

FIRST REPORT OF NATIONAL ASSEMBLY RULES COMMITTEE FOR 2022 ON RULE AMENDMENTS, GUIDELINES AND PRINCIPLE OF RULING

INTRODUCTION

The National Assembly Rules Committee (the Rules Committee) met on 4 and 23 November 2022, when it considered, *inter alia*, a number of rules amendments and guidelines.

Rule amendments concern virtual and hybrid sittings; bringing objects into the House; and the number of ministerial replies on a question day. Guidelines relate to the removal of members from the Chamber; and the use of backgrounds for virtual meetings. Other matters concern delayed replies to questions and the principle of a ruling.

The Speaker, as Chairperson of the Rules Committee, hereby presents the First Report of the Rules Committee, 2022, dated 23 November 2022, as follows. The report refers to the rule amendments first and the guidelines thereafter.

A. RULE AMENDMENTS

TO NOTE: In the report underlined text refers to additions to the rules/guidelines, whereas text in bold brackets relates to removed text.

1. **Amendment of Rule on virtual and hybrid meetings**

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 amendments 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.

Part A – Purpose

The purpose of this rule is to enable the National Assembly and its committees to hold compliant virtual and hybrid meetings using technological platforms.

The Rules of the National Assembly remain in operation and are supplemented by this rule **[in order to provide for virtual meetings]**.

Part B - Application of rule

This rule applies to –

- (a) sittings of the National Assembly in the event a **[physical]** sitting is not possible without the use of technological platforms, as determined by the Speaker;
- (b) meetings of committees in the event a **[physical]** meeting is not possible without the use of technological platforms, as determined by the chairperson.

Part C - Notice and venue of meeting

In terms of this rule –

- (a) the Speaker or chairperson of a committee shall issue a notice and agenda for a virtual or hybrid meeting, which must include the date and time of the meeting;
- (b) all documents of the meeting shall be distributed by electronic means to which members have access; and
- (c) the venue of a virtual or hybrid meeting shall be deemed to be Cape Town as the seat of Parliament.

Part D - Privilege and order in meetings

In a virtual or hybrid meeting –

- (a) members shall have the same powers, privileges and immunities which they ordinarily enjoy in parliamentary proceedings; and
- (b) where relevant, current rules on order in public meetings and order in debate shall apply.

Part E - Presiding Officers

In a virtual or hybrid meeting the Presiding Officer or chairperson of a committee shall have all the powers as provided for in the current rules.

Part F - Quorum

In a virtual or hybrid meeting –

- (a) the quorum requirements shall be those as determined by the Constitution and the Rules; and
- (b) members who have accessed the meeting via the secure link sent to their email address shall be deemed present for the purposes of establishing a quorum, taking a decision or voting on a matter.

Part G - Voting

In a virtual or hybrid meeting –

- (a) members shall be entitled to cast their votes either electronically, by voice or by having their vote recorded by their respective whips;
- (b) the procedure to be followed is predetermined by the Speaker and directives are announced in the meeting by the Presiding Officer or chairperson of a committee;
- (c) only members who are present when a vote is called shall be permitted to vote;
- (d) the results of a vote are announced and, where possible, the names of members and how they voted are recorded in the Minutes of Proceedings; and
- (e) members must ensure that their votes are correctly recorded.

Part H – Public involvement

Access to proceedings must be facilitated in a manner consistent with participatory and representative democracy and wherever possible a virtual or hybrid meeting must be livestreamed.

Addendum: Process Guidelines

1. The Secretary to Parliament together with authorized officials and technical teams are responsible for technical support to facilitate virtual or hybrid meetings.
2. The Secretariat must be given at least 3 days' notice of a meeting.
3. Pre-conference testing must take place at least a day before the meeting.
4. Technical support must be available during a virtual or hybrid meeting.
5. The Secretariat must maintain the minutes and records of the proceedings.
6. The Secretariat must maintain a system that is capable of verifying the votes cast either electronically or manually.
7. Political parties must provide a signed copy of the votes cast for or against a question by their members, to the Secretariat within an agreed timeframe to ensure verification of results. This record may be submitted electronically.

2. **Amendment of Assembly Rule 64(e)**

On 30 March 2022, the Chief Whips' Forum 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. Having deliberated on the matter of objects, the Rules Committee agreed to the following rule amendment to regulate the display of placards and objects in the House –

Rule 64(e) - Members must at all times accord the presiding officers of the National Assembly and members due respect and conduct themselves with dignity and in accordance with the decorum of the House and are required – not to bring -

- (i) weapons of any kind, nor dangerous or threatening objects or articles, nor replicas of such into the Chamber;
- (ii) non-dangerous or non-threatening objects, articles or placards, [nor dangerous or threatening articles or objects nor replicas of any such articles or objects] into the Chamber, **[excluding cultural objects]**, except with the prior approval of the Speaker.

3. Amendment of Assembly Rule 138(7)

- (1) Over time concerns have been expressed about the perceived limited number of opportunities for different political parties 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. Having considered the matter, the Rules Committee agreed, in the context of questions for oral reply, to the following rule amendment to reduce 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 –

138(7) - The number of questions to a Minister is limited to **[10]** 4 questions per question day in respect of any one department of state.

4. Rules relating to the removal of Members from the House (Amendment of Assembly Rules 73 and 203)

- (1) On 9 and 10 June 2022, when certain members were removed from the House in terms of Rule 73 and the Standard Operating Procedures for such removals, 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.
- (2) Pursuant to the investigation and report on the matter by the legal counsel, the Speaker referred the report to the Rules Committee for consideration. The Rules Committee agreed to the following rule amendments –

Rule 73(13): The **[House]** Rules Committee may approve **[standard operating procedures]** directives and guidelines, **[recommended by the Rules Committee]**, for the exercise of this function, in particular in relation to the use of the Parliamentary Protection Services and members of the security services.

