



NATIONAL ASSEMBLY PROGRAMME COMMITTEE

Chairperson:
Speaker of the National Assembly

Committee Secretary:
A Mbanga x 3218

DRAFT MINUTES OF PROCEEDINGS

Thursday, 2 September 2021 [Virtual]

Present:

N N Mapisa-Nqakula (Speaker)

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

Staff in attendance:

Ms P N Tyawa (Acting Secretary to Parliament), Mr M Xaso (NA Table), Adv M Tau (Committees) and Ms T Mtyobile and Adv C R van der Merwe (Constitutional and Legal Services Office).

1. Opening

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

2. Apologies

Apologies were received from the Deputy Speaker Mr S L Tsenoli, the Chief Whip of the Majority Party Ms P C P Majodina and Ms E N Ntlangwini.

3. Consideration of draft agenda

The draft agenda was adopted as proposed.

4. Consideration of minutes of meeting of 26 August 2021

On the proposal of Mr Singh, seconded by Mr Julius, the Minutes of 26 August were adopted.

5. Matters arising

Mr Xaso reported that the Speaker had since written to the Leader of Government Business on the issue of timeframes for assent to Bills by the President as well as on the repeal of pre-1994 legislation.

Proceedings of the Ad Hoc Committee to Initiate and Introduce Section 25 Legislation

Mr Xaso reported that the ad hoc committee had been granted an extension to 10 September 2021 for it to report on its mandate. Dr Mulder indicated that, as a member of the committee, he did not foresee a need for a further extension as the committee was currently finalising its work. The Speaker asked that a progress report be made available in the next meeting.

Consideration of Removal of Judge President John Hlophe

The Speaker informed the meeting that she had received a letter from the Judicial Service Commission (JSC) advising her of its decision that Parliament consider proceedings on removal of Western Cape Judge President John Hlophe. Legal advice has been obtained, and the position was that the matter would be referred to the Portfolio Committee on Justice and Correctional Services for processing. The report of the Committee would then be scheduled for consideration by the Assembly, and the recommendation for removal would require a resolution supported by two-thirds of the members of the Assembly, as prescribed in the Constitution.

Mr Singh said that it was important that given the threshold required consideration should be given to the voting mechanism to be utilised. As far as electronic voting was concerned, House Chairperson Mr Frolick reiterated that, as previously reported, the Information and Communications Technology division (ICT) was attending to the matter

of an electronic voting mechanism in the context of hybrid sittings. A report from the ICT Focus Group should be available in the following week and would also be presented to the Chief Whips' Forum (CWF) and the Programme Committee in due course. Ultimately, the Rules Committee would have to decide on the way forward. Dr Mulder stated that this was the first time since the adoption of the Constitution that Parliament was confronted with such a situation and he requested that parties be furnished with the copy of the report from the JSC. Mr Shaik Emam asked whether it was possible for smaller parties to participate in those deliberations as not all were represented in the Justice Committee. The Chief Whip of the Opposition said that, whilst she appreciated the work being done by the ICT division, the issue of Judge Hlophe was rather urgent and the Rules Committee should be given ample opportunity to consider the issue of electronic voting. With regards to participation of smaller parties, she said that it was only fair that there was consistency in approaching such matters by not breaking the rules in order to accommodate them. Furthermore, they were represented by other parties and able to vote in the House, once a decision was put. House Chairperson Mr Frolick added that, in terms of Assembly Rules, any member was welcome to attend and participate in committee meetings but that only full members of the committee were able to vote. Mr Shaik Emam stated that, in principle, parties were representing particular constituencies and each party had its own mandate. It was not therefore appropriate for a political party to be represented by another.

Mr Xaso explained that the Constitution was clear which matters required a secret ballot and the removal of a judge was not one of them. The matter of an electronic voting mechanism was, however, one that still required attention. The relevant documents from the JSC would be made available to all parties. Dr Mulder requested that the Speaker obtain legal advice on whether she would have a discretion on a secret ballot voting even though the Constitution did not expressly require a secret ballot for the removal of a judge. With regards to the discretion of the Speaker in respect of a secret ballot, the Speaker undertook to seek guidance on the matter.

Mr Singh said that it was important for the public to take note that, even though some members were part of the JSC, they did not form part of the component that provided the report to Parliament. The Speaker added that it was proper for the JSC subcommittee to consider the matter on their own, as Parliament still had a role to play. This ensured that there was no conflict of interest among the different role players.

