



NATIONAL ASSEMBLY PROGRAMME COMMITTEE

Chairperson:
Speaker of the National Assembly

Committee Secretary:
A Mbanga

DRAFT MINUTES OF PROCEEDINGS

Thursday, 7 March 2024 [Virtual]

Present:

C T Frolick (Acting Speaker)

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

Staff in attendance:

Secretary to the National Assembly Mr M Xaso, Ms T Lyons Acting (Undersecretary for House Plenaries), Ms N Giba (Committees), A Cupido and Adv C R van der Merwe (Constitutional and Legal Services Office).

1. Opening

House Chairperson Mr Frolick, as Acting 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 Speaker Mr S L Tsenoli, House Chairperson Mr M L D Ntombela, Deputy Chief Whip of the Majority Party Ms D E Dlakude and Mr S N Swart.

3. Consideration of draft agenda

The draft agenda was adopted, with the addition of Referral of Speaker to the Joint Committee on Ethics and Members' Interests as requested by Ms Mkhaliphi. The Acting Speaker indicated that the matter would be considered after the Programme item but would only focus on process and not on substantive issues of the matter.

4. Consideration of minutes of 22 February 2024

On the proposal of the Chief Whip of the Majority Party, seconded by Programming Whip, the minutes of 22 February were adopted.

5. Matters arising

The Acting Speaker reported that the issue of the calculated draft gratuity and submission of outstanding beneficiary forms for funeral cover by members was receiving attention at the level of the Chief Whips' Forum (CWF). The matter had been raised at the Members' Workshop Session on 16 February. The Chief Whip of the Majority Party requested that a report on this be prepared for presentation in the CWF.

6. Reports

(i) Committee Section

Ms Giba indicated that there were 24 bills currently before committees and advised that:

- The Portfolio Committee on Employment and Labour had finalised the petition from Solidarity and Cape Forum, calling on the Assembly to investigate the reassessment of the legality, rationality and desirability of the Employment Equity Regulations, 2023, as submitted by Dr P J Groenewald.
- The Portfolio Committee on Communications and Digital Technologies would be processing a request for filling of a vacancy in the Media Development and Diversity Agency (MDDA) Board.

Ms Giba also indicated that the *Ad Hoc* committee on the General Intelligence Laws Amendment Bill intended to finalise its report on the General Intelligence Laws Amendment Bill on 18 March. The *Ad Hoc* committee had been given an extension to finalise its report by 22 March.

(ii) Bills Office

Mr Cupido presented a report on Bills and indicated that the Children's Amendment Bill and Electoral Matters Amendment Bill were currently on the Order Paper for consideration.

The following Bills had been sent to the President for assent:

- Divorce Amendment Bill
- Municipal Fiscal Powers Amendment Bill
- Eskom Debt Relief Amendment Bill

Furthermore, the following Bills would be sent for assent:

- Copyright Amendment Bill
- Performers' Protection Amendment Bill
- Economic Regulation of Transport Bill
- National Road Traffic Amendment Bill
- Cannabis for Private Purposes Bill

Report on Legislation with Constitutional Court deadlines

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

(1) Electoral Commission Act, 1996 (Act No. 51 of 1996) and Referendums Act, 1983 (Act No. 108 of 1983)

The Portfolio Committee on Home Affairs was currently considering the Electoral Commission Amendment Bill, a private member's Bill, which seeks to address Parliament's alleged failure to enact legislation to regulate the calling and holding of provincial referenda. The Department of Home Affairs and Electoral Commission of South Africa (IEC) were scheduled to respond to the Bill on Tuesday 12 March.

(2) Marriage Act 25 of 1961 and Divorce Act 70 of 1979

Divorce Act: The Divorce Amendment Bill had been passed by the NCOP and sent for assent. In terms of the Marriage Bill a call for comments would be made soon. Political and financial authorisation to ask for an extension of the court order had also been granted. Constitutional and Legal Services Office had also instructed the State Attorney and Counsel had been appointed to draft the necessary pleadings.

(3) Copyright Act, 1978 (Act No. 98 of 1978)

The Copyright Amendment Bill had since been passed by the Assembly and sent for assent.

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

The Cannabis for Private Purposes Bill had been passed by the NCOP and would be sent for assent.

