



**SPECIAL NATIONAL ASSEMBLY PROGRAMME COMMITTEE**

Chairperson:  
Speaker of the National Assembly

Committee Secretary:  
A Mbanga x 3218

**DRAFT MINUTES OF PROCEEDINGS**

Tuesday, 9 November 2021 [Virtual]

Present:

N N Mapisa-Nqakula (Speaker)

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

Staff in attendance:

Ms P N Tyawa (Acting Secretary to Parliament), Mr M Xaso (NA Table), Adv Z Adhikarie and Ms T Mtyobile (CLSO) and Adv M Tau (Committees).

**1. Opening**

The Speaker opened the meeting at 08:30 and welcomed everyone. She congratulated all the parties that took part in the elections and expressed appreciation for the manner in which the recent Local Government Elections had been conducted, looking at the

number of parties that participated in the elections was a testament that our democracy was maturing.

## **2. Apologies**

Apologies were received from Deputy Speaker Mr S L Tsenoli, House Chairperson Mr C T Frolick and Mr N Singh.

## **3. Consideration of draft agenda**

The draft agenda was adopted with the addition of an item on the Committee on Section 194 process on removal of the Public Protector from Office.

## **4. Consideration of minutes of meeting of 6 September 2021**

On the proposal of the Chief Whip of the Majority Party, seconded by Mr Swart, the minutes of 6 September were adopted.

## **5. Matters arising**

### *Speaker's ruling on the exchange between Ms Mkhalihi and Dr Mulder*

The Speaker gave a considered ruling on a matter that arose in the previous meeting in respect of the points of order raised during the discussion around parliamentary processes in respect of Judge President John Hlophe.

At the time the Speaker ruled that Dr Mulder should withdraw the word "racist" as the manner in which the word came across could easily be perceived as being directed at the person of either Ms Mkhalihi or even Ms Ntlangwini, who was speaking at the time. Dr Mulder contended that he had intended to point out that the statement was racist and not that the member was racist. The Speaker reiterated that members of the National Assembly have freedom of speech in the Assembly and its committees, subject to its rules and orders. The rules themselves ensure that parliamentary proceedings can be conducted in an orderly and respectful manner. In the context of the Constitution, the rules necessarily prevent members from, among other things, using offensive language, or imputing improper motives to other members.

The Speaker emphasised that Parliament plays an important role in building an inclusive society. While members should be passionate and robust in bringing matters to the fore, they should also show respect and restraint in the way in which they interacted with one another, so

that they avoid incendiary interaction and rather elevate the level of debate and dialogue which should be the hallmark of any Parliament.

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

Mr Xaso reported that the ad hoc committee had finalised its work and its report was under Further Business for consideration by the House. The Programming Whip would advise on a suitable date for scheduling of the report.

*Consideration of Removal of Judge President John Hlophe*

Mr Xaso reported that the matter was currently before the Portfolio Committee on Justice and Correctional Services for consideration. The Speaker advised that she would be receiving a briefing by Legal Services and Mr Xaso as to whether she had a discretion to allow a secret ballot in respect of the removal of a judge. Subsequent to this, she would advise the committee on her position on the matter. The Chief Whip of the Majority Party, however, proposed that there be a timeframe, preferably in the next meeting.

The Chief Whip of the Opposition stated that there had previously been rulings that Parliament should ultimately exercise a secret ballot process as part of its proceedings. As a result, provision should be made in the Rules Committee so as to avoid Parliament having to approach the courts for the same remedy. Mr Swart asked if the Speaker could make available the legal opinion to members. Mr Xaso explained that the courts had previously made pronouncements on the matter and had given guidelines that the Speaker could use in exercising her discretion as far as voting is concerned. He said that, in essence, the legal opinion received was providing a basis on the use of a secret ballot in instances where the Constitution did not explicitly provide for it. The guidelines mainly state that the Speaker should exercise her discretion objectively, act fairly and impartially while taking into consideration the rights of all parties and act in the best interest of the National Assembly, take into account all relevant circumstances, have regard to whether the prevailing atmosphere was generally peaceful, or toxified or highly charged, ensure that the voting process was not a fear or money-inspired sham, but a genuine motion for effective enforcement of accountability.

Mr Julius asked when the National Assembly could be in a position for members to vote in a secret ballot during a virtual sitting. Mr Xaso replied that Parliament was not yet ready to conduct such a voting process in the current hybrid format, but that the Information and Communications Technology section (ICT) was working on the matter. The Chief Whip of the Opposition offered to provide information on the services that were used by the Democratic Alliance in conducting a secret ballot during its congress. The Speaker said that such an offer was appreciated, but that it would be placed amongst

other proposals that were currently under consideration. Mr Xaso added that the information received from the Chief Whip of the Opposition had indeed been received and shared with ICT. The ICT Focus Group, chaired by House Chairperson Mr Frolick and his counterpart in the NCOP, had also received a presentation on the options available. The Programme Committee had resolved that the matter should be referred to the Chief Whips' Forum and Rules Committee. That process was still underway.

## **6. Medium Term Budget Policy Statement (Attendance by members of the public)**

The Speaker informed the meeting that the Medium Term Budget Policy Statement was rescheduled for Thursday, 11 November. As the sitting would be conducted in a hybrid manner, it was important to consider the number of people who could be accommodated in the public gallery, taking into consideration that the country was under Covid-19 Level 1 restrictions. As a result, it was felt that 35 people could be accommodated on the basis of proportional representation of political parties. Mr Xaso presented a document on the breakdown of allocation of seats as circulated to members. He also reminded the meeting that up to 166 members were allowed in the Chamber and that he would re-send the breakdown to political parties. It was **AGREED** that 35 members of the public would be seated in the public gallery. The Chief Whip of the Majority Party requested that in the next meeting consideration be given to increasing the allocation of members in the Chamber as there seemed to be enough space to do so.

