



NATIONAL ASSEMBLY PROGRAMME COMMITTEE

Chairperson:
Speaker of the National Assembly

Committee Secretary:
A Mbanga x 3218

DRAFT MINUTES OF PROCEEDINGS

Thursday, 5 August 2021 [Virtual]

Present:

S L Tsenoli (Deputy Speaker)

Dlakude, D E (Deputy Chief Whip of the Majority Party)	Ntlangwini, E N
Frolick, C T (House Chairperson)	Ntombela, M L D (House Chairperson)
Julius, J W W	Papo, A H M (Parliamentary Counsellor to the Deputy President)
Kwankwa, N L S	Pilane-Majake, Dr M C C (Programming Whip)
Koornhof, Dr G W (Parliamentary Counsellor to the President)	Shaik Emam, A M
Lesoma, R M M	Shivambu, N F
Majodina, P C P (Chief Whip of the Majority Party)	Singh, N
Mazzone, N W A (Chief Whip of the Opposition)	Swart, S N
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), Ms T Mtyobile and Adv C R van der Merwe (Constitutional and Legal Services Office).

1. Opening

The Deputy Speaker opened the meeting at 08:30 and welcomed all members. He asked that a moment of silence be observed on behalf of people who had died of Covid-19, as well as those who died tragically in various ways as a result of the recent civil unrest.

2. Apologies

Apologies were tendered on behalf of the Speaker Ms T R Modise and House Chairperson Ms M G Boroto.

3. Consideration of draft agenda

The draft agenda was adopted, as proposed.

4. Consideration of minutes of meeting of 3 June 2021

On the proposal of Dr Mulder, seconded by the Chief Whip of the Opposition, the Minutes of 3 June were adopted. Ms Ntlangwini, however, wanted to provide an amendment but was inaudible.

5. Matters arising

Mr Xaso provided a feedback on the following issues:

Allegations made by Mr Shivambu on the proceedings of the meeting of the Ad Hoc Committee to Initiate and Introduce Section 25 Legislation

Mr Shivambu explained that he had since submitted correspondence in that regard to the NA Table for consideration by the Speaker. The Deputy Speaker indicated that since the correspondence had been received that morning, it would not be discussed in the meeting but would receive the attention of the Speaker.

Committee on Section 194 Enquiry

There had since been a court order on the status of the Committee and the implications thereof would be considered in the next meeting of the Rules Committee, which was scheduled for 13 August. In the meeting direction would be provided on how to take the process forward.

Ms Mkhalihi asked what would be the status of the Committee as it seemed that it was set up illegally, based on the concerns raised by the court. Dr Mulder responded that it was incorrect

to infer that the Committee was not properly established, as the Committee was functioning normally until the court order was made and that had to be respected. The Deputy Speaker closed the discussion by indicating that while everybody was entitled to their opinion, it would only be from the Rules Committee meeting that the process forward was determined.

Mr Xaso also cautioned that the *Ad Hoc* Committee to Initiate and Introduce Section 25 Legislation might not meet its reporting deadline of 31 August due to public participation processes.

6. Report by Committee Section

Adv Tau presented a report on matters before committees and presented an update on the following matters:

The *Ad Hoc* Committee to Initiate and Introduce Section 25 Legislation Bill re-advertised calling for comments on the 18th Amendment Bill. The ad hoc committee intended to have a presentation of report on public participation on 17 – 18 August. Adv Tau also indicated that the number in capturing of submissions for the National Health Insurance Bill (NHI) had increased. With regards to substantive submissions received in May 2021, 163 had been processed and the scanning of hand-delivered submissions had been completed.

7. Report by Bills Office

Ms Mtyobile presented a report on legislation before Committees and highlighted that the Upstream Petroleum Resources Development Bill and Plant Health (Phytosanitary) Bill had since been introduced.

Report on Constitutional Court deadlines

Adv Van der Merwe presented a report on Constitutional Court deadlines as follows:

(a) Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000

Qwelane v South African Human Rights Commission and Another [2021] ZACC 22 (30 July 2021)

Suspension of the order would lapse on 29 July 2023 but a read-in provision had been provided, should Parliament fail to cure the defect within the period of suspension. An opinion was being prepared for the Portfolio Committee on Justice and Correctional Services.

(b) Electoral Act, 1998 (Act No. 73 of 1998)

Suspension of the order would lapse on 10 June 2022 and no read-in provision had been provided. The Department of Home Affairs was scheduled to brief the Portfolio Committee on Home Affairs on the report from the advisory panel as well as progress made in order to introduce the legislation. The meeting was scheduled for 24 August 2021.

