



NATIONAL ASSEMBLY PROGRAMME COMMITTEE

Chairperson:
Speaker of the National Assembly

Committee Secretary:
A Mbanga x 3218

DRAFT MINUTES OF PROCEEDINGS

Thursday, 20 October 2022 [Virtual]

Present:

N N Mapisa-Nqakula (Speaker)

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

Staff in attendance:

Secretary to Parliament Mr X George, Deputy Secretary to Parliament Ms P N Tyawa, Secretary to the National Assembly Mr M Xaso, Adv M Tau (Committees) and Dr T Mbatha and Adv C R van der Merwe (Constitutional and Legal Services Office).

1. Opening

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

2. Apologies

An apology from Deputy Speaker Mr S L Tsenoli was tendered.

3. Consideration of draft agenda

The draft agenda was adopted as proposed, with the addition of the 'President's Implementation Plan on the Zondo Commission's State Capture Inquiry Report', as proposed by the Chief Whip of the Opposition, after the Programme item.

4. Consideration of minutes of meeting of 29 September 2022

On the proposal of Deputy Chief Whip of the Majority Party, seconded by Mr Kwankwa, the minutes of 29 September were adopted.

5. Matters arising

Mr Xaso indicated that the Electoral Amendment Bill was scheduled for Second Reading debate that afternoon in the Assembly. Once passed, it would be transmitted to the National Council of Provinces (NCOP) for concurrence.

Mr Singh expressed concern in the processing of the Bill, stating that the Constitutional Court ruled in June 2020 that Parliament should among other things consider amendments to accommodate independent candidates. It took 18 months for the Executive to introduce legislation, six months before the Constitutional Court's deadline. In light of that, he wondered if it was possible for the Constitutional Court to grant another extension to Parliament to enable it to properly process the Bill at the National Assembly level, prior to it being sent to the NCOP. The Speaker asked whether the matter was already not addressed at the level of the committee. Mr Singh replied that the matter was only canvassed at the level of whippers and an appeal made in consideration of the timeline for processing by the NCOP, hence a virtual sitting was arranged for that day. The Chief Whip of the Majority Party stated that the matter had been discussed at the level of the Chief Whips' Forum as well as updates that had been provided during Programme Committee meetings from time to time. She said that it was rather late in the process to be raising this matter now as the Constitutional Court had given a deadline of 10 December 2022. Parliament could therefore not be seen to be derailing the process and, as such, the focus was now on passing the Bill. Mr Papo said that the matter could not be referred back to the committee on the basis that it did not have enough time as it managed to consider the Bill clause-by-clause and political parties had expressed their opinions during proceedings. He argued that he could not understand the assertion that delaying the process would benefit the public. It should be accepted that some people simply did not agree with certain sections of the Bill. Furthermore, the meeting should not create an environment that elections would be delayed or that the Independent Electoral Commission of South Africa would be put under undue pressure to manage the process. The Deputy Chief Whip of the Majority Party concurred with the sentiments expressed adding that the processes in the NCOP should be seen as another opportunity for parties to advance their views on the matter. As far as she was concerned, the committee had done its work. House Chairperson Mr Frolick added that parties could still use the NCOP processes to make proposals after the Assembly had passed the Bill. He said that he maintained regular contact with the Chairperson of the Portfolio Committee on Home Affairs during processing of the Bill and the issue of an extension had not recently been raised.

Mr Shivambu said the Bill should be passed as planned but that the matter should be viewed in the context that opportunistic civil society groups wanted to strong-arm Parliament to agree with them on a particular electoral reform system. He said that the Constitution entrusted Members of Parliament to be the ones to draft legislation. Not even the Constitutional Court could tell Parliament what to write in law and could only speak on the constitutionality of laws passed by Parliament. The Speaker reiterated that there had been a delay in introducing the Bill and, as a result, Parliament was placed under the spotlight and criticised for not passing the Bill on time, as directed by the Constitutional Court. On numerous occasions Parliament had to request for an extension which in this case was granted. Requesting a further extension would therefore put Parliament in an embarrassing situation. The Speaker indicated that consideration of the Electoral Amendment Bill should proceed as planned. Mr Singh said that it should be underscored that Parliament was always placed in an invidious position as the Executive was slow to react which should be prevented.

