the boards and the community at large. I am tempted here, I prepared a speech but I feel interested that most of the things I would have covered have been covered. I want to respond to some of the things that have been raised here.

I have got a feeling that we are not honest to ourselves. We need to give credit where it is due. I think I have been here for only three months, I have seen the strives, that this committee has in fact made. It will be unfair that, this committee or perhaps the SOEs must be abolished because they are not doing anything. It is an attempt if we say we are in government, everyone is included. There is no one who is really excluded in this manner.

Let me take you back to what I have just coined that we have what we call, SOEs road to stability. It is my own coinage and I hope it will work. I am taking the President's saying in 2018: "Minister, I am giving you a directive that says, you must go and restore the SOEs", that was in 2018. In 2019 the President said to the Minister, "Now you have managed to restore those SOEs, now I want you as essential, strengthen those SOEs" I am today speaking in frot of you, with the achievements that the boards as well as the department have really achieved. There are boards that are in place. Today there are CEOs that have been appointed. Those are all achievements that we have gained.

It will be unfair, for instance if I may talk to, because my task was to talk about Denel. The R2,8 billion that has been requested Denel is the fact that we give oversight to Denel. In fact if Denel

is short of money, the first point of call is us. They will have to come to us and talk about that. I want to say that, Comrade President, after giving that he then said, you go and do this work, I am expecting that next year he will come and complete the road to the SOEs.

There are achievements that many of these have been done I have the appointment of the new board members, I have the CEOs that have been appointed. I have got companies that the boards are re-negotiating some contracts. I have to avoid termination of the staff. They are entering into negotiations with the severance package. Importantly, there is a pipe line of about R30 billion that the company Denel is likely to get once they are flying high. I must say that it will be unfair... I thought jointly we are in a position to say, we work together and make sure that we achieve what we want to achieve.

Minister you have raised something that says, there is R600 million that will have to be recovered. May I add something out of that R600 million. I am not sure whether it is relevant to raise it at this stage. Is it possible that all those people who are implicated and there is a potential that they may end up being convicted, their bank accounts be frozen. I support the budget.

Ms C M PHIRI: Hon House Chairperson, hon Minister, Deputy Minister, hon members of the portfolio committee, board members of the state-owned enterprises, SOEs, distinguish guests, ladies and gentlemen, and all protocol observed.

Sepedi:
Modulasetulo wa Ngwako, ntumelele ke bolele le setšhaba sa Afrika-Borwa ka bophara ke re re le mokgatlo wa badimo le batho, go na le setsopolwa se se rego ...

English:
... "Denying the truth doesn't change the facts."

Sepedi:
Se sengwe setsopolwa se re ...

English:
... "Denial is the worst kind of lie because it is the lie you tell yourself."

Sepedi:
Re le mokgatlo wa ANC ...

English:

... we will not deny the fact that SA Airways, SAA, and SA Express have serious problems, because if we do that, we would be telling ourselves a lie, as the Minister and the Deputy Minister has already alluded. But again, focusing on the problems does not yield solutions. It in fact leads to depression. As the ANC, we are going to avoid this depression. I choose to focus on the solutions and goals that would help the SOEs to get back to their profitability rather than their problems.

One of these solutions is contained in the SAA's long-term turnaround strategy that was presented early in February this year. Progress was made with route optimisation and cost-efficiencies, as the Minister has alluded in his address. According to this strategy, the airlines will create three business units focusing on domestic, international, and regional operations. They will share services such as finance, human resources, commercial and legal and each will answer to the SAA board.

The long-term plan includes four phases: Arresting the problems; implementing changes; stabilising operations and growing the business. Already in October last year, Deon Fredericks was appointed as the interim chief financial officer on secondment from

Telkom. He spent his first three months at SAA focused primarily on its cash flow challenges and there are some positive improvements shown to date, as the hon member from the other party alluded when he said it has a potential, and we need to protect it. Hon Minister, as much as we have seen in the record shown that there is improvement to date, we recommend that skilled and professional public servants should remain in their work stations in order to thrive and contribute in a very high level of work.

Also, the airline recently secured a loan that amounts to R3,5 billion from local lenders to help pay the R9,2 billion legacy debt. The mere fact that private lenders are able to lend SAA some money means that they also believe in the viability of the entity. So we also need to be optimistic and support SAA. Their travel experience is good and all of us as members of this House, we travel with SAA and we are very happy with the service. SAA needs support from all stakeholders of course. There is no doubt that Parliament is one of these stakeholders and we should assist SAA through proactive oversight and ensure that the strategy is implemented.

The government is also playing its part, as our President Cyril Ramaphosa recently met with chief executives of 20 state-owned companies, including SAA and SA Express to discuss the challenges

plaguing state-owned enterprises. These CEOs were given clear marching orders by the President and they have pledged their commitments to ensure that these SOEs are turned around. These are some of the facts that we cannot deny and they show us that there is still a reason to keep SAA, including SA Express and Mango on the asset books of government. As such we are in support of the government bailing out the entities, with conditions of course. We do understand why this was not done in this current budget.

In conclusion, as the ANC we really support this Budget Vote. [Time expired.] We call on the Minister to speed up the consolidation of the airlines. Thank you, Chair.

Mr E J MARAIS: Hon House Chairperson, the National Development Plan aims to eliminate poverty and reduce inequality by 2030. To achieve that, the economy must grow faster and in ways that benefits all South Africans. The DA is particularly concerned about the welfare of young people who have borne the brunt of an underperforming economy. Their circumstances will not change unless deliberate policy steps are taken to offer them better educational and economic opportunities, underpinned by sustained investment in the economy. To achieve this, reform should be the byword informing all our actions. Hon Minister, the Department of Public Enterprises should

move with haste to stabilise and revitalise state-owned entities, SOEs, through a review of board appointments, barring board members from procurement decisions and adopting a no-nonsense approach to corruption and possible privatisation.

At this point, let me take the opportunity to congratulate members of the Portfolio Committee on Public Enterprises in the Fifth Parliament for their sterling work in addressing state capture and corruption. I am sure I speak the mind of my fellow committee members when I say that we are all looking forward to the outcomes of the Zondo Commission. State-Owned Enterprises remain key drivers of investment in infrastructure development and as such, there should be an acceleration of investments in key infrastructure such as rail and energy. This will ensure that we increase the proportion of people with access to the electricity grid to 90% by 2030, while encouraging nongrid options to those who can afford it.

I am encouraged by the increased gas exploration projects on our shores. An increase in liquefied natural gas will help diversify our energy mix and accelerate job creation in the energy sector. With careful planning we can accelerate our gas-to-power projects to produce at least 20 000 megawatts of renewable energy in the next 10 years.

We must seriously consider ring-fencing the electricity economy of the 12 largest municipalities, resolve maintenance and refurbishments backlogs and develop financing plans alongside investment in human capital. In order to ensure reliable supply of coal for our existing power stations, an industry compact must be entered into, underpinned by comprehensive coal fields planning. On its part, Eskom should implement its coal strategy which includes considering reinvestment in cost-plus mines to reduce the spend on coal and ensure security of supply.

Afrikaans:

Eskom skuld tans R440 miljard en genereer nie genoeg inkomste om sy skuld of rente daarop te betaal nie. Wanbestuur en wanbesteding was aan die orde van die dag, soos telkemale aan die lig gekom het by die Zondo Kommissie van Ondersoek.

Alhoewel die prys van krag jaarliks steeds bly styg, kan Eskom nie sy lopende koste uit die verkoop van krag verhaal nie. Verder is Eskom se werksmag ver te groot en moet verklein word. Verdere reddingsboeie vanaf die staat aan Eskom is nie volhoubaar nie en plaas die staat se finansies onder geweldige druk.

English:

The department and the Portfolio Committee on Public Enterprises must monitor Transnet capital plans and implementation of commitments made on the Port of Saldanha; provide oversight on the efficiency of South African ports and commitment on the Port of Durban; provide oversight on the financial sustainability of Denel; find a lasting solution for the rising municipal debt for electricity to Eskom and quarterly site visits on SOEs major infrastructure programmes. The performance of SOEs over the last few years has been questionable, with deterioration in corporate governance for entities such as Eskom, SA Express and Denel.

The Sixth Parliament should consider investigations into Denel and Transnet as suggested by the Eskom Inquiry report monitor and provide oversight on recommendations to be made by State Capture Commission led by Deputy Chief Justice Raymond Zondo. The report into investigations on the Eskom Inquiry and recommendations from the State Capture Inquiry should be followed up in conjunction with the Portfolio Committee on Justice and Constitutional Development and the Portfolio Committee on Police. I thank you.

Ms J TSHABALALA: Hon Chairperson, hon members of the portfolio committee, hon chairperson of the portfolio committee, hon Minister, hon Deputy Minister, guests in the gallery and fellow South Africans

at home who are watching, I am reluctant to even start with my speech because the proceedings of today in this august House are really disturbing in relation to what we have witnessed. I will come to that; let me stick to my speech so that emotions don't get the best of me.

The former chief of Eskom, Ian McGray tells a personal anecdote about a discussion he had over lunch in the dying days of apartheid with a struggle icon and our father of the democratic South African nation, Tata Nelson Mandela. McGray asked, "When you take office, what are you going to do with Eskom?" Madiba gave him a simple answer, "Nothing, as long as it continues to produce cheap electricity and connect more black South Africans to the grid."

I am relating this story because I want us, as we commemorate the Mandela Month, to never lose sight of the purpose of assuming political office, which is to serve the people. Those paid to work for the people in Parliament have a tendency to stage walkouts. Today, they outmastered themselves. In fact, they resorted to confrontation. Those are members of the EFF!

They need to fulfil their constitutional obligation to account to this House. They must answer to their constituencies. Parliament is

not a platform for theatrics; this is the National Assembly where people exercise their power. The current state of some of our stat-owned entities would have disappointed the generation of Madiba. However, if we cast our eyes merely on a year ago, there is a reason to have hope.

In May 2018, when Parliament conceded its Budget Vote, most of our state-owned companies were under a cloud of allegations of corruption of state capture. We are now witnessing a Beltinger-style fight back campaign. Its primary target is within Minister Pravin Gordhan who finds himself trending almost every week on *Twitter*, based on all manners of allegations. Clearly, this portfolio is not for the fainthearted. Hon Mazzone, we are live to the task!

Hon Minister, we dare not fail our people to save Eskom, Denel, Alexkor, Transnet, SA Airways and other companies in this Public Enterprises portfolio. We would have failed the generation of our freedom fighter, and I am talking about the red berets – red freedom fighters ...

Sesotho:

E feta fela!

English:

I am talking about real freedom fighters. We dare not be distracted from our historic mission to save the people by those who resort to sultry and underhanded tactics – those who employ faceless balls to throw our leadership on *Twitter*. Contrary to some misinformed statements on social media, all our cadres on the ANC act on the mandate of the ANC.

This hon Minister and the Deputy Minister are all acting on the mandate. The mandate says: Government must take firm action improve the governance and performance of SOEs by ensuring appointment of skilled staff and qualified board members, and protecting public institutions from improper interventions. Members of SOCs and SOEs who are here, I want you assure you: We want you to come to Parliament and account on the public office. We want to assure you on that; we are going to invite you very soon.

Hon Minister, we need governance in these SOEs. We need stability in governance. We want to also call on the Department of Public Enterprises, as of to date, that you need to look into compensation. You said it yourself that we have got acting deputy director-generals. We have got acting director-generals as we speak. This is

not Bollywood; we want staff and we want accountability. We want stability in Public Enterprises.

I am coming to respond to hon Mazzone who tells us that we must stop this department and it must not exist. What hogwash! So, Minister, please attend to that. We need compensation that this department is underspending on. It needs to spend and ensure there is staff in it.

The EFF is firmly in the corner of the thieves of state capturers under the guise of fighting the Minister and it is time that we call them out for who they are. The DA on the other hand is still pursuing the neoliberal daydream of privatisation and selling of state assets and private firms. Neither of these agendums is genuinely seeking to do with the developmental state of Africa.

Let me go to responses; this speech is just going to waste my time. Hon Mazzone, let me respond to you now. You tell us the department must not exist. You see, that Mobil that you brought which seeks to privatise the transmission and distribution of electricity will not see the light of day. We are waiting for it; we shall meet you in the committee.

I want to reiterate what the Deputy Minister is saying, and it is true. That statement is disruptive. We went to the committee when we were adopting a report and you said this is the best committee that has ever performed in the last –fifth – administration. Today, you tell us that this committee must cease to exist. I mean, what is that?

You tell us about ideologies and you say the ANC does not have political ideology and political background. Let us ask you: What is your political background? Neoliberalism – you will ask this too! [Interjections.] We don't even understand what your ideology is. We don't even know who formed you, under what backlogs, and what you value system is as we speak. We don't know your identity! [Interjections.] [Applause.]

Let us tell you about the ANC's identity. The identity is a national democratic revolution. We are building developmental state. Whether you like it or you don't, we are going to rule and we are going to govern. The state-owned entities are going to continue! [Interjections.] Let us ask you about the former Mayor Msimang's allegations of GladAfrica - the one that you removed and took to Gauteng. [Interjections.]

And, you failed also to answer to the people of Tshwane about this marriage of yours with the EFF that has come to fail, which you don't want to speak about. Tell the people of South Africa what this marriage of convenience you were doing is about? Right now you want to run away; you want to tell us about the state-owned entities.

I want to speak to this Mayor of Johannesburg: The people of Soweto have marched to Eskom and to the Eskom Board. We want to say to you: Can you go to the people of Soweto, make a real deal and be one with the community. Can you deal with the issue of indigents and make sure people Tladi and Moletsane get services. The ANC supports this vote. [Time expired.] [Applause.]

The MINISTER OF PUBLIC ENTERPRISES: House Chairperson, let me thank everyone for their contributions. This is just the beginning of the 6th administration and it's good to see that we are as lively as we should be, and focus on the substance of what do we do with our state owned enterprises, what kind of positive role can they play. Where we recognize that state capture has caused immense damage to reputation, structure, finances and operations of state owned enterprises. Let's focus on how do we fix them and deal with those who are fighting against the recapturing of SOEs and expose them for what they are doing.

I also want to share the compliments that have been paid to the 5th administration portfolio committee and hopefully, and I'm sure the new portfolio committee will emulate the good work that they have done – run the enquiries into these entities if we are falling short, tell us where we are falling short, indeed tell the boards and management themselves so that we get your help to fix them.

I think we must be re-assured about the fact of the president's support with regards to fixing if you like and repositioning of SOEs, particularly the bigger ones like Eskom, Transnet, Denel, SAA or the airlines more generally, indeed Prasa as well is an absolute priority for the 6th administration and his government.

To hon Mazzone, let me say that there is a lot of room to debate whether the SOEs have a role to play in the economy or not. All I wan to do is to draw your attention to various Organization for Economic Co-operation and Development, OEDs studies as recently last year or two which shows firstly how the influence of SOEs is growing in the global economy and economies more generally.

Unidentified member [inaudible.]

The MINISTER OF PUBLIC ENTERPRISES: If you let me continue, you will have your chance at some stage.

Secondly, in particular there are models around the world Temasec, South Subregional Economic Co-operation, SASEC, in one instance, Scandinavia another example as well. So I think, lets talk more constructively about the role SOEs can play and if they are functioning well which is our job to get them to do so, how we could make sure that they contribute in the right way to the economy more generally as all of us have spoken out.

I agree with hon Gumede that maybe we need to use title, we'll publish a book together, SOEs the road to stability, but it is not an easy road to stability it's a tough road. When an organization is infected by corruption, theft and bad culture, then it takes a long time to fix it. It might ANC people; it might be people from other parties as well. The ANC is by definition not corrupt. You can get any individual who doesn't even belong to a political organization that can be corrupt.

I think the essence is can we agree we need fight corruption? Can we agree that we do not want unnecessary bailouts for SOEs? Can we agree that we want operational efficiency in SOEs? Can we agree that

we want financial sustainability, if we agree on all those things let's put our heads together and see how we going to get it. That's simple matter [applause.] so all we need to say is that we can all have our views about one or two departments or multiple places where this needs to be kept but atleast around area where we agree, let's find a way as a committee, ministry and as department of making sure that we do the work that is necessary.

Inkosi Buthelezi, your point about cleaning up is absolute a valid one, one that I think we all agreed to and none of us wants countenance corruption. But I think we need to go beyond just making speeches about corruption. We must have the courage of our convictions to do that which is necessary to show up the corrupt people and not fall for fake news, fake narratives that are run through all kind of digital media and other things as well.

This is a fake news world; this is the world where you can mislead thousands if not millions of people as a result of things that manufacture in some dark room somewhere with the help of some people like Bell Portinger. And if we agree that we don't want South Africa to move in that direction then it is in the national interest that we work together and put those corrupt elements wherever they might be where they belong which is in jail at the end of the day.

That’s another thing that we agree with, so if you want to create the ethical state that we speak of iNkosi, let’s work together to actually do so. Do we have the political will hon Wessels, to do the things we saying? Yes, we do and we have the president’s backing, and we indeed have the ANC’s resolutions to back us as well. There might be some doubting Thomas’s across all over the show in different parties but I can guarantee you the political will is certainly there. And you can see how some of us have to face the consequences of having to demonstrate the political will not just talk about it and make speeches about it. We will come back to that. You made an important point that is that let’s work together to fight corruption and the kind of lawlessness that we saw earlier on in this House.

Hon Mkhwanazi makes an important point in distinguishing between howlers and doers, so let’s spend more time doing and working together than howling because I think all of us want Eskom to work, all of us want the culture of non-payment to be overcomed. And in recent times there’s been several incidents of violence in Soweto for example, people resisting disconnections and so on. I think we should collectively across all the political parties if we have the national interest at heart call on the people of Soweto and those few that are involved in these activities to stop these activities,

because this is economic sabotach at the end of the day and it undermines Eskom's good effort to begin to become financially sustainable at the end of the day. SAA is certainly a challenge so are the airlines and you can see many airlines across the world are consolidating in one way or the other, and give us a few more months to not only look at finances of the airlines but to critically examine whether there is an investment case government has and how do we go forward. What we do have a commitment from government on across previous administrations as well is to invite strategic equity partners into the SAA fold but you can only do that when SAA is in good enough health to attract a partner. So we can't have partners being attracted in the current state as we actually see it.

There are many examples around the world I think the hon Shaik Emam has actually left us where SOEs work well in their management by government works as well. Look at South Asia Subregional Economic Co-operation, Sasec, the organization that has management and control over 96 Chinese SOEs and look at their performance particularly in the last five years or so and they are judged by financial and operational indicators; and some of them are the biggest companies you will find in the fortune 100 – those of you that are familiar with that.

Mr G K Y CACHALIA: [inaudible]

The MINISTER OF PUBLIC ENTERPRISES: Maybe we need to lock up some people too in order to get the things we want to do at the end of the day.

The MINISTER OF PUBLIC ENTERPRISES: So, hon members, what I'm saying and I concur with hon Swart as well that the time for prosecution has come, the time for putting people to the test of being in front of judge has also come, you cannot have endless exposures undertaken by investigative journalists about all sort of transactions happening and the way in which these people masks the activities is by bullying and shutting down other people in various forum.

Hon Kwankwa, there should not be any Soweto exceptionalism as I pointed out earlier on and the fact of Eskom restructuring as we said will be covered in a paper and I outlined for you, I think he's gone already, chairperson, the kind of future that we see for Eskom. And once we have that we can start debating that in this forum as well. I want to agree with hon Gumede that perhaps in addition to recovering 600 million that we see currently, there needs to be more firm action by the Asset Forfeiture Unit. Firstly, to freeze the bank accounts of people who are culpable of theft from the state but

secondly to cease the assets that they have bought with stolen money as well; and the kind of luxurious lifestyle they lead from stolen money. Perhaps we need to have discussions with the Asset Forfeiture Unit in this particular regard to ensure that the right things happen to these people that are concerned and have been extracting public funds for their own benefit.

Hon Murray, boards have already been extracted from any involvement in procurement, you will be happy to hear. Eskom is certainly setting aside money in the current year to invest in cost-plus mines and take a u-turn in this particular regard after the bad effect of the whole optimum Gupta saga that has been through which was exposed by the committee in the first administration and certainly keep an eye in the capital expenditure at Transnet because that's where a lot of theft actually took place. So hon members, in conclusion thank you for your various contributions, thanks once again to board members and the leadership of the various SOEs and indeed the department itself which has worked under very difficult circumstances.

I want to conclude by saying that the choice that we have is either perpetual conflict or destabilisation of SOEs and institutions for perceived short interest or broader commitment to common national

interest that makes South Africa great, and a force for good and a force for human dignity for all South Africans, thank you very much.

The mini-plenary rose at 18:58.

AFFIDAVIT

SINOVUYO TSHOMELA

do hereby make oath and say:

1. I am an adult female employee of the Parliament of the Republic of South Africa ('Parliament').

2. The facts deposed to herein are within my personal knowledge and belief, except where the context shows otherwise, and are true and correct.

3. I am employed by Parliament as a vision mixer / camera operator in the Broadcasting and Audio Visual Technical Support division of its Corporate Services Department, and was so employed at the relevant time, being July 2019.

4. On 11 July 2019, I was working in the broadcasting and audio visual control room at the Committee Room E249 ('the Control Room') and was responsible for controlling various cameras from the Control Room which were recording video footage in Committee Room E249 ('the Chamber'). The video footage which the various cameras recorded on 11 July 2019 was downloaded onto a compact disk and USB receptacle ('the USB').

5. The USB attached hereto contains the video footage which was recorded inside the Chamber on 11 July 2019, and is a true recording of events that transpired on 11 July 2019 in the Chamber between approximately 16h43 and 17h15. The video footage that is on the USB is authentic and reliable, has not been edited or altered in any way, and truly reflects what it purports to record.

6. The USB contains one video clip, which is approximately 00:21:17 long.

Tshomela

SINOVUYO TSHOMELA

I certify that the deponent has acknowledged that she knows and understands the content of this declaration, has no objection to taking the prescribed oath and considers the prescribed oath to be binding on her conscience. The dependent thereafter uttered the words: '*I swear that the contents of this declaration are true, so help me God.*' The dependent signed this declaration in my presence in **CAPE TOWN** on this the 17 day of **NOVEMBER** 2020.

.....407682-6
A. W. BURGER W/O

COMMISSIONER OF OATHS

Name: Albertus Willem Burger

Address: [illegible]

Capacity: W/O

SUID AFRIKAANSE POLISIEDIENS
STASIEBEVELVOERDER
PINELANDS
17 NOV 2020
STATION COMMANDER
PINELANDS
SOUTH AFRICAN POLICE SERVICES

AFFIDAVIT

ZONWABELE MNGESE,

do hereby make oath and say:

1. I am an adult male employee of the Parliament of the Republic of South Africa ('Parliament').

2. The facts deposed to herein are within my personal knowledge and belief, except where the context shows otherwise, and are true and correct.

3. I am employed by Parliament as a technician in the Broadcasting and Audio Visual Technical Support division of its Corporate Services Department, and have been so employed since 2007.

4. On 11 July 2019, I was assigned to Committee Room E249 ('the Chamber'), and I attended there and conducted audio visual checks which entailed making sure that the microphones and cameras located inside the Chamber were recording and functioning properly, and further that they were transmitting both sound and visual recordings clearly to the control room. I attended at the Chamber some 30 minutes before the proceedings were scheduled to begin in order to conduct these checks in time.

5. After conducting the audio and visual checks, and obtaining confirmation from the control room that both the audio and visual recordings were transmitting clearly to the Control Room, I remained in the Chamber during the proceedings to ensure that the recordings were in fact continuing to function properly.

6. The USB attached hereto contains the video footage which was recorded inside the Chamber on 11 July 2019, and is a true recording of events that transpired on 11 July 2019 in the Chamber between approximately 16h43 and 17h15. I was present inside the Chamber during this time whilst these events were being recorded.

7. I confirm that the video footage that is on the USB receptacle attached to the affidavit of Ms Sinovuyo Tshomela is authentic and reliable and truly reflects what it purports to record.

ZONWABELE MNGESE

I certify that the deponent has acknowledged that he knows and understands the content of this declaration, has no objection to taking the prescribed oath and considers the prescribed oath to be binding on his conscience. The dependent thereafter uttered the words: *'I swear that the contents of this declaration are true, so help me God.'* The dependent signed this declaration in my presence in **CAPE TOWN** on this the 18 day of **NOVEMBER** 2020.

SOUTH AFRICAN POLICE SERVICE
UNIT COMMANDER PARLIAMENT
PROTECTION AND SECURITY SERVICES
WESTERN CAPE
2020 -11- 18
PRIVATE BAG X1, STALPLEIN 8015
CAPE TOWN
SOUTH AFRICAN POLICE SERVICE

0633571-3

COMMISSIONER OF OATHS

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Address: Belvedere Building C/o St Johns + Bouquet Street

Capacity: Warrant Officer Parliament

SOUTH AFRICAN POLICE SERVICE
UNDER PARLIAMENT
AND SECURITY SERVICES
WESTERN CAPE
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PARLIAMENT

OF THE

REPUBLIC OF SOUTH AFRICA

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

MONDAY, 15 JULY 2019

TABLE OF CONTENTS

ANNOUNCEMENTS

National Assembly

1. Appointment of whips 2
2. Responsibilities of Deputy President 2
3. Referral of matter to Subcommittee on Physical Removal of Member from Chamber 3

National Council of Provinces

1. Referral to Committees of papers tabled 3

TABLINGS

National Assembly and National Council of Provinces

1. Minister of Police 3

National Assembly

1. Speaker 4

COMMITTEE REPORTS

National Assembly

1. Justice and Correctional Services 4
2. Justice and Correctional Services 20
3. Justice and Correctional Services 36

ANNOUNCEMENTS

National Assembly

The Speaker

1. Appointment of whips

(1) The following members have been appointed as whips of the Inkatha Freedom Party in the National Assembly with effect from 5 June 2019:

Singh, N
Ngwezi, X

2. Responsibilities of Deputy President

(1) The President has, in terms of section 91(2) of the Constitution, 1996 assigned the following powers and functions to the Deputy President, communicated in terms of Assembly Rule 352(1):

(a) Leader of Government Business in Parliament.

(b) Leading Government effort to fast-track Land Reform and the co-ordination of Government programmes to accelerate Land Reform and agricultural support.

(c) Assist the President to stimulate and support Rural and Township economy through implementing empowerment models.Assist the President in the implementation of Rapid Response interventions on Service Delivery and Trouble-shooting in service delivery hotspots.

(d) Co-ordinate Anti-poverty initiatives through, amongst others, Public Employment Programmes, Integrated Service Delivery and Enterprise Development.

(e) Leading the South African National AIDS Council and the country's integrated response to the challeges of HIV and AIDS.

(f) Assist the President in efforts towards building a better Africa.

(g) Support in investment Facilitation and Trade Promotion.

(h) Leading the National Human Resource Development Council and fostering collaboration between government and social partners towards addressing the shortage of skills in critical sectors of the economy.

(i) Promoting Social Cohesion Initiatives including being patron of the Moral Regeneration Movement.

3. Referral of matter to Subcommittee on Physical Removal of Member from Chamber

(1) 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 and a video recording of the proceedings in question, have been referred to the Subcommittee on Physical Removal of Member from Chamber for consideration, in terms of Assembly Rule 73 (12).

National Council of Provinces

The Chairperson

1. Referral to Committees of papers tabled

(1) The following paper is referred to the **Select Committee on Security and Justice** for consideration and report:

(a) Annual Performance Plan of Independent Police Investigative Directorate ("IPID") for 2019/2020.

TABLINGS

National Assembly and National Council of Provinces

1. The Minister of Police

(a) Half Year Report of the Independent Police Investigative Directorate for 2018/19, tabled in terms of section 9(n) of the Independent Police Investigative Directorate Act, 2011 (Act No 1 of 2011).

National Assembly

1. The Speaker

(a) A letter dated 4 July 2019, has been received from the Minister of Health, explaining the delay in the submission of the Annual Financial Statements and Annual Report for the Compensation Fund for Mines and Works for the 2018 -19 financial year, in terms of section 65(2) of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Referred to the **Portfolio Committee on Health** for consideration.

COMMITTEE REPORTS

National Assembly

1. Report of the Portfolio Committee on Justice and Correctional Service on Budget Vote 18: Correctional Services, dated 12 July 2019

The Portfolio Committee on Justice and Correctional Services, having considered the Department of Correctional Services' 2019/20 budget (Vote 18) and the annual performance plan, reports as follows:

1. INTRODUCTION

1.1 The Minister of Justice and Correctional Services, Mr Ronald Lamola, tabled in the National Assembly, the Annual Performance Plan (APP) of the Department of Correctional Services (DCS) for consideration and report.

1.2 The Committee received a political overview by the Minister on 03 July, accompanied by the two Deputy Ministers, Inkosi Phathekile Holomisa (Correctional Services) and Mr. John Jeffery (Justice and Constitutional Development). On 04 July the Committee received a briefing from the Deputy Minister responsible for the Correctional Services portfolio and the Commissioner of Correctional Services, Mr Arthur Fraser,

accompanied by senior management of the Department. The briefing focussed on the 2019/20 Annual Performance Plan and the budget allocation as per Budget Vote 18.

1.3 The DCS's mandate is derived from the Correctional Services Act (No. 111 of 1998), as well as the white papers on Correctional Services (2005) and Remand Detention Management in South Africa (2014). The legislation and policies inform all the efforts towards achieving the safe and humane detention of offenders and remand detainees, rehabilitation and social reintegration.

1.4 The DCS's planning documents are also informed by the government-wide Medium-Term Strategic Framework (MTSF) 2014-19, which is geared towards the implementation of the National Development Plan's Vision 2030 (NDP).

2. POLITICAL OVERVIEW BY THE MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

2.1 After making some introductory remarks, the Minister informed the Committee that he had a handover briefing from the outgoing Minister and senior officials of the Department. He highlighted that the Departmental plans were in a transitional phase towards the new Medium Term Strategic Framework(MTSF). He said that the new MTSF will be infused by the priorities that were outlined by the President in his State of the Nation Address.

2.2 The Minister said that the July month is important in the calendar of South Africa's constitutional democracy as South Africa will be celebrating the role of Nelson Mandela, a global icon and statesman and first democratic President of South Africa. He said that in his honour, the United Nations had adopted the Revised Standard Minimum Rules for the Treatment of Prisoners; the Mandela Rules.

He said that the Mandela Rules provided a set of universally acknowledged minimum standard which the Department was translating into daily lived reality of inmates in South Africa's 243 correctional centres.

2.3 Minister Lamola said that over the medium-term, the Department of Correctional Services (DCS) will prioritise providing appropriate services for safe, secure and humane that the DCS has embarked on projects aimed at equipping inmates with agricultural skills and training in the cultivation of vegetables and fruits, milk and meat production leading to more than 3300 inmates opting for agriculture as their career of choice. He also emphasised the need to transform South African correctional centres from being havens of drugs and gang syndicates into proper rehabilitation centres.

2.4 The Minister reported that the number of inmates as at 31 March 2019 was 162 857, leading to 37 percent over-crowding as the DCS had bed-spaces for 118 572 inmates. He said that the DSC was mindful of the challenges of overcrowding in correctional and remand detention facilities which continue to undermine the creation and maintenance of safe and secure environment for inmates and personnel. This environment further undermined the delivering of effective and efficient rehabilitation. He said that the down-management of the inmate population required an integrated approach which takes into consideration external factors that indirectly and directly drive the population levels including such factors as the criminal culture across society, the increased focus on implementing effective measures to combat and prosecute crime, high unemployment rates and the economic climate in the country.

2.5 The Minister highlighted that the Correctional Services Act, which was now 13 years old, required a review given the new developments in such fields as restorative justice, child justice, rehabilitation and social reintegration and victim empowerment.

2.6 The Minister announced that the DCS had insourced the provision of nutrition to inmates in its 26 kitchens that had been serviced by African Global Operations (AGO-formerly known as Bosasa), as the contract was terminated in March 2019 after it was implicated in the State Capture Commission of Inquiry. He said that the insourcing of food services has opened doors for local businesses to supply food to the DCS.

2.7 On 04 July, the Deputy Minister responsible for Correctional Services, Inkosi Holomisa, added that following the insourcing of nutrition services following the cancellation of the AGO/Bosasa contract, the DCS was working with the Office of the Chief Procurement Officer (OCPO) at National Treasury to overhaul the procurement of food items in all its correctional facilities.

2.8 The Deputy Minister further highlighted that in the 2017/18 financial year, the DCS had incurred an irregular expenditure of R1,897 billion. He said that the main contributing transaction for this irregular expenditure related to the procurement of high security fences at various correctional centres which amounted to R1,724 billion (90 percent of the irregular expenditure for the year). This irregular expenditure was a result of non-compliance with Supply Chain Management (SCM) prescripts as well as significant expansion of scope by the implementing agent (the Independent Development Trust), he said. He told members of the Committee that the procurement of the fencing programme is currently a subject of investigation by the Special Investigating Unit (SIU).

2.9 The Deputy Minister concluded his briefing by assuring the Committee that as the country celebrated its 25 years of freedom and democracy, the DCS will amplify its efforts of making the 243 correctional facilities real centres of rehabilitation and learning.

3. DEPARTMENT OF CORRECTIONAL SERVICES' STRATEGIC GOALS

3.1 The DCS's mission is to contribute to a just, peaceful and safer South Africa through the effective and humane incarceration of inmates, and the rehabilitation and social reintegration of offenders.

The DCS committed to playing its role to ensure that the MTSF and the NDP's strategic outcomes are achieved. The overarching goal is to build a safer South Africa where all people are and feel safe.

3.2 To this end the DCS has committed to:

3.2.1 providing all remand detainees and sentenced offenders with safe, secure and human conditions of detention and incarceration;

3.2.2 ensuring that remand detainees attend court as prescribed/required, and that they are provided with services responding to their needs, including personal wellbeing programmes; and

3.2.3 attending to sentenced offenders' health care, rehabilitation and social reintegration needs.

4. OVERVIEW OF THE DCS BUDGET: 2019/20

4.1 The DCS will receive R25 407 billion in 2019/20, an increase of 7 percent from 2018/19. The allocation is projected to increase to R28 962 billion over the medium term (2021/22). Of the total 2019/20 budget, 74 percent (R18 213.6 billion) will go towards the Compensation of Employees.

TABLE 1: SUMMARY OF ALLOCATION FOR 2019/20

	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	Average growth rate (%)
R'000	Audited outcome	Audited outcome	Audited outcome	Original Budget	Medium-term estimates			
Administration	4,015,015	3,879,599	3,912,772	4,283,755	4,786,272	5,100,990	5,427,057	5.2%
Incarceration	12,289,172	13,097,338	13,949,901	14,529,263	15,139,582	16,214,671	17,317,655	5.9%
Rehabilitation	1,395,043	1,476,416	1,695,311	1,861,252	1,994,849	2,141,962	2,270,717	8.5%
Care	2,088,481	2,235,094	2,322,675	2,275,301	2,444,582	2,601,688	2,758,946	4.7%
Social Reintergration	800,964	853,727	907,919	898,939	1,042,353	1,117,809	1,188,189	6.8%
Total	**20,588,675**	**21,542,174**	**22,788,578**	**23,848,510**	**25,407,638**	**27,177,120**	**28,962,564**	**5.9%**
Current payments	**19,236,312**	**20,528,963**	**21,949,534**	**23,040,930**	**24,621,200**	**26,355,422**	**28,095,974**	**6.5%**
Compensation of employees	13,189,485	14,417,167	15,613,459	16,994,941	18,213,635	19,594,290	20,947,052	8.0%
Goods and services	6,045,168	6,111,482	6,331,609	6,045,989	6,407,565	6,761,132	7,148,922	2.8%
Interest on land	1,659	314	4,466					
Transfers and subsidies	**109,225**	**131,448**	**161,656**	**132,719**	**163,629**	**171,751**	**180,897**	**8.8%**
Payment of Capital assets	1,243,138	874,405	620,118	674,861	622,809	649,947	685,693	-9.4%
Payment of financial assets		7,358	57,270					
Total	**20,588,675**	**21,542,174**	**22,788,578**	**23,848,510**	**25,407,638**	**27,177,120**	**28,962,564**	**5.9%**

SOURCE: ESTIMATES OF NATIONAL EXPENDITURE 2019, PAGE 2-8.

4.2 The DCS budget is distributed across the following five programmes: Administration (R4.7 billion), Incarceration (R15.1 billion)), Rehabilitation (R1.9 billion), Care (2.4 billion), and Social Reintegration (R1.0 billion).

4.3 As in the previous years, about 78 percent of the total DCS budget goes towards the Administration and Incarceration programmes. The Rehabilitation and Social Reintegration programmes will together receive only 12 percent of the total budget for 2019/20, while the Care programme receives 10 percent. Allocations to the Care and Social Reintegration will increase by 4.80 percent and 7.69 percent respectively.

4.4 The Judicial Inspectorate of Correctional Services will receive transfers from the DSC Vote of R77,2 million in 2019/20, R81.5 million in 2020/21 and R86 million in 2021/22.

4.5 Despite a 5.9% average growth to the DCS budget, there has been some baseline reductions to the budget over the medium term.

4.6 For 2019/20, there is a baseline reduction of R79.9 million, and R74,3 million in 2020/21, affecting the Compensation of Employees. Since 2015/16 to 2020/21, the reduction would amount to R3,15 billion, leading to a reduction of funded posts from 42 006, before the budget cuts, to 39 191 funded posts over the 2019/20 MTEF.

4.7 Budget baseline cuts for Goods and Services from 2015/16 to 2020/21 would be R2,2 billion, putting immense budgetary pressure on the operational budgets for correctional centres and administration. The DCS has identified pressures to be on its ageing fleet of vehicles which transport inmates to courts and hospitals for medical treatments, and to consumables and food items for inmates, municipal services such as water and electricity bills.

4.8 On Capital Assets, baseline cuts between 2015/16 and 2020/21 are expected to be R847 million, affecting the infrastructure delivery programme that seeks to address overcrowding through construction and upgrading of correctional facilities.

5. OVERVIEW OF ALLOCATIONS PER PROGRAMME

5.1.PROGRAMME 1: ADMINISTRATION

5.1.1. The Administration programme provides for the functions that underpin the DCS's service delivery and comprises administrative, management, financial, information communication and technology, research, policy co-ordination and good governance support functions. The sub-programmes under this programme are: Ministry, Judicial Inspectorate for Correctional Services (JICS), Management, Human Resources, Finance, Internal Audit, Information Technology and Office Accommodation.

5.1.2. In terms of budget allocation for sub-programmes, the Human Resources sub-programme has been allocated 43 percent of the total budget of the Administration programme, while the Finance sub-programme is allocated 24 percent of the programme's budget. The Management sub-programme has been allocated 20 percent, the Information Technology sub-programme comprises only 6 percent, the Assurance Services sub-programme and Office Accommodation sub-programme have been allocated only 2 percent respectively. The Judicial Inspectorate for Correctional Services also received 2 percent while Ministry sub-programme received 0.61 percent.

5.1.3. This is the second largest programme in the Department in terms of budget allocation and has been increased by 9 percent as compared to 3.20 percent in the 2018/19 financial year. An amount of R4.7 billion has been allocated to the Administration programme for the 2019/20 financial year. This amounts to 19 percent of the total Departmental budget.

	2018/19 (R'000)	2019/20 (R'000)	Nominal % changes	Real % change	Nominal Rand change	Real Rand change
Programme 1: Administration	**4 487.8**	**4 786.3**	9.08	3.69	398.5	161.9
Sub-programmes						
Ministry	27.3	29.5	8.06	2,72	2.2	0.7
JICS	72.3	77.2	6.78	1,50	4.9	1.1
Management	830.1	985.9	18.77	12,90	155.8	107.1
Human Resources	1 872.7	2 039.8	8.92	3,54	167.1	66.3
Finance	1 130.9	1 186.8	4.98	-0.24	55.9	-2.8
Assurance Services	87.9	99.8	13.54	7.93	11.9	7.0
Information Technology	284.0	280.3	-1.30	-6.18	-3.7	-17.6
Office Accommodation	82.6	87.0	5.33	0.12	4.4	0.1

TABLE 2: ADMINISTRATION PROGRAMME

5.2. PROGRAMME 2: INCARCERATION

5.2.1. The Incarceration programme provides for services and physical infrastructure that support secure conditions of incarceration of inmates. The Incarceration programme has four (4) sub-programmes. The largest allocation of the budget under this programme goes to the Security Operations sub-programme which received R8.4 billion, constituting 32 percent of the total allocation for the programme. The Facilities sub-programme has been allocated R3.8 billion, which translates to 15 percent of the total allocation for this programme. The Remand Detention sub-programme has been allocated an amount of R622 million which is the smallest allocation under this Programme and only comprises 2 percent of the total allocation for the programme. The Offender Management sub-programme has been allocated R2.3 billion which translates to 9 percent of the total allocation to this programme.

5.2.2. Being the largest DSC programme, the Incarceration programme's budget is (R15, 139.6 billion) for 2019/20, an increase by 6 percent when compared to the previous financial year. This amounts to 60 percent of the total budget allocation for the Department. 79 percent (R11,944 billion) of the allocation for this programme goes towards Compensation of Employees.

	2018/19 (R'000)	**2019/20 (R'000)**	**Nominal % changes**	**Real % change**	**Nominal Rand Change**	**Real Rand change**
Programme 2: Incarceration	**14 350.4**	**15 139.6**	5.50	0.28	789.2	40.9
Sub-programmes						
Security Operations	7 965.5	8 350.5	4.83	-0.35	385.0	-27.8
Facilities	3 767.9	3 877.0	2.90	-2.19	109.1	-82.5
Remand Detention	697.4	622.0	-10.81%	-15.22	-75.4	-106.1
Offender Management	1 919.6	2 290.1	19.30%	13.40%	370.5	257.3

TABLE 3: INCARCERATION PROGRAMME

5.3 PROGRAMME 3: REHABILITATION

5.3.1 The Rehabilitation programme provides for needs-based programmes and interventions to facilitate offenders' rehabilitation and eventual reintegration to society. It comprises three sub-programmes: Correctional Programmes, Offender Development and Psychological, Social and Spiritual Services.

5.3.2 The Rehabilitation Programme's comprises only 8 percent of the total allocation to the Department in 2019/20. For the 2019/20 financial year, this programme has been allocated an amount of R1, 994.8 billion which is a nominal increase of 10.20 percent as compared to the 2018/19 allocation. In monetary terms, this programme received R185 million more than in 2018/19. A total of 79 percent of this allocation goes to Compensation of Employees.

5.3.3 In terms of budget allocations to sub-programmes, the largest allocation is to Offender Development (R1, 037.6 billion or 52 percent), followed by Psychological, Social and Spiritual programme (R523.7 million or 26 percent) and Correctional programme (R433.6 million or 22 percent).

	2018/19 (R'000)	**2019/20 (R'000)**	**Nominal % Changes**	**Real % change**	**Nominal Rand change**	**Real Rand change**
Programme 3:Rehabilitation	**1 810.1**	**1 994.8**	10.20	4.76	184.7	86.1
Sub-programmes						
Correctional Programmes	403.5	433.6	7.46	2.15	30.1	8.7
Offender Development	921.4	1 037.6	12.61	7.04	116.2	64.9
Psychological, Social and Spiritual Services	485.3	523.7	7.91	2.58	38.4	12.5

TABLE 4: REHABILITATION PROGRAMME

5.4 PROGRAMME 4: CARE

5.4.1 The Care programme provides for needs-based programmes and services aimed at maintaining the personal well-being of offenders. It comprises two sub-programmes; Nutritional Services and Health and Hygiene Services.

5.4.2 The allocation for this programme has increased by 4.80 percent (13.84% increase in 2018/19) in 2019/20 financial year, which resulted in this programme being allocated a total amount of R2, 275.3 billion. This translates to 9.6 percent of the total budget of the Department in the current financial year. Nutritional Services are allocated R1, 437.5 billion and Health and Hygiene Services, R1, 007.1 billion. In terms of expenditure trends, this programme has consistently managed to spend 100 percent of its allocation both in 2017/18 and 2016/17.

	2018/19 (R'000)	2019/20 (R'000)	Nominal % changes	Real % change	Nominal Rand change	Real Rand change
Programme 4: Care	**2 332,6**	**2 444,6**	4.80	-0.38	112.0	-8.8
Sub-programmes						
Nutritional Services	1 410.3	1 437.5	1.93	-3.11	27.2	-43.9
Health & Hygienic Services	922.3	1 007.1	9.19	3.80	84.8	35.0

TABLE 5: CARE PROGRAMME

5.5 PROGRAMME 5: SOCIAL REINTEGRATION

5.5.1 The Social Reintegration programme provides for services focussed on offenders' preparation for release, for the effective supervision of parolees, and for offenders' reintegration into society upon their release. It comprises three sub-programmes: Supervision, Community Reintegration, and Office Accommodation (Community Corrections).

5.5.2 This programme has been allocated an amount of R1, 042.4 billion for the 2019/20 financial year, which is an increase of 7.69 percent as compared to the previous financial year. This programme comprises only 4 percent of the total budget of the Department for this financial year. In terms of expenditure trends, this programme's expenditure has consistently been 100 percent for both 2017/18 and 2016/17. The bulk of this Programme's allocation is directed towards Supervision (91%), followed by Community Reintegration (5%), and Office Accommodation: Community Corrections (4%).

	2018/19 (R'000)	2019/20 (R'000)	Nominal % Changes	Real % change	Nominal Rand change	Real Rand change
Programme 5: Social Reintegration	**968.0**	**1 042.4**	7.69	2.36	74.4	22.9
Sub-programmes						
Supervision	882.0	949.9	7.70	2.37	67.9	20.9
Community Reintegration	49.1	53.5	8.96	3.58	4.4	1.8
Office Accommodation: Community Corrections	36.8	39.0	5.98	0.74	2.2	0.3

TABLE 6: SOCIAL REINTEGRATION PROGRAMME

6. COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

6.1. The Committee notes and welcomes the commitment of the Minister and the Deputy Minister on turning correctional centres into centres for learning and skills development. The Committee notices that there is a growing interest from inmates on skills development training such as agriculture, wood and steel production, textile, bakery and other artisan skills. The Committee encourages the Department to partner with TVET colleges and Sectoral Education and Training Authorities in ensuring that offenders are issued with some qualification for their acquired skills. The Committee believes that this will go a long way in ensuring rehabilitation and social reintegration, thus reducing re-offending.

6.2. While understanding the pressing need to curtail spending as a result of the government-wide fiscal consolidation measures, the Committee notes the baseline reductions on Compensation of Employees, which started in 2015/16, would reach R3,15 billion by 2020/21. The Committee believes that this would have some negative effects on services delivery as funded posts would be cut to 39 191 over the 2019/20 MTEF, from 42 006 in 2015/16.

6.3. The Committee notes further that over the same period (2015/16 to 2020/21), budget baseline cuts for Goods and Services would be R2,2 billion, putting immense pressures on the maintenance of the Department's ageing fleet of vehicles which is used to transport inmates to courts and hospitals for medical treatment, on consumables and food items, and on municipal service accounts for water and electricity.

6.4. The Committee notes and welcomes the cancellation of the AGO/Bosasa contracts and the insourcing of nutrition services in the 26 centres in which this company operated. The Committee wishes to congratulate the Ministry for acting swiftly in cancelling this contract following the allegations of corruption in the Zondo Commission of Inquiry. The Committee welcomes that the cancellation of this contract will offer opportunities for small local businesses to supply food to the Department.

6.5. The Committee notes that there are a number of investigations being conducted by the Special Investigations Unit (SIU) into DCS contracts. Some of these received Presidential Proclamations as far back as 2016. The investigations relate to procurement of the Electronic Monitoring System (EMS), the Integrated Inmate Management System (IIMS), Project Management Services and Fencing. These contracts combined are valued at more than R2 billion and have led to irregular expenditure of more than R1,5 billion. There has also been delays in the implementation of key projects in the DCS, pending the finalisation of investigations. The Committee will continue to monitor developments in these investigations and expects to see action being taken against all those implicated in any wrongdoing. The Committee expects to be updated quarterly on the developments in these investigations.

6.6. The Committee is concerned about the irregular expenditure of R1,897 billion incurred by the DCS in 2017/18. The Committee expects the Minister to heighten his oversight on the governance and

internal control environment of the DSC to ensure that audit action plans and the Auditor General's remedial measures are implemented. The Committee further recommends that the Department considers developing some measurable performance indicators and targets for the Assurance Services sub-programme. This could assist the DCS to implement its audit action plans and to achieve clean audits in the future.

6.7. The Committee notes the increase in allocations to the Incarceration programme and will monitor more closely the spending and achievement of targets especially those relating to safety and security for both inmates, personnel as well as for members of the public. The Committee is concerned that the Department has continuously failed to achieve many of its targets that are directed at improving security conditions by reducing the number of escapes, violence and unnatural deaths. Failure to achieve these targets attest to poor conditions of incarceration, particularly in the urban centres that are highly overcrowded.

6.8. The Committee recommends that the Department gives serious consideration to the use of technology to increase safety within its facilities. The Committee requests an update on the progress made in initiating and implementing such interventions as CCTV and cellphone detection technology in correctional and remand detention facilities.

6.9. The Committee is concerned about the increasing inmate population, which stood 37 percent overcrowding as of March 2019. The Committee has been informed about the increasing crime rate and certain challenges in the criminal justice system. The increase in the population of correctional centers means that the Department should create more new bed spaces and implement other measures to control overcrowding, including electronic monitoring (which has now been discontinued), bail protocols and section 49G (maximum incarceration period of a remand detainees), where applicable.

6.10. The Committee is therefore concerned that the electronic monitoring system has been discontinued. Electronic tagging is one of the tools that could assist the Department in dealing with overcrowding.

6.11. The Committee notes the targets to roll out the Integrated Inmate Management System(IIMS) over the MTEF. The Committee urges that more practical steps be taken to achieve these targets.

6.12. The Committee notes the new target of creating 435 new bed spaces by 2020/21. This target has been shifted over the years because the Department could not achieve it. In last years' annual performance plan, the Department told the previous Committee that it aims to create 18 000 new bed spaces over the next ten years. The Committee believes that the target of 435 new bed spaces is too low and that more bed spaces should be created if the Department is serious about creating 18 000 bed spaces over ten years and is committed to effectively down-manage overcrowding. The Committee also emphasizes the need for more cooperation and co-ordination between the DCS and the implementing agents; the Department of Public Works and the Independent Development Trust. The Committee requests a detailed report on the delayed infrastructural upgrades, detailing the challenges and steps that have been undertaken to resolve them. The report should also detail how much has been spent to date on those projects and the expected completion dates.

6.13. The Committee notes that the Department only has four Halfway houses across the country. The Committee believes that lessons in establishing Halfway Houses in Johannesburg, Limpopo, North West and Western Cape should be drawn upon to expand the programme to other provinces.

6.14. The Committee requires the DCS to supply it with more information on the services that are supplied to female inmates in Correctional Centres as its briefing to the Committee lacked any gender specific programmes or services.

6.15. The Committee urges the new Minister to pay particular attention to issues related to the financial independence of JICS. The Committee supports JICS' financial and operational independence from the DCS, as it plays an oversight role over the work of the Department. In the next quarter the Committee will schedule a briefing from the Inspecting Judge on the detailed plans of the Inspectorate.

7. Conclusion

7.1. The Committee, having considered the Budget Vote 18: *Correctional Services,* supports it and recommends that it be approved.

Report to be considered.

2. Report of the Portfolio Committee on Justice and Correctional Services on Budget Vote 22: Office of the Chief Justice and Judicial Administration, dated 12 July 2019

The Portfolio Committee on Justice and Correctional Services, having considered Budget Vote 22: Office of the Chief Justice and Judicial Administration, reports as follows:

1.1. The Office of the Chief Justice and Judicial Administration (OCJ) was established primarily to support the Chief Justice in executing his/her administrative and judicial powers and duties as Head of the Judiciary and Head of the Constitutional Court, as determined by the Minister of Public Service and Administration in 2010. The OCJ has the following functions:

- Providing and coordinating legal and administrative support to the Chief Justice.
- Providing communication and relationship management services and inter-governmental and international coordination.
- Developing courts administration policy, norms and standards.
- Supporting the development of judicial policy, norms and standards.
- Supporting the judicial function of the Superior Courts.
- Supporting the Judicial Service Commission (JSC) and the South African Judicial Education Institute (SAJEI) in the execution of their mandates.
- Administering the Judges' Remuneration and Conditions of Employment Act.

1.2. The transfer of administrative functions and identified staff attached to the Superior Courts from the Justice Department of Justice and Constitutional Development to the OCJ commenced on 1 October 2014, while the OCJ received its own Budget Vote from 1 April 2015.

1.3. The Minister of Justice and Correctional Services is the OCJ's Executive Authority (EA), while the Secretary General (SG) is its administrative head. The Secretary-General engages and consults with the Chief Justice and other Heads of Courts in respect of the administrative functioning of the Superior Courts, while the Chief Justice controls the judicial functions of the Superior and Lower courts. The Department continues to support the administration of the Lower/Magistrate's courts.

1.4. The Office of the Chief Justice presented its Annual Performance Plan 2019/20, as well as its Budget for the 2019 Medium Term Expenditure Framework (MTEF) on 5 July 2019. The presentation can be obtained from the Committee Secretariat.

2. Overview of the Vote for the 2019 MTEF

2.1. The OCJ is allocated an annual budget of R2.3 billion, compared with R2.1 billion for 2018/19 and R2.0 billion in 2017/18 (adjusted appropriation). The budget is expected to increase to R2.46 billion in 2020/21 and R2.6 billion in 2021/22.

Table 1: Budget allocation for the Office of the Chief Justice per programme

Programme	Adjusted Appropriation 2018/19	MTEF		
		2019/20	2020/21	2021/22
	R 'million	R 'million	R 'million	R 'million
Administration	201 380	214 611	227 852	237 517
Superior Court Services	845 252	900 110	965 784	1 029 837
Judicial Education and Support	73 115	82 971	88 234	91 776
Subtotal	1 119 747	1 197 692	1 282 870	1 359 130
Direct Charge: Judges' Salaries	1 022 091	1 098 546	1 180 937	1 257 698
Total	2 141 838	2 296 238	2 462 807	2 616 828

Table 2: Budget allocation for the Office of the Chief Justice per economic classification

Economic Classification	Adjusted Appropriation 2018/19	MTEF		
		2019/20	2020/21	2021/22
	R million	R million	R million	R million
Compensation of employees (including Judges' remuneration)	1 644 037	1755 428	1 865 703	1 987 106
Goods and services	314 442	340 656	358 923	379 952
Transfers and subsidies	67 646	95 609	127 905	136 178
Payments for capital assets	115 713	104 545	110 276	113 592
Payments for financial assets	-	-	-	-
Total	**2 141 838**	**2 296 238**	**2 462 807**	**2 616 828**

2.2. **Spending priorities 2019 MTEF**

2.2.1. The High Court in Mpumalanga will become fully operational in 2019/20. Funding for the court is expected to increase from R28.1 million in 2019/20 to R33.4 million in 2021/22, in the *Superior Court Services* programme. Similarly, allocations for the operations of the Polokwane High Court, which opened in 2016/17, are expected to increase by 13.6%, from R27.2 million in 2019/20 to R30.9 million in 2021/22.

2.2.2. The number of personnel is expected to increase from 2 601 in 2018/19 to 2 611 in 2021/22 with the operationalisation of the Mpumalanga High Court. Spending on compensation of employees, therefore, will increase from R1.6 billion in 2018/19 to R2 billion in 2021/22.

2.2.3. Over the medium term, the South African Judicial Education Institute (SAJEI) plans to provide 246 judicial education courses on case-flow management and constitutional imperatives. Other planned courses include courses on record keeping and general issues in pleadings, debt collections and debt reviews related to the National Credit Act (2005), criminal court skills, child justice skills, new legislation on domestic violence and spousal and child maintenance, immigration and other topics. Expenditure in the South African Judicial Education Institute subprogramme is expected to increase from R51.4 million in 2018/19 to R53.8 million in 2021/22.

2.2.4. The OCJ plans to modernise and digitise its systems and processes to respond to the growing need for court services and to stay abreast of technological developments The implementation of an electronic filing system for the Superior Courts by 2020/21 is intended to increase efficiency. The project forms part of the Integrated Justice System (IJS) programme, led

by the Department of Justice and Constitutional Development, in the JCPS Cluster. An amount of R14.3 million is allocated over the medium term for the system in the *Administration* programme.

2.2.5. The judicial norms and standards were developed and gazetted in February 2014. The OCJ supports the Chief Justice in monitoring and reporting on compliance with the norms and standards, while the Judiciary reports on court performance. These activities are carried out in the *Superior Court Services* programme. Due to the labour-intensive nature of the work in this programme, the majority of this expenditure is on compensation of employees.

2.2.6. The OCJ plans to further improve the quality of its performance information by implementing an automated system to monitor court performance, which, in addition to the electronic filing system for Superior Courts, is expected to simplify the monitoring and evaluation of norms and standards.

3. **Office of the Chief Justice (OCJ): Annual Performance Plan 2019/20**

3.1. The Secretary-General presented the OCJ's 2019/20 Annual Performance Plan.

3.2. The OCJ supports the Judiciary in its contribution to Chapter 14 of the National Development Plan (NDP) 'Promoting Accountability and Fighting Corruption by Strengthening Judicial Governance and the Rule of Law' by:

- Accelerating reforms to implement a judiciary-led court administration.
- Ensuring an efficient court system.
- Reducing court administration inefficiencies.

- Ensuring access to justice.
- Ensuring judicial accountability.
- Providing training to the judiciary through SAJEI.

3.3. The OCJ has aligned its plans with the NDP and Medium Term Strategic Framework (MTSF) 2014 – 2019 as follows:

- *Administration* is linked to Chapter 13 of the NDP, 'Ensure good governance in the administration of the Department'; and to Outcome 12, 'An efficient and effective development-orientated public service'.
- The programmes *Superior Court Services* and *Judicial Education and Support* are linked to Chapter 14 of the NDP, 'Promoting accountability and fighting corruption through strengthening judicial governance and the rule of law. This is linked to Outcome 2, 'All people in South Africa are and feel safe'.

3.4. The OCJ has the following strategic goals: The efficient and effective administration of the OCJ; improved administrative and technical support to the Judiciary; and ensure administrative support to the Superior Courts. These are broken down into the following strategic objectives:

- Capacitate the Office of the Chief Justice.
- Ensure good governance in the administration of the Department.
- Ensure the effective and efficient administration of the Superior Courts.
- Enhance the judicial skills of serving and aspiring judicial offices to perform optimally.

3.5. The OCJ has identified the following key strategic risks and mitigation strategies for 2019/20:

Table 2: Strategic risks and interventions in mitigation

Strategic Objective	Risk	Mitigation/ Interventions
Administration		
Capacitate the Office of the Chief Justice	Inadequate budget.	• Reprioritise funds and posts (based on organizational functionality assessment/realignment project). • Request an adjustment of compensation of employees ceilings from National Treasury.
Ensure good governance in the administration of the department	Possible exposure to fraud and corruption.	• Continuous awareness on fraud and anti-corruption policies. • Strengthen internal controls relating to fraudulent court orders. • Strengthen the monitoring and implementation of internal controls. • Monitor implementation of fraud prevention plan.
	Lack of control over security and facilities	• Monitor the implementation of the updated MOU contract • Engage with the Justice Department of Justice and Constitutional Development to ensure that the budget is spent on OCJ priorities. • Continuous monitoring of the facilities and infrastructure and address challenges encountered.
Superior Court Services		
Ensure the effective and efficient administration of the Superior Courts	Inadequate quasi-judicial services rendered	• Prioritise the appointment of Registrars. • Continuous training of Registrars.
	Inadequate implementation of the Master Systems Plan (MSP)	• Request funding from IJS and National Treasury for implementation of the court modernization projects as outlined in the MSP. • Additional Appointment and training of ICT personnel. • Monitor implementation of the updated MOU for the transfer of functions between the Department of Justice and Constitutional Development and the OCJ.

4. **Office of the Chief Justice: Programmes**

4.1. **Programme 1: Administration**

4.1.1. The purpose of this programme is to provide strategic leadership, management and support services to the Department. The programme consists of the following sub-programmes:

- The Management subprogramme provides administrative, planning, monitoring, evaluation, performance reporting and risk management functions necessary to ensure effective functioning of the Department.
- The Corporate Services subprogramme provides an integrated Human Resources Management (HRM), Information and Communication Technology (ICT) and Security Management Support Services to the Department.
- The Finance Administration subprogramme provides overall financial, asset and supply chain management services to the Judiciary and the Department.
- The Internal Audit subprogramme provides overall internal audit and forensic audit services to the Department.
- The Office Accommodation subprogramme provides for the acquisition of office accommodation for the Department.

