**Preamble**

Section 116(1)(b) of the Constitution of the Republic of South Africa provides that a Provincial Legislature may make Rules and Orders concerning its business, with due regard to representative and participatory democracy, accountability, transparency and public involvement.

The North West Provincial Legislature has made the Rules and Orders provided hereunder in compliance with the provisions of section 116(1)(b).

**CHAPTER 1: DEFINITIONS AND SOURCES OF AUTHORITY**

**Part 1: Definitions**

In these Rules, unless the context indicates otherwise —

**“Announcements, Tablings and Committee Reports (“ATC”)”** means the document listing announcements, items of business tabled and committee reports under discussion on a specific working day of the Legislature;

**“Chamber”** means the room in which the proceedings of the Legislature take place, excluding those areas where members of the public and the media may listen to proceedings;

**"Chief Whip"** means the chief whip of the majority party;

**“Constitution**” means the Constitution of the Republic of South Africa, 1996;

**"document"** means any written instrument, and includes any electronic or other device in or on which information, including visual material, is recorded, stored or kept;

**“Executive Council”** means the Executive Council of the Province of the North West, constituted in terms of section 132 of the Constitution;

**“government business”** means any item of business for which a member of the Executive Council is responsible;

**“House”** means the Legislature meeting in plenary;

**“Integrity Commissioner”** means the person responsible for the implementation of the Code of Conduct and Ethics;

“**Leader of Government Business”** means the person appointed by the Premier in terms of Rule 13.12;

**“Leader of the Opposition”** means the member envisaged in terms of section 116(2)(d) of the Constitution;

**“Legislature”** means the North West Provincial Legislature;

**“MEC”** means a member of the Executive Council;

**"Member"** means a Member of the Legislature and includes a member of the Executive Council;

**"money Bill"** means a Bill referred to in section 120(1) of the Constitution;

**“motion**” means a proposal for a resolution of the House;

**“Order Paper”** means the document that describes the business of the Legislature and includes the agenda for the day;

**“Permanent Delegate”** means a permanent delegate to the National Council of Provinces envisaged in section 60(2)(b) of the Constitution;

**"person in charge" —**

(a) with reference to a Bill introduced by an MEC or a Member, means that MEC or that Member;

(b) with reference to a Bill introduced by a committee, means the Chairperson or any other Member of the committee designated by the committee; and

(c) with reference to a money Bill, means the MEC for Finance;

**“Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act”** means the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act No. 4 of 2004);

**“Premier”** means the Premier of the North West Province;

**“Province”** means the province of the North West;

**“Public Finance Management Act”** means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

**"recess"** with reference to the Legislature, means a period determined as a period of recess by the Programme Committee, or by resolution of the House, during which the business of the Legislature is interrupted;

**“resolution**” means a decision taken by the House;

**"Secretary"** means the Secretary to the Legislature;

**“Serjeant–at-Arms”** means the official of the Legislature responsible for the mace and for security in the Legislature;

**“session”** means the legislative year, commencing on the day of the official opening of the Legislature and concluding on the last day before the next official opening;

**“Sitting”** means a plenary meeting of the Legislature;

**"sitting day"** means a day on which the Legislature sits;

**“Special Delegate”** means a special delegate to the National Council of Provinces envisaged in section 60(2)(a) of the Constitution;

**"tabling"** in relation to a document, means the placing of a document on the Table of the Legislature;

**"term"**, in relation to the Legislature, means the period for which the Legislature is elected in terms of section 108(1) of the Constitution; and

**“whip”** means a Member appointed a whip in terms of Rule 31.

**Part 2: Source of authority of the Legislature**

**1. Introduction**

The sources of authority of the North West Provincial Legislature are —

(a) the Constitution;

(b) the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 and any other applicable legislation;

(c) the Rules of the Legislature;

(d) orders or any other binding decision of the Legislature;

(e) directives and guidelines of the Rules Committee;

(f) rulings by the Speaker and other Presiding Officers; and

(g) any conventions or practices that have been established in the Legislature by agreement and usage over a period of time.

**2. Rules of North West Provincial Legislature**

1. The Rules of the Legislature are adopted by resolution of the House in accordance with Section 116 of the Constitution.
2. The Rules remain in force until amended or repealed.
3. The Rules must be strictly adhered to by Members.

**3. Suspension of rules**

1. Any provision of these Rules relating to the business or proceedings at a Sitting of the House, or of a committee may be suspended by resolution of the Legislature.
2. The suspension of any provision must be limited in its operation to the particular purpose and period for which such suspension has been approved.
3. The suspension of any provision of the Rules must not be in conflict with the Constitution.

**4. Non-diminution or non-limitation of rules and orders**

No convention or practice may limit or inhibit any provision of these Rules or any order of the House.

**5. Unforeseen eventualities**

1. The Speaker may give a ruling or frame a rule in respect of any eventuality for which these Rules or Orders of the House do not provide, having due regard to the procedures, precedents, practices and conventions developed by the House and on the basis of constitutional values and principles underpinning an open, accountable and democratic society.
2. A Rule framed by the Speaker remains in force until the House, based on a recommendation of the Rules Committee, has decided thereon.

**6. Directives and guidelines of Rules Committee**

1. The Rules Committee may, in terms of Rule 177 (1)(b), issue directives and lay down guidelines to assist with the implementation of these Rules and Orders of the House.
2. Members must comply with any such directives and guidelines.

**7. Rulings**

1. The Speaker must perform the functions as provided for in these Rules and may make rulings in applying and interpreting these Rules, Orders of the House and directives and guidelines approved by the Rules Committee.
2. The Speaker and other Presiding Officers may make rulings in accordance with sub-rule (1) in respect of procedural matters that arise when they are presiding at a Sitting of the House.
3. Members must comply with rulings made by Presiding Officers.
4. (a) A Member may request that a ruling be referred to the Rules Committee for consideration and report.

(b) In considering a ruling referred to it in terms of sub-rule (4)(a), the Rules Committee must confine itself to the principle underlying, or subject of, the ruling in question.

**8. Conventions and practices**

1. Conventions and practices relating to the business of the House and its committees and other forums are established by agreement amongst political parties and parliamentary office-bearers, and may be varied by agreement amongst them and reviewed from time to time as decided by the Rules Committee.
2. Conventions and practices must be consistent with the provisions of the Constitution, these Rules, Orders of the House, rulings, and directives and guidelines of the Rules Committee.
3. Presiding Officers may request Members’ compliance with established conventions and practices.

**9. Contempt**

A Member who wilfully fails or refuses to obey any Rule, Order or Resolution of the House may be found guilty of contempt of Parliament in terms of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004.

**CHAPTER 2: PROCEEDINGS IN CONNECTION WITH COMMENCEMENT OF TERM AND ANNUAL SESSION**

**Part 1: First Sitting after elections**

**10. Convening notice read**

At the commencement of the proceedings of the Legislature on the first day of its first session the Secretary or an officer of the Legislature designated by the Secretary must read the notice convening the Legislature under Section 110(1) of the Constitution.

**11. Oath or affirmation by members**

1. After the reading of the notice, Members must take the oath of office or make the solemn affirmation before the Chief Justice or a judge designated by the Chief Justice, in accordance with Section 107 read with Schedule 2 of the Constitution.

**12. Election of Speaker and Deputy Speaker**

1. At the first Sitting after its election, the Legislature must, in accordance with Sections 111(1), (2) and (3), read with Schedule 3 to the Constitution, elect one of its Members to be the Speaker and thereafter another to be the Deputy Speaker of the House.
2. The Speaker must preside over the election of the Deputy Speaker.

**13. Election of Premier**

At the first Sitting, after the election of the Speaker and the Deputy Speaker, the Legislature must in accordance with Sections 128(1) and (2), read with Schedule 3 of the Constitution, elect one of its Members as the Premier.

**14. Opening of the Legislature**

1. At the commencement of the first session of the Legislature after its election the Premier must deliver an Opening Address at a date and time to be announced by the Speaker.
2. The Speaker must thereafter publish the Opening Address in the Minutes of Proceedings and place it on the Order Paper for discussion.

**Part 2: First Sitting each year**

**15. Commencement of annual session**

The Speaker must inform the Legislature of the date and time on which an annual session of the Legislature will commence.

**16. Premier’s State of the Province Address**

The Speaker must inform the House of the date and time for the Premier’s annual State of the Province Address.

**17. State of the Province Address reported**

The Speaker must publish the Premier’s State of the Province Address in the Minutes of Proceedings.

**18. State of the Province Address placed on Order Paper**

When the Premier has delivered the State of the Province Address, the Speaker must place it on the Order Paper of the Legislature for discussion.

**CHAPTER 3: PRESIDING OFFICERS AND MEMBERS**

**Part 1: Presiding Officers**

**19. Election of Speaker and Deputy Speaker**

(1) (a) Whenever it is necessary to elect a Speaker, the Secretary or an officer of the Legislature nominated by the Secretary, must inform the Legislature accordingly, whereupon the Legislature must immediately or at a time announced by the Secretary or such nominated officer proceed to the election in terms of Section 111 of the Constitution.

(b) The Chief Justice or another judge designated by the Chief Justice presides over the election of the Speaker.

(2) (a) Whenever it is necessary to elect a Deputy Speaker, the Speaker must inform the Legislature accordingly, whereupon the Legislature must immediately or at a time announced by the Speaker proceed to the election in terms of Section 111 of the Constitution.

(b) The Speaker presides over the election of a Deputy Speaker.

1. The Member elected must be given the opportunity, from her or his place, to make an acceptance speech.

**20. Chairperson of Committees**

1. The Legislature must elect from among its Members the Chairperson of Committees for the term of the Legislature.
2. The Chairperson of Committees must act as a Presiding Officer in assistance to the Speaker and Deputy Speaker.

**21. Panel of Temporary Chairpersons of Committees**

At the commencement of every session of the Legislature, the Speaker must nominate a panel of not fewer than four (4) Members to act as temporary Chairpersons of Committees.

**22. Relief of Speaker**

The Deputy Speaker or the Chairperson of Committees shall preside over the Legislature whenever requested to do so by the Speaker during any of its Sittings.

**23. Absence of Speaker**

1. Whenever the Speaker is absent, unable to perform the functions of the Office of the Speaker, or whenever that office is vacant, the Deputy Speaker acts as the Speaker.
2. Whenever both the Speaker and the Deputy Speaker are absent or unable to perform the functions of the Office of the Speaker, or whenever both Offices are vacant, the Chairperson of Committees acts as the Speaker.

**24. Absence of all Presiding Officers**

Whenever the Legislature is advised that all the elected Presiding Officers are unavoidably absent or are to be absent for a Sitting, the Legislature must forthwith, elect one (1) from among its Members to act as the Presiding Officer for that particular Sitting only.

**25. General authority and responsibility of Speaker**

1. In exercising the authority of the Speaker, as provided for in the Constitution and legislation and the rules of Legislature, the Speaker must —
   1. ensure that the Legislature provides for public involvement of issues, passes legislation and scrutinises and oversees the Provincial Executive Authority in accordance with Section 114 of the Constitution;
   2. ensure that parties represented in the Legislature participate fully in the proceedings of the Legislature and its committees and forums, and facilitate public involvement in the processes of the Legislature in accordance with Sections 116 and 118 of the Constitution; and
   3. whenever possible, consult with relevant office-bearers and structures within the Legislature to achieve the efficient and effective functioning of the Legislature in a transparent and accountable manner.
2. The Speaker must maintain and preserve the order of and the proper decorum in the Legislature, and uphold the dignity and good name of the Legislature.
3. The Speaker is responsible for the strict observance of the rules of the Legislature and must decide questions of order and practice in the Legislature, such a ruling being final and binding.
4. The Speaker must act fairly and impartially and apply the Rules with due regard to ensuring the participation of Members of all parties in a manner consistent with democracy.

**26. Removal from office of Speaker or Deputy Speaker**

1. The Legislature may remove the Speaker or Deputy Speaker from office by resolution in terms of Section 111(4) of the Constitution.
2. A motion for the removal of the Speaker from office must comply, to the satisfaction of the Deputy Speaker, with the prescripts of any relevant law or any relevant Rules and Orders of the House and directives and guidelines approved by the Rules Committee before being placed on the Order Paper, and must include the grounds on which the proposed removal from office is based.
3. In respect of a motion for the removal of the Deputy Speaker from office, the Speaker must approve compliance as contemplated in sub-rule (2).
4. The Speaker or Deputy Speaker, as applicable, may request an amendment of or in any other manner deal with a relevant motion that does not comply with the requirements as contemplated in sub-rule (2).
5. The Speaker or Deputy Speaker, as applicable, must accord an approved motion under this rule due priority and, before scheduling it, must consult with the Chief Whip.
6. The debate on a motion under this rule may not exceed the time allocated for it by the Speaker or Deputy Speaker, as applicable, after the required consultation.
7. A majority of the Members must be present, in terms of section 111(4) of the Constitution, when the resolution is adopted.

**Part 2: Members and Whips**

**27. Oath or affirmation**

Other than immediately after a general election, new Members may, in accordance with Item 4(2) of Schedule 2 to the Constitution —

* 1. at a Sitting of the Legislature, be announced and conducted to the Table by not more than two Members in order to be sworn in or to make affirmation before the Presiding Officer; or
  2. at any time by arrangement be sworn in or make affirmation before the Speaker in the Speaker’s chambers, the Speaker reporting accordingly to the Legislature at the first opportunity.

**28. Declaration of private interests**

If a Member has a personal or private financial or business interest in any matter before a forum of the Legislature of which she or he is a Member, she or he must at the commencement of engagement on the matter by the forum immediately declare that interest.

**29. Leader of Government Business**

1. After an election or whenever the position of Leader of Government Business becomes vacant, the Premier must appoint a member of the Executive Council as Leader of Government Business and inform the Speaker of the appointment.
2. The Leader of Government Business in the Legislature –
   1. is responsible for co-ordinating the work of the Provincial Government to be submitted or being submitted to the Legislature;
   2. sits on the Programming Committee for the drafting of the Programme of the Legislature; and
   3. sits on the Rules Committee, but has no vote.

**30. Leader of the Opposition**

1. The leader of the largest opposition party in the Legislature must be recognised as the Leader of the Opposition as contemplated in Section 116(2)(d) of the Constitution.
2. In the event that two or more opposition parties qualify as the largest opposition party in that they hold an equal number of seats in the House, the leader of the opposition party that obtained the most votes in the election must be recognised as the Leader of the Opposition.

**31. Appointment and responsibilities of whips**

1. At the first meeting of the Rules Committee after an election, or as soon as possible thereafter, the Rules Committee must determine the number of whips to be allocated to parties represented in the Legislature.
2. The Speaker must appoint whips on the recommendation of the leaders of the parties which qualify for whips.
3. (a) Parties which do not qualify for a whip may jointly request the Speaker to appoint one or more whips from amongst their number to represent their interests, or to alter the appointments previously made under this sub-rule.

(b) In considering such a request, the Speaker must apply guidelines approved by the Rules Committee for that purpose.

(4) The names of the appointed whips must be published in the ATC.

(5) (a) The functions of the whippery are —

* 1. in general, to be responsible collectively for the maintenance of the proper decorum of the House and the orderly conduct of the business of the Legislature, and
  2. to co-ordinate the business of their parties in the Legislature for purposes of facilitating the political management of the Legislature.

(b) The Chief Whip and other whips must additionally perform the functions prescribed in the Rules.

(c) The House may approve recommendations by the Rules Committee to provide for any further responsibilities, duties or functions of the whippery.

**32. The Chief Whip of the House -**

(1) The Chief Whip of the Majority Party shall be the Chief Whip of the House.

(a) The Chief Whip is responsible for:

* 1. ensuring the attendance in the Legislature in liaison with other Whips;
  2. arranging the order of business of the Legislature on the Order Paper subject to the Rules and the directives of the Programming Committee; and
  3. facilitating political consultation among parties in the Legislature.

**Part 3: Members’ attendance**

**33. Members’ attendance**

(1) Subject to minimum standards as provided for in these Rules, Members’ attendance of official Legislature activities is regulated by their political parties.

(2) A Member’s absence from the Legislature during a session, other than during a formal recess or resulting from the Member’s suspension in terms of these Rules and Orders, must be approved by the Member’s political party in the Legislature.

(3) A Member, or the party whip assigned responsibility for Members’ leave by the party, must inform —

* 1. the party’s duty whip; or
  2. the Chairperson of a relevant committee,

of the Member’s approved absence from a sitting of the House or a committee meeting, respectively.

(4) All political parties must —

(a) maintain proper leave records for their Members in accordance with an attendance policy for Members formally approved by the Legislature; and

(b) annually, within fourteen (14) days after the last sitting day of the session, submit the attendance records of their Members to the Speaker for publication in the ATC.

**34. Absence from Sittings of the Legislature**

(1) The period for which leave may be granted to a Member by the Member’s party, other than maternity leave and parental/adoption leave as provided for in the approved attendance policy, may not exceed fifteen (15)) consecutive sitting days in a session.

(2) Leave may be requested of the Legislature by motion for a Member’s absence in excess of fifteen (15) consecutive sitting days, the leave to be requested not later than by the close of the fifteenth consecutive sitting day of the Member’s absence.

(3) The motion presented to the Legislature must state the reasons for the request and the period for which continued leave of absence is sought.

(4) If the motion requesting leave of absence is rejected by the Legislature, the reasons for such rejection must be put to the Legislature by way of a formal amendment to the motion, and the motion as amended must be supplied to the Member and the Member’s party in the Legislature without delay.

**35. Sanctions for extended unauthorised absence from sittings of Legislature**

1. A Member who absents herself or himself for fifteen (15) or more consecutive sitting days of the Legislature without authorisation as provided for in these Rules, loses her or his membership of the Legislature in accordance with Section 106(3)(b) of the Constitution.
2. The Speaker must without delay inform a Member and the Member’s party of the Member’s loss of her or his membership of the Legislature in terms of this Rule.

**36. Absence from meetings of committee**

1. A Member may not without her or his party’s approval be absent from more than two (2) consecutive meetings of a committee to which the Member has been appointed as a full Member in terms of the Rules.
2. A Member’s approved absence from a meeting of a committee referred to in sub-rule (1) must be recorded in the minutes of the meeting as formally adopted by the committee.
3. The secretary to a committee must without delay send a copy of the formal minutes of each meeting of the committee to the responsible whip of each of the parties represented on the committee.
4. The Secretary must every three months within a session submit a report to the Speaker on all Members who have been absent from three (3) or more consecutive meetings of a committee without approval as recorded in the committee’s minutes.

**37. Sanctions for extended unauthorised absence from meetings of committee**

1. A Member who is absent from three (3) or more consecutive meetings of a committee referred to in Rule 36(1) without her or his party’s approval may be fined an amount to be determined by the Rules Committee from time to time for each day of absence.
2. The Speaker must inform the Member without delay of the imposition of a fine in terms of this Rule.

**38. Appeal against application of sanctions**

1. A Member who feels aggrieved by the sanction imposed upon her or him in terms of Rule 35 or 37 may lodge a formal appeal with the Speaker within fourteen (14) days of being notified of the application of the sanction.
2. If the Speaker is unable to resolve the appeal on reasonable grounds, the Speaker must refer the appeal to a committee to be determined by the Rules Committee.
3. The committee must report its findings to the Legislature.
4. The Speaker must report any sanction imposed or appeal processed in terms of these rules to the Legislature.

**CHAPTER 4: SITTINGS OF THE HOUSE AND PUBLIC ACCESS TO THE LEGISLATURE**

**Part 1: Sittings of the House**

**39. Sitting Days and Hours**

1. The Legislature may sit on Tuesday from 09h00 or such other time and day as the Speaker may announce.
2. The Speaker may convene a special sitting to discuss any matter of importance and may determine that only that issue be discussed at such special sitting.
3. Public Holidays are not sitting days for the Legislature or any of its committees.
4. The bells must ring fifteen minutes before the commencement of the sitting for a period of five (5) minutes and then rung again for one (1) minute before the Speaker or the Presiding Officer enters the Chamber.
5. Committees may sit from Tuesdays to Fridays
6. Mondays are designated as constituency days; however a committee may request permission from the Chief Whip to conduct its business on a Monday, Saturday and Sunday are working days when a Member or Members are engaged in work of the Legislature after having obtained the permission of the Speaker.

**40. Venue for Sitting**

1. The Legislature may by resolution agree that the Sitting of the Legislature be permitted to be held at a place other than the seat of the Legislature on the grounds of public interest, security or convenience or any other reasonable ground.
2. Such proceedings are to be protected in terms of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004.

**41. Arrangement of business on Order Paper when no consensus in Programme Committee**

If no consensus could be reached in the Programme Committee on the programme of business for a particular sitting day or if the Programme Committee has not made a detailed determination for any sitting day, the Chief Whip must, subject to these Rules and particularly any Rule providing that the Speaker must exclusively make a specific programming decision, arrange the business of the Legislature on the Order Paper for that day after consultation with the Speaker, and the Leader of Government Business when any government business is prioritised.

**42. Quorum required only for taking decisions**

The Legislature may proceed with its business irrespective of the number of Members present, but may vote on a Bill or decide on any question only if a quorum is present in terms of Rule 79.

**43. Opportunity for prayer or meditation**

At the commencement of business on every sitting day of the House prayers must be read or prayers and mediation observed as indicated by the Presiding Officer.