6. Report from Committee Section

Adv Tau presented an update on matters before committees as follows:

- The Portfolio Committee on Cooperative Governance and Traditional Affairs intended to finalise the Traditional Affairs General Amendment Bill on 25 October
- The Portfolio Committee on Women, Youth and Persons with Disabilities intended to finalise filling of vacancies on the Commission for Gender Equality on 26 October
- The Portfolio Committee on Sport, Arts and Culture had finalised the petition on behalf of some 31 000 signatories, calling on the Assembly to investigate the commissioning by the Minister of Sport, Arts and Culture of a flag at an estimated cost of R22 million, as submitted by Mr T W Mhlongo

With regards to the delays with the finalisation of the report by the Portfolio Committee on Communications on filling of vacancies in the Board of South African Broadcasting Corporation (SABC) due to the vetting process, the Chief Whip of the Majority Party suggested that Parliament should try to work within a reasonable timeframe which would ensure that it was able to process statutory appointments on time as the vetting process was conducted by the State Security Agency.

The Chief Whip of the Majority Party expressed appreciation for the report provided by Committee Section saying that it should be acknowledged that all the slides clearly stated the origin of proceedings with regards to passage of legislation before committees. She cautioned that, should the Electoral Amendment Bill be returned due to proposed amendments from the NCOP, the Assembly might have to meet beyond the adjournment date of 1 December 2022 in order to pass the Bill. Furthermore, she requested that the meeting be appraised of any other piece of legislation that had a Constitutional Court deadline that would expire in 2022. House Chairperson Mr Frolick added that the rate at which legislation was received from the Executive had an impact on their expectation on when legislation would be passed and that it should be borne in mind that there were rules that had to be complied with. If Parliament were to short-circuit processes, it would be held accountable for not doing its work properly. He said that generally the late submission of legislation was a problem as far as legislation that had particular timeframes. He cited the example of legislation before the Standing Committee on Finance which had to be finalised in October/November but Parliament's own processes had not been taken into account. To that end, House Chairperson Mr Frolick said that he had held discussions with the Speaker and Secretary to the National Assembly on the matter suggesting that by the beginning of the new year or earlier, the Leader of Government Business (LOGB) should advise on what legislation should be expected in 2023, as well as being sensitised to the Rules of the Assembly pertaining to passage of legislation in the National Assembly. The Speaker confirmed that she had had discussions with Mr Frolick on the concerns around the matter and, as a result, she would be meeting with the LOGB in due course.

With regards to any other matters that have Constitutional Court deadlines before the end of the year, Adv Van der Merwe reported that the Select Committee on Security and Justice had been briefed on the Drugs and Drug Trafficking Amendment Bill on 12 October 2022. An advertisement calling for public comments had since been published. Suspension of the order will lapse on 17 December 2022. No read in provision, nor

measure to apply during the suspension or thereafter had been provided on the Drugs and Drug Trafficking Act 140 of 1992. Mr Swart alerted that a Bill relating to the Independent Police Investigative Directorate had not yet been introduced and also had a Constitutional Court deadline in December 2022, which flows from a case involving Sonke Gender Justice. He added that the Bill related to the independence of the Judicial Inspectorate for Correctional Services and the suspension of the order would lapse on 3 December 2022. There was no read-in provision nor a measure to apply during the suspension but the Portfolio Committee on Justice and Correctional Services had received a briefing on the Bill.

Adv Van der Merwe replied that the matter concerned the Correctional Services Act, 1998 (Act No. 111 of 1998). The Department of Correctional Services had filed application for an extension of the date on which the suspended order would lapse and served on Parliament, the Speaker being cited as sixth Respondent. The Speaker had since authorised Legal Services to instruct the State Attorney to file a notice to abide by the order of the Constitutional Court, provided that an affidavit would be filed setting out the factual position as it relates to Parliament's legislative powers and processes.