4.1.2. Performance indicators and targets for 2019/20 include the following:

Table 3: Administration: Performance indicators and annual targets 2018/19 – 2021/22

Objective/Performance Indicator	Medium Term Targets			
	2018/19	2019/20	2020/21	2021/22
Strategic objective 1: Capacitate the Office of the Chief Justice				
Percentage of funded vacant posts on PERSAL per year	10%	10%	10%	10%

Objective/Performance Indicator	**Medium Term Targets**			
	2018/19	**2019/20**	**2020/21**	**2021/22**
Strategic objective 2: Ensure good governance in the administration of the Department				
Audit outcomes on financial statements	Unqualified audit opinion (No more than 5 material misstatements)	Unqualified audit opinion (Clean audit)	Unqualified audit opinion (Clean audit)	Unqualified audit opinion (Clean audit)
Annual Performance Plan (APP) tabled within prescribed timelines	APP tabled within prescribed timelines	APP tabled within prescribed timelines	APP tabled within prescribed timelines	APP tabled within prescribed timelines
Combined assurance plan developed and implemented	Implement plan	Implement plan in 24 Superior Courts	Implement plan in 24 Superior Courts	Implement plan in 24 Superior Courts
Number of strategic and operational risk registers developed and updated	8	8	8	8
Fraud Prevention Strategy implemented	Fraud Risk Prevention Strategy developed, approved and implemented	Fraud Risk Prevention Strategy implemented in 24 Superior Courts	Fraud Risk Prevention Strategy implemented in 24 Superior Courts	Fraud Risk Prevention Strategy implemented in 24 Superior Courts
ICT Master Plan implemented	Prioritised projects (e-filing) piloted at 2 High Courts	Prioritised projects (e-filing) rolled out in 5 Superior Courts	Prioritised projects (e-filing) rolled out in 12 Superior Courts	Prioritised projects (e-filing) rolled out in 24 Superior Courts
Percentage of internal audit projects completed in line with the approved Annual Audit Plan	100%	100%	100%	100%

Objective/Performance Indicator	Medium Term Targets			
	2018/19	2019/20	2020/21	2021/22
Number of compliant financial performance reports submitted	12	12	12	12
Number of asset registers produced	2	2	2	2

4.1.3. The *Administration* programme is allocated a total budget of R214.6 million in 2019/20. The spending focus is on the prioritised projects of the ICT Master Systems Plan (e-filing project) that will be rolled out to all Superior Courts by 2021/22.

4.2. **Programme 2: Superior Court Services**

4.2.1. This programme provides judicial support and court administration services to the Superior Courts. The programme consists of the following sub-programmes:

- The Administration of Superior Courts subprogramme provides administrative and technical support to the Superior Courts, monitors the overall performance of the Superior Courts, and enhances judicial stakeholder relations.
- The Constitutional Court subprogramme funds the activities and operations of the Constitutional Court.
- The Supreme Court of Appeal subprogramme funds the activities and operations of the Supreme Court of Appeal.
- The High Courts subprogramme funds the activities and operations of the various high court divisions.
- The Specialized Courts subprogramme funds the activities and operations of the labour, land, electoral and competition courts.

4.2.2. All performance indicators and targets for the programme that address court performance have been removed, leaving only those that relate to quasi-judicial performance. The performance indicators and targets for 2019/20 are, therefore, as follows:

Table 4: Superior Court Services - Performance indicators and annual targets 2018/19-2021/22

Objective/Performance Indicator	**Medium Term Targets**			
	2018/19	**2019/20**	**2020/21**	**2021/22**
Strategic Objective 3: Ensure the effective and efficient administration of the Superior Courts				
Percentage achievement of quasi-judicial targets	90%	90%	100%	100%
No. of monitoring reports on Court Order integrity produced	4	4	4	4
Percentage of default judgments finalised by Registrars	90%	100%	100%	100%
Percentage of taxation of legal costs finalised	90%	100%	100%	100%
Number of training workshops on case management conducted for Registrars, clerks, etc.	2	2	2	2
Percentage of warrants of release delivered within one day of release granted	98%	98%	98%	98%

4.2.3. The *Superior Courts Services* programme is allocated R900 million for 2019/20 and will increase to R1 billion in 2021/22 as a result of the allocation of reprioritised funds from the Department of Justice and Constitutional Development for the operationalisation of the Mpumalanga High Court to improve access to justice.

4.3. **Programme 3: Judicial Education and Support**

4.3.1. The programme, Judicial Education and Support, provides education programmes to Judicial Officers, including policy development and research services for the optimal administration of justice.

4.3.2. The programme has the following sub-programmes:

- The South African Judicial Education Institute sub-programme funds the activities of the SAJEI to provide training for Judicial Officers.
- The Judicial Policy, Research and Support subprogramme funds the provision of advisory opinions on policy development and regulatory services to the Judiciary and the Department.
- The Judicial Service Commission subprogramme provides secretariat and administrative support services to the Judicial Service Commission to perform its constitutional and legislative mandates effectively.

4.3.3. Performance indicators and targets for 2019/20 are as follows:

Table 5: Judicial Education and Support - Performance indicators and annual targets 2018/19 – 2021/22

Objective/Performance Indicator	**Medium Term Targets**			
	2018/19	**2019/20**	**2019/20**	**2021/22**
Strategic Objective 4: Enhance judicial skills of serving and aspiring judicial officers to perform optimally				
No. of judicial education courses conducted	78	80	82	84
No. of research monographs for Judicial Education produced per year	2	2	2	2

Percentage of legal advisory opinions on policy development and research services provided within 15 days of receipt	100%	100%	100%	100%
No. of reports on judicial appointments and judicial complaints produced	3	3	3	3

4.3.4. *The Judicial Education and Support* programme is allocated R82.9 million in 2019/20. The spending focus for this programme is on conducting training for judicial officers.

5. Committee's observations

5.1. *General*

The Committee raised a number of matters that the OCJ is unable to respond to as it would not be appropriate for it to speak on behalf of the Judiciary and the Judicial Services Commission. Although some these issues are captured in this report, the Committee intends to approach the Speaker to request a meeting with the Chief Justice and Heads of Court to discuss these and other issues of mutual interest.

5.2. *Information regarding court performance for more effective oversight of the court administration*

The Committee expressed its unhappiness about its inability to properly gauge how well the courts are working, as much of the information related to court performance is located within the Judiciary. Information and statistics on court performance, which used to be available to Parliament in the exercise of its oversight function of the Executive, is no longer accessible. The Committee fully understands the reasons for this. The Committee also acknowledges that the Judiciary has decided to 'account directly to the nation, as is the case with jurisdictions like Kenya, Singapore and many other comparable and progressive constitutional democracies'. The South African

Judiciary Annual Report 2017/18, which the Chief Justice presented to the Nation last year provides extremely valuable insight to developments within the Judiciary and contains some statistics relating to the Superior Courts.

Nonetheless, there are gaps – while the Judiciary has begun to collect data regarding the performance of the magistrates' courts – for some years now there has been no information available. As these courts hear the majority of the cases heard, the lack of information regarding their functioning is concerning.

The Committee cannot but think that the court administration and performance functions are so closely related that it is impossible for it to consider the one without regard to the other. So, for example, if the air conditioning breaks down and prevents matters from being heard as the day warms unbearably or if difficulties obtaining the necessary journals and law books delays a judgement, access to justice is undermined by a failure in the court administration. In order to exercise oversight towards ensuring that the correct intervention occurs at an administrative level, it is helpful for the Committee to have an understanding of the systemic challenges that undermine delivery of justice services in our courts, as well as a basic grasp of how the court case management system works in practice. In this regard, the insight of the Judiciary is invaluable.

The Committee is aware that the solution lies partly in the finalisation of the long overdue court administration model. The Committee is also keen to hear more of the systemic challenges that the Judiciary face in the delivery of justice and will engage with the Speaker to request a meeting with the Chief Justice and Heads of Court.

5.3. ***Capacitation of the Land Claims Court.*** The Committee welcomes the Minister's announcement that legislation will be introduced that will ensure that Judges are appointed permanently to the Land Claims Court and its proper capacitation.

5.4. ***Progress towards a single judiciary and transfer of functions to the OCJ***

The Committee supports a single judiciary as envisaged by section 166 of the Constitution. The Committee understands that a Lower Courts Bill is at a very advanced stage and intends to continuously monitor progress going forward.

5.5. ***Tools of trade.*** The Committee understands that Judicial Officers are experiencing difficulties accessing tools of trade, especially law reports and other library materials, and that the transfer of functions from the Justice Department to the OCJ that will allow the Judiciary to access these materials for itself has not yet occurred. The Committee requests that the OCJ provide it with a written report on the challenges that are being experienced in this regard by 30 August 2019.

5.6. ***Court infrastructure and maintenance.*** The Committee notes that the new Minister of Public Works and Infrastructure has stated that our courts are in a terrible state. She has asked for court managers to report on backlogs in maintenance matters, such as lifts and air conditioning that don't work. The Committee is interested in the outcome of this and requests that it is kept informed of developments in this regard. The Committee is also interested on whether the Judiciary has been approached to provide its input.

5.7. ***Impact of an increasingly litigious society on the courts.*** The Committee notes that as our society becomes increasingly litigious, the workload of our courts has grown. In order to keep abreast of the demand, there is need for more capacity and systems must be made more efficient by way of modernisation and digitisation. The ICT Master Systems Plan promises to improve efficiency in the court administrative processes and the e-filing project is prioritised for rollout to all Superior Courts over the medium term. The Committee is very interested in the scope and progress of the project and will arrange a dedicated briefing as soon as its programme permits.

5.8. ***Security.*** The Committee is concerned about reports of inadequate security at courts and requests that the OCJ provide it with a full report in this regard.

6. Recommendations

6.1. The Committee, having considered the Budget Vote 22: *Office of the Chief Justice and Judicial Administration*, supports it and recommends that it be approved.

Report to be considered

3. Report of the Portfolio Committee on Justice and Correctional Services on Budget Vote 21: Justice and Constitutional Development, dated 12 July 2019

The Portfolio Committee on Justice and Correctional Services, having considered Budget Vote 21: Justice and Constitutional Development, reports as follows:

1. Introduction

1.1. The Budget Vote 21: Justice and Constitutional Development continues to comprise of five programmes, as well as a direct charge for Magistrates' salaries:

- The Department of Justice and Constitutional Development (the Department) is responsible for the Administration, Court Services, State Legal Services and National Prosecuting Authority (NPA) programmes, as well as for the Justice Modernisation subprogramme under Programme 5: Auxiliary and Associated Services, which funds the implementation of Information Technology (IT) infrastructure for the Department and distributes earmarked funds for JCPS Cluster projects as part of the Integrated Justice System (IJS).

- Section 39 of the Protection of Personal Information Act, 2013, (POPIA) establishes an Information Regulator as an independent juristic person that is accountable to the National Assembly. Towards the end of 2016, the Members of the Regulator were appointed. At present, until it becomes fully operational, the Regulator receives its allocation under the State Legal Services programme.

- Programme 5 also contains allocations to various auxiliary services, including transfer payments to: Legal Aid South Africa and the Special Investigating Unit (SIU); and to two State Institutions Supporting Constitutional Democracy – the South African Human Rights Commission (SAHRC) and the Public Protector South Africa (PPSA).

2. **Method**

2.1. The Department of Justice and Constitutional Development, Information Regulator, Legal Aid South Africa, the Special Investigating Unit, the South African Human Rights Commission and the Public Protector South Africa each presented their annual performance plans for 2019/20 and budgets for the 2019 MTEF.

2.2. The briefings took place as follows:

- Minister of Justice and Correctional Services and the Department of Justice and Constitutional Development – 3 July 2019.
- Information Regulator – 5 July 2019.
- South African Human Rights Commission – 10 July 2019.
- Public Protector – 10 July 2019.
- Legal Aid South Africa – 11 July 2019.
- Special Investigating Unit – 9 July 2019.
- National Prosecuting Authority – 9 July 2019.

2.3. All presentations can be obtained from the Committee Secretary.

3. **Fiscal environment**

3.1. Spending takes place within a context of fiscal austerity. The economic and revenue outlook has weakened since the MTBPS in October 2018 and there are increased funding pressures from the state owned enterprises.

3.2. The 2019 Budget, therefore, prioritises narrowing the budget deficit and stabilising the national debt to GDP ratio; supporting the restructuring of the electricity sector and reducing the immediate threat that Eskom poses to the economy and public finances; and renewing economic growth. Spending is focused towards stimulating economic growth, particularly capital expenditure.

3.3. The baseline allocation is reduced by R9 billion in 2019/20, R19.7 billion in 2020/21 and 21.6 billion in 2021/22. As there are no additional resources available, any further allocations over the 2019 MTEF to a programme will need to be funded by reductions in funding for another programme, either within the department's budget, or from another department's budget.

3.4. Managing the public service wage bill, which accounts for more than 35% of all public spending and has been a major driver of the fiscal deficit, is regarded as key. Departments are, therefore, expected to operate within their compensation of employees' expenditure ceilings by containing costs and improving efficiency through the undertaking of appropriate operational changes. Further, any adjustments required as the result of the 2018 public sector wage agreement must be made within institutional compensation of employees' expenditure ceilings. Although headcounts have declined sufficiently to absorb the wage increases, over the medium term government will take active measures to reduce the number of employees further.

3.5. The Budget Review acknowledges that departments, which are labour intensive, run the risk of breaching their compensation of employees' ceilings.

3.6. The consolidated budget for the peace and security function accounts for R211 billion in 2019/20; R222.9 billion in 2020/21; and R 233 billion in 2021/22.

3.7. In 2019/20, approximately 23% of the overall allocation for Peace and Security goes to 'Law courts and prisons', while 49% of the overall allocation to this function goes to 'Police services'. Specifically, the Justice and Constitutional Development Vote receives 10% (including magistrates' salaries) and the Office of the Chief Justice and Judicial Administration receives 1% (including judges' salaries) of the overall allocation to this function.

3.8. The peace and security function prioritises the implementation of an integrated strategy to fight crime and ensure national security over the medium term. The Integrated Justice System Modernisation programme is a key part of the integrated strategy to fight crime. Over the medium term, R853 million is shifted from the South African Police Service (SAPS) to the Department of Justice and Constitutional Development, where the programme is currently governed.

3.9. To enable the State Capture Commission of Inquiry to continue its work to February 2020, an additional amount of R272.9 million is allocated.

3.10. An additional amount of R309.2 million over the medium term is allocated to Legal Aid SA to retain public defenders.

4. **Budgetary Review and Recommendation Report (BRRR) October 2018 and Minister of Finance's response**

4.1. In the Budgetary Review and Recommendation Report (October 2018), the Committee expressed grave concern about the consequences of the R2 billion baseline reductions over the medium term. There is a "thin line between a so-called lean organisation where available resources – both human and financial – are used carefully and well and an organisation that is starved of means that it can no longer perform its mandated task. The Committee was especially concerned that the reduced staff establishment could undermine the work needed to create a transformed and responsive justice system.

4.2. The Report recommended that additional funding be allocated to:

- The NPA for the shortfall in its compensation of employees' budget; to fill vacancies; to create capacity in new courts; and to resume the aspirant prosecutor programme.
- Legal Aid South Africa to prevent it from having to cut posts and to ensure that it can maintain its civil work.

4.3. The Minister of Finance's response regarding the recommendation for additional funding to the NPA "due to the constrained fiscal outlook, the scope to provide additional funding is limited. Departments, entities and constitutional institutions are required to reprioritise funds within their existing baselines to fund any emerging priorities. Should the fiscal outlook improve, future recommendations for additional funding may be considered" (National Treasury, Budget Review, p104). However, in his Budget Speech, the Minister of Finance made assurances that National Treasury and the Justice Department would work to support the establishment of a new Investigating Directorate at the NPA.

4.4. In the case of Legal Aid SA, provision is made for the allocation of an additional R300 million over the MTEF to retain its public defenders. Of this, R104.5 million is reprioritised funding from the Justice Department.

5. Overview of Vote 21: Justice and Constitutional Development

5.1. The constrained fiscal outlook resulted in the Vote's baseline decreasing by R2 billion over the MTEF (R643 million in 2018/19; R667 million in 2019/20; and R705 million in 2020/21).

5.2. The overall allocation to the Justice and Constitutional Development Vote (Vote 21) for 2019/20 is R21.1 billion, which includes Magistrates' salaries (compared with a revised estimate of R19.7 billion in 2018/19). In real terms, the allocation to the Vote in 2019/20 has increased, which is in contrast to decreases of -3% and -1.36% in real terms for 2018/19 and 2017/18, respectively). Over the medium term, the allocation increases to R23.6 billion in 2021/22.

5.3. Notably, the 2019 MTEF sees the baseline increase by R1.43 billion, as follows:

- R853 million is shifted from SAPS' Integrated Justice System (IJS) programme budget to Justice in order to consolidate the IJS funding (this is ringfenced).
- An additional R300.3 million is allocated to Legal Aid SA; and
- An additional amount of R272.9 million is allocated to allow the State Capture Commission of Inquiry to continue its work to February 2020.

5.4. These increases to the baseline, however, are offset by a decrease over the medium term of R225.4 million for goods and services and reductions of the allocations to the South African Human Rights Commission (-R4.2 million), Public Protector (-R1.3 million) and SIU (-R25.5 million), which are in the form of salary freezes for senior management staff.

5.5. In 2019/20, the total for programmes, excluding the direct charge for magistrates' salaries, is R18.7 billion (compared with R17.5 billion in 2017/18). Over the medium term the allocation to programmes grows to 20.9 billion in 2021/22.

Table 1: Vote 21 - Justice and Constitutional Development – Allocation for the 2019 MTEF per programme

Programme (R 'million)	**Budget 2019 MTEF**			
	2018/19 Revised Estimate	**2019/20**	**2020/21**	**2021/22**
Administration	5 502.5	2 504.5	2 366.9	2 503.1
Court Services	6 431.0	6 824.9	7 290.5	7 809.4
State Legal Services	1 245.8	1 349.8	1446.2	1 536.8
National Prosecuting Authority	3 648.8	3 929.1	4 214.9	4 484.2
Auxiliary and Associated Services	3 630.6	4 108.8	4 338.1	4 576.4
TOTAL	**17 458.8**	18 717.1	**19 656.7**	**20 909.9**
Magistrates' Salaries	2 215.5	2 383.7	2 560.2	2 726.6
TOTAL	**19 674.4**	**21 100.8**	**22 216.9**	**23 636.6**

6. Policy developments

6.1. The National Development Plan (NDP) requires, among others, that we build safer communities; promote accountability and fight corruption; and strengthen judicial governance and the rule of law.

6.2. This is the last year of the Medium Term Strategic Framework (MTSF) 2014-2019. However, annual planning for 2019/20 must also lay a foundation on which the Sixth Administration will begin its work as the new MTSF cycle is introduced.

6.3. This year's State of the Nation Addresses (SONA) highlighted a need to:

6.3.1. Fight state capture and corruption and committed to stabilising and restoring the credibility of institutions such as the NPA. A new National Director of Prosecutions Adv. Shamila Batohi was appointed on 1 February 2019 to lead the NPA's revival and to strengthen the fight against crime. The February SONA announced that an Investigating Directorate would be established in the office of the NDPP to deal with serious corruption and associated offences, especially those highlighted by the various commissions of inquiry. (This Directorate has been established since and is headed by Adv. H Cronje).

6.3.2. End gender-based violence as a national priority. In this regard, the implementation at departmental level of the resolutions taken at the Presidential Summit and Declaration against Gender-based Violence and Femicide (November 2018) was highlighted.

6.4. On 3 July 2019, the Minister of Justice and Correctional Services provided a political overview, introducing the budget and plans for 2019/20 for the Department of Justice and Constitutional Development, Office of the Chief Justice and Judicial Administration and Department of Correctional Services. The Minister referred, among others, to:

6.4.1. The key role that the Justice sector has to play in advancing radical socio-economic transformation in pursuit of the speedy resolution of the challenges of poverty, unemployment and inequality.

6.4.2. The importance of efforts to strengthen the fight against corruption; modernise the criminal and civil justice system and the courts; accelerate the transformation of the Office of the State Attorney and legal profession, and the expeditious enactment of key legislation.

6.4.3. The appointment of Adv. Shamila Batohi as the new NDPP and the appointment of Adv. Hermione Cronje. These appointments have given renewed impetus in the fight against crime and corruption. In this regard, the Department has made funds available for the Investigating Directorate to begin its work.

6.4.4. The establishment of the Special Tribunal, which will soon begin its work. This will allow the SIU to pursue, by way of a civil process, state monies lost through corruption and other illicit flows. The Regulations for the Tribunal to commence its work have been finalised and, once the necessary input is received from the Judiciary, will be published.

6.4.5. The need to transform the Office of the State Attorney and the legal profession.

6.4.6. The need to modernise the court system as part of the legacy of the 6th Administration by making use of the efficiencies of the Fourth Industrial Revolution.

6.4.7. The eradication of gender-based violence requires as a priority. The sexual offences courts must be geared towards the immediate reduction of these offences and its complete eradication in a decade.

6.4.8. The ongoing development of the Integrated Criminal Justice System, which will allow for the seamless sharing of information between stakeholders.

6.4.9. The National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (NAP) was approved by Cabinet in February 2019.

6.4.10. The intention to table a Land Claims Court Bill aimed at strengthening the adjudication of land restitution, land expropriation, and land distribution, The Bill will address some of the challenges experienced in connection with the Land Claim Court, particularly the absence of permanent judges.

6.4.11. Legal Aid South Africa's continued efforts to engage with the Department of Agriculture, Rural Development and Land Reform on the need for legal aid to assist land claimants.

6.4.12. An upcoming engagement with the Chief Justice on a range of initiatives, including government's commitment to finalise a judicial and court administration model.

7. **Department of Justice and Constitutional Development**

7.1. The Department continues to focus on the following transformational themes adopted in the 2017/18 planning cycle:

- The transformation of the legal profession and mechanism for access to justice for all.
- The transformation of State Legal Services.
- The transformation of the criminal justice system and restoring public confidence.
- Entity oversight and institutional arrangements.

7.2. The allocation to programmes that are administered by the Department (including the Justice Modernisation sub-programme under Auxiliary and Associated Services) in 2019/20 is R11.95 billion. The bulk of projected spending remains directed towards Court Services, which is allocated R6.8 billion in 2019/20.

7.3. In terms of economic classification, projected spending on compensation of employees remains the biggest cost driver. An amount of R6.1 billion is allocated for salaries of the employees in the programmes that the Department administers directly.

7.4. The building of new courts remains a core element in the Department's efforts to improve access to justice. In 2019/20, R855.6 million is allocated for Building and other fixed structures (compared with R1.1 billion and R820 million in 2017/18 and 2018/19 respectively). The Mpumalanga High Court in Mbombela has been operational since May 2019 so that every province has its own High Court. (The total cost for this project, which began in 2013, is estimated at R1.2 billion. Magistrates' courts also prioritised for completion in 2019/20 are: Port Shepstone Magistrates Court and the Bityi Magistrates Court.

8. Department of Justice and Constitutional Development: Programmes

8.1. Programme 1: Administration

8.1.1. The Administration programme is allocated R2.5 billion for 2019/20, compared with R2.1 billion for 2018/19 (for the Ministry, Management, Corporate Services, Financial Administration, Internal Audit and Office Accommodation subprogrammes). In 2018/19, all national and provincial Departments were required to reduce their spending on administration. Overall, the allocation to Administration has decreased by -4.9% the programme. The allocation to the Office Accommodation subprogramme at R1.4 billion represents 55% of the total allocation to this Programme.

8.1.2. The purpose of this programme is to provide strategic leadership, management and support services to the Department.

8.1.3. The Department has added the following new indicators for Strategic Objective 3: Optimised organisational structure, systems and processes in order to improve the Department's performance.

Table 2: Administration - New Performance Indicators and Targets

Performance indicators	**Targets 2019/20**	**Targets 2020/21**	**Targets 2021/22**
No. of realigned organisational substructures	5	7	10
No. of people appointed on internship and learnership programmes	300	400	500
Repositioning strategy on Justice College finalised by target date	By 31 March 2020	-	-

8.2. **Programme 2: Court Services**

8.2.1. Court Services is allocated R6.8 billion for 2019/20 compared with R6.4 billion for 2018/19 (for the Lower Courts, Family Advocate, Magistrates Commission, Facilities Management and Administration of Lower Courts sub-programmes). Overall the allocation to this programme decreases by -0.8% in real terms from 2018/19.

8.2.2. The Lower Courts subprogramme receives 73% of the allocation to his programme to fund the activities and operations of more than 2 147 courtrooms across the country. This is a small increase of 1.1% in real terms. The Facilities Management subprogramme experiences a real decrease of –0.64% (in contrast with a decrease of -26.9% in real terms in 2018/19).

8.2.3. The Court Services programme facilitates the resolution of criminal, and civil cases, and family law disputes, by providing accessible, efficient and quality administrative support to the courts and to manage court facilities.

8.2.4. In response to the call to address Gender-based violence as a national priority, existing indicators have been linked expressly to the commitments contained in the Presidential Summit Declaration against Gender-based Violence and Femicide, as follows:

- Number of courts adapted in line with the Sexual Offences Court Model *as required by Article 9 of the 2018 Presidential Summit Declaration against Gender-based Violence and Femicide* (with a target of 16 courts adapted in 2019/20).
- Phases of the Femicide Watch established *as required by Article 15 of the 2018 Presidential Summit Declaration against Gender-based Violence and Femicide by target date* (with a target of Phase 2 of the Femicide Watch established by 31 March 2020).

8.2.5. A number of new performance indicators have been introduced, including:

Table 3: Court Services – New Performance Indicators and Targets

Performance indicators	Targets 2019/20	Targets 2020/21	Targets 2021/22
No. of magisterial districts and sub-districts with a supplier-base of foreign language interpreters	25	50	150
No. of courts where upgrades and extensions are completed	6	5	8
No. of new transformational policies approved	Discussion document for the reform of bail, arrest and expungement dispensation to be submitted to the Minister by 28 February 2020. Policy framework on community courts to be submitted to the Minister for approval by 28 February 2020. Policy framework on the choice of language in legal proceedings to be submitted to the Minister for approval by 28 February 2020.	Draft of the policy framework submitted to Minister by 28 February 2021	Minister's approval of the policy framework by 28 February 2022

8.2.6. The spending focus for the programme is largely on court infrastructure; implementation of legislation; medical services for psychiatric observation; and security services for courts.

8.3. **Programme 3: State Legal Services**

8.3.1. The State Legal Services programme is allocated R1.34 billion for 2019/20, compared with R1.25 billion in 2018/19 (for the State Law Advisers, Litigation and Legal Services, Legislative Development and Law Reform, Master of the High Court and Constitutional Development subprogrammes). The allocation to the programme increases in real terms by 3% from 2018/19. The Master of the High Court subprogramme receives the largest allocation at 41% of total allocation to this programme, while 38% goes to the Litigation and Legal Services subprogramme.

8.3.2. The programme provides legal and legislative services to government; supervises the administration of deceased and insolvent estates an estates undergoing liquidation; manages the Guardian's Fund; facilitates constitutional development; and undertakes research.

8.3.3. New performance indicators and targets include:

Table 4: State Legal Services – Performance Indicators and Targets

Performance indicators	Targets 2019/20	Targets 2020/21	Targets 2021/22
Project plan for repeal of apartheid era legislation	By 31 March 2020	-	-
Insolvency policy submitted to the Minister for approval			

No. of training sessions on the Guide for Service providers held with civil society organisations and public officials dealing with victims of hate crimes	9	9	9
SADC Integrated information system to monitor the implementation of Trafficking in Persons Act (TIP Act) implemented	Report generated on the SADC integrated information system tool	Report generated on the SADC integrated information system	Report generated on the SADC integrated information system
No. of targets in the implementation plan of the Cabinet approved National Action Plan to Combat Racism, Racial Discrimination; Xenophobia and Related Intolerance implemented	3 key initiatives implemented	-	-
Policy framework for the regulation and recognition of community based advice office sector and community-based paralegals in South Africa	By 31 March 2020		

8.3.4. The spending focus for the programme is largely on employee compensation; legal costs and claims against the State. Further, additional funding has been allocated to fund the establishment of the Legal Ombud (R10.7 million); the establishment of provincial LGBTI protection and rights promotion task teams and working groups (R7.9 million); and for the implementation of National Action Plan to Combat Combat Racism, Racial Discrimination; Xenophobia and Related Intolerance (NAP).

8.4. **Programme 3: Information Regulator**

8.4.1. The Protection of Personal Information Act, 2013, (POPIA) regulates the processing of personal information by providing a framework that sets out the minimum standards that responsible parties must comply with when processing personal information. The Act applies to public and private bodies, including juristic persons, and aims to achieve a balance between the free-flow of information and the right to privacy.

8.4.2. The Information Regulator is established in terms of section 39 of POPIA and has a wide range of powers and functions relating to promoting and enforcing the right to privacy.

8.4.3. POPIA also transfers certain key responsibilities concerning the Promotion of Access to Information Act, 2000, (PAIA) to the Information Regulator. These include the handling of complaints, conducting investigations, and making assessments about compliance by public and private bodies.

8.4.4. At present, only those parts of the Act relating to the establishment of the Regulator and the making of regulations are operational. Once the Regulator has reached a stage of operational readiness, the remaining provisions will come into

force. Even then, the Act provides for a grace period of one year to allow responsible parties to comply. This period can be extended to three years.

8.4.5. The SAHRC retains the functions relating to PAIA. These will also be transferred only once the Regulator is operational.

8.4.6. Delays in obtaining approval of its organisational structure has contributed to the slow progress in setting up the Information Regulator. In terms of POPIA, the Regulator has the power to determine its own administration in consultation with the Minister of Finance. A key challenge to the operationalisation of the Regulator has been its listing in terms of the Public Finance Management Act, 1999. The Regulator was advised that before the organisational structure could be approved, it should be listed as a National Public Entity in terms of the PFMA with the Members of the Regulator as its accounting authority. POPIA however, provides in section 48 for the appointment of a CEO who is also the accounting officer. If the Regulator were listed as a public entity, this would result in it having both an accounting authority in terms of the PFMA and an accounting officer in terms of POPIA. The Regulator made a submission to the Minister of Finance in which it requested that:

- Approval of its establishment be dealt with separately to that of its listing in terms of the PFMA.
- The establishment of its administration be approved while the challenges relating to its listing are addressed.
- The Chief Executive Officer be recognised as its accounting officer and the Chairperson be designated the Executive Authority in terms of National Treasury Regulation of 2001.
- The proposed organisation structure be considered and approved.

- The current practices in the public sector be used to determine the salaries and benefits of staff. Until its status is clarified, finalisation of the organisational structure is delayed.

8.4.7. The Information Regulator reports the following developments:

- Regulations were tabled before Parliament and have been published in the Government Gazette.
- Office accommodation has been secured (at the National Office of the South African Human Rights Commission) for a period of three years.
- The CEO and CFO were appointed and have assumed their duties. The Executive Officer: Legal, Policy, Research and Technology Analysis has been appointed and will assume duties in August 2019. The filling of other executive positions is in progress.
- The draft organisational structure has been developed and will be submitted to the Minister of Finance for consideration.

8.4.8. Funding is set aside under the State Legal Services programme for the continued establishment of the Information Regulator (R28.9 million in 2019/20; R30.5 million in 2020/21; and R32.2 million in 2021/22).

8.5. **Programme 4: National Prosecuting Authority**

8.5.1. The NPA provides a co-ordinated prosecuting service that ensures that justice is delivered to the victims of crime through general and specialized prosecutions; removes the profit from crime; and protects certain witnesses. The NPA also forms part of the Anti-Corruption Task (ACTT).

8.5.2. The NPA is allocated R3.9 billion for 2019/20, compared with R3.6 billion for 2018/19. In real terms, the allocation increases 2.4% from 2018/19.

8.5.3. As in previous years, the National Prosecutions Services sub-programme is allocated the biggest share of the funds (81%) allocated to this programme.

8.5.4. There has been a total moratorium on the filling of posts since 2015/16. In addition, 650 officials have left the NPA since then. The loss of staff has significantly increased the workload of prosecutors, which has a host of negative consequences for service delivery and for the workplace environment.

8.5.5. In previous years, shortfalls relating to the compensation of employees' budget were funded through virements from the NPA's operational budget or from the Department. However, this year, the NPA's operational budget is unable to accommodate any virements to the compensation of employees' budget without placing service delivery at risk. The projected shortfall on compensation of employees for 2019/2020 is R27.3 million. The NPA projects that it will need to reduce its staff establishment by more than 550 officials over the medium term to remain within the expenditure ceiling.

Table 5: NPA: Budget vs Projected Expenditure for 2019/20

R'000	2019/20		
	Budget	**Projected Expenditure**	**Budget Shortfall**
Compensation of Employees	3 486 309	3 513 643	-27 334
Goods and Services	391 006	485 173	-94 167
Transfers and Subsidies	18 922	18 922	0

R'000	2019/20		
	Budget	**Projected Expenditure**	**Budget Shortfall**
Machinery and Equipment	32 900	32 900	0
Total	**3 929137**	**4 050 638**	**-121 501**

8.5.6. The NPA additional budget requirements are as follows:

Table 6: NPA Additional Budget Requirements

R'000	2019/20	2020/21	2021/22	2022/23	Total
Shortfall on warm bodies	27 334	88 954	86 758	181 414	384 460
Aspirant Prosecutors programme (100 for next 3 years)	-	25 793	27 341	28 981	82 116
Absorption of Aspirants	-	-	39 189	41 540	80 729
158 Critical NPA posts	-	91 478	96 967	96 967	285 412
Total compensation of employees	**27 334**	**206 225**	**250 255**	**348 903**	**832 717**
Operational Budget shortfall	94 167	115 913	130 005	153 790	493 875
Investigating Directorate	49 650	115 276	126 601	135 463	426 990
Total	**171 151**	**437 414**	**506 862**	**638 156**	**1 753 583**

8.5.7. The NDPP highlighted the following key service delivery initiatives:

- Restoration of NPA credibility and public confidence.
- Establishing the Investigating Directorate as a new (sub)programme within the NPA.

- Reviving the Aspirant Prosecutors programme.
- Developing and/or recruiting specialist skills.
- Developing a strategic support and innovative capacity.
- Undertaking ongoing staff development and training.
- Strengthening the NPA's independence in the form of its own accounting officer.
- Improving stakeholder relations.
- Addressing Truth and Reconciliation Commission cases.

8.5.8. The NPA has aligned its strategic objectives with the NDP, which speaks to 'building safer communities', as well as to Outcome 3 of the MTSF. Notably, during SONA this year, there was a clear focus on turning the tide of corruption in our public institutions. The February SONA announced the establishment of an Investigating Directorate to deal with serious corruption and associated offences.

8.5.9. The NPA has the following sub-programmes: National Prosecutions Service; Asset Forfeiture Unit; Office for Witness Protection; and Support Services. The NPA is proposing that a fifth subprogramme 'Investigating Directorate' be incorporated going forward.

8.5.10. Certain medium term targets relating to convictions in courts have been adjusted down in line with the resource constraints that the NPA is facing.

8.6. **Programme 5: Auxiliary and Associated Services**

8.6.1. The programme provides a variety of auxiliary services associated with the Department's aims and funds transfer payment to the South Africa Human Rights Commission, the Public Protector, Legal Aid South Africa, the Special Investigation Unit and the President's Fund.

8.6.2. The programme also contains the Justice Modernisation sub-programme. This sub-programme contains funds for the modernisation of IT systems and for the Integrated Justice System (IJS) project on behalf of Justice Crime Prevention and Security (JCPS) Cluster departments and entities. An amount of R1.27 billion is allocated to this subprogramme for 2019/20, compared with R976.8 million in 2018/19. This is an increase of 23.4 % from 2018/19 in real terms. There is a significant increase in the allocation to this subprogramme over the medium term as a result of the migration of Integrated Justice Modernisation programme budget from the SAPS.

8.6.3. The related strategic objective for the Justice Modernisation sub-programme is as follows: establishment of a functional, integrated electronic criminal justice system to monitor performance of the criminal justice system.

8.6.4. The following new performance indicator and targets is included:

Table 7: Justice Modernisation: New Performance Indicators and Targets

Performance indicators	Targets 2019/20	Targets 2020/21	Targets 2021/22
No. of branches, sites, service centres of government departments where Person Verification Services deployed	280	420	560

9. **Legal Aid South Africa**

9.1. Legal Aid SA receives its funding as a transfer. The entity is allocated R1.9 billion in 2019/20. This is supplemented by R20 million from investment income. In 2018/19, and the MTEF period, Legal Aid SA had a 5% budget cut to its baseline allocation. This amounted to a budget cut/shortfall of R164 million for 2018/19. In 2019/20, National Treasury reversed Legal Aid SA's baseline cut for the MTEF period. As a result, the budget shortfall is R85.5 million for 2019/20 with a total budget cut/shortfall of R370.9 million for the MTEF period. However, in 2019/20, there was an additional cut of R2.7 million for each year relating to senior management salaries. Budget constraints continue to be a challenge for operations. The salaries budget constitutes at least 80% of the budget.

Table 8: Legal Aid SA programme budget for the 2019 MTEF

Subprogramme (R'million)	**2018/19**	**2019/20**	**2020/21**	**2021/22**
Legal Aid Services	1 437.9	1 587.7	1 635.1	1 724.0
Administration	336.6	334.8	390.5	410.9
Special projects	52.9	55.8	59.5	63.3
TOTAL	**1 827.3**	**1 978.4**	**2 085.1**	**2 198.2**

9.2. In order to manage the budget cuts, Legal Aid SA has had to reduce all segments of its budget: Salaries (legal and support); direct expenditure; operating budget and capital budget. The main impact has been cuts to staff posts, as well the reduced delivery targets and coverage of courts. The operating budget comprises only 20% of the Budget. This budget cannot be cut further if it is to support the staff employed at Legal Aid SA.

9.3. The Strategic Plan 2015–2020 sets out the outcomes and strategies that Legal Aid SA will pursue for that period. Legal Aid SA's strategic outcomes for 2015-2020 are to provide

quality justice for all, especially, the poor and vulnerable, and to be a respected, high performance, sustainable and accessible public entity that will have a positive impact on society, the economy and the environment.

9.4. The overall strategic shift in the 2015 - 2020 period focuses on increased organisational maturity, and sustainable high performance and excellence in all segments of the organisation over the next decade, positively touching the lives of many more South Africans to ensure the outcome of quality justice for all.

9.5. The following are focus areas for 2019/20:

- Developing the strategic plan 2020-2025 for the next 5-year planning period.
- Ensuring financial sustainability and client services delivery by: managing.
- Managing the impact of budget constraints on employees.

9.6. In carrying out its mandate, Legal Aid SA continues to identify the following priority groups: children; every detained person, including sentenced prisoners; every accused person who wishes to appeal or review a court decision in a higher court; women, particularly in divorces, maintenance and domestic violence cases; and the landless, especially in eviction cases.

10. **Special Investigating Unit**

10.1. The legislative mandate of the Special Investigating Unit (SIU) is derived from the Special Investigating Unit and Special Tribunals Act 74 of 1996 (as amended). Matters are referred to the SIU by way of Presidential proclamation, which sets out the scope of an investigation. The SIU has identified a number of limitations with the present enabling legislation:

- The SIU's mandate limits it to a reactive role, as it is unable to undertake preliminary assessments of received allegations before applying to the President for a proclamation.
- There is no clear mandate to monitor and enforce remedial measures.
- The reporting requirements restrict reporting to specified persons, entities or state institutions.
- The SIU's funding model is flawed.

10.2. The SIU's principal function is to investigate serious malpractices, maladministration and corruption in connection with the administration of state institutions, state assets and public money, as well as any conduct that may seriously harm the interests of the public. The SIU also:

- Institutes and conducts civil proceedings in any court of law or special tribunal, in its own name or on behalf of state institutions.
- Brings potential disciplinary matters to the attention of state institutions.

10.3. Although the SIU does not have the power to arrest or prosecute offenders for criminal conduct, it reports matters to the Directorate for Priority Crime Investigation (DPCI/the Hawks), the South African Police Service (SAPS) and the National Prosecuting Authority (NPA). The SIU also works closely with the Asset Forfeiture Unit (AFU) in the NPA, where its powers are more appropriate or effective in recovering the proceeds of crime. The Unit is part of the Anti-Corruption Task Team (ACTT), which was established to fast–track investigations and prosecutions of serious corruption cases.

10.4. The SIU has a mixed funding model that derives income from a National Treasury grant, as well as from work done for State departments. The SIU's projected total revenue for 2019/20 is R718 million, compared with R661.7 million in 2018/19. Despite baseline reductions (R8 million in 2019/10, R8.5 million in 2020/21 and R9 million in 2021/22 to be implemented by way of a salary increase freeze/reduction for senior management staff), the SIU's budget increases in real terms by 3.2% from 2018/19. A significant portion of the budget (R565.9 million or 79%) is for salaries (The SIU projects to increase its headcount in 2019/20 from 531 to 673 employees).

10.5. As at 31 March 2019, the SIU's outstanding debt was at R493 million. The SIU reports the following actions to recover the outstanding amounts: Letters were sent to Heads of Departments and CFOs by the SIU, National Treasury and the Minister regarding outstanding debt. The feedback received indicated that, in many instances, the SIU has not provided state institutions with feedback. The SIU has since supplied progress reports to state institutions. Although the final SIU report is addressed to the President, the SIU is in a position to present state institutions with progress/output reports and has taken the decision to do so to support outstanding invoices. The Presidency is also distributing the SIU's reports to relevant State institutions so that they can give feedback on actions taken as a result of the reports.

10.6. The SIU referred 331 matters to the NPA in 2018/19. The SIU and NPA had signed a Memorandum of Understanding but this is in the process of being reviewed. The SIU is prioritising some referrals to speed up key cases.

10.7. During, 2017/18, the SIU embarked on an organisational review process that led to its 2015-2020 strategic focus being revised. This, in turn, led to the SIU revising its 'value chain' and operating

model to support the implementation of the revised goals, objectives and focus. Operational changes include standardisation of service quality; enhanced case registration and monitoring; and digital transformation to provide business intelligence for proactive decision taking. The SIU also developed a new organisational structure to support the revised strategy.

10.8. The SIU has the following three programmes: Administration, Investigations and Legal Counsel; and Market Data Analytics and prevention.

10.9. The 2019/20 Annual Performance Plan (APP) outlines specific activities for the SIU to take a more proactive role and ensure greater preventative measures to address maladministration, malpractice and corruption.

10.10. The following strategic inventions are planned to support this focus:

- Define the SIU value chain.
- Accelerate the conversion of allegations to proclamations.
- Establish capacity for corruption, maladministration and malpractice prevention through public education, data analytics, and scenario analysis.
- Monitor and evaluate the impact of the SIU's objectives.
- Standardise the manner in which cases are scoped.
- Improve the quality and turnaround time of investigations.
- Expand on the monitoring and evaluation of case management, including central case registration system.
- Ensure the long term financial stability of the SIU.
- Create and publish sector data intelligence.
- Create advisory capacity to prevent the reoccurrence of maladministration, malpractice and corruption.
- Amend the SIU Act.
- Improve governance.

11. **Public Protector**

11.1. The Public Protector is an independent constitutional institution whose mandate, broadly, is to support and strengthen constitutional democracy by investigating maladministration or improper conduct in state affairs or the public administration in any sphere of government and to take appropriate remedial action. The Constitution also states that the Public Protector must be accessible to all persons and communities.

11.2. In 2019/20, the PP is allocated R322.6 million, compared to R311 million in 2018/19. (in real terms, the budget grows negatively by -1.5% from 2018/19). Following a baseline cut in the 2018 Budget of R36.2 million over the MTEF, the 2019 Budget includes further cuts of R3.9 million over the medium term, as a result of a salary freeze for senior management. A total of 80% or R257.1 million is for compensation of employees, while the goods and services budget is R62.5 million.

Table 9: Public Protector Budget 2019 MTEF

Programme	**Budget (R' million)**			
	2018/19	**2019/20**	**2020/21/20**	**2021/22**
Administration (38%)	118	123.9	133.7	138.6
Investigations (58%)	180.4	185.2	1892.7	204.3
Stakeholder engagement (4%)	13	13.4	13.9	14.8
Total	**311.4**	**322.6**	**340.4**	**357.7**

11.3. For some time now, the Public Protector has indicated that the institution is underfunded. The main areas of need are as follows:

Table 10: Public Protector - Additional Funding Requested 2019 MTEF

Description	2019/20	2020/21	2021/22	Total
Funding of critical positions	15 613 410	16 564 243	17 573 241	49 750 894
Professional fees	13 110 000	13 896 000	14 730 396	41 736 396
Security	6 127 038	6 464 026	6 819 547	19 410 611
Gratuity for the Deputy Public Protector	5 375 330	-	-	5 375 330
Total	**40 225 779**	**36 924 268**	**39 123 184**	**116 273 231**

11.4. The Public Protector identified the following strategic challenges and interventions:

Table 11: Public Protector SA – Strategic Challenges and Interventions

Challenges	Interventions
Insufficient funding for 2019/20 financial year	Value Proposition (Budget Bid) was formulated and presented to National Treasury
Capacity shortages (few investigators, diverse skills such as forensic, actuarial, engineering, quantity surveying, etc. are lacking)	Outsourcing/MOU's and SLA's with other state institutions to leverage on synergies and innovations such as assisting organs of State to establish internal complaints handling mechanisms.
Security (lack of security measures in provincial and regional offices)	Leverage state resources by attempting to secure office accommodation (specifically DoJ) in order to utilise the same physical security services

12. **South African Human Rights Commission (SAHRC)**

12.1. The SAHRC's mandate is extremely broad, encompassing almost every aspect of civil, political and economic rights. It must promote respect for human rights; promote the protection, development and attainment of human rights; and monitor how well human rights are observed. The Constitution also provides that each year the Commission must require relevant organs of state to provide it with information on measures taken towards the realisation of the socio-economic rights contained in the Constitution. The Commission has specific obligations in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (PEPUDA). The establishment of the Information Regulator will impact on the SAHRC's obligations relating to the Promotion of Access to Information Act, 2000 (PAIA). These functions, excluding the Commission's protection mandate, will be transferred to the Information Regulator once it is operational.

12.2. As from 3 January 2017, seven new commissioners were appointed to the SAHRC. Of these, five are appointed full-time and two in a part-time capacity.

12.3. In recognition of South Africa's core challenges – high levels of poverty, inequality, unemployment and violence – all areas of the SAHRC's work should attempt to contribute to addressing each of these challenges.

12.4. The Commission's goals are informed by the need to address the key challenges of poverty, unemployment, inequality and violence. Priority areas include the following:

- Business and Human Rights.
- Corruption and Human Rights.
- Violence against vulnerable groups.

- Equality and social cohesion.
- Protests, local government and service delivery.

12.5. During the annual planning process for 2019/20, the Commission has emphasised the need for high impact interventions in order to achieve greater results with fewer resources. These will include:

- Promoting human rights education and awareness at schools in marginalised areas.
- Hosting Human Rights Dialogues across the country.
- Sustaining public outreach and coverage through the media, including community media.
- Alternative protection mandate strategies focusing on higher impact and addressing systemic violations.
- Strengthening the monitoring of implementation of recommendations and directives.
- Assessing and reporting on the state of human rights in the country: economic and social rights, equality, civil and political rights, and international and regional human rights obligations.
- National Preventive Mechanism for the Optional Protocol Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Monitoring system as envisaged in the Convention on the Rights of People with Disabilities.

12.6. With regards to institutional effectiveness, the Commission will focus on the following:

- Synergy and integration to promote institutional effectiveness and efficiency.
- Stabilisation and strategic utilisation of the Information and Communications Technology infrastructure.
- 'Switching on our people' through a comprehensive human resources management strategy.
- Exploring funding opportunities to augment financial resources.

12.7. The Commission has a total budget of R189.7m (including budgeted income) for 2019/20. A significant portion (69% or R130.9m) of the budget is allocated to cover personnel costs, reduced from 72% last year. A total of R45.6 million or 24% of the budget for 2019/20 is allocated to Corporate Support Committed Costs and only 7% or R13.2m of the budget is allocated to the Commission's core operations. The greatest part of the allocation for operation/corporate costs is already committed, including accommodation and municipal charges; supply chain; IT related costs; human resource related costs and auditing fees.

12.8. The allocation to programmes is as follows:

Table 12: SAHRC – Programme Budget for 2019/20 (including a breakdown for personnel and operations)

Programme (R'million)	Personnel	Operations	Total
Administration	31 993.5	49 494.5	81 488
Promotion of human rights	83 596.9	5 774.1	89 371
Protection of human rights	7 771.0	2 587.5	10 358.5
Monitoring of human rights	7 507.6	980	8 487.5

12.9. The greatest part of the allocation for operation/corporate costs is already committed, including accommodation and municipal charges (R23.5 million); IT related costs (R5.8 million); Human Resource related costs (R2.5 million) and auditing fees (the SAHRC pays R3 million to the Auditor-General for auditing).

12.10. In response to its budget constraints, the SAHRC has re-prioritised its spending and devised stringent measures, such as freezing vacant posts; reviewing its organisational structure; developing a cost containment plan; and reducing its accommodation space at head office to lower the rental costs.

13. **Committee's observations**

13.1. ***Budget constraints***

13.1.1. Although the Department was able to absorb substantial cuts until 2017/18, this is no longer the case and even the entities are for the first time significantly affected. Measures to introduce efficiencies through organisational realignment, contain costs and the reprioritisation of funds can only achieve so much, especially in a context where the budget must stretch to fund these new priorities. The main challenge is the shortfall on compensation to service existing service points. As the sector is labour intensive, there is a real possibility that there will be overspending on compensation. A further challenge that the Department has identified is the practice of looking to the Department to fund the entities and institutions within the Justice portfolio. The Department has reached a stage where it can no longer absorb further cuts without impacting on service delivery points.

13.1.2. The Committee learnt that the budget cuts have adversely affected the delivery of justice in our courts. In this regard, witnesses are increasingly at risk as a result of the reduction of protection services; the level of security at courts and justice buildings is compromised; the eradication of backlog cases is sluggish; and key positions (prosecutors, court interpreters, maintenance officers; and estate administrators and administrative staff in the areas of finance, human resources and IT) remain unfilled.

13.1.3. Economic growth can only happen if underpinned by a well-functioning and stable justice system. If our legal system collapses, our democracy is threatened. Further, investors have made it very clear that the State must address corruption for investment to take place. The public have also made it clear that it expects action on the part of government against those who have stolen from the State.

13.1.4. The President, during the SONA addresses, emphasised the need to tackle corruption urgently, announcing the establishment of an Investigating Directorate in the Office of the NDPP to assist in this regard. The Department was able to find start-up funds for the establishment of the Investigating Directorate and the intention is to apply for CARA funding to augment this. However, additional funds are required in order that the NPA can address high vacancies in the Asset Forfeiture Unit and the Specialised Commercial Crime Unit, for example. Both of these Units have a key role to play in the fight against crime and corruption.

13.1.5. Overall, the NPA has an extraordinary high vacancy rate of prosecutors (650 prosecutors have left the NPA since 2015/16). The NPA's finances leave it with little room to address its crippling vacancy rates. It already has a large shortfall on its salaries budget, which it fears will require it to lose a further 550 prosecutors over the medium term. Without sufficient prosecutors, the criminal justice system will not function efficiently or effectively.

13.1.6. The situation at the NPA is exacerbated by the loss of highly skilled and experienced prosecutors and investigators over the years and it will take time and money to build up the prosecuting service.

13.1.7. The Committee notes the Minister of Finance's response to the 2018 Budgetary Review and Recommendation Report. The former Committee recommended that the NPA be allocated additional funding to address its shortfall relating to the its compensation of employees' budget and to allow it to resume its Aspirant Prosecutors programme. The response was a refusal: 'Department, public entities and constitutional institutions are required to reprioritise funds within their

existing baselines to fund any emerging priorities'. The Committee will pursue the matter further as part of its deliberations during the Budgetary Review and Recommendation Report process.

13.1.8. The President also highlighted the need to eradicate gender-based violence altogether. Departments are required to action the recommendations of the Presidential Summit Declaration on Gender-based Violence and Femicide. For Justice, this requires the rollout of further dedicated sexual offences courts, the establishment of more TCCs, the appointment of intermediaries, more prosecutors and public defenders, etc. However, there is no corresponding increase to the budget.

13.1.9. The Committee notes that the South African Human Rights Commission and Public Protector have baseline cuts. Historically the Chapter 9 institutions have been underfunded. Consequently, these institutions feel the effect of the budget cuts especially severely. The Committee draws attention to the resolution of the National Assembly that in line with the recommendations of the ad hoc Committee on the Review of Chapter 9 and Associated Institutions (2007) (the Asmal Report) the budgets for the institutions supporting democracy be contained in a separate programme in Parliament's Budget Vote.

13.2. **Transformation of the legal system**

13.2.1. The Fifth Parliament had planned to bring about substantive change to our legal system in its entirety through policy reforms. This transformation also encompassed the modernisation of both the criminal and civil legal systems to address inefficiencies and restore public confidence.

13.2.2. ***Transformation policies***. The Committee notes that in 2018/9, the Department planned to develop the following policies: the Policy on Lower Court Reform was to be submitted to Cabinet for approval by 28 February 2019; the Policy on Judicial Governance and Court Administration and the Policy Framework on the Overhaul of the Criminal Justice System as part of the Renaissance Project were to be approved by the Minister by 28 February 2019; and a Blueprint on Community Courts was to be approved by the Minister by 28 February 2019. It is unclear as to whether these targets were achieved.

The Department plans to develop three transformational policies in 2019/20. These are a discussion document for the reform of the bail, arrest and expungement dispensation; a policy framework on community courts; and a policy framework on the choice of language proceedings. All of these are to be submitted to the Minister for approval by 28 February 2020.

The Committee intends to arrange a comprehensive briefing on the Department's initiatives to bring about transformation of the South African legal system as soon as its programme permits. For now, it requests that the Department provide it with a comprehensive written report of progress made by 15 August 2019.

13.2.3. ***Regulation of the paralegal sector and provision of funding for sustainability.*** The Committee notes that a Policy Framework for the regulation and recognition of community-based advice office sector aand community-based paralegals in South Africa is to be finalised by 31 March 2020.

In the Fifth Parliament, the Committee was informed that a Bill was being prepared and would be introduced once the problem of funding was resolved.

However, it would seem that a funding solution has not yet been found and is delaying the finalsation of the necessary legislationn.

Paralegals and community advice centres play a major role in promoting access to justice, especially for those who would not otherwise be able to afford legal services. As this matter is long outstanding, the Committee is of view that the statutory recogntition of the sector is urgently required as part of the broader transformation agenda. Although the Committee welcomes that a Community-based Paralegal Bill has been prepared, it urges the swift resolution of the matter of funding.

The Committee requests that the Department provide a comprehensive written report on this by 30 August 2019 and to continue to keep it updated as part of the Department's quarterly reporting process.

13.2.4. ***Policy on the design of the judicial governance and court administration model.*** The Committee notes that in the Fifth Administration an Inter-Ministerial Committee (IMC), chaired by the Deputy President, was appointed to make recommendations to Cabinet on an appropriate Judicial Governance and Court Administration Framework.

The Committee notes that the design of a judicial governance and court administration model predates this Administration: a judiciary-led court administration model was already mooted in the Third Administration and the Judiciary had undertaken extensive research and made proposals in this regard. It would seem that the matter of accountability is the chief stumbling block.

The Committee notes that the Department is now ready to present this model.The Committee notes further that this was a matter that the Minister intended to address when he meets with the Judiciary.

On the issue of the migration of the magistracy, the legislation overhauling the Magistrates Act, 1993, and Magistrates' Court Act, 1944, is far advanced.

For now, the Committee requests that the Department provide it with a comprehensive written report on progress by 30 August 2019.

13.2.5. **Land reform.** In the Fifth Parliament, concerns about the functioning of the Land Claims Court were raised repeatedly with the request that it be properly capacitated. In particular, the appointment of permanent capacity to that court was called for. The Committee, therefore, welcomes the intention to introduce a Land Claims Court Bill that will address this issue.

13.2.6. **Integrated Criminal Justice Strategy (ICJS).** The Integrated Criminal Justice Strategy (ICJS) is intended to provide a mechanism to address the 'silo' approach of the relevant JCPS Cluster departments and entities to strengthen co-ordination and co-operation among them. The ICJS is to incorporate the CJS 7-Point Plan and IJS modernization interventions, and envisages dealing with all the new trends and focus areas that are currently not adequately catered for, in one overarching integrated strategy (the ICJS).

The ICJS will have two phases: The first phase relates to the development of the Strategy. Phase 2, therefore, is concerned with implementation. Funding of the ICJS is to take place within the normal baseline allocations but funds are allocated from the CJS Review/Revamp and from CARA funding.

The target date for the finalisation of the Strategy was 31 March 2018 but was revised to 28 February 2019 (for submission to Cabinet). The reason provided then was that there were 'delays in

the identification of all the officials who were requested to participate'. The Department reported that an Integrated Task Team on Criminal Justice Reform (ITT-CJR), which is headed by Adv. Lungi Mahlathi and is made up of senior designated officials from the line function departments and law enforcement agencies, had been established to accelerate the development of the ICJS and the overhaul of the Criminal Procedure Act.

The Committee requests that the Department provide it with a comprehensive written report on the progress of the project by 30 August 2019, and to continue to keep the Committee updated as part of the Department's quarterly reporting process. The Committee will also endeavour to arrange a dedicated briefing as soon as its programme permits.

13.2.7. **Integration of IT systems (IJS).** The ultimate goal of the IJS is to ensure seamless integration and consolidation of critical information between the entities that form part of the JCPS Cluster. This is regarded as a key value add project. There are eight departments representing key components of the IJS value chain, while the Department of Justice and Constitutional Development is responsible for project management. Successful integration of interdepartmental information exchange is highly dependent on establishing business applications across all departments.

The Committee welcomes the suggestion that a joint address of the Portfolio Committees on Justice and Correctional Services, Police, Home Affairs and Social Development on the progress made so far take place and will arrange for this as soon as the programme permits. The Committee also requests that the Department provide a comprehensive report of progress by 30 August 2019 and, in addition, continue to report on this item as part of the quarterly reporting process.

13.3. **Vulnerable groups**

13.3.1. ***Eradicating gender-based violence within a decade.***

The Committee notes that, in February's SONA, the President touched on work underway to implement the decisions of the Presidential Summit Declaration against Gender-based Violence and Femicide. This included a review of existing laws and policies applicable to gender-based violence and femicide to identify and address legislative gaps; a comprehensive costing and resourcing of the facilities that give support to survivors of gender-based violence; the integration of systems for the optimal management of data throughout the criminal justice system without delay that will include the collection of data relating to survivors and offenders; the adequate resourcing of the TCCs; and better functioning sexual offences courts.

Although the NPA reports an increase in the conviction rate for sexual offences, the actual number of sexual offence cases in our courts that reach verdict is low: in 2017/18, SAPS recorded 50 108 sexual offences cases, of which only 6 679 cases (or 14%) made it to court (of these, there were 5004 guilty verdicts). Indeed, the discepancy between the number of sexual offences reported to SAPS and the number of cases reaching our courts is of grave concern.

The Committee notes too that the Department tabled its 2017/18 Report on the Implementation on the Criminal Law Sexual Offences and Related Matters Act in the Fifth Parliament and believes that discussion of its contents will provide an opportunity for focused engagement on this issue. The Committee will arrange a joint briefing on the Report, as soon as the programme permits.

13.3.2. ***Dedicated sexual offences courts***. Although the NPA reports an increase in the conviction rate for sexual offences to 70%, the number of these cases in our courts that reach verdict is low when compared to the number of reported matters. The Committee is not satisfied by the NPA's explanation for the level of attrition in these

matters. Despite linking existing indicators relating to the rollout of the dedicated sexual offences courts and the establishment of the Femicide Watch to the commitments set out in the Presidential Summit Declaration against Gender-based Violence and Femicide, the Committee fears that there is little new to suggest that we will make huges strides in this area.

The Committee notes that a total of 16 court(room)s are to be adapted this year, in line with the sexual offences courts model and 12 closed circuit television systems in regional courts are to be upgraded in line with the minimum standards in sexual offences courts model. The Department was only able to upgrade 10 CCTV systems in the regional courts in 2018/19 against a target of 45 and that, going forward, the targets in this regard are substantially reduced to those contained in 2018/19 APP.

The Committee notes too that funding constraints have led to a moratorium on the appointment of further intermediaries.

The Committee understands that the Regulations for the Establishment and Management of Sexual Offence Courts are at an advanced stage.

13.3.3. ***Femicide Watch***. In 2018/19, the Department introduced a new indicator 'Phases of the Femicide Watch established as required by Artcile 15 of Presidential Summit Declaration against Gender-based Violence and Femicide. Phase 1 was completed as planned by the end of 2018/19 and, in 2019/20, Phase 2 will be rolled out.

The Committee is interested to hear more about this initiative and requests that the Department provide it with a comprehensive written report by 30 August 2019.

