

**Report of the Subcommittee on Review of Assembly Rules**

(25 October 2022)

**A. Introduction**

(1) On 25 April 2022, the Speaker referred a number of matters to the Subcommittee on Review of Assembly Rules (the Subcommittee) for consideration and report to the National Assembly Rules Committee (the Rules Committee). These were –

1. Technical Amendments to the Rules for Virtual/Hybrid Sittings;
2. Consideration of the principle of a ruling (Ms NWA Mazzone);
3. Procedures to regulate the display of placards and objects in the House as well as the use of virtual backgrounds; and
4. Opportunities for members to raise matters in the House with reference to questions to the Executive for oral reply.

(2) The Subcommittee met on 13 May and 27 May 2022 to discuss these matters. Of these, it adopted the technical amendments for virtual/hybrid sittings (see Section B of this report) and considered the principle of the ruling submitted by Ms Mazzone (Section C). The other matters were not concluded. On 2 September, the Rules Committee referred additional matters to the Subcommittee. These were –

1. Consideration of report on delayed replies to written questions and guidelines related thereto**;**
2. Review of Operating Procedures in the Rules (Appendix C) which relate to the removal of members from the House;
3. Proposal to reintroduce interpellations (Ms S Gwarube); and
4. Proposal for oversight committee over Presidency (Mr N Singh).

(3) The Subcommittee convened on 21 October, when it discussed and finalized these matters as well as the outstanding matters referred to it on 25 April and hereby reports to the Rules Committee. On some matters, the Subcommittee has made recommendations and on others conveyed observations and progress. The recommendations are to be read with the accompanying annexures, where applicable.

**B. Technical Amendments of Rules for Virtual/Hybrid Sittings**

(1) On 9 June 2020, the National Assembly adopted rules for “Virtual Meetings”. These rules allowed the House and its committees to meet using online platforms. The Assembly has adopted a mostly “hybrid” system, where some members are present in the Chamber and others online. While the rules apply to all virtual sittings, the technical amendment relating to the insertion in the rules of the word “hybrid” will ensure there is no ambiguity when reference is made to these type of proceedings.

**Recommendation:** The Subcommittee therefore proposes that this technical amendment be effected, as reflected in **Annexure A** to this report.

**C. Referral of Principle of Ruling**

1. On 16 March 2022, Ms NWA Mazzone, wrote to the Speaker to request that she refer a ruling given by the Chairperson of the Portfolio Committee on Energy and Mineral Resources, Mr S Luzipo, when the Portfolio Committee met on 8 March 2022, to the Rules Committee in terms of Rules 8 and 92. These rules relate to rulings and points of order, respectively. In her letter, Ms Mazzone described that, in response to a view raised in the Portfolio Committee by Mr KJ Mileham, another member, Mr SM Kula, stated that his objections were based on the –

*“superiority of believing whiteness and nothing else, that because we are white, we are correct, there is no sense and not [sic] logic…”*

1. Ms Mazzone reported that Mr Mileham asked the Chairperson to make a ruling on whether it was parliamentary to claim that his position was attributable to his race. The Chair subsequently ruled that Mr Kula was expressing a political opinion.
2. The aforementioned rules allow the Speaker to refer a ruling to the Rules Committee but this Committee may only consider the principle on which a ruling is based. The principle in this regard is the application and limitations of freedom of speech and the permissibility of members making racial inferences and remarks in relation to other members.

**Recommendation:** having deliberated on the matter, the Subcommittee recommends that the Rules Committee affirm the principle of freedom of speech, as well as the need for members to refrain from making allegations of racism, and generalisations and intolerances with regard to matters such as tribalism, sexism, homophobia, xenophobia and so forth.

**D. Procedures to regulate the display of placards and objects in the House as well as the use of virtual backgrounds**

1. On 30 March 2022, the Chief Whips’ Forum, pursuant to an incident in the House when a member displayed a placard, proposed that the Rules Committee consider guidelines relating to members displaying placards as well as other objects in the House and, in the case of online proceedings, the use of different backgrounds.
2. Pending such guidelines, the Chief Whips’ Forum proposed that placards should not be displayed. The Chief Whips’ Forum also proposed that Presiding Officers enforce the agreement reached by parties previously that members’ backgrounds on the virtual platform should either be blank or display the parliamentary buildings.

**Recommendations:** Following deliberations, the Subcommittee recommends that –

1. with reference to the issue of placards and other objects, Rule 64 (e) be amended, as reflected in **Annexure B** to this report, to prohibit members from bringing placards and objects into the House, except with the prior permission of the Speaker; and
2. with reference to the issues of backgrounds, the Rules Committee adopts guidelines, as reflected in **Annexure C** to this report, to formalize the prevailing practices.

