



**NATIONAL ASSEMBLY PROGRAMME COMMITTEE**

Chairperson:  
Speaker of the National Assembly

Committee Secretary:  
A Mbanga x 3218

**DRAFT MINUTES OF PROCEEDINGS**

Thursday, 7 September 2023 [Virtual]

Present:

N N Mapisa-Nqakula (Speaker)  
S L Tsenoli (Deputy Speaker)

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

Staff in attendance:

Secretary to Parliament Mr X George, Secretary to the National Assembly Mr M Xaso, Mr D J Sithole (International Relations and Protocol Division), 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.

**2. Apologies**

There were no apologies.

**3. Consideration of draft agenda**

The draft agenda was adopted, as proposed.

**4. Consideration of minutes of 31 August 2023**

On the proposal of the Chief Whip of the Majority Party, seconded by Mr Papo, the minutes of 31 August were adopted.

## 5. Matters arising

Mr Xaso provided feedback on the following matters:

### *Deadline for introduction of legislation*

The Bills Office would be providing a report during its presentation.

### *Date for Medium Term Budget Policy Statement (MTBPS)*

As per the resolution of the previous meeting that the date for the Statement would be reconsidered due to the Inter-Parliamentary Union Assembly on 23 – 27 October in Angola, the date of 1 November was accordingly proposed, and agreed to. The implications for the business of Parliament were that the processes for passing of the Adjustments Appropriation Bill could be finalized in the first week of December.

### *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*

Legal Services had advised that there were now no legal impediments to Parliament processing the matter. Previously it was reported that Judge Hlophe was appealing and the Programme Committee was of the view that the matter should be held in abeyance until all such processes were concluded. The Portfolio Committee on Justice and Correctional Service should now resume its work on the matter.

The Chief Whip of the Opposition indicated that, considering that a significant amount of time had passed since 2021 and no appeals from Judge Hlophe had materialised, it was important for the meeting to come to a decision that the matter be revived for consideration by the House. It was AGREED that a determination on the matter would be made in the next meeting.

### *Processing of the Marriage and Divorce Bills*

Adv Van der Merwe provided feedback on the concerns raised by Mr Hendricks on processing of Marriage and Divorce Amendment Bills which have Constitutional Court deadlines, as follows:

The Portfolio Committee on Home Affairs received a briefing from Mr Hendricks on the Private Member's Bill on Recognition of Muslim Marriages and the Department was afforded an opportunity to respond to the Bill. Subsequently, the Minister of Home Affairs indicated that all the issues in the Private Member's Bill would be covered in the Executive Bill and Mr Hendricks indicated that he was willing to withdraw his Bill if the content of his Bill would be incorporated in the Executive Bill. That process must still take place.

There was no confusion in respect of public submissions related to the above two Bills as public submissions on the Registration of Muslim Marriages Bill currently before Parliament, would be submitted to and considered by Parliament. The Executive Bill on Marriages had not yet been introduced and submissions thereon would go to the Department for consideration. The Constitutional Court gave Parliament and the President until 27 June 2024 to correct the defect. Legal Services had been liaising with the Departments of Home Affairs and Justice on whether they would be seeking an extension, but that it seemed unlikely that the deadline would be met, in view of the General Elections in 2024. There was also no legal concern as far as copyright of legislation in the public domain. There could, however, be a recognition of the original author. Portfolio Committees were the appropriate

structure to consider constitutional concerns in respect of bills and whether clauses need to be amended.

House Chairperson Mr Frolick added that, in view of the deliberations on the matter in the previous week, he had since discussed the matter with Mr Hendricks. As a result, he would be meeting with the Deputy Minister of Justice in order to discuss some of the issues that had been raised by Mr Hendricks and revert to him. Mr Hendricks expressed his appreciation that the matter was receiving the necessary attention but stated that there could not be a situation whereby a constitutional compliance certificate was issued on legislation that was not in compliance with the Constitutional Court order and the Constitution. The Speaker advised that the meeting should await the report from House Chairperson Mr Frolick for consideration in due course.

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

Ms Giba presented a report on legislation before committees and indicated that the Correctional Services Amendment Bill had been finalised. The following Bills would be finalised on 12 September:

- Basic Education Laws Amendment Bill
- Judicial Matters Amendment Bill

On statutory amendments, Ms Giba advised that the Portfolio Committee on Home Affairs also intended to finalise the appointment of a commissioner to the Electoral Commission on 12 September.