The Chief Whip of the Majority Party indicated that the *Ad Hoc* Committee to Initiate and Introduce Section 25 Legislation was on track to finalise its work, given the revised timeframes for it to finalise hearings and that she did not expect further extension on its reporting deadline. She added that it was worth noting that Parliament was on course to meet Constitutional Court deadlines. Furthermore, legislation and other matters that were likely to be finalised in the current term should be scheduled for consideration by the House, where possible. With regards to the Pension Fund Amendment Bill, the Chief Whip of the Majority Party requested that a report be provided on the progress of the matter, given the concerns around pension, as the matter was also affecting members. She also expressed satisfaction in the Electoral Reforms that would be considered by Parliament following a briefing to the Chief Whips' Forum by the Electoral Commission of South Africa.

Ms Mkhalihi asked for progress regarding concerns expressed about the capacity of the institution in processing the NHI Bill. House Chairperson Mr Frolick explained that there were still concerns with the capacity to process the Bill, although some progress had since been made, as per the report from Committee Section. Critical target dates were continuously being adjusted and it was only now that researchers were engaging with the content of submissions. The matter was continuously being monitored, but it was unfortunate that the project staff that was supposed to assist was no longer available as their contracts expired. Mr Xaso indicated that additional capacity had since been secured, and that he would be consulting the personnel involved on what else could be done to ensure that the process was not compromised. The Deputy Speaker indicated that a regular feedback on the matter would be appreciated.

8. Consideration of draft Parliamentary programme

Mr Xaso, on behalf of the Programming Whip, presented the Parliamentary Programme for the Third Term and highlighted the following issues:

Committees conducting oversight

Committee meetings were scheduled for the week of 17 – 20 July in order to, among other things, finalise oversight reports on the recent unrest. Currently, a House sitting to consider committee reports and legislation and a Joint Sitting to debate the civil unrest were proposed for 24 and 25 August, respectively. The critical issue, however, was at what point should the House consider the oversight reports on the civil unrest, as the Joint Sitting could not take decisions in terms of the Rules. Only the respective Houses could adopt reports from committees. Thus, the Programme Committee should make a decision on the matter.

Legislation that was expected to be finalised on 18 August would be scheduled for consideration on 26 August. Questions for oral reply to the President and Deputy President were scheduled for 3 and 14 September, respectively. In the current term, slots have been provided for questions for oral reply by Ministers in all the clusters. As a result, the term had been extended to the end of September, instead of 3 September. Provision had also been made for a mini-plenary session on 30 September which was the last day of sittings, but that could be revisited in case urgent business would be tabled requiring consideration by full plenary.

The Chief Whip of the Majority Party suggested that the two Houses should be allowed to consider separately the reports from the oversight programme. A Joint debate could then be scheduled, in order to denounce and condemn all forms of violence as they had a negative effect on the population, socially and economically. The Chief Whip of the Opposition said that she was in support of the views that the violent outbreak needed to be interrogated at length at the committee stage prior to a debate in the form of a Joint Sitting as the committees that met the previous week in order to consider the matter ended in chaos, thus creating an embarrassment for the institution. It was important that committees should be running smoothly in considering a matter that was involving the lives of South Africans. Parliament should lead by example by continuing to function and meet regularly, including on Fridays, if necessary, as that was also a working day. She added that the Committee on Powers and Privileges and the Joint Committee on Ethics and Members Interests should meet more often as there were urgent matters that needed to be considered which were outstanding as far back as two years. Mr Singh proposed that instead of a Joint Sitting, Parliament, through its committees, should fully interrogate the role of all the members of the Executive and individuals who might be involved in the violence that took place. The relevant committees could be scheduled for a week even if they are to meet jointly or clustered, where necessary. Ms Mkhali

stated that there was a huge interest for justice as a result of the massacre that took place in Phoenix. She requested clarity on whether a Parliamentary inquiry on this matter would follow, adding that her party would be going to support the families of those people whose loved ones had been brutally murdered, irrespective of opposition by any other political party. She further indicated that the Minister of Police was providing different figures on the actual number of people killed. Mr Swart indicated that his understanding from the committees that met the previous week was that no inquiry would be conducted and that presiding officers would be approached in that regard. Due to the public outrage, he was of the view that a full inquiry similar to the ones conducted previously would be considered.

