



NATIONAL ASSEMBLY PROGRAMME COMMITTEE

Chairperson:
Speaker of the National Assembly

Committee Secretary:
A Mbanga

DRAFT MINUTES OF PROCEEDINGS

Thursday, 9 November 2023 [Virtual]

Present:

S L Tsenoli (Deputy Speaker)

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

Staff in attendance:

Secretary to Parliament Mr 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 Deputy Speaker opened the meeting at 08:30 and welcomed everyone present.

2. Apologies

Apologies were tendered on behalf of the Speaker Ms N N Mapisa-Nqakula, Deputy Chief Whip of the Majority Party Ms D E Dlakude and Mr N Singh.

3. Consideration of draft agenda

The draft agenda was adopted, as proposed.

4. Consideration of minutes of 2 November 2023

On the proposal of the Chief Whip of the Majority Party, seconded by House Chairperson Ms Boroto, the minutes of 2 November were adopted.

5. Matters arising

Mr Xaso provided feedback on the following matters:

Presentation to Parliament of the Atlas of Results for the 2019 National and Provincial Elections

The presentation on the Atlas Results had been postponed until further notice. The Electoral Commission would advise on a new date.

Report on arrangement of public hearings

The report on the matter had been submitted to House Chairperson Mr Frolick, who requested that a few matters be attended to in the report. Consequently, the report would be presented in the next meeting.

Report on Filling of post of Section Manager: Committees

The matter was receiving attention as far as implementation was concerned.

General Intelligence Laws Amendment Bill

The Bill had been certified and could be introduced in the following week.

The Chief Whip of the Majority Party conveyed her appreciation to members and staff who were involved in organising the visit by the Springbok World Cup Rugby Team the previous week which she described as a beautiful event, adding that in future similar events should be accorded to other sporting codes. Mr Swart echoed the sentiments by the Chief Whip of the Majority Party and commended the organisation of the event. Mr Kwankwa, however, said that whilst he noted the sentiments expressed, it would also be appreciated if the same support could be given to the Proteas National Cricket Team, who had qualified for the Semi-Finals of the Men's Cricket World Cup.

6. Reports

(i) Committee Section

Ms Giba presented a report on legislation before committees and indicated that there were 10 Bills under the priority list before Committees. She also indicated that the Portfolio Committee on Trade, Industry and Competition intended to finalise the Companies Second Amendment Bill and Companies Amendment Bill on 14 November. The Portfolio Committee on Basic Education also intended to finalise its report on the petition on the eradication of pit latrines in the Eastern Cape, KwaZulu-Natal and Limpopo rural schools on 14 November.

(ii) Bills Office

Dr Mbatha presented a report on legislation before Committees and indicated that the Prevention and Combating of Hate Crimes and Hate Speech Bill would be returned to the

National Assembly with proposed amendments from the National Council of Provinces. The Bills Office would also be following up on outstanding translations of Bills on the Order Paper.

Report on Legislation with Constitutional Court deadlines

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

Immigration Act, 2002 (Act No. 13 of 2002), Section 34(1)(b) and (d)

The Department of Home Affairs had briefed the Portfolio Committee on 24 October 2023 regarding a Bill being developed to address the judgment. The Department confirmed that it would be very similar to the Committee Bill that Parliament started in 2018. The Committee had decided not to proceed with that Bill in 2019 as the Department indicated that it wanted to do a review of the whole Act.

Regulation of Interception of Communications and Provision of Communication Related Information Act 70 of 2002

The Committee had finalised the Bill without amendments on 1 November 2023.

Marriage Act 25 of 1961 and Divorce Act 70 of 1979

Divorce Act: The Private Member's Bill (PMB) and the Executive Bill had since been finalised. The Portfolio Committee on Justice and Correctional Services proceeded with the Executive Bill and reported that the motion of desirability was not passed on the PMB.

Marriage Act: The Department of Home Affairs had briefed the Portfolio Committee on 24 October 2023 and intended to introduce a Bill in April 2024. Legal Services unit had again enquired as to when the Department would be bringing an application for an extension as Parliament might not be able to process a Bill within a two-month period, regardless of 2024 being an Election year. The enquiry had been referred to the Director-General.

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

The Portfolio Committee on Justice and Correctional Services had finalised the Cannabis for Private Purposes Bill on 1 November 2023.

Divorce Act, 1979 (Act No. 70 of 1979)

An opinion had been sent to the Chairperson of the Portfolio Committee on Justice and Correctional Services and other stakeholders regarding a new Bill.

