**REPORT OF SUBCOMMITTEE ON REVIEW OF ASSEMBLY RULES**

22 February 2021 [DRAFT I]

**A. Introduction**

(1) On 26 November 2020, the Speaker referred certain matters to the Subcommittee on Review of Assembly Rules (the Subcommittee) for consideration and report in terms of Assembly Rule 158(2)(b).

(2) The Subcommittee accordingly convened meetings on 5 and 19 February 2021, to deliberate on these and other matters before it and reports as follows.

**B. Composition of the Chief Whips’ Forum**

1. National Assembly Rule 257 provides for the composition of the Chief Whips’ Forum. The forum provides a platform for parties to discuss and co-ordinate matters for which the whips are responsible, and which the Speaker may consult when appropriate.
2. Concerns had been raised that members not specifically designated by the rules had been attending forum meetings; that different members attended from week to week; and that some parties sent a number of representatives to the meetings. Moreover, some parties did not have a whip and were therefore not necessarily able to participate in its meetings.
3. A view was expressed that the challenges identified did not arise from the rules but could be addressed by the forum, and that there should be a measure of flexibility in terms of attendance at forum meetings.
4. Based on the deliberations,the Subcommittee agreed that consideration be given to expanding the composition of the forum. The following amendment to Rule 257 was **RECOMMENDED** **–**

**257. Composition**

1. The Chief Whips’ Forum consists of -
2. The House Chairpersons;
3. the Chief Whip and the deputy chief whip of the majority party and the whip of the majority party responsible for programming;
4. **[the deputy chief whip of the majority party]** the parliamentary counsellors to the President and Deputy President; **[and]**
5. **[the most senior whip of each of the other parties represented in the Assembly]** the Chief Whip of the largest opposition party and one other whip from that party; and

(e) one member from each of the other parties represented in the Assembly.

1. The Speaker and the Deputy Speaker may attend meetings of the Chief Whips’ Forum or designate someone to attend on their behalf.
2. A **[whip]** member referred to in **[Subrule 1(d)]** Subrules (1)(b),(d) and (e) who is unable to attend a meeting of the forum may designate another **[whip]** member to attend the meeting, provided that the number of party representatives in attendance may not exceed those provided for in the relevant rules.
3. Rule 156 does not apply to this forum.

**C. Consideration of ruling by presiding officer**

1. On 29 July 2020, Ms HO Mkhaliphi, MP, lodged a complaint about the ruling of Temporary Chairperson, Mr QR Dyantyi MP, who had ordered her to be removed from the hybrid sitting (on the virtual platform) of the House on that day. The Speaker subsequently referred the principle of the ruling to the Subcommittee in terms of Rules 158(2)(b) and 92(12).
2. Rule 92(12) states that a member who is aggrieved by a ruling may subsequently request that the principle or subject matter of a ruling be referred to the Rules Committees. The Rules Committee must, however, confine its consideration to the principle underlying, or subject matter of, the ruling, and may not review the ruling itself, which is binding.
3. The Subcommittee **AGREED** – that a predetermined procedure should be followed in such matters and therefore invited Mr Dyantyi and Ms Mkhaliphi to make representations to the Subcommittee, which they subsequently did. On 19 February, the Subcommittee deliberated on the matter. In general, members agreed on the need to maintain order in sittings, but differed on the application of the rules on the day in question. The EFF maintained that members had a right to speak and should not be unduly dismissed. The EFF and IFP expressed dissenting views on the matter and did not agree with other parties that the ruling was fairly applied by Mr Dyantyi on the day in question.
4. Based on the discussions, it was **AGREED** that –
5. as a principle, the imperative for presiding officers and members to maintain order be acknowledged; and
6. the principle underlying the ruling and previous rulings from the Chair that interjections on the virtual platform were not permitted due to their disruptive nature of drowning out the member speaking on the floor, was correctly and fairly applied by the presiding officer.

1. **Determination of time for Declaration of Vote**
2. Rule 108(2) states that 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. In the Fifth Parliament, the time allocation was - ANC 7 minutes; DA 5 minutes; EFF 4 minutes and all other parties 3 minutes each.
4. Given the nature of declarations and the relative strength of parties in the Sixth Parliament, the EFF suggested that the Freedom Front Plus (FF Plus) and Inkatha Freedom Party (IFP), should have 3 minutes and the smaller parties, 2 minutes each.
5. In the context of Rule 108(2), and the views of members in the Subcommittee, the following was **RECOMMENDED** –thatthe time allocated to parties for declaration of vote, as determined by the Fifth Parliament, be retained.

**E. Rules related to Questions to the Deputy President**

(1) Assembly Rule 139(1) states that questions to the Deputy President must be scheduled by the Programme Committee once per month during session in accordance with the programme of the Assembly, provided that the Programme Committee must determine which months qualify during session. On each question day, the Deputy President must answer six questions that relate to his or her functions, as designated by the President.

(2) To ensure clarity and facilitate planning, a proposal was made that, the Deputy President answer questions at least once per quarter instead of every month. The DA noted that, notwithstanding the proposal, flexibility was important.

(3) The following amendment to Rule 139(1) was **RECOMMENDED** **–**

**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 at least once per **[month]** quarter during session time in accordance with the annual programme of the Assembly, **[outside of the question time for Ministers;]** provided that a question day to the Deputy President —

(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]** is scheduled outside of the question time for Ministers.

**F. Opportunities for Debates for Smaller Parties**

(1) The rules provide that members can table motions for debate in the House. Motions are scheduled by the Programme Committee. The practice has developed that members be provided an opportunity to have their motions debated based on the proportional strength of parties.

(2) A proposal was put forward that additional opportunities be provided for smaller parties to have their motions debated. In this regard, it has been agreed that, as an interim measure, the Programme Committee increase the number of party motions debated in mini-plenaries, subject to confirmation.

(3) Pursuant to deliberations on the matter, the Subcommittee **RECOMMENDED –** that the Rules Committee endorse the view that more opportunities be created for debate in mini-plenaries.

**G. Questions to the Executive not replied to**

1. Although this matter was not referred to the Subcommittee, the Democratic Alliance (DA) proposed that it be discussed due to the concern that a number of questions to the Executive had not been responded to in accordance with the timeframes determined in the rules.
2. In the context of the rules and the mandate of the Subcommittee, the Subcommittee **RECOMMENDED** – that the matter be placed on the agenda of the Rules Committee, which should be appropriately briefed.

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**Chairperson: Ms DE Dlakude, MP**