



NATIONAL ASSEMBLY PROGRAMME COMMITTEE

Chairperson:

Speaker of the National Assembly

Committee Secretary:

A Mbanga x 3218

DRAFT MINUTES OF PROCEEDINGS

Thursday, 4 March 2021 [Virtual Meeting]

Present:

T R Modise (Speaker)

Boroto, M G (House Chairperson)	Ntlangwini, E N
Dlakude, D E (Deputy Chief Whip of the Majority Party)	Ntombela, M L D (House Chairperson)
Frolick, C T (House Chairperson)	Nxumalo, M N
Julius, J W W	Papo, A H M (Parliamentary Counsellor to the Deputy President)
Koornhof, Dr G W (Parliamentary Counsellor to the President)	Pilane-Majake, Dr M C C (Programming Whip)
Kwankwa, N L S	Shaik Emam, A M
Lesoma, R M M	Singh, N
Majodina, P C P (Chief Whip of the Majority Party)	Swart, S N
Mazzone, N W A (Chief Whip of the Opposition)	Tsenoli, S L (Deputy Speaker)
Mkhaliphi, H O	Wessels, W W
Mulder, Dr C P	

Staff in attendance:

Ms P N Tyawa (Acting Secretary to Parliament), Mr M Xaso (NA Table), Adv. M Tau (Committees) and Mr NK Bell (Constitutional and Legal Services Office).

1. Opening

The Speaker opened the meeting at 08:30 and welcomed all members.

2. Apologies

There were no apologies.

3. Consideration of draft agenda

The draft agenda as proposed with the addition of ‘Processing of the Report of the Independent Panel tasked with Conducting a Preliminary Assessment of the Motion to Initiate a Process to Remove the Public Protector from office’ under the item ‘consideration of draft Parliamentary programme’, was adopted.

4. Consideration of minutes of meeting of 25 February2021

On the proposal of Mr Singh, seconded by House Chairperson Mr Ntombela, the minutes of 25 February were adopted.

5. Matters arising

Ms Mkhalihi asked for feedback on the matter of assent to bills by the President and pre-1994 legislation. The Speaker indicated that she would be engaging the President on the issue of assent to bills, and feedback would be given in due course. Correspondence had been sent to the Leader of Government Business regarding pre-1994 legislation and the matter was receiving attention.

Public hearings/participation during Covid-19

House Chairperson Mr Frolick proposed that the report on public hearings and participation during the pandemic period first be considered by the Chief Whips’ Forum and the Programme Committee thereafter.

Consideration of the Recognition of Customary Marriages Amendment Bill

Mr Swart indicated that consideration of the Recognition of Customary Marriages Amendment Bill, which was passed by the House on 4 March, included a reference to a Constitutional Court deadline which had been missed by Parliament, as well as the rationale on why an extension was not granted following an application to the Court. It was, however, important to note that internal mechanisms had been put in place for Parliament not to miss such deadlines in the future.

6. Report by Committee Section

Adv. Tau presented a report on matters before committees and highlighted the following:

- The Ad Hoc Committee to initiate and introduce legislation amending Section 25 of the Constitution would be adopting its report on public participation as well as getting a response by legal services that day.
- The Portfolio Committee on Justice and Correctional Services intended to finalise the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill and Domestic Violence Amendment Bill on 12 March.
- The Portfolio Committee on Transport intended to finalise the Civil Aviation Amendment Bill on 9 March.

On statutory appointments, the Portfolio Committee on Police had finalised its report on recommendation of candidates for appointment to the National Forensic Oversight Ethics Board. The Portfolio Committee on Justice and Correctional Services intended to finalise its report on filling of a vacancy on the South African Human Rights Commission on 12 March.

7. Report by Bills Office

Mr Bell presented a report on legislation before Committees and indicated that the Electoral Laws Amendment Bill had been returned to the Assembly due to proposed amendments. The Ease of Doing Business Bill, which is a private member's Bill, had been introduced. Mr Bell also advised that it was not yet clear what would happen to the National Gambling Amendment Bill which was on the Order Paper for consideration by the National Council of Provinces. The Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour did not muster the required majority of provinces to vote on the Bill, thus being considered as 'referred by the committee'. In response to Mr Singh on whether there was a legislative provision for such matters, Mr Bell explained that such a matter could be addressed by rules that were applicable as it was a procedural matter. Mr Singh requested that an opinion on this matter be provided by the Legal Services unit in the next meeting.