**44. Sequence of proceedings**

1. Subject to the Constitution and these Rules, and unless altered by resolution of the Legislature, the business on each Sitting day of the House must follow the following sequence of events:
   1. Opportunity for silent prayer or meditation;
   2. announcements from the Chair;
   3. swearing in of new members;
   4. formal motions moved by the Chief Whip; and
   5. orders of the day and notices of motion on the Order Paper, which must be dealt with in sequence; provided that precedence must be given to questions on question days.
2. Subject to sub-rule (1), and unless altered by resolution of the House, the business on any Sitting day of the House may additionally include any event below, after the business under sub-rule (1) has been completed and if included during any sitting must follow the following sequence of events:
   1. other formal motions;
   2. motions without notice;
   3. opportunity for statements by members and responses to statements by Cabinet members;
   4. notices of motion; and
   5. petitions.

**45. Interruption, suspension or adjournment of proceedings**

1. The Presiding Officer may interrupt, suspend or adjourn the proceedings of the Legislature or any committee.
2. The Presiding Officer may adjourn the Legislature until a parliamentary working day other than the next scheduled Sitting day.

**Part 2: Public access to the Legislature**

**46. Admission of visitors**

1. The power to admit visitors to the places set apart for them in the Chamber or public galleries of the Chamber or in any other venue in which the House or a committee of the House is meeting, or to regulate or limit any activity, access or movement of visitors whilst within the precincts of the Legislature or a venue utilised for the work of the Legislature, vests in the Speaker, subject to Section 118 of the Constitution.
2. Unless the Speaker directs otherwise in respect of a particular visitor or group of visitors, all visitors must, in an appropriate manner, be subjected to a security check or screening before entering the precincts of the Legislature or the Chamber or any venue utilised for the work of the Legislature and, if reasonable cause exists, any visitor may at any time while within the precincts of Legislature or a venue utilised for the work of the Legislature, be subjected to a security check or screening.
3. If any visitor refuses in any manner whatsoever to comply with the procedures in sub-rules (1) and (2), such visitor may be refused access to the precincts of the Legislature or any such venue or may be immediately removed from the precincts of the Legislature or such venue.

**47. Access for non-members to floor of Chamber**

The Speaker may give a non-member access to the floor of the Chamber during a sitting of the House in special circumstances.

**48. Conduct of visitors**

Visitors admitted in terms of Rule 46 may not disrupt the proceedings in any manner and must adhere to the directives of the presiding officer and the Serjeant-at-Arms.

**49. Withdrawal of visitors**

The Presiding Officer may, whenever she or he thinks it reasonable and justifiable in an open and democratic society to do so, order visitors to withdraw from the places set apart for them in a Chamber, or a committee room or from the precincts of the Legislature.

**50. Serjeant-at-Arms to remove persons**

When instructed by the Presiding Officer, the Serjeant-at-Arms must remove, or arrange for the removal of, any person who —

* 1. without permission is present in that part of the Chamber designated for members only or in another place within the precincts of the Legislature or any other venue utilised for the work of the Legislature which is out of bounds for that person; or
  2. disrupts the proceedings of the Legislature or a committee or any other forum of the Legislature or does not withdraw when duly ordered to do so.

**CHAPTER 5: ORDER IN PUBLIC MEETINGS AND RULES OF DEBATE**

**Part 1: Order in debate**

**51. Freedom of speech**

1. In accordance with Section 117(1)(a) of the Constitution Members of the Provincial Legislature and the province’s Permanent Delegates to the National Council of Provinces have freedom of speech in the Legislature and in its committees, subject to its Rules and Orders.
2. In accordance with Section 117(1)(b) of the Constitution Members of the Provincial Legislature and the province’s Permanent Delegates to the National Council of Provinces are not liable to civil or criminal proceedings, arrest, imprisonment or damages for anything that they have said in, produced before or submitted to the Legislature or any of its committees, or anything revealed as a result of anything that they have said in, produced before or submitted to the Legislature or any of its committees.

**52. Conduct of members**

Members must at all times accord the Presiding Officers of the Legislature and Members due respect and conduct themselves with dignity and in accordance with the decorum of the Legislature and are required —

(a) to enter or leave the Chamber with decorum;

(b) to be seated when the bells stop ringing to mark the start of proceedings;

(c) to rise, if possible, when the Presiding Officer enters the Chamber at the start of proceedings and to remain standing until invited to be seated;

(d) not during proceedings pass between the Chair and the Member who is speaking, nor between the Chair and the Table, nor to stand in any of the aisles or cross aisles, nor to cross the floor of the House in front of the benches;

(e) not to bring weapons of any kind nor dangerous or threatening articles or objects nor replicas of any such articles or objects into the Chamber, excluding cultural objects with the prior approval of the Speaker;

(f) to dress in a manner befitting the dignity and decorum of the House, as may further be provided for in guidelines approved by the Rules Committee; provided that no party symbols may be displayed;

(g) not to take photographs or video footage during proceedings, speak on a cell-phone, eat, read newspapers or in any other way conduct themselves in a manner not befitting the dignity and decorum of the House; and

(h) on adjournment of the House, to rise, if they are able to do so, and remain in their allocated seats until the Presiding Officer has left the Chair.

**53. Members not to converse aloud**

Members may not converse aloud during debate.

**54. Member not to be interrupted**

No Member may interrupt another Member whilst speaking, except —

(a) to call attention to a point of order, subject or a question of privilege; or

(b) at the discretion of the Presiding Officer, on a point of clarity to request permission to put a question to the Member speaking.

**55. Precedence of Presiding Officer**

Whenever the Presiding Officer addresses the House during a debate, any Member then speaking or offering to speak must resume her or his seat, and the Presiding Officer must be heard without interruption.

**56. Irrelevance or repetition**

The Presiding Officer may order a Member addressing the House to stop speaking if that Member, despite warnings from the Chair, persists in irrelevant or repetitive arguments.

**57. Grossly disorderly conduct**

Members may not engage in grossly disorderly conduct in the House and its forums, including —

1. deliberately creating serious disorder or disruption;
2. in any manner whatsoever physically intervening, preventing, obstructing or hindering the removal of a Member from the House who has been ordered to leave the House;
3. repeatedly undermining the authority of the Presiding Officer or repeatedly refusing to obey rulings of the Presiding Officer or repeatedly disrespecting and interrupting the Presiding Officer while the latter is addressing the House;
4. persisting in making serious allegations against a Member without adequate substantiation or following the correct procedure;
5. using or threatening violence against a Member or other person; or
6. acting in any other way to the serious detriment of the dignity, decorum or orderly procedure of the House.
7. in the instance of conduct as per sub-rule (c), the Presiding Officer may switch off the microphone of the Member concerned.

**58. Member ordered to leave House**

1. If the Presiding Officer is of the opinion that a Member is deliberately contravening a provision of these Rules, or that a Member is disregarding the authority of the Chair, or that a Member’s conduct is grossly disorderly, she or he may order the Member to leave the Chamber immediately for the remainder of the day’s Sitting.
2. A Member ordered to leave the House must immediately withdraw from the precincts of Legislature.

**59. Removal of Member from House and precincts**

* 1. If a Member refuses to leave the House when ordered to do so by the Presiding Officer, the Presiding Officer must instruct the Serjeant‑at‑Arms to remove the member from the House and the precincts of the Legislature forthwith.
  2. If the Serjeant‑at‑Arms is unable in person to effect the removal of the Member, the Presiding Officer may call upon the Legislature Security Services to assist in removing the Member from the House and the precincts of Legislature.
  3. If a Member resists attempts to be removed from the House in terms of sub-rule (1) or (2), the Serjeant‑at-Arms and the Legislature Security Services may use such force as may be reasonably necessary to overcome any resistance.
  4. No Member may, in any manner whatsoever, physically intervene in, prevent, obstruct or hinder the removal of a Member from the House in terms of these Rules.
  5. Any Member or Members who contravene sub-rule (4) may, on the instruction of the Presiding Officer, also be removed from the House and the precincts of Legislature forthwith.
  6. If proceedings are suspended for the purposes of removing a Member or Members, all other Members must remain seated or resume their seats, unless otherwise directed by the Presiding Officer.
  7. When entering the House on the instruction of the relevant Presiding Officer the legislature security services personnel may not be armed except in extraordinary circumstances in terms of security policy.
  8. Members who have been removed from the House will be escorted off the precincts by legislature security services personnel and will not be allowed to enter the House or precincts of Legislature as the rules prescribe;
  9. If, after having been removed from the House, a Member(s) offers resistance to being removed from the precincts, legislature security services personnel may be called upon to assist with such removal.
  10. In the event of violence ensuing in the House as a result of a Member(s) resisting removal, the Presiding Officer may suspend proceedings, and Members of the legislature security services may be called upon by the Speaker during such period of suspended proceedings to assist with the removal of Members from the House and the precincts of Legislature forthwith in terms of Section 4(1) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004; provided that the security services may intervene directly anywhere in the precincts and in the House in terms of Section 4(2) of the Act when there is immediate danger to the life or safety of any person or damage to any property.
  11. Whenever a Member is physically removed from the House in terms of this rule, the circumstances of such removal must be referred by the Speaker, within 24 hours, for consideration to a sub-committee of the Rules Committee appointed for that purpose.
  12. The House must approve standard operating procedures, recommended by the Rules Committee, for the exercise of this function, in particular in relation to the use of the legislature security services and members of the security services.

**60. Grave disorder**

In the event of grave disorder at a meeting, the Presiding Officer may adjourn the meeting, or may suspend the proceedings for a period to be stated by her or him.

**Part 2: Rules of debate**

**61. Precedence of Presiding Officer**

Whenever the Presiding Officer rises during a debate, any Member then speaking or offering to speak must resume her or his seat, and the Presiding Officer must be heard without interruption.

**62. Member called to speak**

1. Any Member desiring to speak, must in the form of show of hand, indicate to the Presiding Officer her or his intention to speak. Upon being recognised by the Presiding Officer, a Member may rise to make her or his point.
2. Where a podium is used, a Member must only speak from it, except –

(a) when raising a point of order or a question of privilege; or

(b) when furnishing an explanation in terms of Rule 73, in which case a member may address the Presiding Officer from a microphone on the floor of the House.

**63. Right of Member to speak**

1. A Member is called in a debate by the Presiding Officer in accordance with the list of speakers, who expressed their intention to speak in that debate, provided the list must indicate times allocated for each speech by a Member.
2. The speech of a Member may not exceed the total time allocated to her or him in terms of these rules.
3. Any Member called in accordance with the provisions of sub-rule (1) must speak to -
4. the question before the Legislature;
5. any amendment proposed to a question; to a question or an amendment proposed or to be proposed by her or himself; or where any amendment is moved to a question other than a Bill after a Member has spoken, that Member may speak on such amendments, but a Member who speaks to the question for the first time after amendments have been proposed must be allowed only one speech, which may cover the main question and the amendments;
6. to a point of order or a question of privilege;

**64. Time limits for speaking**

Unless otherwise provided in these rules, Members are restricted, in regard to the length of time they may speak, to the following time limits-

1. In the State of the Province Address, the Premier may not address the House for more than sixty (60) minutes. Other Members of the House may debate the State of the Province Address for a total period of not more than sixty (60) minutes, and each Member is restricted to the time allocated to the Member on the list of speakers. The Premier may have a maximum of twenty (20) minutes to respond to the debate.
2. In respect of a budget speech, the member of the Executive Council or the member who is presenting the budget speech may not address the House for more than forty (40) minutes. Other Members of the House may debate the budget speech for a total period of not more than fifty (50) minutes, and each Member is restricted to the time allocated to the Member on the list of speakers. The member of the Executive Committee or the member who presented the budget speech may have a maximum of ten (10) minutes to respond to the debate.
3. In respect of all other matters, all Members are restricted to the time allocated by the Programming Committee on the list of speakers.

**65. Control of microphones in Chamber**

* + - 1. In the event of a Member not showing due respect to the authority of or not obeying an order or ruling or direction of the Presiding Officer, or acting in a disruptive or grossly disorderly manner in the Legislature, the Presiding Officer may disable or switch off the microphone being used by such Member or order that that be done.
      2. Before proceeding in terms of sub-rule (1), the Presiding Officer must inform the member and the Legislature of the intention to do so.

**66. Reference to member in respectful terms**

1. Members must refer to one another in respectful terms.
2. No Member shall refer to any other Member by his or her first name, but by surname only, which shall always be prefixed by, “Honourable…”
3. No name to impugn the dignity of any Member may be used.

**67. Unparliamentary or unacceptable language or gestures**

No Member may use offensive, abusive, insulting, disrespectful, unbecoming or unparliamentary words or language, nor offensive, unbecoming or threatening gestures.  
 **68. Member may not be interrupted**

1. No Member may interrupt any other Member who is speaking in a debate, except-

(a) on a valid point of order, which shall be entertained only when there is an infringement of the rules;

(b) on a question of privilege

(c) to seek permission to question a Member; or

(d) on the presence of non-members.

1. Any Member interrupted sub-rule (1)(c) above may refuse to take a question or allow the Member to put the question immediately; or request the question to be deferred to the end of her or his speech.
2. The Presiding Officer may limit the number of requests to ask questions to a Member speaking.

**69. Reflections statutes**

No Member may reflect upon any statute of the same session, except for the purpose of moving for its amendment or repeal.

**70. Reflections upon Judges**

No Member may reflect upon the competence or honour of a Judge or the holder of any judicial office

**71. Matters sub judice**

In the interests of preserving the rights of litigants to a fair trial, Members may not reflect upon the merits of matters pending before any Court, lest they interfere with the proper administration of justice.   
 **72. Rule of anticipation**

1. No Member may anticipate the discussion of a matter appearing on the Order Paper or agreed upon by the Programme Committee for scheduling.
2. In determining whether a discussion is out of order on the ground of anticipation, the Presiding Officer must consider whether it is probable that the matter anticipated will be discussed in the Legislature within a reasonable time.

**73. Explanations**

1. A Member may, with the prior consent of the Presiding Officer, make an explanation at a time approved by the Presiding Officer after the conclusion of the debate from which the complaint arises, but only if, during that debate, a material part of the Member’s speech has been misquoted or misunderstood; provided that —
   * + - 1. such explanation must be limited to reading into the record a correction as agreed in principle by the Presiding Officer, not to exceed three minutes in duration; and
         2. no debate is allowed upon such explanation.
2. A Member may also, with the prior consent of the Presiding Officer, explain matters of a personal nature, but such matters may not be debated, and the Member must confine her or himself strictly to the vindication of her or his own conduct and may not speak for longer than three (3) minutes.

**74. Points of order**

1. A Member may raise a point of order at any time during the proceedings of the Legislature, in terms of the procedure prescribed in Rule 68, by stating that she or he is rising on a point of order.
2. A point of order must be confined only to a matter of parliamentary procedure or practice, or a matter relating to unparliamentary conduct, as defined, and must be raised immediately when the alleged breach of order occurs.
3. (a) The Member raising the point of order must commence by quoting the exact rule or standing order, or at least the principle or subject matter, upon which the point of order is based.

(b) If the Member does not do so, the Presiding Officer may insist on her or him doing so, and if she or he fails or does not adequately do so, the Presiding Officer may summarily rule that it does not amount to a point of order or that the matter is out of order.

1. The Presiding Officer may, at her or his discretion, allow Members to address the Presiding Officer briefly on a point of order that has been raised.
2. The Presiding Officer must give a ruling, and may give her or his ruling or decision on the point of order immediately, or defer the decision to the earliest opportunity thereafter by way of a considered ruling.
3. No point of order may be raised in response to a considered ruling in terms of sub-rule
4. No other member may raise another point of order before the Presiding Officer has ruled on the first point of order.
5. No Member may raise a point of order again or a similar point of order, if the Presiding Officer has ruled that it is not a point of order or that the matter is out of order.
6. Members may not disrupt proceedings by raising points of order that do not comply with this rule.
7. When a point of order is raised during debate, the Member called to order must resume her or his seat, and after the point of order has been stated to the Presiding Officer by the Member raising it, the Member raising the point of order must likewise immediately resume her or his seat when she or he has concluded her or his submission or if the Presiding Officer asks her or him to do so.
8. The Presiding Officer’s ruling on a point of order is final and binding, and may not be challenged or questioned in the Legislature.
9. (a) A Member who is aggrieved by a Presiding Officer’s ruling on a point of order may subsequently in writing to the Speaker request that the principle or subject matter of the ruling be referred to the Rules Committee.

(b) The Rules Committee may deal with the referral as it deems fit, provided that it must confine itself to the principle underlying, or subject matter of, the ruling concerned, and may not in any manner consider the specific ruling which is final and binding.

**75. Raising a question of privilege**

1. A Member who wishes to raise a perceived breach of privilege must report it to the Speaker without delay.
2. If the alleged breach of privilege is in the Speaker’s opinion adequately substantiated and may affect a sitting of the Legislature on the day on which the question of privilege is reported or in the immediate future, the Speaker may, with due regard to the provisions of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act —

(a) make an immediate ruling on the matter and announce it in the Legislature; or

(b) provide the member with an opportunity during the sitting to move an urgent motion without notice in terms of Rule 106(1)(b).

1. If the alleged breach of privilege does not directly affect a sitting of the Legislature in the immediate future, the Speaker must refer the matter to the Powers and Privileges Committee and inform the House accordingly, at the earliest opportunity.

**76. Acting for absent Member**

If the Member in charge of a motion or an order of the day is absent, another Member authorised by the absent Member may take charge of the motion or order after having timeously notified the Presiding Officer, where possible.

**77. Reply to debate**

The Member in charge of a motion or an order of the day may reply, except on the day of the Premier's State of the Province Address.

**78. Debate closed**

A reply to a debate closes the debate.

**Chapter 6: Decision of questions**

**79. Quorum**

In terms of Section 112 of the Constitution, except where the Constitution provides

otherwise —

(a) a majority of the Members of a provincial legislature must be present before a vote may be taken on a Bill or an amendment to a Bill; and

(b) at least one third of the Members must be present before a vote may be taken on any other question before the legislature.

**80.**  **Questions to be decided by majority**

In terms of Section 112 of the Constitution, except where the Constitution provides otherwise, all questions before the provincial legislature are decided by a majority of the votes cast.

**81. Casting vote**

1. In terms of Section 112 of the Constitution a Member presiding at a meeting of a provincial legislature has no deliberative vote, but must cast a vote when there is an equal number of votes on each side of a question and may cast a deliberative vote when a question must be decided with a supporting vote of at least two thirds of the Members of the legislature.
2. Whenever a Presiding Officer casts a deliberative vote, she or he must inform members accordingly.

**82. Absence of quorum**

1. If the attention of the Presiding Officer is called to the absence of the prescribed quorum when a question is put for decision, the Presiding Officer may suspend the proceedings, postpone the decision of the question or direct that the bells be rung for five (5) minutes, or such longer time as the Presiding Officer may direct but not exceeding 15 minutes.
2. If the bells are rung and, after the interval referred to in sub-rule (1), there is still no quorum, the Presiding Officer may suspend the proceedings or postpone the decision of the question.
3. (a) For the purpose of establishing whether a quorum is present, the Presiding Officer may, at her or his discretion, utilise the electronic voting system; and

(b) all Members present in the Chamber when the electronic voting system is used must record their presence as directed by the Presiding Officer.

1. The Presiding Officer must be counted for the purpose of establishing whether a quorum is present.

**83. Decision of question postponed**

When the debate on a question has been concluded in the Legislature, the Presiding Officer may postpone the decision of the question.

**84. Decision of questions requiring special majorities**

A question requiring a special majority in terms of the Constitution must be decided by voting, whether or not a division is demanded.

**85. Forms of voting**

Unless the Constitution provides otherwise, voting takes place in accordance with Rules 86 and 87.

**86. Electronic voting system procedure**

1. At a Sitting of the Legislature held in a Chamber where an electronic voting system is in operation, unless the Presiding Officer directs otherwise, questions are decided by the utilisation of such system in accordance with a procedure predetermined by the Speaker and directives as announced by the Presiding Officer.
2. Members may vote only from the seats allocated to them individually in the Chamber.
3. Members vote by pressing the “Yes”, “No” or “Abstain” button on the electronic consoles at their seats when directed by the Presiding Officer to cast their votes.
4. A Member who is unable to cast her or his vote, must draw this to the attention of the Chair and may in person or through a whip of her or his party inform the Secretary at the Table of her or his vote.
5. When all Members have cast their votes, the Presiding Officer must immediately announce the result of the division.
6. Members’ names and votes must be printed in the Minutes of Proceedings.

**87. Manual voting procedure**

1. Where no electronic voting system is in operation, a manual voting system may be used in accordance with a procedure predetermined by the Speaker and directives to be announced by the Presiding Officer.
2. When Members’ votes have been counted, the Presiding Officer must immediately announce the result of the division.
3. If the manual voting procedure permits, Members’ names and votes must be printed in the Minutes of Proceedings.

**88. Postponed question put without further debate**

A question referred to in Rule 83 must be put without further debate.

**89. Question put again**

If the Presiding Officer has put a question and it is not heard or understood, she or he must put the question again.

**90. Question fully put**

1. A question is deemed to have been fully put when the voices in favour of and against the question have been given.
2. No Member, except a Member who is permitted to make a declaration of vote, may speak to any question after it has been fully put by the Presiding Officer.