House Chairperson Mr Frolick expressed appreciation to the whippers for the cooperation received on the number of public hearings and other oversight visits conducted during the past Constituency Period. He, however, reported that there were certain members who did not turn up or simply stayed away from these activities without valid reasons. There was also a tendency of one or two committees who just decided not to proceed with their oversight activities at short notice. He said that by that time, a lot of money had been committed by Parliament and indicated that he would be making a proposal to the Office of the Speaker on how such monies should be recovered as that was not sustainable and did not portray a good image of the institution. The Speaker concurred that her attention had indeed been drawn to that matter, adding that it was something that also required the attention of both the chairperson and whip of a committee.

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

Dr Mbatha presented a report on legislation before Committees and indicated that the National Prosecuting Authority Amendments Bill had recently been introduced. In reference to the deadline of 4 September for the Executive to introduce legislation Dr Mbatha presented an analysis on the number of Bills that had been introduced on the 2023 Cabinet Legislative Programme as follows:

### **1) Bills pronounced during the President's Address on the State-of-the-nation Address**

4 Bills with three introduced so far.

### **2) Mandatory Money Bills**

17 Bills with three that had been assented to so far, others expected during the MTBPS.

### **3) Legislation with Constitutional Court declarations**

9 Bills with three introduced so far.

#### 4) Critical (Priority) Bills

12 Bills with five introduced so far.

In summary, 14 out of 42 Bills had been introduced. In response to a question about the deadline, Dr Mbatha indicated that no formal communication had been received so far. Mr Papo reiterated that the matter would be formally finalised with the Leader of Government Business (LOGB) as the deadline had passed. The Leader of Government Business had been raising the matter at Cabinet level in previous Cabinet meetings. The Speaker indicated that she would follow up on the matter with the LOGB as the deadline of 4 September was an extension of the initial deadline. Mr Singh said that whilst he agreed with the sentiments on the matter, the Executive should continue to introduce new legislation as the variable was that Elections would be held around May and therefore Parliament would continue to process legislation before it. The Chief Whip of the Opposition cautioned that Parliament should hold a line that no legislation should be introduced after the deadline as the problem was that if Bills were not processed properly, and processes bungled, and there were legal challenges, that would become Parliament's problem to fix the defects. The Executive was placing the institution in an unenviable position of having to do a rush job by trying to process Bills before it rose. The Deputy Speaker agreed with the sentiments expressed adding that the risk of allowing for additional legislation to be introduced could be disruptive but suggested that an assessment of all matters before committees that could be prohibitive from processing additional legislation should be considered.

The Chief Whip of the Majority Party informed the meeting that the Chief Whips' Forum had endorsed the rationale that the proposed membership of the *Ad Hoc* Committee on General Intelligence Laws Amendment Bill should be the same as that of the Joint Standing Committee on Intelligence due to sensitive matters around intelligence.

#### 8. Consideration of draft Parliamentary programme

The Programming Whip presented the Parliamentary Programme for the Third Term as follows:

On Monday, 11 September, Recommendation for Removal of Adv B Mkhwebane from the Office of Public Protector and Recommendation of a person for appointment as Public Protector were scheduled for consideration.

On Tuesday, 12 September, Draft Notices on salaries payable to Magistrates, Judges, South African Human Rights Commission and Public Protector were scheduled for consideration. A meeting of the Rules Committee was also scheduled for that day at 10:00.

Questions to the Governance cluster was scheduled for Wednesday, 13 September.

On Thursday, 14 September, three virtual mini-plenaries were scheduled in order to debate members' motions, as well as First Reading debate on Constitution Nineteenth Amendment Bill. Mini-plenaries were to continue on Friday, 15 September in order to consider reports, petitions and international agreements.

In view of the length of the sitting on 11 September, the Chief Whip of the Majority Party proposed that only the report on Recommendation for Removal of Adv B Mkhwebane from the Office of Public Protector be scheduled for that day. The report on the Recommendation of a person for appointment as Public Protector should be deferred to a later date before the end of the current term.

It was AGREED that the report on the Recommendation of a person for appointment as Public Protector would be rescheduled for a later date. The administration would provide a report on a suitable date and venue in the next meeting. Mr Xaso suggested that 21 September could be considered for that item. He also indicated that the administration would also advise on the venue for the MTBPS on 1 November.