8. Consideration of draft Parliamentary programme

Processing of the Report of the Independent Panel tasked with conducting a preliminary assessment of the motion to initiate a process to remove the Public Protector from office

Mr Xaso reported that the independent panel tasked with conducting a preliminary investigation on the removal of the Public Protector from office had since submitted its

report for consideration by the House. Once the report has been adopted, it would be referred to a committee which had already been established in terms of Assembly Rules, which had yet to be constituted. Essentially, the report would be requesting the House to consider whether it should refer the report to a committee, or that it should not be proceeded with. The session in the House should concern itself with process, and not the substance of the report. The Chief Whip of the Majority Party welcomed the report and proposed that it be scheduled for 16 March, which was the last week of the current term. She also suggested that there should be no debate on the report at this stage in order to allow the committee to attend to the merits of the matter in question. After deliberations, Mr Xaso informed the meeting process was basically based on the four stages as follows:

- (1) Report of the independent panel
- (2) Consideration of the panel report by the House
- (3) Enquiry by a committee, if the matter was proceeded with
- (4) Consideration of the report of the committee by the House.

With regards to the *functions* of the committee as outlined in Rule 129(a)(d), Mr Xaso explained as follows:

- (i) the committee should proceed to conduct an enquiry and establish the veracity of the charges and report to the Assembly thereon;
- (ii) the committee must ensure that the enquiry is conducted in a reasonable and procedurally fair manner within a reasonable timeframe;
- (iii) the committee must afford the holder of a public office the right to be heard in his/her own defence and to be assisted by a legal practitioner or other experts of his/her choice provided that the legal practitioner may not participate in the committee; and
- (iv) for the purposes of performing its functions, the committee has all the powers applicable to parliamentary committees as provided for in the Constitution, applicable law and its Rules.

In terms of *decisions*, a question before the committee is decided when a quorum in terms of Assembly Rule 162(2) is present and that there is agreement among members present. The composition of the committee would be proportional.

In response to what was meant by “considered” by the House, Mr Xaso advised that parties could consider having declarations of vote on the report, instead of a debate, but that they should then be confined only to the process that should be followed. It is during the committee stage, that members would be able to express themselves on the merits

or demerits of the matter at hand. Dr Koornhof proposed that an opinion also be obtained on the process. The Chief Whip of the Opposition supported the proposal for an opinion to be obtained. She also proposed that a senior counsel of very sound standing be appointed to assist in the inquiry itself, adding that it was critical for Parliament to act on the matter as soon as possible because of the importance of Chapter Nine institutions. The Speaker said that the report was simply requesting the House to agree or not to agree on whether there was a case to answer. She cautioned members to be mindful of the message that they would be sending out to the public and should not be clumsy about it. Parliament should therefore be seen to be fair as well as acting punctually on the matter. The Speaker said that it would be a shame for our democracy if parties were to reject the report of the independent panel, as it was in the best interest for the country, Parliament and the individual involved that the process was undertaken by the committee. It was **AGREED** that the report would be scheduled for consideration by the House on 16 March.

The Programming Whip presented the draft Parliamentary Programme for the First Term and highlighted the following:

Members' statements and Second Reading debate on Correctional Services Amendment Bill were scheduled for 9 March.

Questions for oral reply on Cluster 2: Social Services and consideration of report on Fiscal Framework and Revenue Proposals were scheduled for 10 March.

Four motions from the ANC, DA, EFF, IFP and Good were scheduled in virtual mini-plenary sessions on 11 and 12 March.

In response to Mr Julius, Mr Xaso clarified that the Criminal and Related Matters Amendment Bill, which was initially proposed for 9 March, would be considered at a later stage. He also urged that consideration be given to scheduling of the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill and Domestic Violence Amendment Bill, which were going to be finalised in the following week, during the current term. Mr Swart added that the rule that at least three working days should have elapsed since the committee's report was tabled before the Second Reading on a Bill would have to be waived.

9. Announcements

There were no announcements.

10. Closure

The meeting adjourned at 09:32.