13.3.4. ***National Register of Sexual Offences (NSRO).*** The Western Cape High Court found in the matter of *Abrahams v the State* (A131/8) [2019] ZAWCHC 62 (23 May 2019) that there is a loophole in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, in that the NSRO only records the names of perpeprators convicted of sexual offences against children and mentally disabled individuals but not adults. In this matter, the name of the perpetrator did not appear in the Register because his previous victims were adults. The Court found that this loophole was part of the reason why the perpetrator had access to his victim and leaves a huge gap in curbing and combating sexual crimes against children. The Committee notes that the Court requested that a copy of the judgement be forwarded to the Speaker of the National Assembly and the Chairperson of the Justice Portfolio Committee. The Committee notes too that the Ministry agrees that there is a need to review the National Register of Sexual Offences (NSRO) as the Register is not functioning as it ought to.

The Committee, therefore, urges the Department to address this gap and any other gaps that it has identified expeditiously, and requests a comprehensive report on its plans in this regard, with deadlines, by 30 August 2019.

13.3.5. ***Trafficking in Persons Act, 2013***. The Department has included a new indicator and target relating to the implementation of the SADC Integrated Information System to monitor implementation of the Trafficking in Persons Act, 2013. In addition, the Prevention and Combating of Trafficking in Persons National Policy Framework, which is intended to support the implementation of the Act, was finally launched on 25 April 2019.

The Committee is interested in learning more about this monitoring tool and requests that the Department provide a comprehensive written report on this item by 30 August 2019.

13.3.6. ***Maintenance.*** The Committee is concerned by reports of ongoing challenges experienced by women accessing maintenance services at courts. A recent article indicates that there are approximately R7 million maintenance defaulters. The Women's Legal Centre has also expressed concern in this regard, attributing the problem in accessing maintenance, among others, to insufficient dedicated staff at courts. The Department has confirmed that budget constraints prevent the appointment of certain critical staff at courts, including the maintenance courts but was to have embarked on a process to fill vacancies.

The Committee, therefore, asks that the Department provide it with a comprehensive written report on the functioning of the maintenance courts, clarifying among others the allocation of capacity and identifying any challenges by 30 August 2019.

13.4. ***National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance.*** The Committee notes that the NAP was finalised and approved by Cabinet on 27 February 2019. The Department plans to implement three key initiatives in 2019/20. An amount of R9.4 million has been set aside for the implementation of the NAP over the medium term.

The Committee is interested in learning more about the Plan and intends to arrange a dedicated briefing on the NAP as soon as its programme permits.

13.5. **Truth and Reconciliation Commission.** A total of five community rehabilitation projects were to have been signed off for launch in 2018/19 and handed over during 2019/20 but it is unclear whether this target will be achieved. Given that it is over twenty years since the TRC resolutions were handed down, the Committee does not understand why efforts to give effect to the recommendations of the Truth and Reconciliation Commission are ongoing.

The Committee requests the Department to provide it with a comprehensive written report on its progress in this regard and will arrange a dedicated briefing on all outstanding aspects relating to the TRC as soon as its programme permits.

13.6. **Court infrastructure**.

13.6.1. Building new courts in under-serviced areas has been a core element of the Department's efforts to expand access to justice. However, the tendency has been that capital works projects typically take far longer to finish than projected and, consequently, costs escalate hugely. There are also challenges relating to the quality of the work done.

The new High Court in Mpumalanga at Mbombela, is at long last operational. However, as was the case for the Limpopo High Court, building has been subject to extensive delays and the associated costs have risen to R1.2 billion. The Committee is informed that an amount of R233.1 million is under investigation by the SIU in relation to the Limpopo High Court relating to the failure to pay contractors in a timely manner which incurred additional costs (with the IDT).

The Committee notes that other courts that are to completed this year are the Port Shepstone Magistrates Court and the Bitiyi Magistrates Court.

The Committee notes as well that the Department has included a new indicator relating to the upgrading and extension of courts, targeting six courts in 2019/20 (the Evander magistrates Court, the Vulamehlo Magistrates Court, Umbumbulu Magistrates Courts, the Chatsworth Magistrates Court, the Palace of Justice and the burnt out court in Pretoria). Over the medium term it is projected that additional court infrastructure will cost R1.5 billion.

The Committee requests that the Department provide it with a comprehensive progress report on all its infrastructure projects by 30 August 2019, and be prepared to address the Committee quarterly on this matter.

The Committee will schedule a joint briefing with public works on all aspects of the infrastructure programme, including planned maintenance, as soon as its programme permits.

13.6.2. **Planned maintenance**. The ageing nature of many of our court buildings requires that they are regularly maintained. If neglected, these buildings quickly deteriorate and require costly repairs. The maintenance of building is largely the responsibility of the Department of Public Works and Infrastructure (small repairs can be done at court level) but there has been very little money available for this.

The Department has informed the Committee that the Department of Public Works and Infrastructure anticipates that it will not need all of the funds allocated for new court infrastructure. The Department, therefore, intends asking National Treasury if it can use the projected 'savings' to undertake maintenance of its courts and to improve security. The Committee notes that the Minister of Public Works and Infrastructurehas declared the state on the courts to be shocking and is encouraged that she has requested a full report. The Committee notes too that a meeting is scheduled between the two Ministers on the infrastructure programme and maintenance of the courts.

13.7. **Transformation of State Legal Services**

13.7.1. ***State Legal Services***. The State is the largest consumer of legal services in the country and employs hundreds of professionals who provide litigation and legal advisory services for the State in different capacities. For some time, there have been reports of

disarray within the offices of the State Attorney and complaints regarding the provision of state legal work to young, previously disadvantaged legal practitioners in a context where there is currently no comprehensive set of clearly defined rules governing how litigation services are to be acquired, managed and monitored. The Courts have been very critical of the quality of the work done by state attorneys in the past. The Public Service Commission issued an in-depth report on the Office in 2016. More recently, it emerged that there is corruption at certain offices and the matter has been referred to the SIU for investigation.

At present, a fragmented approach to the management of State Legal Services exists. This undermines efforts to transform the legal profession by ensuring that briefing patterns across government support previously disadvantaged legal practitioners and contain costs. Re-engineering the manner in which State Legal Services are delivered across government and addressing organisational challenges is a key departmental initiative. This entails finalising policies aimed at lowering the cost of litigation for the State, establishing the State's capacity to handle complex legal matters, and ensuring the efficient management of the offices of the state attorney. Policies to drive transformation (on mediation, state representation, the management of state litigation and tariffs) have been developed and these are expected to be submitted to Cabinet for approval, as well as a proposal for the establishment of State Legal Services as a government component. A State Legal Services Bill has been drafted and will be consulted on before finalisation for tabling in Parliament.

The Committee welcomes the focus on the re-engineering of State Legal Services. In the meantime, it requests a comprehensive written report of current challenges that are being experienced in the Office of the State Attorney by 30 August 2019, and will arrange a dedicated meeting in order to deepen its understanding of

the operations of this Office countrywide, as well as the Department's plans to transform State Legal Services as a whole, as soon as its programme permits.

13.7.2. ***State support to Black legal practitioners, especially black women/briefing patterns***. The Committee believes that a great deal more should be done to support Black legal practitioners, in particular black women, wishing to make law their career. The many obstacles that young black legal practitioners encounter require a comprehensive response involving all stakeholders.

The Committee welcomes that the Department includes a breakdown of the percentage and value of briefs awarded to previously disadvantaged individuals on its website monthly.

13.7.3. ***A transformed legal profession***. The Committee welcomes the establishment of the Legal Practice Council in October 2018, when the transitional National Forum ceased to exist. The Committee notes that the Department has allocated R7.9 million to establish a Legal Ombud as required by the Legal Practice Act, 2014.

13.8. **Information Regulator**

13.8.1. In the Committee's view, the establishment of the Information Regulator is a priority. Unless the Regulator is adequately capacitated, the remaining provisions of POPIA will not be declared operational. Given how important it is for South Africa to have a legislative framework that protects personal data, these delays must be addressed urgently. Worldwide, data protection legislation is seen as a key component in securing information so that it does not fall into the wrong hands. The Regulator has commented that in South Africa the personal information of data subjects continues to processed with

impunity and without adequate redress and that the country is experiencing an unprecedented number of data breaches that the Regulator is unable to deal with effectively. The Committee also notes the significant cost of data breaches to individuals and the country as a whole. Furthermore, ensuring that personal data is properly secured will facilitate measures to strengthen cybersecurity, and will assist to prevent cybercrime.

13.8.2. The Committee is concerned about the lack of progress in fully capacitating the Information Regulator. The Protection of Personal Information Act (POPIA) requires only that the Regulator consult with the Minister of Finance on its staffing. The Regulator has consulted with the Department of Public Service and Administration (DPSA), National Treasury and the Public Service Commission, and has compiled the necessary documents, including a report on its benchmarking visits. The latest obstacle relates to the advice that the Regulator be listed in the PFMA as a Schedule 3A entity before its organisational structure can be approved. However, the Board of a Schedule 3A entity is the accounting authority, whereas POPIA clearly provides that the Regulator's CEO is its accounting officer. The Regulator approached the Minister of Finance for assistance to resolve the contradiction. In the interim, it was agreed to de-link the establishment of the organisational structure from the matter of the Regulator's status in terms of the PFMA. In this respect, the Minister of Finance agreed to the organisational structure and appointment of top management. The Regulator will need to approach the Minister once more to obtain approval for the remainder of the organisational structure.

The Committee is of the view that this matter of the organisational structure and the Regulator's status must be resolved expeditiously and requests the Ministry do all that it

can to assist the Regulator in its engagements with the Minister of Finance and National Treasury to find a solution as soon as possible. It asks that it be kept informed of developments in this regard.

13.8.3. The Regulator introduced the Committee to its new CEO (Mr M Thibela) and CFO (Mr P Narismulu) and informed the Committee that a number of new appointments to its Executive are to follow in the coming months. The Committee welcomes the appointments and notes too that the Regulator has acted on its plans to share accommodation with the South African Human Rights Commission, which is also pleasing.

13.8.4. The Committee notes that until the Regulator is operational and the remaining provisions of POPIA come into effect, the SAHRC will continue to fulfil its (largely unfunded) mandate with regards to 'Access to Information'.

14. **National Prosecuting Authority**

14.1. The Committee congratulates Adv. Batohi on her appointment as National Director of Public Prosecutions (NDPP) from 7 February 2019 and wishes her well in the position.

14.2. **Budget shortfalls and staff short*ages***. The Committee has already expressed its concern about the effect of funding constraints for service delivery. Briefly, the Committee is of the view that insufficient weight is being given to the essential nature of prosecutorial services. The Committee, therefore, advocates that additional funds be made available to address the shortfall on the NPA's salaries budget so that it can fill vacancies. Since 2015/16, about 650 prosecutors have left the NPA. As a result of the moratorium on filling posts, the overall vacancy rate for prosecutors is now at 20%. In some of the

specialised units, the vacancy rates are much higher – between 25-28%. The NPA anticipates a shortfall on its 'compensation of employees'' budget, which will result in unauthorized expenditure on its salaries budget of R27 million in 2019/20, growing to R88.9 million, R86.8 million and R181.4 million in 202/21, 2021/22, 2022/23, respectively. The Committee was informed that the NPA will need to lose a further 550 prosecutors over the medium term if it is to stay within budget. In addition, as its salaries budget consumes almost 90% of the NPA's budget, there is little space to save costs or reprioritise funds.

The Committee has already expressed its view that the loss of prosecutorial capacity on this scale is disastrous for the rule of law.

14.3. **Legislative amendments to the NPA Act, 1998**.The Committee notes that the Department intends to table amendments to the National Prosecuting Authority Act, 1998, to address a declaration of constitutional invalidity in respect of sections 12(4) and (6) of the Act. The deadline for compliance with the court order is February 2020. The Committee, therefore, requests that the Ministry bring these amendments as soon as possible in order that Parliament is able to meet the applicable timeframes.

14.4. **Independence of the NPA**. Before 2014, National Treasury provided the NPA with an exemption that allowed it to prepare its own annual financial statements (AFS) separate from the Justice. The exemption was given, pending the enactment of legislation that would clarify the NPA's status was enacted. At the beginning of the Fifth Parliament, the situation changed in that the NPA is reported as a programme in the Justice Vote and no longer prepares separate annual financial statements.

The NDPP, however, continues to table a separate annual report on its activities in terms of the NPA Act, 1998. The new NDPP, however, has indicated that it is not satisfactory for the NPA to have the DG: Justice and Constitutional Development as its accounting officer, a view that the Department appears to support. The Committee supports an independent prosecuting authority but will need to engage further on this matter to obtain a fuller understanding of the policy issues and practicalities involved.

14.5. **Thuthuzela Care Centres (TCCs).** The TCCs are multidisciplinary centres that cater for survivors of sexual and domestic abuse. At present, there are 55 TCCs countrywide. For some time, the establishment of further TCCs has been on hold because funding constraints. The Committee, therefore, welcomes the plan to establish a further five centres over the next 5 years. The Committee learnt that some of the funding for this will come from the Criminal Assets Recovery Account (CARA) Fund. The Committee notes also recent media reports that due to a lack of funding, half of the Thuthuzela Care Centres (TCCs) across the country are without counselling services or forced to rely on only one or two social workers to assist victims of sexual abuse and violence. This is partly because donor funding to NGOs providing counselling services at the TCCs has decreased. The Committee will arrange for a dedicated joint briefing on measures to address gender-based violence, as soon as its programme permits.

14.6. **Apartheid prosecutions**. In June 2019, the South Gauteng High Court found that the NPA had breached the Constitution by allowing political interference to stall the prosecution of cases in which the TRC either did not grant amnesty or there was no application for amnesty made to the TRC. The NDPP was asked to consider charging those who had prevented the prosecution of these cases. In addition, the families of victims

have also formally requested that a commission of inquiry be established. For now, the NPA is in the process of establishing a task team to look into all cases of deaths in detention. The Committees regrets the delays in finalizing these cases and will monitor progress.

14.7. **The need for skilled prosecutors at the NPA**. The NDPP was frank about the shortage of skills within the NPA and, also, in other sectors of law enforcement. The new Head of the Investigating Directorate echoed this, stating that the greatest challenge in establishing the Investigating Directorate is the lack of specialist capacity. The Committee agrees that the extremely high vacancy rates in the specialised units, such as the Asset Forfeiture Unit, undermines the work of recovering monies lost to the State through crime and corruption. The Committee notes that Mr. Hofmeyr, who heads the AFU, is due to retire shortly and hopes that this will not create further challenges for the AFU. As already mentioned, funding constraints hamper efforts to recruit new capacity. In addition, it takes time to develop the necessary expertise.

The Committee notes as well the suggestion that the legislation applicable to CARA funding be amended to allow the AFU and law enforcement to retain a percentage of the monies recovered but is not in a position at this stage to comment further on this.

14.8. **Strategic support and innovation unit.** The Committee notes with interest the NPA's intention to establish a strategic support and innovation unit in the Office of the NDPP to look at efficiencies and innovative ways of doing things. The Committee will engage further with the NDPP on this matter.

14.9. **Resourcing of Investigating Directorate**. The Committee notes that R37 million was made available for the initial start-up costs of the Investigating Directorate. Considerably more funds (R219 million) are needed for it to access the necessary legal and forensic skills required for it to perform its mandate.

14.10. **Aspirant prosecutors programme**. The Committee is pleased that the Aspirant Prosecutors Programme has been revived but is concerned that no additional funding has been made available for this. This programme not only provides young lawyers with an opportunity to gain critical experience and skills, but also provides the institution with a stream of well-trained "new blood" as prosecutors already employed at the NPA progress within or even leave the institution. Further the creation of employment opportunities for the youth is a national priority. The Committee, therefore, requests a comprehensive report on the plans to revive this programme and related funding by 30 August 2019.

14.11. **Move away from statistics driven performance measures**. The Committee agrees that purely statistics driven performance measures can adversely shape behaviour. If conviction rates measure performance, there is the risk that cases, which are more challenging from a prosecuting perspective, are dropped. The Committee, therefore, is pleased that the NPA intends to rethink the way in which it measures its performance as part of its upcoming strategic planning process.

14.12. **Addressing referrals expeditiously.** The Hawks, IPID and the SIU have referred a large number of investigations to the NPA. The Committee requests the NPA to provide a comprehensive written response on the measures that have been taken to improve the time taken to decide whether or not to prosecute by 30 August 2019.

15. **Legal Aid SA**

15.1. There was unanimous support from the Committee for the view that Legal Aid SA is an exemplary institution that deserves its full support.

15.2. Legal Aid SA continues to be challenged by a budget shortfall created by the gap between the allocated minimal increase and the actual inflationary increases to its costs. The cumulative shortfall poses the real risk to its service delivery going forward.

Although the 2018/19 baseline reduction of 5% has been reversed, there is the possibility that there may be new baseline reductions for the 2020 MTEF of 5%. Should this occur, there is a high likelihood that jobs will be lost. As it is, the high demand for legal aid services poses an enormous challenge to Legal Aid SA's practitioners, especially as practitioner coverage at many courts is already insufficient. Without representation, presiding officers will have no choice but to postpone matters until representation is available. To do anything else would undermine a defendant's right to a fair trial. The proposed budget reduction, therefore, will have serious consequences for the functioning of the criminal justice system as a whole.

15.3. The Committee welcomes Legal Aid SA's commitment to looking into ways it can make use of technology to assist people with hearing loss to access its services.

16. **Special Investigating Unit**

16.1. **Review of funding model**. The Committee notes that the SIU intends to bring legislative amendments to its enabling legislation that will provide it with a clear mandate to address

its funding model; undertake pre-proclamation investigations; and monitor and enforce remedial measures. In addition, legislative amendments are required so that the SIU can provide the services/undertake the functions envisaged by the organisational review. For example, the SIU is not mandated at present to perform a market data analytics function.

16.2. **Debt recovery**. The SIU reported its difficulties in recovering monies owed to it by state institutions for its services (The amount owed by state institutions now stands at a little less than R500 million). The SIU has engaged Treasury on this matter. As a result, the need for legislative amendments is being explored.

16.3. **Referrals**. The Committee queried whether the SIU is satisfied with the memorandum of understanding between it and the NPA. The Committee asks that the SIU continue to keep the Committee informed of measures to enhance collaboration between it and the NPA.

16.4. **Special Tribunal**. The SIU has the power to conduct civil litigation in its own name or in the name of the affected state institution but heavy court rolls often result in its civil litigation work being delayed. The Committee is informed that there is finally progress in establishing a Special Tribunal that will allow the SIU to process matters faster than in the ordinary civil courts.

17. **Public Protector**

17.1. The Committee notes the PP's request for additional funds and has included details of the request in this report. The Committee understands that the PP has engaged with National Treasury regarding its budgetary needs over the medium term.

The Committee, however, asks the PP to address it on the matter of its forward funding needs once again during the 2018 October Budgetary Review and Recommendation process. The Committee reiterates that it does not generally support baseline reductions in the case of the Chapter 9 insertions and is of the view that their budgets need to be revisited in their entirety.

17.2. The Committee is concerned about the legal costs associated with the increased number of the PP's findings that are being taken on review since the Constitutional Court clarified the Public Protector's powers of remedial action. The Committee requests that the PP keep it informed of the number and status of the review applications and the associated costs. The Committee agrees that being taken on review is no indicator of the quality of a report. The Committee, however, asks the PP ensure that its reports are of the very highest standard to lessen the prospects of a successful challenge.

17.3. The Committee notes that the PP has focused on clearing its backlog cases. While this is highly commendable, the Committee is concerned that this may ignore the complexity of some matters and could affect the quality of the final report in such cases.

17.4. The Committee notes that the term of office of the Deputy Public Protector comes to an end in December 2019. It is important that the process of recruiting the next Deputy Public Protector commence as soon as possible to ensure stability in the office. The Committee notes that the conditions of service of the Deputy Public Protector do not provide for a gratuity once he or she vacates office. The issue of the DPP's salary and conditions of service has been raised previously and needs to be addressed.

17.5. The Committee is concerned that only one of the PP' s offices has security. Given the nature of the work that the PP undertakes, the matter of security is one that cannot be ignored and should be adequately funded.

18. **South African Human Rights Commission**

18.1. The SAHRC's ability to deliver is constrained by its (relatively) small budget (compared to the mandate), which is now exacerbated by budget reductions. In 2018/19, the Commission's baseline was reduced by R4.6 million in 2018/19; R4.8 million in 2019/20 and R5.1 million in 2020/21. Further cuts to the baseline are introduced in 2019/20, amounting to R4.2 million over the medium term through salary freezes for senior management. The Committee is aware that the SAHRC has specifically requested additional funding to fulfil its court-order monitoring responsibilities, which the then Committee supported. The Committee notes that the response from National Treasury is that there are no additional funds for this. The Committee is concerned that the Commission will not be able to monitor compliance with court orders without additional funding.

Given their already relatively small budgets, the Committee does not support the implementation of budget reductions for the Chapter 9 institutions. It also expresses its views on the need to revise the funding of the Chapter 9 institutions elsewhere in this report.

18.2. The Committee is pleased that the Commission has targeted the hosting of the Schools Moot Court Competition as a flagship intervention in its efforts to promote public awareness of the Constitution and the Bill of Rights. This specific intervention is

intended to promote rights awareness in schools. The Committee is also pleased to learn that the Commission plans to put in place strategies that focus on systemic violations of rights.

18.3. The Committee is aware that the Commission's budget for its human rights promotion work is insufficient. The Committee notes that the Commission was to have developed a fundraising strategy in 2018/19, and will continue this year to explore funding opportunities that will not compromise the Commission's independence.

18.4. The Commission has never received additional funds for it to fulfil its mandate in terms of the Promotion of Access to Information Act (PAIA), 2000. In addition, a lack of enforcement powers has constrained its effectiveness of its PAIA work. The SAHRC has observed a worrying trend of non-compliance with PAIA in recent years. With the exception of its promotional work, the Commission's powers with respect to access to information will be transferred to the Information Regulator once the Regulator is fully established. The Committee is pleased that the SAHRC and Information Regulator are sharing space and hopes that this will assist when these powers and functions are finally transferred. However, the slow progress in the establishment of the Information Regulator is frustrating.

18.5. The Committee notes that the largest portion of complaints to the Commission concern the right to equality (including racism). The Committee agrees that equality is a threat to economic and social rights and threatens the realization of all other forms of rights. The Committee notes, in this regard, that the Equality Courts are not effectively utilised. The Committee is informed, for example, of considerable delays in matters

litigated in the Equality Courts. The Commission's provincial offices have reported challenges regarding the availability of magistrates for these courts. The Committee encourages the Commission to engage with the Judiciary on the use and functioning of these courts.

19. Recommendations

19.1. The Committee, having considered the Budget Vote 21: Justice and Constitutional Development supports it and recommends that it be approved.

Report to be considered

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

MEMORANDUM

(For consideration)

To: The Speaker

From: The House Chairperson, Ms M G Boroto, MP

RE: Report on disruptive and threatening actions against the Minister of Public Enterprises by members of the EFF during the mini-plenary on Vote 9 – Public Enterprises

Date: 12 July 2019

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1. BACKGROUND

(1) On Thursday, 11 July 2019, at the commencement of the Minister of Public Enterprises' speech on Vote 9, Public Enterprises, repeated points of order were raised by the members of the Economic Freedom Fighters (EFF). The first member to raise a point of order was Hon N S Matiase. He indicated that he was rising in terms of Rules 78 and 79 which relate to members addressing the Chair during debate and the recognition of members to speak. However, he proceeded to state that the Minister of Public Enterprises was obliged to submit himself to the remedial action of the Public Protector and his failure to do so rendered him a Constitutional delinquent. He stated that he could not listen to a Constitutional delinquent and therefore would not allow the Minister to address the House.

(2) I repeatedly indicated that this was not a point of order, but rather a point of debate and requested Hon Matiase to take his seat or leave the House if he did not wish to listen to the debate.

(3) Hon N K F Hlonyana then rose on a point of order and stated "*this man will not speak today and we will not leave the House*".

(4) I again reiterated that if the members of the EFF did not want to listen to the Minister of Public Enterprises then they should leave the House.

(5) Hon R N Komane further rose on the same point of order and also stated that the Minister would not be allowed to speak.

(6) There were then various interjections from other members of the EFF indicating that the Minister of Public Enterprises would not be allowed to speak.

(7) I then asked the EFF members whether all the EFF members were stating the Minister must not speak. The EFF members responded in unison that they did.

(8) I then requested members of the EFF to leave the House as they were deliberately creating disorder, repeatedly undermining the authority of the presiding officer and preventing the House from proceeding with its business. There was no response in this regard and all the EFF members remained seated.

(9) I then proceeded to commence with the process of identifying each member being requested to leave the House by name, starting with Hon Matiase. At this point Hon Matiase proceeded to approach the Minister of Public Enterprises who was standing at the podium. Hon Matiase was joined at the podium by other members of the Economic Freedom Fighters.

(10) At this time other members present in the mini-plenary then rose to stand with the Minister of the Public Enterprises as the members of the EFF approached. Due to the reasonable prospect that matters would become violent and lead to a serious disruption I called firstly for the Serjeant-at-Arms and then upon the Parliamentary Protection Services to assist in removing the members in terms of Assembly Rule 73.

2. REGULATORY FRAMEWORK

(1) Section 7 of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (No 4 of 2004) ("the Act") provides, *inter alia*, that a person may not –

- Improperly interfere with or impede the exercise or performance by Parliament or a House or committee of its authority or functions;
- Improperly interfere with the performance by a member of his or her functions as a member;
- While Parliament or a House or committee is meeting, create or take part in any disturbance within the precincts.

(2) Section 13 of the Act, amongst others, determines that a member is guilty of contempt of Parliament if the member contravenes section 7 or willfully fails or refuses to obey any rule, order or resolution of the House or Houses.

(3) Section 12 of the Act confers upon the Assembly "the powers which are necessary for enquiring into and pronouncing upon any act or matter declared by or under section 13 to be contempt of Parliament by a member, and taking the disciplinary action provided therefore" and requires that the Assembly appoint a committee to deal with all such enquiries.

(4) Assembly Rule 69 provides that members may not engage in grossly disorderly conduct in the House and its forums including, amongst others, deliberately creating serious disorder or disruption, persisting in making serious allegations against a member without adequate substantiation or following the correct procedure, repeatedly undermining the authority of the presiding officer or using or threatening violence against a member or other person.

(5) Assembly Rule 73(12) states that whenever a member is physically removed from the Chamber the circumstances of such removal must be referred by the Speaker, within 24 hours, for consideration to a subcommittee of the Rules Committee appointed for that purpose.

(6) Rule 201 establishes and provides for the composition of the subcommittees on physical removal of members from a Chamber. The Rule also provides for the functions and powers of the subcommittee and reporting timelines.

3. CONCLUSION

(1) I request that the Speaker refer this matter to the subcommittee of the Rules Committee on the physical removal of members from the Chamber and that the matter be dealt with in terms of the rules of the Assembly and the applicable provisions of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act.

(2) I attach copies of the unrevised Hansard, video footage and a copy of the Minutes of Proceedings for the mini-plenary.

M G Boroto
House Chairperson: National Assembly

TAKE 45 -

THURSDAY, 11 JULY 2019

PROCEEDINGS OF MINI-PLENARY SESSION - COMMITTEE ROOM E249

Members of the mini-plenary session met in Committee Room E249 at 16:43.

House Chairperson Ms M G Boroto took the Chair and requested members to observe a moment of silence for prayer or meditation.

The HOUSE CHAIRPERSON (Ms M G Boroto): Order! Hon members, let me first welcome all the guests in the gallery. We appreciate your presence at this debate in this Chamber.

APPROPRIATION BILL

Debate on Vote No 9 - Public Enterprises:

The MINISTER OF PUBLIC ENTERPRISES: Hon House Chair, my Deputy Minister Masualle, hon members, members of the new portfolio committee led by its chairperson Mr Mkhacani Maswanganyi ...

Mr N S MATIASE: House Chair?

The HOUSE CHAIRPERSON (Ms M G Boroto): Why are you rising, hon Matiase?

Mr N S MATIASE: I rise on Rules 78 and 79 in their concurrent applications.

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, I'm listening.

Mr N S MATIASE: Madam Chair, as Members of Parliament, we took an oath of ... [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members ... [Interjections.] Hon members! Hon Gordhan, just stand there please. He can't sit down. There's no chair. Hon Paulsen?

Mr M N PAULSEN: Chair, may I have your attention please?

The HOUSE CHAIRPERSON (Ms M G Boroto): We are waiting ... Hon Paulsen, your member is standing on a point of order.

[Interjections.] Just be quiet. Let me listen to the point of order. You said you were standing on Rule ...78?

Mr N S MATIASE: Madam Chair, may I repeat myself? I said that I was rising in terms of Rules 78 and 79 in their concurrent application. We, as Members of Parliament, individually and collectively, were sworn in here and took an oath of office, and that called on us as Members of Parliament to take a higher level of responsibility and obligation.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, what is your point of order? I don't need a speech. [Interjections.] Hon member ... [Interjections.] I am talking to the member who is at the podium. [Interjections.] Hon members, I am not going to allow that.

Mr N S MATIASE: Madam Chair, allow me to speak.

The HOUSE CHAIRPERSON (Ms M G Boroto): No, no. We don't speak. We raise points of order.

Mr N S MATIASE: ... raise a point of order?

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, do that.

Mr N S MATIASE: We have an obligation to protect Chapter 9 institutions, particularly the Office of the Public Protector.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, that is a point of debate and not a point of order.

Mr N S MATIASE: The Minister who stands before us here is obliged like all of us ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Matiase, I am not going to listen to you anymore because that is not a point of order.

Mr N S MATIASE: ... to respect the remedial actions of the Public Protector.

The HOUSE CHAIRPERSON (Ms M G Boroto): Unfortunately, we don't have hon members as guests.

Mr N S MATIASE: And in his failure to do so he rendered himself a constitutional delinquent.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Matiase ...

Mr N S MATIASE: We see no need to listen to a constitutional delinquent.

The HOUSE CHAIRPERSON (Ms M G Boroto): Unfortunately, hon members ... [Interjections.]

Mr N S MATIASE: And we cannot listen to him ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members!

Mr N S MATIASE: ... and therefore cannot allow him to address this House. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, I am not going to listen to you. [Interjections.] That's a point of debate.

Mr N S MATIASE: We cannot allow him to address this House.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Matiase, please take your seat. That's not a point of order.

Mr N S MATIASE: We cannot allow him to address this House, because he is a constitutional delinquent. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Can I respond to you? [Interjections.] Can I respond to you? Please, hon members, please be quiet. Hon Matiase, you must raise a point of order. That thing is not a point of order. It is a point of debate. [Interjections.] Whatever you are saying ... Hon Paulsen, I am talking to him. So that is not sustained. Continue, hon Minister.

The MINISTER OF PUBLIC ENTERPRISES: Thank you, Chairperson ...

Mr N S MATIASE: House Chair, you cannot rule on a point of order you have not heard out.

The HOUSE CHAIRPERSON (Ms M G Boroto): No. I listened to you. You are giving a speech.

Mr N S MATIASE: You have not heard out my point of order.

The HOUSE CHAIRPERSON (Ms M G Boroto): I am not going to listen to your speech. I need a point of order.

Mr N S MATIASE: The point of order is that before us stands a constitutional delinquent, a man who faces serious ... [Inaudible.]

The HOUSE CHAIRPERSON (Ms M G Boroto): No, no. Hon Matiase, now I am asking you for the last time: Take your seat ... [Interjections] ... or leave the House ... [Interjections.] ... or leave the House. [Interjections.] Order! Please continue, hon Minister.

The MINISTER OF PUBLIC ENTERPRISES: Hon House Chair, Cabinet colleagues, Deputy Minister, members of the portfolio committee, sanibonani.

Mrs K N F HLONYANA: On a point of order, House Chair! On a point of order ... on a point of order!

The MINISTER OF PUBLIC ENTERPRISES: In a few days' time ...

Mrs K N F HLONYANA: On a point of order, House Chair! Please rule. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): ... [Inaudible.] What is your point of order? Please state the Rule on which you want to raise your point of order.

Mrs K N F HLONYANA: Member Matiase has raised that Rule, and you, Chairperson, are not listening. You did not even allow him to speak and finish. You just rejected and you were just not listening. [Interjections.] This man is not going to speak today. It is not going to happen. [Interjections.] It is not going to happen. And we are not going to leave the House. We are not leaving the House and he is not going to speak today. He is not going to speak. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): ... [Inaudible.] What's happening with the microphone? Oh. May I please say this, hon members, politely so: This member who is in front of us is a member of the National Assembly. At the same time, he is our Minister of Public Enterprises. [Applause.] [Interjections.] If you are not ... [Interjections.] I am still talking. If you are not going to listen to the Minister, you can go. We are not going to allow disruptions. That is disruption. Continue, hon ...

Ms R N KOMANE: On a point of order, Chairperson. Point of order.

The HOUSE CHAIRPERSON (Ms M G Boroto): What is your point of order? On what point are you rising?

Ms R N KOMANE: The point I am rising on is the very same point that MP Matiase rose on. Chairperson, we did not come here ... We have a responsibility as Members of this Parliament.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, it is not the time for speeches.

Ms R N KOMANE: No, no, no, Chairperson. We did not come here on your call, Chairperson. We came here ... [Inaudible.] ... the people. We will not listen to you whilst you are not rational. You must be rational on the matter, Chair. We came here to protect the members of the ... [Inaudible.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, please take your seat.

Ms R N KOMANE: No.

The HOUSE CHAIRPERSON (Ms M G Boroto): You are not going to take your seat?

Ms R N KOMANE: But, Chairperson ... [Inaudible.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, take your seat.

Ms R N KOMANE: On a point of order, Chairperson ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Take your seat. Let me tell you what the point of order is. The point of order is on Rule 92. Read it. [Interjections.]

Ms R N KOMANE: Ag, Chairperson ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Continue, Minister.

Ms R N KOMANE: But MP Matiase has risen on the Rules of this House. He has risen on the Rules of this House.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, unfortunately, I can't name you because I don't know your name.

Ms R N KOMANE: I am hon Komane.

The HOUSE CHAIRPERSON (Ms M G Boroto): But I am going to ask you to leave the House.

Ms R N KOMANE: No, no, Chair. I am hon Komane. I am hon Komane.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member ...

Ms R N KOMANE: I am hon Komane.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Komane, thank you for sitting down. Whoever stands on the same matter will have to leave us in peace. [Interjections.] To the hon members of the EFF, may I ask this question: Is that what all of you are saying - that he will not speak? [Interjections.] Thank you very much. All hon members of the EFF, please leave the House. [Interjections.] [Applause.]

Mr N S MATIASE: House Chair, what you are doing is unlawful; it is unprocedural. We are not a group here. We are individual Members of Parliament, and if you want to eject us from this House you are compelled by the Rules of this House to name us. [Interjections.] Until you do that, you have no authority whatsoever to treat us the way you are treating us.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Matiase ... You know that you are giving me a task. I will start with you, hon Matiase. Hon

Matiase, are you saying that the hon Minister is not going to speak here? [Interjections.] I need an answer.

Serjeant-at-arms ... Serjeant-at-arms ... Serjeant-at-arms? Parliamentary security, please come in. Parliamentary Protection Services, please come in. Parliamentary security, please come in. Parliamentary security, please come in.

Mr N S Matiase, having disregarded the authority of the Chair, was ordered by House Chairperson Boroto to withdraw from the Chamber for the remainder of the day's sitting.

The member refused to leave the Chamber and proceeded to approach the Minister of Public Enterprises at the podium, joined by members of the Economic Freedom Fighters present and further engaged in grossly disorderly conduct in contravention of Rule 69.

Due to the reasonable prospect of violence or serious disruption the House Chairperson called upon the Parliamentary Protection Services to assist in removing the members from the Chamber in terms of Rule 73.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, let me apologise for what has just happened, and I also apologise to our guests. I now allow the hon Steenhuisen.

The CHIEF WHIP OF THE OPPOSITION: Madam House Chair, may I address you in terms of Rule 69 of the Rules of the National Assembly?

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes.

The CHIEF WHIP OF THE OPPOSITION: Madam House Chair, what we have just witnessed here is probably one of the grossest violations of parliamentary privilege I have ever seen. To prevent an elected member of this House from speaking in the House and then not only doing that but exacerbating that by physically threatening the member is a gross violation of not only the traditions of Parliament but the Rules of this House. I ask you, House Chairperson, as a House Chair of this House, in terms of Rule 69, to refer all the members here - and, I'm sure they will be able to be identified on from the camera footage - to the appropriate forum and that they be charged with gross disorderly conduct in terms of the Rules. We can't have a place where this place becomes a battle of who can un-chew the hardest, or who can chew out the person. We use arguments, not force, in this House. And I ask, in order to restore the dignity

of this House and try to clean the stain that has been put on the floor of this House today, that appropriate action is taken against those members. Thank you. [Applause.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you, hon Steenhuisen. Hon Radebe?

Mr B A RADEBE: Chairperson, I totally agree with what the hon Steenhuisen has just said: that this behaviour cannot be tolerated anymore. I think that this is a democracy where the people must express their views, but in a proper way and not in the way they have done. Thank you, Chair.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you very much. That will be looked into. Hon Singh?

Mr N SINGH: Thank you, hon Chair. Chair, I want to also agree with what the hon Steenhuisen and the hon member Radebe have said. On behalf of the IFP, we also feel that this matter should be investigated at the highest level. We cannot allow this kind of disorderly conduct in the House.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you very much. Luckily, we do have the footage, and I will communicate that to the Speaker's Office.

Mr A M SHAIK EMAM: Chair, on behalf of the NFP, I also want to concur with my colleagues. I think that what happened here today was totally unacceptable. I want to agree with what the hon Steenhuisen said. But, I think, what is more important, Chair, is this: I think that for every crime there must be a sanction that fits the crime, and I think that that is the problem we have in this House. If we could just address that, I think we will go a long way in ... [Inaudible.] Thank you, Chair. Hon Swart?

Mr S N SWART: Thank you, House Chair. What actually aggravated the situation to become even worse today was the threatening attitude towards the Minister ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Moving towards him.

Mr S N SWART: Exactly. I felt constrained to stand next to him. I think that is absolutely disgraceful, and it is a higher level of threats in this House that must be addressed. So, I concur with every speaker. Thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you very much. Do we have any other party leader here? No. Thank you to all of you, and we will definitely take this to the relevant forum and the Speaker will be notified of what happened here today. We will be advised as to how we proceed with the matter. Thank you very much. I apologise to our guests for witnessing that. This is Parliament anyway. Thank you. Hon Minister, this is your chance.

C/W: The MINISTER OF PUBLIC ENTERPRISES: Thank you, House Chair. / LB/ END OF TAKE

REPUBLIC OF SOUTH AFRICA

MINUTES OF PROCEEDINGS

OF

MINI PLENARY SESSION

OF

NATIONAL ASSEMBLY

THURSDAY, 11 JULY 2019

1. Members of the mini-plenary session met in Committee Room E249 at 16:43.

2. House Chairperson Ms M G Boroto took the Chair and requested members to observe a moment of silence for prayer or meditation.

3. FIRST ORDER [16:44]

   Debate on Vote No 9 – Public Enterprises, **Appropriation Bill** [B 6 - 2019] (National Assembly – sec 77).

   [16:44] Mr N S Matiase having disregarded the authority of the Chair was ordered by House Chairperson Boroto to withdraw from the Chamber for the remainder of the day's sitting.

   The member refused to leave the Chamber and proceeded to approach the Minister of Public Enterprises at the podium, joined by members of the Economic Freedom Fighters present and further engaged in grossly disorderly conduct in contravention of Rule 69.

   Due to the reasonable prospect of violence or serious disruption the House Chairperson Boroto called upon the Parliamentary Protection Services to assist in removing the members from the Chamber in terms of Rule 73.

   Debate concluded.

4. The mini-plenary session rose at 18:58.

P N TYAWA
Acting Secretary to Parliament

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

A. 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.

C. 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.

D. 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.

E. 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.

Filename: FINAL REPORT OF SUBCOMMITTEE ON PHYSICAL REMOVAL OF MEMBER FROM CHAMBER ON REMOVAL OF MEMBERS 11 JULY (003).docx
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Template: C:\Users\Sec717\AppData\Roaming\Microsoft\Templates\Normal.dotm
Title:
Subject:
Author: Razia Thinda
Keywords:
Comments:
Creation Date: 2020-09-02 14:50:00
Change Number: 2
Last Saved On: 2020-09-02 14:50:00
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NATIONAL ASSEMBLY RULES COMMITTEE

Chairperson
Speaker of the National Assembly

Committee Secretary
Razia Thinda x2623
rthinda@parliament.gov.za

DRAFT MINUTES OF PROCEEDINGS

Tuesday, 10 September 2019, Committee Room M46

Chairperson: Speaker of the National Assembly

Present:
Modise, T R (Speaker); Tsenoli, S L (Deputy Speaker); Majodina, P (Chief Whip of the Majority Party); Dlakude, D E (Deputy Chief Whip of the Majority Party); Boroto, G (House Chairperson); Koornhof, G (Parliamentary Counsellor to the President); Frolick, C T (House Chairperson); Magwanishe, G (ANC); Ntombela, M L D (House Chairperson); Lesoma, R M M (ANC); Dyantyi, R (ANC); Dikgale, M (ANC); Julius, J (DA); Steenhuisen, J H (Chief Whip of the Opposition); Ntlangwini, N (EFF); Ngwezi, X (IFP) and Mulder, C P (FF Plus).

Apologies

Bongo, B (ANC); Mazzone, N (DA); Singh, N (IFP).

Staff in attendance:
M Xaso (Secretary to the National Assembly), R Thinda, J Manyange, C Mahlangu, T Lyons, V Ngaleka and M Plaatjies (NA Table).

1. Opening and welcome

The Speaker opened the meeting at 10:02 and welcomed all present.

2. Apologies (Agenda item 1)

Apologies were tendered, as set out above.

3. Consideration of draft agenda (Agenda item 2)

On the proposal of the Deputy Chief Whip of the Majority Party, seconded by Mr Dyantyi, the draft agenda was agreed to.

4. Consideration of draft minutes of meeting of 5 June 2019 (Agenda item 3)

On the proposal of Mr Dyantyi, seconded by House Chairperson Boroto, the amended draft minutes of 5 June 2019 were agreed to.

5. Matters arising (Agenda item 4)

Mr Xaso drew the Committee's attention to pg. 2 of the adopted minutes of 5 June 2019. He requested that the formula adopted for members' statements be aligned to the formula adopted for the sequence for questions. He highlighted that in terms of party strengths, the FF Plus should be recognised in sequence after the IFP. The same alignment was proposed for notices of motions.

On the proposal of the Speaker, it was **AGREED** that the sequence for Members' Statements and notice of Motions be the same as the sequence for questions.

6. Procedure for removal of office-bearers of Institutions Supporting Constitutional Democracy (Agenda item 5)

Mr Xaso presented the discussion document prepared by the National Assembly Table, related to the removal of office bearers of institutions supporting constitutional democracy. He gave an overview of the discussion document, in which he outlined the grounds for the removal of an office-bearer in terms of section 194 of the Constitution. The document also outlined four stages to be considered for the removal process. The stages were: (1) the initiation of a process; (2) the preliminary assessment of evidence (prima facie); (3) an inquiry by a committee; and (4) a decision by the House.

Mr Xaso highlighted that in terms of Rule 88 in respect of substantive motions, the responsibility to assess whether there were sufficient grounds for a process of this nature to be initiated rested with the Speaker. However, in terms of the rules developed in relation to section 89 of the Constitution, that responsibility was vested with an independent panel. He said that the Rules Committee should make a determination on how the assessment of evidence should be dealt with. He added that clarity should also be given on the role of the Speaker, the role of the committee and whether there was a need for an independent panel. He also highlighted that there was a need to consider whether a special committee, an ad hoc committee or the relevant portfolio committee should conduct the inquiry if it was found that such an inquiry was warranted. He also made reference to the submission made by the Democratic Alliance on the same matter.

Mr Steenhuisen indicated that most of what had been highlighted was also captured in the proposal submitted by the Democratic Alliance. He said that the process under consideration was not one that should be entered into lightly, as the institutions were in place to guard against abuse of state power, and as such they may from time to time make uncomfortable findings against the state. The process to remove such an office bearer should therefore be a rigorous one. He also stated that the Constitution had envisaged that the National Assembly should be able to remove an office-bearer of these institutions in terms of section 194, and therefore the House should have a procedure developed to determine whether the grounds for removal warranted such a decision. He added that the process should guard against arbitrariness. He drew a parallel to the

Section 89 process and indicated that the criticism received by Parliament for not having rules in place was unfounded, as the rules, like the Constitution, had evolved over time. He proposed that the Democratic Alliance submission be used as a basis for discussion. He cautioned that the process of formulating rules should not be unduly delayed, as there was an issue with the current incumbent in the office of the Public Protector that required a resolution. The rules should provide for a fair, open and transparent process that was beneficial to democracy.

The Deputy Chief Whip of the Majority Party agreed that the rules in their current form did not provide a process for the removal of an office-bearer of a chapter 9 institution and that such rules were indeed required. She proposed that the review of evidence be done by an independent panel, which could be led by a retired judge or persons with a legal background. She added however, that the Subcommittee on Review of Assembly Rules would consider the matter in greater detail.

Mr Dyantyi cautioned that the 'removal' of the office-bearer was not a forgone conclusion, and that the matter could end up being litigious if this clarity was not pronounced from the outset of the process to be developed.

The Chief Whip of the Majority Party said that it was not the intention of the meeting to discuss the finer details of the process, but she also agreed with Mr Dyantyi, in that the process should be fair and not pre-empt the outcomes. She drew the Rules Committee's attention to the fact that the Speaker had submitted a request from the Democratic Alliance to initiate procedures to remove the Public Protector to the Portfolio Committee on Justice and Correctional Services for consideration, but that the Committee had reverted back to the Speaker, to request a formal formulation of a process in terms of the rules, as there were no clear mechanisms in place. She cautioned that the Rules Committee should focus on the process it was requested to develop and not on any extraneous matters that may have brought this matter to the Rules Committee.

Mr Ngwezi engaged with the submission of the Democratic Alliance and sought clarity on whether the House would be bound to agree with the findings of the panel proposed therein.

The Speaker said that the process to be clarified should enable the House to fulfil its constitutional obligations. She added that the test of 'fitness to hold office' should also be conducted when the House considered candidates to fill the position, instead of when there were complaints and calls for their removal. This would assist the shortlisting processes committees conducted before candidates were even called for interviews.

The Deputy Chief Whip of the Majority Party recommended that an independent panel be enlisted so as to ensure objectivity and fairness of the process. Dr Koornhof added that there were institutions contained in other chapters of the Constitution, and requested that this process also take those institutions into consideration for the procedures to be developed. He also said that section 194(1) of the Constitution made a distinction between the Auditor-General, Public Protector and commissioners of other bodies. This distinction should be factored in when considering procedures to remove an office bearer. He further added that the Constitution provided for the involvement of civil society when a person was being nominated for one of these bodies, and requested that civil society

should therefore also be involved in the removal procedures, even if it was just an opportunity to make a representation.

Mr Xaso indicated that the motion that would initiate the process would need to comply with section 194, in that the grounds listed would need to form part of the motion. The Deputy Speaker cautioned that it was important for the process to provide certainty to the office-bearers and the general public, and emphasised that the process should be prioritised and completed as expeditiously as possible.

It was **AGREED** that the procedure for removal of office-bearers of Institutions Supporting Constitutional Democracy be referred to the Subcommittee on Review of Assembly Rules for further consideration and report.

7. Reallocation of portfolio for MDDA and GCIS (Agenda item 6)

House Chairperson Frolick presented on the proposed reallocation of the Media Development and Diversity Agency (MDDA) and the Government Communication and Information System (GCIS) from the Portfolio Committee on Public Service and Administration as well as Planning, Monitoring and Evaluation to the Portfolio Committee on Communications. He said that since the last general elections, the President had allocated these two entities, amongst others, to the Minister in the Presidency. He highlighted that the reallocation of oversight responsibility over an entity had taken place before, during the Fifth Parliament. He requested that the two entities therefore be overseen by the Portfolio Committee on Communications.

It was **AGREED** that the oversight function of the MDDA and GCIS be reallocated to the Portfolio Committee on Communications.

8. Consideration of Report of Subcommittee on Physical Removal of Member from Chamber (Agenda item 7)

The Deputy Speaker introduced the report of the Subcommittee on the Physical Removal of Member from the Chamber. He gave an overview of the Committee's proceedings on the matter. He said that the incident demonstrated the necessity for the changes proposed in the report and that the movement of EFF members onto the floor-space of the Chamber to intimidate and/or prevent the Minister from speaking constituted a potential breach of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004, and that the members identified should be referred to the Powers and Privileges Committee, as it amounted to a violation of the privileges of Parliament. He also said that the other recommendations were made to strengthen the rules or to ensure that they were implemented fully. He highlighted that the technology in the venues used for mini-plenary debates differed from what was available in the Chamber, for instance there were no mute buttons for floor microphones, and that these venues needed to be suitably equipped to allow the presiding officers to act appropriately in future. He added that the Protection Services staff should always wear uniform, so as to distinguish them from members at all times. He also said that the Protection Services staff should escort members off the precinct, in line with Rule 73(9), and not merely out of the venue.

The Deputy Speaker confirmed that the removal was appropriate under the circumstances and that there were sufficient grounds for the presiding officer to request the removal, and what happened afterwards was essentially out of order.

The Chief Whip of the Majority Party welcomed the report and the recommendations, specifically the referral to the Powers and Privileges Committee. She said that what took place in the sitting was an embarrassment to Parliament. Mr Dyantyi said that he believed that the recommendations did not go as far as they should have. He said that the actions of members on that day should be condemned.

Ms Ntlangwini rejected the report, and requested clarity on whether all the members listed in the report would be charged with the same charges; since they were not all doing the same thing. She added that in previous instances, Protection Services had brought in police officers to beat up members, and that men would beat up women members.

House Chairperson Ntombela referred to the first recommendation, and requested that it be clarified and its meaning be made more explicit. He agreed with the sentiment of the recommendation but requested that it be clarified further.

Mr Steenhuisen said that the Powers and Privileges Committee could give sanctions that 'touched the pockets' of members and that he anticipated that those found guilty of contravening the Act would be fined or sanctioned appropriately by that forum. He added that currently, the rules did not allow other forums to make recommendations that touched the pockets of members. He explained that his understanding was for the Rules Committee to refer the report to the Powers and Privileges Committee, in order for that Committee to conduct its own processes. He added that it was important to establish the 'ground rules' for appropriate behaviour as early as possible in the Sixth Parliament.

Mr Frolick drew attention to the recommendation which dealt with the facilities available in the committee rooms used for mini-plenary sessions. He said that the committee rooms lacked the basic facilities required to conduct a sitting of the House properly. He added that it was a matter that had been a concern since the Fourth Parliament. He requested that it be prioritised as there would be mini-plenaries taking place in the near future. He emphasised that the provision of facilities in venues was imperative for the presiding officers to maintain order and discipline during sittings.

The Speaker indicated that the Powers and Privileges Committee had been constituted, and that it could commence with its work shortly. She responded to Ms Ntlangwini, and indicated that it was unfortunate that she rejected the report, as the behaviour displayed by members on that day would not be tolerated in any other Parliament.

In response to the concern that the Subcommittee's recommendations were not strong enough, the Deputy Speaker referred to the specific mandate that the Subcommittee has, in that it cannot take disciplinary action against members or review the rulings of the presiding officers.

It was **AGREED** that the report of the Subcommittee be accepted by the Rules Committee and that it be referred to the Powers and Privileges Committee for consideration.

9. Review of the principle of Sub Judice Rule (Agenda item 8)

Mr Xaso said that the applicability of the *sub judice* rule was raised in a plenary session for questions to the Deputy President. The position taken was that the rule would be reviewed to establish whether the *sub judice* rule was still applicable.

It was **AGREED** that the principle of the *sub judice* rule be referred to the Subcommittee on Review of Assembly Rules for review.

Mr Steenhuisen questioned what would apply in the interim. He made reference to a ruling by former Speaker Ginwala and requested that the rule be applied in the narrowest sense. The Speaker indicated that while the Ginwala ruling could be applied in the interim, the Subcommittee would need to prioritise the review of the *sub judice* rule. She explained that even if the understanding was that the rule would be applied in the narrowest sense, members had different interpretations of what this meant in practice which necessitated the clarity required from the Subcommittee on the matter.

10. Further possible Rule amendments and Guidelines (Agenda item 9)

Mr Xaso explained that this agenda item related to the sequence of proceedings, specifically at which point members' statements were taken in the House. He said that there were proposals made previously on the sequence of proceedings. The proposal made was that members' statements should be taken before 'orders of the day'. He said that to give effect to this proposal, a rule amendment would be required and that the Subcommittee on Review of Assembly Rules would need to submit the proposal.

Mr Xaso also said that in terms of the guidelines, the time allocation for 'declarations of vote' was not clarified at the beginning of this Parliament. He said that the Rules Committee should decide whether it would want to retain the time allocations agreed on during the Fifth Parliament or change them. A further matter requiring consideration was the number of ministerial responses allowed in response to members' statements. He said that it had always been six responses, but the Committee should pronounce on whether it should be retained or changed. He said that a proposal from the Subcommittee on Review of Assembly Rules would be required in this regard as well.

It was **AGREED** that the further possible rule amendments and guidelines be referred to the Subcommittee on Review of Assembly Rules for review.

The Deputy Chief Whip of the Majority Party requested that the issue of notices of motion be referred to the Subcommittee on Review of Assembly Rules for review. A discussion was held in which the Speaker clarified her understanding of the two ways members could give notice of a motion, while Mr Steenhuisen said that notices of motion was one of the ways that members raised their matters in the House. Dr Mulder requested that the procedure with regard to motions without notice also be reviewed, as the practice that developed had undermined the essence of the rule.

It was **FURTHER AGREED** that parties would make representations to the Subcommittee on Review of Assembly Rules on 'notices of motion' and 'motions without notice' in order to evaluate how the application of the rules could be streamlined.

11. Closing (Agenda item 10)

The Speaker thanked all the members present and adjourned the meeting at 11:03.

_____

Ms T R Modise, MP
Speaker of the National Assembly

APPROVED ON:_____

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

Chairperson:
Mr M P Mapulane

Committee Secretary:
Namhla Manjezi
Ext: 2372

MINUTES OF PROCEEDINGS

Tuesday, 25 February 2020 (E540) (13h10)

PRESENT:

AFRICAN NATIONAL CONGRESS

Maluleke, B J
Mapulane, M P
Peters, E D
Stock, D M
Tseke, G K

DEMOCRATIC ALLIANCE

Lotriet, A
Hoosen, H

STAFF IN ATTENDANCE:

Ismail, N; Mahlangu, C; Ngaleka, V; Manjezi, N Toti, M; Jansen, V; Matthews, J (NA Table); and Jenkins, F (Legal Services)

1. WELCOME AND OPENING

Mr V Ngaleka officiated the meeting and welcomed all members present.

2. APOLOGIES

There were no apologies submitted to the committee.

3. ADOPTION OF AGENGA

The committee agreed and adopted the agenda as tabled.

4. ELECTION OF THE CHAIRPERSON

Mr V Ngaleka officiated on the election of the Chairperson of the committee and outlined the procedure to follow during the process. Mr Stock moved for the nomination of Mr Mapulane as the Chairperson of the committee, Ms Tseke seconded the nomination. There were no further nominations. Mr Mapulane was duly elected as the Chairperson of the committee.

He thanked members for expressing confidence in him to chair this committee that will enforce the rules of the House and conduct of members in term of the Powers & Privileges Act. He further mentioned that the people elected members to Parliament expect to see the decorum as Members of Parliament.

4. MATTERS BEFORE THE COMMITTEE

Mr Ngaleka informed members that there are two matters referred to the committee:

(1) took place in the mini-plenary during the Budget Vote: 9 Public Enterprises that involved disruption of Minister Gordhan by EFF members; and
(2) other took place during SONA on 13 February 2020.

He further informed members that documents and video footage of incidence that took place at E249 dealing with the two matters have been packaged to assist members when looking at these matters. Other footage for incidence of 13 February 2020 will be distributed to members in due course.

Dr Lotriet requested clarity of the status of the Powers & Privileges Act, 2004 which was amended and was adopted by Parliament in 2019, Adv Jenkins to brief the committee in the next meeting whether it was promulgated or assented by President.

5. INTRODUCTION OF MEMBERS

The Chairperson gave opportunity for Members and staff to introduce themselves. The Chairperson agreed to meet with support staff to develop programme for committee to consider and adopt dealing with referred matters. NA Table and Legal Services to assist in the process.

6. CLOSURE

The Chairperson thanked all members and officials present. The meeting adjourned at 13h30.

..... Date:.....

Chairperson: Mr M P Mapulane MP

POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

Chairperson:
Mr M P Mapulane

Committee Secretary:
Namhla Manjezi
Ext: 2372

DRAFT MINUTES OF PROCEEDINGS

Wednesday, 4 March 2020 (E340) (12h25)

PRESENT:

AFRICAN NATIONAL CONGRESS

Mapulane, M P
Peters, E D
Stock, D M
Tseke, G K

DEMOCRATIC ALLIANCE

Lotriet, A
Hoosen, H

INKATHA FREEDOM PARTY

Msimang, C.T

STAFF IN ATTENDANCE:

Ismail, N; Ngaleka, V; Manjezi, N C; Jansen, V; Matthews, J (NA Table); and Jenkins, F (Legal Services)

1. WELCOME AND OPENING

The Chairperson opened the meeting at 12h25 and welcomed all present.

2. APOLOGIES

An apology was tendered on behalf of Ms B J Maluleke and accepted by the committee.

3. ADOPTION OF AGENGA

The agenda as presented was adopted.

4. CONSIDERATION OF MINUTES OF 25 FEBRUARY 2020

The committee considered the minutes of 25 February 2020. On the proposal of Mr Hoosen, seconded by Mr Stock, the minutes were adopted.

5. MATTERS ARISING

There were no matters arising from the minutes.

6. MEMBERS' ORIENTATION ON THE WORK OF THE COMMITTEE

6.1 ESTABLISHMENT, REFERRALS AND FUNCTIONS OF THE COMMITTEE

Mr Ngaleka briefed the committee on the establishment, referral of matters and functions of the committee as determined by the rules of the Assembly. He stated that Rule 211 establishes the committee as a standing committee as required by section 12 of the Powers and Privileges Act. Rule 213(2) required meetings of the committee to be held in closed session when dealing with a matter affecting a specific member or members, and it regards that be to be confidential, unless it decides to open the meeting in the public interests.

Only the Speaker was empowered by the rules to refers matters relating to contempt of Parliament as defined by section 25 of the Powers and Privileges Act (the Act), misconduct (as defined by the Assembly rules) or a request to have a response recorded in terms of section 25 of the Act. After consideration a matter, the committee is required to table it report in the House. If it accedes to a section 25 of the Act, it must publish the response in the ATC.

Rule 214 (3) empowers the committee to conduct research on its own initiative or upon request by Speaker on matters relating to power, privileges and immunities of Parliament.

Where a member is found guilty of contempt or misconduct, the committee may recommend any appropriate penalty prescribed in section 12 (5) of the Act.

The Chairperson and members sought clarity that differentiates the roles and responsibilities of the Committee with that of the Disciplinary Committee.

Mr Ngaleka and Adv Jenkins tried to explain the differences between the two committees:

(a) **Composition** – the representation in the Powers and Privileges Committee was based on the proportionality principle. Hence parties were represented: ANC 6, DA 2, EFF 1 and other parties 2 members. The representation to the Disciplinary Committee was based on one senior whip or party representative per party. The members of the Powers and Privileges Committee elected the committee's chairperson. While the Assembly rules assign the Deputy Speaker as the Chair of the Disciplinary Committee.

(b) **Mandate and reporting** – the mandate to the Powers and Privileges Committee was to deal matters relating to contempt of Parliament, misconduct as defines by the rules and to consider requests to record responses to remarks made by members against a member of the public. The sole mandate of the Disciplinary Committee was to investigate allegations of misconduct by a member (also as defined by the rules). The footnote to Rule 214 stated that the issue of misconduct that is assigned to the Powers and Privileges Committee was a matter still to be reviewed. The reason being that there was an overlap between the two committees with regarding to dealing with misconduct.

In response to members asking whether the committee had ever dealt with a request to have a response recorded, it was indicated that in the 5th Parliament there were two such requests. One was from the former CEO of Oakbay, Mr N Howa, and the other was from the former Secretary to Parliament, Mr G Mgidlana. Mr Howa's complaint related to a remark made about the company. The company, Oakbay, subsequently withdrew Mr Howa' request when he left the company. Mr Mgidlana had complained against the Chief Whip of the EFF for alleging that he was corrupt. The committee considered his request, engaged him on his initial response, and when it and Mr Mgidlana agreed at the nature of the response to be recorded, published the agreed upon version in the ATC dated 6 December 2019.

Ms Peters wanted to know whether the committee ever dealt with matters that in sanctions being imposed against members. Adv Jenkins informed the meeting that in 2014 the committee imposed sanctions against EFF members who were charged for contempt. The sanctions imposed ranged from fines to suspensions without remuneration. The sanctions were adopted by the House. However, the EFF interdicted before they were imposed. Subsequently, the full bench of the Western Cape High Court dismissed the application of the EFF to have the resolution of the House containing the sanctions to be set aside. The EFF sought leave to appeal the judgment, which court granted. However, it abandoned the appeal in the Supreme Court of Appeal. As matters stand now, the judgment of the Western High Court stands.