**91. Declaration of vote**

(1) The Presiding Officer may at any time after a question has been fully put, if so requested, permit one Member of each political party, in a speech not exceeding three (3) minutes, to declare its vote by stating on behalf of her or his party the reasons why the party is in favour of or against the question.

(2) No declaration of vote is permitted if the question is put for decision immediately after the debate on the question has been concluded.

(3) When the budget votes in the schedule to the main Appropriation Bill are to be decided upon, declarations of vote, if requested, must be limited to a total time for all the budget votes, as well as proportional time per party, as allocated for that purpose by the Programme Committee in accordance with the rules.

**92. Recording of opposition**

(1) Whenever a question is put by the Presiding Officer, any Member may, instead of demanding a division, inform the Presiding Officer that she or he wishes her or his opposition, or that of the party to which she or he belongs, to be formally recorded in the Minutes of Proceedings.

(2) The Presiding Officer may order that a division take place in the event of four (4) or more members wishing to record their individual opposition.

**93. Demand for division**

(1) After a question has been has been put and the Presiding Officer has indicated whether in her or his opinion the "Ayes" or the "Nays" are sufficient or not sufficient to carry a motion, any Member may demand a division, whereupon a division must, subject to sub-rule (2), take place without debate.

(2) Whenever a division is demanded, the Presiding Officer must, before ordering the division bells to be rung, ascertain whether at least four (4) Members support the demand for a division.

(3) If fewer than four (4) Members rise in support of a division, the Presiding Officer must forthwith declare the decision on the question.

**94. Division bells rung and doors locked**

1. If the required number of Members supports the demand for a division, the division bells must be rung and the doors must be locked after the lapse of three (3) minutes or as the Presiding Officer may direct.

(2) If further divisions are required to dispose of the question and such divisions follow immediately upon the first division, the division bells must again be rung and the doors must be locked after the lapse of fifteen (15) seconds or as the Presiding Officer may direct.

(3) When the doors have been locked, no Member may enter or leave the Chamber until the result of the division has been declared.

**95. Procedure after doors locked**

The Presiding Officer must again put the question when the doors have been locked. Thereupon the Secretary must call Members to stand and to voice “Aye” or “Nay” on the subject matter as put before the Legislature, the results of which must be recorded.

**96. Member calling for division to vote against question**

A Member demanding a division may not leave the Chamber until the result of the division has been declared and in the event that she or he did not vote, her or his vote must be recorded as against the question put by the Presiding Officer.

**97. Members present must vote**Every member present in the Chamber when the question is put with the doors barred must vote or record an abstention; provided that in terms of Section 112 of the Constitution the presiding officer has no deliberative vote as indicated in Rule 81.

**98. Points of order during division**

While a division is in progress, Members may speak to a point of order arising out of or during the division.

**99. Result to be declared**

The Secretary must after the completion of the division; count the vote and sign the division list and hand it to the Presiding Officer who will declare the results of the division.

**100. Error concerning division and correction of Minutes**

1. In the event of confusion or error concerning a division or if there is a tie, another division must take place, unless the numbers can be corrected otherwise.
2. If the numbers have been inaccurately reported or error occurs in the names on the division lists, the Presiding Officer must order the Minutes of Proceedings to be corrected.

**Chapter 7: Motions, Motion of no confidence in terms of 141 of Constitution, Motion in terms of 130(3) of Constitution and Statements by members**

**Part 1: Motions**

**101. Nature of Motions**

A Member may propose a subject for discussion, or a draft resolution for approval as a resolution of the Legislature, with or without debate

**102. Form of Motions**

1. All motions must be submitted in writing in the language of Record of the Legislature, and must be signed by the proposer.
2. No motion or amendment to a motion requires to be seconded, except if a specific rule provides otherwise.
3. **Same Question Rule**
4. No matter shall be proposed for discussion in the Legislature which is the same in substance as a matter that has been discussed during the same annual session.
5. (a) No draft resolution may be moved in the Legislature which is the same in substance as a draft resolution which has been approved, with or without amendments, or rejected by it during the same annual session.

(b) The House may amend or rescind such previous resolution.

**104. Amendments to draft resolutions generally**

(1) Proposed amendments to draft resolutions must be delivered to the Secretary by 12:00 on the sitting day it is to be moved and be distributed to all political parties.

(2) A Member may propose an amendment in writing to a draft resolution, provided the amendment does not extend the scope of the draft resolution or is ruled out of order for any other reason by the Presiding Officer.

(3) When an amendment is moved as provided for in sub-rule (2) and not withstanding sub-rule (1), a signed copy of the proposed amendment must be delivered to the Secretary at the Table immediately.

(4) A proposed amendment to a draft resolution which does not strictly comply with sub-rules (2) and (3) may not be proceeded with.

(5) Proposed amendments to draft resolutions must be put for decision in sequence, with the last amendment being put first and the original motion, with or without amendments, being put last, unless the Presiding Officer determines otherwise.

**105. Amendments to draft resolutions relating to committee reports**

No amendment may be proposed to the content and substance of a committee report tabled for consideration by the House, except in respect of any recommendation made in such report for adoption by the House.

**106. Motions without notice**

* 1. Every motion requires notice, except a motion: -

1. by way of amendment to a draft Resolution permitted in terms of these Rules;
2. raising a point of order or a question of privilege;
3. for the postponement of, discharge of, or giving precedence to an order of the day;
4. referring a Bill to a Committee;
5. by the member in charge or the Chief Whip, proposing a decision on the report of the Committee immediately after the conclusion of the debate on the report;
6. specially excepted by these Rules; or
7. in regard to which notice is dispensed with by the unanimous consent of all members present.

(2) A motion without notice must be dealt with immediately.

1. The Chief Whip should be advised of any motions without notice prior to its introduction in the Legislature.
2. If sub-rule (3) has not been complied with, the Speaker may request the member proposing the motion without notice to explain why it was not possible for the member to have advised the Chief Whip of the motion prior to its introduction in the Legislature.
3. The time allocated to motions without notice on any sitting day is limited to (thirty) 30 minutes.
4. A motion without Notice must not contain any debatable aspects. At the Speaker’s discretion such motion fall off.

**107. Notice of Motion**

(1) Members must be given an opportunity to give notices of motion only on a Sitting day of the House when notices of motion have been placed on the Order Paper.

(2) A notice of motion in the form of a draft resolution must —

(a) be submitted in writing;

(b) deal with a subject within the competence of the Legislature;

(c) be concise;

(d) refer to a single substantive matter; and

(e) comply with any other rules and orders of the Legislature and relevant guidelines approved by the Rules Committee.

(3) A notice of motion in the form of a proposed subject for discussion must comply with the requirements of sub-rule (2) and must additionally be limited to clearly identifying the proposed topic.

(4) When giving notice of a motion, a Member must —

(a) read it aloud and immediately thereafter deliver at the Table a signed copy of the notice, which may not differ from the notice as read aloud; or

(b) deliver to the Secretary a signed copy of the notice on any parliamentary working day for placing on the Order Paper.

(5) Written notices of motion delivered to the Secretary in terms of sub-rule (4)(b) before 12:00 on any parliamentary working day may be placed on the Order Paper only after the expiry of 24 hours, unless in a particular case the Speaker directs otherwise.

**108. Acting for absent member**

A Member may give notice of a motion on behalf of an absent Member, provided she or he has been authorised to do so by the absent Member.

**109. Speaker may disallow notices**

The Speaker may disallow notices of motion which contravene the rules and orders of the Legislature or directives and guidelines approved

**110.** **Lapsing of motions**

(1) If a Member does not move a motion standing in her or his name on the Order Paper, such a motion lapses unless moved by another Member, provided she or he has been authorized to do so by such Member, and the Speaker is informed beforehand.

(2) A motion that has lapsed may again be moved, during the same annual session.

(3)  Once moved in the Legislature, a motion may only be withdrawn with the unanimous concurrence of all the Members present.

**111. Speaker may amend notice of motion**

Any notice of motion which is inconsistent with the Constitution, the practice or these Rules may be amended or otherwise dealt with as the Speaker may decide.

**Part 2: Motion of no confidence in terms of Section 141 of Constitution**

**112. Procedure for motion of no confidence in terms of Section 141 of Constitution**

1. A Member may propose that a motion of no confidence in the province’s Executive Council or the Premier in terms of Section 141 of the Constitution be placed on the Order Paper.
2. The Speaker must accord such motion of no confidence due priority and before scheduling it must consult with the Leader of Government Business and the Chief Whip.
3. The motion must comply, to the satisfaction of the Speaker, with the prescripts of any relevant law or any relevant Rules and Orders of the Legislature and directives and guidelines approved by the Rules Committee, before being placed on the Order Paper, and must include the grounds on which the proposed vote of no confidence is based.
4. The Speaker may request an amendment of, or in any other manner deal, with a notice of a motion of no confidence which contravenes the law, Rules and Orders of the House or directives and guidelines approved by the Rules Committee.
5. After proper consultation and once the Speaker is satisfied that the motion of no confidence complies with the aforementioned prescribed law, Rules and Orders of the House and directives or guidelines of the Rules Committee, the Speaker must ensure that the motion of no confidence is scheduled, debated and voted on within a reasonable period of time given the programme of the Legislature.
6. The debate on a motion of no confidence may not exceed the time allocated for it by the Speaker, after aforesaid consultation process.
7. Rule 103 does not apply to motions of no confidence in terms of this rule.

**Part 3: Motion to remove Premier from office in terms of Section 130(3) of Constitution**

**In this part the following specific definitions apply: -**

For the purpose of a section 130(3) enquiry in terms of these Rules –

**“an inability**” includes “a permanent or temporary physical or mental condition of the Premier”;

**“a serious misconduct**” means “unlawful, dishonest or improper behaviour performed by the Premier in bad faith”;

**“a serious violation of the Constitution or the law**” means “behaviour by the Premier amounting to an intentional or malicious violation of the Constitution or the law performed in bad faith”;

“**Section 130”** means Section 130 of the Constitution, 1996; and

**“a section 130(3) enquiry”** means an enquiry initiated by the Assembly to remove the Premier in terms of section 130(3) of the Constitution and this Rule.

**113. Initiation of Section 130(3) enquiry**

1. Any Member of the Legislature may, by way of a substantive notice of motion in terms of Rule 107(4), initiate proceedings for a Section 130(3) enquiry, provided that –

(a) the motion must be limited to a clearly formulated and substantiated charge on the grounds specified in Section 130(3), which must *prima facie* show that the Premier:

(i) committed a serious violation of the Constitution or law;

(ii) committed a serious misconduct; or

(iii) suffers from an inability to perform the functions of office;

(b) all evidence relied upon in support of the motion must be attached to the motion;

(c) the charge must relate to an action or conduct performed by the Premier in person; and

(d) the motion is consistent with the Constitution, the law and these Rules.

1. For purposes of proceedings to remove the Premier in terms of Section 130(3)(c), the term “charge” must be understood as the grounds for averring the Premier’s removal from office.

**114. Compliance with criteria**

Once a Member has given notice of a motion to initiate proceedings in a Section 130(3) enquiry the Speaker may consult the member to ensure the motion is compliant with the criteria set out in Rule.

**115. Referral of motion**

1. When the motion is in order, the Speaker must immediately refer the motion, and any supporting documentation provided by the Member, to the independent panel established for the purposes of considering preliminary Section 130(3) matters.
2. The Speaker must inform the Legislature and the Premier of such referral without delay.

**116. Establishment of Independent panel**

The Legislature must, if and when required, establish an independent panel to conduct any preliminary inquiry on a motion initiated in a Section 130(3) enquiry.

**117. Composition and appointment**

1. The panel consists of three fit and proper, competent, experienced and respected South Africans, which may include a judge, and who collectively possess the necessary legal competence and experience.
2. The Speaker must appoint the panel, after giving political parties represented in the Legislature reasonable opportunity to put forward nominees for consideration for the panel, and after the Speaker has given due consideration to all persons so nominated.
3. If a judge is to be appointed to the panel, the Speaker must do so in consultation with the Chief Justice.

**118. Chairperson**

The Speaker must appoint one of the panellists as chairperson of the panel.

**119. Functions and Powers**

1. The panel –
2. must be independent and subject only to the Constitution, the law and these Rules, which it must apply impartially and without fear, favour or prejudice;
3. must consider any preliminary enquiry relating to a motion proposing a Section 130(3) enquiry, referred to it by the Speaker, and must make a recommendation to the Speaker, within thirty (30) days, whether sufficient evidence exists to show that the Premier:
4. committed a serious violation of the Constitution or law;
5. committed a serious misconduct; or
6. suffers from an inability to perform the functions of office; and

(c) in considering the matter –

1. may, in its sole discretion, afford any Member an opportunity to place relevant written or recorded information before it within a specific timeframe;
2. must provide the Premier immediately with copies of all information available to the panel relating to the inquiry;
3. must provide the Premier with a reasonable opportunity to respond, in writing, to all relevant allegations against her or him;
4. must not hold an oral hearing and must limit its enquiry to the relevant written and recorded information placed before it by Members in terms of this Rule; and
5. must in its report include any findings, including the reasons for such findings, upon which its recommendation is based and any minority view of any panellist must be contained in its report.

(2) The panel may determine its own working arrangements strictly within the parameters of the procedures provided for in this Rule.

**120. Quorum**

The panel may proceed with its business when three panellists are present and remain present.

**121. Consideration and referral of panel report**

1. Once the panel has reported, the Speaker must schedule the report for consideration by the Legislature, with due urgency, given the programme of the Legislature.
2. The Premier must be informed of the scheduling and any decision on the report.
3. In the event the Legislature resolves that a Section 130(3) enquiry be proceeded with, the matter must be referred to the Impeachment Committee established by this Rule for that purpose.

**IMPEACHMENT COMMITTEE FOR SECTION 130(3) ENQUIRY**

**122. Establishment**

There is an Impeachment Committee to consider motions in terms of a Section 130(3) enquiry, referred to it in terms of Rule 121 above.

**123. Composition and appointment**

The committee consists of the number of Members that the Speaker may determine provided that all parties in the Legislature must be represented.

**124. Chairperson**

The Committee must elect one of its members as Chairperson.

**125. Functions and powers of committee**

(1) The Committee must when the Legislature has approved the recommendation from the panel to proceed with a Section 130(3) Enquiry, proceed to establish the veracity and, where required, the seriousness of the charges and report to the Legislature thereon.

(2) The Committee must ensure that the enquiry is conducted in a reasonable and procedurally fair manner, within a reasonable timeframe.

(3) The Committee must afford the Premier the right to be heard in her or his own defence and to be assisted by a legal practitioner or other expert of her or his choice.

(4) For the purposes of performing its functions, the Committee has all the powers applicable to committees as provided for in the Constitution, applicable law and these Rules.

**126. Decisions**

A question before the Committee is decided when a quorum in terms of Rule 156 is present and there is agreement among the majority of the Members present, provided that, when the Committee reports, all views, including minority views, expressed in the Committee must be included in its report.

**127. Consideration of report**

1. Once the Committee has concluded the enquiry, it must report to the Legislature forthwith.
2. The report of the Committee must contain findings and recommendations including the reasons for such.
3. The report must be scheduled for consideration and debate by the Legislature, with due urgency, given the programme of the Legislature.
4. If the report recommends that the Premier be removed from office, the question must be put to the House directly for a vote in terms of the Rules and if the question is supported by at least two thirds of the members of the Legislature,the Premier is thereby removed from office with immediate effect.

**128. Recommendations are not binding**

1. The Legislature will make the final and binding decision relating to any matter dealt with in this Rule.
2. Any recommendation made by the independent panel or the impeachment committee or any decision made by the Speaker in terms of this Rule is not final and binding on the Legislature, including on any decision the Legislature intends to make in terms of this Rule.

**129. Benefits of the Premier**

If the Premier is removed from office, the benefits of the Premier must strictly be dealt with in terms of the relevant provisions of the Constitution.

**Part 4: Statements by Members**

**130. Statements by Members**

(1) A Member, other than the Premier or a Member of the Executive Council may be recognised by the Presiding Officer to make a statement on any matter for not more than three (3) minutes.

(2) Any other Member may respond to the statement, for a maximum of one (1) minute. The total time for responses to a statement by a Member may not exceed five (5) minutes.

**Chapter 8: Discussion of matter of urgent Public Importance**

**131. Request by Premier**

(1) The Premier, may request the Speaker in writing to address the House on a matter of public importance. The Speaker may convene a House sitting in this regard.

(2) In submitting the request, the Premier must motivate why the matter is of so urgent a nature that it should be dealt with in terms of this Rule.

**132. Request by Member**

(1) A private Member may request the Speaker in writing to schedule without delay an urgent matter of public importance for discussion by the Legislature.

(2) In submitting the request, the Member must motivate why the matter is of so urgent a nature that it should be dealt with in terms of this Rule.

(3) In granting such a request, depending on the urgency of the matter, the Speaker may at her or his discretion —

(a) if, on a sitting day, the request is received before the adjournment of the House, place the matter on the Order Paper for discussion;

(b) if the Legislature is not programmed to meet at an early date that will accommodate the urgency of the matter, convene a special sitting of the House for the discussion; or

(c) schedule the matter for discussion at the earliest opportunity.

(4) If the Speaker grants the request, she or he must without delay inform the Legislature, the Leader of Government Business and the responsible member of the Executive Council of the date and time set for the discussion.

(5) Such a discussion may not exceed the time allocated for it by the Speaker, after consultation with the Leader of Government Business and the Chief Whip.

(6) In the absence of the responsible member of the Executive Council, any other member of the executive may respond to the discussion on behalf of that member of the Executive Council; provided that, at the Speaker’s discretion, the discussion may proceed even if no member of the Executive Council is available to respond.

(7) There may only be one discussion in terms of this Rule on a Sitting day, and if the Speaker receives more than one request, she or he must decide which matter is more urgent or important.

(8) In exercising her or his discretion, the Speaker must apply the following criteria:

(a) matters already discussed by the Legislature during the same annual session may not be discussed under this rule;

(b) the matter must be raised at the earliest opportunity;

(c) the matter must be —

(i) of so serious a nature that it requires urgent attention, or

(ii) of sufficient immediate public importance to warrant it taking precedence over other programmed business;

(d) the request must deal with a matter of provincial importance for which the Executive Council can be held responsible, or that falls within the scope of the Executive Council;

(e) the subject must relate to a specific matter of recent occurrence, and not to a general state of affairs or to a matter of policy;

(f) the matter must be defined and specific;

(g) the request must deal with only one substantive matter;

(h) the request will not be granted if the matter can be considered by some other means in the near future; and

(i) the sub judice rule applies to such a discussion.

**133. Withdrawal of scheduled discussion on matter of urgent public importance**

The Member who requested the discussion may request the Speaker to withdraw the scheduled discussion, provided that sufficient notice of such withdrawal is given.

**Chapter 9: Questions**

**Part 1: Questions General**

**134. Questions to Members of the Executive Council**

A Member may put questions for oral or written reply to a Member of the Executive Council relating to—

(a) public affairs with which the Member of the Executive Council is officially connected; or

(b) any matter of administration for which the Member of the Executive Council is responsible.

**135. Form and content of questions**

* 1. Questions must be—
  2. in writing in one of the languages of the Legislature; and
  3. brief and clearly worded.

1. A question must specify whether it is for oral reply or for written reply.
2. Questions may not—
   1. contain offensive language;
   2. express a point of view;
   3. break a rule of law;
   4. seek only legal opinion;
   5. ask for excessive documentation;
   6. be based on hypotheses, arguments or deduction;
   7. request comment upon the merits of any matter pending before the courts in a way that could interfere with the administration of justice or infringe upon the independence of the courts;
   8. discredit the House by using disrespectful words;
   9. anticipate discussion of a matter appearing on the Order Paper; or
   10. refer to proceedings in committee meetings that were closed to the public until those proceedings are reported to the House.

**136. Admissibility of questions**

(1) A question is not admissible if it—

(a) does not comply with the Rules; or

(b) seeks information that has been provided in response to a similar question in the previous 6 months.

(2) The Speaker decides whether a question is admissible.

**137. Placing questions on the Question Paper**

1. A Member who wishes to ask a question must deliver a signed copy of the question to the Secretary for placing on the Question Paper or the Announcements, Tabling’s and Committee Reports journal.
2. A Member may deliver a question to the Secretary on behalf of an absent Member, if she or he has been authorised by the absent Member in writing.
3. Questions may not be submitted during recess periods.

**138. Scheduling questions**

1. A question for oral reply must be placed on the Question Paper or the Announcements, Tabling’s and Committee Reports journal within two (2) working days after it has been delivered to the Secretary.
2. A question for oral reply may not be placed on the Question Paper or the Announcements, Tabling’s and Committee Reports journal for answering until five (5) working days have passed after it first appeared on the Question Paper or the Announcements, Tabling’s and Committee Reports journal but it must be placed on the Question Paper or the Announcements, Tabling’s and Committee Reports journal for answering within ten (10) working days of its first appearance on the Question Paper or the Announcements, Tabling’s and Committee Reports journal.
3. A question for written reply delivered to the Secretary before 12.00 on Monday or must be placed on the Question Paper or the Announcements, Tabling’s and Committee Reports journal on Tuesday.
4. Questions must be placed on the Question Paper or the Announcements, Tabling’s and Committee Reports journal in the order in which they are submitted to the Secretary.

**139. Withdrawing questions**A Member who has submitted a question may withdraw it at any time before it is answered by notifying the Secretary.