In response to the issue of processing of oversight reports on the recent unrest, House Chairperson Mr Frolick provided the following explanation:

At least eight different committees had conducted oversight activities in KwaZulu-Natal and Gauteng, but that was not sufficient in attending to the matter. The meeting that took place in the previous week comprised members from the Joint Standing Committee on Defence, Joint Standing Committee on Intelligence, Portfolio Committee on Justice and Correctional Services, among others. However, that meeting had not been approved by the Office of the House Chairperson. Those committees have different mandates, within the security cluster. Feedback was still awaited from the chairperson who had convened the meeting. Also, not all the chairpersons in the security cluster were in attendance at that meeting. The Joint Standing Committee on Intelligence had separately submitted an application for an inquiry relating to intelligence issues. As far as the House Chairperson was concerned, no oversight work was conducted by the Portfolio Committee on Police in KwaZulu-Natal as the committee simply met for about five hours. The Committee must still give an explanation on why it did not implement its full oversight programme. In Gauteng, there were a lot of questions asked than answers provided, even though a delegation of senior members from the South African Police Services was in attendance. There were worrying issues that arose out of that meeting, thus there was a need for an inquiry relating to policing matters. As House Chairperson of Committees, together with his counterpart in the NCOP, they had requested that the Portfolio Committee on Police and Select Committee on Justice and Security Services should conduct such an inquiry as those issues fell within their mandates. Furthermore, this was provided for in Assembly Rules 167 and 227 which clearly outlined the functions and mandates of committees. Therefore, the proposed date of 15 August for those committees to conduct an inquiry was realistic, instead of establishing ad hoc committees to do so. The outstanding work was within the mandate of the relevant committees from the two Houses.

The Chief Whip of the Opposition welcomed the remarks by House Chairperson and suggested that a transcript of the meeting should be made available to the ministers and chairpersons of the affected committees as his explanation provided a directive on the situation. Mr Shivambu, however, argued that the recent developments could not be reduced to a police issue and not consider the variety of other aspects, and that it could be problematic and costly if a consolidated approach was not followed. A consolidated approach would make it easier to correctly characterise the events that took place. Furthermore, he said that he could not understand the remarks by the House Chairperson of Committees on the joint meeting as those matters should have been addressed by the governing party beforehand as they should be guiding the processes. In response to the Chief Whip of the Opposition, the Deputy Speaker stated that the minutes of the Programme Committee would be processed and presiding officers, as the leadership of the institution, will appropriately communicate the outcomes in consideration of matters emanating from the meeting. The resolutions of the meeting would be followed through after having considered the reports from oversight activities prior to a debate in the form of a Joint Sitting, which was symbolically important. A progress report in that regard would be made available in the next meeting.

Women's Parliament

The Chief Whip of the Majority Party appealed to the Deputy Speaker and Deputy Chairperson of the National Council of Provinces (NCOP) to work closely on Women's Parliament, which was scheduled for 27 August. She suggested that the approach should make provision for a dedicated opportunity for consideration of reports on progress made since 2019, prior to embarking on the theme for this year's event.

Scheduling of condolence motions

Due to the fact that five condolence motions for members who passed away were scheduled for Thursday, 9 September, the Chief Whip of the Majority Party proposed that the sitting be scheduled to start in the morning in order to avoid family members having to sit until late in the afternoon. The Chief Whip of the Opposition expressed concern in scheduling all of the condolence motions for the same day. She indicated that this was limiting opportunities for parties to pay their proper and deserved respects for each individual, as the session could go on for hours, due to the long number of speakers for all those members. Mr Singh said that he was in support of the sentiments expressed by others as the increase in the number of members who passed away was unprecedented and supported an earlier start.

Dr Mulder asked if a determination would be made on how many members would be required to be present in the House as most of the sittings were hybrid. He added that, as the programme was premised on the understanding that the Local Government Elections were not going to take place on 27 October 2021, there should be caution that a decision could be made that the Elections should proceed as scheduled, and therefore the term may have to end earlier. The Deputy Speaker replied that was it was an important observation but advised that Parliament's perspective should be bi-focal, as the decision of the Constitutional Court on the matter could go either way.

The Parliamentary Programme for the Third Term, was adopted, subject to further consultations.

9. Announcements

Mr Singh thanked all the members for the messages of condolences on the untimely passing of fellow member Mr M N Nxumalo. In particular, he thanked the Chief Whip of the Majority Party for the support and advice provided throughout this period. A memorial service was arranged for Friday, 6 August in a hybrid fashion and all parties were invited to attend. Furthermore, the funeral was arranged for Sunday, 8 August in Mtubatuba.

10. Closure

The meeting adjourned at 09:47.