Ms Peters asked how the committee was to deal with members referred to the committee considering that the incident took place in a joint sitting of 13 February 2020, i.e. SONA. It was explained that in terms of the Joint Rule 12, members of each house were subject to discipline of the rules of their house.

6.2 CONTEMPT OF PARLIMANT IN TERMS THE

At the meeting of the 26 February, Adv. Jenkins undertook to confirm whether the Powers and Privileges Act was promulgated. He informed it promulgated on 6 May 2019. The amendment followed the finding of the Constitutional Court in the case of the *Democratic Alliance v the Speaker* that section 11 of the Act was unconstitutional. The Court found, among others, the section breached section 58(2), he committee that importance of functions of the committee in terms of the Act which gives effect to sections 58(1), 71(1) and 117 (1) of the Constitution. Those sections provide that members were not liable to civil or criminal proceedings, arrest, imprisonment or damages for exercising their freedom of speech. During the process of amending the Act to be in line with the Court finding, other provision which, potentially, had similar impact on members, were amended accordingly.

He indicated that the main sections in the Act that were key to the to the work of the committee were section 12 and 13. Section 12 required each house to establish a standing committee to inquire into matters of contempt of Parliament, a procedure that was reasonable and procedurally fair when conducting the enquired, and provided penalties from which to impose sanctions. Section 13 defined conduct which constituted contempt.

The Committee requested Adv. Jenkins to provide the committee with the following:

(a) Detailed information regarding the Democratic Alliance vs Speaker case;
(b) Decided cases that were relevant to the committee to assist members to understand the background and work of the committee; and
(c) Specific incidents dealt by the previous committee;

He added that penalties include formal warning; reprimand; apology to the House; withholding members' right to use any specified facility provided to members of Parliament; removal or suspension for a specific period; a fine and suspension of a member with or without remuneration for a period exceeding thirty days. The suspension of member was viewed a serious matter by the Court as it deprived constituents a voice in the House and therefore should very serious or repeat contempts.

He suggested to the committee that before the embarked on the formal inquiry, the member or members affected should be given an opportunity to explain themselves as part of the investigation. If the committee still decides to proceed to the formal inquiry, he recommended the committee to embark on the following steps:

(a) Investigation/inquiry
(b) Charging the member
(c) Hearing/s
(d) Deliberations
(e) Penalties

Mr Mapulane proposed that at the next meeting the committee should watch the two video footages and decide whether there conduct constituting contempt or misconduct by the members referred to the committee.

7. CONSIDERATION OF THE DRAFT PROGRAMME

The committee considered the draft programme of activities of committee until the end of the term, which it approved. It also agreed to meet on Wednesdays, 11 March, from 12h30- 15h0.

8. ANNOUNCEMENTS

There were no announcements.

9. CLOSURE

The Chairperson thanked all members and officials present. The meeting adjourned at 14h50.

..... Date:.....

Chairperson: Mr M P Mapulane MP

POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

Chairperson:
Mr M P Mapulane

Committee Secretary:
Namhla Manjezi
Ext: 2372

DRAFT MINUTES OF PROCEEDINGS

Wednesday, 11 March 2020 (E540) (12h45)

PRESENT:

AFRICAN NATIONAL CONGRESS

Maluleke, B J
Mapulane, M P
Peters, E D
Stock, D M

DEMOCRATIC ALLIANCE

Lotriet, A

INKATHA FREEDOM PARTY

Msimang, C.T

STAFF IN ATTENDANCE:

Mahlangu, C; Ngaleka, V; Nage, T; Manjezi, N C; Jansen, V; Matthews, J; Adonis, J (NA Table); and Jenkins, F (Legal Services)

1. WELCOME AND OPENING

The Chairperson opened the meeting at 12h45 and welcomed all present.

2. APOLOGIES

Apologies were tendered on behalf of Ms G K Tseke and Mr H Hoosen.

3. ADOPTION OF AGENGA

The agenda as presented was adopted.

4. CONSIDERATION OF MINUTES OF 4 MARCH 2020

On the proposal of Ms Peters, seconded by Mr Stock, the minutes were adopted.

5. MATTERS ARISING

There were no matters arising from the minutes.

6. REFERAL MATTERS TO THE COMMITTEE

(1) Discussion on referred matters

Mr Ngaleka informed the members on two matters referred to the committee by the Assembly Rules Committee and the Speaker in terms of Rule 214 as follows:

The first matter was an incidence which took place on 11 July 2019 during the Vote 9 budget: Public Enterprises where some members of the Economic Freedom Fighters moved to the floor of the House in a matter that seems to disrupt or prevent from the Minister of Public Enterprises, Hon. P J Gordhan from speaking. The members were forcefully removed from the chamber. The rules requires that if members are forcibly removed, the matter must be referred to the Rules Committee. The Rules Committee referred the matter to the Subcommittee on physical removal of a member which considered the matter and took a decision that a decision that to remove was the members correct and recommended that the matter be referred to Powers and Privileges Committee for investigation and contempt of Parliament.

The second incidence was the matter that took place on the 13 February 2020 during Stat-of-the-Nation-Address (SONA) where some members of the Economic Freedom Fighters wanted former President Mr de Klerk to be asked to leave the House which resulted to an exchange between them and the Speaker. The second issue was also related to Minister Gordhan which also resulted to proceedings being suspended and resumed after an hour. It was that point the members of the Economic Freedom Fighters left the House. There was a recommendation from the floor that the matter be referred to the committee and on the 14 February 2020, the Speaker referred the matter to the Powers & Privileges Committee.

The Chair expressed his concern regarding the SONA incidence in that members left on their will and not physically removed, the Speaker did not asked them to leave except for Ms Sonti. He was also on firm view that if members were not asked to leave from the House by the

Presiding Officers, does the committee has jurisdiction to act against members in that space, and at what point the committee has to come in to the matter?

Dr Lotriet informed the committee that there are no provisions in the Powers and Privileges Act requiring for a member to be removed. She made reference to Section 7 (a) and (b) that do not require the Speaker to ask members to leave and if a member does not adhere to the instructions of the Speaker, in her view that constitutes another act of contempt. She was of the view that the Speaker should have adjourned the House due to severity of the actions. She requested the committee to take a decision on the matter.

Ms Peters informed the committee that upon reflecting on the activities of the day, there were actions done and utterances that were said that ultimately resulted to members of the EFF walking out. The Speaker called Ms Sonti to leave and refused to do so. She informed the meeting that the rationale for members and leaders of parties was that the action of the members of the EFF were violating the rules of the House and were referred to the committee after the members had left the House. She requested the committee to watch the video footage to see the findings for the committee to take any decision.

2. Viewing of the video footages referred to the Committee

2.1 Budget Vote 9: Public Enterprises on 11 July 2019

The committee viewed the twenty minutes video of the incidence of 11 July 2019 of the Vote 9 Budget Vote: Public Enterprises and identified members of the EFF who tried to prevent the Minister from speaking and getting into the floor constituting contempt of the rules of Parliament. They were as follows:

(1) Mr Matiase, N S
(2) Ms Hlonyana, N K F
(3) Ms Msane, TP
(4) Mr Langa, T M
(5) Mr Ceza, K
(6) Mr Paulsen, M N
(7) Ms Mohlala, M R
(8) Ms Mokause, M O (who is now a NCOP member)
(9) Ms Sonti, N P
(10) Mr Madlingozi, B S
(11) Mr Mulaudzi T E (resigned from being a member of Parliament w.e.f 2 March 2020)
(12) Ms Tito, L F

(13) Mr Montwedi, M K
(14) Mr Chabangu, M M
(15) Dr. Thembekwayo, S S
(16) Mr Shembeni, H A
(17) Ms Siwisa, A M
(18) Mr Mthenjane, D F
(19) Ms Komane, R N

Dr Lotriet also informed the committee that in the previous hearings held by the committee in the 5th Parliament, three names of initiators were proposed to the committee for it to take a decision on which initiator the committee wants to appoint to deal with the matter. The Chairperson was of the firm view that appointment of the initiator can be decided by the Speaker to allow the committee to process the matter.

Based on the evidence in the video footage, the committee unanimously agreed to:

(a) proceed with the matter by of charging the members identified in the footage for contempt of the rules of Parliament and violation of sections (a) (b) & (d) of the Powers & Privileges Act.;

(b) Adv. Jenkins to present to the committee with the step by step manual or procedure to be followed before its next meeting for the committee to decide on a necessity to meet before the hearing and also to be clear on what they do when dealing with the matter;

(c) charging the members who disrupted Mr Gordhan during the budget vote debate o 11 July 2019;

(d) nineteen names to be given to the initiator to charge them;

3. State-of-the-Nation Address on 13 February 2020

The committee viewed the forty three minutes video of the incidence of 13 February 2020 during the State-of-the-Nation Address where the EFF members requested the former President Mr de Klerk to leave the House which resulted to an exchange between them and the Speaker and on the matter of Minister Gordhan.

Adv Jenkins informed the committee that schedule 214 requires that the committee must investigate, make a finding and report back to the Speaker. The committee must nominate an initiator or member who is not a member of the committee to investigate the matter on the

deliberate rule breached in terms of Section 13 of the Powers & Privileges Act and action constituting contempt.

Mr Mapulane and other members expressed concern on conduct constituting contempt as individual members as members stood up without being recognized by the Speaker. The committee unanimously agreed that:

(a) The letter to be submitted to the Speaker informing her about the decision of the committee that the matters requires investigation;

(b) In the context of the investigation, the committee must also get an advice to determine the member/s responsible for the disruption or contempt;

(c) A person who is not the member of the committee with legal background must investigate the matter and advise the committee which members to be charged;

(d) In its next meeting, the committee must be presented with a report on investigation;

(e) Between 11 March and next term the initiator should be appointed;

(f) Mr Ngaleka to draft the letter to the Speaker on the investigation and appointment of an initiator;

(g) Committee be presented with the report on the SONA event investigation;

(h) Committee to receive advice from a legally trained person given the shortcomings that the committee has observed.

4. ANNOUNCEMENTS

There were no announcements.

5. CLOSURE

The Chairperson thanked all members and officials present. The meeting adjourned at 15h05.

..... Date:.....

Chairperson: Mr M P Mapulane MP

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

Chairperson:
Mr M P Mapulane MP

Committee Secretary:
Namhla Manjezi
Ext: 2372

DRAFT MINUTES OF PROCEEDINGS

Tuesday, 15 September 2020 (Virtual Platform) (09h23)

PRESENT:

AFRICAN NATIONAL CONGRESS

Dlakude, D E
Maluleke, B J
Mapulane, M P
Peters, E D
Siwela, V S

DEMOCRATIC ALLIANCE

Lotriet, A

ECONOMIC FREEDOM FIGHTERS

Ndlozi, M Q

STAFF IN ATTENDANCE:

Ismail, N; Manjezi, N C; Mongo, N; Adonis J (NA Table)
Jenkins, F; Gangen, T; Tetyana, A (CLSO)
Dube, S (IT)

1. WELCOME AND OPENING

The Chairperson opened the meeting at 09h23 and welcomed all present.

He stated that based on the decision of the last meeting, he had written to the Speaker on 18 March to request that the Committee be furnished with a legal opinion on the SONA incident. The legal opinion however was only provided to the Committee about two to three weeks ago and he was not happy with the delay. He requested the legal advisers as part of their

presentation on the legal opinion, to provide an explanation for the delay. He said that the meeting was scheduled in the constituency period to avoid further delays in processing the matters before the Committee.

2. APOLOGIES

An apology was tendered on behalf of hon D M Stock.

3. ADOPTION OF AGENDA

Hon Siwela moved for the adoption of the agenda, which was seconded by hon Peters. The agenda as presented was adopted.

4. CONSIDERATION OF MINUTES OF 11 MARCH 2020

Some members complained that they had not received the minutes as well as the meeting invitation. The chairperson requested the secretariat to verify members' correct email addresses after the meeting, and that in future notices of meetings should be followed up with phone calls to members especially when the Committee meets outside of session times.

The following concerns and suggestions were made with regard to the capturing of the minutes:

- No distinction made between members and officials.
- The appropriateness of stating `members informed' when members are actually hearing about a matter for the first time. Rather state `members raised an issue or a point of clarity'.
- Overall style and format should be in line with other parliamentary committees.
- Minutes not to be personalised by reflecting members' names as it is Committee discussions/deliberations/decisions. Where unavoidable, names could be reflected within a particular context.
- If role players need to be identified, then differentiate between members of the Committee, staff and those persons invited to give presentations.
- Differentiate between a question, statement and a point of clarity.
- Minutes should capture the essence of the discussions.

Hon Maluleke moved for the adoption of the minutes which was seconded by hon Peters.
The minutes were adopted, subject to the amendments being made.

5. MATTERS ARISING

There were no matters arising.

6. BRIEFING BY LEGAL SERVICES ON THE LEGAL OPINION ON SONA INCIDENT OF 13 FEBRUARY 2020

Adv Jenkins from the Constitutional and Legal Services Office (CLSO) indicated that his two colleagues would present on the legal opinion and the appointment of the external Initiator. As regards the delay in procuring the legal opinion, he explained that they only received the go ahead to procure the legal opinion in June. They then engaged the office of the Acting Secretary to Parliament to get the necessary authorisation for the expenditure, and on approval of the expenditure in mid-July, they briefed the state attorney's office on the matter. The legal opinion was submitted to Parliament in mid-August. With regard to the appointment of the external Initiator, he stated that the lockdown had impacted on the processes pertaining to the budget authorisation and ensuring proper control over the appointment of counsel. The CLSO needed to make some adjustments in terms of its operations as things needed to be done virtually, which contributed to the delay in the appointment of the external Initiator.

The chairperson requested Adv Jenkins to provide a brief report to the Committee highlighting the timelines pertaining to the procurement of the legal opinion and the appointment of the external Initiator for record purposes.

Adv Gangen (CLSO) presented on the memorandum they had prepared which summarised the legal opinion (Annexure 1). The question for determination was whether the SONA incident constituted contempt of Parliament as contemplated in the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act No 4 of 2004), and whether the Committee had jurisdiction to consider the matter. On the latter question, counsel had pointed out that the Assembly Rules provide for a procedure whereby a member referred to the Committee for investigation had to be given an opportunity to put his or her version of events to the Committee before a determination could be made as to whether or not the member's conduct constituted contempt. Counsel therefore avoided making a premature pronouncement in this regard but emphasised that the Act envisages that conduct that falls within section 13, read with the relevant parts of section 7 (prohibited acts), constituted contempt. Counsel was of the view that based on the facts presented, section 7(a) and/or (e) may be of relevance in respect of determination. On the question whether the Committee had jurisdiction to investigate the incident, counsel made reference to and analysed Assembly Rule 214, which provides that the Committee must consider any matter referred to it by the Speaker involving contempt of Parliament. Upon receipt of the matter, the Committee must deal with it in accordance with the

procedure contained in the Schedule to the Rules. The Committee must table a report on its findings and recommendations in respect of any alleged contempt of Parliament as provided for in section 13 of the Act. The matter of the Committee's jurisdiction therefore is premised on the referral by the Speaker, read with Rule 214. Counsel advised that no definitive answer could at this stage be given as to whether the members' conduct constituted contempt or not, as members' version of events still had to be heard in line with the procedure contained in the Schedule. The Committee therefore could not make a determination yet on whether there had been a contravention of the Act or the rules. Counsel concluded that Rule 214, read with the Schedule to the Rules, should first be followed before the Committee could make a determination on whether or not the members' conduct constituted contempt.

Discussion

A concern was raised that no specific members were identified for investigation by the Committee but rather members of a political party. The courts have previously ruled in relation to members' conduct that reference could not be made to members of a party in general, but rather that individual members should be identified for investigation. In addition to identifying a member, it was also necessary to specify what the member was alleged to have done. This should be the principle point of departure when dealing with a legal point of view. The processes followed up to now in dealing with the SONA incident would be found wanting in the courts. The court judgements in this regard could be made available to the Committee.

The Chairperson clarified that two matters were referred to the Committee for investigation by the Speaker. Following the referral of the matters to the Committee, the members of the Committee were appointed and at its first meeting the Committee appointed the Chairperson. The Committee also reflected on its mandate, previous Committee reports, court judgments identified by the legal advisers, and lessons learnt from these experiences. The Committee also gained insights from Dr Lotriet who served on the Committee in the 5th Parliament. As regards the concern that individual members were not identified and charged, the chairperson explained that with regard to the SONA incident, members had viewed the video footage to gain an understanding of what had transpired on the day, and not specifically to identify members to be charged, as that would be done at a later stage based on the advice contained in the legal opinion. As regards the second incident involving the alleged disruption of Minister Pravin Gordhan's budget vote speech, the Committee was able to identify the individual members involved in the incident.

Members noted that it was important to note that the legal opinion determined that the Committee had jurisdiction in the matter of the SONA incident and also advised on the way

forward. There was overall support expressed for the legal opinion as it provided direction to the Committee.

Adv Jenkins (CLSO) pointed out that in its previous meetings, the Committee was briefed on two court judgements. One judgement, although not relevant to the SONA incident, was the one that led to an amendment of section 11 of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act No 4 of 2004). The other judgment was in relation to the 2014 incident in which certain members were charged in terms of the Act, where a disciplinary process was put in place as envisaged in terms of section 12 of the Act. The matter was taken on review. However, it was not the Act that was challenged but rather the proceedings of the Committee. The High Court ruled that it agreed with Parliament that the Committee proceedings were fair and complied with the provisions in the Act. His understanding of the instruction from the Committee was that an external view or opinion had to be obtained on whether the members' conduct constituted contempt or not. In this regard, counsel had advised that the Committee should do the preliminary investigations with a view to determining whether members should be charged or not. At that point, the Committee would view the video footage to identify the members involved in the incident. He clarified that a political party would not be charged, and that specific members of the Assembly would be charged.

The Chairperson confirmed that in terms of the legal opinion, the Committee had jurisdiction to consider the matter, and it had to determine whether there was contempt or not, something that would be determined at the end of the Committee's processes.

A further concern raised was that the Speaker should have referred specific members, alleged to have contravened the rules, to the Committee for investigation, and should not have referred the matter of the EFF members who had raised points of order to the Committee for investigation. In light of this, a member suggested that the matter should be considered closed as members had a right to raise points of order.

The general view was that the matter could not be closed without following due process. The substantive merits of the matter would still be discussed but for now the Committee was focusing on the procedural aspects of the incident. If the Committee needed to look at the video footage again to identify members who transgressed the rules then it had a responsibility to do so. Whatever conclusion the Committee came to, the decision should be a credible one, and should be the result of thorough work done. The Committee had a responsibility to deal with the issues before it and to act in accordance with the rules.

The chairperson summed up the discussions and the way forward as follows:

- At this stage the Committee is not dealing with the merits or substance of the matter.

- Two fundamental issues currently being dealt with. First, in terms of the legal opinion, the Committee has jurisdiction to consider the matter, and to make a finding either for or against it. As regards the second issue as to whether members were in contempt or not, the legal opinion advised that it would be premature to arrive at such a conclusion at this stage and that the Committee must first identify those members to be charged.

- Charges must be formulated and brought against the identified members. Members charged must be given an opportunity to make representations to the Committee.

- The Committee would then decide whether to proceed or not with the investigation.

- The Committee cannot at this stage abandon the process and conclude the matter before allowing the members charged to make submissions/representations to the Committee. On the basis of these representations, the Committee would decide on how to proceed with the matter.

- The question before the Committee therefore is how to identify those members alleged to have disrupted the SONA proceedings. In respect of the second incident, the Committee assisted by the secretariat had identified the members by viewing the video footage. A similar process could be followed to identify the members and that they be charged accordingly.

- The general view is that the Committee is satisfied with and accepts the legal opinion, and must now deal with the merits of the matter.

- The matter of the referral of members of a political party vs individual members to the Committee for investigation could be discussed when the Committee deals with the merits of the matter.

Hon Ndlozi requested that his serious objection with the decision of the Committee be noted and placed on record. He said that there were no legal grounds to entertain a complaint that referred to members of a political party as the Committee had no jurisdiction over a political party. He added that it was not proper for the Committee to make a decision with regard to which rule(s) had been transgressed by members as that would be tantamount to the Committee being the investigator and the judge at the same time. He also expressed his concern with the legal opinion in that it made reference to members of a party as a group instead of naming individual members.

It was **AGREED** that -

(a) the minutes of the previous meetings be made available to hon Ndlozi.

(b) the Committee has jurisdiction to proceed and deal with the matter as per the legal opinion.
(c) the legal opinion be accepted and the advice on how the Committee should proceed with the substance of the matter.
(d) the video footage be viewed in order to identify the members involved in the incident, and to charge members accordingly.
(e) members charged to be given an opportunity to make representations to the Committee.
(f) the Committee will then decide on how to proceed further with the matter.

7. APPOINTMENT OF EXTERNAL INITIATOR FOR ENQUIRY INTO ALLEGED DISRUPTION OF MINISTER PRAVIN GORDHAN'S BUDGET VOTE SPEECH ON 11 JULY 2019

Adv Tetyana (CLSO) referred members to page 4 of the minutes of the previous meeting in which the chairperson stated that the appointment of the external Initiator could be decided by the Speaker. The Committee therefore divested itself of the right to be presented with names in order to appoint an Initiator as that right was given to the Speaker. He informed the meeting that Adv N Mayosi had been appointed as the Initiator to lead evidence in the matter. Adv Mayosi has extensive experience in litigation, and her areas of expertise include constitutional and administrative law. She has 12-years' experience as a junior counsel. He confirmed that all the necessary documentation had been forwarded to Adv Mayosi, including the video footage of the incident. The Initiator would proceed to formulate charges against the identified members and notices would be served on these members.

The chairperson confirmed that the Committee had taken a decision not to be involved in the process of appointing the Initiator in the interest of time. He welcomed the appointment of Adv Mayosi as the external Initiator and indicated that the Committee needed to finalise its programme in consultation with Adv Mayosi, based on her availability. Once finalised, the programme would be circulated to members. He reminded members that the two matters had been on the Committee's agenda for some time, and the sooner the Committee dealt with it the better. As agreed in the last meeting, the Committee would proceed with the enquiry.

It was **AGREED** that -

(a) the appointment of Adv Mayosi as the external Initiator be accepted.
(b) the programme be finalised in consultation with the Initiator and circulated to members.
(c) the CV of Adv Mayosi be circulated to members.

8. ANNOUNCEMENTS

There were no announcements.

9. CLOSURE

In closing, the chairperson thanked those members who had not been aware of the meeting, and when contacted by him left their other engagements to attend the meeting.

The meeting adjourned at 10h56.

..... **Date:.....**

Chairperson: Mr M P Mapulane MP

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

RULES OF THE NATIONAL ASSEMBLY

9th EDITION

RULES OF THE NATIONAL ASSEMBLY

9TH EDITION

26 May 2016

The 9th Edition of the Rules of the National Assembly contains the rules as comprehensively revised (necessitating their complete renumbering) and adopted by the National Assembly on 26 May 2016. For ease of reference relevant supporting documents have been included as appendices.

CONTENTS

Rule Page

CHAPTER 1
SOURCES OF AUTHORITY OF ASSEMBLY AND THEIR APPLICATION

Part 1: Definitions

1. Definitions 26

Part 2: Sources of authority of National Assembly

2. Introduction 32
3. Rules of National Assembly 32
4. Suspension or supplementing of rules 33
5. Non-diminution or non-limitation of rules and orders 34
6. Unforeseen eventualities 34
7. Directives and guidelines of Rules Committee 34
8. Rulings 34
9. Conventions and practices 35
10. Contempt 35
11. Application to President of the Republic and other non-members 36

CHAPTER 2
PROCEEDINGS IN CONNECTION WITH COMMENCEMENT OF TERM AND SESSION

12. Convening notice read 37
13. Oath or affirmation by members 37
14. Election of Speaker and Deputy Speaker 37
15. Election of President of Republic 37
16. Opening of a Parliament 38

17. Commencement of annual session 38
18. President's State of the Nation Address 38
19. State of the Nation Address reported 38
20. State of the Nation Address placed on Order Paper 38

CHAPTER 3

PRESIDING OFFICERS AND MEMBERS

Part 1: Presiding Officers

21. Election of Speaker and Deputy Speaker 39
22. Election of other presiding officers 40
23. Officers presiding in the House 40
24. Acting Speaker 40
25. Acting House Chairperson 40
26. General authority and responsibility of Speaker 41
27. Election of temporary presiding officer to act as Speaker 42
28. Removal from office of Speaker or Deputy Speaker 42

Part 2: Members

29. Oath or affirmation 43
30. Declaration of private interests 43
31. Raising a question of privilege 43
32. Leader of the Opposition 44
33. Appointment and responsibilities of whips 44
34. Designation of parliamentary counsellors 45

Part 3: Members' attendance

35. Members' attendance 46
36. Absence from sittings of House 47
37. Sanctions for extended unauthorised absence from sittings of House 47

38. Absence from meetings of committee 48
39. Sanctions for extended unauthorised absence from meetings of committee 48
40. Appeal against application of sanctions 49

CHAPTER 4
SITTINGS OF ASSEMBLY

Part 1: General

41. Forums for proceedings of National Assembly 50
42. Working days and hours of sitting 50
43. Change of venue 51
44. Arrangement of business on Order Paper when no consensus in Programme Committee 51

Part 2: Sittings in plenary

45. Quorum required only for taking decisions 52
46. Opportunity for prayer or meditation 52
47. Sequence of proceedings 52
48. Interruption, suspension or adjournment of proceedings 53

Part 3: Mini-plenary sessions

49. Business of mini-plenary sessions 53
50. Members attending 54
51. Quorum 54
52. Decisions 54
53. Speakers' list 55
54. Presiding officer 56
55. Relief of presiding officer 56
56. Order in meetings and rules of debate 56

Part 4: Public access

57. Admission of visitors 56
58. Access for non-members to floor of Chamber 57
59. Conduct of visitors 57
60. Withdrawal of visitors 58
61. Serjeant-at-Arms to remove visitors 58
62. Invitation to head of state, head of government or other person to address House 58

CHAPTER 5
ORDER IN PUBLIC MEETINGS AND RULES OF DEBATE

Part 1: Order in meetings

63. Freedom of speech 59
64. Conduct of members 59
65. Members not to converse aloud 60
66. Member not to be interrupted 60
67. Precedence of presiding officer 61
68. Irrelevance or repetition 61
69. Grossly disorderly conduct 61
70. Member ordered to leave Chamber 62
71. Naming or suspension of member 62
72. Action against member to be announced in House 62
73. Removal of member from Chamber and precincts 63
74. Period of suspension 65
75. Expression of regret 65
76. Member to withdraw while his or her conduct is debated 65
77. Grave disorder 65

Part 2: Rules of debate

78. Member to address Chair 66
79. Recognition of members to speak 66
80. Control of microphones in Chamber 67
81. List of speakers and time limits for speeches 67
82. Reference to member in respectful terms 68
83. Member not to read speech 68
84. Unparliamentary or unacceptable language or gestures 68
85. Reflections upon members, the President and Ministers or Deputy Ministers who are not members of the Assembly 68
86. Reflections upon decisions or statutes 69
87. Reflections upon the House and its proceedings and decisions 69
88. Reflections upon judges and certain other holders of public office 69
89. Matters sub judice 70
90. Rule of anticipation 70
91. Explanations 70
92. Points of order 71
93. Acting for absent member 72
94. When reply allowed 73
95. Debate closed 73

CHAPTER 6
DECISION OF QUESTIONS

96. Quorum 74
97. Questions to be decided by majority 74
98. Absence of quorum 74
99. Decision of question postponed 75
100. Decision of postponed questions 75
101. Decision of question requiring special majorities 75
102. Casting of votes 76
103. Electronic voting system 76

104. Manual voting procedure 77
105. Postponed question put without further debate 77
106. Question put again 77
107. Question fully put 77
108. Declaration of vote 78
109. Recording of opposition 79
110. Demand for division 79
111. Fewer than four members supporting demand for division 79
112. Division bells rung and doors barred 80
113. Procedure after doors barred 80
114. Member calling for division to vote against question 80
115. Members present must vote 80
116. Points of order during division 81
117. Confusion or error concerning division 81
118. Correction of minutes 82

CHAPTER 7
MOTIONS

Part 1: General

119. Nature of motions 83
120. Same question rule 83
121. Amendments to draft resolutions generally 83
122. Amendments to draft resolutions relating to committee reports 84
123. Motions without notice 84
124. Notices of motion 87
125. Acting for absent member 88
126. Speaker may disallow notices 88
127. Motions on questions of privilege 88
128. Withdrawal and lapsing of motion 89

Part 2: Motions of no confidence in terms of Section 102 of Constitution

129. Motions of no confidence in terms of Section 102 of Constitution 89

CHAPTER 8
DISCUSSION OF URGENT MATTERS OF NATIONAL PUBLIC IMPORTANCE

130. Urgent matter of national public importance 91
131. Withdrawal of scheduled discussion on urgent matter of public importance 92

CHAPTER 9
MEMBERS' STATEMENTS AND EXECUTIVE STATEMENTS

132. Statements by members 93
133. Executive statements 94

CHAPTER 10
QUESTIONS

Part 1: General

134. Notice and placing of questions 96
135. Lapsing of questions 97
136. Monitoring replies to questions 97

Part 2: Questions for oral reply

137. Form and arrangement of questions 98
138. Questions to Ministers 99
139. Questions to Deputy President 101
140. Questions to President 102
141. Urgent questions 103

142. Times allotted and time limits 103
143. Unanswered questions for oral reply 104
144. Questions for oral reply standing over 105

Part 3: Questions for written reply

145. Form and placing of questions 106
146. Written reply not given 107

CHAPTER 11
MESSAGES

147. Messages from Council 108
148. Messages to President of the Republic 108
149. Messages from President of the Republic 108

CHAPTER 12
COMMITTEE SYSTEM

Part 1: Introduction

150. List of committees 109
151. Subcommittees 110
152. Application of rules to committees and subcommittees established in terms of legislation 110

Part 2: Rules applicable to committees generally

153. Application of this part 111
154. Composition 111
155. Appointment procedures 111
156. Alternates 112
157. Term of office 112

158. Chairpersons 112
159. Acting chairpersons 113
160. First meetings 114
161. Meetings 114
162. Quorum requirements 115
163. Co-option when members and alternates not available 115
164. Interruption, suspension or adjournment 115
165. Information reflecting upon integrity of members 115
166. Reporting 116
167. General powers 117
168. Privilege of witnesses 118
169. Conferring powers of committees 118
170. Public involvement 119

Part 3: Rules applicable to subcommittees generally

171. Application of this part 119
172. General rules 119
173. Alternates 120
174. Term of office 120
175. Chairpersons 121
176. Acting chairpersons 122
177. Meetings 122
178. Matters relating to quorum 122
179. Decisions 123
180. General powers 123

Part 4: Rules applicable to both committees and subcommittees generally

181. Application of this part 123
182. Conduct of members 123
183. Persons appearing before committees 124
184. Admission of public 124

185. Presence of other Assembly members 125
186. Exclusion of members of public from meetings 126
187. Exclusion of other persons from meetings 126
188. Removal of persons 126
189. Publication or disclosure of proceedings, evidence, reports, etc 127

Part 5: Rules Committee

190. Establishment 128
191. Composition 128
192. Chairperson 129
193. Functions and powers 129
194. Implementation of policy 130
195. Quorum 130
196. Decisions 131
197. Subcommittees 131

Subcommittee on Review of Assembly Rules *131*

198. Composition 131
199. Chairperson 132
200. Functions and powers 132

Subcommittee on Physical Removal of Member from Chamber *132*

201. Composition 132
202. Chairperson 133
203. Functions and powers 133
204. Public access 133

Part 6: Programme Committee

205. Establishment 134

206. Composition 134
207. Chairperson 134
208. Functions and powers 135
209. Quorum 135
210. Decisions 135

Part 7: Powers and Privileges Committee

211. Establishment 136
212. Composition 136
213. Meetings 136
214. Functions 137
215. Decisions 138

Part 8: Disciplinary Committee

216. Establishment 138
217. Chairperson 139
218. Meetings 139
219. Functions and powers 139
220. Public access 139

Part 9: Forum of Committee Chairpersons

221. Establishment 140
222. Composition 140
223. Chairperson 140
224. Functions and powers 140

Part 10: Portfolio committees

225. Establishment 141
226. Composition 141

227. Functions 141
228. Decisions 142
229. Subcommittees 143

Part 11: Standing Committee on Finance

230. Establishment 143
231. Composition 143
232. Functions and powers 143
233. Consultation 144
234. Subcommittees 144
235. Public involvement 144

Part 12: Standing Committee on Appropriations

236. Establishment 144
237. Composition 144
238. Functions and powers 145
239. Consultation 145
240. Subcommittees 145
241. Mediation 145
242. Public involvement 146

Part 13: Standing Committee on Public Accounts

243. Establishment 146
244. Composition 146
245. Functions and powers 146
246. Decisions 147
247. Subcommittees 147
248. Notice to portfolio committee 148

Part 14: Standing Committee on the Auditor-General

249. Establishment 148
250. Composition 148
251. Functions and powers 148
252. Decisions 149

Part 15: Ad hoc committees

253. Establishment 149
254. Composition 150
255. Decisions 151

Part 16: Other structures relating to Assembly programming and functioning

Chief Whips' Forum *151*

256. Establishment 151
257. Composition 152
258. Chairperson 152
259. Meetings 152
260. Functions and powers 153

Arrangement of House business and certain committee meetings *153*

261. Unusual meetings of committees and subcommittees 153

House Chairperson: Committees *153*

262. Scheduling function of the designated House Chairperson 153

Part 17: Miscellaneous committee matters

263. Composition of Assembly component in Mediation Committee 154
264. Election of Assembly members to Mediation Committee 154
265. Alternates for Assembly representatives in Mediation Committee 155
266. Ad hoc joint committees 155

CHAPTER 13
LEGISLATIVE PROCESS

Part 1: Introduction

267. Legislative powers of Assembly 156
268. Initiation of legislation by Assembly 157
269. Initiation of legislation by national executive 157
270. Application of this chapter 158

Part 2: Steps prior to introduction

Bills initiated by Cabinet members and Deputy Ministers *158*

271. Submission of legislative proposals to Speaker 158

Bills initiated by Assembly members in individual capacity *158*

272. Preparation of draft Bill 158

Bills initiated by Assembly committees *159*

273. Submission of legislative proposals to Speaker 159
274. Preparation of draft Bill 160
275. Consideration of draft Bill before introduction 161

All Bills generally *161*

276. Prior notice and publication of draft legislation 161
277. Notice withdrawing proposed legislation 163
278. Referral of Bills to National House of Traditional Leaders 163

Part 3: Introduction of Bills and First and Second Readings

Introduction and related matters *164*

279. Introduction of Bills in Assembly 164
280. Classification of Bills 166
281. Reintroduction of Bills ruled out of order by JTM 166

First and Second Reading procedures *167*

282. When First and Second Reading procedures are applicable 167
283. Procedure when Assembly in session 167
284. Procedure during recess 168
285. First Reading 169
286. Process in committee 170
287. Referral to Assembly committee if joint committee fails to report 173
288. Committee's report 173
289. Explanation of report 175
290. Second Reading 175
291. Amendments proposed by members before decision of Second Reading 176
292. Referral of amendments proposed in Assembly to Assembly committee 178
293. Referral to Assembly committee if joint committee fails to report 179
294. Consideration of report of Assembly committee or joint committee 179

Part 4: Specific rules applicable to constitution amendment Bills

Specific rules relating to matters in Parts 1 and 2 *180*

295. Requirements prior to introduction of constitution amendment Bill 180
296. Notice withdrawing proposed constitutional amendment 180
297. Introduction of constitution amendment Bill 181
298. Referral of constitution amendment Bill to committee 182
299. Consideration of committee's report and Bill 183
300. Consequences of approval or rejection of Second Reading 184

Reconsideration of constitution amendment Bill if amended by Council *184*

301. Procedure if Council amends Bill 184
302. Debate and decision 185
303. Process if mediation successful 186
304. Consequences of unsuccessful mediation 187

Part 5: Specific rules applicable to Section 75 Bills

305. Application of this part to money Bills 187
306. Consequences of approval or rejection of Second Reading 187

Reconsideration of Section 75 Bills if Council rejects or passes subject to amendments *188*

307. Referral of Bill to Assembly committee 188
308. Committee's report 189
309. Debate and decision 189

Part 6: Specific rules applicable to Section 76(1) Bills introduced in Assembly

310. Consequences of approval or rejection of Second Reading 190

Reconsideration of Section 76(1) Bills if amended by Council *191*

311. Bill to be placed on Order Paper or referred to portfolio committee 191
312. Committee's report 191
313. Debate and decision 192

Process after mediation *192*

314. Process if mediation successful 192
315. Process if mediation unsuccessful 194

Part 7: Specific rules applicable to Section 76(2) Bills introduced in the Council

316. Powers of committee to which Bill is referred 195
317. Consequences of approval or rejection of Second Reading 195

Process after mediation *195*

318. Process if mediation successful 195
319. Consequences of unsuccessful mediation 197

Part 8: Specific rules applicable to money Bills

320. Contents of money Bills 197
321. Introduction of money Bills 197
322. Procedure applicable to money Bills 198
323. Special introductory procedure 198

324. Bills placed on Order Paper for First Reading 198
325. Referral of Bill to Assembly committee 199
326. Consideration of schedule to appropriation Bill 199
327. Supplementary estimates in main appropriation Bill 199
328. Approval of votes and schedule 200
329. Second Reading of money Bill 200
330. Money Bill rejected or passed subject to amendments by Council 200

Part 9: General

331. Second vote on Bill rejected through absence of members 201
332. Same Bill may not be introduced more than once 201
333. Lapsing of Bills on last sitting day of annual session or term of Assembly or when Assembly is dissolved 201
334. Withdrawal of Bill 202
335. Discrepancies in versions of Bill 202

CHAPTER 14
PROCESS FOR WRITTEN INSTRUMENTS OTHER THAN LEGISLATION

Part 1: General

336. Application 203
337. Tabling of written instruments in the Assembly 203
338. Referral of written instruments to committees 204
339. Consideration of matter by committees 204
340. Reporting by committees 205

Part 2: International agreements

341. Submission to Parliament for approval 205
342. Tabling and referral to committee 206
343. Submission to Parliament for information 207

Part 3: Petitions

344. Form of petitions 207
345. Language of petitions 207
346. Signing of petitions 207
347. Lodging 208
348. Approval by Speaker 208
349. Tabling 208
350. Referral of petitions to committees 208

CHAPTER 15
MISCELLANEOUS

Part 1: Lapsing of business before Assembly

351. Lapsing of business on last sitting day of annual session or term of Assembly or when Assembly is dissolved 209

Part 2: Executive government

352. Communication of appointment of Cabinet members and Deputy Ministers and their assigned powers and functions 209
353. Resolutions affecting executive government 210
354. Consent in respect of state-owned land or property 210

Part 3: Abuse of privilege

355. Abuse of privilege 210
356. Fines 211
357. Recovery of fines 211
358. Fines remitted 211
359. Request to have response recorded by persons other than members 211

Part 4: Witnesses

360. Summonsing of witnesses 211
361. Attendance of witnesses detained in prison 212

Part 5: Office of Secretary and records of the Assembly

362. Records of the National Assembly 212
363. Minutes of Proceedings of National Assembly 213
364. Journals of National Assembly 213
365. Custody of papers 213
366. Access to tabled papers 213
367. General duties of Secretary 214

SCHEDULE

Procedure to be followed in the investigation and determination of allegations of misconduct and contempt of Parliament:

Notification to members 215
Outside legal representation 215
Explanation by member 215
Initiator 216
Plea to charge 216
Hearing 216
Penalty 217
Suspension of member 217

APPENDIX A

Policy for attendance of members of Parliament during plenary and meetings of parliamentary committees and forums (Rules 35 to 40):

1. Definitions 218
2. Rationale for policy and minimum standards for attendance 221
3. Purpose of the policy 225
4. Scope of application 226
5. Categories of leave 226
6. Procedure for granting leave 228
7. Period of leave 229
8. Sanctions in respect of absences 229
9. Record of leave applications 230
10. Recourse for grievances in respect of the application of the policy 231
11. Communication of the policy 231

APPENDIX B

Special majorities required in terms of the Constitution of the Republic of South Africa, 1996 (Rule 101):

Part 1: General matters

1. States of emergency (Section 37(2)(b)) 232
2. Bills amending the Constitution (Section 74) 233
3. Ordinary Bills affecting provinces not agreed on by Mediation Committee or rejected by Council (Section 76) 233
4. Bill changing the seat of Parliament (Section 76(5)) 233
5. Motion of no confidence in the President of the Republic or Cabinet (Section 102) 234

Part 2: Appointment of office-bearers or their removal from office

6. Removal of the President of the Republic (Section 89) 234
7. Removal of judges (Section 177) 234
8. Appointment of Public Protector and Auditor-General (Section 193(5)) 234
9. Removal from office of Public Protector and Auditor-General (Section 194(2)) 235
10. Appointment of Inspector-General of Intelligence (Section 210) 235
11. Appointment and removal of members of the Electoral Commission, Commission for Gender Equality and South African Human Rights Commission (Sections 193(5) and 194) 235
12. Appointment of members of Public Service Commission (Section 196(8)) 235

APPENDIX C

Standard operating procedures: Removal of member from Chamber and precincts (Rule 73)

CHAPTER 1

SOURCES OF AUTHORITY OF ASSEMBLY AND THEIR APPLICATION

Part 1: Definitions

1. Definitions

In these rules, unless the context otherwise indicates —

"Assembly" means the National Assembly;

"ATC" means the document entitled Announcements, Tablings and Committee Reports, which supplements the Minutes of Proceedings of the National Assembly;

"attendance" means a member's presence at a sitting of the House, a meeting of a mini-plenary session or any other committee or forum, or at any other official parliamentary activity;

"Chamber" means the Chamber of the National Assembly or any other chamber in which the proceedings of the House and its forums are conducted;

"Chief Whip" means the Chief Whip of the Majority Party;

"classification", with reference to a Bill, means the classification of a Bill in terms of Joint Rule 160(6) or the reclassification of a Bill in terms of Joint Rule 163;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"constitutional institution" means —

(a) any state institution mentioned in Section 181 of the Constitution; or

(b) any other institution established, or of which the establishment is required, in terms of a specific provision of the Constitution, including the constitutional institutions listed in Schedule 1 of the Public Finance Management Act, 1999;

"constitution amendment Bill" means a Bill to which Section 74 of the Constitution applies;

"Council" means the National Council of Provinces;

"document" means any written instrument, and includes any electronic or other device in or on which information, including visual material, is recorded, stored or kept;

"duration of the House" means the term of the House or the remaining part of its term at any time;

"formal motion" means a motion of a procedural nature that in terms of Rule 123 does not require notice;

"forum" in relation to the Assembly means any formal gathering of members of the Assembly as provided for in the rules and orders to conduct the business of the Assembly, and includes sittings of the House, mini-plenary sessions of the House, and meetings of committees and other relevant structures of the Assembly;

"Gazette" means the national Government Gazette;

"House" means the Assembly unless otherwise specified;

"JTM" means the Joint Tagging Mechanism established by Joint Rule 151;

"member" means a member of the Assembly;

"mini-plenary session" means a subordinate meeting of the House for debating purposes only and involving a reduced number of members, as provided for in Rules 49 to 56;

"misconduct" in these rules means a breach of the standing rules of Parliament by a member, except a breach of the code of conduct contained in the schedule to the Joint Rules or conduct amounting to contempt of Parliament as defined in the Powers and Privileges Act;

"money Bill" means a Bill that appropriates money or imposes taxes, levies or duties and to which Section 77 of the Constitution applies;

"motion" means —

(a) a proposal made by a member in the form of a draft resolution that the Assembly do something, order something to be done or express an opinion concerning some matter; or

(b) a proposal made by a member that the Assembly discuss a subject presented by the member for that purpose;

"official parliamentary activities" means any business or activity of Parliament, including plenary sittings, committee meetings, study tours, workshops, parliamentary forums or any other parliamentary activity sanctioned by the Assembly, or its committees or presiding officers, as duly authorised;

"organ of state" means any executive organ of state in the national sphere of government as contemplated in Section 55(2) and defined in Section 239 of the Constitution;

"Parliamentary Protection Services" means any employee authorised by Parliament to perform security and protection services within the precincts of Parliament, and includes all parliamentary staff members employed, appointed, assigned, delegated or contracted by Parliament to perform security and protection functions within the precincts of Parliament;

"party whip" means a member designated by the leadership of a party to oversee and guide the conduct of its members in relation to the rules and the decorum and business of the House or a committee, and to perform such further functions as the House may prescribe;

"person in charge" —

(a) with reference to a Bill introduced by a Cabinet member, a Deputy Minister or an Assembly member, means that Cabinet member, Deputy Minister or Assembly member;

(b) with reference to a Bill introduced by an Assembly committee, means the chairperson or any other member of the committee designated by the committee;

(c) with reference to a money Bill, means the Cabinet member responsible for national financial matters;

(d) with reference to a Section 76(2) Bill introduced on behalf of a Cabinet member or Deputy Minister in the Council, means that Cabinet member or Deputy Minister;

(e) with reference to a Section 76(2) Bill introduced in the Council, other than Bills referred to in Paragraph (d), means the Assembly member designated in terms of Joint Rule 217(2);

(f) with reference to a committee report, means the member who introduces the report in the House on behalf of the committee; and

(g) with reference to a motion, means the member who gives notice of the motion and/or moves the motion in the House;

"point of order" means a matter related to the procedure or practice of the House, or a complaint of unparliamentary conduct or behaviour on the part

of another member, which a member is entitled to raise during the sitting of the House or committee when seeking guidance and a ruling on the matter from the presiding officer;

"Powers and Privileges Act" means the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004;

"precincts of Parliament" means the precincts referred to in Section 2 of the Powers and Privileges Act;

"private member" means any member other than a Minister, a Deputy Minister, the Speaker and the Deputy Speaker;

"question", except in respect of question time or a question period and a question of privilege, means a proposal presented to the Assembly or a committee of the Assembly by the presiding officer for consideration and decision or disposal in some manner;

"question of privilege" means any report of an act which may constitute a breach of privilege or contempt of Parliament in terms of the Powers and Privileges Act;

"Question Paper" means, as applicable, the Question Paper produced for a particular question day or an Internal Question Paper containing all current questions that still have to be replied to;

"recess", with reference to the Assembly, means a period determined as a recess by the Programme Committee, or by resolution of the Assembly, during which, subject to Rule 167, no business of the Assembly is conducted;

"Secretary" means the Secretary to Parliament;

"Section 75 Bill" means a Bill to which the procedure prescribed in Section 75 of the Constitution applies;

"Section 76(1) Bill" means a Section 76 Bill introduced in the Assembly;

"Section 76(2) Bill" means a Section 76 Bill introduced in the Council;

"session", except in the context of a mini-plenary session as contemplated in Part 3 of Chapter 4, means an annual session of a Parliament;

"sitting day" means a day on which the Assembly sits or a mini-plenary session is held;

"special petition" means a petition requesting a pension or other specific or personal relief from the state which is not authorised by law;

"subject of a Bill" means the objects of the Bill as introduced in the Assembly and the substance of the Bill to give effect to those objects;

"substantive motion", with reference to a member or the holder of an office specified in Rule 88, means a self-contained proposal in terms of Rule 85 or Rule 88 for separate consideration by the House, relating to any charge against that member or office-bearer;

"tabling", in relation to any document or paper, means the official presentation of the document or paper in the House, or, if not presented in the House, the publication in the ATC of the document or paper after it has been officially submitted to the Speaker;

"term", in relation to the Assembly, means the period for which the Assembly is elected in terms of Section 49(1) of the Constitution; and

"working day" means any day of the week except —

(a) Saturday and Sunday;

(b) a public holiday in terms of the Public Holidays Act, 1994; and

(c) a Monday following any of these public holidays that fall on a Sunday.

Part 2: Sources of authority of National Assembly

2. Introduction

The sources of authority of the National Assembly are —

(a) the Constitution;

(b) the Powers and Privileges Act and any other applicable legislation;

(c) the Rules of the National Assembly;

(d) the Joint Rules of Parliament, if and when applicable;

(e) orders or any other binding decision of the National Assembly;

(f) directives and guidelines of the Rules Committee;

(g) rulings by the Speaker and other presiding officers; and

(h) any conventions or practices that have been established in the National Assembly by agreement and usage over a period of time.

3. Rules of National Assembly

(1) The Rules of the National Assembly are adopted by resolution of the House in accordance with Section 57 of the Constitution.

(2) The rules remain in force until amended or repealed.

(3) The rules must be strictly adhered to by members.

4. Suspension or supplementing of rules

(1) Any provision of these rules relating to the business or proceedings at a sitting of the House or a mini-plenary session, or of a committee of the House or any other forum of the House, may be suspended by resolution of the House.

(2) The suspension of any provision must be limited in its operation to the particular purpose and period for which such suspension has been approved.

(3) Any motion to adopt or amend any rule or to suspend any provision of these rules requires notice in accordance with Rule 123.

(4) At least one third of the members of the House must be present before a decision may be taken to suspend any provision of these rules but a majority of the members of the House must be present before a decision may be taken to adopt or amend any rule.

(5) The National Assembly may by resolution, subject to these rules, make an order supplementing these rules in accordance with Section 57 of the Constitution; provided that —

(a) a standing order of the House remains in force until amended or repealed; and

(b) a sessional order of the House, identified as such by the House, remains in force —

(i) until the period of its validity, as specified in the order, has expired; or

(ii) until the end of the last sitting day of the session within which it was made;

provided that a sessional order may be amended or repealed at any time.

5. Non-diminution or non-limitation of rules and orders

No convention or practice may limit or inhibit any provision of these rules or any order of the House.

6. Unforeseen eventualities

(1) The Speaker may give a ruling or frame a rule in respect of any eventuality for which these rules or orders of the House do not provide, having due regard to the procedures, precedents, practices and conventions developed by the House and on the basis of constitutional values and principles underpinning an open, accountable and democratic society.

(2) A rule framed by the Speaker remains in force until the House, based on a recommendation of the Rules Committee, has decided thereon.

7. Directives and guidelines of Rules Committee

(1) The Rules Committee may, in terms of Rule 193, issue directives and lay down guidelines to assist with the implementation of these rules and orders of the House.

(2) Members must comply with any such directives and guidelines.

8. Rulings

(1) The Speaker must perform the functions as provided for in these rules and may make rulings in applying and interpreting these rules, orders of the House and directives and guidelines approved by the Rules Committee.

(2) The Speaker and other presiding officers may make rulings in accordance with Subrule (1) in respect of procedural matters that arise when they are presiding at a sitting of the House or a mini-plenary session.

(3) Members must comply with rulings made by presiding officers.

(4) (a) A member may request that a ruling be referred to the Rules Committee for consideration and report.

(b) In considering a ruling referred to it in terms of Subrule (4(a), the Rules Committee must confine itself to the principle underlying, or subject of, the ruling in question.

9. Conventions and practices

(1) Conventions and practices relating to the business of the House and its committees and other forums are established by agreement amongst political parties and parliamentary office-bearers, and may be varied by agreement amongst them and reviewed from time to time as decided by the Rules Committee.

(2) Conventions and practices must be consistent with the provisions of the Constitution, these rules, orders of the House, rulings, and directives and guidelines of the Rules Committee.

(3) Presiding officers may request members' compliance with established conventions and practices.

10. Contempt

A member who wilfully fails or refuses to obey any rule, order or resolution of the House may be found guilty of contempt of Parliament in terms of the Powers and Privileges Act, 2004.

11. Application to President of the Republic and other non-members

(1) These rules and orders of the House apply, as appropriate, to the President of the Republic as they apply to a Minister.

(2) A reference in these rules and orders of the House to a member or a Minister must, where applicable, be construed as a reference also to the President of the Republic, and to the Deputy President, or a Minister or Deputy Minister who is not a member of the House.

CHAPTER 2

PROCEEDINGS IN CONNECTION WITH COMMENCEMENT OF TERM AND SESSION

12. Convening notice read

At the commencement of the proceedings of the National Assembly on the first day of its first session, the Secretary or an officer of Parliament nominated by him or her, must read the notice convening the House under Section 51(1) of the Constitution.

13. Oath or affirmation by members

When the convening notice has been read at the commencement of the proceedings of the House on the first day on which it meets after a general election at which members of the House were elected, such members must be sworn in or make affirmation before the Chief Justice or a judge designated by the Chief Justice, in accordance with Section 48 read with Schedule 2 to the Constitution.

14. Election of Speaker and Deputy Speaker

At the first sitting after its election, the National Assembly must, in accordance with Sections 52(1), (2) and (3), read with Schedule 3 to the Constitution, elect one of its members to be the Speaker and thereafter another to be the Deputy Speaker of the House.

15. Election of President of the Republic

At the first sitting, after its election of a Speaker and a Deputy Speaker, the House must in accordance with Sections 86(1) and (2), read with Schedule 3 to the Constitution, elect one of its members as the President of the Republic.

16. Opening of a Parliament

(1) At the commencement of the first session of a Parliament after its election the President must deliver an Opening Address at a date and time to be announced by the Speaker.

(2) The Speaker must thereafter publish the Opening Address in the Minutes of Proceedings and place it on the Order Paper for discussion.

17. Commencement of annual session

The Speaker must inform the House of the date and time on which an annual session of the House will commence, as determined by the Programme Committee in accordance with Rule 210.

18. President's State of the Nation Address

The Speaker must inform the House of the date and time for the President's annual State of the Nation Address.

19. State of the Nation Address reported

The Speaker must publish the President's State of the Nation Address in the Minutes of Proceedings.

20. State of the Nation Address placed on Order Paper

When the President has delivered the State of the Nation Address, the Speaker must place it on the Order Paper of the House for discussion.

CHAPTER 3

PRESIDING OFFICERS AND MEMBERS

Part 1: Presiding Officers

21. Election of Speaker and Deputy Speaker

(1) (a) Whenever it is necessary to elect a Speaker, the Secretary or an officer of Parliament nominated by him or her, must inform the National Assembly accordingly, whereupon the House must immediately or at a time announced by the Secretary or such officer proceed to the election in terms of Section 52 of the Constitution.

(b) The Chief Justice or another judge designated by the Chief Justice presides over the election of the Speaker.

(2) (a) Whenever it is necessary to elect a Deputy Speaker, the Speaker must inform the National Assembly, whereupon the House must immediately or at a time announced by the Speaker proceed to the election in terms of Section 52 of the Constitution.

(b) The Speaker presides over the election of a Deputy Speaker.

(3) The member elected must be given the opportunity, from his or her place, to make an acceptance speech.

22. Election of other presiding officers

(1) The House must elect three members as House Chairpersons for the duration of the House.

(2) The Speaker must allocate functions and responsibilities to the House Chairpersons and announce such allocations in the ATC.

23. Officers presiding in the House

The Deputy Speaker or a House Chairperson must preside during a sitting of the House whenever requested to do so by the Speaker.

24. Acting Speaker

(1) Whenever the Speaker is absent or unable to perform the functions of the office of Speaker, or whenever that office is vacant, the Deputy Speaker must act as Speaker.

(2) Whenever both the Speaker and the Deputy Speaker are absent or unable to perform the functions of the office of Speaker, the Speaker or, if the Speaker is not available, the Deputy Speaker, must designate one of the House Chairpersons to act as Speaker.

25. Acting House Chairperson

Whenever the House has been informed of the likelihood of the continued absence of both the Speaker and the Deputy Speaker for longer than seven consecutive parliamentary working days, the House may elect a member to act as House Chairperson while the House Chairperson so designated acts as Speaker, until the Speaker or the Deputy Speaker becomes available or the House decides otherwise.

26. General authority and responsibility of Speaker

(1) In exercising the authority of the Speaker, as provided for in the Constitution and legislation and the rules of Parliament, the Speaker must —

(a) ensure that the National Assembly provides a national forum for public consideration of issues, passes legislation and scrutinises and oversees executive action in accordance with Section 42(3) of the Constitution;

(b) ensure that parties represented in the National Assembly participate fully in the proceedings of the Assembly and its committees and forums, and facilitate public involvement in the processes of the Assembly in accordance with Sections 57 and 59 of the Constitution; and

(c) whenever possible, consult with relevant office-bearers and structures within Parliament to achieve the efficient and effective functioning of Parliament in a transparent and accountable manner.

(2) The Speaker must maintain and preserve the order of and the proper decorum in the House, and uphold the dignity and good name of the House.

(3) The Speaker is responsible for the strict observance of the rules of the House and must decide questions of order and practice in the House, such a ruling being final and binding as provided for in Rule 92.

(4) The Speaker must act fairly and impartially and apply the rules with due regard to ensuring the participation of members of all parties in a manner consistent with democracy.

27. Election of temporary presiding officer to act as Speaker

Whenever the House has been informed that the elected presiding officers are unavoidably absent, the House must immediately elect one of its members to act as Speaker for that day only, the question being put by the Secretary.

28. Removal from office of Speaker or Deputy Speaker

(1) The House may remove the Speaker or Deputy Speaker from office by resolution in terms of Section 52(4) of the Constitution.

(2) A motion for the removal of the Speaker from office must comply, to the satisfaction of the Deputy Speaker, with the prescripts of any relevant law or any relevant rules and orders of the House and directives and guidelines approved by the Rules Committee before being placed on the Order Paper, and must include the grounds on which the proposed removal from office is based.

(3) In respect of a motion for the removal of the Deputy Speaker from office, the Speaker must approve compliance as contemplated in Subrule (2).

(4) The Deputy Speaker or Speaker, as applicable, may request an amendment of or in any other manner deal with a relevant motion that does not comply with the requirements as contemplated in Subrule (2).

(5) The Deputy Speaker or Speaker, as applicable, must accord an approved motion under this rule due priority and, before scheduling it, must consult with the Chief Whip of the Majority Party.

(6) The debate on a motion under this rule may not exceed the time

allocated for it by the Deputy Speaker or Speaker, as applicable, after the required consultation.

(7) A majority of the members of the Assembly must be present when the resolution is adopted.

Part 2: Members

29. Oath or affirmation

Other than immediately after a general election, new members may, in accordance with Item 4(2) of Schedule 2 to the Constitution —

(a) at a sitting of the House, be announced and conducted to the Table by not more than two members in order to be sworn in or to make affirmation before the presiding officer; or

(b) at any time by arrangement be sworn in or make affirmation before the Speaker in the Speaker's chambers, the Speaker reporting accordingly to the House at the first opportunity.

30. Declaration of private interests

If a member has a personal or private financial or business interest in any matter before a forum of the Assembly of which he or she is a member, he or she must at the commencement of engagement on the matter by the forum immediately declare that interest in accordance with the code of conduct contained in the schedule to the Joint Rules and comply with the other provisions of the code.

31. Raising a question of privilege

(1) A member who wishes to raise a perceived breach of privilege must report it to the Speaker without delay.

(2) If the alleged breach of privilege is in the Speaker's opinion adequately substantiated and may affect a sitting of the House on the day on which the question of privilege is reported or in the immediate future, the Speaker may, with due regard to the provisions of the Powers and Privileges Act —

(a) make an immediate ruling on the matter and announce it in the House; or

(b) provide the member with an opportunity during the sitting to move an urgent motion without notice in terms of Rules 123(1)(b) and 127.

(3) If the alleged breach of privilege does not directly affect a sitting of the House in the immediate future, the Speaker must refer the matter to the Powers and Privileges Committee and inform the House accordingly, either immediately or at the earliest opportunity.

32. Leader of the Opposition

(1) The leader of the largest opposition party in the Assembly must be recognised as the Leader of the Opposition as contemplated in Section 57(2)(d) of the Constitution.

(2) In the event that two or more opposition parties qualify as the largest opposition party in that they hold an equal number of seats in the House, the leader of the opposition party that obtained the most votes in the election must be recognised as the Leader of the Opposition.

33. Appointment and responsibilities of whips

(1) At the first meeting of the Rules Committee after an election, or as soon as possible thereafter, the Rules Committee must determine the number of whips to be allocated to parties represented in the House.

(2) The Speaker must appoint whips on the recommendation of the leaders of the parties which qualify for whips.

(3) (a) Parties which do not qualify for a whip may jointly request the Speaker to appoint one or more whips from amongst their number to represent their interests, or to alter the appointments previously made under this subrule.

(b) In considering such a request, the Speaker must apply guidelines approved by the Rules Committee for that purpose.

(4) The names of the appointed whips must be published in the ATC.

(5) (a) The functions of the whippery are —

(i) in general, to be responsible collectively for the maintenance of the proper decorum of the House and the orderly conduct of the business of the House, and

(ii) to co-ordinate the business of their parties in Parliament for purposes of facilitating the political management of Parliament.

(b) The Chief Whip of the Majority Party and other chief whips must additionally perform the functions prescribed in the rules.

(c) The House may approve recommendations by the Rules Committee to provide for any further responsibilities, duties or functions of the parliamentary whippery.