**Part 2: Questions for oral reply**

**140. Form of questions for Oral reply**

* 1. A Memberwho desires to put a question for oral reply must indicate such when she/he submits the question.
  2. Where the Speaker is of the opinion that a question deals with matters of a statistical nature, the Speaker may direct that question be placed on the Question Paper for Written Reply.
  3. A question for oral reply must not contain more than five (5) subdivisions.

**141. Placing and arrangement of questions for oral reply**

* + - 1. Questions for oral reply must be dealt with in the following order -

1. Questions to the Premier standing over from previous sittings of the Legislature, if any;
2. New questions to the Premier;
3. Questions to other Members of the Executive Council standing over from previous Sittings of the Legislature, if any; and
4. New questions to other Members of the Executive Council.
   * + 1. Subject to the provisions of sub-rule (1), questions must be placed on the Question Paper or the Announcements, Tabling’s and Committee Reports journal in the order in which they are received.

**142. Questions to the Premier for oral reply**

* + - * 1. Questions to the Premier for oral reply must be -

1. scheduled for a question day at least once per quarter in accordance with the Legislature Programme; and
2. limited to matters of provincial importance and matters within the competency of the Provincial Executive Council.
3. submitted 16 working days before the Question Day.
4. submit by the Secretary to the Speaker for approval.  
   * + 1. The number of questions to the Premier is limited to ten (10) per question day.

**143. Times allotted to questions for oral reply**

(1) The time allocated for questions for oral reply is sixty (60) minutes.

(2) The discussion on any particular question may not exceed fifteen (15) minutes as follows-

* 1. The member formally puts the question in a concise form;
  2. The responsible member of the Executive Council must reply to the question in no more than six (6) minutes;
  3. The member who asked the question is then permitted to ask two supplementary questions, which must relate to her or his original question or to the reply;
  4. Following each of the above supplementary questions, the responsible member of the Executive Council is entitled to make a reply not exceeding two (2) minutes; and
  5. In the remainder of the allotted fifteen (15) minutes other members may ask follow-up questions arising from the initial question, the supplementary questions, or the replies by the member of the Executive Council's replies and the responsible member of the Executive Council is entitled to reply to each such question in no more than one (1) minute.

(3) Replies to questions which have not been reached on the expiration of the time allotted must be handed to the Secretary for inclusion in the Official Report of the Debates of the Legislature.

**Part 3: Questions for written reply**

**144. Placing on question paper**

(1) Questions for written reply may be placed on the Question Paper or the Announcements, Tabling’s and Committee Reports journal, for reply on any working day of the Legislature, provided such questions must be delivered to the Secretary before 12h00 on the day preceding the sitting of the Legislature.

(2) Questions for written reply are limited to three (3) per member in respect of any sitting day of the Legislature.

**145. Time limits for reply**

(1) Questions for written reply must be responded to within seven (7) days of their appearance in the Question Paper or the Announcements, Tabling’s and Committee Reports journal.

(2) Should the Member of the Executive Council not be able to reply to the question within the time limit in sub-rule (1), she/he must request the Speaker for extension in writing and explain reasons for non- compliance.

(3) The Speaker may grant an extension of a further seven (7) days at her/his discretion.

(4) Should the Member of the Executive Council fail to reply to the question within the period of extension, the question must be referred to the Premier for response at the next Sitting.

(5) All written replies responded to within seven (7) days must be tabled in the Announcement, Tabling’s and Committee Reports journal.

**146. Lapsing of questions**

All questions on the Question Paper on the last Sitting Day of an annual session lapse twenty (20) working days after the last Sitting Day.

**Chapter 10: Committees**

**Part 1: General**

**147. List of Committees**

The North West Provincial Legislature has the following Committees

1. the Rules Committee;
2. Subcommittee on Members Interests’;
3. Disciplinary Subcommittee;
4. the Committee of Chairpersons;
5. the Programming Committee
6. the Provincial Committee on Public Accounts;
7. 0versight Committee on NWPL;
8. Legislative Review and Implementation of resolutions of the House;
9. portfolio committees on provincial executive matters;
10. Whips Forum.

**148. Establishment**

The Speaker, after consultation with the Rules Committee, establishes the committees of the Legislature for the duration of the North West Provincial Legislature.

**149. Composition**

* + - 1. Parties are entitled to be represented in committees in substantially the same proportion as the proportion in which they are represented in the Legislature, except where —
      2. these rules prescribe the composition of the committee; or
      3. the number of Members in the committee does not allow for all parties to be represented.
      4. Subject to these rules, and decisions of the Rules Committee, and where practicably possible, each party is entitled to at least one representative in a committee.
      5. The number of Members to serve in a committee will not be less than five.

**150. Appointment procedure**

* + - 1. Unless these rules provide otherwise, the parties appoint the Members of a committee and advise the Speaker accordingly.
      2. Parties must appoint their Members within five (5) working days after the establishment of a committee by the House.
      3. Names of the Members appointed, and alternates appointed in terms of Rule 149, must be published in the ATC without delay.

**151. Alternates / Substitutes / co-opting of Members**

* + - * 1. Alternates may be appointed for one or more specific Members of a committee.
        2. An alternate acts as a Member when the Member for which the alternate was appointed —

(a) is absent; or

(b) has vacated office, until the vacancy is filled.

**152. Term of office**

* + - 1. Subject to Section 49(4) of the Constitution, Members of a committee and alternates for Members are appointed until the Legislatures term expires or the Legislature is dissolved, whichever occurs first.
      2. A Member of a committee ceases to be a Member and an alternate for a Member ceases to be an alternate if a whip of the party to which that Member or alternate belongs, or a designated representative of that party, gives notice to the Speaker, in writing, that the Member or alternate is to be replaced or withdrawn

**153. Chairpersons – election and duties**

1. Unless stated differently in these Rules the committee must elect one of its Members as the Chairperson of the committee.
2. The Chairperson of a committee, subject to other provisions of these rules and directions of the committee —
   1. presides at meetings of the committee;
   2. may act in any matter on behalf of and in the best interest of the committee when it is not practical to arrange a meeting of the committee to discuss that matter, if that matter concerns —
      1. a request by a person to give evidence or make oral representations to the committee,
      2. any other request to the committee, and
      3. the initiation of any steps or decisions necessary for the committee to perform its functions or exercise its powers;
   3. performs the functions, tasks and duties and exercises the powers that the committee, resolutions of the Legislature and legislation may assign to the Chairperson; and
   4. in the event of an equality of votes on any question before the committee, the Chairperson must exercise a casting vote in addition to the Chairperson’s vote as a Member.
3. In the case of the election of the substantive Chairperson, the Chair of Forum of Committee Chairpersons shall be the Presiding Officer.
4. The Chairperson must report to the committee on any steps taken in terms of sub-rule (2)(b).

**154. Acting Chairpersons**

* + - 1. If the Chairperson of a committee is absent or unable to perform the functions of chairperson, the committee must elect another of its Members as acting Chairperson.
      2. An acting Chairperson performs the functions and may exercise the powers of the chairperson.

**155. Meetings**

1. The Secretary must call a meeting of a committee within five (5) working days after the names of the Members of the committee have been announced.
2. If a party or parties have not appointed their Members in time, as provided for in Rule 150, the Secretary must call a meeting of the committee within five (5) working days after a sufficient number of Members have been appointed to form a quorum in terms of Rule 156.
3. If the Legislature is in recess, the Secretary must notify the Members of the committee, the Chief Whip and the most senior whip of each of the other parties of the time and place of the meeting at least fourteen (14) days before the meeting.
4. Committees meet whenever necessary and as determined in accordance with these rules and the decisions, directives and guidelines of the Programme Committee.
5. A meeting of a committee may be called in terms of sub-rule (1) —

(a) by the Chairperson of the committee; or

(b) by resolution of the Legislature

1. Meetings of committees and subcommittees are open to the public, including the media, and the Chairperson of the committee or subcommittee may not exclude the public, including the media, from the meeting, except when —
   1. legislation, these rules or resolutions of the Legislature provide for the committee or subcommittee to meet in closed session; or
   2. the committee or subcommittee is considering a matter which is —
      1. of a private nature that is prejudicial to a particular person,
      2. protected under parliamentary privilege, or for any other reason privileged in terms of the law,
      3. confidential in terms of legislation, or
      4. such that its confidential treatment is reasonable and justifiable in an open and democratic society.
2. A decision in terms of sub-rule (6) to exclude the public must be taken, after due consideration, by the committee or subcommittee concerned, provided that the Chairperson of the committee or subcommittee may at any time —
   * + - 1. before the start of the meeting rule that the meeting must take place in closed session, but the committee or subcommittee may at any time after the start of the meeting open the meeting; or
         2. close the meeting for a decision by the committee or subcommittee whether the matter should be considered in closed session.

**156. Quorum requirements**

1. A Committee at all times requires at least one third of its Members to be present for it to conduct any business.
2. A majority of the Members of a Committee must be present for it to decide any question.
3. When a Committee has to decide a question and a quorum in terms of sub-rule (2) is not present, the Chairperson may either suspend business until a quorum is present, or adjourn the meeting.

**157. General Powers**

1. For the purposes of performing its functions a committee may, subject to the Constitution, legislation, the other provisions of these rules and resolutions of the Legislature —

* + - * 1. summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;
        2. receive petitions, representations or submissions from interested persons or institutions;
        3. permit oral evidence on petitions, representations, submissions and any other matter before the committee;
        4. conduct public hearings;
        5. consult any committee or subcommittee;
        6. determine its own working arrangements;
        7. meet at a venue determined by it, which may be a venue beyond the seat of Legislature;
        8. meet on any day and at any time, including —
    1. on a day which is not a working day,
    2. on a day on which the Legislature is not sitting,
    3. at a time when the Legislature is sitting, or
    4. during a recess; and
       - 1. exercise any other powers assigned to it by the Constitution, legislation, the other provisions of these rules or resolutions of the Legislature.

**158. Information reflecting on integrity of Member**

If any information reflecting upon the integrity of a Member of the Legislature comes before a committee, the committee may not proceed upon that information, but must report it to the Speaker without delay.

**159. Privilege of witnesses**

Prior to a witness giving evidence before the Legislature or committee, the Chairperson must in accordance with Section 16 of the Powers and Privileges Act inform the witness as follows:

*“Please be informed that by law you are required to answer fully and satisfactorily all the questions lawfully put to you, or to produce any document that you are required to produce, in connection with the subject matter of the enquiry, notwithstanding the fact that the answer or the document could incriminate you or expose you to criminal or civil proceedings, or damages. You are, however, protected in that evidence given under oath or affirmation before a House or committee may not be used against you in any court or place outside Legislature, except in criminal proceedings concerning a charge of perjury or a charge relating to the evidence or documents required in these proceedings.”*

**160. Order in committee meetings**

1. The right to speak of the Member chairing the committee takes precedence over the right of other Members to speak.
2. Committee Members must be allowed to speak and debate freely in committee meetings but they may not—
   * + - 1. discredit the Legislature by using disrespectful words; use offensive language; or
         2. comment upon the merits of any matter pending before the courts in a way that would interfere with the administration of justice or infringe upon the independence of the courts.

**161. Suspension and adjournment of proceedings**

Only the Member chairing a committee meeting may suspend or adjourn the proceedings of the committee.

**162. Decisions in a subcommittee**

* + - 1. A question before a subcommittee is decided by consensus.
      2. If consensus cannot be reached, all views in the subcommittee on the question must be reported to the parent committee.

**163. Presence of Members and permanent delegates**

* + - 1. A Member or a Permanent Delegate of the Legislature who is not a Member of the committee or subcommittee may be present at a meeting of the committee or subcommittee.
      2. A Member mentioned in sub-rule (1) who is present at a meeting of a committee or subcommittee —
         1. may speak on a matter before the committee or subcommittee subject to any reasonable restrictions the chairperson may impose; and
         2. may not vote except when the vote is cast as an alternate in terms of Rule 151.

**164. Publication or disclosure of proceedings, evidence, reports, etc.**

1. All documents officially before, or emanating from, a committee or subcommittee are open to the public, including the media; but the following documents may not be published, and their contents may not be disclosed, except with the permission of the committee, or the parent committee in the case of a subcommittee, or by order of the Speaker, or by resolution of the Legislature:
2. The proceedings of, or evidence taken by or placed before, the committee or subcommittee while the public were excluded from a meeting in terms of Rule 155(6);
3. any report or summary of such proceedings or evidence; and
4. any document placed before or presented to the committee or subcommittee as a confidential document and declared by it as a confidential document;
5. any document —
   * 1. submitted or to be submitted to Members of the committee or subcommittee as a confidential document by order of the chairperson of the committee or subcommittee, or
     2. after its submission to Members, declared by the chairperson as a confidential document.
6. The permission, order or resolution authorising the publication, or the disclosure of the contents, of documents mentioned in sub-rule (1) may provide that specific parts of, or names mentioned in, the document may not be published or disclosed.
7. For the purposes of sub-rule (1) a document is officially before a committee or subcommittee when —
   * + - 1. the chairperson places the document, or permits the document to be placed, before the committee or subcommittee; or
         2. a person appearing before the committee or subcommittee as a witness or to make representations presents the document to the committee or subcommittee.

**165. Removal of persons**

When instructed by the Chairperson of a committee or subcommittee, the Serjeant-at-Arms and or any other person designated by the Secretary must remove or arrange for the removal of any person who —

* 1. without permission, is present in that part of a committee room designated for Members of the committee or subcommittee only; or
  2. disrupts the proceedings of the committee or subcommittee or causes a nuisance.

**166. Informing Executive re requests for officials to attend**

When a committee requests an official of the Provincial Administration to attend a committee meeting or calls for the production of documents from the Provincial Administration, the responsible Member of the Executive Council must be informed.

**167. Matters referred to Committees**

A matter may be referred to a committee by the Speaker or by a resolution of the House. If there is a dispute about which committee should deal with a matter the Speaker must decide.

**168. Committees and stakeholders**

1. When a Committee considers any matter, it must consider which stakeholders may be affected by the matter.
2. The Committee may invite the stakeholders to attend its meetings and make representations.

**169. Relationship to other Committee**

1. A Committee may meet with any other Committee in order to consider a matter of mutual interest.
2. The Speaker must determine the agenda and decide who should preside.
3. When a report of the joint meeting is required or when the committees decide that a report on their joint meeting is necessary the committees must decide whether each committee should write a separate report or whether a joint report is appropriate.

**Part 2: Committee reports**

**170. Annual report to the House**

* + - 1. A committee must report at least once a year to the House on its activities.
      2. A committee’s annual report should include an assessment of the way in which the committee has fulfilled—
         1. the goals identified in its annual programme; and
         2. its law-making and oversight responsibilities.

**171. Reports on study visits**

Committees must table a report within a month on any study visits that they have undertaken.

**172. Content of report**

1. Every report of a committee must reflect the agreementreached in the committee. In the absence of agreement, thereport must reflect the decision of the committee anddissenting views.
2. Every committee report must also:
   * + - 1. Indicate, giving reasons, whether or not the matter concerned affects local government. If the matter does affect local government, the report must set out the measures the committee adopted to ensure that the views of local government were considered in its deliberations.
         2. Explain the implications of the matter under consideration for promoting the rights in the Bill of Rights and, particularly, gender equity and socio-economic rights.
         3. identify clearly the policy issues on which there is substantial disagreement and the reasons for the disagreement; set out the differing views on the policy issues; and
         4. set out the alternative approach that the minority proposes.

**173. Report of committee on Bill**

1. When a Committee has considered a bill it must write a report on the bill in which it indicates whether it-
   1. supports the bill as introduced without amendments;
   2. supports the bill with amendments; or
   3. does not support the bill.
2. A Committee report on a bill must—
   1. summarise the committee process including the number of meetings at which the bill was discussed, the participation of the Executive Council and the provincial government, the participation of the public;
   2. deal in separate sections with the policy and detail of the bill;
   3. provide an explanation of the position of the committee on the bill;
   4. indicate differing views in the committee, identifying clearly issues on which there is disagreement and the reasons for that disagreement;
   5. explain in general terms any amendments that the committee has made to the bill;
   6. indicate whether or not the committee is satisfied that the bill is constitutional;
   7. indicate the degree to which the bill fulfils the province’s obligation to promote and fulfil the rights in the Bill of Rights and, particularly, gender equity and socio-economic rights; and
   8. if the bill includes a grant of power to the executive or another body to adopt subordinate legislation, be accompanied by the report of the Committee for the Legislative Review.
3. a Committee accepts a bill with amendments, its report must include—
   1. the bill as amended; and
   2. a schedule indicating the ways in which the bill has been amended.
4. A Committee must report to the Legislature on a matter referred to the Committee —
   1. when the Legislature is to decide the matter in terms of these Rules, a resolution of the Legislature or legislation;
   2. if the Committee has taken a decision on the matter, whether or not the Legislature is to decide the matter as contemplated in paragraph (a); or
   3. if the Committee is unable to decide a matter referred to it for report.
5. A report of a Committee —
   1. must be formally adopted by the Committee;
   2. must be submitted to the Legislature by the Chairperson or another Member of the Committee designated by the Committee; and
   3. may request that the chairperson or another Member of the committee designated by the Committee introduces or explains the report in the Legislature.
6. Prior to the tabling of a Committee report in the House, the Chairperson of the Committee must submit a copy of the report to the Programming Committee.
7. The Committee Chairperson must indicate in writing to the Chairperson of Committees on whether or not the Committee is of the view that the report should be debated in the House, and the reasons why the Committee reached that view.
8. The minutes of all Committee meetings and public hearings that are related to the report, along with the attendance registers, must be submitted by the Chairperson to the Chairperson of Committees along with the report. In particular, the minutes and attendance register for the meeting where the Committee considered and adopted the report must be provided to the Chairperson of Committees.
9. The Order Paper must indicate whether or not a Committee report is to be debated in the House, or whether the report must just be tabled in the House.
10. The Chairperson of the Committee who is in charge of the committee report may close the debate on the Committee report.

**Part 3: Rules Committee**

**174. Establishment**

There is a Rules Committee.

**175. Composition**

The Speaker must for the term of the Legislature, appoint a Rules Committee consisting of not less than five Members. The Committee must be composed of Members drawn from all parties represented in the Legislature including the Leader of Government Business, who is a Member but has no vote.

**176. Chairperson**

The Speaker is the Chairperson of the Rules Committee, and when the Speaker is absent, the Deputy Speaker acts as the Chairperson. The Committee assists the Speaker in executing his/her responsibilities as the Executive Authority of the Legislature.

**177. Functions of the Rules Committee**

(1) The Rules Committee may —

* 1. develop and formulate policy proposals concerning the exclusive business of the Legislature in respect of the proceedings, procedures, rules, orders and practices concerning the business of the Legislature;
  2. issue directives and lay down guidelines to assist with the implementation of these Rules and Orders of the House.
  3. monitor and oversee the implementation of policy on all matters referred to in paragraph a);
  4. make recommendations on any matter falling within the functions and powers of the Rules Committee;
  5. lay down guidelines and issue directives regarding any aspect of policy referred to in this rule;
  6. appoint committees or subcommittees to assist it with the performance of any of its functions or the exercise of any of its powers;
  7. considers amendments to the Rules of the Legislature;
  8. perform the functions entrusted by these Rules or by resolutions of the Legislature;
  9. investigate and advises on all disciplinary matters involving the Members of the Legislature;
  10. lay down guidelines for the provision of facilities and other support to Members;
  11. appoint Committees or Subcommittees to assist it with the performance of any of its functions or the exercise of any of its powers;

**178. Subcommittees of the Rules Committee**

The Rules Committee has the following subcommittees: -

1. Subcommittee on Members’ Interests
2. Disciplinary Subcommittee

**Subcommittee on Member’s Interests**

**179. Establishment**

The Rules Committee must establish a Subcommittee on Members’ Interests.

**180. Composition**

The Committee shall be constituted of not less than five (5) Members representing political parties in the Legislature, and shall conform to multiparty democracy.

**181. Functions**

* + - 1. The Subcommittee makes recommendations to the Rules Committee on the following matters: -

Capacity building for Members;

Member’s Official Residence requirement;

Enabling facilities for Members;

Security matters pertaining to Member’s Official residences;

Welfare issues for Members as relates to Pensions, Medical Aid and Members’ funeral cover; and

Any other function that the Rules Committee may delegate to it.

**Disciplinary Subcommittee**

**182. Establishment**

There is disciplinary subcommittee.

**183. Composition**

The Committee consists of the Speaker, the Chief Whip and the Party Whips of the Legislature.

**184. Chairperson**

The Speaker is the Chairperson, in the absence of the Speaker, the Deputy Speaker acts as the Chairperson of the Subcommittee.

**185. Functions**

The Disciplinary Subcommittee, at the request of the Speaker, investigates and advises upon alleged infringements by Members of the Legislature on matters that are not regulated by the Powers, Privileges and Immunities of Legislature and Provincial Legislatures Act 2004 (Act No. 4 of 2004).