**E. Opportunities to raise matters in the House with reference to questions to the Executive for oral reply**

(1) Over time, certain parties have raised concerns about the perceived limited number of opportunities provided to them to raise matters in the House such as motions, statements and questions. On 20 April 2022, the Chief Whips’ Forum agreed that the matter be discussed in the Rules Committee. Speaker accordingly referred the matter to the Subcommittee.

(2) Previously, the Rules Committee agreed that, to accommodate all parties and provide more opportunities for debate, the Assembly should schedule more mini-plenary sessions. In terms of questions, however, the Subcommittee discussed the possibility of limiting the number of questions that could be posed to Ministers for oral reply on questions days.

(3) In terms of Assembly Rule 138(1) an attempt was made to obtain a fair spread of questions among Ministers by introducing a clustered system of government portfolios. In so doing, the Rules Committee intended for a fair spread of questions on a question day. However, political parties were allowed to determine priority questions.

**Recommendation:** the Subcommittee recommends that consideration be given to reducing the number of questions in terms of the current quota of ten per Minister on a question day (Rule 138(7)), to four per Minister, as reflected in **Annexure D.** Alternatively, the limit could be reduced from ten to five questions.

**F. Consideration of report on delayed replies to written questions and guidelines related thereto**

1. On 2 September, the Rules Committee received a report on the reasons for delayed replies to questions by members of the Executive and proposals to assist the process. This was pursuant to a new procedure, which provided that Speaker should intervene in the event of delays. The Rules Committee referred the proposals to the Subcommittee. The Subcommittee discussed the report and proposals and resolved that, as a principle, it supported the imperative of timely and comprehensive replies by the Executive to members’ questions. It was nevertheless mindful of some of the challenges arising from certain types of questions.

**Recommendations:** in the context of the discussions, the Subcommittee proposes that the Rules Committee endorse the following -

1. Concerning the scope of ministerial responsibilities and their answerability on functional areas of concurrent responsibilities between the different spheres of government, and how this impacted on the timeliness of replies, questions to the Executive should take into account their respective competencies; and
2. In the case of questions that sought information from government, such questions should take account of the non-availability of information before the pre-democratic era.

**G. Review of Operating Procedures in the Rules (Appendix C) on the removal of members from the House**

1. On 9 and 10 June, when certain members were removed from the House in terms of Rule 73 and the Standard Operating Procedures (Annexure C), allegations of gender based violence were made against certain staff from Parliament’s Protection Services. Following these allegations and counter-allegations by Parliament’s Protection Services, legal counsel was requested and subsequently appointed to investigate the incident. The investigative report was tabled at the Rules Committee meeting on 2 September 2022. The Rules Committee agreed that the Subcommittee should consider the relevant rules in light of the findings.

**Recommendations:** having considered the report, the Subcommittee proposes that the relevant operating procedures be amended, as set out in **Annexure E,** to –

1. As a principle, prohibit staff and members of one gender from touching persons of another gender;
2. Provide that Annexure C to the Rules take the form of guidelines (which remain enforceable) rather than rules, given that the rules should, as a matter of best practice, be limited to members; and
3. Clarify the mandate of the Subcommittee to consider the circumstances of the physical removal of a member from the Chamber to include findings in respect of the relevant legislation pertaining to the rights of members.

**H. Proposal to reintroduce Interpellations (Ms S Gwarube)**

1. In the last meeting of the Rules Committee, the Chief Whip of the Opposition, Ms S Gwarube, stated that the Zondo Commission had found that Parliament’s oversight of the Executive was weak and that measures should be introduced to increase oversight and accountability over the Executive. She called for the re-introduction of interpellations to achieve this goal. This proposal was thereafter referred to the Subcommittee when Ms Gwarube resubmitted her motivation.

**To note,** having deliberated on the proposal, the Subcommittee noted the following, that –

1. Parliament was receptive to proposals and reforms intended to improve its functioning; and
2. Debates and questions to the Executive were an essential tool for members to hold the Executive to account and further consideration would be given to refining these mechanisms and the efficiency of procedures to this end. The Subcommittee also suggested that political parties discuss in their caucus the proposal to re-introduce interpellations.

**I. Proposal for oversight committee over Presidency (Mr N Singh)**

1. During the Rules Committee meeting of 2 September, Mr N Singh argued that the Constitution required Parliament to establish mechanisms to oversee and hold the Executive to account and that, based on its obligations, a committee was needed to oversee the Presidency given that the Presidency had its own budget vote. This proposal was referred to the Subcommittee where Mr Singh resubmitted his motivation.

**To note:** having deliberated on the proposal, the Subcommittee –

1. Emphasized the need for Parliament to conduct oversight and hold the Executive to account and provide comprehensive mechanisms for this purpose; and
2. Noted that the budget of the Presidency was currently scrutinized by various structures but that the Parliamentary Budget Office (PBO) would be requested to analyze the details of the vote to identify possible gaps that may exist so as to inform further deliberations on the matter.

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Ms DE Dlakude, MP

**Chairperson: Subcommittee on Review of Assembly Rules**

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