34. Designation of parliamentary counsellors

(1) The Speaker may, on the recommendation of the President and the Deputy President, designate two members as parliamentary counsellors to the President and the Deputy President, respectively.

(2) The parliamentary counsellors must facilitate communication between the National Assembly and the offices of the President and Deputy President, respectively.

(3) The names of the designated parliamentary counsellors must be published in the ATC.

Part 3: Members' attendance

35. Members' attendance

(1) Subject to minimum standards as provided for in these rules, members' attendance of official parliamentary activities is regulated by their political parties.

(2) A member's absence from Parliament during a parliamentary session, other than during a formal recess or resulting from the member's suspension in terms of these rules and orders of the House, must be approved by the member's political party in Parliament.

(3) A member, or the party whip assigned responsibility for members' leave by the party, must inform —

(a) the party's duty whip; or

(b) the chairperson of a relevant committee,

of the member's approved absence from a sitting of the House or a committee meeting, respectively.

(4) All political parties must —

(a) maintain proper leave records for their members in accordance with an attendance policy for members formally approved by Parliament; and

(b) annually, within 14 days after the last sitting day of the session, submit the attendance records of their members to the Speaker for publication in the ATC.

[See Appendix A for the leave policy approved by the Joint Rules Committee]

36. Absence from sittings of House

(1) The period for which leave may be granted to a member by the member's party, other than maternity leave and parental/adoption leave as provided for in the approved attendance policy, may not exceed 15 consecutive sitting days in a session.

(2) Leave may be requested of the House by motion for a member's absence in excess of 15 consecutive sitting days, the leave to be requested not later than by the close of the fifteenth consecutive sitting day of the member's absence.

(3) The motion presented to the House must state the reasons for the request and the period for which continued leave of absence is sought.

(4) If the motion requesting leave of absence is rejected by the House, the reasons for such rejection must be put to the House by way of a formal amendment to the motion, and the motion as amended must be supplied to the member and the member's party in Parliament without delay.

37. Sanctions for extended unauthorised absence from sittings of House

(1) A member who absents himself or herself for 15 or more consecutive sitting days of the Assembly without authorisation as provided for in these rules, loses his or her membership of the National Assembly in accordance with Section 47(3)(b) of the Constitution.

(2) The Speaker must without delay inform a member and the member's party of the member's loss of his or her membership of the Assembly in terms of this rule.

38. Absence from meetings of committee

(1) A member may not without his or her party's approval be absent from more than two consecutive meetings of a committee to which the member has been appointed as a full member in terms of the rules.

(2) A member's approved absence from a meeting of a committee referred to in Subrule (1) must be recorded in the minutes of the meeting as formally adopted by the committee.

(3) The secretary to a committee must without delay send a copy of the formal minutes of each meeting of the committee to the responsible whip of each of the parties represented on the committee.

(4) The Secretary must every three months within a session submit a report to the Speaker on all members who have been absent from three or more consecutive meetings of a committee without approval as recorded in the committee's minutes.

39. Sanctions for extended unauthorised absence from meetings of committee

(1) A member who is absent from three or more consecutive meetings of a committee referred to in Rule 38(1) without his or her party's approval may be fined an amount to be determined by the Rules Committee from time to time for each day of absence.

(2) The Speaker must inform the member without delay of the imposition of a fine in terms of this rule.

40. Appeal against application of sanctions

(1) A member who feels aggrieved by the sanction imposed upon him or her in terms of Rule 37 or 39 may lodge a formal appeal with the Speaker within 14 days of being notified of the application of the sanction.

(2) If the Speaker is unable to resolve the appeal on reasonable grounds, the Speaker must refer the appeal to a committee to be determined by the Rules Committee.

(3) The committee must report its findings to the House.

(4) The Speaker must report any sanction imposed or appeal processed in terms of these rules to the House.

CHAPTER 4
SITTINGS OF ASSEMBLY

Part 1: General

41. Forums for proceedings of National Assembly

(1) Subject to the Constitution and these rules, proceedings of the National Assembly may be conducted at sittings of the House or in mini-plenary sessions of the House.

(2) Subject to Section 59 of the Constitution, sittings of the House and its forums in terms of Subrule (1) must be held in public.

42. Working days and hours of sitting

(1) Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, excluding official public holidays, are parliamentary working days.

(2) Unless otherwise determined by the Programme Committee in accordance with Rule 210, the House may consider business on these days during the following times:

(a) Mondays to Thursdays: 14:00, or such later time as the Speaker determines, to adjournment.

(b) Fridays: 09:00, or such later time as the Speaker determines, to adjournment.

(3) The Speaker may, in exceptional circumstances, after consultation with the Leader of Government Business and party whips, allow the House to sit on any other day.

43. Change of venue

(1) The Speaker may in an emergency or on grounds of security —

(a) in terms of Section 51(3) of the Constitution, after consultation with the Leader of Government Business and the chief whips or party representatives of each party in the House, direct that the National Assembly sit at a place other than the seat of Parliament in Cape Town; and

(b) after consultation with the Leader of Government Business and the chief whips or party representatives of each party in the House, direct that a sitting of the House be held, or resumed, in a different chamber within the precincts.

(2) The Assembly may on grounds of public interest or convenience, in terms of Section 51(3) of the Constitution, resolve to sit at a place other than the seat of Parliament in Cape Town, provided that the resolution —

(a) identifies the public interest or convenience that is the reason for the change of venue; and

(b) approves the change of venue to a specified place and for a specific period.

44. Arrangement of business on Order Paper when no consensus in Programme Committee

(1) If no consensus could be reached in the Programme Committee in accordance with Rule 210 on the programme of business for a particular sitting day or if the Programme Committee has not made a detailed determination for any sitting day, the Chief Whip of the Majority Party must, subject to these rules and particularly any rule providing that the Speaker must exclusively make a specific programming decision, arrange the business of the Assembly on the Order Paper for that day —

(a) with the concurrence of the Speaker, and the Leader of Government Business when any government business is prioritised; and

(b) after due consideration of the views and directions of the Programme Committee.

(2) The Secretary must, on instruction of the Speaker, draw up the order of business as agreed to in terms of Subrule (1) for each sitting.

Part 2: Sittings in plenary

45. Quorum required only for taking decisions

The Assembly may proceed with its business irrespective of the number of members present, but may vote on a Bill or decide on any question only if a quorum is present in terms of Rule 96.

46. Opportunity for prayer or meditation

At the commencement of parliamentary business on every sitting day the presiding officer must afford members an opportunity for silent prayer or meditation.

47. Sequence of proceedings

(1) Subject to the Constitution and these rules, and unless altered by resolution of the House, the business on each sitting day of the House must follow the following sequence of events:

(a) Opportunity for silent prayer or meditation;
(b) announcements from the Chair;
(c) swearing in of new members;
(d) formal motions moved by the Chief Whip;
(e) statements by Cabinet members; and
(f) orders of the day and notices of motion on the Order Paper, which must be dealt with in sequence; provided that precedence must be given to questions on question days.

(2) Subject to Subrule (1), and unless altered by resolution of the House, the business on any sitting day of the House may additionally include any event below, after the business under Subrule (1) has been completed and if included during any sitting must follow the following sequence of events:

(a) Any other formal motions;

(b) motions without notice;

(c) opportunity for statements by members and responses to statements by Cabinet members;

(d) notices of motion; and

(e) petitions.

48. Interruption, suspension or adjournment of proceedings

(1) The presiding officer may interrupt, suspend or adjourn the proceedings of the House.

(2) The presiding officer may in consultation with the Leader of Government Business adjourn the House until a parliamentary working day other than the next scheduled sitting day as determined by the Programme Committee in accordance with Rule 210; provided that during such adjournment the Speaker may accelerate or postpone the date for the resumption of business.

Part 3: Mini-plenary sessions

49. Business of mini-plenary sessions

(1) The Speaker refers matters for consideration in a mini-plenary session after due consideration of the views and directions of the Programme Committee.

(2) Any matter may be discussed or debated in a mini-plenary session.

(3) No more than three mini-plenary sessions may take place simultaneously.

(4) Mini-plenary sessions are held in the precincts of Parliament, but in special circumstances the Speaker may direct that a mini-plenary session may be held elsewhere.

50. Members attending

(1) A mini-plenary session in respect of a budget vote of a particular department or on a Bill or oversight matter related to that department consists of the members of the corresponding portfolio committee, and all other Assembly members who attend the proceedings of the mini-plenary session.

(2) A mini-plenary session in respect of any matter other than a matter referred to in Subrule (1) consists of all Assembly members who attend the proceedings of the mini-plenary session.

51. Quorum

A mini-plenary session may proceed with its business irrespective of the number of members present.

52. Decisions

(1) No decisions may be taken in a mini-plenary session.

(2) In the event that a decision is required on a budget vote debated in a

mini-plenary session, such decision must be deferred to be taken by a plenary session of the House, provided that when the decision is taken in the House —

(a) no further debate on the matter may be allowed; and

(b) declarations of vote must be permitted subject to Rule 108(5).

53. Speakers' list

(1) A mini-plenary session does not make use of a speakers' list, except in the event of a debate on a budget vote when a speakers' list must be used.

(2) In referring a matter for consideration to a mini-plenary session in terms of Rule 49(1), the Speaker must —

(a) allocate time for the debate on that matter, including time for participation by the person in charge, provided that if the person in charge is a member of the executive the time allocated to him or her must be determined in consultation with the Leader of Government Business; and

(b) set a time limit for speeches by all participating members other than the person in charge.

(3) When a speakers' list is not used, the presiding officer must, in a balanced manner, allow speakers from all parties to participate in the debate or discussion, subject to any time limit imposed in terms of Subrule (2).

(4) A member may participate in a debate in a mini-plenary session more than once if recognised by the presiding officer.

54. Presiding officer

The Chair of a miniplenary session must be taken by —

(a) an elected presiding officer; or

(b) any other member,

appointed by the Speaker for that purpose.

55. Relief of presiding officer

A member attending a mini-plenary session must take the Chair whenever requested to do so by the presiding officer.

56. Order in meetings and rules of debate

In addition to these rules, the rules generally applicable to plenary sessions of the House are also applicable to the proceedings of a mini-plenary session.

Part 4: Public access

57. Admission of visitors

(1) The power to admit visitors to the places set apart for them in the Chamber or public galleries of the Chamber or in any other venue in which the House or a mini-plenary session or a committee of the House is meeting, or to regulate or limit any activity, access or movement of visitors whilst within the precincts of Parliament or a venue utilised for parliamentary work, vests in the Speaker, subject to Section 59 of the Constitution.

(2) Unless the Speaker directs otherwise in respect of a particular visitor or group of visitors, all visitors must, in an appropriate manner, be subjected to a security check or screening before entering the precincts of Parliament or the Chamber or any venue utilised for parliamentary work and, if reasonable cause exists, any visitor may at any time while within the precincts of Parliament or a venue utilised for parliamentary work, be subjected to a security check or screening.

(3) If any visitor refuses in any manner whatsoever to comply with the procedures in Subrules (1) and (2), such visitor may be refused access to the precincts of Parliament or any such venue or may be immediately removed from the precincts of Parliament or such venue by the Parliamentary Protection Services, who may in exercising that duty be assisted by members of the security services acting on or in terms of the instruction of the Speaker.

(4) The House may approve an operational manual, as recommended by the Joint Rules Committee, for the use of members of the Parliamentary Protection Services or security services for purposes of exercising this and any other function in terms of the Powers and Privileges Act and these rules.

58. Access for non-members to floor of Chamber

The Speaker may give a non-member access to the floor of the Chamber during a sitting of the House or a mini-plenary session in special circumstances.

59. Conduct of visitors

Visitors admitted in terms of Rule 57 may not disrupt the proceedings in any manner and must adhere to the directives of the presiding officer and members of the Parliamentary Protection Services and the security services.

60. Withdrawal of visitors

The presiding officer may, whenever he or she thinks it reasonable and justifiable in an open and democratic society to do so, order visitors to withdraw from the precincts of the House or a mini-plenary session and the places set apart for them in a Chamber, or from the precincts of Parliament.

61. Serjeant-at-Arms to remove visitors

When instructed by the presiding officer, the Serjeant-at-Arms must remove, or arrange with the Parliamentary Protection Services in terms of Rule 57(3) for the removal of, any person who —

(a) without permission is present in that part of the Chamber designated for members only or in another place within the precincts of Parliament or any other venue utilised for parliamentary work which is out of bounds for that person; or

(b) disrupts the proceedings of the House or a mini-plenary session or a committee or any other forum of the House or does not withdraw when duly ordered to do so.

62. Invitation to head of state, head of government or other person to address House

(1) The Speaker, after consultation with or at the request of the Leader of Government Business, may invite a head of state or a head of government who is on an official visit to the Republic to address the House.

(2) The National Assembly may by resolution invite any person to address the House.

CHAPTER 5
ORDER IN PUBLIC MEETINGS AND RULES OF DEBATE

Part 1: Order in meetings

63. Freedom of speech

(1) In accordance with Section 58(1)(a) of the Constitution, Cabinet members, Deputy Ministers and members of the National Assembly have freedom of speech in the Assembly and in its committees, subject to its rules and orders.

(2) In accordance with Section 58(1)(b) of the Constitution, Cabinet members, Deputy Ministers and members of the National Assembly are not liable to civil or criminal proceedings, arrest, imprisonment or damages for anything that they have said in, produced before or submitted to the Assembly or any of its committees, or anything revealed as a result of anything that they have said in, produced before or submitted to the Assembly or any of its committees.

(3) The provisions of Subrules (1) and (2) also apply to proceedings in a mini-plenary session and other forums of the Assembly.

64. Conduct of members

Members must at all times accord the presiding officers of the National Assembly and members due respect and conduct themselves with dignity and in accordance with the decorum of the House and are required —

(a) to enter or leave the House with decorum;

(b) to be seated when the bells stop ringing to mark the start of proceedings;

(c) to rise, if possible, when the presiding officer enters the Chamber at the start of proceedings and to remain standing until invited to be seated;

(d) not during proceedings to pass between the Chair and the member who is speaking, nor between the Chair and the Table, nor to stand in any of the aisles or cross aisles, nor to cross the floor of the House in front of the benches;

(e) not to bring weapons of any kind nor dangerous or threatening articles or objects nor replicas of any such articles or objects into the Chamber, excluding cultural objects with the prior approval of the Speaker;

(f) to dress in a manner befitting the dignity and decorum of the House, as may further be provided for in guidelines approved by the Rules Committee; provided that no party symbols may be displayed;

(g) not to take photographs or video footage during proceedings, speak on a cellphone, eat, read newspapers or in any other way conduct themselves in a manner not befitting the dignity and decorum of the House; and

(h) on adjournment of the House, to rise, if they are able to do so, and remain in their allocated seats until the presiding officer has left the Chair.

65. Members not to converse aloud

Members may not converse aloud during debate.

66. Member not to be interrupted

No member may interrupt another member whilst speaking, except —

(a) to call attention to a point of order, subject to Rule 92, or a question of privilege; or

(b) at the discretion of the presiding officer, on a point of clarity to request permission to put a question to the member speaking.

67. Precedence of presiding officer

Whenever the presiding officer addresses the House during a debate, any member then speaking or offering to speak must resume his or her seat, and the presiding officer must be heard without interruption.

68. Irrelevance or repetition

The presiding officer may order a member addressing the House to stop speaking if that member, despite warnings from the Chair, persists in irrelevant or repetitive arguments.

69. Grossly disorderly conduct

Members may not engage in grossly disorderly conduct in the House and its forums, including —

(a) deliberately creating serious disorder or disruption;

(b) in any manner whatsoever physically intervening, preventing, obstructing or hindering the removal of a member from the House who has been ordered to leave the House;

(c) repeatedly undermining the authority of the presiding officer or repeatedly refusing to obey rulings of the presiding officer or repeatedly disrespecting and interrupting the presiding officer while the latter is addressing the House;

(d) persisting in making serious allegations against a member without adequate substantiation or following the correct procedure;

(e) using or threatening violence against a member or other person; or

(f) acting in any other way to the serious detriment of the dignity, decorum or orderly procedure of the House.

70. Member ordered to leave Chamber

(1) If the presiding officer is of the opinion that a member is deliberately contravening a provision of these rules, or that a member is disregarding the authority of the Chair, or that a member's conduct is grossly disorderly, he or she may order the member to leave the Chamber immediately for the remainder of the day's sitting.

(2) A member ordered to leave the Chamber must immediately withdraw from the precincts of Parliament.

71. Naming or suspension of member

If a presiding officer is of the opinion that a contravention committed in terms of Rule 70 by a member of the House is of so serious a nature that an order to leave the Chamber for the remainder of the day's sitting is inadequate, the presiding officer may —

(a) if he or she is the Speaker, suspend the member for a period provided for in Rule 74 and order him or her to leave the Chamber immediately; or

(b) if he or she is not the Speaker, name the member and order him or her to leave the Chamber immediately and not participate in any parliamentary activities until the Speaker, after consultation with the presiding officer, has announced what action is to be taken against the member in terms of these rules, including whether such member will be suspended for a period provided for in Rule 74; provided that the Speaker's decision must be announced within two working days after the member has been named.

72. Action against member to be announced in House

The action taken against a member by the Speaker under Rule 71(b) must be announced in the House.

73. Removal of member from Chamber and precincts

(1) If a member refuses to leave the Chamber when ordered to do so by the presiding officer in terms of Rule 70 or 71, the presiding officer must instruct the Serjeant-at-Arms to remove the member from the Chamber and the precincts of Parliament forthwith.

(2) If the Serjeant-at-Arms is unable in person to effect the removal of the member, the presiding officer may call upon the Parliamentary Protection Services to assist in removing the member from the Chamber and the precincts of Parliament.

(3) Unless already suspended in terms of Rule 71, a member who is removed from the Chamber in terms of Subrule (2) is thereby immediately automatically suspended for the period applicable as provided for in Rule 74, and may not enter the Chamber or the precincts for the duration of the suspension.

(4) If a member resists attempts to be removed from the Chamber in terms of Subrule (1) or (2), the Serjeant-at-Arms and the Parliamentary Protection Services may use such force as may be reasonably necessary to overcome any resistance.

(5) No member may, in any manner whatsoever, physically intervene in, prevent, obstruct or hinder the removal of a member from the Chamber in terms of these rules.

(6) Any member or members who contravene Subrule (5) may, on the instruction of the presiding officer, also be removed from the Chamber and the precincts of Parliament forthwith.

(7) If proceedings are suspended for the purposes of removing a member or members, all other members must remain seated or resume their seats, unless otherwise directed by the presiding officer.

(8) When entering the Chamber on the instruction of the relevant presiding officer —

(a) members of the Parliamentary Protection Services may not be armed; and

(b) members of the security services may not be armed, except in extraordinary circumstances in terms of security policy.

(9) Members who have been removed from the Chamber will be escorted off the precincts by Parliamentary Protection Services personnel and will not be allowed to enter the House or precincts of Parliament as the rules prescribe.

(10) If, after having been removed from the Chamber, a member(s) offers resistance to being removed from the precincts, members of the security services may be called upon to assist with such removal.

(11) In the event of violence ensuing in the Chamber as a result of a member(s) resisting removal, the presiding officer may suspend proceedings, and members of the security services may be called upon by the Speaker during such period of suspended proceedings to assist with the removal of members from the Chamber and the precincts of Parliament forthwith in terms of Section 4(1) of the Powers and Privileges Act; provided that the security services may intervene directly anywhere in the precincts and in the Chamber in terms of Section 4(2) of the Act when there is immediate danger to the life or safety of any person or damage to any property.

(12) Whenever a member is physically removed from the Chamber in terms of this rule, the circumstances of such removal must be referred by the Speaker, within 24 hours, for consideration to a subcommittee of the Rules Committee appointed for that purpose.

(13) The House may approve standard operating procedures, recommended by the Rules Committee, for the exercise of this function, in particular in relation to the use of the Parliamentary Protection Services and members of the security services.

(14) For the purposes of this rule, "precincts" excludes the Chamber.

74. Period of suspension

The suspension of a member on the first occasion during a session continues for 5 parliamentary working days, on the second occasion for 10 parliamentary working days, and on any subsequent occasion for 20 parliamentary working days.

75. Expression of regret

(1) A member of the House who has been suspended or named may submit to the Speaker a written expression of regret, and if the Speaker approves such expression of regret, he or she may discharge the suspension or other action taken against the member, or reduce the severity of any such action, and the Speaker must inform the House accordingly.

(2) An expression of regret approved by the Speaker must be recorded in the Minutes of Proceedings.

76. Member to withdraw while his or her conduct is debated

Whenever a charge is made against a member, he or she must, after having been heard from his or her place, withdraw from the Chamber while such charge is being debated.

77. Grave disorder

In the event of grave disorder at a meeting, the presiding officer may adjourn the meeting, or may suspend the proceedings for a period to be stated by him or her.

Part 2: Rules of debate

78. Member to address Chair

(1) Every member desiring to speak must, if possible, stand while addressing the Chair.

(2) At a sitting in the Chamber of the National Assembly a member may —

(a) only speak from the podium during debate and whenever the presiding officer so directs, and at all other times address the Chair from a microphone on the floor of the Chamber; or

(b) deliver his or her address in such other manner as the member is physically able to do and agreed to by the presiding officer.

(3) (a) The Speaker and Deputy Speaker must be referred to as "honourable Speaker", or "honourable Deputy Speaker" or "Mister" or "Madam Speaker" and "Mister" or "Madam Deputy Speaker", as the case may be, and the other presiding officers must be referred to as "honourable Chairperson".

(b) No name to impugn the dignity or undermine the authority or legitimacy of any presiding officer may be used.

79. Recognition of members to speak

(1) Subject to Rule 78, a member may speak only when recognised by the presiding officer during proceedings of the House.

(2) Subject to Subrule (1), a member may draw the attention of the presiding officer to a point of order or a question of privilege at any time.

(3) In a debate the presiding officer must recognise a member in accordance with a list of members who are to speak in the debate and the times allocated for speeches by members of different parties.

80. Control of microphones in Chamber

(1) 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.

(2) Before proceeding in terms of Subrule (1), the presiding officer must inform the member and the House of the intention to do so.

81. List of speakers and time limits for speeches

(1) Unless otherwise provided in these rules, and subject to Rules 94 and 95, members speak in a debate in accordance with a list of speakers compiled by the Chief Whip in consultation with the whips or party representatives of the other parties represented in the House.

(2) The list of speakers must accommodate all parties represented in the House that wish to participate in the debate.

(3) Members on the list may speak for the time allocated to them on the list, which may not be less than three minutes unless by agreement with the member concerned.

(4) If a list of speakers is incomplete in respect of the identification of members who are to speak in a debate or the time allocated to each, or in the absence of a list of speakers, the Speaker must determine speaking arrangements for the debate in accordance with this rule after consultation with the party whips.

(5) If amendments are proposed to the question before the House at a late stage in a debate, the presiding officer may, at his or her discretion, extend the debate after consultation with the party whips to allow members the opportunity to respond to the amendments.

82. Reference to member in respectful terms

(1) In the House and in mini-plenary sessions members must refer to one another in respectful terms.

(2) Further to Subrule (1), no member may refer to any other member by his or her name only.

(3) No name to impugn the dignity of any member may be used.

83. Member not to read speech

A member must as far as possible refrain from reading his or her speech, but may refresh his or her memory by referring to notes.

84. Unparliamentary or unacceptable language or gestures

No member may use offensive, abusive, insulting, disrespectful, unbecoming or unparliamentary words or language, nor offensive, unbecoming or threatening gestures.

85. Reflections upon members, the President and Ministers or Deputy Ministers who are not members of the Assembly

(1) No member may impute improper motives to any other member, or cast personal reflections upon a member's integrity or dignity, or verbally abuse a member in any other way.

(2) A member who wishes to bring any improper or unethical conduct on the part of another member to the attention of the House, may do so only by way of a separate substantive motion, comprising a clearly formulated and properly substantiated charge that in the opinion of the Speaker prima facie warrants consideration by the House.

(3) Subrules (1) and (2) apply also to reflections upon the President and Ministers and Deputy Ministers who are not members of the House.

86. Reflections upon decisions or statutes

No member may —

(a) for the remainder of the term of the House, reflect upon any decision of the House that directly refers to any specified person, except for the purpose of moving that such decision be amended or rescinded; or

(b) reflect upon any statute of the same session, except for the purpose of moving for its amendment or repeal.

87. Reflections upon the House and its proceedings and decisions

No member may reflect in a disrespectful manner upon the House or its forums and committees or upon their proceedings and decisions.

88. Reflections upon judges and certain other holders of public office

No member may reflect upon the competence or integrity of a judge of a superior court, the holder of a public office in a state institution supporting constitutional democracy referred to in Section 194 of the Constitution, or any other holder of an office (other than a member of the government) whose removal from such office is dependent upon a decision of the House, except upon a separate substantive motion in the House presenting clearly formulated and properly substantiated charges which, if true, would in the opinion of the Speaker prima facie warrant such a decision.

89. Matters sub judice

No member may reflect upon the merits of any matter on which a judicial decision in a court of law is pending.

90. Rule of anticipation

(1) No member may anticipate the discussion of a matter appearing on the Order Paper or agreed upon by the Programme Committee for scheduling.

(2) In determining whether a discussion is out of order on the ground of anticipation, the presiding officer must consider whether it is probable that the matter anticipated will be discussed in the House or at a joint sitting within a reasonable time.

91. Explanations

(1) A member may, with the prior consent of the presiding officer, make an explanation at a time approved by the presiding officer after the conclusion of the debate from which the complaint arises, but only if, during that debate, a material part of the member's speech has been misquoted or misunderstood; provided that —

(a) such explanation must be limited to reading into the record a correction as agreed in principle by the presiding officer, not to exceed three minutes in duration; and

(b) no debate is allowed upon such explanation.

(2) A member may also, with the prior consent of the presiding officer, explain matters of a personal nature, but such matters may not be debated, and the member must confine himself or herself strictly to the vindication of his or her own conduct and may not speak for longer than three minutes.

92. Points of order

(1) A member may raise a point of order at any time during the proceedings of the House, in terms of the procedure prescribed in Rule 66, by stating that he or she is rising on a point of order.

(2) A point of order must be confined only to a matter of parliamentary procedure or practice, or a matter relating to unparliamentary conduct, as defined, and must be raised immediately when the alleged breach of order occurs.

(3) (a) The member raising the point of order must commence by quoting the exact rule or standing order, or at least the principle or subject matter, upon which the point of order is based.

(b) If the member does not do so, the presiding officer may insist on him or her doing so, and if he or she fails or does not adequately do so, the presiding officer may summarily rule that it does not amount to a point of order or that the matter is out of order.

(4) The presiding officer may, at his or her discretion, allow members to address the presiding officer briefly on a point of order that has been raised.

(5) The presiding officer must give a ruling, and may give his or her ruling or decision on the point of order immediately, or defer the decision to the earliest opportunity thereafter by way of a considered ruling.

(6) No point of order may be raised in response to a considered ruling in terms of Subrule (5).

(7) No other member may raise another point of order before the presiding officer has ruled on the first point of order.

(8) No member may raise a point of order again or a similar point of order, if the presiding officer has ruled that it is not a point of order or that the matter is out of order.

(9) Members may not disrupt proceedings by raising points of order that do not comply with this rule.

(10) When a point of order is raised during debate, the member called to order must resume his or her seat, and after the point of order has been stated to the presiding officer by the member raising it, the member raising the point of order must likewise immediately resume his or her seat when he or she has concluded his or her submission or if the presiding officer asks him or her to do so.

(11) The presiding officer's ruling on a point of order is final and binding, and may not be challenged or questioned in the House.

(12) (a) A member who is aggrieved by a presiding officer's ruling on a point of order may subsequently in writing to the Speaker request that the principle or subject matter of the ruling be referred to the Rules Committee.

(b) The Rules Committee may deal with the referral in terms of Paragraph (a) as it deems fit, provided that it must confine itself to the principle underlying, or subject matter of, the ruling concerned, and may not in any manner consider the specific ruling which is final and binding.

93. Acting for absent member

If the member in charge of a motion or an order of the day is absent, another member authorised by the absent member may take charge of the motion or order after having timeously notified the presiding officer, where possible.

94. When reply allowed

The member in charge of a motion or an order of the day, including an executive statement, is allowed to reply.

95. Debate closed

A reply to a debate closes the debate.

CHAPTER 6
DECISION OF QUESTIONS

96. Quorum

In terms of Section 53 of the Constitution, except where the Constitution provides otherwise —

(a) a majority of the members of the National Assembly must be present before a vote may be taken on a Bill or an amendment to a Bill; and

(b) subject to Rule 4, at least one third of the members must be present before a vote may be taken on any other question before the Assembly.

97. Questions to be decided by majority

In terms of Section 53 of the Constitution, except where the Constitution provides otherwise, all questions before the Assembly are decided by a majority of the votes cast.

98. Absence of quorum

(1) If the attention of the presiding officer is called to the absence of the prescribed quorum when a question is put for decision, the presiding officer may suspend the proceedings, postpone the decision of the question or direct that the bells be rung for five minutes, or such longer time as the presiding officer may direct but not exceeding 15 minutes.

(2) If the bells are rung and, after the interval referred to in Subrule (1), there is still no quorum, the presiding officer may suspend the proceedings or postpone the decision of the question.

(3) (a) For the purpose of establishing whether a quorum is present, the presiding officer may, at his or her discretion, utilise the electronic voting system; and

(b) all members present in the Chamber when the electronic voting system is used must record their presence as directed by the presiding officer.

(4) The presiding officer must be counted for the purpose of establishing whether a quorum is present.

99. Decision of question postponed

When the debate on a question has been concluded in the House, the presiding officer may postpone the decision of the question.

100. Decision of postponed questions

Whenever it is expedient to do so, the Speaker may after consultation with the Programme Committee in terms of Rule 208 or, if the Programme Committee is not due to meet in time, after consultation with party whips, determine a day for the decision of postponed questions by the House.

101. Decision of questions requiring special majorities

(1) A question requiring a special majority in terms of the Constitution must be decided by voting, whether or not a division is demanded.

(2) (a) In accordance with Section 53(2)(b) of the Constitution, the presiding officer may cast a deliberative vote when a question must be decided with a supporting vote of at least two thirds of the members of the Assembly.

(b) Whenever a presiding officer casts a deliberative vote, he or she must inform members accordingly.

[See Appendix B for Special Majorities required in terms of the Constitution of the Republic of South Africa, 1996]

102. Casting of votes

Unless the Constitution provides otherwise, voting takes place in accordance with Rules 103 or 104.

103. Electronic voting system

(1) At a sitting of the House held in a Chamber where an electronic voting system is in operation, unless the presiding officer directs otherwise, questions are decided by the utilisation of such system in accordance with a procedure predetermined by the Speaker and directives as announced by the presiding officer.

(2) Members may vote only from the seats allocated to them individually in the Chamber.

(3) Members vote by pressing the "Yes", "No" or "Abstain" button on the electronic consoles at their seats when directed by the presiding officer to cast their votes.

(4) A member who is unable to cast his or her vote, must draw this to the attention of the Chair and may in person or through a whip of his or her party inform the Secretary at the Table of his or her vote.

(5) When all members have cast their votes, the presiding officer must immediately announce the result of the division.

(6) Members' names and votes must be printed in the Minutes of Proceedings.

104. Manual voting procedure

(1) Where no electronic voting system is in operation, a manual voting system may be used in accordance with a procedure predetermined by the Speaker and directives to be announced by the presiding officer.

(2) When members' votes have been counted, the presiding officer must immediately announce the result of the division.

(3) If the manual voting procedure permits, members' names and votes must be printed in the Minutes of Proceedings.

105. Postponed question put without further debate

A question referred to in Rules 99 and 100 must be put without further debate.

106. Question put again

If the presiding officer has put a question and it is not heard or understood, he or she must put it again.

107. Question fully put

(1) No member, except a member who is permitted to make a declaration of vote, may speak to any question after it has been fully put by the presiding officer.

(2) A question is deemed to have been fully put when the voices in favour of and against the question have been given.

108. Declaration of vote

(1) Subject to Subrule (4), the presiding officer may at any time after a question has been fully put, if so requested, permit one member of each political party to declare its vote by stating on behalf of his or her party the reasons why the party is in favour of or against the question; provided that in the case of declarations of vote on a committee report, the relevant Minister be given the opportunity to express the executive's view and for that purpose be allocated the same amount of time as the member of the majority party in terms of Subrule (2).

(2) The time allocated to a member from each party for making a declaration of vote must be determined by the Rules Committee and must take into account the proportional strength of the party in the House.

(3) A member addressing the Chair in terms of Subrule (1) may read out aloud a written formulation of his or her party's viewpoint, and deliver a signed copy thereof at the Table for inclusion in the Minutes of Proceedings.

(4) No declaration of vote is permitted if the question is put for decision immediately after the debate on the question has been concluded.

(5) When the budget votes in the schedule to the main Appropriation Bill are to be decided upon, declarations of vote, if requested, must be limited to a total time for all the budget votes, as well as proportional time per party, as allocated for that purpose by the Programme Committee in accordance with Rule 210.

109. Recording of opposition

(1) Whenever a question is put by the presiding officer, any member may, instead of demanding a division, inform the presiding officer that he or she wishes his or her opposition, or that of the party to which he or she belongs, to be formally recorded in the Minutes of Proceedings.

(2) The presiding officer may order that a division take place in the event of four or more members wishing to record their individual opposition.

110. Demand for division

After a question has been put and the presiding officer has indicated whether in his or her opinion the voices in favour of or against the question are in the majority, any member may demand a division, whereupon, subject to Rule 111, a division must take place without debate.

111. Fewer than four members supporting demand for division

(1) Whenever a division is demanded, the presiding officer must, before ordering the division bells to be rung, satisfy himself or herself that at least four members support the demand for the division.

(2) If fewer than four members rise in support thereof, the presiding officer must immediately declare the decision on the question.

(3) The names of the members who indicated their support for the division in terms of Subrule (2) must be recorded in the Minutes of Proceedings.

112. Division bells rung and doors barred

(1) If the required number of members support the demand for a division, the division bells must be rung and the doors must be barred as soon after the lapse of five minutes as the presiding officer may direct, but if further divisions are required to dispose of the question and such divisions follow immediately upon the first division, the division bells must again be rung and the doors must be barred as soon after the lapse of 15 seconds as the presiding officer may direct.

(2) When the doors have been barred, no member may enter or leave the Chamber until the result of the division has been declared.

113. Procedure after doors barred

When the doors have been barred and all members are seated, the presiding officer must inform members of the question to be decided and announce that a division has been demanded.

114. Member calling for division to vote against question

A member demanding a division may not leave the Chamber until the result of the division has been declared and in the event that he or she did not vote, his or her vote must be recorded as against the question put by the presiding officer.

115. Members present must vote

(1) Every member present in the Chamber when the question is put with the doors barred must vote or record an abstention; provided that in terms of Section 53(2) of the Constitution the presiding officer has no deliberative vote, but —

(a) must cast a deciding vote when there is an equal number of votes on each side of a question; and

(b) may cast a deliberative vote when a question must be decided with a supporting vote of at least two thirds of the members of the Assembly.

(2) In accordance with Section 54 of the Constitution, the provisions of Subrule (1) do not apply to the President of the Republic or to a Minister or Deputy Minister who is not a member of the House.

116. Points of order during division

Subject to all other rules relating to the taking of points of order, while a division is in progress, members may only raise points of order directly related to the procedures during the division.

117. Confusion or error concerning division

(1) If in the opinion of the presiding officer there is confusion or error concerning a division, the presiding officer may direct that another division must take place; provided that if in the opinion of the presiding officer the nature of the confusion or the extent of the error does not affect the result of the division, the presiding officer may direct that the numbers be corrected otherwise.

(2) Party whips may, at the request of any affected members, scrutinise the electronic voting results at the Table and under their signature make limited corrections, provided the corrections so made do not affect the result of the division.

118. Correction of minutes

If any member, in writing to the Speaker within 24 hours after the Minutes of Proceedings have been published, reports that his or her vote has been mistakenly altered, as recorded, or if any other error occurs in the voting results as published in the Minutes of Proceedings, the Speaker may order the Minutes of Proceedings to be corrected.

CHAPTER 7
MOTIONS

Part 1: General

119. Nature of motions

A member may propose a subject for discussion, or a draft resolution for approval as a resolution of the House, with or without debate.

120. Same question rule

(1) No matter may be proposed for discussion in the House which is the same in substance as a matter that has been discussed in it during the same annual session.

(2) (a) No draft resolution may be moved in the House which is the same in substance as a draft resolution which has been approved, with or without amendments, or rejected by it during the same annual session.

(b) The House may amend or rescind such previous resolution.

121. Amendments to draft resolutions generally

(1) Subject to Rule 122, a member may propose an amendment in writing to a draft resolution, provided the amendment does not extend the scope of the draft resolution or is ruled out of order for any other reason by the presiding officer.

(2) When an amendment is moved as provided for in Subrule (1), a signed copy of the proposed amendment must be delivered to the Secretary at the Table without delay.

(3) A proposed amendment to a draft resolution which does not strictly comply with Subrules (1) and (2) and Rule 122 may not be proceeded with in the House.

(4) Proposed amendments to draft resolutions must be put for decision in sequence, with the last amendment being put first and the original motion, with or without amendments, last, unless the presiding officer determines otherwise.

122. Amendments to draft resolutions relating to committee reports

No amendment may be proposed to the content and substance of a committee report tabled for consideration by the House, except in respect of any recommendation made in such report for adoption by the House.

123. Motions without notice

(1) Every motion requires notice, except a draft resolution —

(a) by way of amendment to a draft resolution permitted in terms of these rules;

(b) raising a question of privilege when approved by the Speaker in terms of Rule 31;

(c) for the postponement or discharge of an order of the day, giving precedence to an order of the day scheduled for that day or giving precedence to any other business;

(d) referring a Bill to a committee;

(e) by the Chief Whip, or any other member with the permission of the presiding officer, proposing a decision on a report of a committee immediately after the debate on the report has been concluded;

(f) specially excepted by these rules; or

(g) in regard to which notice is dispensed with by all the members present, subject to Subrule (2).

(2) Motions in respect of which notice is dispensed with in terms of Subrule (1)(g) are accommodated according to the following conditions:

(a) Members of each party are entitled to move motions without notice, minority parties being given an opportunity to participate in a manner consistent with democracy.

(b) The number of motions without notice on any sitting day, the period of time within which such motions must be completed on that day and the sequence of party participation must be determined by the Rules Committee.

(c) Motions without notice must be confined to national issues and must comply with the following criteria as are applicable to all motions requiring a decision of the House: Such a motion —

(i) must be consistent with the Constitution, the law and these rules,

(ii) must deal with only one substantive matter,

(iii) must consist of a clear and succinct proposed resolution,

(iv) may not contain statements, quotations, arguments or other matters not strictly necessary to make the proposed resolution intelligible,

(v) may not be the same in substance as a draft resolution that has been approved or rejected during the same session,

(vi) may not contain unbecoming or offensive expressions,

(vii) may not propose to issue an instruction to the executive,

(viii) must observe the principles of co-operative government in accordance with Chapter 3 of the Constitution, and

(ix) may in any event not take longer than 90 seconds to read out.

(d) Unless the Speaker decides otherwise in a particular case, a member may not be given an opportunity to read out and move a motion without notice in the House unless the following requirements have been met:

(i) The member or the member's party must make the text of the motion available to the Secretary to the National Assembly before 10:00 on the day on which it is to be moved,

(ii) the proposed motion must comply with the criteria specified in Paragraph (c),

(iii) if the proposed motion complies with the specified criteria, the Secretary to the National Assembly must circulate it to all parties by 11:00 on that day, and

(iv) at least five parties including the majority party and the largest minority party have notified the Secretary to the National Assembly at least 30 minutes before the sitting of the House commences that they have no objection to the motion being moved without notice.

(e) If a proposed motion is preceded by another motion of the same substance that has already been approved or rejected on the same day, the proposed motion falls away and may not be read out and moved.

(f) If a member is not given the opportunity to read out and move the motion without notice in terms of Paragraph (d) or, for whatever reason, during the sequence of party participation the member fails to utilise the opportunity to move a motion without notice, the party to which that member belongs forfeits that opportunity.

(g) If a proposed motion without notice as submitted does not

comply with the specified criteria, the member or the member's party must be informed accordingly and the proposed motion without notice may be adjusted and resubmitted as a motion without notice for the next appropriate sitting day or be presented as a notice of motion.

(3) Members may be given an opportunity to move a motion without notice only on a sitting day of the House when motions without notice have been placed on the Order Paper in terms of Rule 44 read with Rule 47.

124. Notices of motion

(1) Members of each party are entitled to give notices of motion when recognised by the presiding officer for that purpose.

(2) The number of notices of motion on any sitting day and the period of time within which such motions must be completed on that day must be determined by the Programme Committee in accordance with Rule 210.

(3) Members must be given an opportunity to give notices of motion only on a sitting day of the House when notices of motion have been placed on the Order Paper in terms of Rule 44 read with Rule 47.

(4) A notice of motion in the form of a draft resolution must —

(a) be submitted in writing;

(b) deal with a subject within the competence of the National Assembly;

(c) be concise;

(d) refer to a single substantive matter; and

(e) comply with any other rules and orders of the House and relevant guidelines approved by the Rules Committee.

(5) A notice of motion in the form of a proposed subject for discussion must comply with the requirements of Subrule (4) and must additionally be limited to clearly identifying the proposed topic.

(6) When giving notice of a motion, a member must —

(a) read it aloud and immediately thereafter deliver at the Table a signed copy of the notice, which may not differ from the notice as read aloud; or

(b) deliver to the Secretary a signed copy of the notice on any parliamentary working day for placing on the Order Paper.

(7) Written notices of motion delivered to the Secretary in terms of Subrule (6)(b) after 12:00 on any parliamentary working day may be placed on the Order Paper only after the expiry of 24 hours, unless in a particular case the Speaker directs otherwise.

125. Acting for absent member

A member may give notice of a motion on behalf of an absent member, provided he or she has been authorised to do so by the absent member.

126. Speaker may disallow notices

The Speaker may disallow notices of motion which contravene the rules and orders of the House or directives and guidelines approved by the Rules Committee.

127. Motions on questions of privilege

An urgent motion directly concerning the privileges of the House must take precedence over other motions and orders of the day.

128. Withdrawal and lapsing of motion

(1) A member who has given notice of a motion may withdraw it at any time before being called upon to move it in the House.

(2) Once moved in the House, a motion may only be withdrawn with the unanimous concurrence of all the members present.

(3) A notice of motion on the Order Paper lapses —

(a) after a period as determined by the Rules Committee from time to time; or

(b) at the end of the day as specified in Rule 351.

Part 2: Motions of no confidence in terms of Section 102 of Constitution

129. Motions of no confidence in terms of Section 102 of Constitution

(1) A member may propose that a motion of no confidence in the Cabinet or the President in terms of Section 102 of the Constitution be placed on the Order Paper.

(2) The Speaker must accord such motion of no confidence due priority and before scheduling it must consult with the Leader of Government Business and the Chief Whip.

(3) The motion must comply, to the satisfaction of the Speaker, with the prescripts of any relevant law or any relevant rules and orders of the House and directives and guidelines approved by the Rules Committee, before being placed on the Order Paper, and must include the grounds on which the proposed vote of no confidence is based.

(4) The Speaker may request an amendment of, or in any other manner deal, with a notice of a motion of no confidence which contravenes the law, rules and orders of the House or directives and guidelines approved by the Rules Committee.

(5) After proper consultation and once the Speaker is satisfied that the motion of no confidence complies with the aforementioned prescribed law, rules and orders of the House and directives or guidelines of the Rules Committee, the Speaker must ensure that the motion of no confidence is scheduled, debated and voted on within a reasonable period of time given the programme of the Assembly.

(6) The debate on a motion of no confidence may not exceed the time allocated for it by the Speaker, after aforesaid consultation process.

(7) If a motion of no confidence cannot reasonably be scheduled by the last sitting day of an annual session, it must be scheduled for consideration as soon as possible in the next annual session.

(8) Rules 120, 123 and 127 do not apply to motions of no confidence in terms of this rule.

CHAPTER 8

DISCUSSION OF URGENT MATTERS OF NATIONAL PUBLIC IMPORTANCE

130. Urgent matter of national public importance

(1) A private member may request the Speaker in writing to schedule without delay an urgent matter of national public importance for discussion by the House.

(2) In submitting the request, the member must motivate why the matter is of so urgent a nature that it should be dealt with in terms of this rule.

(3) In granting such a request, depending on the urgency of the matter, the Speaker may at his or her discretion —

(a) if, on a sitting day, the request is received at least by midday, schedule the discussion for the same day;

(b) if the House is not programmed to meet at an early date that will accommodate the urgency of the matter, convene a special sitting of the House for the discussion; or

(c) schedule the matter for discussion at the earliest opportunity.

(4) If the Speaker grants the request, he or she must without delay inform the House, the Leader of Government Business and the responsible Minister of the date and time set for the discussion.

(5) Such a discussion may not exceed the time allocated for it by the Speaker, after consultation with the Leader of Government Business and the Chief Whip.

(6) In the absence of the responsible Minister, any other member of the executive may respond to the discussion on that Minister's behalf; provided that, at the Speaker's discretion, the discussion may proceed

even if no member of the executive is available to respond.

(7) There may only be one discussion in terms of this rule on a sitting day, and if the Speaker receives more than one request, he or she must decide which matter is more urgent or important.

(8) In exercising his or her discretion, the Speaker must apply the following criteria:

(a) Matters already discussed by the House during the same annual session may not be discussed under this rule;

(b) the matter must be raised at the earliest opportunity;

(c) the matter must be —

(i) of so serious a nature that it requires urgent attention, or

(ii) of sufficient immediate public importance to warrant it taking precedence over other programmed business;

(d) the request must deal with a matter of national importance for which the government can be held responsible, or that falls within the scope of ministerial action;

(e) the subject must relate to a specific matter of recent occurrence, and not to a general state of affairs or to a matter of policy;

(f) the matter must be defined and specific;

(g) the request must deal with only one substantive matter;

(h) the request will not be granted if the matter can be considered by some other means in the near future; and

(i) the sub judice rule (Rule 89) applies to such a discussion.

131. Withdrawal of scheduled discussion on matter of urgent public importance

The member who requested the discussion may request the Speaker to withdraw the scheduled discussion, provided that sufficient notice of such withdrawal is given.

CHAPTER 9

MEMBERS' STATEMENTS AND EXECUTIVE STATEMENTS

132. Statements by members

(1) A member, other than the Deputy President, a Minister or a Deputy Minister, may be recognised by the presiding officer to make a statement on any matter for not more than one and a half minutes.

(2) Members of each party are entitled to make a number of statements, minority parties being given an opportunity to participate in a manner consistent with democracy.

(3) If a member, for whatever reason, during the sequence of proceedings, fails to utilise the opportunity to make a statement, the party to which that member belongs forfeits that opportunity.

(4) The number of members' statements on any sitting day, the period of time within which such statements must be completed on that day and the sequence of party participation must be determined by the Rules Committee.

(5) At the conclusion of statements by members, a Minister or Deputy Minister present may be given an opportunity to respond, for not more than two minutes, to any statement.

(6) The number of permissible ministerial responses to members' statements must be determined by the Rules Committee.

(7) Statements are only taken on any sitting day when placed on the Order Paper in terms of Rule 44 read with Rule 47.

(8) The rules of debate apply to members' statements and ministerial responses.

133. Executive statements

(1) A Cabinet member may request the Speaker for an opportunity for that Cabinet member or the relevant Deputy Minister on behalf of that Cabinet member to make a factual or policy statement relating to government policy, any executive action or other similar matter of which the House should be informed.

(2) The time allotted to a Cabinet member making an executive statement in terms of Subrule (1), including any reply to party responses in terms of Subrule (7), may not exceed 20 minutes, except with the consent of the House.

(3) Whenever reasonably possible, a copy of an executive statement must be delivered to the leader of each party, or that leader's representative, at or before the time the statement is made in the House.

(4) After any executive statement has been made, the Cabinet member concerned may table relevant supporting papers.

(5) Following any executive statement, a member or members of each of the parties represented in the House may comment on the executive statement, the time allocated to each party for that purpose and the sequence for party comments to be determined by the Rules Committee.

(6) Party responses as envisaged in Subrule (5) may be postponed by agreement between the majority of parties represented in the House or by motion without notice in the House to a later date as determined by the Programme Committee in accordance with Rule 210.

(7) At the conclusion of party responses, the responsible Cabinet member or Deputy Minister must, subject to Subrule (2), be given an opportunity to reply.

CHAPTER 10
QUESTIONS

Part 1: General

134. Notice and placing of questions

(1) Except as otherwise provided in these rules or with the prior consent of the Speaker —

(a) notice must be given of each question by placing it on the Question Paper; and

(b) no question for oral reply may be asked on the day on which notice thereof is given.

(2) (a) A member may give notice of a question on any working day in accordance with these rules.

(b) A member who wants to give notice of a question must deliver to the Speaker, for placement on the Question Paper —

(i) a signed copy of the notice, or

(ii) an electronic copy of the notice, which must be accompanied by the member's electronic signature or originate from the member's email address, indicating the day on which the question will be put.

(c) A whip or representative of the member's party designated by the party may submit a notice in terms of Subrule (2)(a) on behalf of the member.

(3) Questions delivered to the Speaker before 12:00 on any working day in terms of Subrule (2) may appear on the Question Paper only after the expiry of 24 hours.

(4) Subject to these rules and any guidelines that may be approved by the Rules Committee, and in particular Rules 137(7) and 140, questions must be placed on the Question Paper in the order in which they are received.

(5) (a) No question may be addressed to any person other than a member of the Cabinet; and

(b) questions must relate to matters for which Cabinet members are officially responsible.

(6) If a notice of a question is not consistent with these rules or any guidelines that may be approved by the Rules Committee, the Speaker may either amend the question or return it to the member who submitted it.

135. Lapsing of questions

All questions on the Question Paper on the last sitting day of an annual session lapse 20 working days after the last sitting day.

136. Monitoring replies to questions

(1) The Speaker must in consultation with the Rules Committee establish a system to monitor and report regularly to the House on questions that have been endorsed as unanswered on the Question Paper in terms of Rules 143(2), 144(5) and 146(3).

(2) The Leader of Government Business must be informed of any steps taken in respect of any member of the executive in giving effect to the monitoring of replies and the application of Rules 143 to 146.

Part 2: Questions for oral reply

137. Form and arrangement of questions

(1) A member who wants an oral reply to a question must write the words "for oral reply" on the copy of the notice of the question delivered to the Speaker in terms of Rule 134(2).

(2) A question for oral reply must be concise and may not contain more than two subdivisions.

(3) If the Speaker is of the opinion that a question comprises matters of a substantively statistical nature, the Speaker may direct that the question be placed on the Question Paper for written reply.

(4) Questions for oral reply are limited to two questions per member per question day.

(5) (a) The restrictions imposed by Subrule (4) and by Rules 138(7), 139(3) and 140(3) do not apply to questions —

(i) approved as urgent questions in terms of Rule 141,

(ii) standing over in terms of Rule 144(1) or (3), or

(iii) transferred from written to oral reply in terms of Rule 146.

(b) If a question referred to in Paragraphs (a)(i) to (iii) is included on a Question Paper for a particular day, an additional 30 minutes must be added to the question time for that day.

(6) A question that is submitted for oral reply must be placed on the Question Paper for reply at least six working days prior to the question day on which it is to be replied to.

(7) An authorised representative of a party may before 12:00 on the day after questions for a particular question day appear on the Question Paper for the first time, notify the Speaker in writing of the order in which questions put by members of that party are to be placed on the Question Paper.

(8) Questions that cannot be placed on the Question Paper for oral reply because of quotas must be placed as questions for written reply.

(9) The sequence of questions on the Question Paper rotates without interruption for the duration of an annual session according to the order in which members of the respective parties may put questions, such order being determined by the Rules Committee from time to time.

(10) (a) If the member in whose name a question appears on the Question Paper is absent on the day when the question is to be replied to, another member authorised by the absent member may take charge of the question after having timeously notified the presiding officer, where possible.

(b) If another member has not been authorised to take charge of a question as contemplated in Paragraph (a), the relevant member of the executive must still reply to the question after which, notwithstanding Rule 142(5), the presiding officer permits four supplementary questions, each of one minute's duration.

138. Questions to Ministers

(1) Questions for oral reply by Ministers must be dealt with in accordance with a clustered system of government portfolios, as determined by the Rules Committee from time to time and published in the ATC.

(2) The clusters rotate on a weekly basis, so that, subject to Subrules (5) and (6), questions relating to each cluster are answered in succession in accordance with the agreed system.

(3) A Minister may authorise his or her Deputy Minister to reply to a question directed at that Minister, provided the Deputy Minister is able also to respond competently to any permissible supplementary questions that may be asked.

(4) If a Minister and his or her Deputy Minister are absent on a day when questions relating to the relevant Ministry are to be answered, the Minister may authorise another Cabinet member to reply to a question directed at that Minister, provided the Cabinet member so authorised is able also to respond competently to any permissible supplementary questions that may be asked.

(5) If a Minister is absent on a day when a question relating to the relevant cluster is called and the question is not answered by the Deputy Minister concerned or another Cabinet member in accordance with Subrules (3) and (4), the Speaker may, if requested to do so by the member in whose name the question to that Minister stands, and after consultation with the Leader of Government Business, direct that —

(a) such question to that Minister be placed on the Question Paper for the first question session for Ministers following that day; and

(b) an additional 30 minutes be added to the question time for that session.

(6) Questions to Ministers must not be scheduled for a day on which the President is scheduled to answer questions in the Assembly.

(7) The number of questions to a Minister is limited to 10 questions per question day in respect of any one department of state.

(8) Where the order in which questions are put to Ministers according to Rule 137(9) is interrupted at the end of a question session, the next question session to Ministers starts from the point where the order was so interrupted.

139. Questions to Deputy President

(1) Questions to the Deputy President must be scheduled by the Programme Committee in accordance with Rule 210 for a question day once per month during session time in accordance with the annual programme of the Assembly, outside of the question time for Ministers; provided that —

(a) questions to the Deputy President may not be scheduled for any week in which questions to the President are scheduled; and

(b) the Programme Committee must further determine which months qualify as months during session time within the annual programme for purposes of this rule.

(2) Questions to the Deputy President must be limited to matters of national and international importance, as assigned to him or her by the President.

(3) The number of questions to the Deputy President is limited to six questions per question day.

(4) The total time allowed for replies to questions and associated supplementary questions under this rule is limited to a maximum of three hours.

(5) Where the order in which questions are put to the Deputy President according to Rule 137(9) is interrupted at the end of a question session to the Deputy President, the next question session to the Deputy President starts from the point where the order was so interrupted.

(6) Questions to the Deputy President must be submitted to the Speaker at least 16 calendar days before the question day on which they are to be answered, for the Speaker's approval as complying with these rules and the guidelines determined by the Rules Committee.

140. Questions to President

(1) Questions to the President must be —

(a) scheduled in accordance with Rule 210 for a question day at least once per quarter during session time within the annual programme; and

(b) limited to matters of national and international importance.

(2) Questions to the President must be submitted to the Speaker at least 16 calendar days before the question day on which they are to be answered, for the Speaker's approval as complying with these rules and the guidelines determined by the Rules Committee.

(3) The number of questions to the President is limited to six questions per question day.

(4) The total time allowed for replies to questions and associated supplementary questions under this rule is limited to a maximum of three hours.

(5) Where the party sequence in which questions are put to the President according to Rule 137(9) is interrupted at the end of a question session, the next question session to the President starts from the point where the sequence was so interrupted.

141. Urgent questions

(1) A member may request the Speaker in writing to allow an urgent question for oral reply to be put to —

(a) the relevant Minister at the next question session for Ministers in the House, regardless of whether that Minister falls within the ministerial cluster for that day; or

(b) the President or the Deputy President on the next applicable question day.

(2) A member who wants to put an urgent question in terms of Subrule (1) must deliver a signed copy of the question to the Speaker before 12:00 on the day preceding the question day on which the question is to be answered, clearly indicating that it is an urgent question.

(3) In submitting the request, the member must motivate why the question is so urgent that it must be dealt with in terms of this rule.

(4) The Speaker must consult the Leader of Government Business before approving an urgent question.

(5) An approved urgent question takes precedence over all other questions on the relevant question day.

142. Times allotted and time limits

(1) Questions for oral reply have precedence on Wednesdays, unless the Programme Committee determines otherwise in accordance with Rule 210.

(2) The time allotted for questions is three hours.

(3) The reply to a question is limited to four minutes, but if the presiding officer is of the opinion that the matter is of sufficient importance, an additional two minutes may be allowed.

(4) In respect of each question, four supplementary questions may be asked, the member in whose name a question stands or who takes charge of a question in terms of Rule 137(10) being given the first opportunity to ask a supplementary question.

(5) A member who asks a supplementary question may make a statement or express an opinion, but the time allowed for the first supplementary question is limited to two minutes and for subsequent supplementary questions one minute.

(6) A supplementary question must arise directly from the original question and the reply given thereto and may not constitute a new question.

(7) A supplementary question may not consist of more than one question.

(8) The reply to a supplementary question is limited to two minutes.

(9) The provisions of Subrules (1), (2), (3) and (8) do not apply to questions to the Deputy President and the President.

143. Unanswered questions for oral reply

(1) Replies to questions for oral reply which have not been reached at the end of the time allotted on a question day must be submitted in writing to the Speaker on the same day for appropriate distribution and inclusion in the Official Report of the Debates of the Assembly.

(2) If a reply to such a question is not received by the Speaker on the question day concerned, the question must be regarded as unanswered and the question must be endorsed on the Question Paper to that effect.

144. Questions for oral reply standing over

(1) A question for oral reply must stand over if the Minister to whom it is addressed —

(a) so requests, either in the Assembly when the question is called for reply, or by notice in writing to the Speaker before the start of question time on the day for which it is on the Question Paper; or

(b) is not present in the Assembly when the question is called for reply and the question is not replied to by the relevant Deputy Minister or another Cabinet member on his or her behalf in terms of Rule 138(3).

(2) Subject to a direction by the Speaker under Rule 138(5), a question that stands over in terms of Subrule (1) must be —

(a) placed on the Question Paper for reply on the next question day on which the relevant Minister is scheduled to reply to questions; and

(b) published at the end of the Question Paper, but may be prioritised in terms of Rule 137(7); provided that if more than one question is to be so published, the questions must be published in the order in which they previously appeared.

(3) A question for oral reply may not stand over more than once and is regarded as unanswered, unless the relevant Minister offers a valid reason —

(a) in the Assembly for requesting that it stand over again, when the question is called for reply; or

(b) in writing to the Speaker for being absent from the House on the question day for which it has been set down in terms of Subrule (2);

or the Speaker determines otherwise.

(4) If a question stands over again in terms of Subrule (3), the member in whose name the question stands may again request the Speaker that the question be placed on the Question Paper for the first question session for Ministers following that day in terms of Rule 138(5).

(5) If a question standing over is not answered, either orally or in terms of Rule 143(1), the Question Paper must be endorsed to the effect that the question has not been replied to.

Part 3: Questions for written reply

145. Form and placing of questions

(1) A question for written reply may be placed on the Question Paper for any working day.

(2) A question for written reply may not contain more than 10 subdivisions.

(3) Questions for written reply are limited to three questions per member per week.

(4) The restriction imposed by Subrule (3) does not apply to questions referred to in Rule 137(8).

(5) (a) A question for written reply must be replied to within 10 working days, provided that the responsible Minister may in writing request the Speaker for an extension not exceeding a further 10 working days on good cause shown.

(b) If the Speaker approves a request for an extension in terms of Paragraph (a), the member in whose name the question stands must be informed accordingly and the extension must be recorded on the Question Paper.

146. Written reply not given

(1) If the responsible Cabinet member has not replied in writing to a question within 10 working days of the day for which the question was set down for written reply or within the period of an extension approved by the Speaker in terms of Rule 145(5), and the member in whose name the question stands, or who takes charge of a question in terms of Rule 137(10), so requests, the Speaker must place the question on the Question Paper for oral reply.

(2) If a reply to a question placed on the Question Paper for oral reply in terms of Subrule (1) is submitted in writing to the Speaker not later than 12:00 on the question day on which it is to be replied to, the question must not be called in the House.

(3) If a written reply has not been received within 10 working days or within the period of an extension approved by the Speaker in terms of Rule 145(5), subject to Subrule (1) the Question Paper must be endorsed to the effect that the question has not been replied to, and the Speaker must inform the Leader of Government Business accordingly.

CHAPTER 11
MESSAGES

147. Messages from Council

A message received from the Council must be recorded in the ATC, or be made known in such other manner as the Speaker may determine.

148. Messages to President of the Republic

A message from the House to the President of the Republic must be signed and communicated by the Speaker.

149. Messages from President of the Republic

(1) All communications from the President of the Republic to the House must, if he or she does not attend a sitting of the House or a joint sitting, be by message.

(2) The message must be presented to the House by the presiding officer, may in the discretion of the presiding officer be read out by him or her, and must be printed in the ATC, or in the Minutes of Proceedings if the message is read out in the House.