- (3) Rule 203(1): The Subcommittee must consider the circumstances of the physical removal of a member from the Chamber as reported to it by the

Speaker in terms of Rule 73(12), taking into account all the relevant aspects including -

- (a) the conduct of the member concerned, specifically in relation to the rules and statutes concerning the rights and conduct of members;
- (b) the ruling by the relevant presiding officer; and
- (c) the manner in which the member was removed.

B. GUIDELINES IN TERMS OF ASSEMBLY RULE 7

1. **The Rules Committee further agreed to the following guidelines for the Removal of Member from Chamber and Precincts:**

- (1) If a member refuses to leave the Chamber, the presiding officer asks the Serjeant-at-Arms to remove the member from the Chamber.
- (2) The Serjeant-at-Arms approaches the member to explain in a respectful manner that the instruction of the presiding officer must be complied with and that failure to do so can constitute a grave offence and have serious implications, including that the member may need to be physically removed from the Chamber.
- (3) If the member still refuses to leave, the Serjeant-at-Arms indicates to the presiding officer that the member refuses to comply, whereupon the presiding officer informs the House that the Parliamentary Protection Services are to be called upon to assist.
- (4) The Parliamentary Protection Services personnel enter the Chamber upon the instruction of the presiding officer, and proceed to remove the member under the direction of the Serjeant-at-Arms, provided that -
 - (a) Parliamentary Protection Services personnel of one gender may not touch a member of another gender; and
 - (b) Members of one gender may not touch a Parliamentary Protection Officer of another gender.

- (5) Members of the public in the gallery who participate in disorderly conduct will be removed by the security services.

2. Guidelines for the use of backgrounds on the virtual platform

The Rules Committee further agreed to the following guidelines for the use of backgrounds on the virtual platform –

- (1) In terms of the rules for virtual sittings of the House, as adopted by the Assembly on 9 June 2020, the current rules on order in public meetings and order in debate are applicable in a virtual or hybrid meeting;
- (2) Members on the virtual platform are therefore required to conduct themselves as if they were physically present in the House; and
- (3) Members must use the current parliamentary background, or a blank background, or a blurred background, or a static picture of a member without party symbols or statements.
- (4) Members of the Executive may display the national flag or departmental backgrounds when on the virtual platform.

(3) Delayed Replies to Written Questions

- (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 thereafter, on the basis of proposals from the Subcommittee on the Review of the National Assembly Rules, 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.
- (2) The Rules Committee then endorsed the following practice in respect of delayed replies to questions –

- (a) 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
- (b) 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.

C. PRINCIPLE OF RULING IN TERMS OF ASSEMBLY RULE 92(12)

- (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...”

- (2) 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.
- (3) 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.
- (4) The Rules Committee affirmed 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.

Report to be considered.

- (b) Reply by the Minister of International Relations and Cooperation to Report of the Portfolio Committee on International Relations and Cooperation on *Budget Vote No 6: International Relations and Cooperation*, as adopted by the House on 7 June 2022.

Referred to the **Portfolio Committee on International Relations and Cooperation**.

- (c) Reply by the Minister of International Relations and Cooperation to *Budgetary Review and Recommendation Report of the Portfolio Committee on International Relations and Cooperation*, as adopted by the House on 8 November 2022.

Referred to the **Portfolio Committee on International Relations and Cooperation**.

- (d) Letter dated 29 November 2022, from the Minister of Finance to the Speaker of the National Assembly, explaining the further delay in submitting the Report on Implementation of the Recommendations of the Standing Committee on Appropriations.

Referred to the **Standing Committee on Appropriations**.

- (e) Reply by the Minister of Justice and Correctional Services to Budgetary Review and Recommendation Report of the Portfolio Committee on Justice and Correctional Services on *Office of the Chief Justice and Judicial Administration*, as adopted by the House on 8 December 2021.

Referred to the **Portfolio Committee on Justice and Correctional Services**.

- (f) Reply by the Minister of Forestry, Fisheries and the Environment to Report of Portfolio Committee on Environment, Forestry and Fisheries on *Strategic Plan 2019/20 – 2023/24, Annual Performance Plans 2022/23 and Budget Vote 32 of Department of Forestry, Fisheries and Environment*, as adopted by the House on 7 June 2022.

Referred to the **Portfolio Committee on Forestry, Fisheries and Environment**.

- (g) Reply by the Minister of Basic Education to Report of Standing Committee on Appropriations on *Division of Revenue Amendment Bill [B 19 – 2021]*, as adopted by the House on 30 November 2021.

Referred to the **Standing Committee on Appropriations and Portfolio Committee on Basic Education.**

- (h) Reply by the Minister of Basic Education to Report of the Standing Committee on Appropriations to the *Division of Revenue Bill*, as adopted by the Assembly on 16 November 2022.

Referred to the **Standing Committee on Appropriations and Portfolio Committee on Basic Education.**

- (i) Reply by the Minister of Tourism to Report of the Portfolio Committee on Tourism on the *First and Second Quarters Performance Reports for the 2021-22 financial year*, as adopted by the Assembly on 10 March 2022.

Referred to the **Portfolio Committee on Tourism.**

2. Report of the section 89 Independent Panel to conduct a Preliminary Enquiry on proposing a section 89 Enquiry

This report is available on Parliament's website: www.parliament.gov.za