



**Report of the Speaker on the removal of members from the Joint Sitting on 9 February 2023, in terms of Joint Rule 14GA**

10 February 2023

---

**A. BACKGROUND**

- (1) On Thursday, 9 February 2023, during the State of the Nations Address (SONA), members of the Economic Freedom Fighters, after having disregarded the authority of the Chair and causing a serious disruption, were directed to leave the Chamber.
- (2) At this stage the situation had escalated as a result of members resisting removal and ascending the stage where the Presiding Officers and the President were seated. This necessitated the Speaker to suspend proceedings to enable the removal of disorderly members from the House. In the view of the Speaker the conduct of the members was grossly disorderly.
- (3) Since the disorderly conduct of Members who had ascended the stage constituted immediate danger to the life or safety of the Presiding Officers and the President, members of the security services entered the Chamber to assist with the removal of members from the Chamber in terms of section 4(2) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act (the Act).
- (4) At that stage I also called members of the security forces to assist with the removal of the disorderly members in terms of section 4(1) of the Act.
- (5) In terms of Joint Rule 14GA, whenever a member has been physically removed from the Chamber, the circumstances of such removal must be referred by the Speaker or the Chairperson of the Council to a multiparty committee for consideration. This matter has accordingly been referred to the Joint Rules for consideration and report.

## **B. CIRCUMSTANCES RELATED TO THE REMOVAL OF MEMBERS FROM THE CHAMBER**

- (1) On 9 February, shortly after the President of the Republic commenced his address, he was interrupted by a series of points of order and interjections from some members in the Chamber.
- (2) The Speaker responded to the first few points of order and explained that they could not be upheld since they were not valid or relevant to the business of the day. The Speaker also warned honourable members to refrain from raising spurious points of order as this was tantamount to an abuse of the Joint Rules and a disregard for the authority of the Chair.
- (3) Following persistent disruptions and interjections, on the pretext of calling points of order, which the Speaker ruled were not valid points of order, Hon N F Shivambu, Hon J S Malema, Hon N V Mente, Hon O M C Maotwe, Hon M Dlamini and Hon M Q Ndlozi were ordered by the Speaker to leave the Chamber in terms of Rule 14G, an order they failed to comply with. The Speaker instructed the Acting Serjeant-at-Arms to assist in removing the members in terms of Rule 14GA(1).
- (4) After the Acting Serjeant-at-Arms reported that the members would not comply, the Speaker invoked Rule 14GA(2) and ordered that the members be duly removed by Parliamentary Protection Services and female members of the Economic Freedom Fighters should only be removed by female Protection Services officers in line with our practice.
- (5) A large number of members of the Economic Freedom Fighters then stood up, and engaged in disruptive and disorderly conduct, by holding placards, resisting attempts to be removed from the Chamber and proceeded to climb onto the stage, and making approaches towards the President where he was seated waiting to deliver his address.
- (6) At the time Hon J S Malema, Hon N F Shivambu, Hon V Pambo, Hon M Dlamini, Hon M Q Ndlozi and Hon S Tambo were observed on the stage.
- (7) Owing to what the Speaker considered to be an escalating situation with a reasonable prospect of violence and serious disruptions as a result of members resisting being removed, the unprecedented manner in which members, in defiance of an order to leave

the Chamber, stormed the stage and the general grave disorder in the Chamber, the Speaker suspended proceedings. Other members of the Economic Freedom Fighters, holding up placards, also then congregated at the base of the stage and seemed to be attempting to join their fellow members who were at that point already on the stage. These members were also duly removed.

- (8) Members of the Security Services had at this point entered the Chamber to assist with the situation. I indeed affirmed their presence by further making the call for them to intervene.
- (9) The Speaker's observation is that the entry by members of the Security Services – before the call from the Speaker or Chairperson as envisaged in subsection 4(1) – was in response to the escalating and unprecedented situation of members storming the stage where the President was seated, and was meant to avert harm to whomever could have been at risk, and was correct as envisaged in Section 4(2) of the Act.
- (10) This was done in accordance with Joint Rules 14GA(12) and 14K read together, which pertain to the suspension of the proceedings under the abovementioned circumstances.

### **C. APPLICABLE LAW**

#### **Powers and Privileges and Immunities of Parliament and Provincial Legislatures Act 2004 (No 4 of 2004) (the Act)**

- (1) Section 2 of the Act provides that the precincts of Parliament is the area of land and every building or part of a building under Parliament's control and further provides that in so far as it may be necessary for the achievement of the objects of this Act in a case where a House or committee convenes beyond the seat of Parliament, this Act applies as if the premises where the House or committee is sitting were within the precincts of Parliament.
- (2) Section 4(1) of the Act provides that members of the Security Services may enter upon, or remain in, the precincts for the purpose of performing any policing function; or perform any policing function in the precincts, only with the permission and under the authority of the Speaker or the Chairperson.