**Part 4: *Ad Hoc* Committees**

**186. Establishment**

* + - 1. An *Ad Hoc* committee may be established by–
         1. resolution of the House, or, by the Speaker after consulting the Chief Whip and the whips of each of the other parties.
         2. the names of the Members appointed must be published in the ATC.
         3. any decision by the Speaker to appoint an Ad Hoc committee must be tabled in the House on its first sitting day or as soon as possible thereafter after the decision was taken for ratification by the House.
         4. an *Ad Hoc* committee has those powers listed in Rule 157 or as are specified in the resolution or decision establishing the committee.
      2. An *Ad Hoc* committee ceases to exist –

1. When it has completed the task for which it was established and submitted its report to the House; and
2. If it is dissolved by the House earlier.
   * + 1. Unless a resolution establishing an *Ad Hoc* committee provides otherwise a question before an Ad Hoc committee is decided when a quorum in terms of Rule 156 is present and there is an agreement by the majority of Members present.

**187. Composition**

The Speaker nominates Members for an *Ad Hoc* committee, to carry out a particular assignment as specified by the House or Speaker.

**188. Functions**

The resolution of the House or decision of the Speaker establishing an *Ad Hoc* committee must –

* + - 1. Specify the task assigned to the committee; and
      2. Set the time frames for the completion of performance of the task.
      3. An Ad Hoc committee may conduct its business when the Legislature in on recess, in which event it must report after the resumption of business, provided that no elections for the Legislature have taken place in the interim.

**Part 5: Programming Committee**

**189. Establishment**

There is a Programming Committee

**190. Composition**

The Programming Committee consists of the Speaker, the Deputy Speaker, the Leader of Government Business, the Chief Whip and Party Whips.

**191. Chairperson**

The Speaker is the Chairperson, in the absence of the Speaker, in the absence of the Speaker, she/he may designate any other Member of the committee except the Leader of Government Business, as the Chairperson.

**192. Functions**

* + - 1. The Programming Committee –
         1. Is responsible for the Programme of the Legislature which must be approved by the Speaker;
         2. monitors and oversees the implementation of the Legislature's annual programming, including the legislative programming;
         3. implements the Rules regarding the scheduling or programming of the business of the Legislature, and the functioning of its Committees and subcommittees; and
         4. takes decisions and issue directives and guidelines to prioritize or postpone any business of the Legislature. Whenever the Committee prioritizes or postpones any Government business in the Legislature it must do so with the concurrence of the Leader of Government Business.
         5. implements the program of the Legislature as adopted by the Committee and signed off by the Speaker.
      2. The Speaker may, after consultation with the Chief Whip and other Whips, amend the Legislature Programme from time to time to include other activities that might have arisen after the adoption of the programme.

**Part 6: Standing Committees**

**193. Establishment of Forum of Committee of Chairpersons**

There is a Forum of Committee Chairpersons.

**194.** **Composition**

The Committee consists of the Chairperson of Forum for Committee Chairpersons and the Chairpersons of all Committees of the Legislature excluding the Chairperson of Rules and Programming Committees.

**195. Chairperson**

The Chairperson of the Forum of Committees is the Chairperson of the Forum of Committee of Chairpersons.

**196. Functions of the Forum of Committee of Chairpersons**

The Committee of Chairpersons-

* + - * 1. makes recommendations to the Rules and Programming Committees on any matter affecting the scheduling or functioning of any Committee or Sub-committee of the Legislature.
        2. co-ordinates the activities of Committees;
        3. sets guidelines for the arrangement and scheduling of Committee meetings;
        4. sets guidelines for the arrangement and procedure of public hearings;
        5. determines procedure for Portfolio Committee meetings;
        6. determines format for Portfolio Committee Minutes and Reports; and
        7. ensures the smooth running of Committee activities.

**197. Establishment of Provincial Public Accounts Committee**

There is a Standing Committee on Provincial Public Accounts established for the duration of the North West Provincial Legislature, which is known as Provincial Public Accounts Committee (PPAC).

**198. Composition**

* + - 1. The Speaker after consultation with the Chairperson of the Forum of Committee Chairpersons, the Chief Whip of the House and the Leader of Government Business appoints the Members of the Provincial Public Accounts Committee.
      2. The Members so appointed into the Provincial Public Accounts Committee may not be less than five (5) Members.

**199. Chairperson**

* + - 1. The appointed Members of the Provincial Public Accounts Committee elect, from among themselves, the Chairperson.
      2. The Chairperson convenes and presides over the meetings of the Provincial Public Accounts Committee in conformity with the Rules of Procedure of the North West Provincial Legislature and pronounces the decisions and directs the activities of the Provincial Public Accounts Committee.

**200. Functions and Powers**

1. The Provincial Public Accounts Committee (PPAC) must consider-
   * + - 1. The financial statements of all executive organs of State when those statements are submitted to the Legislature;
         2. Any audit reports issued on those statements;
         3. Any reports issued by the Auditor–General on the affairs of any executive organ of state and public bodies;
         4. Any other financial statements or reports referred to the Committee in terms of these Rules;
2. May report on any of those financial statements or reports to the Legislature;
3. May initiate any investigation in its area of competence; and
4. Must perform any other functions, tasks or duties assigned to it in terms of the Constitution, legislation, these Rules, resolutions of the Legislature, including functions, tasks and duties concerning legislature’s financial oversight or supervision of executive organs of state and other public bodies; and after which
5. The Speaker shall refer the financial statements and reports mentioned in sub-rule (1) to the Committee when they are submitted to the Legislature irrespective of whether they are also referred to another committee.
6. The Committee can summon any person whom it may deem to be in possession of any evidence that can assist the Committee in carrying out its functions, to appear before it and answer questions pertaining to such evidence
7. The person so summoned in terms of sub-rule (6) is required upon so appearing, to take an oath/affirmation as the case may be for the purposes of being indemnified from any criminal or civil action that may be instituted from such evidence.
8. There must be a prescribed form meant for the execution of the summons in terms of sub-rule (6) which shall be served by the Sheriff or a person designated by the Secretary.

**201. Decisions**

* + - 1. Decisions in every PPAC meeting shall be taken by a majority vote of the Members present in a meeting that is quorate,
      2. The Chairperson has a deliberative vote;
      3. In the event of a parity of votes, the Chairperson shall exercise a casting vote; and
      4. The Committee will be expected to dispose of business referred by the House within 60 working days.

**202. Establishment of Committee on Oversight of the North West Provincial Legislature**

There is a Standing Committee on Oversight of the North West Provincial Legislature to in terms of Section 4 of the Financial Management of Legislature and Provincial Legislatures Act, of 2009.

**203. Composition**

1. The Speaker, after consultation with the Chief Whip and the leaders of opposition parties appoints the Members of the Standing Committee on Oversight.
2. The Members so appointed shall be allocated proportionally to the number of parties in the Legislature.
3. Members so appointed must not attend a deliberation on a matter in which that Member has a material interest.
4. Members of the Executive Council and the Deputy Speaker may not be Members of the Committee, and may only participate in the deliberations of the Committee at the request of the Committee.

**204. Functions**

The Committee must maintain oversight of the financial management of the Legislature by amongst others -

* + - * 1. Consider instructions issued by the Executive Authority in terms of Section 37(5) of the Financial Management of Legislature and Provincial Legislatures Act of 2009 as amended.
        2. Consider the Annual Reports as submitted to the Legislature in terms of Section 60 of the Financial Management of Legislature and Provincial Legislatures Act of 2009 as amended.
        3. Perform any other duty as specified in Financial Management of Legislature and Provincial Legislatures Act, of 2009 as amended, and the Standing Rules of the North West Provincial Legislature.
        4. Require the Accounting Officer and any other official of the Legislature to appear before it in terms Section 115 of the Constitution.

**205. Establishment of Legislative Review and Implementation of resolutions of the House Committee**

There is a Standing Committee on Legislative Review and Implementation of Resolutions of the House.

**206. Composition**

1. The Committee consists of Chairperson of Committees, who shall be *ex-officio* Chairperson, the political party representatives in accordance with multi-party democracy consisting of not less than five (5) Members.
2. The Speaker after consultation with the Chair of Committees, the Chief Whip of the House and the Leader of Government Business appoints the Members of the Standing Committee.
3. The Members of the Committee are drawn from the Members of the Parties having a seat or seats in the NWPL.

**207. Functions**

The Standing Committee on Legislative Review and Implementation of Resolutions of the House –

* + - * 1. develops and improves the data base of legislation passed by the province;
        2. identifies and eliminates conflicting provisions of provincial legislation;
        3. identifies and isolates conflict between the provisions of provincial legislation and the Constitution;
        4. identifies and remedies conflict between provincial and national legislation;
        5. conducts a review and compliance audit of all legislation with the Constitution, particularly the Bill of Rights and other international instruments binding on the Republic;
        6. develops and maintains a data base of all House Resolutions;
        7. reviews the resolution data base and reports on performance and implementation and recommend remedial steps where applicable;
        8. develops and maintains resolution tracking mechanisms so as to ease administrative bottlenecks related thereto;
        9. conducts its business as scheduled in the legislature programme.

**208. Decisions**

1. Decisions of the Committee are by the majority of the Members present in a meeting that is quorate.
2. The Chairperson has a deliberative vote;
3. In the event of a parity of votes, the Chairperson shall exercise a casting vote.

**Part 7: Portfolio Committees**

**209. Composition**

* + - 1. A Portfolio Committee consists of such a number of Members as is determined by the Speaker in consultation with the Rules Committee which must not be fewer than five (5).

**210. Chairpersons**

The appointed Members of a Committee must elect, from among themselves, the Chairperson.

* + - * 1. The Chairperson determines the agenda of each meeting of a Committee after consultation with the Deputy Chairperson, if appointed.
        2. In the absence of a Chairperson the Members must elect from amongst themselves a Member who acts as chairperson for that particular meeting.

**211. Appointment of Members**

1. Parties nominate Members who are appointed to serve in the committees. Committees must be composed of Members drawn all parties represented in the legislature.
2. The appointment of Members to the committee is follows: In the case of an Ad Hoc Committee, within five (5) working days of the Legislature after the establishment of the Committee; and
3. In the case of a Standing and a Portfolio Committee, as soon as possible after its establishment and for the duration of term of the Legislature. Names of Members appointed to Committees and of the Alternate Members, if any, must be published in the Minutes of Proceedings without delay.
4. The alternate Members of the Portfolio Committee may only attend if permanent Members are not present.
5. Alternate Members have the powers to vote in the absence of the permanent Members of the Committee.

**212. Functions**

1. Every Committee is competent to –
2. set their own agendas;
3. consider, amend and substitute Bills referred to it;
4. initiate and introduce legislation;
5. investigate and report on issues on its own initiative or as referred to it;
6. exercise oversight over the Provincial Executive organs of state including the implementation of legislation,
7. call for evidence, summon persons to appear before it and produce or receive any document required by it, and hold public hearings.

**213. Appearance before a Committee**

1. Any person who submits a request to appear before a Committee and who, in the opinion of the Chairperson, has a substantial interest in the matter under consideration, must be given the opportunity to appear before the Committee.
2. In the event of a refusal by any Committee, of a request to appear before it, that Member of the public shall have the right to appeal to the Speaker, who, in considering such a request, may refer the issue to a relevant Committee for advice.

**214. Decisions and casting vote**

1. All questions in any Committee are to be decided on by a majority of votes of Members present in a Committee.
2. The Presiding Officer has and exercises the casting vote only in the event of a parity of votes.

**215. Quorum**

1. A majority of the Members of a Committee constitutes a quorum and only when such committee quorate can a question be decided.
2. Where a Committee does not quorate, but has to decide on a question, its Chairperson must either suspend business until the Committee forms a quorum or adjourn the proceedings.
3. The Committee is not required to form a quorum when a question is not to be decided.

**216. Meetings of Committees**

1. A Committee may not sit during the Sittings of the Legislature, unless the Speaker approves.
2. A Committee may sit on days on which the Legislature is adjourned or in recess, subject to the Speaker's approval.

**217. Processing of Business referred to Committee**

The Committee will be expected to dispose of business referred by the House within 60 working days.

**Part 8: Chief Whips’ Forum**

**218. Establishment**

There is a Chief Whips’ Forum.

**219. Composition**

(1) The Chief Whips’ Forum consists of —

* + - * 1. the Chief Whip;
        2. the deputy chief whip of the majority party; and
        3. the whip of each of the other parties represented in the Legislature.

1. The Deputy Speaker may attend meetings of the forum or designate someone to attend on her/his behalf.

(3) A whip referred to in sub-rule (1)(d) who is unable to attend a meeting of the forum may designate another whip to attend the meeting.

**220. Chairperson**

* + - 1. The Chief Whip is the chairperson of the Chief Whips’ Forum.
      2. If the Chief Whip is not available, the deputy chief whip of the majority party performs the functions of the Chief Whip.

**221. Meetings**

(1) The Chief Whip may call a meeting of the forum on own initiative or upon request by another member of the forum, but must call a meeting if the Speaker so requests.

(2) The forum meets in closed session unless it decides otherwise.

**Chapter 11: Legislative Process**

**Part 1: Introduction**

**222. Legislative authority**

The provincial legislative authority, as vested in terms of Section 104(1) of the Constitution, confers on the Legislature the power —

* + - * 1. to pass a constitution for its province or amend any constitution passed by it in terms of section 142 and 143;
        2. to pass legislation for its province with regard to-

(i) any matter within a functional area listed in Schedule 4;

(ii) any matter within a functional area listed in Schedule 5;

(iii) any matter outside those functional areas, and that is expressly assigned to the province by national legislation;

(iv) any matter for which a provision of the Constitution envisages the enactment of provincial legislation; and

(c) to assign any of its legislative powers to a Municipal Council in that province.

**223. Types of Bills**

A Bill may be introduced as—

* + - 1. a government Bill—a Bill introduced by a Member of the Executive Council;

1. a money Bill—a Bill introduced by the Member of the Executive Council responsible for financial matters and that—
   * + - 1. appropriates money;
         2. imposes provincial taxes, levies, duties or surcharges;
         3. abolishes or reduces, or grants exemptions from, any provincial taxes, levies, duties or surcharges; or
         4. authorises direct charges against the Provincial Revenue Fund.
2. a Member’s Bill—a Bill introduced by a member who is not a Member of the Executive Council; or
3. a committee Bill—a Bill initiated and introduced by a committee.

**224. Terminology**

All Bills introduced in the Legislature must be drafted in clear and simple language and must use as little technical language as possible.

**225. Memorandum on Bill**

A memorandum must accompany every Bill that is introduced. The memorandum must be drafted in simple, clear and non-technical language and must include—

1. a statement explaining the policy underlying the Bill;
2. in a social impact statement, the possible effects of the Bill with due consideration to the Bill of Rights and, particularly, gender equity;
3. an environmental impact statement when relevant;
4. consultation with the Provincial House of Traditional Leaders where applicable;
5. an assessment of the financial implications of the Bill;
6. an assessment of the implications of the Bill for local government;
7. an account of any steps taken to involve the public in the development of the Bill, including a summary of the comments received, if any, and an evaluation of those comments;
8. a clause-by-clause explanation of the content of the Bill; and
9. any other information considered necessary by the Member in charge of the Bill to enable Members to understand the Bill.

**Part 2: Steps prior to introduction**

**226. Government Bill**

(1) The Leader of Government Business must within five working days after the Executive Council has approved the introduction of the Bill-

(a) inform the Speaker; and

(b) supply the Speaker with a copy of the proposed Bill and its memorandum.

(2) Sub-rule (1) does not apply to a Money Bill introduced under special procedure set out in Part 5.

(3) The Speaker must refer the draft of the proposed Bill to the relevant committee in order

(a) to assist the committee and Legislature in planning their work;

(b) to facilitate drafting of notice in terms of Rule 228.

**227. Committee and Members’ Bills**

* + - 1. A Committee or a Member may introduce a Bill other than a Money Bill in the Legislature.
      2. When a committee or a Member wishes to introduce a Bill, a committee or the Member must submit to the Speaker a memorandum that-
         1. sets out the particulars of the proposed legislation;
         2. explains the objects of the proposed legislation, including the reasons for its introduction; and
         3. states whether the legislation has financial implications to the province.

1. A draft Bill may be submitted to the Speaker together with the memorandum referred to in sub-rule (2).
2. The Speaker must refer the proposal for legislation to the relevant committee within fifteen (15) working days upon receipt of the proposed legislation.

**228. Publication of Bills**

(1) Every Bill other than a Money Bill or a Bill concerning the constitution for the province, together with its memorandum and the notice described in sub-rule (4), must be published in the Provincial Gazette at least fourteen (14) days before it is introduced in the House.

(2) A Bill or amendment to a Bill concerning a constitution for the province must be published at least two months before it is introduced.

(3) The Bill must be published as it is to be introduced.

(4) The notice to introduce the Bill must be drafted in consultation with the Chairperson of the relevant Committee and must: -

(a) comply with any general guidelines issued by the Legislature;

(b) invite the public to submit comments and representations to the relevant Committee before a closing date mentioned in the notice; but, the closing date must be at least fifteen (15) working days after the date of the publication of the Bill;

(c) be published in at least two newspapers circulating in the province; and

(d) include details of the time and place of any public hearing to be held by the Committee.

(5) Copies of the Bill and other information published must be made available to each Member.

**229. Urgent Bills**

(1) A Bill that has not been published as prescribed in Rule 228 may be introduced if-

(a) the Premier has declared it an urgent matter; and

(b) the Speaker has agreed that it should be introduced without publication.

(2) If a bill has not been published before its introduction, the Secretary must immediately after its introduction publish-

(a) the Bill together with the memorandum in the Provincial Gazette; and

(b) publish the notice as required by Rule 228(3).

(3) Copies of the Bill and other information published with the Bill must be made available to each Member.

(4) A bill concerning the constitution of the province, a Committee Bill and a Member’s Bill may not be treated as an urgent Bill.

**Part 3: Introduction of Bill**

**230. Member in charge**

1. The Member in charge of a Government Bill or Money Bill is the Member of the Executive Council who introduces the Bill or who is subsequently appointed by the Premier to take general responsibility for the Bill.

(2) The Member in charge of a Member’s Bill is the Member who introduces the Bill.

(3) The Member in charge of a Committee Bill is the Chairperson of the Committee that made the proposal for the Bill.

(4) The Member in charge of the Bill may designate another Member to act as Member in charge.

**231. Introduction of Bills**

1. A Bill is introduced when a Member submits the Bill and its memorandum to the Speaker for consideration by the Legislature and the Speaker accepts the Bill.
2. When a Bill is introduced the Member in charge may deliver an introductory speech.
3. If the Member in charge wishes to make a speech, provision must be made on the Order Paper for a speech within ten (10) working days of the introduction of the Bill.
4. If the Legislature is in recess when the Bill is introduced, the Member in charge must be given an opportunity to make a speech within ten (10) working days of the first meeting of the Legislature after the recess.

(3) As soon as a Bill has been introduced—

* + - * 1. it must be placed on the Order Paper;
        2. the Secretary must notify every Member of the introduction of the Bill;
        3. unless it is a Bill initiated by a committee, the Speaker must refer the Bill to the relevant committee; and
        4. a translation into any of the languages of the Legislature must be made available to any Member on request.

(4) The House may resolve to refer the Bill to another committee including an *ad hoc* committee. If the Legislature is in recess when a Bill is introduced, the Speaker may refer the Bill to another committee including an *ad hoc* committee at the request of the Member in charge.

(5) A Bill initiated by a committee may be referred to another committee when it is introduced. If it is not referred to a committee, it must be considered by the House.

(6) This Rule does not apply to a money Bill introduced according to the special procedure set out in Part 5.

**232. Consideration by the committee**

1. When a Bill has been referred to a committee, the committee must consider the principle and detail of the Bill and prepare a report for the House.
2. A committee may not start to consider a Bill that has been declared an urgent Bill before at least two (2) working days have elapsed after the introduction of the Bill, and it may not hold public hearings or hear evidence on an urgent bill before at least five (5) working days have elapsed after the introduction of the Bill.

**233. Committee report on Order Paper**

1. When a committee has concluded its consideration of a Bill, the Speaker must place the Bill and the report of the committee on the Order Paper. If the committee has amended the Bill, the version supported by the committee must be placed on the Order Paper.
2. The committee report and the Bill or amended Bill must be distributed to all Members as soon as practical.

**Part 4: Consideration of ordinary Bills by House**

**234. Application of this part**

The Rules in this part do not apply to those money Bills that follow the process set out in Part 5.

**235. Programming of Bill**

1. The House may not commence its consideration of the Bill before at least two (2) working days have elapsed after the day on which the Bill has been put on the Order Paper, unless the Speaker, after consulting the Leader of Government Business, determines otherwise.
2. The Bill that is placed on the Order Paper and considered by the House is the Bill as amended by the committee but if the Bill is a money Bill the House considers the Bill as introduced.
3. The House must consider the principle and detail of the Bill separately.
4. The Programming Committee must determine the time allocated for the consideration of the principle and detail of the Bill.

**236. Order of proceedings**

Consideration by the House of ordinary Bills takes place in the following order:

(a) Consideration of parts of the committee report referred to in Rule237.

(b) Consideration of the principle of the Bill.

(c) Consideration of the detail of each clause.

(d) Decision on the detail of each clause.

(e) Decision on the Bill.

**237. Consideration of committee report**

When the House considers the committee report it considers only the summary of the committee process  
  
**238.** **Consideration of principle**When the House considers the principle of a Bill, the detail of the Bill may not be debated.

**239. Conclusion of consideration of principle**

1. No decision may be taken at the conclusion of the consideration of the principle of a Bill except a decision on a motion to postpone the consideration of the detail of the Bill.
2. Only the Member in charge of a Bill may introduce a motion requesting the postponement of the consideration of the detail of a Bill.

