



**NATIONAL ASSEMBLY PROGRAMME COMMITTEE**

Chairperson:  
Speaker of the National Assembly

Committee Secretary:  
A Mbanga x 3218

**DRAFT MINUTES OF PROCEEDINGS**

Thursday, 4 May 2023 [Virtual]

Present:

N N Mapisa-Nqakula (Speaker)

S L Tsenoli (Deputy Speaker)

Boroto, M G (House Chairperson)	Mkhaliphi, H O
Diakude, D E (Deputy Chief Whip of the Majority Party)	Mulder, Dr C P
Frolick, C T (House Chairperson)	Ntlangwini, E N
Herron, B N	Papo, A H M (Parliamentary Counsellor to the Deputy President)
Koornhof, Dr G W (Parliamentary Counsellor to the President)	Shaik Emam, A M
Lesoma, R M M (Programming Whip)	Singh, N
Lotriet, Dr A	Wessels, W W
Majodina, P C P (Chief Whip of the Majority Party)	

Staff in attendance:

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

**1. Opening**

The Speaker opened the meeting at 08:32 and welcomed all present.

**2. Apologies**

Apologies were tendered on behalf of the Chief Whip of the Opposition Ms S Gwarube and Messrs S N Swart and N L S Kwankwa.

**3. Consideration of draft agenda**

The draft agenda was adopted, as proposed.

#### **4. Consideration of minutes of 20 April 2023**

On the proposal of the Chief Whip of the Majority Party, seconded by Mr Singh, the minutes of 20 April were adopted.

#### **5. Matters arising**

##### *Follow up on appointment of members to the Joint Standing Committee on Intelligence*

The Speaker announced that she had received a letter from the President advising on the nomination of Ms L S Makhubele-Mashele to serve in the Joint Standing Committee on Intelligence. Mr Xaso added that the letter on the further appointment from the African National Congress was being processed by the Office of the Speaker for submission to the President.

##### *Capacity of venues for Budget Vote debates*

Mr Xaso indicated that the mini-plenary debates on the Budget Votes would be held in a hybrid manner in the Good Hope Chamber and Committee Room S12A. A document on the formula for determination of seats in the venues had been circulated to members outlining capacities as follows:

- Committee Room S12A with a capacity of 60 members
- Good Hope Chamber with a capacity of 120 members

Mr Xaso also indicated that Committee Room M46, which had a bigger capacity compared to S12A, was not available as it was used by the Committee on Section 194 Enquiry. He would further consult with House Chairperson Mr Frolick on the matter. House Chairperson Mr Frolick added that it became clear from the meeting of the Chief Whips' Forum (CWF) that parties were keen for more members to attend the mini-plenaries and indicated that the Committee on Section 194 Enquiry would not be placed at a disadvantage should it be necessary for it to move to S12A, as that venue was also hybrid enabled. With regards to interpretation services, he requested political parties to indicate beforehand the languages that their members would use to mobilise and optimally utilise the necessary resources bearing in mind that two mini-plenaries and the National Council of Provinces could be sitting simultaneously.

Mr Singh expressed the view that M46 was a more conducive venue as it had a gallery in case members of the public and guests needed to be invited. As a result, there should be compelling reasons not to use this venue for budget vote debates.

##### *Update on the Maintenance of Surviving Spouses Act, 1990 (Act No. 27 of 1990) and Intestate Succession Act, 1987 (Act No. 81 of 1987)*

Adv Van der Merwe reported that there was a Bill before the Portfolio Committee on Justice and Correctional Services that was addressing the Constitutional Court judgment on Bwanya which would affect the two pieces of legislation. She said that, even if the Constitutional Court deadline of 29 June 2023 could not be met, the judgment had a read-in provision which would apply after the deadline had lapsed, and as a result, the Constitutional Court was unlikely to extend the deadline. In such a case, Parliament would continue to process legislation to give full effect to the judgment.

In response to why the deadline would not be met by Parliament, Adv Van der Merwe elaborated that the issue of marriages and partnerships was a complex matter that had been attended to by the Executive for the past two decades. Testament to that, a private member's Bill dealing with Registration of Muslim Marriages Bill was before the Portfolio Committee on

Home Affairs, which was part of the process of review. Furthermore, she said that this was a difficult matter as there were also significant debates within communities on what should form part of the law. It was also not easy for Parliament to enact a committee bill as the policy informing that Bill was difficult to draft as it affected more than one area. Adv Van der Merwe also indicated that she was unsure of the process that would unfold when processing the Bill as it had only been introduced in Parliament on 30 March 2023. She, however, added that, as there was no gap in the law, it was recommended that the committee follow proper procedures by not rushing the Bill given the contentious nature of the subject matter.

House Chairperson Mr Frolick indicated that the comprehensive report on progress in terms of Parliament's Implementation Plan to give effect to the Recommendations in the Report of the Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector, including Organs of State would be made available in the next meeting as part of the Committee Section's report.

