



NATIONAL ASSEMBLY PROGRAMME COMMITTEE

Chairperson:
Speaker of the National Assembly

Committee Secretary:
A Mbanga x 3218

DRAFT MINUTES OF PROCEEDINGS

Thursday, 16 March 2023 [Virtual]

Present:

S L Tsenoli (Acting Speaker)

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

Staff in attendance:

Under Secretary to the National Assembly Mr C V Mahlangu, 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 all present.

2. Apologies

Apologies from Speaker Ms N N Mapisa-Nqakula, House Chairpersons Ms M G Boroto and Mr C T Frolick and Messrs N Singh and B N Herron were tendered.

3. Consideration of draft agenda

The draft agenda was adopted, as proposed.

4. Consideration of minutes of 9 March 2023

On the proposal of House Chairperson Mr Ntombela, seconded by the Chief Whip of the Majority Party, the minutes of 9 March were adopted.

5. Matters arising

Electoral Amendment Bill

Dr Koornhof informed the meeting that a number of objections on the Bill had been received. The President was processing the legality of the Bill as well as its constitutionality. He said that the processes for a decision would be speeded up as the Bill was considered as urgent and a priority.

The Chief Whip of the Majority Party asked whether Parliament would not be found to be in contempt of the Constitutional Court judgment on the basis that the Bill had not yet been signed into law. Adv van der Merwe replied that the order was vague in that it instructed Parliament to correct the defect by 28 February 2023 but did not stipulate timeframes for the Executive or the President. The assent to the Bill was a further step in the process of checks and balances, as far as legislation was concerned. Mr Kwankwa added that it could not be a natural expectation that a deadline would extend to another arm of state and if there were concerns emanating from the President, Parliament would have to consider them once submitted. The Deputy Speaker stated that the implications of that would be on the quality of preparations by the Independent Electoral Commission of South Africa (IEC) for the forthcoming elections. Based on the response from Legal Services, Mr Hendricks asked whether the IEC should not be advised to proceed with its preparations based on the measures as contained in the current Act as it was clear that the deadline of the Constitutional Court would not be met. Furthermore, he informed the meeting that the IEC had once indicated to him that they might not be able to conduct free and fair elections in 2024 due to possible delays. Mr Papo suggested that presiding officers should also officially engage with the IEC on the concerns raised in order to avoid the impression that the IEC only met with political parties.

Mr Shaik Emam asked whether the deadline against Parliament was not inclusive of the all the role-players, including the President. Adv van der Merwe replied that it was worth noting that the Executive was also not cited in the judgment and that the constitutional interpretation was that Parliament was a national legislature and Parliament was responsible for correcting of legislation. Anything else outside of that order was a different process.

National Gambling Amendment Bill

Mr Mahlangu indicated that consultation with the National Council of Provinces on the establishment of a mediation committee was taking place and a report on this matter would be provided in due course.

The Deputy Speaker reported that the Minister of Defence and Military Veterans had responded to the outstanding questions, immediately after the question session to the Governance cluster the previous day.

Mr Mahlangu advised that an update on scheduling of the draft resolution on the establishment of an ad hoc committee on the Phala Phala matter be discussed under the Programme item. In response to a question from the Chief Whip of the Opposition, Ms Giba explained that the Portfolio Committee on Communications and Digital Technologies had resolved that it would be seeking further legal advice on the letter from the President on the names that the National Assembly had submitted to him for consideration for appointment to the Board of the South African Broadcasting Corporation (SABC).

6. Report from Committee Section

Ms Giba presented a report on legislation before committees and indicated that the International Crimes Bill had been withdrawn in accordance with Assembly Rule 334. She further reported that –

- The Portfolio Committee on Health had received inputs on the National Health Insurance Amendment Bill from the Parliamentary Legal Services and State Law Advisers on 15 March.
- The Portfolio Committee on Justice and Correctional Services intended to finalise the Constitution Eighteenth Amendment Bill on 17 March.

On statutory appointments, the Portfolio Committee on Public Service and Administration would advise on another date for finalisation of its report on recommendations of a candidate for appointment as a commissioner in the Public Service Commission, as it could not do so on 15 March. Ms Giba indicated that Committee Section was waiting for names for the finalisation of membership of the *Ad Hoc* Joint Committee on Flood Relief. In response to Ms Mkhali, she advised that in the previous meeting it was clarified that political parties could consider nominating the same members as had served on the previous *Ad Hoc* committee if they so wished. The *Ad Hoc* committee was established on the basis of a new resolution, as two other provinces had since been impacted by floods. Ms Giba also noted that names of members to serve on the *Ad Hoc* committee were outstanding from the African National Congress and Economic Freedom Fighters.