Mr Hendricks indicated that he was disappointed that the conditions of his withdrawal of the Divorce Amendment Bill had not been met and, as a result, would be meeting with the Minister of Justice and Correctional Services to address the matter. Furthermore, he said that his private Bill which sought to provide amendments to address the Constitutional Court order had conveniently been set aside. Mr Hendricks reported that his party had subsequently written to the President requesting that the Divorce Amendment Bill not to be assented to as it was still unconstitutional on the basis that certain women were still not allowed access to divorce courts. He said that this was an indictment to Parliament.

Adv Van der Merwe replied that Legal Services had also discussed the matter with Mr Hendricks and that it was important to distinguish between a situation being unconstitutional and a Bill being unconstitutional. She said that the Bill was constitutional as it complies with legal provisions but there was the issue of certain women not having the same rights, but the Marriage Amendment Bill would be dealing with all marriages and the Department of Justice and Constitutional Development had confirmed that. Depending on the outcome of the Marriage Amendment Bill, provision would be made for all religions in the Divorce Amendment Bill.

The Chief Whip of the Opposition asked whether Legal Services was aware of legal impediments on the Electoral Amendment Bill which could impact the timelines of the Electoral Commission as the Bill was scheduled for consideration by the Assembly in the following week. Adv Van der Merwe explained that the processing of the Bill was on track and that there was understanding of the urgency of the matter as well as complying with constitutional

requirements. Dr Mulder indicated that there were concerns with the contents of the Bill, and he had requested to meet with the Deputy President as the Leader of Government Business in that regard. He said that this could affect legal proceedings on the elections and its timetable if a court could declare certain sections of the Bill unconstitutional as that involved the allocation of funds. As a result, he appealed that the scheduling of the Bill should be halted in order to allow some of those consultations to take place. Dr Mulder added that he had raised his concerns in the meeting of the CWF the previous day.

Adv Van der Merwe indicated that, should there be court challenges on the Bill, that could only happen after the Bill had been passed by Parliament and assented to by the President. For the time being, it was difficult to ascertain how a court challenge could have an impact on the elections unless there was an interdict against proceeding with the elections. The Chief Whip of the Majority Party added that it was normal procedure to schedule legislation before the House once finalised, for it to decide whether it should adopt it or not, and therefore by speculating on possible litigation was tantamount to putting the cart before the horse. Parliament should therefore not be held at ransom, especially if there was a time factor. Dr Mulder, supported by Messrs Singh and Kwankwa, reiterated that the concerns raised where an attempt to prevent a possible court action by not rushing the Bill as there was still time to consult further. The Acting Speaker stated that he had expected the matter to be finalised at the level of the CWF when the Programme was initially discussed there. He suggested that the whippers should consult further outside of the meeting, but the matter would remain scheduled for the time being.

Regarding the Electoral Commission Amendment Bill, the Chief Whip of the Majority Party asked what was the rationale for putting the Programme Committee under pressure by reporting on the matter that had a deadline of 25 January 2025. Adv Van der Merwe explained that her office was expected to report to the meeting on all new matters although in some cases a deadline could be a few months in advance, but the report was merely intended to provide awareness of the matter from the point of view of Parliament.

7. Consideration of the Programme

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

On Tuesday 12 March, Second Reading debate on Electoral Matters Amendment Bill, debate on International Women's Day and consideration of committee reports were scheduled.

On Wednesday 13 March, Questions to the Governance cluster and consideration of the report on Fiscal Framework and Revenue Proposals were scheduled.

Second Reading debates on Electricity Regulation Amendment Bill was provisionally scheduled for Thursday, 14 March. Committee reports were also scheduled for that day.

The Programming Whip also advised that consideration of the Division of Revenue Bill, Second Adjustments Appropriation Bill and Gold and Foreign Exchange Contingency Reserve Account Defrayal Amendment Bill was provisionally scheduled for 26 March, instead of 27 March.

Regarding the end date for the National Assembly beyond 28 March, 21 May is proposed as end date for the National Assembly as it remained competent to function from the time its term expired, until the day before the first day of polling for the next Assembly. Finalisation of the Second Term Programme by the NCOP that morning would further assist in indicating the last sitting of the Council in May as it was expected that there could be proposed amendments for consideration by the Assembly in a special sitting.