**240. Consideration of detail**

(1) When the House has concluded its debate on the principle of a Bill or when the time allotted for debate has expired, the House must proceed immediately to the consideration of the detail of the Bill unless a motion to postpone consideration of the detail of the Bill has been accepted.

(2) During the consideration of the detail of a Bill—

(a) only the details of the Bill may be discussed;

(b) each clause of the Bill and any amendments proposed to them will be open for consideration; and

(c) the clauses of a Bill must be considered in the order in which the Presiding Officer puts them.

**241. Consideration of detail: closure and extension of debate**

(1) No motion for the closure of the debate on the detail of a Bill may be allowed.

(2) A motion for the closure of the debate on a particular clause may be allowed only if the Presiding Officer is satisfied that the debate has become repetitive.

(3) A motion for the closure or the extension of the debate on a particular clause does not require notice.

**242. Consideration of detail: amendments**

(1) After a Bill and the committee report on the Bill have been placed on the Order Paper, a Member may place amendments on the Order Paper.

(2) An amendment that does not appear on the Order Paper may be moved only—

(a) by the Member in charge of a Bill or her or his whip; and

(b) if the Presiding Officer considers that the consideration of the amendment enjoys adequate cross-party support.

(3) An amendment to a clause may be moved only when that clause is under consideration.

(4) The insertion of a new clause must be moved immediately after the question on the preceding clause has been determined.

(5) If an amendment is moved the Presiding Officer may either—

(a) refer the Bill back to the committee which considered the Bill; or

(b) put the proposed amendment for decision by the House.

(6) If the amendment is not clear or if the Bill is not likely to be clear as amended, the Speaker must refer the bill back to the committee.

(7) The Presiding Officer must determine the order in which amendments to the same clause must be put.

(8) A majority of the Members of the Legislature must be present before a decision may be taken on an amendment to a Bill.

**243. Consideration of detail: decisions on clauses**

(1)The question on each clause of a Bill must be put and determined in the same order in which the clauses were considered. However, the Speaker may decide that the question on a particular clause must stand over pending the decision on any other question, or until all clauses have been considered.

(2) A majority of the Members must be present when a decision is taken on a clause of a Bill.

**244. Consideration of detail: conclusion**

The Presiding Officer must declare the consideration of the detail of a Bill to be concluded when all the clauses of the Bill and all amendments duly moved have been considered and determined.  
  
**245. Adoption of Bill**

(1)A majority of the Members of the Legislature must be present before a decision may be taken on a Bill.

(2) The motion for the adoption of a Bill must be determined without debate.

(3) When the consideration of the detail of the Bill is concluded, the motion for the adoption of a Bill must be put but if amendments which did not appear on the Order Paper have been accepted in terms of Rule 224 of this Chapter, the motion for the adoption of the Bill may not be put until the Secretary has printed the amended sections of the Bill and delivered copies to every Member.

(4) The Member in charge must place the Bill as amended on the Order Paper for adoption after the amended sections of the Bill have been printed and a copy has been delivered to every Member.

(5) The Legislature passes a Bill by agreeing to the motion for its adoption.

**Part 5: Consideration of money Bills by the House**

**246. Application**  
The Rules in this part apply to money Bills as defined in section 120 of the Constitution.

**247. Introduction**

(1) Only the Member of the Executive Council who is responsible for financial matters may introduce a money Bill in the Legislature.

(2) The Member of the Executive Council may introduce a money Bill by following either the ordinary procedure set out in Rule 231 or the special procedure set out in this Part.

(3) If the money Bill is a Bill appropriating money for the ordinary services of the government or imposing taxes, levies or duties for this purpose, the special procedure must be followed.

**248. Procedure for money Bills**

(1) If the ordinary procedure is followed, the Bill must be dealt with as if it were an ordinary Bill and not a money Bill, subject to any Act envisaged in section 120(2) of the Constitution.

(2) If the special procedure is followed, the Rules in this part apply.

**249. Special introductory procedure**

(1) A money Bill may only be introduced during a plenary meeting of the Legislature.

(2) On the appointed day, the Member of the Executive Council responsible for financial matters must make an introductory speech.

(3) After making the speech, the Member must introduce the Bill by tabling it and any accompanying schedule and papers in the House.

**250. Procedure after introduction**As soon as the money Bill has been introduced—

(1) the Secretary must deliver to every Member a copy of the Bill together with any papers that were submitted with it;

(2) the Speaker must refer the Bill, the introductory speech and any papers submitted with the Bill to the relevant committee for consideration; and

(3) the Bill must be placed on the Order Paper.

**251. Consideration by committee**

(1) The period for the consideration of a money Bill by the relevant committee must commence on a day to be determined by the Speaker after consultation with the Leader of Government Business, and may not exceed seven (7) consecutive working days of the Legislature, excluding Wednesdays, unless the Speaker after consulting the Leader of Government Business decides otherwise.

(2) The committee has the same powers to deal with a money Bill as it has for other Bills but it may not amend a money Bill. The committee may make recommendations for amendments to a money Bill.

(3) The committee must present its report to the House on or before the first working day of the Legislature following the expiration of the period allowed for deliberation by the committee.

**252. Consideration of Bill in House**

1. The consideration of a money Bill may not proceed until two (2) working days after the report of the committee to which the Bill is referred has been received.
2. Despite sub-rule (1) the Speaker, after consultation with the Leader of Government Business, may permit the money Bill to be debated in the House as soon as the report of the committee is received.
3. The House must consider both the principle and detail of a money Bill.

**253. Order of special proceedings for money Bills**

Consideration by the House takes place in the following order:

(1) Consideration of the principle of the Bill.

(2) Consideration of the votes in the schedule.

(3) Consideration of the votes in respect of which supplementary amounts are requested.

(4) Decision on the separate votes in the schedule.

(5) Decision on the schedule.

(6) Decision on the Bill.

**Part 6: Rules applicable to all Bills**

**254. Distribution of adopted Bill**When the House has adopted a Bill, the Secretary must notify Members and publish the Bill on the Legislature’s website promptly.

**255. Certification of Bill by Speaker**

(1) When a Bill has been adopted, the Speaker must certify at least two legible copies of it as being correct and must forward the copies to the Premier for assent.

(2) If any error or defect is discovered in a Bill after it has been adopted but before it has been presented to the Premier for assent, the Speaker must report such error or defect to the House and, if the House agrees to correct the error or defect, the House will be deemed to have agreed to the adoption of the Bill as corrected.

**256. Assent to Bill**

(1) As required by section 121 of the Constitution, the Premier must assent to the Bill without delay and at least within thirty (30) working days of receiving it.

(2) If the Premier has reservations about the constitutionality of the Bill, she or he must not assent to it and must refer it back to the Legislature without delay for reconsideration under section 121 of the Constitution.

(3) If the Premier refers a Bill back to the Legislature, the Premier must set out the reservations in a memorandum and submit it, with the Bill to the Legislature.

**257. Lapsing of Bills on last sitting day of annual session or term of legislature or when**

**Legislature is dissolved**

(1) All Bills which on the last sitting day of an annual session of the Legislature appear on the Order Paper for decision, lapse at the end of that day unless the Legislature decides otherwise.

(2) All Bills before the Legislature or any committee of the Legislature on the last sitting day of a term of the Legislature or when the Legislature is dissolved, lapse at the end of that day.

**258. Same Bill may not be introduced more than once**

When a Bill has been passed or rejected, no Bill of the same substance may be introduced during the same calendar year.

**259. Withdrawal of Bill**The Member in charge of a Bill may introduce a motion to withdraw the bill at any stage before the Bill has been adopted.

**Chapter 12: The Executive Council**

**260. Appointment of the Executive Council**

When the Premier appoints Members of the Legislature to the Executive Council or dismisses them in terms of section 132 of the Constitution, she/he must inform the Speaker immediately.

**261. Duties of Executive Council**

(1) Every Member of the Executive Council must submit to the Legislature the annual report, financial statements in a format as provided by Treasury Regulations, and the Auditor- General’s report on the department/s for which she/he is responsible within six months of the end of the financial year as required by section 40 of the Public Finance Management Act (PFMA).

(2) Members of the Executive Council must submit annual reports of all entities under their control in terms of section 55 of the PFMA.

(3) Where a Member of the Executive Council is unable to submit annual reports within the specified period as prescribed in Section 55 of the PFMA, such Member must submit a written explanation to the Speaker within ten days of expiry of the period, setting out the reasons why the report was not tabled.

(4) The Speaker must determine a date for tabling of the annual reports in the Legislature.

(5) When the Legislature or any of its Committees brings a matter to the attention of a Member of the Executive Council, such a Member must submit a response that is correct and accurate to the Legislature or Committee thereof within the specified timeframe.

(6) In the event of inaccurate information submitted to the Legislature and/or Committee in an annual report, the Member of the Executive Council responsible must submit an erratum within the time specified by the Legislature or a Committee thereof.

(7) Despite sub-rule (6) where a Member of the Executive Council discovers an error or incorrect information relating to a matter before the House or a Committee, she/he must inform the House and/or the Committee thereof prior to the adoption of a report on the matter.

(8) Every Member of the Executive Council must submit to the Legislature—

(a) the findings of any disciplinary board which heard a case against an accounting officer or accounting authority under section 81 or 83 of the Public Finance Management Act and any sanctions imposed by such a board, as required by section 65(1)*(b)* of the Act; and

(b) Any other report requested by the House or a committee of the House.

(9) Every Member of the Executive Council must ensure that a reply is given to every question put to him or her by the House, a Member, a permanent delegate or a committee within the time frames stipulated in Rule 145.

(10) When the Legislature or any of its committees brings a matter to the attention of the Executive Council or a Council Member, the Council or Member must submit a response to the Legislature or committee within the stipulated time if a response is required.

(11) Members of the Executive Council must ensure and account for the implementation of all legislation in their area of responsibility.

(12) A Member of the Executive Council must ensure implementation of the House resolutions.

(13) The Executive Council must submit and table Constitutional, Statutory and Policy papers in terms of NWPL’s Tabling Procedure Manual.

(14) A Member of the Executive Council must submit a quarterly performance report with financials, in a format as prescribed by the National Treasury *guidelines*, for which she/he is responsible for within one calendar month after the end of each quarter.

(15) Where a Member of the Executive Council is unable to submit a quarterly report within the specified period as prescribed in sub-rule (1), she/he must submit a written explanation to the Speaker setting out the reasons why the report was not tabled. The written explanation must be submitted within Five (5) days of expiry of the period set out in sub-rule (16).

(16) In the event of inaccurate information submitted to the Legislature in a quarterly report, the Member of the Executive Council responsible must submit an addendum within the time specified by the Legislature or a Committee thereof.

**262. Matters affecting Executive Council**

(1) When the Legislature or any of its committees brings a matter to the attention of the Executive Council or a Council Member, it must indicate—

(a) whether or not it requires a response from the Council or Council Member; and if it requires a response, the period within which a response must be given.

**263. Resolutions affecting the Executive Council**

(1)The Speaker must communicate to the Premier and the Leader of Government Business:

(a) a resolution of the House affecting the Executive Council, a Member of the Executive Council or Provincial Department; and

(b) recommendation of a Portfolio Committee in a committee report affecting the Executive Council, a Member of the Executive Council, or Provincial Department, and adopted by the House.

(2) A Member of the Executive Council who receives communication in terms of sub-rule (1) must within thirty (30) calendar days of receipt, report in writing to the Speaker-

(a) the steps undertaken to implement the resolution/s; and

(b) the planning to implement the resolution/If the resolution has not been implemented within thirty (30) days, the relevant MEC must report in writing to the Speaker-

(i) the reasons for not implementing the resolution/s

(ii) the corrective steps undertaken to comply with and implement the resolution/s;

(iii) the planning to implement the resolution.

(2) Members of the Executive Council must provide an account of their department’s performance against resolutions of the House in their quarterly and annual reporting.

**264. Vacancy in Premiership**

(1)When a Premier resigns or when the Premier’s office is vacant for other reasons, the outgoing Premier or another party leader must inform the Speaker of the vacancy.

(2) At the first opportunity after the Speaker is informed of the vacancy in the Premier’s office, he or she must—

(a) inform the House;

(b) inform the Chief Justice; and

(c) request the Chief Justice to set a date and time for the election of a Premier and to designate a judge to preside over the election.

(3) At the time and date set by the Chief Justice, the Legislature must elect one of its Members as Premier in accordance with section 128 and Part A of Schedule 3 of the Constitution.

**Chapter 13: Public Participation and Petitions**

**Part 1: Public Participation**

**265. Public involvement**

(1) The Rules in this Chapter are to guide the Legislature in fulfilling its constitutional responsibility of openness and to facilitate the participation of the public in its proceedings as required by section 118 of the Constitution.

(2) The Legislature should be guided by the commitment in the Preamble to the Constitution to building ‘a democratic and open society in which government is based on the will of the people and every citizen is equally protected by the law’.

**266. Public access**

(1) The plenary meetings of the Legislature and its committee meetings must be accessible to the public, including the media, subject to Rule 155(6).

(2) The Speaker must inform the public of the proceedings of the House and its committees by publishing details of the time and place of meetings and their subject matter.

**267. Regulating public access**

(1) The Legislature must take reasonable measures to regulate public access, including access by the media.

(2) The regulation of public access to the precincts of the Legislature, subject to the Constitution and these Rules, is the responsibility of the Speaker.

(3) In the interest of security or to prevent any disruption of proceedings, the Legislature may provide for the searching of any person and refuse entry to or remove any person.

(4) A committee may exclude the public, including the media, from a meeting in terms of section 118(2) of the Constitution only when it is reasonable and justifiable to do so in an open and democratic society.

(5) Circumstances in which it is reasonable and justifiable to exclude the public from a committee meeting may, but will not necessarily, occur when the committee is considering a matter that—

(a) should be discussed behind closed doors to avoid prejudicing a person unfairly; or

(b) is confidential in terms of legislation.

**268. Conduct of members of the public**

(1) When in the precincts of the Legislature, members of the public, including the media, must conduct themselves in an orderly manner.

(2) Members of the public attending a plenary meeting of the Legislature or a committee meeting may not disrupt proceedings and must observe the directions of the Member presiding over the House or chairing the committee meeting.

(3) The Member presiding over the House or chairing a committee meeting may order a member of the public to withdraw from a meeting and leave the precincts of the Legislature when she/he disrupts proceedings or is otherwise involved in any misconduct.

(4) The Serjeant-at-Arms or any employee designated by the Secretary to the Legislature may remove members of the public from the precincts of the Legislature if they—

(a) do not withdraw from a meeting or leave the precincts of the Legislature on the instruction of the Member presiding over the House or chairing a committee meeting

(b) have entered any part of the precincts which has been set aside for Members only;

(c) interrupt proceedings or are otherwise involved in misconduct; or

(d) are a threat to the security of the Legislature.

**269. Public access to records and documents**

(1)The records of the House and its committees and all documents tabled in the House and its committees must be accessible to the public, including the media.

(2) A decision to withhold records or other documents from the public may be made under this Rule only and must be compatible with the protection of freedom to information in the Constitution and the Promotion of Access to Information Act, 2 of 2000.

(3) The House may, by resolution, order that documents referred to in sub-rule (1) may not be made public.

(4) Despite sub-rule (1), the following documents may not be made public unless they have been tabled in the House or the Speaker has given permission for them to be made public-

(a) the proceedings of, or evidence taken by or placed before, a committee while the public were excluded from the meeting in terms of Rule 155(6).

(b) any report, or summary or record of proceedings, or evidence referred to in paragraph *(a)*.

(c) any document presented to the committee as a confidential document and declared confidential by the committee.

(d) any document that the Chairperson declares confidential before, when or after it is submitted to Members of the committee.

(5) With the consent of the Speaker, a committee may resolve that information listed in sub-rule (4) should not be included in a committee report.

**270. Public participation in committees**

Any member of the public and any institution or organisation may ask to appear before or may make a written submission to a committee with regard to a particular matter.

**271. Assistance for public participation**

(1) In order to provide effective opportunities for public participation, the Secretary may assist a person to—

(a) formulate a written submission to a committee;

(b) appear before a committee; or

(c) present a submission to a committee.

**Part 2: Petitions**

**272. Right to petition**

(1) A member of the public has the constitutional right to petition the Legislature.

(2) The right to petition the Legislature must be exercised in accordance with the procedure defined in the submission of petition.

**273. Submission of petition**

(1) A petition must be submitted to the Secretary in writing and in the prescribed form.

(2) All petitions that meet the requirements for submission must be referred to the Portfolio Committee on Legislative Review and Implementation of Resolutions.

**274. Assistance for petitions**

(1) The Secretary must render all reasonable assistance to any person who is unable to submit a petition meeting all the requirements of the Petitions Act.

(2) Any Committee may recommend to the Secretary to the Legislature that direct costs incurred by a person to petition the Legislature be reimbursed in terms of the Legislature’s financial policy.

**275. Consideration of petitions**

All properly submitted petitions received by the Legislature shall fist be referred to the Committee on Legislative Review and Implementation of Resolutions on the House in order for the Committee to make a recommendation in respect of referral to the Department and/or and the appropriate Committee which is best placed to deal substantially with such a petition received.

**276. Legislature Diary**

The Speaker may cause a Legislature Diary to be published in a manner he or she deems fit to inform the public of matters before the Legislature.

**Chapter 14: The Executive Authority of the North West Provincial Legislature**

**277. Executive Authority of the North West Provincial Legislature**

(1) The Executive Authority of the Legislature is vested in the Speaker of the Legislature as stipulated in terms of paragraph 5(1) of the Financial Management of Parliament and Provincial Legislatures Act 2009.

(2) The Executive Authority is accountable to the Legislature for the sound financial management of the Legislature.

**278. Duties of the Executive Authority-**

The duties of the Executive Authority are amongst others to preparation of the strategic, annual performance plan and budget of the North West Provincial Legislature.

**279. Functions of the Executive Authority**

The Executive Authority also must-

(1) oversee the preparation of the Legislature’s strategic plan, annual performance plan, budget and adjustment budgets in accordance with these Rules,

(2) table the strategic plan and annual performance plan in the House within ten (10) days of receiving it from the accounting office,

(3) draft budget and draft annual performance plan at least one month before the draft budget is submitted to National Treasury.

**280. Submission of budget and adjustments budget**

(1) The Executive Authority must –

(a) after consultation with the MEC for Finance, determine a process for submitting the Legislature’s budget and adjustments budget to the Provincial Treasury; and

(b) submit the budget and adjustments budget to the Provincial Treasury; and

(c) represent the Legislature in any discussions with the MEC for Finance on any aspect of the Legislature’s budget and/or adjustments budget.

**281. Submission of reports to Oversight Mechanism**

(1) The Executive Authority must submit and table constitutional, statutory and policy papers in terms of North West Provincial Legislature’s Tabling Procedure Manual.

(2) The Executive Authority must table the Monthly, quarterly and mid-year reports in the Legislature.

(3) The Legislature must refer the reports to the oversight mechanism promptly.

(4) The Legislature must submit any other report/s in compliance with the oversight mechanism.

(5) The Rules Committee must establish such oversight body to receive and process such reports submitted to it by these Rules.

**282. Tabling and consideration of annual report**

(1) The Executive Authority must table the Annual Report in the house as determined by the Programming Committee.

(2) The Annual Report of the Legislature must be referred for oversight to the relevant committee(s)

**CHAPTER 15 BUSINESS CONNECTED TO THE NATIONAL COUNCIL OF PROVINCES**

**283. Nomination and appointment of permanent delegates**

(1) The Speaker must within a reasonable period of time invite, in writing, the parties represented in the Legislature to submit nominations.

(2) Parties are entitled to delegates in the provinces delegations in accordance with the formula set out in Part B of Schedule 3 of the Constitution as well as the Determination of the National Council of Provinces Act, 1998.

(3) A nomination by parties must be in writing, and must be signed by two Members of the House.

(4) A person who is nominated must indicate acceptance of the nomination by signing the written form for nomination.

(5) The Legislature shall, by way of a Resolution, appoint its Permanent Delegates in accordance with sections 61 and 62 of the Constitution.

(6) The mandate of the Permanent Delegates ends immediately before the First Sitting of the Legislature held after its election under the Constitution, or in terms of section 62(4) of the Constitution.

**284. Vacancy among permanent Delegates**

(1) The Speaker must, after being informed in writing by the Chairperson of the National Council of Provinces in terms of National Council of Provinces Act 1997, of the occurrence of a vacancy among the permanent delegate of the province, must within a reasonable period of time invite, in writing, the party to submit a nomination.

(2) A person who is nominated must indicate acceptance of the nomination by signing the written form for nomination.

(3) Upon receipt of the acceptance of the nomination by the Member, the Speaker must place the nomination on the order paper for a decision by the House

(4) The person who is nominated must within fourteen (14) days be appointed as a permanent delegate by the Legislature if the legislature is in session, or

(5) If the Legislature is not in session when the nomination is received, the Member must be appointed within fourteen (14) days after the commencement of the next session.

**295.** **Proof of appointment as a permanent delegate**

(1) The Speaker must –

(a) certify the appointment of the permanent delegate

(b) certify compliance with sections 61 and 62 of the Constitution

(c) provide a copy of the certification to the Chairperson of the National Council of Provinces and every permanent delegate.