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

The Speaker reported that the matter was still receiving attention by the Deputy Speaker.

Women's Parliament and 16 Days of Activism of no violence against women and children

The Speaker reported that the event was a success and reiterated that she would still be engaging the other presiding officers on matters of broader coordination.

The Speaker also informed the meeting that she had received a request for a debate in a Joint Sitting to launch 16 Days of Activism of no violence against women and children.

6. Report by Committee Section

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

The *Ad Hoc* Committee to Initiate and Introduce Section 25 Legislation would be meeting on 2 and 3 September in order to consider its revised programme. The Portfolio Committee on Trade and Industry had finalised the Copyright Amendment Bill and Performers' Protection Amendment Bill on 27 August, but postponed its final report to give the department sufficient time to respond.

Mr Singh wanted to know to what extent the Minister of Social Development or the department had engaged the Portfolio Committee on Social Development on the Green Paper on Social Security Reform, which was subsequently withdrawn. Mr Xaso undertook to follow up on the matter and provide a report in the next meeting.

7. Report by Bills Office

Ms Mtyobile presented a report on legislation before Committees and highlighted that the Employment Equity Amendment Bill and Compensation for Occupational Injuries and Diseases Amendment Bill were on the Order Paper for Second Reading. The Criminal Law (Sexual Offences) Amendment Bill and Domestic Violence Amendment Bill had been returned to the National Assembly, due to proposed amendments from the National Council of Provinces (NCOP).

Ms Mtyobile also indicated that the Criminal Procedure and Related Matters Amendment Bill had been passed by the NCOP and would be sent to the President for assent.

Constitutional Court deadlines

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

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

The Department of Home Affairs was scheduled to brief the Portfolio Committee on the report it received from the advisory panel and the progress made in order to introduce the legislation. The meeting was however postponed. The Legal Services was currently preparing a letter to the Department to enquire on progress.

Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000

The Department of Justice and Correctional Services had referred to this judgment during a briefing made on 18 August 2021 to the Portfolio Committee. The Department distinguished this judgment from the Prevention and Combating of Hate Crimes and Hate Speech Bill and confirmed that an amendment to address this order would be drafted. Legal Services was preparing a letter to the Department to enquire on progress regarding the Bill.

Mr Swart expressed concern about the processing of the Electoral Act given the extent of amendments required as it also has a deadline of 10 June 2022. He said that the matter would have to be monitored closely.

8. Consideration of draft Parliamentary programme

Mr Xaso presented the Parliamentary Programme for the Third Term and highlighted the following:

Second Reading debate on Financial Sector Laws Amendment Bill and consideration of reports from Basic Education were scheduled for Tuesday, 7 September.

Questions for oral reply to the Economics cluster were scheduled for Wednesday, 8 September and condolence motions for five members who passed away were also scheduled for Thursday, 9 September.

The Chief Whip of the Opposition said that it was increasingly disturbing that, even though plans had initially been made that the Local Government Elections would be taking place on 27 October 2021, the current programme intended to adjourn on 15 October. It would assist if an outline of an alternative programme could be shared with members as a precautionary measure depending on when local government elections would take place. Mr Julius added that it was fair that an urgent meeting that would provide guidance should be considered whereby political parties will have an opportunity to make their inputs on any proposals that were mooted. Mr Singh said that it was equally important to consider plans for elections in February 2022 as this would impact on the President's State-of-nation Address as well as other events that were normally

held at the beginning of the year. The Deputy Chief Whip of the Majority Party pointed out that, the CWF had been advised the previous day that the administration would be presenting an alternative programme pending the decision of the Constitutional Court. The Speaker explained that a special meeting of the Programme Committee would be scheduled as soon as the court's decision was announced. Mr Xaso indicated that draft proposals that took into account elections being held in October would accordingly be made available to all parties and the Joint Programme Committee would also be convened, as and when appropriate. The Speaker emphasised that as soon as the Constitutional Court pronounced on the matter, a special meeting of the Programme Committee would be convened.

In response to Mr Swart, the Deputy Chief Whip of the Majority Party clarified that condolence motions would start at 10:00 with the provision of a suspension of business for lunch with business to be resumed thereafter. It was previously agreed that there would be no caucuses that day.

9. Announcements

The Deputy Chief Whip of the Majority Party informed the meeting that Ms Lesoma had been appointed as the Programming Whip in the National Assembly.

10. Closure

The meeting adjourned at 09:32.