The Programming Whip also informed the meeting that processing of the following matters, among others, was being monitored for consideration before the Assembly rose on 28 March:

- South African Institute for Drug-Free Sport Amendment Bill
- Tobacco Products and Electronic Delivery Systems Control Bill
- Pension Funds Amendment Bill
- Report of *Ad hoc* committee on the General Intelligence Laws Amendment Bill
- Appointment of candidates to the Commission for Gender Equality
- Appointment of members to the Pan South African Language Board
- Appointment of the Deputy Public Protector

In response to the Chief Whip of the Majority Party regarding opening of morning slots, the Programming Whip explained that a sitting had been opened on 19 March wherein the debate on Human Rights Day was proposed. In addition, the date of 26 March was also under consideration for a morning sitting to deal with matters that might not need the presence of members of the Executive. The Acting Speaker requested that once there was a decision on morning sittings, this should be communicated as early as possible for Parliament and its committees to be made aware and to prepare accordingly.

Referral of Speaker to the Joint Committee on Ethics and Members' Interests

The Acting Speaker provided an explanation on the issue as follows:

All Members of Parliament are subject to the Code of Ethical Conduct and Disclosure of Members' Interests which was freely available and accessible. Whenever a complaint was laid, the Acting Registrar of Members' Interests would deal with the matter in terms of the Code and the affected member/s would be informed accordingly and the matter reported to the Joint Committee on Ethics and Members' Interests, if necessary. No one, even presiding officers, had an insight into the workings of the Ethics Committee as it operated according to its own guidelines and reported to the Houses on the outcome of cases referred to it, or remedial action to be taken, where necessary. The Acting Speaker pointed out that the Democratic Alliance and Economic Freedom Fighters (EFF) indicated during members' statements the previous day and afterwards, that they had laid a complaint with the Ethics committee, but that no correspondence had been received by Presiding Officers on this matter as this would not be in line with the provisions of the Code of Conduct.

The Chief Whip of the Opposition argued that procedurally the matter was very much within the realm and ambit of the Committee as the allegations levelled against the Speaker were serious and Parliament should be seen to be dealing with the matter. She said that her concern was the frequency of the meetings of the Ethics Committee. It was therefore imperative that the issue of the workload of the Ethics Committee be considered by the Programme Committee, and not necessarily the merits of the case at hand. Furthermore, if the matter was not attended to, it could erode the trust the public had in the institution. Ms Mkhalihi added that the fact that the position of the Registrar was in an acting capacity was a problem for the institution, and further stated her party's view that processes that were supposed to unfold in dealing with the matter could be compromised as the 6th Parliament was nearing an end. She said that in her view the Speaker should resign from her position, failing which parties should force her to do so. Furthermore, it could not be expected that the Acting Registrar would do her work diligently by ensuring that all matters referred to the Ethics Committee were processed whilst she was in an acting capacity since 2018.

Ms Lesoma suggested that, whilst acknowledging the fact that negative publicity was of concern to everyone, the Ethics Committee should be given space to do its work and the Programme Committee not be seen to be trying to influence these processes. The Chief Whip of the Majority Party reminded the meeting that the CWF and Programme Committee had previously agreed that it was difficult for the Powers and Privileges Committee and Ethics Committee to meet due to the unavailability of members as they were serving in other committees. To that end, it was suggested that these committees should meet during Fridays

and Constituency Days in order to clear backlog. Furthermore, it was incorrect to assert that the Ethics Committee had not been working as the House had recently considered reports from that committee. The Chief Whip also urged the committee to refrain from conducting a public trial of the Speaker.

Mr Shaik Emam said that it was premature for the matter to be discussed in the meeting as such things remained allegations until proven otherwise. Ms Ntlangwini said that she agreed with the sentiments by the Chief Whip of the Opposition in that the work of the Ethics Committee should be looked at, in view of cases before it. She said that the matter of the Speaker should be prioritised as there was a tendency for the institution to act fast on other matters relating to charges against EFF members by prioritising their cases. Ms Ntlangwini further alleged that in this case the Speaker had accepted bribes. The Acting Speaker noted that he had cautioned members not to venture into the merits of this case and that as Ms Ntlangwini had persisted in this behavior, even when requested to desist, that she be removed from the virtual platform for the meeting to proceed in an orderly manner.

In closing the matter, the Acting Speaker indicated that correspondence would be directed to the Joint Committee on Ethics and Members' Interest to ascertain if they had any difficulties in convening meetings. It was also emphasized that political parties should avail themselves when the Ethics Committee met. He advised that the Acting Registrar was sworn-in on 2 October 2018 and at an appropriate time there should be a response from the administration as to the reasons for the acting appointment having continued for such a length of time.

8. Announcements

There were no announcements.

9. Closure

The meeting adjourned at 09:38.