



**NATIONAL ASSEMBLY PROGRAMME COMMITTEE**

Chairperson:  
Speaker of the National Assembly

Committee Secretary:  
A Mbanga x 3218

**DRAFT MINUTES OF PROCEEDINGS**

Thursday, 31 August 2023 [Virtual]

Present:

N N Mapisa-Nqakula (Speaker)

Dlakude, D E (Deputy Chief Whip of the Majority Party)	Mulder, Dr C P
Gwarube, S (Chief Whip of the Opposition)	Ntlangwini, E N
Hendricks, M G E	Ntombela, M L D (House Chairperson)
Jafta, S M	Papo, A H M (Parliamentary Counsellor to the Deputy President)
Koornhof, Dr G W (Parliamentary Counsellor to the President)	Singh, N
Kwankwa, N L S	Swart, S N
Loate, T	Tseke, G K (Programming Whip)
Lotriet, Dr A T	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 08:30 and welcomed everyone present. She informed the meeting that she had written a letter to the Minister of Home Affairs for an update regarding finalisation of legislation to address consequential amendments to the Electoral Amendment Act. The Minister had indicated that the Executive was in the process of developing a single Executive Bill to address the matter.

**2. Apologies**

Apologies were tendered on behalf of House Chairpersons Ms M G Boroto and Mr C T Frolick and Messrs B N Herron and A M Shaik Emam.

**3. Consideration of draft agenda**

The draft agenda was adopted, as proposed.

#### **4. Consideration of minutes of 1 June 2023**

On the proposal of the Chief Whip of the Majority Party, seconded by Deputy Chief Whip of the Majority Party, the minutes of 1 June were adopted.

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

Mr Xaso reported that, arising out of engagements between the Speaker and Leader of Government Business (LOGB), the date of 4 September 2023 was agreed for introduction of legislation in Parliament that had to be completed by the current Parliament. An update would be provided in that regard.

The reports from the Committee on Section 194 Enquiry and *Ad Hoc* Committee on the Appointment of the Public Protector had been finalised. There was a proposal that these matters be scheduled for consideration in a fully physical sitting at the Cape Town City Hall on Monday, 11 September at 14:00. The Chief Whip of the Majority Party added that, although 11 September fell on a Monday and a Constituency Day, it was the only suitable date available at the City Hall. The Chief Whips' Forum (CWF) the previous day had largely agreed on this date and that a roll call voting procedure would be followed.

Mr Xaso also advised that the Relocation of Seat of Parliament Bill had since been referred to the Portfolio Committee on Public Works and Infrastructure following its First Reading debate in a mini-plenary on 15 June 2023.

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

Ms Giba presented a report on legislation before committees as follows:

The Portfolio Committee on Justice and Correctional Services intended to finalise the following Bills in September:

- Judicial Matters Amendment Bill
- Cannabis for Private Purposes Bill
- Correctional Services Amendment Bill

The Portfolio Committee on Basic Education also intended to finalise the Basic Education Laws Amendment Bill on 5 September. The *Ad Hoc* Joint Committee on Flood Disaster Relief and Recovery intended to finalise its report by 8 November. On statutory appointments, Ms Giba indicated that the Portfolio Committee on Home Affairs intended to finalise appointment of a commissioner to the Electoral Commission on 5 September.

In view of the Constitutional Court deadline of 27 June 2024 for the Marriage and the Divorce Acts, Mr Hendricks indicated that at the behest of the Chairperson of the Portfolio Committee on Home Affairs, himself and the Minister of Home Affairs had engaged on the matter. Subsequently, he submitted a Private Member's Bill on Muslim Marriages, but the Executive had just produced the Marriages Act Amendment Bill, arguing that there cannot be a situation whereby two Bills on the same issue were in the public domain for public inputs. Mr Hendricks

said that it was a different case with the Divorce Act as the Department of Justice and Constitutional Development had 'plagiarised' his Divorce Amendment Bill without consulting himself or Legal Services in Parliament who assisted with the drafting of the Bill. Furthermore, Mr Hendricks stated that the legal opinion from his party was that both Executive Bills do not meet constitutional requirements. As a result, he would be raising the matter with House Chairperson Frolick to discuss a way forward.

The Chief Whip of the Opposition requested that a report on the processing of the Judicial Service Commission's decision relating to a complaint brought by Justices of the Constitutional Court against Judge President M J Hlophe before the Portfolio Committee on Justice and Correctional Services be provided in the next meeting. Mr Singh indicated that he had not seen the Anti-Corruption Bill on the list of legislation in Parliament, as mooted by Cabinet a few days ago. He also asked whether there would be sufficient time to consider legislation that had not yet been introduced, considering that the current Parliament was coming to an end next year. The Speaker replied that she was hopeful that the Executive would meet the deadline of 4 September to introduce legislation. Mr Papo reiterated that the LOGB had in the previous Cabinet meetings been encouraging members of the Executive to adhere to the deadline of 4 September to introduce legislation.

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

Dr Mbatha presented a report on legislation before Committees and indicated that the Constitution Twentieth Amendment Bill and Animal Protection Amendment Bill were on the Order Paper for First and Second Reading debates respectively. Fourteen bills had been introduced since the last meeting.

Dr Mbatha also advised that the following Bills had been approved by Cabinet:

- Statistics Amendment Bill
- National Prosecuting Authority Amendment Bill
- General Intelligence Laws Amendment Bill

The South African Postbank Limited Amendment Bill and Land Court Amendment Bill had been sent to the President for assent.