(3) The consideration of the message may be placed on the Order Paper, or the presiding officer may interrupt business at the request of the Leader of Government Business in order that precedence may be given to the consideration of the message; provided that a message whereby the President of the Republic calls a sitting of Parliament in terms of Section 42(5) of the Constitution may not be considered.

CHAPTER 12
COMMITTEE SYSTEM

Part 1: Introduction

150. List of committees

(1) The Assembly has the following committees —

(a) as established by these rules:

(i) the Rules Committee established by Rule 190;

(ii) the Programme Committee established by Rule 205;

(iii) the Disciplinary Committee established by Rule 216;

(iv) the Forum of Committee Chairpersons established by Rule 221;

(v) the portfolio committees that must be established in terms of Rule 225;

(vi) the Standing Committee on Public Accounts established by Rule 243;

(vii) ad hoc committees that may be established in terms of Rule 253; and

(viii) the Chief Whips' Forum established by Rule 256; and

(b) as established by these rules in terms of legislation:

(i) the Powers and Privileges Committee established by Rule 211;

(ii) the Standing Committee on Finance established by Rule 230;

(iii) the Standing Committee on Appropriations established by Rule 236; and

(iv) the Standing Committee on the Auditor-General established by Rule 249.

(2) Other committees may be established but only by resolution of the Assembly.

(3) If a proposal to establish a committee is contained in draft legislation before a portfolio committee, that committee must first refer the proposal to the Rules Committee for a report and recommendation before that committee considers the proposal.

(4) The Assembly participates in joint committees and other joint structures in accordance with the Joint Rules.

151. Subcommittees

(1) A committee —

(a) has such subcommittees as are established by these rules; and

(b) may appoint a subcommittee only when —

(i) there is provision for such appointment in these rules, or

(ii) authorised by resolution of the Assembly.

(2) Subrule (1) does not prevent a committee from assigning a task to one or more of its members for a purely internal or administrative purpose.

(3) If a proposal to establish a subcommittee is contained in draft legislation before a portfolio committee, that committee must first refer the proposal to the Rules Committee for a report and recommendation before that committee considers the proposal.

152. Application of rules to committees and subcommittees established in terms of legislation

These rules also apply to a committee or subcommittee established in terms of legislation, and in such application the committee or subcommittee must be regarded as having been established in terms of these rules.

Part 2: Rules applicable to committees generally

153. Application of this part

The provisions of this part apply to all committees established by or in terms of these rules except in so far as any of these provisions is inconsistent with —

(a) another provision of these rules applicable in a specific case; or

(b) a resolution of the Assembly.

154. Composition

(1) Parties are entitled to be represented in committees in substantially the same proportion as the proportion in which they are represented in the Assembly, except where —

(a) these rules prescribe the composition of the committee; or

(b) the number of members in the committee does not allow for all parties to be represented.

(2) Subject to these rules, the Joint Rules and decisions of the Rules Committee, and where practicably possible, each party is entitled to at least one representative in a committee.

155. Appointment procedures

(1) Unless these rules provide otherwise, the parties appoint the members of a committee and advise the Speaker accordingly.

(2) Parties must appoint their members within five working days after the establishment of a committee by the House.

(3) The names of the members appointed, and alternates appointed in terms of Rule 156, must be published in the ATC without delay.

156. Alternates

(1) Alternates may be appointed for one or more specific members of a committee.

(2) An alternate acts as a member when the member for which the alternate was appointed —

(a) is absent; or

(b) has vacated office, until the vacancy is filled.

157. Term of office

(1) Subject to Section 49(4) of the Constitution, members of a committee and alternates for members are appointed until the Assembly's term expires or the Assembly is dissolved, whichever occurs first.

(2) A member of a committee ceases to be a member and an alternate for a member ceases to be an alternate if a whip of the party to which that member or alternate belongs, or a designated representative of that party, gives notice to the Speaker, in writing, that the member or alternate is to be replaced or withdrawn.

158. Chairpersons

(1) A committee must elect one of its members as the chairperson of the committee.

(2) The chairperson of a committee, subject to other provisions of these rules and directions of the committee —

(a) presides at meetings of the committee;

(b) may act in any matter on behalf of and in the best interest of the committee when it is not practical to arrange a meeting of the committee to discuss that matter, if that matter concerns —

(i) a request by a person to give evidence or make oral representations to the committee,

(ii) any other request to the committee, and

(iii) the initiation of any steps or decisions necessary for the committee to perform its functions or exercise its powers;

(c) performs the functions, tasks and duties and exercises the powers that the committee, resolutions of the Assembly and legislation may assign to the chairperson; and

(d) in the event of an equality of votes on any question before the committee, must exercise a casting vote in addition to the chairperson's vote as a member.

(3) The chairperson must report to the committee on any steps taken in terms of Subrule (2)(b).

159. Acting chairpersons

(1) If the chairperson of a committee is absent or unable to perform the functions of chairperson, the committee must elect another of its members as acting chairperson.

(2) An acting chairperson performs the functions and may exercise the powers of the chairperson.

160. First meetings

(1) The Secretary must call a meeting of a committee within five working days after the names of the members of the committee have been announced.

(2) If a party or parties have not appointed their members in time, as provided for in Rule 155(2), the Secretary must call a meeting of the committee within five working days after a sufficient number of members have been appointed to form a quorum in terms of Rule 162(2).

(3) If the Assembly is in recess, the Secretary must notify the members of the committee, the Chief Whip and the most senior whip of each of the other parties of the time and place of the meeting at least 14 days before the meeting.

161. Meetings

(1) Committees meet whenever necessary and as determined in accordance with these rules and the decisions, directives and guidelines of the Programme Committee in accordance with Rule 210.

(2) A meeting of a committee may be called in terms of Subrule (1) —

(a) by the chairperson of the committee; or

(b) by resolution of the Assembly.

(3) If at least one third of the members of a committee, in writing, request the chairperson of the committee to call a meeting of the committee, the chairperson must call the meeting within a reasonable time.

162. Quorum requirements

(1) A committee at all times requires at least one third of its members to be present for it to conduct any business.

(2) A majority of the members of a committee must be present for it to decide any question.

(3) When a committee has to decide a question and a quorum in terms of Subrule (2) is not present, the chairperson may either suspend business until a quorum is present, or adjourn the meeting.

163. Co-option when members and alternates not available

If a member of a committee and that member's alternate are both absent from a meeting of the committee, the chairperson may co-opt any other Assembly member from the same party to act as a member of the committee until that committee member or the alternate member is no longer absent.

164. Interruption, suspension or adjournment

The chairperson of a committee —

(a) may interrupt or suspend the proceedings or adjourn the meeting; and

(b) may change the date for the resumption of business, provided reasonable notice is given.

165. Information reflecting upon integrity of members

If any information reflecting upon the integrity of an Assembly member comes before a committee, the committee may not proceed upon that information, but must report it to the Speaker without delay.

166. Reporting

(1) A committee must report to the Assembly on a matter referred to the committee —

(a) when the Assembly is to decide the matter in terms of these rules, the Joint Rules, a resolution of the Assembly or legislation;

(b) if the committee has taken a decision on the matter, whether or not the Assembly is to decide the matter as contemplated in Paragraph (a); or

(c) if the committee is unable to decide a matter referred to it for report.

(2) A committee must report to the Assembly on —

(a) all other decisions taken by it, except those decisions concerning its internal business; and

(b) its activities at least once per year.

(3) A report of a committee —

(a) must be formally adopted by the committee;

(b) must be submitted to the Assembly by the chairperson or another member of the committee designated by the committee; and

(c) may request that the chairperson or another member of the committee designated by the committee introduces or explains the report in the Assembly.

(4) (a) A committee may not submit a minority report.

(b) If a report is not a unanimous report, it must —

(i) specify in which respects there was not consensus, and

(ii) in addition to the views representative of the majority in the committee, express any views of a minority in the committee.

(5) If a committee reports on a matter other than a matter mentioned in Subrule (1)(a) and is of the view that its report, or a specific matter mentioned in the report, should be considered by the Assembly, it may make a request to that effect in the report.

167. General powers

For the purposes of performing its functions a committee may, subject to the Constitution, legislation, the other provisions of these rules and resolutions of the Assembly —

(a) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;

(b) receive petitions, representations or submissions from interested persons or institutions;

(c) permit oral evidence on petitions, representations, submissions and any other matter before the committee;

(d) conduct public hearings;

(e) consult any Assembly or Council committee or subcommittee, or any joint committee or subcommittee;

(f) determine its own working arrangements;

(g) meet at a venue determined by it, which may be a venue beyond the seat of Parliament;

(h) meet on any day and at any time, including —

(i) on a day which is not a working day,

(ii) on a day on which the Assembly is not sitting,

(iii) at a time when the Assembly is sitting, or

(iv) during a recess; and

(i) exercise any other powers assigned to it by the Constitution, legislation, the other provisions of these rules or resolutions of the Assembly.

168. Privilege of witnesses

Prior to a witness giving evidence before a House or committee, the chairperson must in accordance with Section 16 of the Powers and Privileges Act inform the witness as follows:

> *"Please be informed that by law you are required to answer fully and satisfactorily all the questions lawfully put to you, or to produce any document that you are required to produce, in connection with the subject matter of the enquiry, notwithstanding the fact that the answer or the document could incriminate you or expose you to criminal or civil proceedings, or damages. You are, however, protected in that evidence given under oath or affirmation before a House or committee may not be used against you in any court or place outside Parliament, except in criminal proceedings concerning a charge of perjury or a charge relating to the evidence or documents required in these proceedings."*

169. Conferring powers of committees

(1) A committee may confer with any other committee of the Assembly.

(2) Committees must confer —

(a) if the Assembly instructs them to confer; or

(b) during a recess, if the Speaker, with the concurrence of the Chief Whip, instructs them to confer.

(3) When committees meet to confer, the chairpersons of the respective committees co-chair the meeting.

(4) Committees conferring in terms of Subrule (1) may report jointly, subject to the provisions of Rule 228(2).

(5) If a committee is unable to meet to confer with another committee within reasonable time frames, the committee may invite the other committee to convey its views in writing.

170. Public involvement

Committees must ensure public involvement in accordance with the provisions of the Constitution and these rules.

Part 3: Rules applicable to subcommittees generally

171. Application of this part

The provisions of this part apply to all subcommittees established by or in terms of these rules except in so far as any of these provisions is inconsistent with —

(a) another provision of these rules applicable in a specific case; or

(b) a resolution of the Assembly.

172. General rules

(1) A subcommittee established by or in terms of these rules —

(a) is accountable to its parent committee;

(b) must carry out its task and responsibilities within a policy framework determined by its parent committee and in accordance with these rules and any directives, guidelines or regulations issued by the parent committee;

(c) may consult any Assembly or Council committee or subcommittee, or any joint committee or subcommittee;

(d) may determine its own working arrangements, subject to these rules, any directives of the parent committee or resolutions of the Assembly;

(e) may only make recommendations to its parent committee; and

(f) must report to its parent committee regularly or when requested by the parent committee.

(2) The parent committee of a subcommittee —

(a) must appoint the members of the subcommittee from among its members;

(b) may, if appropriate, determine a period within which the subcommittee must complete its task;

(c) must determine the extent, nature and form of the subcommittee's reports to the committee, and time limits for the submission of a report;

(d) may delegate any of its powers to the subcommittee necessary for the subcommittee to perform its task; and

(e) may instruct the subcommittee to perform any of its functions.

173. Alternates

(1) A parent committee may appoint alternates from among its members for one or more specific members of a subcommittee.

(2) An alternate acts as a member when the member for which the alternate was appointed —

(a) is absent; or

(b) has vacated office, until the vacancy is filled.

174. Term of office

(1) Subject to Section 49(4) of the Constitution, the members of a subcommittee established by a provision of these rules and any alternates for those members are appointed until the Assembly's term expires or the Assembly is dissolved, whichever occurs first.

(2) A subcommittee established by a committee in terms of a provision of these rules ceases to exist —

(a) when it has completed the task for which it was established; or

(b) if it is dissolved earlier by the parent committee.

(3) (a) A member of a subcommittee ceases to be a member and an alternate for a member ceases to be an alternate if a whip of the party to which that member or alternate belongs gives notice to the Speaker, in writing, that the member or alternate is to be replaced or withdrawn.

(b) The written notice to the Speaker in terms of Subrule (3)(a) must be copied to the parent committee.

175. Chairpersons

(1) The parent committee of a subcommittee must designate a member of the subcommittee as the chairperson of the subcommittee.

(2) The chairperson of a subcommittee, subject to the other provisions of these rules and the directions of the parent committee —

(a) presides at meetings of the subcommittee;

(b) may act in any matter on behalf of and in the best interest of the subcommittee when it is not practical to arrange a meeting of the subcommittee to discuss that matter, if that matter concerns —

(i) a request by a person to give evidence or make oral representations to the subcommittee,

(ii) any other request to the subcommittee, and

(iii) the initiation of any steps or decisions necessary for the subcommittee to perform its functions or exercise its powers; and

(c) performs the functions, tasks and duties and exercises the powers that the parent committee, resolutions of the Assembly and legislation may assign to the chairperson.

(3) The chairperson must report to the subcommittee on any steps taken in terms of Subrule (2)(b).

176. Acting chairpersons

(1) If the chairperson of a subcommittee is absent or unable to perform the functions of chairperson, the subcommittee must elect another of its members as acting chairperson.

(2) An acting chairperson performs the functions and exercises the powers of the chairperson.

177. Meetings

(1) Subcommittees meet whenever necessary and as determined in accordance with these rules and the decisions, directives and guidelines of the Programme Committee in accordance with Rule 210.

(2) A meeting of a subcommittee may be called in terms of Subrule (1) by —

(a) the chairperson of the subcommittee;

(b) the parent committee; or

(c) the chairperson of the parent committee.

178. Matters relating to quorum

A subcommittee may proceed with business irrespective of the number of members present.

179. Decisions

(1) A question before a subcommittee is decided by consensus.

(2) If consensus cannot be reached, all views in the subcommittee on the question must be reported to the parent committee.

180. General powers

A subcommittee has the powers listed in Rule 167 only when assigned to it in terms of these rules or by a resolution of the Assembly.

Part 4: Rules applicable to both committees and subcommittees generally

181. Application of this part

The provisions of this part apply to all committees and subcommittees established by or in terms of these rules except in so far as any of these provisions is inconsistent with —

(a) another provision of these rules applicable in a specific case; or

(b) a resolution of the Assembly.

182. Conduct of members

Members must at all times conduct themselves in a manner befitting the dignity and decorum of a forum of the Assembly.

183. Persons appearing before committees

Any person, including counsel and attorneys, appearing before a committee or subcommittee must observe the directions and conform to the procedures determined by the chairperson of the committee or subcommittee.

184. Admission of public

(1) Meetings of committees and subcommittees are open to the public, including the media, and the chairperson of the committee or subcommittee may not exclude the public, including the media, from the meeting, except when —

(a) legislation, these rules or resolutions of the Assembly provide for the committee or subcommittee to meet in closed session; or

(b) the committee or subcommittee is considering a matter which is —

(i) of a private nature that is prejudicial to a particular person,

(ii) protected under parliamentary privilege, or for any other reason privileged in terms of the law, or

(iii) confidential in terms of legislation,

the nature of which is such that its confidential treatment is reasonable and justifiable in an open and democratic society.

(2) A decision in terms of Subrule (1) to exclude the public must be taken, after due consideration, by the committee or subcommittee concerned, provided that the chairperson of the committee or subcommittee may at any time —

(a) before the start of the meeting rule that the meeting must take place in closed session, but the committee or subcommittee may at any time after the start of the meeting open the meeting; or

(b) close the meeting for a decision by the committee or subcommittee whether the matter should be considered in closed session.

(3) The Speaker must —

(a) set aside places for the public in the committee rooms; and

(b) determine the entrances and routes through which the public can obtain access to these places.

(4) The Speaker may take reasonable measures —

(a) to regulate public access, including access of the media, to the committees and subcommittees;

(b) to prevent and control misconduct of the public in committee rooms; and

(c) to provide for the searching of any person, including that person's vehicle or other property in that person's possession, and, where appropriate, the refusal of entry to, or the removal of, any person.

185. Presence of other Assembly members

(1) A member of the Assembly who is not a member of the committee or subcommittee may be present at a meeting of the committee or subcommittee.

(2) A member mentioned in Subrule (1) who is present at a meeting of a committee or subcommittee —

(a) may speak on a matter before the committee or subcommittee subject to any reasonable restrictions the chairperson may impose; and

(b) may not vote except when the vote is cast as an alternate in terms of Rule 156.

186. Exclusion of members of public from meetings

The chairperson of a committee or subcommittee may —

(a) order a member of the public to leave the meeting —

(i) when the public is excluded from a meeting in terms of Rule 184(1), or

(ii) when necessary to give effect to the measures taken under Rule 184(3); or

(b) order a person referred to in Rule 183 to leave the meeting if that person does not comply with a ruling of the chairperson.

187. Exclusion of other persons from meetings

When the public is excluded from a meeting of a committee or subcommittee in terms of Rule 184(1), the chairperson may order a staff member, a government official and any other person not deemed a member of the public, excluding a member of the Assembly, also to leave the meeting.

188. Removal of persons

When instructed by the chairperson of a committee or subcommittee, the Serjeant-at-Arms must remove or arrange for the removal of any person who —

(a) without permission, is present in that part of a committee room designated for members of the committee or subcommittee only;

(b) disrupts the proceedings of the committee or subcommittee or causes a nuisance; or

(c) does not leave when ordered to leave under Rule 186 or 187.

189. Publication or disclosure of proceedings, evidence, reports, etc

(1) All documents officially before, or emanating from, a committee or subcommittee are open to the public, including the media, but the following documents may not be published, and their contents may not be disclosed, except with the permission of the committee, or the parent committee in the case of a subcommittee, or by order of the Speaker, or by resolution of the Assembly:

(a) The proceedings of, or evidence taken by or placed before, the committee or subcommittee while the public were excluded from a meeting in terms of Rule 184(1);

(b) any report or summary of such proceedings or evidence; and

(c) any document placed before or presented to the committee or subcommittee as a confidential document and declared by it as a confidential document;

(d) any document —

(i) submitted or to be submitted to members of the committee or subcommittee as a confidential document by order of the chairperson of the committee or subcommittee, or

(ii) after its submission to members, declared by the chairperson as a confidential document.

(2) The permission, order or resolution authorising the publication, or the disclosure of the contents, of documents mentioned in Subrule (1) may provide that specific parts of, or names mentioned in, the document may not be published or disclosed.

(3) For the purposes of Subrule (1) a document is officially before a committee or subcommittee when —

(a) the chairperson places the document, or permits the document to be placed, before the committee or subcommittee; or

(b) a person appearing before the committee or subcommittee as a witness or to make representations presents the document to the committee or subcommittee.

(4) Subrules (1)(c) and (d) apply only to documents that —

(a) contain information of a private nature that is prejudicial to a particular person;

(b) are protected under parliamentary privilege, or for any other reason are privileged in terms of the law;

(c) are confidential in terms of legislation; or

(d) are subject to a media embargo, until the embargo expires,

the nature of which is such that its confidential treatment is reasonable and justifiable in an open and democratic society.

Part 5: Rules Committee

190. Establishment

There is a Rules Committee.

191. Composition

(1) Unless the House by resolution decides otherwise, the Rules Committee consists of —

(a) in their capacity of elected office-bearers —

(i) the Speaker, and

(ii) the Deputy Speaker; and

(b) in their capacity as party representatives —

(i) the Chief Whip and nine other members of the majority party,

(ii) the Chief Whip of the largest opposition party and two other members of that party,

(iii) two members of the second largest opposition party, and

(iv) two members representative of other parties,

appointed by the Speaker as members of the Rules Committee.

(2) Alternate members may be appointed for the party representatives referred to in Subrule (1)(b).

(3) The House Chairpersons and other members may attend and participate in Rules Committee meetings in accordance with Rule 185.

192. Chairperson

(1) The Speaker is the chairperson of the Rules Committee.

(2) If the Speaker is not available, the Deputy Speaker performs the functions of the Speaker.

193. Functions and powers

(1) The Rules Committee may —

(a) develop and formulate policy proposals concerning the exclusive business of the Assembly in respect of the proceedings, procedures, rules, orders and practices concerning the business of the Assembly;

(b) monitor and oversee the implementation of policy on all matters referred to in Paragraph (a);

(c) make recommendations to the Joint Rules Committee on any matter falling within the functions and powers of the Rules Committee;

(d) lay down guidelines and issue directives regarding any aspect of policy referred to in this rule;

(e) appoint committees or subcommittees to assist it with the performance of any of its functions or the exercise of any of its powers;

(f) recommend to the Assembly for adoption rules and orders and other policy proposals concerning the business of the Assembly; and

(g) perform any other functions assigned to it by legislation, other provisions of these rules or resolutions of the Assembly.

(2) The committee may deal with a matter falling within its functions and powers —

(a) on its own initiative; or

(b) when referred to it for consideration and report by —

(i) the Assembly, or

(ii) the Speaker.

194. Implementation of policy

(1) The responsibility for the implementation of policy determined by the Rules Committee vests in the Speaker, subject to the decisions of the Rules Committee and resolutions of the Assembly.

(2) The Speaker, with the concurrence of the Rules Committee, may appoint task teams to assist the Speaker in executing the responsibility mentioned in Subrule (1).

195. Quorum

(1) The Rules Committee requires at least one third of its members or alternates referred to in Rules 191(1) and (2) to be present for it to conduct any business.

(2) A majority of the members must be present for it to decide any question.

196. Decisions

A question before the Rules Committee is decided when there is a quorum present in terms of Rule 195(2) and there is agreement on the question among the majority of the members present.

197. Subcommittees

(1) The Rules Committee has the following subcommittees:

(a) Subcommittee on Review of Assembly Rules;

(b) Subcommittee on Physical Removal of Member from Chamber; and

(c) any other subcommittee appointed in terms of Rule 193(1(e).

(2) When the Rules Committee appoints the members of a subcommittee, the committee —

(a) is not restricted to the members of the Rules Committee; and

(b) may appoint any Assembly member.

(3) A subcommittee of the Rules Committee may take a matter to a joint subcommittee of the Joint Rules Committee only if authorised by the Rules Committee.

Subcommittee on Review of Assembly Rules

198. Composition

The Subcommittee on Review of Assembly Rules consists of the number of members and party representation as determined by the Rules Committee.

199. Chairperson

The Rules Committee must appoint one of the members of the subcommittee as the chairperson of the subcommittee.

200. Functions and powers

The subcommittee may —

(a) make recommendations to the Rules Committee regarding —

(i) the proceedings, procedures, rules, orders and practices of the Assembly, and

(ii) the development, formulation or adoption of policy on a matter mentioned in Subparagraph (i); and

(b) perform any other function and exercise any other power assigned to it by the Rules Committee.

Subcommittee on Physical Removal of Member from Chamber

201. Composition

The Subcommittee on Physical Removal of Member from Chamber consists of —

(a) the Deputy Speaker, or if the Deputy Speaker presided in the Chamber at the time when the member was physically removed, a House Chairperson designated by the Speaker;

(b) a senior whip from each party in the Assembly nominated by the party; and

(c) any other member that may be designated by the Speaker.

202. Chairperson

The Deputy Speaker or, as appropriate, the House Chairperson as provided for in Rule 201(a) is the chairperson of the subcommittee.

203. Functions and powers

(1) 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 —

(a) the conduct of the member concerned;

(b) the ruling by the relevant presiding officer; and

(c) the manner in which the member was removed.

(2) In carrying out its function, the subcommittee may exercise such powers contained in Rule 167 as it may require.

(3) 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.

(4) The subcommittee must report its findings to the Rules Committee within 10 working days, including any recommendations it may make based on those findings.

204. Public access

Meetings of the subcommittee are held in public but may be closed if the subcommittee so decides in accordance with Rule 184.

Part 6: Programme Committee

205. Establishment

There is a Programme Committee.

206. Composition

The Programme Committee consists of —

(a) the Speaker;

(b) the Deputy Speaker;

(c) the Leader of Government Business or a designated representative;

(d) the House Chairpersons;

(e) the Chief Whip;

(f) the deputy chief whip of the majority party in the Assembly;

(g) the whip of the majority party responsible for programming; and

(h) the number of party representatives that the Speaker may determine with the concurrence of the Rules Committee, provided that each party is entitled to at least one representative on the committee.

207. Chairperson

(1) The Speaker is the chairperson of the Programme Committee.

(2) If the Speaker is not available, the Deputy Speaker presides at a meeting of the committee.

208. Functions and powers

The Programme Committee, subject to Rule 210 —

(a) must prepare and, if necessary, from time to time adjust the annual programme of the Assembly, subject to any relevant decisions of the Joint Programme Committee;

(b) must monitor and oversee the implementation of Parliament's annual programme in the Assembly, including the legislative programme;

(c) must implement the rules regarding the scheduling or programming of the business of the Assembly, and the functioning of Assembly committees and subcommittees;

(d) may make recommendations to the Joint Programme Committee on any matter falling within the functions and powers of that committee; and

(e) may take decisions and issue directives and guidelines to prioritise or postpone any business of the Assembly, but when the committee prioritises or postpones any government business in the Assembly it must act in consultation with the Leader of Government Business.

209. Quorum

The committee may proceed with its business irrespective of the number of members present.

210. Decisions

(1) Decisions are taken in the Programme Committee by consensus.

(2) If consensus cannot be reached on a question before the Programme Committee, a decision on the question may be taken, at the meeting

or subsequently, by the Chief Whip with the concurrence of the Speaker and the Leader of Government Business in accordance with Rule 44.

(3) If a decision is taken subsequently in terms of Subrule (2), the decision must be communicated to all parties without delay.

Part 7: Powers and Privileges Committee

211. Establishment

There is a Powers and Privileges Committee as required by Section 12 of the Powers and Privileges Act.

212. Composition

(1) The committee consists of the number of Assembly members that the Speaker may determine with the concurrence of the Rules Committee, subject to the provisions of Rule 154.

(2) The committee must elect a chairperson, and may elect an acting chairperson when the chairperson is not available.

213. Meetings

(1) The chairperson of the committee convenes meetings of the committee.

(2) Meetings of the committee must be held in closed session when the committee considers a matter affecting a specific member or members and the committee regards that matter to be confidential, unless the committee decides to open a meeting in the public interest.

(3) Meetings of the committee must be open when it considers matters in terms of its general functions when such matters are not related to a specific member or members.

214. Functions

(1) The committee must consider any matter referred to it by the Speaker relating to contempt of Parliament or misconduct[1] by a member or a request to have a response recorded in terms of Section 25 of the Powers and Privileges Act, except a breach of the Code of Conduct contained in the Schedule to the Joint Rules.

(2) (a) Upon receipt of a matter relating to contempt of Parliament or misconduct by a member, the committee must deal with the matter in accordance with the procedure contained in the Schedule to the Rules of the National Assembly.

(b) The committee must table a report in the Assembly on its findings and recommendations in respect of any alleged contempt of Parliament, as defined in Section 13 of the Powers and Privileges Act, or misconduct.

(c) If it is found that a member is guilty of contempt or misconduct, the committee must recommend an appropriate penalty from those contained in Section 12(5) of the Powers and Privileges Act.

(d) The Assembly may impose the recommended penalty, an alternative penalty contained in Section 12(5) of the Powers and Privileges Act, or no penalty.

(3) The committee may on its own initiative or upon request by the Speaker conduct research and comment on matters relating to the powers, privileges and immunities of Parliament.

1. The rules in this part are still to be reviewed, also with reference to "misconduct". (See *Chapter 1, Part 1: Definitions* and *Chapter 12, Part 8: Disciplinary Committee*)

(4) (a) After receiving the request to have a response recorded referred to in Subrule (1), the committee must without delay inform the member or witness concerned that a request to have a response recorded has been received, and thereafter consider the request in accordance with criteria that the committee has approved.

(b) In considering the request, the committee may invite verbal or written submissions by the member, witness or any other person concerned.

(c) After considering the request to have a response recorded, the committee must publish the response in the ATC, refer it back to the person for amendments, or not publish the response.

215. Decisions

A question before the committee is decided when a quorum in terms of Rule 162(2) is present and there is agreement among the majority of the members present.

Part 8: Disciplinary Committee

216. Establishment

There is a Disciplinary Committee consisting of —

(a) the Deputy Speaker;

(b) a senior whip from each party in the Assembly nominated by the party; and

(c) any other Assembly member or members designated by the Speaker.

217. Chairperson

(1) The Deputy Speaker is the chairperson of the Disciplinary Committee.

(2) If the Deputy Speaker is not available, a member of the committee designated by the Speaker performs the functions of the Deputy Speaker as chairperson of the committee.

218. Meetings

The Deputy Speaker convenes a meeting of the Disciplinary Committee.

219. Functions and powers

The Disciplinary Committee —

(a) at the Speaker's request, must investigate any alleged misconduct by a member except —

(i) a charge against a member of contempt of Parliament in terms of the Powers and Privileges Act, or

(ii) a breach of the Code of Conduct contained in the Schedule to the Joint Rules; and

(b) must report to the Speaker.

220. Public access

Meetings of the committee must be held in closed session.

Part 9: Forum of Committee Chairpersons

221. Establishment

There is a Forum of Committee Chairpersons.

222. Composition

(1) The Forum of Committee Chairpersons consists of —

(a) the House Chairpersons; and

(b) the chairperson of each Assembly committee and each Assembly member who is a chairperson or co-chairperson of a joint committee, or an Assembly member of the committee designated by the chairperson.

(2) The forum may co-opt the chairperson of an ad hoc committee as a member of the forum.

223. Chairperson

(1) The House Chairperson designated by the Speaker presides at meetings of the Forum of Committee Chairpersons.

(2) If the designated House Chairperson is not available, another House Chairperson may preside at a meeting of the forum.

224. Functions and powers

The Forum of Committee Chairpersons may make recommendations to the Rules Committee or the Programme Committee regarding any matter affecting the scheduling or functioning of any Assembly committee, subcommittee or other Assembly forum.

Part 10: Portfolio committees

225. Establishment

The Speaker acting with the concurrence of the Rules Committee must —

(a) establish a range of portfolio committees;

(b) assign a portfolio of government affairs to each committee; and

(c) determine a name for each committee.

226. Composition

A portfolio committee consists of the number of Assembly members that the Speaker may determine with the concurrence of the Rules Committee in each case, subject to the provisions of Rule 154.

227. Functions

(1) A portfolio committee —

(a) must deal with Bills and other matters falling within its portfolio as are referred to it in terms of the Constitution, legislation, these rules, the Joint Rules or by resolution of the Assembly;

(b) must maintain oversight of —

(i) the exercise within its portfolio of national executive authority, including the implementation of legislation,

(ii) any executive organ of state falling within its portfolio,

(iii) any constitutional institution falling within its portfolio, and

(iv) any other body or institution in respect of which oversight was assigned to it;

(c) may monitor, investigate, enquire into and make recommendations concerning any such executive organ of state, constitutional institution or other body or institution, including the legislative programme, budget, rationalisation, restructuring, functioning, organisation, structure, staff and policies of such organ of state, institution or other body or institution;

(d) may consult and liaise with any executive organ of state or constitutional institution; and

(e) must perform any other functions, tasks or duties assigned to it in terms of the Constitution, legislation, these rules, the Joint Rules or resolutions of the Assembly, including functions, tasks and duties concerning parliamentary oversight or supervision of such executive organs of state, constitutional institutions or other bodies or institutions.

(2) Bills and amendments to Bills referred to a portfolio committee must be considered by it in accordance with Chapter 13 of these rules and Chapter 3 of the Joint Rules.

(3) If there is doubt which portfolio committee must deal with a specific matter, the Speaker in consultation with the Chief Whip must decide the question, subject to any directions of the Rules Committee or a resolution of the Assembly.

228. Decisions

(1) A question before a portfolio committee is decided when a quorum in terms of Rule 162(2) is present and there is agreement among the majority of the members present.

(2) A question before two or more conferring Assembly committees is decided when a majority of members of each of the conferring committees is present and there is agreement on the question between the conferring committees.

229. Subcommittees

A portfolio committee may appoint a subcommittee from among its members to assist the committee.

Part 11: Standing Committee on Finance

230. Establishment

There is a Standing Committee on Finance, established in terms of Section 4(1) of the Money Bills Amendment Procedure and Related Matters Act, 2009 and Rule 152.

231. Composition

The Standing Committee on Finance consists of the number of Assembly members that the Speaker may determine with the concurrence of the Rules Committee, subject to the provisions of Rule 154.

232. Functions and powers

(1) The Standing Committee on Finance must perform the functions and exercise the powers specified in the Money Bills Amendment Procedure and Related Matters Act, 2009.

(2) The committee must also perform the functions listed in Rule 227 and can exercise the powers specified in Rule 167, except in so far as any of these provisions are inconsistent with —

(a) the provisions of the Money Bills Amendment Procedure and Related Matters Act, 2009;

(b) another provision of these rules applicable in a specific case; or

(c) a resolution of the Assembly.

233. Consultation

The committee must consult with its counterpart in the Council and other committees on matters specified in the Money Bills Amendment Procedure and Related Matters Act, 2009, in a manner agreed by the committee.

234. Subcommittees

The committee may appoint a subcommittee from amongst its members to assist the committee, the subcommittee to adhere to the provisions of Part 3 of Chapter 12 of the Assembly Rules.

235. Public involvement

The committee must ensure public involvement in accordance with the provisions of the Constitution and the Money Bills Amendment Procedure and Related Matters Act, 2009.

Part 12: Standing Committee on Appropriations

236. Establishment

There is a Standing Committee on Appropriations, established in terms of Section 4(3) of the Money Bills Amendment Procedure and Related Matters Act, 2009 and Rule 152.

237. Composition

The Standing Committee on Appropriations consists of the number of Assembly members that the Speaker may determine with the concurrence of the Rules Committee, subject to the provisions of Rule 154.

238. Functions and powers

(1) The Standing Committee on Appropriations must perform the functions and exercise the powers specified in the Money Bills Amendment Procedure and Related Matters Act, 2009 and can exercise the powers specified in Rule 167.

(2) The committee must perform any other functions, tasks or duties assigned to it in terms of the Constitution, legislation, these rules, the Joint Rules or resolutions of the Assembly.

(3) The committee may consult and liaise with any executive organ of state or constitutional institution.

239. Consultation

The committee must consult with its counterpart in the Council and other committees on matters specified in the Money Bills Amendment Procedure and Related Matters Act, 2009, in a manner agreed by the committee.

240. Subcommittees

The committee may appoint a subcommittee from amongst its members to assist the committee, the subcommittee to adhere to the provisions of Part 3 of Chapter 12 of the Assembly Rules.

241. Mediation

When conflicting amendments are proposed by portfolio committees —

(a) a subcommittee of the Standing Committee on Appropriations consisting of the chairperson and three other members must conduct mediation with a view to finding agreement on the conflicting amendments; and

(b) the subcommittee established in terms of (a) will be advised by three members from each of the portfolio committees that had submitted conflicting amendments and, if requested by the Standing Committee on Appropriations, two members designated by the Speaker.

242. Public involvement

The committee must ensure public involvement in accordance with the provisions of the Constitution and the Money Bills Amendment Procedure and Related Matters Act, 2009.

Part 13: Standing Committee on Public Accounts

243. Establishment

There is a Standing Committee on Public Accounts.

244. Composition

The Standing Committee on Public Accounts consists of the number of Assembly members that the Speaker may determine with the concurrence of the Rules Committee, subject to the provisions of Rule 154.

245. Functions and powers

(1) The Standing Committee on Public Accounts —

(a) must consider —

(i) the financial statements of all executive organs of state and constitutional institutions or other public bodies when those statements are submitted to Parliament,

(ii) any audit reports issued on those statements,

(iii) any reports issued by the Auditor-General on the affairs of any executive organ of state, constitutional institution or other public body,

(iv) any reports reviewing expenditure of public funds by any executive organ of state and constitutional institution or other public body, and

(v) any other financial statements or reports referred to the committee in terms of these rules;

(b) may report on any of those financial statements or reports to the Assembly;

(c) may initiate any investigation in its area of competence; and

(d) must perform any other functions, tasks or duties assigned to it in terms of the Constitution, legislation, these rules, the Joint Rules or resolutions of the Assembly, including functions, tasks and duties concerning parliamentary financial oversight or supervision of executive organs of state, constitutional institutions or other public bodies.

(2) The Speaker must refer the financial statements and reports mentioned in Paragraphs (a)(i) to (iv) to the committee when they are submitted to Parliament, irrespective of whether they are also referred to another committee.

246. Decisions

A question before the committee is decided when a quorum in terms of Rule 162(2) is present and there is agreement among the majority of the members present.

247. Subcommittees

The Standing Committee on Public Accounts may appoint a subcommittee from amongst its members to assist the committee.

248. Notice to portfolio committee

When a matter falling within a portfolio committee's competence is to be considered by the Standing Committee on Public Accounts, the chairperson of the committee, after consultation with the chairperson of the portfolio committee, must give notice to the portfolio committee when that matter will be considered by the committee.

Part 14: Standing Committee on the Auditor-General

249. Establishment

There is a Standing Committee on the Auditor-General, established in terms of Section 10(3) of the Public Audit Act, 2004.

250. Composition

The Standing Committee on the Auditor-General consists of the number of Assembly members that the Speaker may determine with the concurrence of the Rules Committee, subject to the provisions of Rule 154.

251. Functions and powers

(1) The Standing Committee on the Auditor-General must —

(a) maintain oversight over the Auditor-General; and

(b) perform the functions and exercise the other powers as specified in the Public Audit Act, 2004.

(2) The Assembly may by resolution assign any other function, task or duty to the Standing Committee on the Auditor-General within its area of competence.

(3) The Standing Committee on the Auditor-General may not consider —

(a) audit reports produced by the Auditor-General; and

(b) any budget or business plan other than that of the Auditor-General.

252. Decisions

A question before the Standing Committee on the Auditor-General is decided when a quorum in terms of Rule 162(2) is present and there is agreement among the majority of members present.

Part 15: Ad hoc committees

253. Establishment

(1) An ad hoc committee may be established —

(a) by resolution of the Assembly; or

(b) during an adjournment of the Assembly for a period of more than 14 days, by the Speaker after consulting the Chief Whip and the most senior whip of each of the other parties.

(2) Any decision by the Speaker to appoint an ad hoc committee must be tabled in the Assembly on its first sitting day after the decision was taken, for ratification by the Assembly.

(3) An ad hoc committee may only be established for the performance of a specific task.

(4) The resolution of the Assembly or decision of the Speaker establishing an ad hoc committee must —

(a) specify the task assigned to the committee; and

(b) set time frames for —

(i) the completion of any steps in performing the task, and

(ii) the completion of the task.

(5) An ad hoc committee has those of the powers listed in Rule 167 only as are specified in the resolution or decision establishing the committee.

(6) An ad hoc committee ceases to exist —

(a) when it has completed the task for which it was established and has submitted its report to the Assembly;

(b) if it is dissolved by the Assembly earlier; or

(c) if it has not completed its task by the date set for the completion of the task;

provided that the committee may be revived thereafter by decision of the Speaker or resolution of the House.

254. Composition

(1) The Assembly resolution establishing an ad hoc committee must either specify the number of members to be appointed or the names of the members who are appointed.

(2) The Speaker appoints the members of an ad hoc committee if —

(a) the resolution of the Assembly establishing the ad hoc committee does not specify the names of the committee members; or

(b) the Speaker established the ad hoc committee.

(3) The Speaker must appoint the members of an ad hoc committee

established by —

(a) the Assembly, within five working days after the establishment of the committee; and

(b) the Speaker, within 10 working days after the establishment of the committee.

(4) When appointing the members of an ad hoc committee the Speaker must consult —

(a) the Chief Whip when a member of the majority party is appointed; and

(b) the most senior whip of another party when a member of that particular party is appointed.

(5) The names of the members appointed must be published in the ATC without delay.

255. Decisions

Unless a resolution establishing an ad hoc committee provides otherwise, a question before an ad hoc committee is decided when a quorum in terms of Rule 162(2) is present and there is agreement among the majority of the members present.

Part 16: Other structures relating to Assembly programming and functioning

Chief Whips' Forum

256. Establishment

There is a Chief Whips' Forum.

257. Composition

(1) The Chief Whips' Forum consists of —

(a) the House Chairpersons;

(b) the Chief Whip;

(c) the deputy chief whip of the majority party; and

(d) the most senior whip of each of the other parties represented in the Assembly.

(2) The Speaker and the Deputy Speaker may attend meetings of the forum or designate someone to attend on their behalf.

(3) A whip referred to in Subrule (1)(d) who is unable to attend a meeting of the forum may designate another whip to attend the meeting.

(4) Rule 156 does not apply to this forum.

258. Chairperson

(1) The Chief Whip is the chairperson of the Chief Whips' Forum.

(2) If the Chief Whip is not available, the deputy chief whip of the majority party performs the functions of the Chief Whip.

259. Meetings

(1) The Chief Whip may call a meeting of the forum on own initiative or upon request by another member of the forum, but must call a meeting if the Speaker so requests.

(2) The forum meets in closed session unless it decides otherwise.

260. Functions and powers

The Chief Whips' Forum acts as a forum —

(a) for the discussion and co-ordination of matters for which the whips are responsible; and

(b) which the Speaker may consult when appropriate.

Arrangement of House business and certain committee meetings

261. Unusual meetings of committees and subcommittees

(1) A committee or subcommittee may sit on a day which is not a working day, or at a venue beyond the seat of Parliament, or during a recess of the Assembly, or at a time when the Assembly is sitting, only with the permission of the Chief Whip.

(2) If a committee or subcommittee applies to the Chief Whip to sit on a day which is not a working day, or at a venue beyond the seat of Parliament, the Chief Whip may give permission in terms of Subrule (1) only after having consulted the Speaker.

House Chairperson: Committees

262. Scheduling function of the designated House Chairperson

The House Chairperson designated by the Speaker must, as delegated by the Speaker, implement any policy, directive or guideline on the scheduling and co-ordination of meetings of all committees and subcommittees.

Part 17: Miscellaneous committee matters

263. Composition of Assembly component in Mediation Committee

(1) The number of Assembly representatives in the Mediation Committee to which a party is entitled must be determined by multiplying the number of seats the party holds in the Assembly by 9 and dividing the result by 401.

(2) The result, disregarding any decimal fractions, indicates the number of representatives allocated to the party.

(3) If any number of representatives remains unallocated, the representative or number of representatives is allocated in sequence of the highest decimal fractions referred to in Subrule (2).

(4) If no representative is allocated to a party in terms of Subrules (1) to (3), that party may designate an observer in the Assembly component of the Mediation Committee.

264. Election of Assembly members to Mediation Committee

(1) The Assembly must elect its nine representatives to the Mediation Committee in accordance with the respective allocations made to parties in terms of Rule 263.

(2) Each party must nominate in accordance with its allocation a member or members for election by the Assembly.

(3) If the Assembly fails to elect a member nominated by a party, the party must nominate another member.

265. Alternates for Assembly representatives in Mediation Committee

Alternates for Assembly representatives in the Mediation Committee envisaged in Joint Rule 105 must be elected in accordance with the same procedure applicable to the election of the Assembly representatives in terms of Rule 264.

266. Ad hoc joint committees

(1) The Speaker must appoint the members of the Assembly who are to serve on an ad hoc joint committee.

(2) The Speaker must cause the names of the members so appointed to be published in the ATC.

(3) The Speaker must so appoint members whose names have been submitted by the chief or other whip of a party in the Assembly, not exceeding the number of members which such party is entitled to have on the committee.

(4) If the names of members of a party have not been so submitted within two working days after the Speaker has called upon the chief or other whip of a party to submit the names of members to be appointed to the committee, such party must be regarded as not willing to participate in the committee.

CHAPTER 13
LEGISLATIVE PROCESS

Part 1: Introduction

267. Legislative powers of Assembly

(1) The national legislative authority as vested by the Constitution in Parliament confers on the Assembly, in terms of Section 44(1) of the Constitution, the power —

(a) to amend the Constitution;

(b) to pass legislation with regard to any matter, including a matter within a functional area listed in Schedule 4 to the Constitution, but excluding, subject to Subrule (2), a matter within a functional area listed in Schedule 5; and

(c) to assign any of its legislative powers, except the power to amend the Constitution, to any legislative body in another sphere of government.

(2) The Assembly may, as part of the legislative process contemplated in terms of Section 44(2) of the Constitution, pass legislation falling within a functional area listed in Schedule 5 to the Constitution, when it is necessary —

(a) to maintain national security;

(b) to maintain economic unity;

(c) to maintain essential national standards;

(d) to establish minimum standards required for the rendering of services; or

(e) to prevent unreasonable action taken by a province which is prejudicial to the interests of another province or to the country as a whole.

(3) Any Bill may in terms of Section 73(1) of the Constitution be introduced in the Assembly.

(4) In exercising its legislative powers, the Assembly in terms of Section 55 of the Constitution may —

(a) consider, pass, amend or reject any legislation before the Assembly; and

(b) initiate or prepare legislation, except money Bills.

268. Initiation of legislation by Assembly

(1) The Assembly initiates or prepares legislation in terms of these rules for introduction as envisaged in Section 73(2) of the Constitution through —

(a) its committees acting with the permission of the Assembly; or

(b) its members.

(2) Save for a money Bill or legislation envisaged in Section 214 of the Constitution, any committee or member of the Assembly may in terms of Section 73(2) of the Constitution introduce a Bill in the Assembly that has been initiated or prepared in terms of Subrule (1).

269. Initiation of legislation by national executive

(1) The national executive may prepare and initiate legislation in terms of Section 85(2)(d) of the Constitution for introduction in the Assembly.

(2) Such legislation may be introduced in the Assembly by a Cabinet member or a Deputy Minister in terms of Section 73(2) of the Constitution, but only the Cabinet member responsible for national financial matters may introduce a money Bill or a Bill which provides for equitable shares and allocations of revenue as envisaged in Section 214 of the Constitution.

270. Application of this chapter

(1) The rules set out in Parts 1, 2, 3 and 9 of this chapter apply to Bills of all types to the extent that those rules are not inconsistent with the rules for specific types set out in Parts 4 to 8 of this chapter.

(2) This chapter must be read with Chapter 4 of the Joint Rules.

Part 2: Steps prior to introduction

Bills initiated by Cabinet members and Deputy Ministers

271. Submission of legislative proposals to Speaker

A Cabinet member or Deputy Minister intending to introduce a Bill in the Assembly must, as is set out in Joint Rule 159, before the Bill is introduced submit to the Speaker —

(a) the draft of the proposed Bill as approved by Cabinet, whether or not the draft has been legally or technically formalised as a proper draft Bill; and

(b) a memorandum explaining the objects of the proposed legislation.

Bills initiated by Assembly members in individual capacity

272. Preparation of draft Bill

(1) A member who intends to initiate or prepare legislation in an individual capacity (other than as a Cabinet member or Deputy Minister) for introduction in the Assembly as contemplated in Rule 268 must —

(a) prepare a draft Bill, and a supporting memorandum setting out the objects of the Bill, in a form and style that complies with any prescribed requirements, including those set out in Rule 279; and

(b) comply with Rule 276 or, if it is a proposed constitutional amendment, with Rule 295.

(2) The Speaker must reimburse a member —

(a) for any reasonable expenses incurred by the member in the publication of a Bill as contemplated in Rule 276, provided that such publication is facilitated by the Speaker; and

(b) in full for any reasonable expenses incurred by the member in the preparation of a Bill as contemplated in Rule 276 if the Bill, with or without amendments, is passed by the Assembly, provided that those expenses were approved by the Speaker before they were incurred.

Bills initiated by Assembly committees

273. Submission of legislative proposals to Speaker

(1) An Assembly committee intending to introduce a Bill in the Assembly must, for the purpose of obtaining the Assembly's permission in terms of Rule 268(1), table in the Assembly a memorandum which —

(a) sets out particulars of the proposed legislation;

(b) explains the objects of the proposed legislation;

(c) states whether the proposed legislation will have financial implications for the state and, if so, gives an account of those implications; and

(d) sets out the views of the executive on the objects of the proposed legislation.

(2) The Speaker must place the proposed legislation on the Order Paper for decision.

(3) The Assembly may —

(a) give permission that the proposed legislation be proceeded with;

(b) refer the proposed legislation back to the committee for reconsideration; or

(c) refuse permission.

(4) If the Assembly gives permission that the proposed legislation be proceeded with, it may, if it so chooses —

(a) express itself on the desirability of the proposed legislation; or

(b) subject its permission to conditions.

274. Preparation of draft Bill

(1) If the Assembly gives permission that the proposed legislation be proceeded with, the committee must —

(a) prepare a draft Bill, and a memorandum setting out the objects of the Bill in a form and style that complies with any prescribed requirements, including those set out in Rule 279;

(b) consult the JTM for advice on the classification of the Bill; and

(c) comply with Rule 276 or, if it is a proposed constitutional amendment, with Rule 295.

(2) If the committee chooses in terms of Rule 276 or 295 to publish the draft Bill, it is not bound to publish the Bill as it is to be introduced, but the committee may publish any version of the draft Bill prepared by it in terms of Subrule (1)(a).

(3) The committee must report to the Assembly when it publishes the draft Bill.

275. Consideration of draft Bill before introduction

Before introducing its Bill, the committee —

(a) must give interested persons and institutions a period of at least three weeks after the draft Bill or particulars of the draft Bill have been published in terms of Rule 276 or 295 to comment on the proposed legislation;

(b) must give the relevant department in the national executive authority or executive organ of state in the national sphere of government sufficient opportunity to make submissions to the committee;

(c) must consult the JTM for advice on the classification of the draft Bill as it is to be introduced; and

(d) may in view of any comments received in terms of Paragraph (a) or (b) or advice given in terms of Paragraph (c), adjust the draft Bill before its introduction.

All Bills generally

276. Prior notice and publication of draft legislation

(1) A Bill may be introduced in the Assembly only if —

(a) a copy of the draft legislation has been submitted to the Speaker in terms of Rule 271, if it is a Bill initiated by the national executive and that rule is applicable;

(b) prior notice of its introduction has been given in the Gazette; and

(c) an explanatory summary of the Bill, or the draft Bill as it is to be introduced, has been published in the Gazette.

(2) When intending to introduce a Bill in the Assembly, an Assembly member acting in his or her individual capacity must, as soon as possible after publication contemplated in Subrule (1)(c), submit to the Speaker the explanatory summary of the Bill, or the draft Bill, as appropriate.

(3) The Speaker must refer the explanatory summary of the Bill, or the draft Bill, as appropriate, contemplated in Subrule (2) to the responsible portfolio committee in order —

(a) to assist the committee in planning its work; and

(b) to enable the committee members to acquaint themselves with and to develop their positions with regard to the proposed legislation.

(4) If the Bill as it is to be introduced is published, the notice referred to in Subrule (1)(b) must contain an invitation to interested persons and institutions to submit written representations on the draft legislation to the Speaker within a specified period.

(5) If the draft Bill itself is published, a memorandum setting out the objects of the Bill must also be published.

(6) This rule does not apply to —

(a) constitution amendment Bills, which must be dealt with in terms of Rule 295; and

(b) money Bills when the special procedure set out in Rule 322(2) is followed.

(7) Subrules (1)(b) and (c) do not apply to a Bill that has been certified by the member in charge of the Bill, in consultation with the Speaker, as an urgent matter.

277. Notice withdrawing proposed legislation

(1) If a Cabinet member, Deputy Minister, committee or member decides not to proceed with the introduction of a Bill after Rule 276 has been complied with, the Cabinet member, Deputy Minister, committee or member must without delay inform the Speaker in writing of the decision.

(2) In the case of a Cabinet member or Deputy Minister referred to in Subrule (1), he or she must publish a notice in the Gazette stating that the proposed legislation has been withdrawn.

(3) The Speaker must publish a notice in the Gazette stating that the proposed legislation has been withdrawn where a committee or member decides not to proceed with the introduction of the Bill as is contemplated in Subrule (1).

278. Referral of Bills to National House of Traditional Leaders

(1) The Secretary must refer a Bill to the National House of Traditional Leaders if the JTM has made a finding that the Bill pertains to customary law or customs of traditional communities in accordance with Rule 192 of the Joint Rules.

(2) The Secretary must inform the Speaker and the chairperson of the portfolio committee to which the Bill was referred of the date of referral, which date must be published in the relevant parliamentary paper.

Part 3: Introduction of Bills and First and Second Readings

Introduction and related matters

279. Introduction of Bills in Assembly

(1) A Cabinet member or Deputy Minister or an Assembly member or committee introduces a Bill (other than a Bill mentioned in Subrule (8)) by submitting to the Speaker —

(a) a copy of the Bill or, if the Bill as it is introduced was published in terms of Rule 276(1)(c), a copy of the Gazette concerned;

(b) the explanatory summary referred to in Rule 276(1)(c), if a draft of the Bill itself was not published; and

(c) a supporting memorandum which must —

(i) state whether the Bill is introduced as a proposed Section 75 Bill, a Section 76(1) Bill, or a money Bill,

(ii) explain the objects of the Bill,

(iii) give an account of the financial implications of the Bill for the state,

(iv) contain a list of all persons and institutions that have been consulted in preparing the Bill; provided that in respect of Bills introduced by a member in his or her individual capacity, such a list may be included where consultations were conducted,

(v) if the Bill is introduced by a Cabinet member or a Deputy Minister, include a legal opinion by a state law adviser, or a law adviser of the state department concerned, on the classification of the Bill and any other question in respect of which the JTM is required to make a finding in terms of Joint Rule 160, and

(vi) if the Bill is introduced by a committee or an Assembly member, include a legal opinion by a parliamentary legal adviser on the classification of the Bill and any other question in respect of which the JTM is required to make a finding in terms of Joint Rule 160.

(2) A Bill introduced by a Cabinet member or Deputy Minister must be certified by the Chief State Law Adviser or a state law adviser designated by him or her as being —

(a) consistent with the Constitution; and

(b) properly drafted in the form and style which conforms to legislative practice.

(3) If a Bill is not certified as contemplated in Subrule (2), the Bill must be accompanied by a report or legal opinion by a state law adviser mentioned in Subrule (2) on why it has not been so certified.

(4) A Bill introduced by a committee or an Assembly member must be certified by the Chief Parliamentary Legal Adviser or a parliamentary legal adviser designated by him or her as being —

(a) consistent with the Constitution and existing legislation; and

(b) properly drafted in the form and style which conforms to legislative drafting practice.

(5) If a Bill is not certified as contemplated in Subrule (4), the Bill must be accompanied by a report or legal opinion by a parliamentary legal adviser mentioned in Subrule (4) on why it has not been so certified.

(6) A Bill introduced by a Cabinet member or Deputy Minister must contain on its cover page a reference to that Cabinet member or Deputy Minister as the person introducing the Bill.

(7) A Bill introduced by —

(a) an Assembly member; or

(b) a committee with the Assembly's permission in terms of Rule 273(3), must —

(i) be accompanied by a statement to that effect, and

(ii) contain on its cover page a reference to the name of the member or the committee as the member or committee introducing the Bill.

(8) This rule does not apply to —

(a) constitution amendment Bills, which must be introduced in accordance with Rule 297; and

(b) money Bills when the special procedure set out in Rule 322(2) is followed.

280. Classification of Bills

(1) When a Bill, other than a Bill initiated by an Assembly committee, is introduced in the Assembly in terms of Rule 279 or 297, the Speaker must refer the Bill to the JTM for classification of the Bill in terms of Joint Rule 160.

(2) The findings of the JTM contemplated in Rule 275(c) in respect of a Bill initiated by an Assembly committee must be tabled in the Assembly with the Bill when it is introduced.

(3) The classification of the Bill and all findings of the JTM must be —

(a) conveyed to the portfolio or other committee considering the Bill; and

(b) tabled in the Assembly.

281. Reintroduction of Bills ruled out of order by JTM

A Bill reintroduced in the Assembly in terms of Joint Rule 162 must follow the same procedure as if it were introduced for the first time, except that the steps prior to introduction as prescribed by the Assembly rules do not apply if no substantive new provisions were added to the Bill.

First and Second Reading procedures

282. When First and Second Reading procedures are applicable

(1) Subject to Rules 283(2) and 284(2), all Bills introduced in the Assembly have a First Reading, except a Bill initiated and introduced by an Assembly committee, and a Second Reading in the Assembly after their introduction, and all Bills introduced in and as passed by the Council have a First Reading and a Second Reading in the Assembly after their referral to the Assembly.

(2) The First Reading of a Bill consists of an introduction by the member in charge followed by a debate as provided for in these rules, the First Reading being confined to the principles of the Bill as contained in the Long Title of the Bill and as may be elaborated on in the supporting memorandum.

(3) The Second Reading of a Bill consists of a debate on the substance of the Bill and a decision on the Bill by the Assembly.

283. Procedure when Assembly in session

(1) If the Assembly is in session when a Bill is introduced in the Assembly or when a Bill introduced in and as passed by the Council is referred for the first time to the Assembly —

(a) the person in charge of the Bill must submit to the Speaker a notice of First Reading of the Bill; and

(b) the Speaker must table in the Assembly the Bill and the supporting memorandum and, if there is one, also the explanatory summary.

(2) (a) Once notice has been given in terms of Subrule (1)(a), the Bill must be placed on the Order Paper for First Reading, unless the Programme Committee in accordance with Rule 210 decides otherwise in respect of a particular Bill.

(b) The First Reading is conducted in accordance with Rule 285.

(c) No decision is taken by the Assembly at the conclusion of the First Reading and no amendment to a Bill is allowed on the First Reading of the Bill.

(d) When the First Reading has been concluded, or when the First Reading is dispensed with by decision of the Programme Committee in accordance with Rule 210, the Bill is regarded as having been read a first time.

(3) When a Bill has been read a first time, the Speaker must refer the Bill and its annexures —

(a) to the portfolio committee under which the subject of the Bill falls;

(b) by resolution of the Assembly to any other Assembly committee; or

(c) to a joint committee, if this is required by a decision in terms of Joint Rule 166.

(4) If the Bill is referred to an Assembly committee, the committee must deal with the Bill in accordance with Rule 286, but if the Bill is referred to a joint committee, the Joint Rules apply.

(5) A Bill initiated and introduced by an Assembly committee does not have a First Reading but upon introduction must be placed directly on the Order Paper for Second Reading unless the Bill is referred to a joint committee.

284. Procedure during recess

(1) If the Assembly is in recess when a Bill is introduced in the Assembly

or when a Bill introduced in and as passed by the Council is referred for the first time to the Assembly, the Speaker must refer the Bill and its annexures —

(a) to the portfolio committee within whose portfolio the subject of the Bill falls;

(b) with the concurrence of the person in charge of the Bill, to any other Assembly committee; or

(c) to a joint committee, if this is required by a decision in terms of Joint Rule 166.

(2) (a) A Bill referred to a committee in terms of Subrule (1) must additionally be placed on the Order Paper for First Reading in the Assembly at an early date upon the resumption of House business, unless the Programme Committee in accordance with Rule 210 decides otherwise in respect of a particular Bill.

(b) If the First Reading of a Bill is dispensed with in terms of Paragraph (a), the Bill is regarded as having been read a first time.

(3) The Bill, together with its annexures, must be submitted to the members of the committee at least 14 days before the date appointed for a meeting of the committee, unless the Assembly or, if the Bill is referred to a joint committee, both Houses, are due to meet during that period.

(4) If the Bill is referred to an Assembly committee, the committee must deal with the Bill in accordance with Rule 286, but if the Bill is referred to a joint committee, the Joint Rules apply.

285. First Reading

(1) The debate on the First Reading of a Bill must be conducted on the principles of the Bill as contained in its Long Title.

(2) The Programme Committee must schedule and allocate time for the debate in accordance with Rule 210.

(3) The person in charge must be allocated 15 minutes to make an introductory speech and to reply to the debate.

(4) (a) There is no speakers' list, members being permitted to speak for no longer than three minutes upon being recognised by the presiding officer.

(b) No member except the person in charge of the Bill may speak more than once in the debate.

(5) At the conclusion of the First Reading debate on the Bill, no decision on the Bill is taken by the House but the Bill is regarded as having been read a first time.

286. Process in committee

(1) If a Bill has been published for public comment in terms of Rule 276 or 295, the Assembly committee to which the Bill is referred must give interested persons and institutions an opportunity to comment on the Bill.

(2) If a Bill has not been published for public comment and the committee to which the Bill is referred considers public comment on the Bill to be necessary, it may by way of invitations, press statements, advertisements or in any other manner, invite the public to comment on the Bill.

(3) A committee to which a Bill introduced by an Assembly member in his or her individual capacity has been referred must provide reasonable notice to the person in charge of the Bill before it considers the Bill.