7. Report by Bills Office

Dr Mbatha presented a report on legislation before committees and indicated that the Deeds Registry Amendment Bill had been certified for introduction. The Tobacco Products and Electronic Delivery Control Systems Bill and National Council on Gender-Based Violence and Femicide Bill had been approved by Cabinet. She added that seven Bills had been sent to the President for assent.

Report on Constitutional Court deadlines

Adv Van der Merwe provided a report on other matters that have Constitutional Court judgments as follows:

Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992)

The Chairperson of the Portfolio Committee on Justice and Correctional Services had been advised on the implications of the judgment. On the other hand, the Department of Justice and Constitutional Development undertook to ensure that all the Bills with Constitutional Court deadlines were submitted to Parliament within 12 or 6 months of the set deadline depending on the timeframe given. As a result, the Department should target introduction of the Bill by 30 September 2023 based on that undertaking.

Copyright Act, 1978 (Act No. 98 of 1978)

Both the Chairpersons of the Portfolio Committee on Trade, Industry and Competition and the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour had been advised on the implications of the judgment. Clause 19D of the Copyright Amendment Bill before the Select Committee was addressing the judgment. Legal Services was in consultation with Blind South Africa and Section 27 to confirm that the wording of clause 19D was sufficient and will advise the Select Committee accordingly.

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

As alluded to earlier, the Electoral Amendment Bill was scheduled for consideration in the Assembly that afternoon. In preparation, the Select Committee on Security and Justice was planning to call for public comments on the Bill from 21 October and had scheduled a briefing on the Bill for 26 October. The Committee's programme indicates that it was targeting to complete its deliberations on the Bill by 25 November 2022.

Adv Van der Merwe also advised that a report on these and other matters had also been circulated to members, which provided updates on issues such as Marriage Act 25 of 1961 and Divorce Act 70 of 1979 and Riotous Assemblies Act, 1956 (Act No. 17 of 1956), which has a read-in provision.

8. Consideration of draft Parliamentary programme

The Programming Whip presented the Parliamentary Programme for the Fourth Term and indicated that Budgetary Review and Recommendation Reports would be scheduled as soon as they are finalised by committees. Consideration was also given for scheduling of opportunities for smaller parties to debate motions in the mini-plenaries. She highlighted the following:

On Tuesday, 25 October, National Land Transport Amendment Bill, Draft Notice on the Determination of Remuneration of Independent Constitutional Institutions and reports from Public Service and Administration, Tourism and Trade and Industry were scheduled for consideration.

On Wednesday, 26 October, the Minister of Finance would table the Medium Term Budget Policy Statement (MTBPS) on Wednesday, 26 October in the Cape Town City Hall.

Questions to the Peace and Security cluster were scheduled for Thursday, 27 October.

Mr Xaso reminded parties that the plenary on the MTBPS would be a fully physical sitting and encouraged parties to ensure that their members booked their flights on time. He said that parties had also been advised on preparations for that sitting as well information relating to sitting arrangements. Parties had been requested to submit names of guests at the latest by Monday, 24 October.

The Chief Whip of the Majority Party requested that consideration be given to scheduling of reports emanating from international forums, such as ratification of treaties and protocols. The Speaker appealed to the International Relations and Protocol section to assist with compilation of such reports as this matter had been raised before. Mr Papo added that there was also the element of Executive undertakings which are agreements that have to be ratified by Parliament which might not have been presented to the institution yet. House Chairperson Mr Ntombela replied that the matter would be looked at as soon as possible.

President's Implementation Plan on the Zondo Commission's State Capture Inquiry Report

The Chief Whip of the Opposition indicated that the deadline for the President's implementation plan on the Zondo Commission's State Capture Inquiry Report was set for Saturday, 22 October. In light of that, she asked what processes would be followed in Parliament. Mr Xaso explained that the Presidency would advise on how the plan would be tabled in Parliament. Once presented, the Rules Committee and Joint Rules Committee would meet to consider how to handle the report as well as a way forward. A date for the meeting of the Rules Committee, as well as the programme of Parliament, would be communicated in order to consider the submission by the President.

9. Announcements

There were no announcements.

10. Closure

The meeting adjourned at 09:30.