## 9. 9<sup>th</sup> BRICS Parliamentary Forum

Mr Sithole provided a presentation which had been circulated to members on the preparations for the Forum, which is scheduled for 27 – 29 September at the Emperors Palace in Johannesburg. He highlighted the following matters:

The 9<sup>th</sup> BRICS PF theme will be aligned with that of the 15th BRICS Summit under the theme

*“Harnessing Multilateralism and Parliamentary Diplomacy to Deepen BRICS and Africa Partnership for accelerated implementation of the Africa Free-Trade Agreement”*

The expected outcomes were:

- Signing of the Memorandum of Understanding and formal establishment of the Parliamentary Forum
- A Meeting Declaration or Outcome Document reaffirming a unity of purpose of the members; providing a future roadmap and a new strategic direction for the Forum.
- A decision on the establishment of the Secretariat
- A less elitist and more inclusive BRICS with deepened people-to-people exchange

The following participants were invited to the Forum:

- Ms Baleka Mbete, Former Speaker of the National Assembly and Former Deputy President of the Republic of South Africa
- Hon. Roger Mancienne, President of the SADC Parliamentary Forum and Speaker of the National Assembly of Seychelles
- Hon Carolina Cerqueira, MP, Speaker of the National Assembly, Parliament of Angola
- Rt Hon. Catherine Gotani Hara, MP, CPA Africa Regional Chairperson and Speaker of the Parliament of Malawi
- Hon. Esperança Laurinda Francisco Nhuane Bias, Speaker of the National Assembly, Parliament of Mozambique
- Hon. Prof. Peter H. Katjavivi, MP, Speaker of the National Assembly, Parliament of Namibia
- Hon Dr Tuli Ackson, MP, Speaker of the National Assembly of the United Republic of Tanzania
- Hon. Chief Fortune Zephania Charumbira, President of the Pan African Parliament
- Cllr Nthabiseng Tshivhenga, Speaker of the City of Ekurhuleni Metropolitan Municipality

Speakers from Botswana, Lesotho, Zimbabwe and Zambia were also invited.

A draft concept/scope for the commissions had been developed by the Knowledge and Information Management division in collaboration with Human Science Research Council. According to the draft programme, delegates were expected to arrive on 26 September and countries were divided into four commissions, namely Africa and BRICS in a Multipolar World; Africa Free Trade Agreement; Climate Change and Peace and Security. The registration portal was live and confirmation of attendance of BRICS member countries was ongoing. Security was being handled by the Natjoints and the security structure was meeting on a weekly basis for the preparation of the sittings.

Mr Hendricks said that he was happy that the Secretary-General of the African Continental Free Trade Area (AfCFTA) was going to participate, stating that for the success of AfCFTA other countries should not be estranged. He added that some attention should be given to the trade route between Cape Town and Algeria as that would be key to the 14 Year Plan that had been approved by the African Union. House Chairperson Mr Ntombela appealed that security should be given special focus as it was an area that would sustain the country's integrity.

The Chief Whip of the Majority Party stated that, notwithstanding the issue of proportionality, the CWF agreed on a principle of accommodating all parties as the event was hosted in South Africa, and that would provide the necessary exposure to everyone. As a result, Mr Xaso clarified that the 20-member delegation as follows:

ANC 12, DA 4, EFF 2, IFP and FF Plus 1 each

The request made by other parties was receiving favourable consideration. Such information would be communicated to the members.

Ms Mkhalihi asked how the attendance of members was coordinated as her committee had also been invited to attend the Forum, but no further communication had been received. Mr Papo replied that his understanding was that there would only be a delegation of the institution. Mr Sithole indicated that all the House Chairpersons from Parliament, as well as the Focus Group on BRICS, would also be part of the delegation. He further highlighted that the National Council of Provinces would have in total 14 members. A suitable date for briefing of all the delegates would be arranged in due course.

## **10. Announcements**

Mr Xaso indicated that the confirmation of the sitting of 21 September was subject to availability of a suitable venue, and its impact on committee schedules.

The Speaker indicated that, following the allocation from National Treasury for the restoration of buildings in Parliament, there was an undertaking that a total of 155 offices could be ready before the next MTBPS. As a result, the offices were ready for occupation and on Wednesday, 13 September, members who lost their belongings would be afforded an opportunity to identify their items that had been salvaged from the fire.

## **11. Closure**

The meeting adjourned at 09:58.