(4) The committee —

(a) must inquire into the subject of the Bill and report on it to the Assembly;

(b) may seek the permission of the Assembly to inquire into extending the subject of the Bill;

(c) if the Bill amends provisions of legislation, must, if it intends to propose amendments to other provisions of that legislation, seek the permission of the Assembly to do so;

(d) may, or if ordered by the Speaker must, consult any other committee that has a direct interest in the substance of the Bill;

(e) must, if the Bill was introduced by a member in his or her individual capacity, give the relevant department in the national executive authority or executive organ of state in the national sphere of government sufficient opportunity to make submissions to the committee on the objects and particulars of the Bill;

(f) may, or if permitted by the Assembly to extend the subject of a Bill in accordance with Paragraph (b) or (c) must, consult the person in charge of the Bill;

(g) may consult the JTM on whether any amendments to the Bill proposed in the committee —

(i) may affect the classification of the Bill, or

(ii) may render the Bill constitutionally or procedurally out of order;

(h) may not propose an amendment that —

(i) affects the classification of the Bill, except as provided in Subrule (5) and Joint Rule 163, or

(ii) renders the Bill constitutionally or procedurally out of order within the meaning of Joint Rule 161;

(i) after due deliberation, must consider a motion of desirability on the subject matter of the Bill and, if rejected, must immediately table the Bill and its report on the Bill;

(j) if the motion of the desirability is adopted, must proceed to deliberate on the details of the legislation;

(k) may recommend approval or rejection of the Bill or present with its report an amended Bill or a redraft of the Bill, provided that in the case of a redraft the subject of the Bill has not been extended without the permission of the Assembly as contemplated in Paragraphs (b) and (c);

(l) must report to the Assembly in accordance with Rule 288;

(m) may report to the Assembly on a Bill introduced in the Assembly and classified as being subject to Section 18(1) of the Traditional Leadership and Governance Framework Act, 2003, only after 30 days have passed since the referral to the National House of Traditional Leaders in terms of Rule 278; and

(n) if an amended Bill or a redraft of the Bill is to be presented to the Assembly, must formally adopt the final version of the Bill as it is to be presented.

(5) The committee may propose an amendment that changes the classification of a Section 75 to a Section 76 Bill, or a Section 76 to a Section 75 Bill, only if the JTM is of the view that the Bill as amended is unlikely to lead to unmanageable procedural complications.

(6) In the process of inquiring into a Bill, the committee must, where applicable, as far as possible apply the following separate formal stages:

(a) Informal discussion on the principles and subject of the Bill, including —

(i) a briefing by the department concerned and, in the case of a member's Bill, by the member concerned, and

(ii) consideration of public comments that have been received;

(b) adoption of a motion of desirability, relating to whether the principles of the Bill and the need for the Bill are accepted;

(c) invitation for further public comment and submissions on the substance of the Bill, followed by the hearing and examination of such or other oral submissions if deemed necessary;

(d) deliberation by members, taking into consideration proposed amendments and comments and proposals received and evidence presented;

(e) formal consideration of the Bill, clause by clause, including amendments as formally proposed; and

(f) consideration and adoption of the committee's report and adoption of the final version of the Bill as it is to be presented to the Assembly.

287. Referral to Assembly committee if joint committee fails to report

(1) If a Bill has been referred to a joint committee in terms of Rule 283(3(c) or 284(1)(c) and that joint committee fails to present a report or fails to reach consensus on the Bill, the Speaker must refer the Bill and its annexures —

(a) to the portfolio committee within whose portfolio the subject of the Bill falls; or

(b) by resolution of the Assembly, to any other Assembly committee.

(2) The committee to which the Bill is referred must deal with the Bill in accordance with Rule 286.

288. Committee's report

(1) The Assembly committee to which a Bill is referred must table in the Assembly —

(a) its report;

(b) the Bill that has been agreed on by it, in its final amended or redrafted form as adopted by the committee where applicable, or, if it has not agreed on a Bill, the Bill as referred to it;

(c) the supporting memorandum which was introduced with the Bill or, if the memorandum has been amended by the committee, the amended memorandum; and

(d) if the Bill was introduced by a member in his or her individual capacity, the views, if any, expressed on the Bill by the relevant department in the national executive authority or executive organ of state in the national sphere of government.

(2) The committee may report to the Assembly only after the JTM has classified the Bill and has made its findings on the Bill.

(3) In its report the committee —

(a) must state the JTM's classification of and findings on the Bill;

(b) must state whether it recommends approval of the Bill with or without amendments, a redraft of the Bill, or rejection of the Bill;

(c) in the case of a Bill introduced by a member in his or her individual capacity, must state the views on the Bill submitted by the relevant executive authority;

(d) must specify each amendment if an amended Bill (other than a redraft of the Bill) was agreed on by it, and each amendment that was considered and, for a reason other than its being out of order, was rejected by it;

(e) must specify each amendment rejected by the committee if a redrafted Bill was agreed on by it;

(f) must, if it is not a unanimous report—

(i) specify in which respects and why there was not consensus, and

(ii) in addition to the views representative of the majority in the committee, convey any views of a minority in the committee in order to facilitate debate when the report comes before the House;

(g) may specify such details or information about its inquiry and any representations or evidence received or taken by it as it may consider necessary for the purposes of the debate on the Bill;

(h) may report on any matter arising from its deliberations on the Bill but which is not necessarily related to the Bill; and

(i) may recommend to the Assembly that any matter contained in the report be placed on the Order Paper for separate consideration either before or after the Assembly considers the Bill.

289. Explanation of report

The chairperson or other member of the committee who tables the report in the Assembly on behalf of the committee, may, if the committee has so recommended in its report, address the Assembly in order to explain the report.

290. Second Reading

(1) All Bills placed on the Order Paper for Second Reading must be debated, unless the Programme Committee notwithstanding Rule 210 by consensus decides otherwise in respect of a particular Bill.

(2) (a) If a Bill has been referred to an Assembly or joint committee, the debate on the Second Reading of the Bill may not commence before at least three working days have elapsed —

(i) since the committee's report was tabled, or

(ii) if a committee member has addressed the Assembly in terms of Rule 289, since the address was delivered.

(b) If a Bill introduced by a committee has not been referred to a joint committee in terms of Rule 283(5), the debate on the Second Reading of the Bill may not commence before at least three Assembly working days have elapsed since the Bill was introduced.

(3) (a) The debate on the Second Reading of a Bill must be conducted on the subject of the Bill.

(b) The debate on the Second Reading of a Bill that amends legislation must be conducted on the subject of the proposed amendments.

(4) No motion may be moved during the debate.

(5) The Assembly passes a Bill if it approves the Second Reading of the Bill in accordance with Sections 53(1)(a) and (c) of the Constitution, except that the Second Reading of —

(a) a constitution amendment Bill must be approved in accordance with Rule 299(2) or (3); and

(b) a Bill determining the seat of Parliament must be approved in accordance with Section 76(5) of the Constitution.

(6) The Assembly rejects a Bill if it rejects the Second Reading of the Bill or, subject to Rule 331, fails to approve the Second Reading with the appropriate majority.

291. Amendments proposed by members before decision of Second Reading

(1) (a) After a Bill has been placed on the Order Paper for Second Reading but before the Assembly decides on the Second Reading, a member may, subject to Subrule (4), place amendments to clauses of the Bill on the Order Paper.

(b) A Bill that has been rejected by the committee which considered it may not be amended under this rule.

(2) Amendments delivered to the Speaker after 12:00 on any working day may be placed on the Order Paper for the second sitting day thereafter and not earlier, unless the Speaker determines otherwise in a particular case.

(3) (a) The following amendments are out of order and may not be proposed under this rule:

(i) Amendments that affect the principle of the Bill and in respect of which the Assembly has not given any instruction,

(ii) amendments that change the classification of the Bill, except as provided for in Joint Rule 163,

(iii) amendments that would render the Bill constitutionally or procedurally out of order within the meaning of Joint Rule 161, and

(iv) amendments that are out of order for any other reason.

(b) The Speaker's ruling on whether an amendment is out of order or in order, is final, provided that if the JTM has made a finding on the substance of the amendment, the Speaker is bound by the finding.

(4) No amendment which has the same effect as an amendment previously rejected in the committee may be placed on the Order Paper, except when it is a Bill of which a Cabinet member or Deputy Minister is in charge and that Cabinet member or Deputy Minister places such an amendment on the Order Paper.

(5) If an amendment has been placed on the Order Paper and the debate on the Second Reading has been concluded, the Speaker may either —

(a) recommit the Bill for reconsideration to the committee which considered the Bill or, if it is a Bill introduced by an Assembly committee, to that committee, together with the amendment; or

(b) put the amendment for decision by the Assembly and then the Second Reading of the Bill as a whole, including any approved amendment.

(6) An Assembly committee to which a Bill is recommitted must deal with the Bill in terms of Rule 292.

(7) A Bill may not be recommitted to a committee more than once in terms of this rule.

292. Referral of amendments proposed in Assembly to Assembly committee

(1) If a Bill is recommitted in terms of Rule 291(5) to an Assembly committee, the committee —

(a) may consider only those clauses of the Bill in respect of which amendments have been placed on the Order Paper and any consequential amendments that have to be effected;

(b) may consult the JTM on whether any of the amendments —

(i) affects the JTM's classification of the Bill, or

(ii) renders the Bill constitutionally or procedurally out of order within the meaning of Joint Rule 161;

(c) must mention in its report each amendment agreed on by the committee;

(d) must specify in the report each amendment placed on the Order Paper by the person in charge of the Bill but rejected by the committee;

(e) may not agree on any amendment that —

(i) changes the classification of the Bill, except as provided for in Subrule (3) or Joint Rule 163, or

(ii) renders the Bill constitutionally or procedurally out of order within the meaning of Joint Rule 161; and

(f) must table its report together with the Bill in the Assembly.

(2) Subrule (1)(d) applies only if the person in charge of the Bill is a Cabinet member or a Deputy Minister.

(3) The committee may agree on an amendment that changes the classification of a Section 75 to a Section 76 Bill, or a Section 76 to a Section 75 Bill, but only if the JTM is of the view that the Bill as amended is unlikely to lead to unmanageable procedural complications.

293. Referral to Assembly committee if joint committee fails to report

(1) If a Bill is recommitted to a joint committee in terms of Rule 291(5), and that joint committee fails to present a report or fails to reach consensus on any amendments, the Speaker must refer the Bill and its annexures —

(a) to the portfolio committee within whose portfolio the subject of the Bill falls; or

(b) by resolution of the Assembly, to any other Assembly committee.

(2) The committee to which the Bill is referred must deal with the Bill in terms of Rule 286.

294. Consideration of report of Assembly committee or joint committee

(1) The report of the Assembly committee or joint committee to which a Bill has been recommitted or referred must be placed on the Order Paper for consideration of —

(a) the amendments agreed on by the committee; and

(b) any amendment specified in the report in terms of Rule 292(1(d) or Joint Rule 170(1)(d) and which is moved in the Assembly, which motion may be moved without notice.

(2) Before the Assembly decides on the Second Reading of the Bill, the Speaker must put the amendment or amendments to the vote.

Part 4: Specific rules applicable to constitution amendment Bills

Specific rules relating to matters in Parts 1 and 2

295. Requirements prior to introduction of constitution amendment Bill

(1) A Cabinet member or a Deputy Minister, or a member or committee of the Assembly, intending to introduce a Bill amending the Constitution must, before introducing the Bill, comply with Section 74(5) of the Constitution.

(2) When the person or committee intending to introduce the Bill publishes particulars of the Bill in the Gazette in accordance with Section 74(5), the publication must contain —

(a) a notice stating the intention to introduce the Bill; and

(b) an invitation to interested persons and institutions to submit written representations on the draft constitutional amendment to the person or committee intending to introduce the Bill.

(3) If the draft Bill itself, as it is to be introduced, is published, a memorandum setting out the objects of the Bill must also be published.

296. Notice withdrawing proposed constitutional amendment

(1) If a Cabinet member, Deputy Minister, committee or member decides not to proceed with the introduction of a Bill after Rule 295 has been complied with, the Cabinet member, Deputy Minister, committee or member must without delay inform the Speaker in writing of the decision.

(2) The Cabinet member or Deputy Minister referred to in Subrule (1) must publish a notice in the Gazette stating that the proposed legislation has been withdrawn.

(3) The Speaker must publish a notice in the Gazette stating that the proposed legislation has been withdrawn where a committee or member decides not to proceed with the introduction of the Bill as contemplated in Subrule (1).

297. Introduction of constitution amendment Bill

(1) A Cabinet member or Deputy Minister or an Assembly member or committee introduces a constitution amendment Bill by submitting to the Speaker —

(a) a copy of the Bill, or if the Bill itself, as it is introduced, has been published in the Gazette to give effect to Section 74(5) of the Constitution, a copy of the Gazette;

(b) a supporting memorandum which must —

(i) state that the Bill is introduced as a constitution amendment Bill,

(ii) explain the objects of the proposed constitutional amendment,

(iii) give an account of the financial implications of the proposed constitutional amendment for the state,

(iv) contain a list of all persons and institutions that have been consulted in preparing the Bill,

(v) if the Bill is introduced by a Cabinet member or a Deputy Minister, include a legal opinion by a state law adviser, or a law adviser of the state department concerned, on the classification of the Bill and any other question in respect of which the JTM is required to make a finding in terms of Joint Rule 160, and

(vi) if the Bill is introduced by a committee or an Assembly member, include a legal opinion by a parliamentary

legal adviser on the classification of the Bill and any other question in respect of which the JTM is required to make a finding in terms of Joint Rule 160; and

(c) any written comments on the Bill envisaged in Section 74(6) of the Constitution.

(2) A constitution amendment Bill introduced by a Cabinet member or a Deputy Minister must contain on its cover page a reference to that Cabinet member or Deputy Minister as the person introducing the Bill.

(3) A constitution amendment Bill introduced by —

(a) an Assembly member in an individual capacity; or

(b) by an Assembly committee with the Assembly's permission in terms of Rule 273(3) —

(i) must be accompanied by a statement to that effect, and

(ii) contain a reference on its cover page to the name of the member or committee as the member or committee introducing the Bill.

298. Referral of constitution amendment Bill to committee

(1) If a constitution amendment Bill is in terms of Section 74 of the Constitution required to be passed by the Assembly alone, the Bill may in terms of Rule 283(3) or 284(1) only be referred to an Assembly committee.

(2) If a constitution amendment Bill is in terms of Section 74 required to be passed by both Houses, the Bill must in terms of Rule 283(3) or 284(1) be referred either —

(a) to an Assembly committee; or

(b) if this is required by a decision in terms of Joint Rule 166, to a joint committee on constitutional matters.

299. Consideration of committee's report and Bill

(1) The Speaker must place the committee's report and the Bill presented to the Assembly in terms of Rule 288 or Joint Rule 168 on the Order Paper irrespective of whether the time period mentioned in Section 74(7) of the Constitution has expired, but the Assembly may not vote on the Second Reading of the Bill unless this time period has expired.

(2) A constitution amendment Bill is passed by the Assembly if its Second Reading —

(a) is put to the vote after the expiry of the time period mentioned in Section 74(7) of the Constitution; and

(b) receives a supporting vote of at least two thirds of the members of the Assembly or, if it is a Bill referred to in Section 74(1), a supporting vote of at least 75 per cent of the members.

(3) If the Bill, in addition to other constitutional amendments, contains amendments referred to in Section 74(1), the Second Reading of the Bill is approved if —

(a) the Bill as a whole is passed with a supporting vote of at least 75 per cent of the members; or

(b) the Bill, excluding the Section 74(1) amendments, is passed with a supporting vote of at least two thirds of the members and the Section 74(1) amendments are passed separately with a supporting vote of at least 75 per cent of the members.

(4) If a Bill mentioned in Subrule (3) is passed with a supporting vote of at least two thirds of the members, but the Section 74(1)(a) amendments fail to achieve 75 per cent support —

(a) the Speaker, after consulting the member in charge of the Bill, may refer the Bill to an Assembly committee to delete the Section 74(1) amendments and to table an amended Bill; or

(b) the person in charge of the Bill may withdraw the Bill if the Section 74 provisions are not severable.

(5) When the committee resubmits the Bill as amended, the Assembly votes on the amended Bill without debate.

300. Consequences of approval or rejection of Second Reading

(1) Joint Rule 173 applies if the Assembly approves the Second Reading of a constitution amendment Bill.

(2) A constitution amendment Bill lapses if the Assembly rejects the Second Reading of the Bill.

Reconsideration of constitution amendment Bill if amended by Council

301. Procedure if Council amends Bill

(1) If the Council has amended a constitution amendment Bill passed by the Assembly, the Speaker must —

(a) place the amended Bill on the Order Paper for debate and decision if the chairperson of the portfolio committee concerned or other relevant Assembly committee so requests; or

(b) refer the amended Bill to the portfolio committee concerned, or to any other appropriate Assembly committee, for a report and recommendations on the Council's amendments.

(2) If the amended Bill is referred to a committee, the committee —

(a) may consult with the appropriate Council committee or chairperson of that committee;

(b) must confine itself to the amendments effected by the Council;

(c) may consult the JTM on whether any of the Council's

amendments —

(i) changes the JTM's classification of the Bill, or

(ii) renders the Bill constitutionally or procedurally out of order within the meaning of Joint Rule 161;

(d) may not propose any amendments; and

(e) may state reasons if it does not support any of the Council's amendments.

(3) The committee must table its report and recommendations.

(4) When the report is tabled, the Speaker must place the Bill as amended by the Council on the Order Paper for debate and decision.

302. Debate and decision

(1) The debate in the Assembly on the amended Bill must be confined to —

(a) the matters dealt with in the committee's report, if there is a report; and

(b) the question whether the amended Bill should be passed or not.

(2) No member may place any amendments to the Bill on the Order Paper.

(3) If the Assembly passes the amended Bill in accordance with the procedure set out in Rules 299(2)(b) and (3) or (4), the Bill must be submitted to the President for assent.

(4) If the Assembly rejects the Bill or fails to pass it in accordance with the said procedure, read with Rule 331, the Bill must be referred to the Mediation Committee in terms of Joint Rule 177.

303. Process if mediation successful

(1) The Speaker must table a notice in the Assembly stating that the Assembly's version of the Bill has been agreed on by the Mediation Committee, if the Mediation Committee has agreed on the version of the Bill as originally passed by the Assembly before its rejection or amendment by the Council.

(2) The Speaker must place a Bill agreed on by the Mediation Committee on the Order Paper for debate and decision if that Bill is —

(a) the Council's amended Bill which the Assembly has rejected or has failed to pass as stated in Rule 302(4); or

(b) a version that differs from any version of the Bill as passed by either the Assembly or the Council.

(3) If, after consultation with the chief whips of the parties and the chairperson of the portfolio committee or other Assembly committee concerned, the Speaker is of the view that the Assembly debate on the Bill in terms of Subrule (2) may be facilitated by a report of the portfolio committee concerned or any other appropriate Assembly committee, the Speaker must first refer the Bill to the committee for a report before placing the Bill on the Order Paper.

(4) If the Bill is referred to a committee, the committee may —

(a) consult with the appropriate Council committee or the chairperson of that committee; and

(b) not propose any amendments to the Bill.

(5) The committee must table in the Assembly —

(a) the committee's report; and

(b) the version of the Bill as agreed on by the Mediation Committee.

(6) The debate in the Assembly on the Bill as agreed on by the Mediation Committee must be confined —

(a) to the matters dealt with in the committee's report, if the Bill was referred to a committee, or to the clauses of the Bill which differ from the clauses of the Bill as originally passed by the Assembly, if the Bill was not referred to a committee; and

(b) to the question whether the Bill as agreed on by the Mediation Committee should be passed.

(7) No amendments may be proposed to the Bill as agreed on by the Mediation Committee.

304. Consequences of unsuccessful mediation

A constitution amendment Bill lapses in terms of Joint Rule 180 if mediation is unsuccessful.

Part 5: Specific rules applicable to Section 75 Bills

305. Application of this part to money Bills

The rules set out in this part apply to all Section 75 Bills, as well as money Bills other than those dealt with in terms of the special procedure set out in Rule 322(2).

306. Consequences of approval or rejection of Second Reading

A Section 75 Bill —

(a) must be referred to the Council in terms of Joint Rule 181 if the Assembly approves the Second Reading of the Bill; or

(b) lapses if the Assembly rejects the Second Reading of the Bill.

Reconsideration of Section 75 Bills if Council rejects or passes subject to amendments

307. Referral of Bill to Assembly committee

(1) If the Council rejects a Section 75 Bill referred to it in terms of Joint Rule 181 or passes the Bill subject to amendments, the Speaker must refer the Bill and any amendments proposed by the Council to the portfolio committee concerned or to any other appropriate Assembly committee for —

(a) a report on the Council's rejection of the Bill or on the amendments proposed by the Council; and

(b) recommendations on whether the Bill should be passed again with or without any amendments, or whether it should not be proceeded with.

(2) The committee to which the Bill is referred —

(a) may consult with the appropriate Council committee or the chairperson of that committee;

(b) may not propose any amendment which is not strictly relevant either to the Council's rejection of the Bill or to the amendments proposed by it;

(c) may consult the JTM on whether any of the Council's amendment proposals or any amendments proposed in the committee —

(i) will change the JTM's classification of the Bill, or

(ii) will render the Bill constitutionally or procedurally out of order within the meaning of Joint Rule 161; and

(d) may not propose any amendment that would —

(i) change the classification of the Bill, or

(ii) render the Bill constitutionally or procedurally out of order within the meaning of Joint Rule 161.

308. Committee's report

(1) The committee to which the Bill is referred must table in the Assembly —

(a) the committee's report and recommendations;

(b) the Council's proposed amendments, if the Council has passed the Bill subject to amendments; and

(c) an amended Bill, if the committee, in view of the Council's rejection of the Bill or its amendment proposals, has agreed to amend the Bill previously passed by the Assembly.

(2) When the report is tabled, the Speaker must place the Bill on the Order Paper for debate and decision.

309. Debate and decision

(1) The debate in the Assembly on the committee's report and the Bill must be confined to —

(a) the matters dealt with in the report;

(b) the question whether the Bill should be proceeded with; and

(c) any amendments proposed either by the Council or the committee.

(2) No member may place any amendments to the Bill on the Order Paper.

(3) The Assembly may recommit the Bill or any amendment proposal to the committee for reconsideration and a further report and recommendation before it decides on the Bill.

(4) The Assembly may either —

(a) pass the original Bill again;

(b) pass any amended Bill proposed by the committee;

(c) pass the original Bill incorporating any amendments proposed by the committee or any amendments proposed by the Council which were rejected by the committee; or

(d) decide not to proceed with the Bill.

(5) If Subrule (4)(c) applies, the Assembly must first decide on each amendment proposal of the Council, then on each amendment proposal of the committee and then on the Bill as a whole, incorporating any amendment proposals agreed to by the Assembly.

(6) A Bill passed by the Assembly in accordance with this rule and Sections 53(1)(a) and (c) of the Constitution must be submitted to the President for assent.

(7) If the Assembly decides not to proceed with the Bill, the Bill lapses.

Part 6: Specific rules applicable to Section 76(1) Bills introduced in Assembly

310. Consequences of approval or rejection of Second Reading

A Section 76(1) Bill —

(a) must be referred to the Council in terms of Joint Rule 184(1) if the Assembly approves the Second Reading of the Bill; or

(b) lapses if the Assembly rejects the Second Reading of the Bill.

Reconsideration of Section 76(1) Bills if amended by Council

311. Bill to be placed on Order Paper or referred to portfolio committee

(1) If the Council amends a Bill referred to it in terms of Joint Rule 184(1), the Speaker must —

(a) place the Bill on the Order Paper for debate and decision if the chairperson of the portfolio committee concerned or other relevant Assembly committee so requests, provided that any debate must be confined to the Council's amendments; or

(b) submit the amended Bill to the portfolio committee concerned or any other appropriate Assembly committee for a report and recommendations on the Council's amendments.

(2) The committee to which the Council's amended Bill is referred —

(a) may consult the appropriate Council committee or the chairperson of that committee;

(b) may not propose any further amendments to the Bill; and

(c) may consult the JTM on whether any of the Council's amendments —

(i) changes the JTM's classification of the Bill, or

(ii) renders the Bill constitutionally or procedurally out of order within the meaning of Joint Rule 161.

312. Committee's report

(1) The committee to which the Council's amended Bill is referred must table in the Assembly —

(a) its report and recommendations; and

(b) the Council's amended Bill.

(2) When the report is tabled, the Speaker must place the report and the Council's amended Bill on the Order Paper for debate and decision.

313. Debate and decision

(1) The debate on the report and the Council's amended Bill must be confined to —

(a) the matters dealt with in the report; and

(b) the question whether the amended Bill should be passed or not.

(2) No amendments may be proposed to the Council's amended Bill.

(3) If the Assembly passes the Council's amended Bill in accordance with Sections 53(1)(a) and (c) of the Constitution, the Speaker must without delay submit the Bill to the President for assent.

(4) If the Assembly refuses to pass the Council's amended Bill, the Bill must be referred to the Mediation Committee in terms of Joint Rule 186.

Process after mediation

314. Process if mediation successful

(1) The Speaker must table a notice in the Assembly stating that the Assembly's version of the Bill has been agreed on by the Mediation Committee, if the Mediation Committee has agreed on the version of the Bill as originally passed by the Assembly before its rejection or amendment by the Council.

(2) The Speaker must place a Bill agreed on by the Mediation Committee on the Order Paper for debate and decision if that Bill is —

(a) the Council's amended Bill which the Assembly has refused to pass as stated in Rule 313(4); or

(b) a version that differs from any version of the Bill as passed by either the Assembly or the Council.

(3) If, after consultation with the chief whips of the parties and the chairperson of the portfolio committee or other Assembly committee concerned, the Speaker is of the view that the Assembly debate on the Bill in terms of Subrule (2) may be facilitated by a report of the portfolio committee concerned or any other appropriate Assembly committee, the Speaker must first refer the Bill to the committee for a report before placing the Bill on the Order Paper.

(4) If the Bill is referred to a committee, the committee may —

(a) consult with the appropriate Council committee or the chairperson of that committee; and

(b) may not propose any amendments to the Bill.

(5) The committee must table in the Assembly —

(a) the committee's report; and

(b) the version of the Bill as agreed on by the Mediation Committee.

(6) The debate in the Assembly on the Bill as agreed on by the Mediation Committee must be confined —

(a) to the matters dealt with in the committee's report, if the Bill was referred to a committee, or to the clauses of the Bill which differ from the clauses of the Bill as originally passed by the Assembly, if the Bill was not referred to a committee; and

(b) to the question whether the Bill as agreed on by the Mediation Committee should be passed.

(7) No amendments may be proposed to the Bill as agreed on by the Mediation Committee.

315. Process if mediation unsuccessful

(1) The Speaker, at the request of the person in charge of the Bill, must place the version of the Bill as originally passed by the Assembly before its rejection or amendment by the Council, on the Order Paper for debate and decision in terms of Section 76(1)(e), (i) or (j) of the Constitution if —

(a) the Mediation Committee is unable to agree within 30 days of the Bill's referral to it;

(b) the Assembly refuses to pass the version of the Bill agreed on by the Mediation Committee and considered by the Assembly in terms of Rule 314; or

(c) the Mediation Committee has agreed on the version of the Bill as originally passed by the Assembly, and the Council refuses to pass this version.

(2) If the Assembly passes a version of the Bill as described in Rule 314(2(b) and the Council refuses to pass this version of the Bill, the Speaker, at the request of the person in charge of the Bill, must place this version on the Order Paper for debate and decision in terms of Section 76(1)(i) of the Constitution.

(3) Unless the Assembly decides not to proceed with a Bill placed on the Order Paper in terms of Subrule (1) or (2), the Bill must be put to the vote and, if passed with a supporting vote of at least two thirds of the members, be submitted to the President for assent.

Part 7: Specific rules applicable to Section 76(2) Bills introduced in the Council

316. Powers of committee to which Bill is referred

If a Section 76(2) Bill as passed by the Council is referred to an Assembly committee in terms of Rule 283 or 284, the committee may —

(a) consult with the appropriate Council committee or the chairperson of that committee on the contents of the Bill and any amendments to the Bill that are being considered by the Assembly committee; and

(b) recommend that any time limit for the Assembly's consideration of the Bill be extended.

317. Consequences of approval or rejection of Second Reading

A Section 76(2) Bill must be referred to —

(a) the President in terms of Joint Rule 185(2)(a) if the Assembly approves the Second Reading of the Bill as passed by the Council;

(b) the Council in terms of Joint Rule 185(2)(b) if the Assembly amends the Bill as passed by the Council; or

(c) the Mediation Committee in terms of Joint Rule 186(2)(a) if the Assembly rejects the Second Reading of the Bill as passed by the Council.

Process after mediation

318. Process if mediation successful

(1) The Speaker must table a notice in the Assembly stating that the Assembly's version has been agreed on by the Mediation Committee

if the Mediation Committee has agreed on the Bill as amended by the Assembly and as referred to the Council in terms of Rule 317(b).

(2) The Speaker must place a Bill agreed on by the Mediation Committee on the Order Paper for debate and decision if that Bill is —

(a) the version as passed by the Council and which the Assembly has either amended or rejected as stated in Rule 317(b) or (c); or

(b) a version that differs from any version of the Bill as passed by either the Assembly or the Council.

(3) If, after consultation with the chief whips of the parties and the chairperson of the portfolio committee or other Assembly committee concerned, the Speaker is of the view that the Assembly debate on the Bill in terms of Subrule (2) may be facilitated by a report of the portfolio committee concerned or any other appropriate Assembly committee, the Speaker must first refer the Bill to the committee for a report before placing the Bill on the Order Paper.

(4) If the Bill is referred to a committee, the committee may —

(a) consult with the appropriate Council committee or the chairperson of that committee; and

(b) not propose any amendments to the Bill.

(5) The committee must table in the Assembly —

(a) the committee's report; and

(b) the version of the Bill as agreed on by the Mediation Committee.

(6) The debate in the Assembly on the Bill agreed on by the Mediation Committee must be confined —

(a) to the matters dealt with in the committee's report, if the Bill was referred to a committee; and

(b) to the question whether the Bill as agreed on by the Mediation Committee should be passed.

319. Consequences of unsuccessful mediation

A Section 76(2) Bill lapses in terms of Joint Rule 190 if mediation is unsuccessful.[2]

Part 8: Specific rules applicable to money Bills

320. Contents of money Bills

In terms of Section 77(1) of the Constitution a money Bill may not deal with any other matter except a subordinate matter incidental to the appropriation of money or the imposition of taxes, levies or duties.

321. Introduction of money Bills

(1) Only the Cabinet member responsible for national financial matters may introduce a money Bill.

(2) The responsible Minister must introduce a money Bill by following either the ordinary procedure set out in Rule 279 or the special procedure set out in Rule 322(2), but if it is a Bill appropriating money for the ordinary annual services of the government or imposing taxes, levies or duties for this purpose, the special procedure must be followed; provided that the Minister consults the Speaker when exercising a choice in terms of this rule.

2. If mediation between the Houses on a Section 76(1) Bill fails, the Bill can still be passed if the Assembly can muster a two-thirds majority. This deadlock-breaking mechanism is not available when the Bill is a Section 76(2) Bill, i.e. where the Bill has been introduced in the Council. In terms of the Constitution, a Section 76(2) Bill lapses if mediation fails.

322. Procedure applicable to money Bills

(1) If the ordinary procedure is followed, the Bill in all respects must be dealt with in the Assembly as if it were an ordinary Section 75 Bill, subject to any legislation envisaged in Section 77(2) of the Constitution.

(2) If the special procedure is followed, Parts 2, 3 and 4 of this chapter do not apply and the Bill must be dealt with in the Assembly in accordance with the following specific rules.

323. Special introductory procedure

(1) The Minister in charge of the Bill must deliver an introductory speech in the Assembly on the appointed day.

(2) After having delivered the introductory speech, the Minister must introduce the Bill by tabling it and any accompanying schedule and papers in the Assembly.

324. Bill placed on Order Paper for First Reading

(1) After introduction of the Bill in terms of Rule 323, the Speaker must place the Bill on the Order Paper for First Reading.

(2) The First Reading of the Bill may be considered only after the report of the committee to which it was referred in terms of Rule 325 has been presented to the Assembly.

(3) If the Assembly rejects the First Reading of the Bill, it rejects the Bill.

325. Referral of Bill to Assembly committee

(1) On the day on which the Bill is introduced, the Speaker must, unless legislation provides otherwise, refer the Bill, and any accompanying schedule and papers and the Minister's introductory speech to the committee on public finance for consideration and report.

(2) The committee may confer with the corresponding committee of the Council.

(3) The committee must —

(a) conduct joint public hearings with the corresponding committee of the Council on the fiscal framework and revenue proposals if submitted with the Bill as is required in Section 8(2) of the Money Bills Amendment Procedure and Related Matters Act, 2009; and

(b) report on the fiscal framework and revenue proposals if submitted with the Bill within 16 days after the tabling of the framework and proposals.

(4) Unless legislation provides otherwise, no amendment to a Bill or any accompanying schedule or papers may be moved while the committee is considering the Bill, schedule and papers.

326. Consideration of schedule to appropriation Bill

When the First Reading of an appropriation Bill which has a schedule has been approved, the votes in the schedule must be discussed.

327. Supplementary estimates in main appropriation Bill

When the debate on the schedule to a main appropriation Bill has been concluded, those votes in respect of which supplementary amounts are to be requested, must be placed on the Order Paper for discussion.

328. Approval of votes and schedule

The Assembly must first decide on the separate votes in the schedule to an appropriation Bill (in the case of a main appropriation Bill, when the debate on supplementary amounts has been concluded) and thereafter on the schedule.

329. Second Reading of money Bill

(1) When the schedule to an appropriation Bill has been approved, the Bill must be placed on the Order Paper for Second Reading.

(2) When the First Reading of a money Bill which has no schedule has been approved, the Bill must be placed on the Order Paper for Second Reading.

330. Money Bill rejected or passed subject to amendments by Council

(1) If a money Bill that has been rejected, or passed subject to amendments, by the Council is referred back to the Assembly for reconsideration in terms of Section 75(1)(c) of the Constitution, the Bill may be given precedence over other orders of the day on the day on which it is received from the Council, and a motion to that effect may be moved without prior notice by the Minister in charge of the Bill.

(2) The Assembly must consider any amendments proposed by the Council and no further amendments may be considered unless moved as permitted by the Money Bills Amendment Procedure and Related Matters Act, 2009 by the Minister in charge of the Bill, who may do so without prior notice.

(3) The debate on the reconsideration of the Bill, including the consideration of any amendment, may not continue for more than one hour, excluding the reply of the Minister in charge of the Bill, during which time a member may be restricted to one speech not exceeding

five minutes in duration, except the Minister, who may be allowed more than one such speech.

Part 9: General

331. Second vote on Bill rejected through absence of members

(1) Should a Bill that requires a special majority in the Assembly fail to obtain the required majority when the Bill is put to the vote, the Speaker may, within seven working days after the vote was taken, put the Bill to the vote again, but only if the Chief Whip and the most senior whip of one or more parties which together with the majority party command at least the required majority in the Assembly —

(a) request such a second vote; and

(b) persuade the Speaker that the Bill failed to obtain the required majority because of the absence of party members.

(2) The Bill is considered as having been rejected if it again fails to obtain the required majority.

332. Same Bill may not be introduced more than once

When a Bill has been passed or has been rejected during a session in any year, no Bill of the same substance may be introduced in the Assembly in that year except by leave of the Assembly or where otherwise provided in these rules.

333. Lapsing of Bills on last sitting day of annual session or term of Assembly or when Assembly is dissolved

(1) All Bills introduced in the Assembly and which on the last sitting day of a session of the Assembly appear on the Order Paper for First or Second Reading, lapse at the end of that day unless the Assembly decides otherwise.

(2) All Bills before the Assembly or any Assembly committee on the last sitting day of a term of the Assembly or when the Assembly is dissolved, lapse at the end of that day.

334. Withdrawal of Bill

The person in charge of a Bill introduced in the Assembly may withdraw the Bill at any time before the Second Reading of the Bill is decided.

335. Discrepancies in versions of Bill

(1) If any discrepancy in meaning is found between the versions of any Bill in the different official languages after such Bill has been passed by the Assembly but before it is presented to the President for assent, the Speaker must report such discrepancy to the Assembly.

(2) If the Assembly agrees to an amendment referred to in Subrule (1), the Assembly must be regarded as having agreed to the Second Reading of the Bill as amended.

CHAPTER 14

PROCESS FOR WRITTEN INSTRUMENTS OTHER THAN LEGISLATION

Part 1: General

336. Application

This chapter applies to all written instruments received by the Assembly, other than draft legislation, that have to be formally dealt with in the parliamentary process.

337. Tabling of written instruments in the Assembly

The Speaker must table the following instruments without delay, or if the Assembly is in recess, on its first day when the Assembly resumes its sittings:

(a) all reports and other written instruments submitted by a member of the national executive or in terms of legislation for tabling in the Assembly;

(b) all requests, applications and other written submissions made to the Assembly in terms of legislation to activate a parliamentary process prescribed by such legislation;

(c) all international agreements submitted to the Assembly in terms of Section 231 of the Constitution;

(d) all special petitions and other petitions of a general nature; and

(e) any other written instrument required to be tabled in terms of these rules.

338. Referral of written instruments to committees

(1) Except where these rules or the Joint Rules provide otherwise in a specific case, the Speaker must without delay refer to an appropriate committee —

(a) all written instruments tabled or that must be tabled in the Assembly in terms of Rule 337;

(b) all reports and other written instruments tabled in the Assembly by a member of the national executive; and

(c) any other instrument that must in terms of these rules or the Joint Rules be referred to a committee.

(2) If there is doubt as to which committee is the appropriate committee, the Speaker, in consultation with the Chief Whip, must decide the issue subject to these rules and any directives of the Rules Committee or a resolution of the Assembly.

(3) If a matter is referred to two or more committees, the referral may be accompanied by an instruction —

(a) whether the committees must confer; and

(b) which of them must report, if a report is required, or whether they must report jointly.

(4) When referring a written instrument to a committee or committees, the Speaker may, where appropriate, direct that a report thereon be submitted to the House within a specified timeframe.

339. Consideration of matter by committees

A committee must deal with an instrument referred to it in terms of Rule 338 in accordance with any applicable procedures prescribed by these rules or the Joint Rules.

340. Reporting by committees

(1) A committee must report on a matter referred to it if —

(a) required by a provision of these rules or the Joint Rules; or

(b) the Speaker so instructs.

(2) If a committee is not required in terms of Subrule (1) to report on a matter referred to it, it may nevertheless submit such a report if it so desires.

(3) A committee must report on any written instrument referred to it in accordance with Rule 166.

Part 2: International agreements

341. Submission to Parliament for approval

(1) When the Assembly's approval is to be sought for an international agreement in terms of Section 231(2) of the Constitution, a copy of the agreement must be submitted to the Speaker together with an explanatory memorandum.

(2) The explanatory memorandum must —

(a) briefly set out the history, objectives and implications of the agreement;

(b) include a legal opinion by a state law adviser as to whether the agreement is consistent with the domestic law of the Republic, including the Constitution, with the international obligations of the Republic and with international law in general;

(c) state whether the agreement contains any self-executing provision that will become law in the Republic in terms of Section 231(4) of the Constitution upon the approval of the agreement by Parliament;

(d) give an account of the projected financial and other costs of the agreement for the state; and

(e) contain all other information needed by the Assembly in order to take an informed decision.

342. Tabling and referral to committee

(1) The Speaker must —

(a) table the agreement and explanatory memorandum in the Assembly; and

(b) refer the matter for consideration and report —

(i) to the portfolio committee under which the subject of the agreement falls, or

(ii) by resolution of the Assembly to any other Assembly committee.

(2) The committee —

(a) must enquire into the subject of the agreement with a view to recommending approval or rejection of the agreement;

(b) may, or if ordered by the Speaker must, consult the portfolio committee responsible for overseeing international relations and any other Assembly committee that has a direct interest in the substance of the agreement; and

(c) must report to the Assembly in accordance with Rule 166.

(3) In its report the committee must state whether it recommends approval or rejection of the agreement.

(4) The committee's report must be placed on the Order Paper for decision.

343. Submission to Parliament for information

An international agreement of a technical, administrative or executive nature, or an agreement which does not require either ratification or accession, and which must be tabled in the Assembly in terms of Section 231(3) of the Constitution, must be referred by the Speaker for information —

(a) to the portfolio committee under which the subject of the agreement falls; or

(b) by resolution of the Assembly to any other Assembly committee.

Part 3: Petitions

344. Form of petitions

Petitions must be in the form prescribed by the Speaker in accordance with guidelines determined by the Rules Committee.

345. Language of petitions

A petition must be in one of the official languages.

346. Signing of petitions

(1) Unless the Speaker decides otherwise, every petition must be signed by the petitioners themselves.

(2) Persons unable to write must make their marks on the petition in the presence of two witnesses, who must sign the petition in that capacity.

347. Lodging

(1) A petition must be lodged by a member with the Secretary for approval and tabling by the Speaker, and must be signed at the beginning thereof by the member.

(2) A member may not lodge a petition on his or her own behalf, but such a petition may be lodged by another member.

348. Approval by Speaker

Each petition must be deposited for at least one day with the Secretary, who must submit it to the Speaker for approval before it is tabled in the Assembly.

349. Tabling

If a petition complies with these rules and the guidelines determined by the Rules Committee, the Speaker must approve it and table it in the Assembly without delay.

350. Referral of petitions to committees

After tabling a petition in the Assembly, the Speaker must —

(a) if it is a special petition, refer the petition to the committee on public finance; or

(b) if it is a petition of a general nature, refer the petition to the relevant portfolio committee or other appropriate committee.

CHAPTER 15

MISCELLANEOUS

Part 1: Lapsing of business before Assembly

351. Lapsing of business on last sitting day of annual session or term of Assembly or when Assembly is dissolved

(1) All motions and all other business, other than Bills, on the Order Paper on the last sitting day of an annual session of the Assembly, lapse at the end of that day.

(2) All business before the Assembly or any Assembly committee on the last sitting day of a term of the Assembly or when the Assembly is dissolved, lapse at the end of that day.

Part 2: Executive government

352. Communication of appointment of Cabinet members and Deputy Ministers and their assigned powers and functions

(1) The Leader of Government Business must inform the Speaker in writing without delay of —

(a) the appointment by the President of the Deputy President, other Cabinet members and Deputy Ministers in terms of Sections 91 and 93 of the Constitution when such appointments are made or changed; and

(b) the details of the powers and functions formally assigned, or delegated, to each at the time of appointment or subsequently.

(2) Upon receipt of a communication in terms of Subrule (1), the Speaker must table it without delay.

353. Resolutions affecting executive government

(1) Resolutions of the House affecting the executive government must be communicated to the President of the Republic or other relevant executive authority and to the Leader of Government Business by the Speaker.

(2) The Secretary must send a copy of the Speaker's letter to the Director-General in The Presidency.

354. Consent in respect of state-owned land or property

The House may not proceed upon any Bill, motion or proposal affecting state-owned land or property[3] and of which a member other than a Minister is in charge, unless the President of the Republic has given his or her consent that, as far as the state's interests are concerned, the House may take such decision in regard thereto as it thinks fit.

Part 3: Abuse of Privilege

355. Abuse of privilege

(1) The Assembly may make a finding that a breach or abuse of the privilege provided for in Sections 45(2) and 58 of the Constitution, or as set out in Rule 63 of these rules, is contempt of Parliament as envisaged by Section 13(d) of the Powers and Privileges Act, in accordance with Subrule (2).

(2) The Assembly may make a finding in terms of Subrule (1) only if the Powers and Privileges Committee has decided that a specified act constitutes contempt of Parliament and has reported accordingly to the House.

3. See State Land Disposal Act, 1961.

356. Fines

The amount of a fine that can be imposed under the Powers and Privileges Act for each of the offences mentioned therein, and for each offence referred to in these rules or any resolution of the Assembly, must be determined in every case by a resolution of the Assembly, but such fine may not exceed the amounts provided in the Act.

357. Recovery of fines

All fines must be recovered by the Secretary and paid into Parliament's bank account.

358. Fines remitted

A fine or portion thereof may be remitted by resolution of the Assembly.

359. Request to have response recorded by persons other than members

The Secretary must refer to the Speaker any written request to have a response recorded by a person, other than a member, regarding a statement or remark made by an Assembly member, a Cabinet member or a witness in or before the Assembly, a committee or other forum of the Assembly, or in or before a joint sitting of the Houses or a joint committee.

Part 4: Witnesses

360. Summonsing of witnesses

Any person may be summonsed to appear before the House or a

committee or other forum of the House in accordance with Sections 14 to 17 of the Powers and Privileges Act and these rules.

361. Attendance of witnesses detained in prison

If a witness, whose attendance before the House or a committee or other forum thereof is required, is being detained in any prison, the person in charge of such prison may be ordered to bring the witness in safe custody for examination as often as his or her attendance is deemed necessary, and on the instruction of the Speaker the Secretary may issue his or her warrant accordingly.

Part 5: Office of Secretary and records of the Assembly

362. Records of National Assembly

The records of the National Assembly include —

(a) the Journals of the National Assembly;

(b) the Official Report of the Debates of the National Assembly (Hansard);

(c) the Order Paper, Question Paper and other papers produced under the authority of the House or the Speaker;

(d) documents officially before, or emanating from, a committee or subcommittee or other forum, excluding internally produced preliminary working drafts;

(e) papers tabled in the National Assembly; and

(f) official correspondence.

363. Minutes of Proceedings of National Assembly

The Minutes of Proceedings of the National Assembly and mini-plenary sessions must be recorded by the Secretary and, after having been perused by the Speaker, must be signed by the Secretary, printed and supplied to members.

364. Journals of National Assembly

The Journals of the National Assembly comprise —

(a) the official minutes of the House and its committees and other forums, including the document entitled Announcements, Tablings and Committee Reports; and

(b) any transcripts and recordings made by order of the House or any of its committees or other forums.

365. Custody of papers

The Secretary has custody of all records and other papers of the National Assembly, and he or she may neither remove nor permit to be removed any such records or other papers beyond the precincts of this House without the leave of the Speaker.

366. Access to tabled papers

Tabled papers are open to all members and to the public, unless otherwise ordered by the Speaker or by resolution of the House in respect of a particular paper, or part thereof, and subject to Rule 189 in respect of papers officially before or emanating from a committee or subcommittee or other forum.

367. General duties of Secretary

The Secretary is responsible for the regulation of all matters connected with the business of the National Assembly, subject to such directions as he or she may receive from the Speaker or the House.

SCHEDULE

PROCEDURE TO BE FOLLOWED IN THE INVESTIGATION AND DETERMINATION OF ALLEGATIONS OF MISCONDUCT AND CONTEMPT OF PARLIAMENT

Notification to member

1. A member charged with misconduct or contempt must receive written notice of all allegations and charges against him or her. The notification must be delivered to the member at least five working days before the hearing. The notice must also clearly indicate the date, time and venue of the hearing, that the member is entitled to be assisted by a fellow member and that the member may request the committee to allow legal representation by a person who is not a member.

2. If it is not possible to serve the notice personally on the member, the Sheriff may be requested to serve such notice.

Outside legal representation

3. In complex cases or cases involving complicated evidence or legal issues, and where the committee is of the view that such legal representation might be essential for a fair hearing, the committee may allow the member charged to be represented by a legal practitioner who is not a member.

Explanation by member

4. If the member wishes to give an explanation after receiving the notice, he or she may do so either verbally or in writing. Such explanation may also be presented at the hearing.

Initiator

5. The committee must nominate a member or a person who is duly qualified, but who is not a member of the committee, to act as the initiator for the duration of the hearing. The initiator presents the evidence regarding the allegations and may cross-examine the member and any witness giving evidence on behalf of the member. At the conclusion of the hearing, the initiator may address the committee on the evidence presented before it and may also propose a penalty to be recommended by the committee in its report.

Plea to charge

6. The initiator must put the charge(s) to the member and the chairperson must request the member to plead to the charge(s). If the member so wishes, he or she can also give a plea explanation. If the member refuses to enter a plea, the chairperson must enter a plea of not guilty.

Hearing

7. The member has a right to be present at the hearing. The committee, initiator and the member may call witnesses and these witnesses may be questioned by the chairperson, initiator, the member or the legal representative, either directly or through the fellow member. Members of the committee may also put questions to the member, but only through the chairperson or with the permission of the chairperson. After all the witnesses have been called, the member or fellow member may sum up the evidence and make a presentation to the committee.

8. If after receiving the notice the member fails, without just cause, to attend the hearing, the committee may proceed in the absence of the member.

Penalty

9. If the committee finds the member guilty of misconduct or contempt, the member, fellow member or legal representative must be given an opportunity to present mitigating factors to the committee before the committee reports to the House. Such representation may be verbal or in writing. The initiator may also address the committee on aggravating or other factors.

Suspension of member

10. In order to facilitate an investigation in terms of Section 12 of the Act against a member in circumstances where there is a possibility that the member may interfere with evidence or witnesses or in circumstances where the allegations are of a very serious nature, the Speaker may request the House to suspend the member. Such suspension may be with or without remuneration and may not be for longer than 14 days. A member who has been suspended must leave the parliamentary precincts, and may not, during the period of suspension, without the permission of the Speaker –

    (a) enter the precincts for whatever purpose; or

    (b) participate in any activity of Parliament or any committee.

11. Before the Speaker requests the House to suspend the member, the member must be informed in writing of the request and must be afforded an opportunity to give reasons within a reasonable period why he or she should not be suspended.

12. After the House has resolved to suspend the member, the Speaker must inform the member in writing of the suspension and the period of its operation prior to it taking effect.

APPENDIX A

POLICY FOR ATTENDANCE OF MEMBERS OF PARLIAMENT DURING PLENARY AND MEETINGS OF PARLIAMENTARY COMMITTEES AND FORUMS

(As agreed to by the Joint Rules Committee on 5 March 2014)

(RULES 35 TO 40)

1. Definitions

In this policy, unless the context indicates otherwise —

"Assembly" means the National Assembly;

"attendance" refers to the presence of a member at a plenary, extended public committee, sectoral parliament, a meeting of a parliamentary committee, a recognised parliamentary forum or on an approved oversight activity;

"Council" means the National Council of Provinces;

"Chief Whip" means the Chief Whip of the Majority Party in the National Assembly;

"Chief Whip of the Council" refers to the Chief Whip of the NCOP, as elected in terms of Rule 21(1) of the rules of the NCOP or acting in that capacity;

"committee" refers to all committees of the Assembly and the Council, joint committees, ad hoc committees, standing committees, multiparty whips' forums and their task teams, provincial whips' forum, internal committees and recognised parliamentary forums;

"Family member" refers to a relative by blood, marriage, adoption, fostering, traditional kinship or a life partner (including guardian, grandparent and in-laws) of a member or a person who stands in a bona fide domestic or household relationship with the member, including situations in which some dependency or support role for the member is implied;

"Formal institution of education or training" is an institution registered or accredited with the Department of Education, Council on Higher Education or the South African Qualifications Authority (SAQA);

"member" with reference to —

(a) the Assembly, means a member of the Assembly; and

(b) the Council, means a permanent delegate to the Council.

For the purposes of this policy, the term "member" excludes members of the Cabinet and Deputy Ministers and special delegates of the Council, members of provincial legislatures and representatives of Salga;

"parliamentary business or work" refers to parliamentary activities sanctioned in terms of the Constitution, the programme of Parliament, an instruction of the Presiding Officers or a decision of a House or its committees or party work sanctioned by the political party or a member and which is related to the work of Parliament;

"party whip" refers to a member appointed by his or her party or recognised as such;

"party leader" refers to a member appointed by his or her party or recognised as such;

"party work" refers to activities sanctioned by the political party of a member;

"private business" refers to any work done, either for remuneration or not, by a member that does not relate to his or her responsibilities as a member but excludes political party work;

"primary caregiver" in the context of this policy refers to a spouse or life partner who takes primary responsibility for an adopted child under the age of two years or a child born from a surrogacy agreement;

"provincial whip" refers to a member designated in terms of Rule 173(1)(c) of the NCOP;

"recess" with reference to —

(a) a House, means a period determined as a recess by the Programme Committee of the House, or by resolution of the House, during which the business of the House is interrupted; or

(b) both Houses, means a period determined as a recess by the Joint Programme Committee, or by resolutions adopted in the Houses, during which the business of both Houses is interrupted;

"session" refers to periods that the Assembly or Council are convened for plenary and periods set aside for meetings of parliamentary committees and forums, as well as formal oversight activities of Parliament or its committees and forums, in terms of the programme of a House or the joint programme of Parliament;

"sitting day" refers to a day on which the Assembly or the Council sits in plenary and includes committee meetings;

"spouse" means a spouse or partner in a marriage or civil union partnership in accordance with the Marriage Act, 1961 (Act No 25 of 1961), Recognition of Customary Marriages Act, 1998 (Act No 120 of 1998) or the Civil Union Act, 2006 (Act No 17 of 2006);

"three-line whip" refers to instructions issued by the chief whip of a political party or his or her representative or instructions issued by the Chief Whip of the Council to attend to the business of the House, including plenary sessions and meetings of committees;

"working day" in terms of parliamentary work means any day of the week except —

(a) Saturday and Sunday; and

(b) a public holiday in terms of the Public Holidays Act, 1994 (Act 36 of 1994), and, if such a public holiday falls on a Sunday, also the Monday.

2. Rationale for policy and minimum standards for attendance

(1) Section 47(3)(b) of the Constitution provides that a person loses membership of the Assembly if that person is "...absent from the Assembly without permission in circumstances for which the rules and orders of the Assembly prescribe loss of membership". Section 62(4)(e) of the Constitution provides that a person ceases to be a member if that person "is absent from the National Council of Provinces without permission in circumstances for which the rules and orders of the Council prescribe loss of office as a permanent delegate.

(2) Rules 35 to 40 of the Assembly rules provides for instances where a member wants to be absent from sittings of the House or its committees for 15 or more consecutive sitting days, i.e. a member will need the Assembly's or committee's approval. It does not, however, provide for loss of membership or punitive measures should such approval not be sought or granted.

[See updated measures in Part 3 of Chapter 3 of Rules of the National Assembly]

(3) In terms of Rule 25 of the Council a person ceases to be a Permanent

Delegate of the Council if that person is voluntarily and without leave absent from the Council for 15 consecutive sitting days. Furthermore, a Permanent Delegate seeking leave to be absent from the Council for 15 or more consecutive sitting days must apply for such leave from the Council.

(4) The Remuneration of Public Office Bearers Act, 1998 provides in Section 3(5) that the payment of salaries and allowances of members "...is subject to the rules and orders of the National Assembly and the National Council of Provinces". The Act therefore provides a legal basis for which deductions from members' salaries for unauthorised absences from parliamentary work may be made to the extent that relevant rules are in place.

(5) It is accepted that political parties are responsible for managing members' leave and that a member's absence from Parliament should be controlled by the political party which the member represents. However, each member has a dual responsibility – towards their political party and towards Parliament as an institution.

(6) While it is emphasised that plenary sittings and committee meetings are the first priority of members, the nature of their duties is such that it is essential that members are entitled to be away from Parliament, with permission, to attend to their responsibilities to voters, their constituency, their party, interest groups and to represent Parliament at workshops, seminars and on local and overseas visits.

(7) The multiplicity of activities in which members are engaged makes it necessary for a simple yet effective policy to control the attendance of members when Parliament is in session. This policy would therefore apply during parliamentary sessions and any official activity, but not to recess periods for which holiday leave would be applicable.

(8) This policy will not apply to instances where a House has, by resolution, imposed a sanction on a member in terms of the suspension of the member's privileges and right to a seat in parliamentary debates or committees.

(9) While in the National Assembly political parties and in the Council the Chief Whip of the Council after consultation with political parties regulate the leave of their members, it is done against certain minimum standards that are required in terms of attendance of members at plenary and committee meetings. The ensuring of attendance at plenary and committee meetings continues to be a principal function for political parties. Whips from the various political parties should be responsible for ensuring adequate representation at all plenary and other official activities of Parliament.

(10) As a general principle political parties in the Assembly and the Chief Whip of the Council in the Council have an obligation to ensure that —

(a) Parliament is able to function by taking decisions as required; and

(b) members are present at committee, forum and plenary meetings and that failure to do so may result in sanction being imposed on a member. However, a collective decision by a political party to break quorum by withholding their participation at such meeting is excluded from this general provision.

(11) It should be borne in mind that in the Assembly political parties and in the Council the Chief Whip of the Council after consultation with political parties largely regulate the leave of their members for up to 15 days. However, according to the rules of the Assembly and the Council, after 15 or more consecutive days, the leave of the House must be obtained to condone further absence.

(12) Attendance in Parliament includes the obligation to fulfill the duties imposed upon members by the Constitution and the Rules of the House. A member cannot excuse himself or herself from attending a plenary session or committee meeting when attendance is made compulsory by standing or other orders. Therefore, Parliament should have an enforceable attendance policy which allows for non-attendance by members as specified in the rules.

(13) Minimum standards regarding absence should be set to allow Parliament to impose sanctions for members as contemplated in the Constitution.

(14) In this regard the provisions of the Constitution (Sections 53 and 65) which provide respectively the quorum requirements for decisions to be taken by the Assembly and Council may be used to provide a minimum standard for attendance in terms of plenary sessions.

(15) The Constitution also requires special majorities for decisions on the following:

(a) Extension of states of emergency;

(b) amendments to the Constitution;

(c) a question to be decided in terms of Section 75 of the Constitution in the Council;

(d) Section 76 Bill rejected by the Council;

(e) Bills changing the seat of Parliament;

(f) removal of the President;

(g) motions of no confidence in the President or Cabinet;

(h) removal of judges;

(i) appointment and removal of members of Human Rights Commission, Commission for Gender Equality, Electoral Commission, Auditor-General and Public Protector;

(j) appointment and removal of certain members of the Public Service Commission, and

(k) appointment of inspector to monitor the intelligence services.

(16) When decisions of this nature are to be taken, a "three-line whip" approach should be applicable, which would involve a strict instruction to attend and vote issued by the respective political parties in the case of the Assembly or Chief Whip of the Council in the case of the Council.

(17) Committees play a vital role in the parliamentary process and assist the respective houses in performing their constitutional functions. Committees may be appointed to deal with two main areas of work: the work of Parliament (legislation and oversight) and Parliament's internal arrangements and procedures. While committees may proceed with their business regardless of a quorum being present, they do require a quorum before any decision can be taken. In Assembly committees, a quorum would be the majority of members of the committee, while in Council committees a quorum is dependent on the matter on which a decision is being taken, i.e. in certain instances it will be based on the number of members of the committee but in the case of matters that impact on the provinces decisions are taken on the basis of provincial mandates.

(18) If there is a conflict between this policy, rules and standing orders of the Houses, the rules and standing order of the Council and the Assembly, respectively, shall prevail.

3. Purpose of the policy

The purpose of this policy is to —

(1) Provide minimum standards for attendance of members in the business or activities of Parliament, including plenary sittings, committee meetings, study tours, workshops, parliamentary forums or any other parliamentary activity sanctioned by Presiding Officers or a House or its committees;

(2) define the different categories of leave of absence for members;

(3) provide an equitable and consistent application of leave for members;

(4) provide guidelines for consequences of unauthorised absence; and

(5) provide a mechanism for recourse for grievances in respect of the application of this policy.

4. Scope of application

(1) The policy applies to members of the Assembly and members of the Council.

(2) The policy applies to the attendance and absence of members of Parliament during parliamentary sessions.

5. Categories of leave

The following categories of leave are provided for:

(1) Family responsibility leave is granted to a member on the grounds of illness of his/her child, illness of his/her spouse or life partner, illness of his/her extended family or death of his/her spouse, adopted child, grandchild, sister, brother or a member of the extended family. A member is entitled to 5 (five) working days family responsibility leave annually, provided that a sick certificate or death certificate is provided.

(2) Compassionate leave is granted to a member in exceptional circumstance where the member's Family Responsibility leave has been exhausted, but he or she still requires additional leave. This leave is limited to 5 (five) working days annually.

(3) Maternity leave is granted for 4 (four) consecutive months. A member may commence maternity leave at any time from four weeks before the expected date of birth, unless otherwise agreed. A member who has had a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth.

(4) Parental/adoption leave is granted for 4 (four) consecutive months to the primary caregiver in a civil union or civil marriage in the event

of the adoption of a child under the age of 2 years upon receipt of an adoption order from the Children's Court. This leave will also be granted to the primary caregiver of a child born from a surrogacy agreement on receipt of a birth certificate.

(5) Spousal leave is granted to an individual partner, who is not the primary caregiver, in a civil union or civil marriage following the birth or adoption of a child under the age of 2 years. A member is entitled to 3 (three) weeks spousal leave provided that a birth certificate or adoption order from the Children's Court is provided.

(6) Political party business leave may be granted to a member on request from his or her political party in order to engage in political work outside the precincts of Parliament. A member must clearly specify in writing the number of days required and present communication from the leadership of the member's party confirming that the member requires party political leave. This leave is limited to 30 (thirty) working days annually, however should the member be absent for 15 or more sitting days the approval of the house will be required.

(7) Private business leave may be granted to enable a member to conduct his/her private business. A member is entitled to 5 (five) working days private business leave annually, provided that the business interests are approved by the political party and declared to Parliament in terms of the Code of Ethics.

(8) Study leave is granted to a member who is registered as a student of a formal institution of education or training or a member who is registered for a course with a formal institution of education or training. A member is entitled to 2 (two) working days leave for preparation for an exam and 1 (one) day for writing of an exam upon providing proof of the date of the examination.