### *Report on Legislation with Constitutional Court deadlines*

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

#### **1) Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019)**

The Chairperson of the Portfolio Committee on Cooperative Governance and Traditional Affairs had been briefed on the judgment and the consequent withdrawal of the Traditional Affairs General Amendment Bill. Legal Services also met with the Department on the way forward and had briefed the Chairperson accordingly.

**2) Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (sections 35 and 46) And Tax Administration Act, 2011 (Act No. 28 of 2011) (sections 67 and 69)**

The Chairpersons of the Portfolio Committee on Justice and Correctional Services and Standing Committee on Finance had been advised of the possible ways to deal with the judgment. Legal Services had made enquiries from the Departments on the way forward. The South African Revenue Services had indicated that they were in talks with the Department of Justice and Constitutional Development regarding required amendments to ensure that the date set by the Constitutional Court was adhered to.

**3) Mediation in Certain Divorce Matters Act 24 of 1987**

An opinion had been sent to the Chairperson of the Portfolio Committee on Justice and Correctional Services advising of possible ways to deal with the judgment. A letter had also been sent to the affected Departments to enquire into actions to be taken.

**4) Children's Act 38 of 2005 — constitutionality of section 40**

The Constitutional Court provided a remedy that would apply immediately even beyond suspension of the order lapses unless Parliament made amendments to the Act in that regard. An opinion was sent to the Chairperson of the Portfolio Committee on Social Development advising them of the possible ways to deal with the judgment. A letter had also been sent to the affected Departments to enquire into actions to be taken.

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

The Department of Justice and Correctional Services had confirmed that the issues related to the matter would be addressed in the Cannabis for Private Purposes Bill which is before Parliament. Legal Services was consulting with the drafters of the Department responsible for that Bill in that regard.

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

Amendments that address the judgment had been accepted by the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour for inclusion in an E-List. Provincial legislatures were considering the List and the Select Committee had scheduled a meeting to consider final mandates on 5 September. The Portfolio Committee on Trade, Industry and Competition was also aware of the progress on the Bill.

**7) Marriage Act 25 of 1961 and Divorce Act 70 of 1979**

The Divorce Amendment Bill was introduced in 2020 and Legal Services considered the draft Bill that accompanied the notice and can confirm that the draft Bill was addressing the concerns raised by the Constitutional Court related to the Divorce Act. The draft Marriages Bill had since been published in the Government Gazette calling for inputs to be made. Legal Services is still concerned about achieving the Constitutional Court's deadline. The matter had been followed up with the Department regarding an application for an extension of 29 July

2023. The issue of concurrent processing of the Bills was a matter for the Justice committee, as it would have to determine the motion of desirability on the Bills, depending on the content. The Marriages Bill was quite extensive as it was addressing all kinds of marriages and religions which requires extensive consultation.

#### **8) Regulation of Interception of Communications and Provision of Communication Related Information Act 70 of 2002**

An intention to introduce an amendment Bill had since been published in the Government Gazette and Joint Rule 159 notices had recently been received. The Bill had also been introduced in the week.

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

The Bill had since been introduced and public hearings were scheduled for 30 August, with deliberations by Portfolio Committee on Justice and Correctional Services planned to be concluded by 8 September.

Mr Hendricks also asked whether the legislative drafting team had been involved in the Divorce Amendment Bill and whether a constitutional compliance certificate had been issued. He said that the reason that there should be amendments was that Muslim, Hindu and Jewish wives were not able to approach divorce courts for relief, like everyone else. The Portfolio Committee on Justice had, however, indicated that they would focus on Muslim wives even though the Constitutional Court was not specific on this matter. Mr Singh concurred with Mr Hendricks in that there ought to be a meeting of minds on these bills as there was a lot of confusion. He added that people would like to see all-encompassing legislation which would include all religious and customary marriages and bring to finality legislative processes that should give effect to these marriages.

It was AGREED that the matter would be looked at and a comprehensive report on the concerns raised would be made available in the next meeting.

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

The Deputy Chief Whip of the Majority Party presented the Parliamentary Programme for the Third Term as follows:

Questions for oral reply to the President were scheduled for Tuesday, 5 September. Questions were also scheduled to the Social Services cluster on Wednesday, 6 September.

On Thursday, 7 September, a condolence motion for Ms Tina Joemat-Pettersson as well as consideration of reports on Public Finance Management Amendment Bills, which were Private Members' Bill, were scheduled for that day.

On Friday, 8 September, three virtual mini-plenaries in order to consider committee reports, petitions and international agreements were scheduled to meet simultaneously. Further details on the rest of the programme would be made available in the following week.

The Parliamentary Programme for the Third Term was accordingly adopted.

Mr Xaso advised that the Minister of Finance had written to the Speaker requesting to table the Medium Term Budget Policy Statement on Wednesday, 25 October. Mr Xaso alerted the meeting that the 147<sup>th</sup> Inter-Parliamentary Union Assembly was also scheduled for 23 – 27 October in Angola. The Chief Whip of the Majority Party suggested that a decision should be taken as early as next week as the City Hall would have to be secured.

Mr Singh also indicated that members who would be serving on the issue of the BRICS Parliamentary Forum were expecting a report at the next meeting on how they would be expected to participate in that Forum. The Speaker indicated that a report would be made available, stating that preparations were at an advanced stage as invitations had already been sent to countries that were part of the Forum. The Forum would also be considering whether it should extend its invitation to the new members as per the decision taken by the 15<sup>th</sup> BRICS Summit to extend its membership to five other countries.

The Chief Whip of the Majority Party informed the meeting that Ms Grace Tseke had been appointed as the new Programming Whip, replacing Ms R M M Lesoma who had been elected as Chairperson of the Portfolio Committee on Transport.

## **9. Announcements**

There were no announcements.

## **10. Closure**

The meeting adjourned at 09:30.