## **6. Report from Committee Section**

Ms Giba presented a report on legislation before committees and indicated that the following Bills would be finalised:

- Financial Matters Amendment Bill on 16 May
- Municipal Fiscal Powers and Functions Amendment Bill on 17 May
- National Health Insurance Bill on 24 May

On statutory appointments, the Portfolio Committee on Public Service and Administration had finalised the report on recommendation of a candidate to serve as a commissioner for the Public Service Commission. The Committee on Section 194 Enquiry intended to further revise its programme.

## **7. Report by Bills Office**

Dr Mbatha presented a summary on the status of legislation and indicated that the Remuneration of Public Office Bearers Amendment Bill and Responsible Spending Bill, which were private members' bills, were on the Order Paper for First Reading.

### *Report on Constitutional Court judgments*

Adv Van der Merwe provided a report on legislation with Constitutional Court deadlines as follows:

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

The Bill was passed by Parliament and assented to by President on 13 April 2023.

#### **Maintenance of Surviving Spouses Act, 1990 (Act No. 27 of 1990) and Intestate Succession Act, 1987 (Act No. 81 of 1987)**

The Judicial Matters Amendment Bill had been introduced and was sufficiently addressing the concerns raised in the Constitutional Court judgment. Parliament had only granted a deadline of 18 months to correct the defect, instead of 24 months or longer.

### **Correctional Services Act, 1998 (Act No. 111 of 1998)**

The Department of Correctional Services and National Treasury had agreed on the governance structure of the Judicial Inspectorate for Correctional Services as that was seen to be the crux of the court case judgment and presented to the Ministers in the Justice, Crime Prevention and Security Cluster, wherein it was adopted and recommended. The Bill will be presented to Cabinet and the Department of Correctional Services targeted its introduction in the next weeks.

### **Marriage Act 25 of 1961 and Divorce Act 70 of 1979**

The judgment required a massive review of legislation and was contentious in nature, with a deadline of 27 June 2024. The Department of Home Affairs targeted introduction of the Bill in the 2023/2024 financial year. That target had been confirmed in the 2023 Cabinet Legislative Programme, notwithstanding a media report indicating that the department intended to have cabinet approval only by March 2024. Given the upcoming general election the target date meant that Parliament would not achieve the date on which the Constitutional Court's suspension of its order lapses. Legal Services will follow up with both the departments of Justice and Correctional Services and Home Affairs in this regard to confirm the target date for introduction, or to confirm whether the departments would bring an application for an extension.

The Deputy Speaker requested that the Programme Committee's concerns should urgently be communicated to the relevant departments, stressing that Parliament would not accept that legislation be only introduced in March 2024.

## **8. Consideration of draft Parliamentary programme**

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

Mini-plenaries on Budget Votes were scheduled to start on 9 – 30 May.

First and Second Reading debates on the Eskom Debt Relief Bill was scheduled for 25 May. The decision on Draft resolution from Mr K J Mileham on Establishment of an *ad hoc* committee to exercise oversight over the Minister of Electricity as well as the implementation of his office's programme of action was also scheduled for that day.

A special debate on commemoration of 100 years' anniversary for admission of women into the legal profession, as requested by the Speaker, was scheduled for 6 June.

Mr Papo said that the committee should be commended on its progress for scheduling hybrid mini-plenaries since the fire broke out in Parliament. In response to the Chief Whip of the Majority Party regarding scheduling of reports emanating from external bodies and international engagements for debate, Mr Xaso explained that the matter was receiving consideration for possible programming in June, either in mini-plenaries or plenary.

Mr Herron asked when would his request for a snap debate, which had been acceded to by the Speaker, be scheduled. Mr Xaso replied that the matter would be processed through the Programming Whip and could be scheduled early in June, subject to decision of the Programme Committee in the following week.

## *Establishment of an ad hoc committee to nominate a person for appointment as Public Protector*

House Chairperson Mr Frolick informed the meeting that a presentation to the CWF was made on the envisaged process to be followed for appointment of a new Public Protector. He said that the term of office for the Public Protector was coming to an end in October 2023 and, in view of the lengthy Constituency Period as from June, it was paramount for the National Assembly to consider the process that should be followed. As a result, there was a proposal for the establishment of an *ad hoc* committee consisting of 11 members, as well as an alternative proposal with an additional 14 non-voting members of the Assembly. House Chairperson Mr Frolick added that party whips who attended the meeting requested further consultation with party leaders and implored that such a process be concluded as soon as possible as the viable date for consideration of the draft resolution to establish an *ad hoc* committee would be 25 May. Furthermore, membership of the *ad hoc* committee should thereafter be appointed and due processes to be followed, something that normally would take time. There should also be provision of time for the new incumbent that would be identified to undergo a handover process in order to ensure that there would be a seamless transfer of authority in that office.

The Deputy Speaker reaffirmed that the matter needed to be attended to urgently. Furthermore, he said that there should be mutual understanding as to procedures relating to transitions in all the Chapter Nine institutions, as well as other institutions supporting democracy. Parliament should therefore not be seen to be delaying this matter. Mr Xaso clarified that the alternative proposal on the membership would be formulated from the feedback from other parties for consideration by the meeting in due course. Mr Herron added that it was agreed that parties would have until 25 May to consult on this matter.

### **9. Announcements**

There were no announcements.

### **10. Closure**

The meeting adjourned at 09:26.