- (3) Section 4(2) of the Act further provides that when there is immediate danger to the life or safety of any person or damage to any property, members of the Security Services may, without obtaining such permission, enter upon and take action in the precincts in so far as it is necessary to avert that danger. Any such action must as soon as possible be reported to the Speaker and the Chairperson.
- (4) Section 7 of the Act, read with section 13 states, *inter alia*, that a member is guilty of contempt of Parliament if the member improperly interferes with or impedes the exercise or performance by Parliament or a House or committee of its authority or functions, or fails or refuses to comply with an instruction by a duly authorised staff member or wilfully fails or refuses to obey any rule, order or resolution of a House or Houses.

### **APPLICABLE RULES**

- (1) Joint Rule 14G prescribes that if the presiding officer is of the opinion that a member is deliberately contravening a provision of these Rules, or that a member is in contempt of or is disregarding the authority of the Chair, or that a member's conduct is grossly disorderly, he or she may order the member to withdraw immediately from the Chamber for the remainder of the sitting.
- (2) Joint Rule 14GA(1) provides that if a member refuses to leave the Chamber when ordered to do so by the presiding officer in terms of Joint Rule 14G, the presiding officer must instruct the Serjeant-at-Arms or the Usher to remove the member from the Chamber and the precincts of Parliament forthwith.
- (3) Rule 14GA(2) further provides that if the Serjeant-at-Arms or the Usher 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.
- (4) Rule 14GA(5) provides that if a member resists attempts to be removed from the Chamber in terms of sub-rules (1) or (2), the Serjeant-at-Arms, the Usher and the Parliamentary Protection Services may use such force as may be reasonably necessary to overcome any resistance.

- (5) Rule 14GA(6) explicitly states that 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) Rule 14GA(7) provides that members who contravene sub-rule (6) may, on the instruction of the presiding officer, also be summarily removed from the Chamber and the precincts of Parliament forthwith.
- (7) Joint Rule 14K stipulates that in the event of grave disorder at a sitting, the presiding officer may adjourn the sitting or may suspend the proceedings for a period to be stated by him or her.
- (8) Rule 14GA(12) provides that in the event of violence, or a reasonable prospect of violence or serious disruption 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 or the Chairperson of the Council 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, Privileges and Immunities of Parliament and Provincial Legislatures Act (Act No 4 of 2004), or may intervene directly anywhere in the precincts 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.

#### **E. Concluding observations**

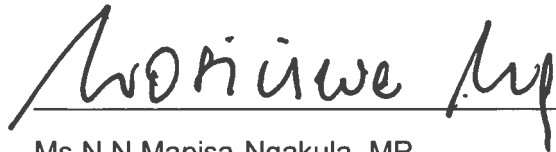
- (1) The nature of this disruption was such that it sought to hinder the commencement of proceedings and the ability of the President to deliver his State of the Nation Address.
- (2) While the Constitution gives members the right to freedom of speech in exercising their constitutional obligations, the exercise of this right is subject to the rules and orders that we impose on ourselves as members of Parliament.
- (3) These rules are meant to maintain order, discipline and decorum so that Parliament can fulfil its Constitutional mandate. In terms of the Constitution our rules must show due regard to representative and participatory democracy, accountability, transparency and public involvement. The rules, as well as the privileges and rights of members enshrined in the Constitution and legislation, must apply equally to all members and

cannot be seized upon for the sole benefit of an individual member or political party who determine that they will not allow the business of the house to proceed.

- (4) The Speaker and the Chairperson are the guardians and custodians of the rules of Parliament.
- (5) In the *Democratic Alliance v Speaker of the National Assembly and Others* [2016] ZACC 8, the Constitutional Court found that the privilege of freedom of speech "*can never go as far as to give members a license so to disrupt the proceedings of Parliament that it may be hamstrung and incapacitated from conducting its business.*" According to the Court this would detract from the very reason for the existence of Parliament (see para 38).
- (6) In *Economic Freedom Fighters v Speaker of the National Assembly; Julius Malema and Another v Speaker of the National Assembly*, the Western Cape High Court also stated "*it can surely not be the exercise of political free speech and activity, as contemplated in section 58(1) of the Constitution, to deliberately contravene the Rules of Parliament, behave in a gross disorderly manner, to defy the authority of the Chair, to show contempt to a Chair or presiding officer, or to deliberately and without legitimate reason raise purported points to stifle political free speech of another member even when you have utter disregard or contempt for such a member ... Such incidents and conduct can surely not be "within the boundaries which the Constitution sets."* (see para 77 and 78).
- (7) As a Presiding Officer, it is the Speaker's obligation to not only enforce order and affirm the Rules of Parliament, but to ensure that it functions within its Constitutional mandate.
- (8) The behaviour of the members concerned was completely unprecedented and a flagrant disregard of the respect we must show to one another as members, but also as fellow South Africans who may come from different perspectives, but are equally legitimate and worthy of representation.
- (9) The actions of the members involved caused serious disruption and had the potential to cause violence. Such actions fly in the face of our hard-fought for democracy and the democratic project we are all seeking to nurture.

- (10) The very real threat of violence and the potential danger to the President of the Republic, Members of Parliament and all other persons present cannot be negated. The actions of the Speaker took were to protect these individuals and the institution.

**Submitted by:**



Ms N N Mapisa-Nqakula, MP

**Speaker of the National Assembly**



**Date**

---