**286. Permanent Delegates’ rights and duties in the Legislature**

(1) The Province’s Permanent Delegates to the may attend, and may, in accordance with arrangements made with the Speaker after consultation with the Parties, speak in the Legislature and its Committees, but shall not vote.

(2) The Legislature and the Speaker may invite a Permanent Delegate to attend and report to the Legislature or its Committees.

(3) Unless the Speaker rules otherwise, the Rules shall apply to any Permanent Delegate.

(4) Unless the Speaker rules otherwise, or the Permanent Delegate submits a written apology to the Speaker, or is absent on approved leave, a Permanent Delegate shall attend at least two (2) meetings of a relevant Committee or two (2) sittings of the Legislature, or one (1) Committee meeting and one (1) sitting of the Legislature at least each quarter.

**287. Recalling permanent delegate**

(1) The Speaker must submit a written notice informing the Chairperson of the National Council of Provinces that a permanent delegate has been recalled if-

(2) If the party to which that delegate belongs, submits a written notice submitted by its leader or whip-

(a) that the delegate has ceased to be a Member of the party and/or

(b) is recalled by the party.

(3) The Legislature adopts a Resolution to the effect that it has lost confidence in the Member based on the recommendation or recommendations by the Disciplinary Committee which shall have considered.

(a) a request from the Chairperson of the National Council of Provinces detailing the Member's breach of Privilege or of the Standing Rules; or

(b) a request from at least four (4) of the Provincial Permanent Delegates detailing a breach of Privilege or the Standing Rules of the National Council of Provinces or that the Member has contravened section 62(4) of the Constitution of South Africa.

**288. Appointment of Special Delegates**

(1) When the House is sitting, the Legislature designates by way of a Resolution, and with the concurrence of the Premier and the Leaders of the Parties entitled to Special Delegates, shall designate three (3) Special Delegates, as required from time to time, from among the Members of the Legislature.

(2) If the Legislature is not sitting - The Speaker, after consultation with the Chief Whip of the House, and with the concurrence of the Premier and the Leaders of the parties entitled to Special Delegates, shall designate three (3) Special Delegates and alternates, as required from time to time, from among the Members of the Legislature.

(3) The names of the Special Delegates, the period and purpose of their designation shall be recorded in the Minutes of the Legislature at the first sitting day after the designation.

(4) The designation of a Special Delegate or alternate may be terminated at any time –

(a) When the Legislature is sitting, by a Resolution of the Legislature, coupled with the concurrence of the Premier, and the Leaders/Whips of the Parties entitled to special delegates, shall designate Alternates;

(b) If the Legislature is not sitting, the Speaker, with the consultation with the Chief Whip of the House, and with the concurrence of the Premier and the Leaders of the Parties entitled to Special Delegates and Alternates.

**289. Proof of designation as Special Delegates**

(1) The Speaker shall –

(a) Certify the appointment of Special Delegates and Alternates and the purpose of their designation;

(b) Certify the compliance with sections 61 and 62 of the Constitution; and

(c) Provide a copy thereof to the Chairperson of the National Council of Provinces, the Secretary to Legislature and to each Special Delegate.

**290. Proof of authority to cast votes**

(1) The Speaker shall –

(a) certify the conferral of authority to cast votes by attaching his or her signature to a copy of the adopted Resolution;

(b) certify the compliance with the Constitution;

(c) provide a copy, thereof, to the Chairperson of the National Council of Provinces and to each delegate.

(2) When the Legislature is not sitting, the Speaker shall, with the concurrence of the Premier, the Chief Whip of the House confer the mandate to the National Council of Provinces.

(3) The conferral referred to in sub-rule (1) (a) shall be announced at the First Sitting of the Legislature, which is held after such conferral.

**291. Requirements for negotiation mandates**

(1) Every negotiating mandate required in terms of schedule 1 of the Mandating Procedures for Provinces Act must be in accordance with the following format:

(a) indicate the name and number of the Bill being negotiated;

(b) contain the signature of the chairperson of a Committee designated by the Legislature;

(c) addressed to the chairperson of a Select Committee of the National Council of Provinces;

(d) indicate parameters for negotiation and proposed amendments to the Bill if any; and

(e) confer authority on the provincial delegation to the National Council of Provinces when the relevant National Council of Provinces Select Committee considers a Bill after tabling and before consideration of final mandates.

**292. Requirements for final mandates**

(1) Every final mandate required in terms of schedule 2 of the Mandating Procedures for Provinces Act must be on the letterhead of the Legislature and must:

(a)indicate the name and number of the Bill being voted on;

(b) indicate whether the provincial Legislature votes in favour of or against; or abstains from voting on, the Bill;

(c) contain the signature of the Speaker or of a person designated by the Speaker to preside over that specific Bill; and

(d) be addressed to the Chairperson of the National Council of Provinces or a person designated by the Chairperson of the National Council of Provinces.

(2) The Legislature must confer authority on the Premier or a delegate designated by the Premier, to cast a vote in a National Council of Provinces plenary.

(3) The Premier, or a delegate of a provincial delegation to the National Council of Provinces designated by the Premier, must cast a vote on behalf of the North West Provincial Legislature.

(4) The Legislature must confer authority on its provincial delegation to the National Council of Provinces to cast a vote when the relevant National Council of Provinces Select Committee considers a Bill prior to voting thereon in a National Council of Provinces plenary.

(5) If no matter arises from the deliberations of the National Council of Provinces Select Committee when considering final mandates which may necessitate consideration by a provincial legislature, the provincial delegation to the National Council of Provinces must table the province’s final mandate in the National Council of Provinces plenary as the province’s voting mandate.

**293. Conferral of authority**

(1) The authority of the province’s delegation in the National Council of Provinces to cast votes on the province’s behalf on a Bill or other matter in the National Council of Provinces must be conferred –

(a) by resolution of the House; or

(b) by the committee to which the relevant Bill or matter has been referred under Rule for consideration and report.

(2) Authority to cast votes –

(a) may be either general or specific; and

(b) may be amended by resolution of the House, or by the committee that conferred the authority or the committee that had considered the Bill or other paper before the House conferred the authority.

(c) In the absence of any specific authority to cast a vote on a particular question, the province’s delegation may decide for itself, with the support of a majority of its Members, how the vote of the province on that question is to be cast in the National Council of Provinces.

(3) Particulars of the question, the decision and the vote must be laid on the Table of the House by the head of the delegation or reported by him or her to the Speaker for tabling.

**294. Time limits.**

(1) The House, or a committee or an officer or official of the House, when dealing with a National Council of Provinces Bill or paper and aware that –

(a) a time limit envisaged in section 45(1)(a) of the national Constitution applies to the legislative process on the Bill in the Parliament; or

(b) a time limit applies to any process; the legislature must deal with the Bill or paper in such a manner that the relevant time limit can be adhered to.

**295. Tabling of National Council of Provinces Bills.**

(1) Every Bill or other paper from the National Council of Provinces for the attention of the House (National Council of Provinces Bill, National Council of Provinces Paper) which is received –

(a) when the House is in session, must be laid upon the Table by the Speaker; or

(b) when the House is in recess or is in session but adjourned, is deemed to have been so laid upon the Table when it has been referred by the Speaker in accordance with Rule 296(1) to the appropriate committee.

**296. Referral to committee.**

(1) The Speaker must refer every National Council of Provinces Bill and every National Council of Provinces paper that has been tabled –

(a) to the appropriate committee for its recommendation and report; or

(b) if the Speaker is of the opinion that the Bill or paper does not fall clearly or wholly within the assignment of any single committee, to the committee dealing with National Council of Provinces papers.

(c) by a different committee indicated by that committee; or

(d) by an ad hoc committee for that purpose; or

(e) in such other manner as that committee may indicate.

(2) An ad hoc committee envisaged in sub-rule (2)(b) may be appointed by the Rules Committee or, in case of urgency, by the Speaker after consultation with the Chief Whips of the parties in the House.

**297. Section 75 Bills.**

(1) In the case of a National Council of Provinces Bill to which the procedure prescribed in section 75 of the Constitution (section 75 Bill) applies, the committee to which it was referred for its recommendation must indicate in its report what action, if any, it considers to be necessary or advisable with regard to the Bill.

**298. Sections 74 and 76 Bills.**

(1) In the case of a National Council of Provinces Bill to which the procedure prescribed in section 74 or in section 76 of the Constitution applies (section 74 Bill, section 76 Bill), the committee to which it was referred for its recommendation, must,

(a) in its report recommend the authority that should be conferred on the delegation of the province to cast votes on the Bill on behalf of the province in the National Council of Provinces; and

(b) if required by the Speaker to do so, submit to the Speaker, for certification and dispatch, a conferral by the committee on that delegation of the recommended authority in writing signed by the chairperson of, and the secretary to, the committee.

**299. Other National Council of Provinces papers.**

(1) A National Council of Provinces paper dealing with a constitutional or other matter affecting provinces, as envisaged in section 74 or section 76 of the national Constitution, must be dealt with in accordance with Rule 15.14 (with necessary adjustments) by the select committee to which it was referred under Rule 296 or its recommendations as if the paper were a section 74 or 76 Bill, as the case may be.

(2) Any other National Council of Provinces paper may be considered and dealt with by the standing committee concerned in the manner it regards as best suited to the matters raised in the paper.

**300. Report of committees**

(1) The report of the committee dealing with National Council of Provinces Papers, or of any standing committee, on any National Council of Provinces Bill or paper must be laid on the Table in the House and

(a) may be handed to the Speaker, whether the House is in session or not, for tabling at the first opportunity; or

(b) may be presented and tabled by the chairperson or another Member of that committee concerned during a sitting of the House.

**301. Legislative proposals in the National Council of Provinces**

(1)If a committee identifies a matter that should be dealt with in national legislation, it must draft a memorandum proposing the introduction of the legislation in the National Council of Provinces.

(2) The proposal should comply with the requirements in the National Council of Provinces Rules for the initiation of a Bill by a provincial legislature.

(3) A proposal for the introduction of legislation must concern a matter that would be dealt with under section 76(2) of the Constitution.

(4) The committee must submit the proposal to the House with a recommendation as to who should introduce the proposal in the National Council of Provinces. The committee may recommend that—

(a) the province’s permanent delegate who usually deals with such matters in the National Council of Provinces should introduce the proposal in the National Council of Provinces; or

(b) a special delegate should submit the proposal to the National Council of Provinces.

(5) A committee’s report on a legislative proposal must indicate—

(a) if it is possible, the law on the matter in other provinces;

(b) what steps the committee has taken to consult other provincial legislatures on the matter;

(c) the outcome of any consultations;

(d) the implications of the matter under consideration for promoting the rights in the Bill of Rights and, particularly, gender equity and socio-economic rights;

(e) differing views in the committee, identifying clearly issues on which there is disagreement and the reasons for that disagreement; and

(f) whether or not the committee is satisfied that the proposal is constitutional.

(6) If the House supports the committee proposal or an amended proposal, the Speaker must forward it to the relevant National Council of Provinces delegate to introduce in the National Council of Provinces on behalf of the provincial legislature.

**302. Questions from committees**

When fulfilling its oversight responsibility or during other deliberations, a committee may identify a matter on which information is needed from the national Executive. The committee may frame an appropriate question for written or oral answer and ask the permanent delegate who usually deals with such matters in the National Council of Provinces to ask the question in the National Council of Provinces.

**303. Matters of public importance affecting the province**

If the House or a committee decides that a matter of public importance that affects the province should be debated in the National Council of Provinces, the House or committee must ask the permanent delegate who usually deals with such matters in the National Council of Provinces to request the Chairperson of the Council to allow the matter to be debated in the Council.

**304. Motions on behalf of the Legislature**

If the House or a committee wishes a motion to be introduced in the National Council of Provinces, the House or committee must ask the permanent delegate who usually deals with such matters in the National Council of Provinces to propose the motion.

**305. Report from permanent delegate**

(1) If a permanent delegate has been asked by the Legislature to table a legislative proposal in the National Council of Provinces, ask a question on behalf of the Legislature or request a debate on a matter of public importance, the delegate must report back to the House or to the committee which made the request within a month.

(2) Despite sub-rule (1), if the National Council of Provinces is in recess when the Legislature makes the request, the permanent delegate must report back within a month of the National Council of Provinces’ first meeting after the recess.

**CHAPTER 16: OVERSIGHT**

**306. Constitutional mandate**

(1) The Rules in this Chapter are to guide the Legislature in fulfilling its constitutional responsibility of ensuring accountable and responsive government and, in particular, of holding the members of the provincial executive collectively and individually accountable to the Legislature as anticipated by section 133 of the Constitution.

(2) To fulfil this responsibility, the Legislature must scrutinize and oversee the exercise of provincial executive authority and provincial organs of state.

(3) The oversight role of the Legislature includes scrutiny of the extent to which the province is fulfilling its obligation, in section 7 of the Constitution, to promote and fulfil the rights in the Bill of Rights.

**307. Oversight procedures in Legislature**

(1) The following procedures contribute to effective oversight of the executive by the Legislature:

(a) Questions.

(b) Urgent debates.

(c) Statements by members of the Executive Council.

(d) The public petitions process regulated in the Petitions Act and Part 2 of Chapter 5.

(e) The scrutiny of subordinate legislation.

(f) The budget process.

(g) Scrutiny of the reports of departments and other provincial organs of state.

(h) Scrutiny of the reports of the institutions established by Chapter 9 of the Constitution, especially the reports of the Auditor-General.

(i) Scrutiny of the reports of the Financial and Fiscal Commission.

(j) Consultation with the Committee on the Review of Subordinate Legislation on matters relating to grants of power to the Executive or another bodies to adopt subordinate legislation.

(2) The Legislature must facilitate the participation of the public in its oversight processes.

(3) In addition to the procedures listed in sub-rule (1), portfolio committees and other relevant committees must fulfil the oversight role described in Rule 16.3.

(4) To ensure that the oversight work of committees is properly considered by the Legislature, the Programming Committee must allow time for the debate in the House of oversight reports.

**308. Oversight by portfolio committees**

(1) Every portfolio committee must maintain oversight of the way in which the relevant member of the Executive Council and his or her department fulfil their responsibilities including the implementation of legislation. To do this it—

(a) Must review the departmental vote submitted to the legislature by the department in terms of section 27 (2) of the Public Finance Management Act.

(b) must review the annual report submitted to the Legislature by the department in terms of section 65 of the Public Finance Management Act;

(c) must consider quarterly reports from the department; and

(d) may deal with any other matter that concerns the effective functioning of the provincial government and other provincial organs of state.

(2) A portfolio committee must include in its annual programme, a programme for conducting oversight of the department and other provincial organs of state for which it is responsible. The committee must take account of the goals set by the department.

(3) Every portfolio committee must report to the House—

(a) following its review of the department’s annual report and any hearings and oversight visits related to the review, on the department’s activities and the committee’s assessment of them;

(b) on any oversight visits undertaken; and

(c) annually on all the steps taken to facilitate public participation when conducting oversight.

(4) Oversight reports must include an assessment of the degree to which the goals of the department are being met and any recommendations.

(5) A portfolio committee’s annual report to the Legislature must include a report on the way that it has fulfilled its oversight responsibility.

**309. Conducting oversight**

(1) To conduct oversight committees may, among other things—

(a) hold hearings at which the member of the Executive Council or head of the relevant department or provincial body is asked to explain matters in any report of the department or body that are of concern to the committee;

(b) visit projects and facilities and assess service delivery;

(c) invite members of the public to make submissions on the work of the department or body; and

(d) consult with the Public Accounts Committee on matters relating to the financial statements of the department or body.

(2) If the head of the department or entity does not give an adequate explanation of the way in which the department is dealing with problematic issues, a committee must ask the relevant member of the Executive Council to explain to the committee what is being done to rectify the problems.

**310. Bills referred to the Committee for Legislative Review and Implementation of Resolutions of the House**

(1) The Speaker must refer every bill that contains a grant of power to the executive or another body to adopt subordinate legislation to the Committee for Legislative Review and Implementation of Resolutions of the House.

(2) When the Committee reviews provincial bills that grant the power to adopt subordinate legislation to the provincial executive or another body, it must ensure that the grant of power—

(a) does not give the executive or another body the power to make policy;

(b) has clear parameters and is not unduly general or without clear directions to the subordinate law-making authority; and

(c) does not authorise the executive or another body to make subordinate legislation which would not comply with the Constitution.

**311. Powers in relation to grants of authority to adopt subordinate legislation**

(1) If the Committee for Legislative Review and Implementation of Resolutions of the Houseconsiders that a grant of power to adopt subordinate legislation does not meet the requirements of Rule 222, the Committee must consult with the committee responsible for the bill and make recommendations for correcting the problem.

(2)The Report of the Committee for Legislative Review and Implementation of Resolutions of the Houseon a bill must be submitted to the House together with the report on the bill of the relevant portfolio committee.

**312. Subordinate legislation must be referred to Legislature**

(1) All legislation made in terms of a provincial Act (subordinate legislation) must be referred to the Legislature by the person who made it.

**Chapter 17: RECORDS OF THE HOUSE AND DUTIES OF THE SECRETARY**

**313. Minutes of Proceedings**

The Minutes of Proceedings shall be noted by the Secretary and shall, after having been perused by the Speaker, be printed and supplied to Members.

**314. Journals and Order Paper**

The Minutes of Proceedings, signed by the Secretary, shall constitute the Journals of the Legislature.

**315. Order Paper**

The Secretary shall cause the Order Paper for each working day of the Legislature to be printed and delivered to each Member, subsequently an electronic copy will be emailed to the Members.

**316. Custody of papers**

The Secretary shall have custody of all records and other papers of the Legislature, and shall neither remove nor permit to remove any such records or other papers or copies thereof beyond the precincts of the Legislature without approval from the Speaker.

**317. Access to tabled papers**

The Secretary shall, by the approval of the Speaker, allow members of the public access to the records of the Legislature and to papers laid upon the table, and to take extracts from or make copies of such records and papers, unless the Resolution by the House orders otherwise.

**318. General duties of Secretary**

The Secretary is responsible for the regulation of all matters connected with the business of the House, subject to such directions as he or she may receive from the Speaker or from the House.

**Chapter 18: Ethics, Privilege and Contempt**

**319. Ethics**

(1) These Rules are to guide the Legislature in conducting its business in a way that ensures that it is a free institution, able to fulfil its role of representing the public.

(2) To do this the Legislature and all its Members must act in an ethical way and protect the powers, privileges and immunities of the Legislature.

**320. Privileges**

The privileges of Members of the Legislature and its permanent delegates include:

(1)the privilege of freedom of speech in the Legislature and its Committees conferred by Section 117(1) (a) of the Constitution;

(2)immunity from liability for civil or criminal proceedings, arrest, imprisonment or damages to the extent conferred by Section 117(1) of the Constitution; and

(3)any other privileges or immunities of the Legislature and its Members as conferred by The Powers, Privileges and Immunities of Legislatures and Provincial Legislatures Act 4 of 2004.

(4)The privileges of the Legislature include the powers conferred by sections 115 and 118 of the Constitution.

**321. Contempt of the Legislature**

(1) A breach of privilege is contempt of the Legislature.

(a) Contempt of the Legislature is conduct which potentially or actually interferes improperly with the ability of the Legislature, its Committees or any of its Members to perform their functions. Contempt includes, but is not limited to:

(b) failing to attend the Legislature or one of its Committees when summoned to do so;

(c) failing to report to the Legislature or one of its Committees when required to do so

(d) giving evidence to a Committee knowing it to be false;

(e) punishing someone for giving evidence to the Legislature or one of its Committees;

(f) inducing someone not to give evidence to the Legislature or one of its Committees;

(g) comments by a Member speaking in the House or a Committee that are extremely injurious to another Member of the Legislature;

(h) a breach of the Rules (a breach of the Code of Conduct is a breach of the Rules);

(i) failing to obey any ruling, order or resolution of the Legislature; and

(j) intentionally, recklessly or deliberately misleading the Legislature regarding material facts on an issue.

**322. Raising a breach of privilege or contempt**

(1)A Member may raise a matter relating to contempt, including a breach of privilege:

(a) in the House or a Committee meeting or

(b) in writing to the Speaker.

(2) The matter must be raised as soon as possible after it has occurred and, before the next plenary meeting of the Legislature.

(3) If the matter is raised in writing with the Speaker concerns another Member, the Member who raises a matter must provide the other Member with a copy of the document submitted to the Speaker as soon as possible.

**323. Formulation of the allegation**

(1) An allegation of contempt must be formulated as precisely as possible, providing but not limited to the:

(a) name of the person alleging the contempt;

(b) contact details of the person alleging the contempt.

(c) name of the person against whom the contempt is levelled;

(d) nature of the contempt;

(e) specific Rule upon which the allegation is based; and

**324. Consideration by the Speaker**

1. When a Member informs the Speaker of a matter under Rule 322, the Speaker must determine whether contempt is involved.
2. In determining whether contempt is involved the Speaker must take into account the importance of the matter.
3. If the matter is technical or trivial and does not warrant the further attention of the Legislature, the matter is not a matter of contempt.

**325. Speaker’s decision**

(1) If the Speaker decides that the matter is a matter of contempt, she/he must report to the House.