7. Report by Bills Office

Dr Mbatha presented a summary on the status of legislation and indicated that there were six Bills on the Order Paper for consideration, three of which were for First Reading. There were 28 Bills before Committees.

Report on Constitutional Court deadlines

Adv Van der Merwe presented a report on Constitutional Court deadlines as follows -

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

As indicated earlier, the Electoral Amendment Bill had been sent to the President for assent.

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

In the presentation to the Portfolio Committee on Justice and Correctional Services on 15 March 2023, regarding the Maintenance Amendment Bill that had been introduced by Mr Hendricks, the department indicated that the South African Law Reform Commission (SALRC) was preparing a report that would make final recommendations of the review of the Maintenance Act, 1998 (Act No. 99 of 1998) by June 2023. It appeared that the department

would not be able to correct the defect by 29 June 2023 but that there was no gap in the law since the Constitutional Court provided read-in provisions. The portfolio committee recommended that the department should work with Mr Hendricks to ensure that the proposals in the Maintenance Amendment Bill were taken into account. The committee also expressed its dissatisfaction with the length of time that had already lapsed in the review of the Maintenance Act. The Committee stayed its decision on the desirability of the Bill in order to consider the SALRC report that was due in June 2023. It should, however, be noted that suspension of the order would lapse on 29 June 2023 but read-in provisions would come into operation if the defect was not corrected by then. As a result, there would be no gap in the law.

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

The Department of Correctional Services and the Department of Finance met and agreed to the governance structure of the Judicial Inspectorate for Correctional Services (JICS). The Department of Correctional Services was in a position to proceed to give effect to the Sonke Gender Justice judgment. To this end, the Department would finalise the Bill addressing the Sonke judgment, and in a parallel process to commence with the practical side of setting up JICS as an independent body.

Mr Hendricks expressed concern as the Divorce Act had been declared unconstitutional and the rights of disadvantaged people would fall away should the deadline not be met as no work had been done by government on the amendments, except for the introduction of his private members' legislation. He said that it looked like the government was stalling on the implementation of the Constitutional Court order as Cabinet had asked the Ministers of Justice and Correctional Services and Home Affairs to meet in order to determine if the Divorce Act fell under one of their departments. The Deputy Speaker indicated that processes were underway and should be fast-tracked, but pointed out that it had been indicated that read-in provisions would come into operation if the defect was not corrected by the deadline. The Office of Leader Government Business should also assist in the matter.

8. Consideration of draft Parliamentary programme

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

The draft resolution on the motion of no confidence in the Speaker as well as the debate on Human Rights Day were scheduled for Wednesday, 22 March.

Questions for oral reply to the Deputy President, Second Reading debate on Division of Revenue Bill, First Reading debate on Second Adjustments Appropriation (2022/23 Financial Year) Bill, as well as Decision of Question on Draft Resolution on Establishment of an ad hoc committee in terms of Rule 253 to inquire into the full extent of the alleged widespread corruption and unabated operations of criminal networks and cartels at Eskom were scheduled for Thursday, 23 March.

The Programming Whip also indicated that the draft resolution on the establishment of an *Ad Hoc* committee on the Phala Phala matter, as requested by the Chief Whip of the

Opposition, was rescheduled for 22 March at the City Hall. According to the programme, the week of 28 – 31 March was set aside for Committees/Oversight. Due to connectivity challenges, the Programme Whip could not speak to the matter of the voting mechanism to be followed on the draft resolution, after declarations on the matter. As a result, the Deputy Speaker said that the voting system to be followed had not yet been determined in any other way than open voting.

The Chief Whip of the Opposition stated that she welcomed the date of 22 March for consideration of the draft resolution on the Phala Phala matter during the current term.

Ms Mkhalihi stated that there was no improvement in the attendance and quality of responses from Ministers and Deputy Ministers during sessions for questions for oral reply, even though the Speaker addressed the matter in the House a few weeks ago. The Deputy Speaker replied that the matter would be attended to.

9. Announcements

There were no announcements.

10. Closure

The meeting adjourned at 09:22.