(9) Cultural or religious leave may be granted to a member on request. A member is entitled to 2 (two) days cultural or religious leave annually.

(10) Sick leave is granted due to the illness or injury of a member. A member applying for sick leave must ensure that the application for leave is accompanied by a medical certificate if the member is absent for more than 2 (two) days. A member is entitled to 15 (fifteen) working days sick leave annually. Where sick leave is not taken in a year it may be transferred to the next year in a 3-year cycle.

(11) Special leave may be granted when a member requests, on approval of the political party, for extraordinary purposes or incidents not limited to appearing before a court, traditional initiation, cultural training, to undertake special research or attend block study classes, to attend a workshop, seminar or conference either locally or internationally. The member must state the purpose and the number of days required. This leave is limited to 5 (five) working days annually.

6. Procedure for granting leave

(1) All applications for absence from the Assembly must be approved by the whip designated by the political party.

(2) In the case of the Council, after obtaining approval from his or her political party, a member must also inform the relevant Provincial Whip and the Chief Whip of the Council who will where applicable, based on the work of the Council, consult with the member or his/her party leadership to approve or reject the leave.

(3) If a member is not able to apply for leave him/herself another member or representative of his/her party may do so.

(4) Should the reasons provided by the member or his or her representative when applying for leave be found to not warrant the granting of the specified number of days, this will be communicated to the member, the political party whip and in the case of a member of the Council to the Provincial Whip and the Chief Whip of that member's political party.

(5) Should a member fall ill during the leave period, the member may have the leave credited from the first day of the member falling ill provided that a medical certificate is provided.

7. Period of leave

(1) The period for which leave may be granted, other than maternity leave and parental/adoption leave, may not exceed 15 (fifteen) consecutive sitting days of either the Assembly or the Council.

(2) If a member is absent for more than 15 consecutive sitting days a motion must be tabled stating the reason for absence and the period of continued absence.

(3) The House will then need to agree to this motion for the leave to be granted.

(4) Should the House not agree to the motion granting leave, reasons for such decision must be provided to the member and his/her political party.

8. Sanctions in respect of absences

(1) If a member is absent for 15 or more consecutive sitting days of the Assembly or the Council, without authorisation, the member loses his/her seat.

(2) If a member is absent from 3 consecutive meetings of a committee to which he/she is appointed as a full member, outside of a sanctioned absence agreed to by the member's political party, a sanction may be applied to the member by either the Assembly or the Council to the effect of a fine of R1000 for each day of absence. The rules must provide for such a monetary sanction to be imposed.

(3) In the case of the Council if a member is absent during a "three-line whip" without being on authorised leave in terms of this policy sanctions may be applied to the member by the Council.

(4) This policy does not replace any procedures established by any of the Houses to be followed in the investigation and determination of allegations of misconduct and contempt of Parliament.

9. Record of leave applications

(1) All political parties in the Assembly must keep proper records of the leave of their members. However, it is the responsibility of the member or political party concerned to inform the Chairperson of a committee or duty whip of their absence from a committee meeting or sitting of the House.

(2) In the Council leave records must be kept by the Chief Whip of the Council.

(3) In the event of sanctions in respect of absence, documents must be submitted to Parliament's administration prior to any sanctions being affected.

(4) The Tables of the respective Houses should receive in advance the relevant documents of a motion for extension of leave and before any administrative action can be taken in terms of the loss of a member's seat.

(5) Attendance records of members should be published annually by Parliament in the Announcements, Tablings and Committee Reports document.

10. Recourse for grievances in respect of the application of the policy

(1) Any member who feels aggrieved by the sanction imposed upon him/her in terms of this policy may lodge a formal appeal to the Speaker of the Assembly or the Chairperson of the Council.

(2) If the Speaker or the Chairperson is unable to resolve an appeal by a member, they may, establish or make use of an existing multi-party committee to consider instances where a member is aggrieved by a sanction imposed.

(3) The committee should report its findings to the House to which the member belongs.

11. Communication of the policy

In the Assembly each party, and in the Council the Chief Whip of the Council, must ensure that this policy is communicated to all members on the day of its signing or at least 10 days after a member is sworn in as a member.

APPENDIX B

SPECIAL MAJORITIES REQUIRED IN TERMS OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996

(RULE 101)

When the Constitution requires a decision to be taken by special majority, then in all cases, even where there is consensus on the question, a vote count must be conducted to record whether a sufficient number of members are in favour of the question.

Part 1: General Matters

1. States of emergency (Section 37(2)(b))

The Assembly may extend a declaration of a state of emergency for no more than three months at a time.

The first extension must be by a resolution adopted with a supporting vote of a majority of the members of the Assembly (minimum 201 ayes).

Any subsequent extension must be by a resolution adopted with a supporting vote of at least 60 per cent of the members of the Assembly (minimum 240 ayes).

[Note: A resolution on the extension of a state of emergency may only be taken after a public debate in the Assembly.]

2. Bills amending the Constitution (Section 74)

Sections 1 and 74(1) of the Constitution may be amended by a Bill passed by the National Assembly with a supporting vote of at least 75 per cent of its members (minimum 300 ayes).

Any other provision of the Constitution may be amended by a Bill passed by the National Assembly with a supporting vote of at least two thirds of its members (minimum 267 ayes).

3. Ordinary Bills affecting provinces not agreed on by Mediation Committee or rejected by the Council (Section 76)

If the Mediation Committee is unable to agree within 30 days of a Bill introduced in accordance with Section 76 being referred to it, the Bill lapses unless the Assembly again passes the Bill, but with a supporting vote of at least two thirds of its members (minimum 267 ayes).

If the Mediation Committee agrees on the Bill as passed by the Assembly, or if the Mediation Committee agrees on another version of the Bill and it is not passed by the Council, the Bill lapses unless the Assembly passes the Bill with a supporting vote of at least two thirds of its members (minimum 267 ayes).

4. Bill changing the seat of Parliament (Section 76(5))

A supporting vote of the majority of Assembly members is needed to amend Section 42(6) of the Constitution, changing the seat of Parliament (minimum 201 ayes).

5. Motion of no confidence in the President of the Republic or Cabinet (Section 102)

A supporting vote of a majority of members of the Assembly is needed to pass a motion of no confidence in the President of the Republic or the Cabinet (minimum 201 ayes).

Part 2: Appointment of office-bearers or their removal from office

6. Removal of the President of the Republic (Section 89)

The National Assembly, by a resolution adopted with a supporting vote of at least two thirds of its members, may remove the President from office on grounds outlined in Section 89 of the Constitution (minimum 267 ayes).

7. Removal of judges (Section 177)

A judge may be removed from office only if the Judicial Service Commission has made a finding in terms of Section 177 of the Constitution and the National Assembly calls for that judge to be removed by a resolution adopted with a supporting vote of at least two thirds of its members (minimum 267 ayes).

8. Appointment of Public Protector and Auditor-General (Section 193(5))

A resolution for the recommendation of candidates for appointment as Public Protector or Auditor-General must be adopted with a supporting vote of at least 60 per cent of the members of the Assembly (minimum 240 ayes).

9. Removal from office of Public Protector and Auditor-General (Section 194(2))

A resolution of the National Assembly for the removal from office of the Public Protector or Auditor-General must be adopted with a supporting vote of at least two thirds of the members of the Assembly (minimum 267 ayes).

10. Appointment of Inspector-General of Intelligence (Section 210)

The President, as head of the national executive, must appoint an inspector to ensure civilian monitoring of the intelligence services and the appointment must be approved by a resolution adopted by the National Assembly with a supporting vote of at least two thirds of its members (minimum 267 ayes).

11. Appointment and removal of members of the Electoral Commission, Commission for Gender Equality and South African Human Rights Commission (Sections 193(5) and 194)

Recommendations for the appointment or removal of members of the Electoral Commission, Commission for Gender Equality and Human Rights Commission must be approved by a resolution adopted with a supporting vote of a majority of the members of the Assembly (minimum 201 ayes).

12. Appointment of members of Public Service Commission (Section 196(8))

Recommendations for the appointment of five members of the Public Service Commission must be approved by a resolution of the Assembly adopted with a supporting vote of a majority of its members (minimum 201 ayes).

APPENDIX C

STANDARD OPERATING PROCEDURES:
REMOVAL OF MEMBER FROM CHAMBER AND PRECINCTS (RULE 73)

(1) If a member refuses to leave the Chamber, the presiding officer asks the Serjeant-at-Arms to remove the member from the Chamber.

(2) The Serjeant-at-Arms approaches the member(s) to explain in a respectful manner that the instruction of the presiding officer must be complied with and that failure to do so can constitute a grave offence and have serious implications, including that the member(s) may need to be physically removed from the Chamber.

(3) If the member still refuses to leave, the Serjeant-at-Arms indicates to the presiding officer that the member refuses to comply, whereupon the presiding officer informs the House that the Parliamentary Protection Services are to be called upon to assist.

(4) The Parliamentary Protection Services personnel enter the Chamber upon the instruction of the presiding officer, and proceed to remove the member(s) concerned under the direction of the Serjeant-at-Arms.

(5) Members of the public in the gallery who participate in disorderly conduct will be removed by the security services.

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA
PO BOX 15 Cape Town 8000
www.parliament.gov.za

As at 18 September 2019

PHOTOBOOK OF NA MEMBERS

(separated by party)

6th Parliament

CABINET

OFFICE-BEARERS OF THE NATIONAL ASSEMBLY

MEMBERS OF THE NATIONAL ASSEMBLY

ECONOMIC FREEDOM FIGHTERS

ARRIES, LAETITIA HELOISE Ms		CEZA, KHANYA Mr	
CHABANGU, MAKOSINI MISHACK Mr		CHIRWA, NALEDI NOKUKHANYA Ms	
DLAMINI, MARSHALL MZINGISI Mr		GARDEE, GODRICH AHMED Mr	
HLONYANA, NTOKOZO KHONZIWE FORTUNATE Ms		KEETSE, PHUTI PETER Mr	

KHAWULA, MAKOTI SIBONGILE Ms		KOMANE, ROSINA NTSHETSANA Ms	
LANGA, THOKOZANI MAKHOSONKE Mr		MADLINGOZI, BRIAN SINDILE Mr	
MAFANYA, WASHINGTON TSEKO ISAAC		MALEMA, JULIUS SELLO Mr	
MASHABELA, NGWANAMAKWETLE RENEILOE Mrs		MATIASE, NTHAKO SAM Mr	

MENTE, NTOMBOVUYO VERONICA Ms		MKHALIPI, HLENGIWE OCTAVIA Ms	
MOHLALA, MATHIBE REBECCA Mrs		~~MOKAUSE, MMABATHO OLIVE Ms~~	
MOKGOTHO, SHIRLEY MOTSHEGOANE Mrs		MOKOENA, LEHLOHONOLO GOODWILL Mr	
~~*MOKWELE, TEBOGO JOSEPHINE Mrs*~~		MONTWEDI, MOTHUSI KENNETH Mr	

MOTEKA, PEBANE GEORGE Mr		MOTSEPE, CILIESTA CATHERINE SHOANA Mrs	
MSANE, THEMBI PORTIA Mrs		MTHENJANE, DUMISANI FANNIE Mr	
MULUADZI, THILVHALI ELPHUS Adv		NDLOZI, MBUYISENI QUINTIN Dr	
NGWENYA, DELISILE BLESSING Mrs		NOLUTSHUNGU, NONTANDO JUDITH Mrs	

NTLANGWINI, ELSABE NATASHA Ms		PAMBO, VUYANI Mr	
PAULSEN, MOGAMAD NAZIER Mr		SHEMBENI, HENRY ANDRIES Mr	
SHIVAMBU, NYIKO FLOYD Mr		SINDANE, PATRICK Mr	
SIWISA, ANNACLETA MATHAPELO Ms		SONTI, NOKULUNGA PRIMROSE Ms	

THEMBEKWAYO, SOPHIE SUZAN Dr		TITO, LORATO FLORENCE Mrs	
TSHWAKU, MGCINI Mr		YAKO, YOLISWA NOMAMPONDOMISE Mrs	
INKATHA FREEDOM PARTY			

PARLIAMENT
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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Mr Khanya Ceza MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……..

Date received by **Mr K Ceza MP**

……

Signature of **Mr K Ceza MP** as confirmation of receipt

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Mr Makosini Mishack Chabangu MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Mr M M Chabangu MP**

……

Signature of **Mr M M Chabangu MP** as confirmation of receipt

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Ms Ntokozo Khonziwe Fortunate Hlonyana MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(b), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by:

a. deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House;

b. physically intervening, preventing, obstructing or hindering the removal of other members, including yourself, from the House when the presiding officer had ordered such removal from the House;

c. undermining the authority of the presiding officer, refusing to obey rulings of the presiding officer, and interrupting the presiding officer while she was addressing the House;

d. persisting in making serious allegations against the Minister of Public Enterprises without adequate substantiation or following the correct procedure.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(b), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by:

a. deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House;

b. physically intervening, preventing, obstructing or hindering the removal of other members, including yourself, from the House when the presiding officer had ordered such removal from the House;

c. undermining the authority of the presiding officer, refusing to obey rulings of the presiding officer, and interrupting the presiding officer while she was addressing the House;

d. persisting in making serious allegations against the Minister of Public Enterprises without adequate substantiation or following the correct procedure.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(b), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by:

a. deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House;

b. physically intervening, preventing, obstructing or hindering the removal of other members, including yourself, from the House when the presiding officer had ordered such removal from the House;

c. undermining the authority of the presiding officer, refusing to obey rulings of the presiding officer, and interrupting the presiding officer while she was addressing the House;

d. persisting in making serious allegations against the Minister of Public Enterprises without adequate substantiation or following the correct procedure.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Charge 6

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened in Committee Room E249 on 11 July 2019 for the purposes of holding a Debate on Budget Vote 9: Public Enterprises, you contravened section 7(a) of the Act when you wilfully refused and/or failed to obey Rule 92(8), Rule 92(9) and Rule 92(11), read together, by raising, again as a point of order, the same matter which the Presiding Officer, whose ruling was final and binding, had ruled was not a point of order.

This conduct disrupted the proceedings and thereby improperly interfered with, or impeded the ability of the House to exercise its authority or functions, and continuing with the business of the day.

Charge 7

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial

Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened in Committee Room E249 on 11 July 2019 for the purposes of holding a Debate on Budget Vote 9: Public Enterprises, you contravened section 7(b) of the Act when you wilfully refused and/or failed to obey Rule 92(8), Rule 92(9) and Rule 92(11), read together, by raising, again as a point of order, the same matter which the Presiding Officer, whose ruling was final and binding, had ruled was not a point of order.

This conduct interfered, improperly, with the performance by the Minister of Public Enterprises with his function as a Member of Parliament.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a

plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of “not guilty” on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Ms N K F Hlonyana MP**

……

Signature of **Ms N K F Hlonyana MP** as confirmation of receipt

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

PO Box 15 Cape Town 8000
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Secretary to Parliament: Ms P Tyawa (Acting)
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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Ms Rosina Ntshetsana Komane MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(b), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by:

a. deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House;

b. physically intervening, preventing, obstructing or hindering the removal of other members, including yourself, from the House when the presiding officer had ordered such removal from the House;

c. undermining the authority of the presiding officer, refusing to obey rulings of the presiding officer, and interrupting the presiding officer while she was addressing the House;

d. persisting in making serious allegations against the Minister of Public Enterprises without adequate substantiation or following the correct procedure.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(b), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by:

a. deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House;

b. physically intervening, preventing, obstructing or hindering the removal of other members, including yourself, from the House when the presiding officer had ordered such removal from the House;

c. undermining the authority of the presiding officer, refusing to obey rulings of the presiding officer, and interrupting the presiding officer while she was addressing the House;

d. persisting in making serious allegations against the Minister of Public Enterprises without adequate substantiation or following the correct procedure.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(b), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by:

a. deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House;

b. physically intervening, preventing, obstructing or hindering the removal of other members, including yourself, from the House when the presiding officer had ordered such removal from the House;

c. undermining the authority of the presiding officer, refusing to obey rulings of the presiding officer, and interrupting the presiding officer while she was addressing the House;

d. persisting in making serious allegations against the Minister of Public Enterprises without adequate substantiation or following the correct procedure.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Charge 6

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened in Committee Room E249 on 11 July 2019 for the purposes of holding a Debate on Budget Vote 9: Public Enterprises, you contravened section 7(a) of the Act when you wilfully refused and/or failed to obey Rule 92(8), Rule 92(9) and Rule 92(11), read together, by raising, again as a point of order, the same matter which the Presiding Officer, whose ruling was final and binding, had ruled was not a point of order.

This conduct disrupted the proceedings and thereby improperly interfered with, or impeded the ability of the House to exercise its authority or functions, and continuing with the business of the day.

Charge 7

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial

Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened in Committee Room E249 on 11 July 2019 for the purposes of holding a Debate on Budget Vote 9: Public Enterprises, you contravened section 7(b) of the Act when you wilfully refused and/or failed to obey Rule 92(8), Rule 92(9) and Rule 92(11), read together, by raising, again as a point of order, the same matter which the Presiding Officer, whose ruling was final and binding, had ruled was not a point of order.

This conduct interfered, improperly, with the performance by the Minister of Public Enterprises with his function as a Member of Parliament.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a

plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of “not guilty” on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Ms R N Komane MP**

……

Signature of **Ms R N Komane MP** as confirmation of receipt

PARLIAMENT
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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Mr Thokozani Makhosonke Langa MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Mr T M Langa MP**

……

Signature of **Mr T M Langa MP** as confirmation of receipt

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Mr Brian Sindile Madlingozi MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Mr B S Madlingozi MP**

……

Signature of **Mr B S Madlingozi MP** as confirmation of receipt

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Mr Nthako Sam Matiase MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened in Committee Room E249 on 11 July 2019 for the purposes of holding a Debate on Budget Vote 9: Public Enterprises, you contravened section 7(a) of the Act when you wilfully refused and/or failed to obey Rule 92(8), Rule 92(9) and Rule 92(11) of the Rules of the National Assembly, read together, by persisting with a point of order after the Presiding Officer, whose ruling was final and binding, had ruled that the matter raised was not a point of order.

This conduct improperly interfered with, or impeded the ability of the House to exercise its authority or functions; continue with the business of the day, and was disruptive of the proceedings in the House.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened in Committee Room E249 on 11 July 2019 for the purposes of holding a Debate on Budget Vote 9: Public Enterprises, you contravened section 7(b) of the Act when you wilfully refused and/or failed to obey Rule 92(8), Rule 92(9) and Rule 92(11) of the Rules of the National Assembly, read together, by persisting with a point of order after the Presiding Officer, whose ruling was final and binding, had ruled that the matter raised was not a point of order.

This conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by:

a. deliberately engaging in conduct that created serious disorder or disruption in the House;

b. repeatedly undermining the authority of the presiding officer; repeatedly refusing to obey rulings of the presiding officer and repeatedly disrespecting and interrupting the presiding officer whilst she was addressing the House; and

c. persisting in making serious allegations against the Minister of Public Enterprises without adequate substantiation or following the correct procedure.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 6

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a

mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by:

a. deliberately engaging in conduct that created serious disorder or disruption in the House;

b. repeatedly undermining the authority of the presiding officer; repeatedly refusing to obey rulings of the presiding officer and repeatedly disrespecting and interrupting the presiding officer whilst she was addressing the House; and

c. persisting in making serious allegations against the Minister of Public Enterprises without adequate substantiation or following the correct procedure.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 7

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings,

you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by:

a. deliberately engaging in conduct that created serious disorder or disruption in the House;

b. repeatedly undermining the authority of the presiding officer; repeatedly refusing to obey rulings of the presiding officer and repeatedly disrespecting and interrupting the presiding officer whilst she was addressing the House; and

c. persisting in making serious allegations against the Minister of Public Enterprises without adequate substantiation or following the correct procedure.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing.

However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

Tyawa.....

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……..

Date received by **Mr N S Matiase MP**

……

Signature of **Mr N S Matiase MP** as confirmation of receipt

PARLIAMENT
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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Mrs Mathibe Rebecca Mohlala MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Mrs M R Mohlala MP**

……

Signature of **Mrs M R Mohlala MP** as confirmation of receipt

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Mr Mothusi Kenneth Montwedi MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Mr M K Montwedi MP**

……

Signature of **Mr M K Montwedi MP** as confirmation of receipt

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Mrs Thembi Portia Msane MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Mrs T P Msane MP**

……

Signature of **Mrs T P Msane MP** as confirmation of receipt

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Mr Dumisani Fannie Mthenjani MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

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It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Mr D F Mthenjane MP**

……

Signature of **Mr D F Mthenjane MP** as confirmation of receipt

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

PO Box 15 Cape Town 8000
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Secretary to Parliament: Ms P Tyawa (Acting)
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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Mr Mogamad Nazier Paulsen MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Mr M N Paulsen MP**

……

Signature of **Mr M N Paulsen MP** as confirmation of receipt

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Mr Henry Andries Shembeni MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Mr H A Shembeni MP**

……

Signature of **Mr H A Shembeni MP** as confirmation of receipt

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Ms Annacleta Mathapelo Siwisa MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Ms A M Siwisa MP**

……

Signature of **Ms A M Siwisa MP** as confirmation of receipt

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Ms Nokulunga Primrose Sonti MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Ms N P Sonti MP**

……

Signature of **Ms N P Sonti MP** as confirmation of receipt

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POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

In terms of Item 1 of the Schedule to the Rules of the National Assembly, which deals with the procedure for the investigation and determination of misconduct and contempt of Parliament, the following notice of hearing is issued.

NOTICE OF HEARING

To: Mrs Lorato Florence Tito MP

Date: 3 November 2020

You are hereby notified to attend a hearing on Tuesday 17 November, Wednesday 18 November, Thursday 19 November, Friday 20 November, Tuesday 24 November, Wednesday 25 November, Thursday 26 November, and Friday 27 November 2020. The venue for the hearing shall be Committee Room E249, in the Parliament of the Republic of South Africa, in Cape Town. The hearing shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

Charges and allegations

You are required to answer the charges and allegations relating to contempt of Parliament as listed below, at the hearing.

Charge 1

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249 for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly, by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with, or impeded the exercise or performance by the House of its authority and functions.

Charge 2

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 64(d) of the Rules of the National Assembly by crossing the floor of the House in front of the benches during the proceedings.

Such conduct improperly interfered with the performance by the Minister of Public Enterprises of his functions as a Member of Parliament.

Charge 3

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(c) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(e) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House, when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, which was grossly disorderly, you created and took part in a disturbance during a meeting of the House within the Parliamentary precinct.

Charge 4

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(a) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a), Rule 69(c) and Rule 69(d) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the exercise or performance by the House of its authority and functions.

Charge 5

It is alleged that you are guilty of conduct constituting contempt of Parliament in terms of section 13(a) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 ('the Act') in that, as a Member of Parliament and during a mini-plenary session of the National Assembly convened on 11 July 2019 in Committee Room E249, for the purposes of holding a Debate on Vote 9: Public Enterprises, you contravened section 7(b) of the Act when, during the proceedings, you wilfully failed and/or refused to obey Rule 69(a) of the Rules of the National Assembly by deliberately engaging in conduct that created serious disorder or disruption in the House when you crossed the floor of the House in front of the benches during the proceedings; approached the podium and remained there until your removal from the House.

By engaging in such conduct, you improperly interfered with the performance by the Minister of Public Enterprises of his functions as a member.

Your rights and obligations

At the hearing you will be afforded the opportunity to answer the charges and allegations against you and you are entitled to be assisted by a fellow member.

Furthermore, you may request the Committee to allow you legal representation by a person who is not a member at your own cost. In this regard, kindly notify the Committee timeously should you wish to seek outside legal representation so as not to delay the hearing. The Committee will then inform you in due course whether you may be represented by a legal practitioner who is not a member.

If you wish to give an explanation after receiving this notice, you may do so either verbally or in writing. You may present such oral explanation at the hearing. However, should you opt for a written explanation, then kindly submit the explanation to the Chairperson no later than 13h00 on Friday 13 November 2020, for the Committee's consideration.

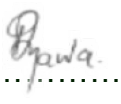
The aforesaid charges will be put to you by the Initiator at the commencement of the hearing and the Chairperson will request you to plead to the charges. You may give a plea explanation, should you so wish. Should you refuse to enter a plea, the Chairperson will enter a plea of "not guilty" on your behalf.

You may call witnesses, present documentary and verbal evidence in support of your case at the hearing. The proceedings will be conducted in English. Should you require an interpreter, this will be provided by Parliament on your timeous request.

You will be provided with copies of the relevant video footage relating to the events on 11 July 2019, the unrevised Hansard relating to the proceedings on 11 July 2019, as well as other relevant documents and materials. Copies of other documents and materials will be provided to you upon request.

The Committee reserves the right to amend or supplement the aforesaid charges and to add further charges to the above, should this become necessary.

You are further advised that should you fail to attend this hearing, it may be conducted and concluded in your absence.



……

Ms P Tyawa

Secretary to Parliament (Acting)

Issued in terms of the decision taken at the meeting of the Powers and Privileges Committee on 11 March 2020.

……

Date received by **Mrs L F Tito MP**

……

Signature of **Mrs L F Tito MP** as confirmation of receipt

Ian Levitt

ATTORNEYS & CONVEYANCERS

Writer's Email : angelike@ianlevitt.co.za

Our Ref : A CHARALAMBOUS/MAT3233
Date : **11 NOVEMBER 2020**

THE POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY

C/O THE ACTING SECRETARY TO PARLIAMENT, MS P TYAWA

PER EMAIL: ptyawa@parliament.gov.za

"URGENT"

"WITH PREJUDICE"

Dear Madam,

RE: POWERS OF PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY // VARIOUS MEMBERS OF PARLIAMENT FOR THE ECONOMIC FREEDOM FIGHTERS

1. We act for various Members of Parliament ("**MPs**") all of whom represent the Economic Freedom Fighters ("**EFF**") in the National Assembly.

2. At the time of writing, we confirm that the following EFF MPs set out hereunder have been handed a copy of a charge sheet, dated 3 November 2020.

    a. Khanya Ceza MP;
    b. Makosini Chabangu MP;
    c. Ntokozo Hlonyana MP;
    d. Jeanet Komane MP;
    e. Thokozani Langa MP;
    f. Sindile Madlingozi MP;
    g. Sam Matiase MP;
    h. Rebecca Mohlala MP;
    i. Mothusi Montwedi MP;
    j. Thembi Msane MP;
    k. Dumisani Mthenjane MP;
    l. Nazier Paulsen MP;
    m. Andries Shembeni MP;

The African Legal Awards 2017 | Attorney of the Year (partner) Ian Levitt, Ian Levitt Attorneys — Winner
The African Legal Awards 2017 | Litigation and Dispute Resolution Team of the Year Ian Levitt Attorneys — Winner
The African Legal Awards 2017 | Specialist Law Firm of the Year Ian Levitt Attorneys — Highly Commended

n. Mathapelo Siwisa MP;
o. Primrose Sonti MP; and
p. Lorato Tito MP.

3. We will refer to these EFF MPs set out above as our clients.

4. Pursuant to the contents of the charge sheet addressed to each of our clients, we are instructed to provide written representations to your offices for on-sending to the Powers and Privileges Committee of the National Assembly ("**the Committee**") as envisaged therein.

5. However, we urgently require you to clarify whether in choosing to provide the Committee with written representations, the hearings referred to will proceed. In this regard, we record that:

    5.1. We act for all the MPs as set out above;
    5.2. All the MPs appear to be charged with the same and/or similar offences; and
    5.3. The envisaged hearing is scheduled to take place while social distancing in compliance with Covid-19 related Regulations continue to be in place.

6. It is our view that, should a physical hearing proceed, that our clients' matters be heard together. Please confirm whether this will be possible having regard to the above.

7. Please also confirm that our firm together with our counsel will be able to represent our clients at any such physical hearing, should it go ahead, subject to what is stated hereunder. We will provide you with the name of our clients' legal team upon receipt of such confirmation.

8. We advise that, having regard to the charge sheet's recordals regarding "an explanation", our clients waive their right to a physical hearing.

9. This waiver is on the understanding that a written explanation and/or determination on paper can take the place of a physical hearing.

10. If the understanding is set out above is incorrect, we request you to urgent clarify what the correct position is.

11. Be that as it may, we furthermore note that the charge sheet provides for the written representations to be filed by 12h00 on Friday, 13 November 2020. Our clients are not in a position to submit their representations by Friday, 13 November 2020 at 12h00.

12. As at the time of writing, our clients have not been provided with, *inter alia*, the video footage, copies of Hansard, and the other documents and materials referred to in the charge sheet.

13. Self-evidently, and regardless of whether this matter is to proceed by means of written representations only and/or a physical hearing, our clients cannot answer the charges let alone adequately prepare its defence in the absence of such documents. Please can these urgently be provided to our offices.

14. Furthermore, and given that our clients intend to provide substantial representations for the Committee's consideration, it is clear that an extension is justified in the circumstances.

15. In light of the above, we accordingly request that our clients be granted an extension to file their written representations to your offices for the Committee by no later than **Tuesday, 1 December 2020.**

16. We also seek that the physical hearings set down to commence on Tuesday, 17 November 2020 be postponed *sine die* until such time that the requests set out in this letter have been answered, and our clients have had a meaningful opportunity to file their written representations.

17. We await your urgent response which we hope will be forthcoming by no later than 16h00 on Thursday, 12 November 2020.

18. In the interim, all our clients' rights remain reserved.

Yours faithfully,

IAN LEVITT ATTORNEYS
PER: ANGELIKE CHARALAMBOUS
SENT ELECTRONICALLY AND THEREFORE UNSIGNED

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

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Angelike Charalambous
Ian Levitt Attorneys & Conveyancers
P O Box 783244
SANDTON 2146
Email: angelike@ianlevitt.co.za

RE: POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY // VARIOUS MEMBERS OF PARLIAMENT FOR THE ECONOMIC FREEDOM FIGHTERS

1. I refer to your letter dated 11 November 2020, addressed to me on behalf of your clients pursuant to their receipt of notifications of a hearing to be held in relation to their alleged participation in the incident of 11 July 2019.

2. The purpose of this letter is to respond to the confirmations and clarifications sought in your letter under reply, as well the requests made therein.

3. The contents of paragraph 4 of your letter are noted. The Committee is obliged to consider, and will in fact do, any representations made by your clients in relation to the matters alleged in the charge sheets, prior to it making any findings in relation to your clients. Whether or not the hearings proceed against any particular member charged, after the receipt of such written representations by the Committee, is dependent on the content of the representations made by that particular member. In short therefore, the hearings may indeed proceed after receipt of such written representations.

4. It will be possible for your clients' matters to be heard together during the physical hearings foregrounded in the notices of which your clients are in receipt.

5. Item 1 of the Schedule of the Procedure to be Followed in the Investigation and Determination of Allegations of Misconduct and Contempt of Parliament ('the Schedule')

stipulates that your clients are entitled to be represented by a fellow Member of Parliament in the hearings, and that your clients may request the Committee to allow legal representation by a person who is not a member. As far as I am aware, no such request has to date been made to the Committee.

6. Item 1 is to be read together with Item 3 of the Schedule, which states that in complex cases or cases involving complicated evidence or legal issues, and where the Committee is of the view that such legal representation might be essential for a fair hearing, the Committee may allow your clients to be represented by a legal practitioner who is not a Member of Parliament.

7. In light of these provisions therefore, and should your clients wish to be legally represented at the hearings by a person who is not a Member of Parliament, your clients are required to address a request to the Committee in this regard, which request must also be consonant with the jurisdictional requirements set out in Item 3 which triggers the Committee's discretion to allow such legal representation.

8. With regards to your clients' 'waiver' of a physical hearing, kindly be advised that Item 8 of the Schedule states that if, after receiving a notice of the type received by your clients, a member fails without just cause to attend the hearing the Committee may proceed in the absence of the member.

9. In terms of the Schedule therefore the Committee is in no position now, without reference to whether or not a case for just cause has been made out, to state that your clients' written representations can take the place of the physical hearings notified to them.

10. The understanding upon which your clients' waivers are based, as recorded in paragraph 10 of your letter under reply, is therefore incorrect.

11. Kindly find transmitted with this letter the following: a) the video footage depicting the events of 11 July 2019 which form the basis of the charges against your clients; and b) a copy of the unrevised Hansard relating to the sitting.

12. We do not accede to your request to postpone the hearings *sine die,* or to the extension sought until 1 December 2020 for the filing of your clients' written representations.

13. In this regard we state the following in response to these requests:
    a. Your clients are granted an extension until 12 noon on Monday, 23 November 2020 to file any written representations they may wish to file in response to the matters set out in the notices delivered to them; and
    b. The hearings shall then commence on Tuesday, 24 November 2020 and continue until Friday, 27 November 2020; and resume from Monday, 7 December 2020 until Friday, 11 December 2020. Further note that the hearings shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00.

I trust that the above clarifies the issues set out in your letter under reply.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Ian Levitt

ATTORNEYS & CONVEYANCERS

Writer's Email : angelike@ianlevitt.co.za

Our Ref : A CHARALAMBOUS/MAT
Date : **13 NOVEMBER 2020**

THE POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY
C/O THE ACTING SECRETARY TO PARLIAMENT, MS P TYAWA
PER EMAIL: ptyawa@parliament.gov.za

"URGENT"

"WITH PREJUDICE"

Dear Madam,

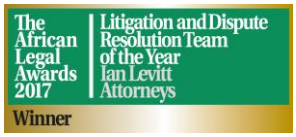
RE: POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY // VARIOUS MEMBERS OF PARLIAMENT FOR THE ECONOMIC FREEDOM FIGHTERS

1. Your letter, which was undated, but received by our offices on 12 November 2020 ("**your letter**"), and which replied to our letter dated 11 November 2020 ("**our letter**"), refers.

2. We refer to the content of paragraph 3 of your letter under reply.

3. That paragraph states:

> "*Whether or not the hearings proceed against any particular member charged, after the receipt of such written representations made by your clients in relation to the matters alleged in the charge sheets, prior to it making any findings in relation to your clients. Whether or not the hearings proceed against any particular member charged, after the receipt of such written representations by the Committee, is dependent on the content of the representations made by that particular member. In short therefore, the hearings may indeed proceed after the receipt of such written representations.*"



Ian Levitt B.Com., LLB (Wits), HDip Tax Law (Wits), **Michael Strauss** BA Law (Stellenbosch) LLB (RAU),
ASSISTED BY: **Jeanne B Strauss** LLB.LLM, Cert in Medicine & Law (Cum Laude), **Wikus Steyl** LLB (UP), **Angelike Charalambous** B.Com., LLB (UJ), **Nicole van Deventer** B.Com., LLB (Cum Laude) (UP)

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B-BBEE Status: Level 4
CONVEYANCER: IN ASSOCIATION WITH MICHELLE CHAVKIN ATTORNEYS

For service in terms of Rule 4A(1)(c) email copy to: **info@ianlevitt.co.za**

4. The contents above makes it abundantly clear that the hearings envisioned in the charge sheet, and in respect of which our letter sought various clarifications, are **dependent** on the written representations, and the content thereof.

5. It is common cause that our clients have not yet filed their written representations (originally due to be filed today, 13 November 2020). Our client's inability to do so was caused by, *inter alia*, the late delivery of evidence necessary for our clients to consider before filing their written representations.

6. It is also common cause that in our letter, and as a result of, *inter alia*, this late delivery of evidence to our clients, our clients sought and were granted an extension to file their written representations by **12h00** on **23 November 2020.**

7. We record that while our clients sought to file those written representations by 1 December 2020, such request was not acceded to (as set out in paragraph 12 of your letter).

8. However, despite the fact that our clients have yet to file their written representations, and the fact that your offices have confirmed that such written representations will have a material influence on whether the hearings proceed, you have indicated that the hearings are set down to go ahead.

9. In particular, we draw your attention to paragraph 13b of your letter under reply which states in unequivocal terms that:

   *"The hearings **shall** then commence on Thursday, 24 November 2020 and continue until Friday, 27 November 2020; and resume from Monday, 7 December 2020 until Friday, 11 December 2020, further note that the hearings shall commence on the aforesaid dates at 10h00 and shall adjourn for the day at 17h00".* (our emphasis)

10. In this regard, please can you urgently answer the following questions:

    10.1. Has a decision been taken to hold the hearings as stated in your letter?

    10.2. If so:-

        10.2.1. Who took that decision?

10.2.2. When was the decision taken?

10.2.3. On what authority (i.e. Rules) was that decision taken?

10.2.4. Why was that decision taken in the absence of our client's written representations?

10.3. If not:-

10.3.1. Why have "hearings" been arranged on the dates and times as referred to on your letter?

10.3.2. On what or whose authority have the hearings been arranged as aforesaid?

10.3.3. On what or whose authority have you communicated the set down of such hearings to our clients?

11. In the premises, it is abundantly clear that a decision has been taken to hold the hearings, despite the fact that, as you readily acknowledge, our clients written representations have yet to be filed.

12. This is a gross irregularity.

13. It is also, with respect, abundantly clear that either you and/or the Committee have already taken decisions regarding our clients despite the jurisdictional requirements for such decisions to be taken not yet being fulfilled.

14. By already deciding this initial step against our clients, and arising from your and/or the Committee's irregular conduct, we record, on behalf of our clients, our concerns regarding the lack of fairness and impartiality of this entire process.

15. The conduct of you and/or the Committee to date illustrates that this matter has been or is being pre-determined and that our clients will not enjoy a fair hearing in form or substance either at the stage of receipt of the written representations and/or hearings, should they arise.

16. As an aside, we further record that according to the timetable set out in your letter, the written representations will be received by you and the Committee on 23 November 2020 at 12h00. The hearings are scheduled to commence the next day on 24 November 2020 at 10h00. This is less than 24 hours later.

17. We record that given Parliament has charged 17 EFF MPs with disciplinary proceedings, and that each of our clients are entitled to file separate representations, and have them considered individually, on their own merits, the time within which the Committee is expected to make a decision regarding the hearings is insufficient.

18. Yet again, this creates the reasonable apprehension that despite the materiality of the written representations to the question of whether the hearings ought to commence at all, as set out in your letter, quoted above, the Committee intends to have the hearings commence regardless of the contents of our clients' written representations.

19. In this regard we draw your attention to the judgment of the Supreme Court of Appeal in the matter of *South African Broadcasting Corporation Soc Ltd and Others v Democratic Alliance and Others* 2016 (2) SA 522 (SCA) at para [65], wherein the Court criticised the then Minister of Communications' ability to peruse and decide upon complex matters within a single day.

20. Even if our clients' concerns were without merit, which is denied, the very timetable set by you and/or the Committee, on its own, is deeply concerning.

21. With respect, even if the Committee sat for the 22 hour period allocated to it before the intended commencement of the hearings, with no breaks at all, it is simply inconceivable that the Committee

will be in a position to, *inter alia*, properly and carefully peruse, consider, debate, and decide the written representations of our 17 individual clients.

22. Moreover, and given the seriousness of the potential findings and sanctions that our clients could be meted with, even if the Committee was able to perform this Herculean task in the allotted time, it is clear that a longer period of consideration is required.

23. Additionally, we further record that the current timetable set by you and/or the Committee creates a further serious prejudice to our clients.

24. As the charge sheet makes clear, our clients are free to obtain legal advice regarding the charges against them at their own cost. This applies regardless of whether our clients will be represented by external legal representatives at the envisaged hearings.

25. But, as your letter also makes clear, those hearings may not materialise depending on the Committee's decision (allegedly yet to be taken) in respect of our clients' written representations.

26. This constitutes a grossly prejudicial burden imposed on our clients effectively necessitating them to go through the expense of preparing for hearings that may not materialise. This is inherently unfair.

27. Lastly, and relatedly, we point out that our clients cannot yet apply to the Committee to be represented by external legal representatives at the hearings in circumstances where no decision has allegedly been taken to hold such hearings. (This is despite the fact those hearings have already appear to have been scheduled).

28. This constitutes a further prejudice to our clients. This is especially the case given that your letter (at paragraphs 4 to 9) make it clear that if the hearings will go ahead, they are mandatory unless the Committee decides otherwise.

29. Once again, we invite you and/or the Committee to reconsider your position regarding our request that the hearings are postponed *sine die*.

30. The hearings, if they are to go ahead against some or all of our clients, can be rescheduled at a mutually convenient time to all the parties enabling our clients (and their legal representatives, if appropriate) to properly prepare and be available.

31. We record that the currently envisaged hearings were unilaterally set down with no prior consultation.

32. Be that as it may, our clients do not wish to be unnecessarily obstructive in the Committee's discharge of its mandate. However, our clients will not, and indeed are entitled to not, legitimate a process that is clearly prejudicial to them and which breaches their rights.

33. Should you and/or the Committee proceed despite our repeated request, it is clear that you and/or the Committee is or would be intent on holding these hearings against our client for the sole reason of finding them guilty. We hope this is not the case.

34. We would encourage you and/or the Committee to first engage with us before proceeding upon this course of conduct which, with respect, is riddled with unlawfulness.

35. In the premises, we urgently request you to provide us the answers to our questions listed above, no later than close of business (17h00) on Monday, 16 November 2020.

36. We further advise you and the Committee that the content of your answers may have a material impact on our clients' ability to file their written representations by the extended deadline (i.e. 23 November 2020).

37. We record that any attempt by you and/or the Committee to proceed in ignorance of our clients concerns as set out in this letter may necessitate our clients approaching a Court, urgently if necessary, for appropriate relief.

38. We are instructed that if legal proceedings are to commence, we are to seek punitive costs against you and/or the Committee and/or the relevant persons/officials within Parliament on a punitive and personal scale.

39. We record that, as with our previous letter, this letter is marked without prejudice and that our letters and any replies thereto may be disclosed to a Court should the need arise.

40. All our clients' rights remain reserved.

Yours faithfully,

IAN LEVITT ATTORNEYS
PER: ANGELIKE CHARALAMBOUS
SENT ELECTRONICALLY AND THEREFORE UNSIGNED

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

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(021) 403 2911

16 November 2020

Ms Angelike Charalambous

Ian Levitt Attorneys & Conveyancers

P O Box 783244

SANDTON 2146

RE: POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY // VARIOUS MEMBERS OF PARLIAMENT FOR THE ECONOMIC FREEDOM FIGHTERS

1. This letter is in response to your letter dated 13 November 2020.

2. In this letter I respond mainly to the request made in paragraph 35 of your letter under reply, which seeks an urgent response to the questions posed in paragraph 10 of the same letter. My failure to respond and comment to or deal with the remaining contents of your letter is not to be taken as my acquiescence with that content. All assertions of prejudice to your clients allegedly arising from the procedure adopted by the Committee to date are denied.

3. It was at its meeting of 11 March 2020 that the Committee resolved that charges should be preferred against your clients for contempt of Parliament in terms of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 (‘the Act’). Your clients were notified in the notification of charges delivered to

them that those notifications were issued in terms of a decision taken by the Committee on 11 March 2020.

4. A copy of the minutes of this meeting is attached hereto marked ‘A’.

5. At its meeting of 15 September 2020, the Committee agreed on the appointment of an Initiator for the proceedings against your clients, and also that the programme for the hearings would be finalised in consultation with the Initiator and once finalised, it would be circulated to members.

6. A copy of the minutes of the meeting of 15 September 2020 is attached marked ‘B’.

7. This did indeed occur and it was agreed to proceed with the hearings from 17 November until 27 November 2020, which dates were notified to your clients in the charge sheets served on them. The programme for the hearings was revisited and amended following your letter of 11 November 2020 wherein you requested, among other things, an extension of the period of time within which your clients were to file their written representations. The revised programme, i.e., to commence with the hearings on 24 November 2020 as a result of your correspondence, was adopted by the Committee at its meeting of 13 November 2020.

8. As you will be well aware, the Schedule to the Rules of the National Assembly (‘the Schedule’) sets out the procedure for the investigation and determination of allegations of misconduct and contempt of Parliament, and it envisages that the allegations so made in those charges be ventilated in a hearing of which your clients have been properly notified in accordance with the Schedule.

9. The Committee is not obliged to consult your clients (of which there are sixteen individuals) in order to agree on mutually acceptable dates for the holding of hearings. Such requirements would render the Rules unworkable.

10. What your clients are entitled to in terms of Item 4 of the Schedule is to give an explanation after, not before, receiving the notice of charges against them, which explanations they may do either verbally or in writing. Your clients have elected to provide written representations in this regard, which are yet to be received by the Committee.

11. Importantly, Item 4 of the Schedule also provides that such explanations as your clients may elect to give may also be presented at the hearing.

12. There is therefore no merit to your client's assertion that (a) they are entitled to make representations before a decision is made to hold hearings in relation to their alleged conduct; and (b) that the procedure that has been adopted in the circumstances amounts to an irregularity at all, let alone a gross one.

13. Your assertion that the Committee has taken decisions regarding your clients despite the absence of jurisdictional requirements for such is without basis. It is denied.

14. Your concerns regarding the *'lack of fairness and impartiality of this entire process'* are equally without basis. The Committee has not pre-determined the merits of the issues alleged in the charge sheets delivered to your clients.

15. I note that the Committee is yet to receive a request from your clients regarding external legal representation at the hearings. Your assertion that your clients cannot as yet apply to the Committee to be legally represented at the hearings *'in circumstances where no decision has allegedly been taken to hold such hearings'* is both confusing and disingenuous. This in circumstances where:

a. Charge sheets were served on your clients on or by Thursday 5 November 2020, giving them more than 5 working days' notice of the allegations against them, and notifying them of hearings in relation to those allegations which were to commence on Tuesday 17 November 2020.

b. Additionally, your clients were informed in those charge sheets that they may request external legal representation from the Committee in which event they were requested to do so timeously so as not to delay the hearing.

c. In a letter dated 11 November 2020, you requested the postponement of the hearings *sine die*, which request was partially acceded to and you were then notified, on 12 November 2020 that the hearings would commence on 24 November 2020.

d. In the same letter of 12 November 2020 I informed you of the procedure for requesting external legal representation.

16. Any prejudice caused by your client's failure to request external legal representation as per the Schedule, and to do so timeously so as not to delay the hearings, is self-created. There is no basis for attributing such failure on the Committee in the circumstances of this matter.

……

Ms P Tyawa

Secretary to Parliament (Acting)

Ian Levitt

ATTORNEYS & CONVEYANCERS

Writer's Email : angelike@ianlevitt.co.za

Our Ref : A CHARALAMBOUS/MAT3233
Date : **18 NOVEMBER 2020**

THE POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY
C/O THE ACTING SECRETARY TO PARLIAMENT, MS P TYAWA
PER EMAIL: ptyawa@parliament.gov.za

"EXTREMELY URGENT"

"WITH PREJUDICE"

Dear Madam,

RE: POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY // VARIOUS MEMBERS OF PARLIAMENT FOR THE ECONOMIC FREEDOM FIGHTERS

1. Your latest letter dated 16 November 2020 refers.

2. Procedural Complaints:

2.1 There is no disagreement regarding the decision taken by the Powers and Privileges Committee ("the Committee") on 11 March 2020, wherein the Committee decided to charge our clients for contempt of Parliament.

2.2 This much is confirmed by the minute of that meeting attached to your letter as annexure "A".

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2.3 However, we disagree with your assertion in paragraph 5 of your letter under reply that: “the committee agreed on the appointment of an initiator for **the proceedings against your clients and also that the programme for the hearings would be finalised…”**

2.4 Item 6(e) and (f) of annexure “B” to your letter (being the minutes of the committee meeting of 15 September 2020) make it abundantly clear that:

2.4.1 After being charged our clients would be given an opportunity to make representations to the committee; and

2.4.2 After receipt of those representations the committee would then decide how to proceed further.

2.5 This is consistent with your previous letter received by our offices on 12 November 2020. For the sake of completeness, we record that your letter under reply was in response to our letter of 13 November 2020 which replied to your letter of 12 November 2020.

2.6 We further record that in our letter dated 13 November 2020, we recorded various objections to the way in which this matter was being conducted. In particular that it appeared that the continuation of the hearings had been predetermined as evidenced by your and/or the Committee’s persistence with same. We specifically recorded that it was contradictory that the hearings were being persisted with despite the request for written representations from our clients which may have the effect of the hearings not proceeding.

2.7 Once again, we draw this contradiction to your attention. it is simply incorrect that the hearings are being persisted with in circumstances were (a) our clients have not yet filed their representations and (b) the Committee has not yet made a decision for the hearings to proceed.

2.8 Yet again, we record that the stance taken by you in your previous correspondence as well as the content of the minute of the meeting of 15 September 2020 (referred to above) confirms this.

2.9 Your attempt therefore to rely on item 4 of the schedule to rules of the National Assembly to unilaterally change the process agreed to by the Committee (having regard to item 6(e) and (f) of the minute referred to above), and communicated by your in your previous letter is, in the circumstances, unlawful.

2.10 The committee has taken a binding decision regarding the procedure to apply in these proceedings. This was not only confirmed, but also communicated by you. Your attempt to resile from this position in a transparent attempt to remedy your and/or the Committee's obviously defective conduct is cause for concern.

2.11 Unless we are to assume that your recent letter confirms the Committee has taken a decision to proceed with the hearings despite our clients not yet having filed their written representations, which justifies our clients concerns regarding inter alia pre-determinations, fairness, and impartiality, it is clear that the hearings cannot proceed.

2.12 As such, we disagree with the import of your letter under reply to the extent that you suggest that the Committee was empowered and/or able to take a decision regarding the intended hearings involving our clients.

2.13 We further disagree that the Committee is entitled to schedule the intended hearings against our clients only having regard to the convenience of the initiator. This one-sided approach evidenced by item 7(b) of the minute of the meeting of 15 September 2020 is yet another example of our clients right to a fair hearing being prejudiced by your and/or the Committee's conduct.

2.14 Consequently, we also disagree with your contentions regarding our clients rights to external legal representation subject to what is stated below.

2.15 The irrationality and unreasonableness of your and/or the Committee's conduct in scheduling the hearings in this way is best evidenced by the fact that the initiator will be unable to question our clients in fulfilment of his duties in circumstances where the hearings may occur on dates when our clients and/or their legal representatives may by unavailable.

2.16 In the premises, and arising from the various procedural defects identified above, our clients have little comfort that their written representations, if any, will be adjudicated with an open mind.

2.17 We record that your and/or the Committee's persistence with a flawed process is a serious breach of our clients rights to a fair hearing.

3. Substantive Complaints:

3.1 In addition to the procedural defects highlighted above, we also draw your attention to our client's additional concerns as set out below. These concerns have crystalised as a result of the correspondence exchanged between our respective offices to date.

3.2 Firstly, it appears that the Committee itself will determine our clients' guilt or innocence. Having regard to the Committee's attitude in respect of the procedural defects highlighted above, our clients are concerned that the political nature of the Committee, reflected by its membership with an inbuilt ANC majority, will not produce a fair outcome. Given the political context of the events in respect of which our clients have been charged it is not unreasonable to assume that the ANC will use its majority to find our clients guilty by default.

3.3 The ANC majority on the Committee are clearly incentivised to find our clients guilty so as to punish them given that they are political opponents. This is particularly the case where the potential sanction that our clients may be subjected to includes, but is not limited to, suspension from parliament and/or without pay. Either or both of these consequences constitute significant incursions into the political rights of our clients and their voters as guaranteed by section 19 of the Constitution where the purpose or effect of such a sanction will be to neutralise our clients constitutionally protected ability to function as an opposition political party.

3.4 In this regard, we draw your attention to the judgment of the Constitutional Court in *Economic Freedom Fighters and Others v Speaker of the National Assembly and Another 2018 2 SA 571 CC* at paragraphs 192 to 196 where the majority of the Court accepted that in matters involving potentially punitive consequences it would be inappropriate at the "fact finding stage" to be determined by a political structure.

3.5 The hearings in their current form threaten our clients' rights in terms of *inter alia* section 1(c), 33 and 34 of the Constitution.

3.6 As a matter of law, it cannot be the case that our clients' ability to escape sanctions depends on them satisfying the ANC majority on the Committee who are their political opposition.

3.7 Secondly, we record that as above the Committee has chosen to appoint an independent initiator who is a legally qualified professional and shall pursuant to the schedule referred to above, present evidence, cross-examine the charged member and/or witnesses. The initiator may also make legal argument regarding the evidence led at the hearing and the proposed penalty.

3.8 The Committee's attitude regarding our clients rights to external legal representations, addressed above, demonstrates a further prejudice to our clients. The Committee impermissibly believes that our client's rights is subject to the Committee's discretion. In other words, the Committee may decide to not permit our client to be legally represented by non-members. This is unlawful particularly in circumstances where the Committee has armed itself with a legal representative of its choosing who is specifically employed to assist the Committee in its disciplinary functions.

3.9 Thirdly, it is apparent that our clients have been selectively charged in circumstances where other Members of Parliament have carried out and/or participated in the same conduct which is alleged to amount to contempt of parliament.

3.10 The failure to treat our clients equally is cause for further concern. In this regard, we point out that the following Members of Parliament have not been charged in respect of the alleged breaches of the rules that occurred on 11 July 2019 and in respect of which our clients have been charged.

3.10.1 Fish Mahlalela MP (ANC);

3.10.2 Boy Mamabolo MP (ANC);

3.10.3 Hope Papo MP (ANC);

3.10.4 Khaya Magaxa (ANC);

3.10.5 Cameron Mckenzie (DA);

3.10.6 John Steenhuizen MP (DA);

3.10.7 Natasha Mazonne MP (DA);

3.10.8 Steve Swart MP (ACDP);

3.11 Fourthly, and as is reflected in the minute of the meeting of 15 September 2020 when disciplinary action was taken against our clients and they were ordered to leave the chamber, this was not done in compliance with the National Assembly's own rules. In particular, we draw your attention to the fact that when the Presiding Officer purported to discipline our clients, she referred to them *en banc* as "members of the EFF" and did not name them individually before proceeding to order that disciplinary action be taken against them.

3.12 In other words, the Presiding Officer proceeded to exercise their disciplinary powers over our client without first fulfilling the requirements of such power. In this regard, we draw your attention to Rules 70 and 71 of the National Assembly. We also draw your attention to the fact that Rule 73 of the National Assembly, that regulates removal, is made explicitly subordinate to Rule 70 and 71.

3.13 Demand: Having regard to the aforesaid we are instructed to demand as we hereby do that:

3.13.1 the hearings are to be conducted by a retired Judge and/or practising Senior Counsel;

3.13.2 the hearings referred to above shall not proceed until such time that the Committee makes a decision regarding the conduct of such hearings after the receipt of our client's written representations;

3.13.3 the hearings currently scheduled by the Committee will be postponed *sine die;*

3.13.4 our clients shall be given an automatic right of legal representation in any such hearings.

3.14 We record that there is ample precedent set by parliament itself regarding the appointment of independent persons to conduct "fact finding" hearings as referred to above. In this

regard we draw your attention to the process currently underway regarding the potential removal of the Public Protector in respect of which an independent panel has been appointed.

3.15 Should you and/or the Committee fail to accede to our clients demands by ***4pm on Friday, 20 November 2020***, as set out above, we hold instructions to approach a Court for appropriate relief.

3.16 In the interim all our clients' rights remain reserved.

Yours faithfully,

IAN LEVITT ATTORNEYS
PER: ANGELIKE CHARALAMBOUS
SENT ELECTRONICALLY AND THEREFORE UNSIGNED

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

PO Box 15 Cape Town 8000
Republic of South Africa
www.parliament.gov.za
(021) 403 2911

19 November 2020

Ms A Charalambous

Ian Levitt Attorneys & Conveyancers

PO Box 783244

SANDTON 2146

Email: angelike@ianlevit.co.za

Dear Ms Charalambous

RE: POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY // VARIOUS MEMBERS OF PARLIAMENT FOR THE ECONOMIC FREEDOM FIGHTERS

1. This letter is in response to your letter dated 18 November 2020.

2. In your letter you make various assertions, including those made under the headings of procedural and substantive complaints. I refer to previous letters which I have addressed to you in response to your previous correspondence to me on behalf of your clients. I stand by the contents of those letters and therefore do not repeat here matters already stated in those letters.

3. To the extent that in your letter under reply you raise new issues not previously raised in your earlier letters, I do not intend to respond to such contents herein, save for what I say below, and for the reasons I set out below.

4. The procedure that has been followed by Parliament thus far in relation to your clients has been in accordance with applicable legal requirements. If you wish to challenge that procedure I encourage you to purse that challenge in the appropriate forum, as per your clients' instructions. I am not that forum.

5. I wish to record the following:

    a. As far as I am aware, as of today your clients have not made any written representations to the Committee for its consideration. This notwithstanding that your clients were first served some 10 working days ago with notification of the allegations against them and the dates for the hearings in relation thereto. Instead you insist, on behalf of your clients, on engaging me in lengthy letters wherein you raise repetitive and argumentative issues that ought properly to be placed before the Committee that is seized with this process, and to which your clients are entitled to make representations but fail to do so. This strategy is clearly an attempt aimed at preventing the hearings from proceeding, either on the on the 24th of November 2020 or at all.

    b. As far as I am aware, your clients have equally not addressed a request to the Committee regarding external legal representation. Once again, instead of doing so in the interests of your clients, you pursue this correspondence with me requiring me to respond to issues which ought properly to be placed before the Committee for its consideration, or pursued in an appropriate forum.

6. Your clients are clearly intent on raising every issue they can find to prevent the hearings from taking place at all, or to delay them, by engaging me in this correspondence wherein they take issue with and problematize everything that I say in response. I am not the Committee, and I once again reiterate that these are all

procedural and substantive issues that your clients are entitled to place before the Committee for its consideration, as your clients are entitled to.

7. For all the above reasons, I do not accede to the requests made in paragraph 3.13 of your letter under reply. The time periods for the delivery of written representations and the hearings remain the same, i.e., respectively by 12 noon on Monday 23 November 2020 and from 10am on Tuesday 24 November 2020 in Committee Room E249.

8. Your instructions to approach a Court for relief are noted.

Ms P Tyawa

Secretary to Parliament (Acting)

Ian Levitt

ATTORNEYS & CONVEYANCERS

Writer's Email : angelike@ianlevitt.co.za

Our Ref : A CHARALAMBOUS/MAT3233
Date : **23 NOVEMBER 2020**

THE POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY
C/O THE ACTING SECRETARY TO PARLIAMENT, MS P TYAWA
PER EMAIL: ptyawa@parliament.gov.za

"EXTREMELY URGENT"

"WITH PREJUDICE"

Dear Sirs,

RE: POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY // VARIOUS MEMBERS OF PARLIAMENT FOR THE ECONOMIC FREEDOM FIGHTERS

1. The aforementioned matter and the hearings set down to commence tomorrow, 24 November 2020 refers.

2. As you are aware, our offices have been mandated by the Members of Parliament to act for them in these proceedings. Our offices have briefed counsel to attend at the hearing tomorrow, 24 November 2020.

3. Counsel informed our offices at approximately 12h41 this afternoon, that he had just been informed by a client who he was in contact with last week Tuesday, 17 November 2020 that he/she has tested positive for Covid 19. Counsel has immediately attended to have an urgent Covid test done and hopefully will have his results within the next 24 hours, as advised by the testing station.

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The African Legal Awards 2017 | Specialist Law Firm of the Year Ian Levitt Attorneys — Highly Commended

4. We trust that you understand, being less than 24 hours prior to the commencement of the said hearings, that we do not have enough time to brief new counsel to attend to the hearing.

5. In light of the above, we humbly request that the hearings set down to commence tomorrow, 24 November 2020 be postponed to commence later in the week depending on the results of the test. We will ofcourse advise you as soon as the results are received and the outcome of such results.

6. We trust that you find the above in order and await your **urgent** response.

Yours faithfully,

IAN LEVITT ATTORNEYS
PER: ANGELIKE CHARALAMBOUS
SENT ELECTRONICALLY AND THEREFORE UNSIGNED

Ian Levitt

ATTORNEYS & CONVEYANCERS

Writer's Email : angelike@ianlevitt.co.za

Our Ref : A CHARALAMBOUS/MAT3233
Date : **23 NOVEMBER 2020**

THE POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY
C/O THE ACTING SECRETARY TO PARLIAMENT, MS P TYAWA
PER EMAIL: ptyawa@parliament.gov.za

"EXTREMELY URGENT"
"WITH PREJUDICE"

Dear Sirs,

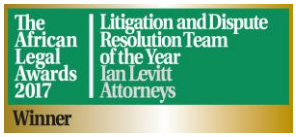
RE: POWERS AND PRIVILEGES COMMITTEE OF THE NATIONAL ASSEMBLY // VARIOUS MEMBERS OF PARLIAMENT FOR THE ECONOMIC FREEDOM FIGHTERS

1. The aforementioned matter and our letter of yesterday, 23 November 2020 refers.

2. Our counsel has received his results from his Covid 19 test and he has tested negative.

3. Accordingly, our offices and counsel are available to attend at the hearings **tomorrow, 25 November 2020.**

4. Kindly urgently confirm that the above is in order.

Yours faithfully,

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