Regarding the Marriages Act, the Deputy Speaker requested Legal Services to communicate to the Department of Home Affairs that Parliament could not accept the submission date of April 2024 and suggested that it should rather be brought forward. He said that such delays would place unnecessary pressure on the institution especially in view of the fact that there would be elections. Mr Swart said that the late submission of legislation was something that

had previously been raised on numerous occasions in the Programme Committee, citing that there was a scathing judgment on the matter which resulted in a cost order against the Minister and the Director-General in their personal capacities due to the delays that had taken place. He also noted that he was grateful for the mechanisms that had been put in place by Legal Services given the fact that there were findings against Parliament for not processing remedial legislation in the past, particularly in the run-up to Elections. Mr Hendricks added that, due to the challenges being experienced in meeting the deadline, he had met with the Minister of Home Affairs the previous day and had confirmed that the reasons for the judgments was that the Nikah of Muslims were not regarded as valid marriages in South Africa, although the Constitutional Court had a different view. He asserted that the Minister had confirmed that the first Nikah had been registered in the National Population Register and a valid marriage certificate issued. As a result, the department was poised to address the court judgment to the effect that Muslim women would no longer be disadvantaged when they marry according to the Nikah rites.

Regarding the Divorce Act, Mr Hendricks argued that Muslim women and children as well as other religious marriages, should be able to access the Divorce Court as the Nikah was not previously recognised though it had now been established that it was registered on the National Population Register.

The Chief Whip of the Opposition asked whether a proper deadline had been provided to the Executive to the effect that no more legislation should be introduced prior to adjournment of the current Parliament, pending feedback from the Speaker on her planned engagement with the Leader of Government Business on whether no further legislation would be introduced in Parliament beyond that which was received within the deadline of 4 September. She said that she was surprised that legislation on the Marriage Act could be introduced only in April as law-making was a lengthy process requiring due diligence.

Mr Xaso explained that his understanding was that, to the extent that Parliament was able to process legislation that had been introduced after the deadline, it would be processed accordingly. The bills not processed would lapse unless a decision by the 7th Parliament revived them. There was commitment from the legislature to continue to process legislation, but the Executive should provide a clear indication on what were priorities prior to the Elections. The Deputy Speaker added that the risks of continuing to introduce legislation towards the end of the 6th Parliament should also be communicated, not only on whether there were priorities or not. Committees, however, would have to make their own proper assessment on whether they would be able to process such legislation.

Ms Lesoma suggested that the Legal Services unit should assist by approaching the Constitutional Court for extension of deadlines, instead of Parliament putting courts under pressure should expectations not be met. She also asked whether it would be in order for committees to take over legislation before them that has Constitutional Court deadline until the logical conclusion without short-circuiting processes that should be undertaken. Regarding the issue of public participation, Ms Lesoma reiterated that the Public Education Office should be closely monitored to ensure that public participation programmes received the intended results, as it was no use for committees to undertake public hearings only to realise that no mobilisation of the public had taken place. Furthermore, the matter had also been raised in the Joint Standing Committee on Financial Management of Parliament.

Mr Papo suggested that, besides Constitutional Court deadlines, there had also been a view that Parliament would accept legislation addressing constitutional defects, such as the Electoral Amendment Bill and Cannabis for Private Purposes Bill. Furthermore, for as long as the National Assembly had not been dissolved, it had the responsibility to continue to process legislation. House Chairperson Mr Frolick reminded the meeting that concerns around the issue of processing of legislation and compliance with Constitutional Court deadlines was nothing new towards Elections, indicating that there was a misalignment between the urgency of matters that should be considered between departments and Parliament. There were instances wherein departments would 'dump' legislation in Parliament on the eve of Elections whereas the parliamentary programme was not aligned to that. Regarding urgent matters, House Chairperson Mr Frolick said that it was up to the programming structures as to when Parliament would rise, stating that it should be expected that certain committees would have to continue to meet in order to process and finalise urgent matters before them. He also conveyed his gratitude to Mr Hendricks for his cooperation and willingness to assist with his staff in processing the Divorce Amendment Bill, as well as his proactive efforts in dealing with the proposed Marriage Amendment Bill.

8. Consideration of draft Parliamentary programme

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

On Tuesday 14 November, the following Bills were scheduled for consideration:

- Marine Oil Pollution (Preparedness, Response and Cooperation) Bill
- Divorce Amendment Bill
- Regulation of Interception of Communications and Provision of Communication-Related Information Amendment Bill
- Cannabis for Private Purposes Bill

A debate on the report of the Chief Whips' Forum on Benchmarking Study Visits to Ireland and Kenya, as well as Budgetary Review and Recommendation Reports (BRRR) were also scheduled for that day.

Questions to the Social Services cluster and the debate on the Revised Fiscal Framework and Revenue Proposal were scheduled for Wednesday 15 November.

On Thursday 16 November, virtual mini-plenaries on members' motions were scheduled, with the topic from the Economic Freedom Fighters still outstanding.

A virtual Members' Workshop Session was scheduled for 1 December.

The Programming Whip also advised that the report from the Portfolio Committee on Sport, Arts and Culture was no longer scheduled for the mini-plenary on Friday 10 November, as it had been established that it was a BRRR report and would thus be scheduled in a plenary in due course. Mr Xaso also advised that a request for a statement by the Minister in The Presidency on the Census 2022 Results had been received. The Deputy Speaker requested the Programming Whip to advise on a suitable date for the statement.

9. Announcements

There were no announcements.

10. Closure

The meeting adjourned at 09:13.