## **7. Report from Committee Section**

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

- Electoral Laws Second Amendment Bill: The Portfolio Committee on Home Affairs would have a briefing by the Minister on the Ministerial Advisory Committee Report on 24 November.
- Protection of State Information Bill: The Portfolio Committee on Justice and Correctional Services had requested not to process the Bill pending consultation regarding the appropriate committee to deal with it.
- Cannabis for Private Purposes Bill: The Portfolio Committee on Justice and Correctional Services would be considering the department's responses on public submissions on 12 November.
- Expropriation Bill: The Portfolio Committee on Public Works and Infrastructure would be considering reports on public participation on 12 November.

On statutory appointments, Adv Tau indicated that the Portfolio Committee on Communications intended to finalise its report on recommendation of candidates for filling of vacancies in the board of South African Broadcasting Corporation (SABC) and Media Development and Diversity Agency (MDDA) boards on 23 November.

The Chief Whip of the Majority Party requested that a report on legislation that had Constitutional Court deadlines be made available in the next meeting in order for Parliament not to miss deadlines. In response to Ms Mkhalihi with regards the progress of the Portfolio Committee on Social Development in the processing of the Children's Amendment Bill, Mr Xaso indicated that an updated report would be made available in the next meeting. The committee was currently conducting public hearings.

Ms Mkhalihi expressed concern in that the South African Development Countries Parliamentary Focus (SADC-PF) had been requesting members to attend meetings whilst they were busy campaigning for Local Government Elections. She said that she could not understand why the administration did not alert SADC-PF, and indicated that those meetings were quite important as they focused on gender-based violence model law. Acting-Secretary to Parliament clarified that Parliament did inform the Secretariat of SADC-PF in Namibia and advised on the unavailability of members from South Africa. Unfortunately, they went ahead with scheduling of subcommittees as planned. The Acting Secretary to Parliament indicated that they would be meeting with their officials on Friday, 12 November. She added that generally the forum does not take into consideration activities of member countries, even if they were having public holidays, arguing that it would be difficult for them to operate if they have to consider the various countries' activities. The Speaker said that seemingly Parliament did not have control over the matter, but that the stakeholders involved should be engaged on these challenges.

In response to Mr Hendricks enquiry regarding the status of the Muslim Marriages Act, Adv Adhikarie clarified that there was no Constitutional Court deadline applicable as there was a Supreme Court judgment on the matter. A detailed report on legislation with Constitutional Court deadlines would be made available in the next meeting. So far, the only concern was the deadline of the Electoral Laws Act which was being attended to. The Speaker added that the Minister of Home Affairs had not yet introduced a Bill.

## **8. Report by Bills Office**

Ms Mtyobile presented a report on legislation before Committees and indicated that the Constitution 18<sup>th</sup> Amendment Bill was on the Order Paper for consideration. She added that the National Land Transport had been returned due to proposed amendments from the National Council of Provinces (NCOP).

## 9. Consideration of draft Parliamentary programme

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

On Tuesday, 16 November, First and Second Reading debates on Second Special Appropriation Bill, Decision of Question on Second Reading on Employment Equity Amendment Bill, Second Reading debate on Sectional Titles Amendment Bill as well as committee reports were scheduled.

Questions to the Economics cluster was scheduled for Wednesday, 17 November.

Condolence motions for Mr E R K Maphatsoe and the Deputy Minister of Women, Youth and Persons with Disabilities Prof H B Mkhize were scheduled for Thursday, 18 November. Committee reports were also scheduled for consideration that day.

The Programming Whip also indicated that questions for oral reply to the President and Deputy President were scheduled for 25 November and 9 December, respectively. A Joint Sitting on the launch of 16 Days of Activism on no violence against women and children was scheduled for 26 November. Furthermore, she said that the meeting would be advised of a suitable date for consideration of the Constitution 18<sup>th</sup> Amendment Bill in the next meeting.

In response to Ms Mkhalihi on the specific dates for Leave Period in January 2022, Mr Xaso said that those dates were a matter for consideration by the next meeting of the Joint Programme Committee (JPC). The Speaker said she would be guided by Mr Xaso on the scheduling of the JPC. House Chairperson Mr Ntombela informed the meeting that the meeting of the Parliamentary Group on International Relations (PGIR), which was scheduled for 12 November, could be postponed as House Chairperson Ms W Ngwenya from the NCOP was in Nigeria.

The Parliamentary Programme for the Fourth Term was accordingly agreed to, as proposed.

*Update on the Committee on Section 194 process on removal of the Public Protector from Office*

Mr Xaso advised the Committee that the issue of rules on the process on removal of the Public Protector as found against by the Western Cape High Court had been heard in the

Constitutional Court. Judgment was reserved and the Committee on Section 194 was advised to halt its proceedings and await the outcome of the judgment. Adv Adhikarie added that Parliament was appealing the issue of legal representation as well as the issue of a judge being on the panel. She stated that Parliament was also requesting that the processes previously undertaken be accepted as being lawful, should the Court find against the institution. The case would most likely be finalised in a month or two.

Ms Ntlangwini tried to raise a matter, but before she could do so an altercation between herself and Ms Mazzone arose as a result of Ms Ntlangwini's device name not including her surname. The Speaker intervened and called the members to order. The Speaker expressed her utter disappointment in the conduct of the members. She said that it was the first and the last time that such an unfortunate behaviour would be allowed in the Programme Committee. It was also stressed that the issue had initially arisen due to the confusion that resulted from Ms Ntlangwini's device not being correctly named to include her surname. In future, all members should have their gadgets correctly and fully named.

#### **10. Announcements**

There were no announcements.

#### **11. Closure**

The meeting adjourned at 09:54.