(2)If the matter concerns a person who is not a Member, the Speaker must either:

(a) refer the matter to the South African Police Services, for action under the Powers, Privileges and Immunities of Legislatures and Provincial Legislatures Act,2004(Act No 4 of 2004); or

(b) if the Speaker is of the view that the matter does not warrant the institution of criminal proceedings, propose to the House that the House should deal with the matter.

(3) If the matter concerns a Member, the Speaker:

(a) may, if it is appropriate, make a ruling; or

(b) may refer a matter to an Ad Hoc committee specifically established to deal with such matters;

(c) may if the allegation would constitute an offence under the Powers, Privileges and Immunities of Legislatures and Provincial Legislatures Act, 2004(Act No 4 of 2004) and the Speaker is of the view that the Legislature should not deal with it, recommend to the House that the matter should be referred to South African Police Service.

**Proceedings on matters regarding Ethics, Integrity and Members** **Interests**

**326. Statements impairing on the dignity of a Member and the Integrity of the Legislature.**

(1)In cases where the dignity of a Member has been impaired by media statements regarding the subject matter of investigation by the Integrity Commissioner, she/he may recommend that her/his findings be made public through the media as a redress to the injured Member.

(2)Should allegations made in the media found to have lacked substance and as a result be untrue, such alleging party, if it is a Member, may be ordered to retract those media statements and offer public apology to the injured party and the Legislature.

**327. Access to information**

(1) A Member of the public may gain access to information on matters decided upon by the as prescribed by the Constitution, the Promotion of Access to Information Act 2 of 2000 or any other law

**328. Member making an allegation not to serve on inquiry**

(1)A Member who has made an allegation of a breach of privilege or of contempt, may not serve on an inquiry into that allegation.

**329. Memorandum by the Secretary**

(1) The Secretary must prepare a memorandum outlining briefly the issues involved, the facts of the case, the law, Legislature practice and precedents bearing on the matter before the Ad Hoc Committee.

(2) The Secretary must submit such a memorandum to the Ad Hoc Committee at least 10 days before the hearing is scheduled to commence.

(3) This Rule does not apply to matters referred to the Ad Hoc Committee by the Integrity Commissioner.

**330. Rights of an alleged offender**

An alleged offender must be granted a reasonable opportunity to represent her/his own case.

**331. Legal Representation**

The respondent, complainant and witnesses may as appropriate have the right to legal assistance during the hearing at their own expense.

**332. Written submissions**

Alleged offenders, complainants and witnesses must be given the opportunity to submit a written submission to the Ad Hoc Committee.

**333. Evidence**

The Committee may not receive hearsay evidence, that is, the witnesses may testify only to matters that are within their direct and personal knowledge.

**334. Admissibility of evidence**

Evidence must be considered on the balance of probabilities.

**335. Oath or Affirmation**

(1)Witnesses, including alleged offenders who wish to give evidence, must testify under oath or affirmation.

(2) Witnesses must take/make the following oath or affirmation:

***Oath***

“I swear that the evidence that I give, will be the truth, the whole truth and nothing but the truth.”

***Affirmation***

“I solemnly affirm that the evidence that I give, will be the truth, the whole truth and nothing but the truth.”

(3) The chairperson or any person designated by him/her must administer the Oath or Affirmation with respect to witnesses.

(4) If the Ad Hoc Committee believes that a person has committed perjury in a hearing before the Committee, the allegation must be referred to the South African Police Service under Section 21 of the Powers, Privileges and Immunities of Legislatures and Provincial Legislatures Act 4 of 2004.

**336. Recess**

The Ad Hoc Committee on Privileges may sit when the House is in recess.

**337. Witness Expense**

Subject to the approval by the Speaker, the Secretary must in terms of the Legislature’s financial policy, reimburse witnesses for travel costs incurred.

**338. Report of the Ad hoc Committee on Privileges**

(1) When the Ad Hoc Committee on Ethics and Members Interests has completed its investigation; it must table a report on its findings for consideration by the House.

(2) If the Ad Hoc Committee on Privileges finds that the Member concerned has committed a breach of privilege or contempt, the report must recommend an appropriate sanction as authorised by Section 12 of the Powers, Privileges and Immunities of Legislatures and Provincial Legislatures Act, 2004.

(3) If the Ad Hoc Committee considers it necessary and not prejudicial to the rights of any party to the matter, it may append submitted evidence to its report.

**339. Decision by the House**

(1) The Ad Hoc Committee’s recommendations to the House are not final and may be amended by the House; but a motion relating to matters not covered by the report or referring the report back to the Ad Hoc Committee may not be moved.

(2) The House may impose only those sanctions authorised by section 9 of the Powers, Privileges and Immunities of Legislatures and Provincial Legislatures Act, 2004.

**ANNEXURE A**

**CODE OF CONDUCT AND ETHICS FOR MEMBERS OF THE NORTH WEST PROVINCIAL LEGISLATURE**

**PART 1**

**1. Definitions**

In this Code of Conduct and Ethics, unless the context otherwise indicates, the following words or phrases mean –

**“Business Partner”** means a person who shares a financial interest with a Member or that Member’s immediate family;

**“Code”** means the Code of Conduct and Ethics for Members of the North West Provincial Legislature.

**“Committee”** means the Ad Hoc Committee of the North West Provincial Legislature.

**“Conflict of Interest”**, means a situation in which a Member contrary to the obligation and duty to act for the benefit of the public exploits the relationship for personal or pecuniary benefit;

**“Constitution”** means the Constitution of the Republic of South Africa of 1996;

**“Constitutional body or office”** means an office or body established in terms of the Republic of South Africa Constitution, as amended.

**“Government”** means the Provincial Government of the North West Province.

**“Immediate Family”** means a Member’s spouse, permanent companion or dependents

**“Integrity Commissioner(s)”** means an Integrity Commissioner(s) appointed in terms of this Code of Conduct and Ethics.

**“Legislature structure”** means anybody or committee established to conduct the business of the Legislature in terms of the laws, Standing Rules, resolutions of the House, or policies that govern the Legislature.

**“Member”** means a Member of the North West Provincial Legislature.

**“Permanent Companion”** means a person who is publicly acknowledged by a Member as that Member’s permanent companion;

**“Public Interest”** means an outcome which affects any right of the public, public finances or the public good;

**“Register”** means the Register of Members’ Interests;

**“Registrable interest”** means interests required to be disclosed in terms of the Code;

**“Spouse”** means a partner in any marriage.

**PART 2**

**2. Preamble**

We, the Members of the North West Provincial Legislature:

**Noting**, that whereas the Constitution of the Republic of South Africa requires that all levels of government promote accountability, responsiveness, transparency and openness;

**Recognising,** that Members of the Legislature are accountable to the electorate and have a duty to maintain public trust in democratic institutions;

**Affirming,** that Members of the Legislature have an obligation to perform their duties with honesty, integrity, and regard to the common good;

**Therefore,** agree, individually and collectively, to abide by the principles, Rules and obligations of this Code of Conduct and Ethics;

**PART 3 – PRINCIPLES**

**3. Principles**

A Member of the North West Provincial Legislature must adhere to the following principles when acting in her/his representative capacity:

(1) **Accountability:** A Member is accountable to the public for her/his decisions and actions.

(2) **Honesty:** A Member must act honestly and in the public interest at all times.

(3) **Integrity:** A Member must avoid placing themselves under any financial or other obligation to any outside individual or organization where this creates a conflict or potential conflict of interest with her/his role as a Member;

(4) **Leadership:** A Member must promote ethical conduct by leadership and example.

(5) **Openness:** A Member must exercise her/his public duties in an open and transparent manner.

(6) **Selflessness:** A Member must take decisions solely in terms of public interest and without regard to personal financial or other material benefits for themselves, their immediate family, their business partners, or their friends;

**PART 4 - ETHICAL CONDUCT**

**4. General obligations**

A Member must, at all times, in the exercise of her/his duties adhere to the principles as set out in Part I of the Code and must, inter alia:

(1) When acting in her/his public representative capacity, not take any decision or influences in order to gain financial or other material benefit for herself/himself, her/his family or her/his friends.

(2) Exercise her/his duties and conduct herself/himself with dignity and integrity appropriate for her/his office;

(3) Not place herself/himself under financial or other obligations to outside individuals or organisations that might improperly influence her/him in the performance of her/his duties;

(4) Make choices on merit in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for reward or benefit;

(5) Declare any private interest relating to her/his official duties;

(6) Declare, in the Members’ Register of Interest all the interests as required in Part IV hereof; and

(7) Take steps to resolve any conflict of interest that may arise in a manner that protects the public interest.

(8) In the performance of their duties and responsibilities, be committed to the eradication of all forms of discrimination.

**5. Declaration of private interests in Committees and Proceedings of the Legislature**

(1) A Member must declare any personal or private financial or business interest that her/his family, a spouse, companion or business partner of that Member may have, in a matter before a Standing Committee or Ad Hoc Committee or Legislature structure in which that Member serves.

(2) A Member must withdraw from the proceedings of that Committee or Legislature structure when a matter referred to in section 5 (1) is considered, unless that Standing Committee or Legislature structure decides that the Members’ interest is immaterial.

**6. Declaration of private interests when making representations**

(1) If a Member makes representations, in her/his capacity as a public representative, to a Member of the Executive Council with regard to a matter in which that Member or her/his family, spouse, companion or business partner has a personal or private financial interest or business interest, the Member must declare that interest to that Member of the Executive Council or organ of state.

**7. Lobbying for reward**

(1) A Member must not lobby for any remuneration or receive any reward, benefit or gift for that Member or for the immediate family of that Member or the business partner of that Member or immediate family of that Member, for making such representation as a Member on behalf of any person or body.

**8. Remunerated employment outside the Legislature**

A Member may only engage in remunerated employment outside the Legislature when such employment is: -

(1) sanctioned by the political party to which the Member belongs; and

(2) compatible with that Members’ function as a public representative.

**9. Prohibited Business Activity**

(1) A Member may not receive any benefit including but not limited to a tender, or a contract with an organ of state;

(2) A Member’s immediate family may not receive any benefit including but not limited to a tender, or a contract with an organ of state arising out of the relationship with the Member or any influence arising out of that relationship;

(3) A Member’s business partner may not receive any benefit including but not limited to a tender or any contract with an organ of state arising out of the association with the Member or any influence arising from that relationship.

**10. Improper exercise of influence**

(1) A Member must not utilise the influence she/he derives from public office to obtain an improper advantage for private entities or persons in their dealings with the provincial government, where this will result in pecuniary gain for such entities or persons.

**11. Refrain from using ‘insider’ information**

(1) A Member must not use non-public information derived from a Legislative structure or information obtained in the course of exercising a public duty to advance a private interest.

**PART 5 – THE OFFICE AND FUNCTION OF THE INTEGRITY COMMISSIONER**

**Appointment, term and remuneration of the Integrity Commissioner**

(1) The Speaker must, through the Accounting Officer, call for nominations of persons from Members of the public to fill the position of Integrity Commissioner.

(2)The person to occupy the position of Integrity Commissioner must be a person of integrity and honesty, possess knowledge of law, public policy, politics and socio-economic issues.

(3)The Speaker, through the Secretary, and after consultation with the Rules Committee may appoint the Integrity Commissioner. The Speaker shall present the appointment of the Integrity Commissioner to the House*.*

(4)The tenure of the Integrity Commissioner ends if he or she

(a) Resigns,

(b) Becomes unfit and improper to perform the functions of office,

(c) Is guilty of misconduct,

(5) If the Integrity Commissioner is unable to perform functions of the office, or is guilty of misconduct, the Speaker may remove the Integrity Commissioner and report to the House.

(6) The Integrity Commissioner may be appointed for a five-year legislative term.

(7) The Integrity Commissioner may not remain in office for more than two legislative terms.

(8) The Integrity Commissioner may be assisted by staff Members, assigned by the Secretary after consultation with the Speaker, for the work of her/his office.

(9) The Speaker may, after consultation with the Secretary, determine the remuneration and conditions of service of the Integrity Commissioner.

1. **Independence and Impartiality**

(1) The Integrity Commissioner must act independently and impartially.

**14. Functions of the Integrity Commissioner**

(1) The Integrity Commissioner(s) may on her/his own accord investigate any alleged violation of the Code of Conduct and Ethics.

(2) Should the Integrity Commissioner(s) find evidence of a violation, she/he must report the facts and conclusions to the Committee established in terms of Rule 269 of the Standing Rules.

(3) The Integrity Commissioner must:

(a) Open and keep a register for the purposes of this Code, called the Register of Members’ Interests;

(b) Record in the Register particulars of Member’s registrable interests;

(c) Amend any entries in the Register when necessary; and

(d) Performs other duties as specified in this Code.

(e) The Integrity Commissioner must submit quarterly and annual reports to the Speaker on functions of her/his office throughout the year.

**15. Advice and Counsel**

(1) A Member may approach the Integrity Commissioner to obtain personal advice and counsel, if the Member suspects that she/he may have committed a violation or for any other advice which may be relevant to the duties of a Member in her/his capacity as a public representative.

(2) All sessions of advice and counsel between the Integrity Commissioner(s) and the Member must be confidential.

(3) The Integrity Commissioner must report to the Speaker the number of times she/he has had advice and counselling sessions over a given time period.

(4) When the Integrity Commissioner(s) during an advice and counselling session realises that a violation has been committed by a Member, the Integrity Commissioner must assist the Member to correct the disclosure.

**PART 6 COMPLAINTS**

**16. Submission of a complaint**

(1) Any Member, or official of the Provincial Government or state organ, or any Member of the public who reasonably believes that a Member of the Legislature has committed a breach of the Code of Conduct and Ethics must submit an affidavit in regard thereto to the Integrity Commissioner.

(2) The Integrity Commissioner may assist any person wishing to report such a violation and who needs assistance.

(3) The Integrity Commissioner may register all complaints received in terms of this section.

(4) The complaint must be in writing and state the complainant’s name and address and also the name of the Member who is the subject of a complaint.

(5) The complaint must set out facts relevant to the conduct complained about.

(6) The complainant must submit supporting evidence, if available, together with the complaint.

(7) Should the Integrity Commissioner find that the requirements of sub Rule (1) have not been met; she/he may reject the complaint and advise the complainant accordingly.

(8) Should there be evidence of a breach of the Code of Conduct by a Member, the Integrity Commissioner may initiate an investigation.

**17. Admissibility of complaints**

(1) The Integrity Commissioner must investigate and determine whether or not a complaint is admissible.

(2) The Integrity Commissioner may only consider complaints based on an alleged breach of the Code.

**INVESTIGATION AND REPORT**

**18. Investigation and report**

(1) The Integrity Commissioner must commence an investigation into the matter after registration of the complaint.

(2)The Member implicated in the violation must make himself or herself accessible to the Integrity Commissioner for the purpose of the investigation.

(3)The Integrity Commissioner has the power to demand documentation from a Member, or from any person involved in the complaint received in terms of 14 (1) above.

(4)The Integrity Commissioner must produce a report that includes detailed recommendations for action in the matter and that report must be submitted to the Speaker. The Speaker may refer the matter to the ad hoc Committee on Ethics and Disclosure for consideration.

(5)The Integrity Commissioner must produce a report of her/his findings, detailing all facts relating to the case after the investigation has been finalized.

(6)The Integrity Commissioner may have the power to request documentation from a Member, an official of the legislature, government or provincial state organ or a Member of the public in order to further her/his investigation.

(7) The Integrity Commissioner may recommend to the Ad hoc Ethics and Members Interest Committee to summon witnesses required in order to further her/his investigation.

(8)If the Integrity Commissioner considers it necessary and not prejudicial to the rights of any party to the matter, she/he may append submitted evidence to her/his report to the Adhoc Ethics and Members Interest Committee.

(9)If the complainant and or the respondent be a Member of the Ad Hoc Ethics and Members Interests Committee, she/he must recuse him/herself from the Committee when considering the report of the Integrity Commissioner.

(10)When the Ad hoc Ethics and Members Interest Committee has completed its consideration of the report,

(a)may adopt the report;

(b) may for good reason reject the report or sections of the report and return the same for further investigation by the Integrity Commissioner;

(11) The Committee must within a reasonable period after the adoption of the Report table the same to the House for adoption and implementation of sanctions.

**19. Rights of an alleged offender**

(1) An alleged offender must be granted a reasonable opportunity to represent her/his own case.

**20. Legal Representation**

(1) The respondent, complainant and witnesses may as appropriate have the right to legal assistance during the hearing at their own expense.

**21. Written submissions**

(1) Alleged offenders, complainants and witnesses must be given the opportunity to submit a written submission to the Ad Hoc Committee.

**22. Evidence**

(1) The Committee may not receive hearsay evidence, that is, the witnesses may testify only to matters that are within their direct and personal knowledge.

**23. Admissibility of evidence**

(1) Evidence must be submitted in terms of the balance of probability

**24. Oath or Affirmation**

(1) Witnesses, including alleged offenders who wish to give evidence, must testify under oath or affirmation.

***Oath***

“I swear that the evidence that I give, will be the truth, the whole truth and nothing but the truth.”

***Affirmation***

“I solemnly that the evidence that I give, will be the truth, the whole truth and nothing but the truth.”

(2) The chairperson or any person designated by him/her must administer the Oath or Affirmation with respect to witnesses.

(3) If the Ad Hoc Committee believes that a person has committed perjury in a hearing before the Committee, the allegation must be referred to the South African Police Service under Section 21 of the Powers, Privileges and Immunities of Legislatures and Provincial Legislatures Act 4 of 2004.

**25. Recess**

(1) The Ad Hoc Committee on Ethics and Members Interests may sit when the House is in recess

**25. Report of the Adhoc Committee on Ethics and Members Interests**

(1) When the Ad Hoc Committee on Ethics and Members Interests has completed its investigation; it must table a report on its findings for consideration by the House.

(2)If the Ad Hoc Committee finds that the Member concerned has committed a breach of the Code of Conduct, the report must recommend an appropriate sanction as the Ad Hoc Committee considers it necessary and not prejudicial to the rights of any party to the matter, it may append submitted evidence to its report.

**26. Decision by the House**

(1) The Ad Hoc Committee’s recommendations to the House are not final and may be amended by the House; but a motion relating to matters not covered by the report or referring the report back to the Ad Hoc Committee may not be moved.

(2) The House may impose only those penalties authorised in terms of Section X of the Code of Conduct.

**27. Breaches of the Code**

A Member breaches this Code if she/he: -

(a) Contravenes or fails to comply with a provision of this Code;

(b) When disclosing registrable interests, wilfully or grossly negligently provides the Integrity Commissioner(s) with incorrect or misleading details.

**28. Penalties**

(1) The Committee must recommend the imposition of one or more of the following penalties where it has found that a Member has breached a provision of this Code: -

(a) A reprimand;

(b) A fine not exceeding the value of 30 days’ salary;

(c) A reduction of salary or allowance for a period not exceeding 15 days; or

(d) The suspension of privileges or a Member’s right to a seat in the Legislature’s debates or Committees for a period not exceeding 15 days.

(e) In event of a breach considered minor the Member should rectify the breach and be counselled on the requirements of the Code.

**PART 7 – DISCLOSURE OF REGISTRABLE INTERESTS**

**29. Disclosure of registrable interests**

1. A Member must disclose to the Integrity Commissioner on the form prescribed for this purpose by the Speaker, particulars of all her/his registrable interests.
2. The first disclosure must be within 60 days of adoption of the Code of Conduct and Ethics.
3. Thereafter, the disclosure must be within 30 days after the opening of the Legislature or appointment of the Member. If a Member has no registrable interests she/he must indicate this in the form for the disclosure of financial interests to the Integrity Commissioner.

**30. Establishment of a Register of Members’ Interests**

(1) The Integrity Commissioner must establish a Register of Members Interests divided into public and confidential sections.

(2) A Member must disclose to the Integrity Commissioner, on the form prescribed for this purpose by the Speaker, particulars of all their registrable interests.

**31. Confidential Disclosure**

1. The Integrity Commissioner must record all details of registrable interests in the public section of the Register of Members’ Interest, except the following which must be recorded in the confidential section:
2. The value of the financial interests in a corporate entity other than a private or public company.
3. The amount of any remuneration for any employment outside the Legislature.
4. The amount of any remuneration for any directorship or partnership.
5. Details of foreign travel when the nature of the visit requires those details to be confidential.
6. Details of private residences.
7. The value of any pensions.
8. Details of all financial interests of a Member’s spouse or permanent companion, dependent child to the extent that the Member is aware of.
9. Value of Public contracts
10. Values in trusts
11. Details of encumbrances
12. Where any doubt exists as to whether any financial interests must be disclosed, the Member concerned may seek advice from the Integrity Commissioner.
13. Only the Committee, the Integrity Commissioner and her/his staff may have access to the confidential part of the Register of Members’ Interests.

**32. Disclosure of the Register of Members’ Interests**

1. Members of the public may have access to the public part of the Register on working days and at times prescribed by the Speaker.
2. The Integrity Commissioner must publish the public section of the Register during April of each year in a manner prescribed by the Speaker.
3. The Committee, the Integrity Commissioner and support staff must not disclose information that is in the confidential section of the Register to anyone, unless otherwise directed by a Court order.
4. A Member who contravenes section 18 (3) is in breach of the Code and may be ineligible to continue as Member of the Committee.
5. A staff Member who contravenes section 18 (3) is in breach of the Code and must be disciplined by the Provincial Secretary or a person delegated by him or her.
6. No person may gain access to the confidential part of the Register, except through a court order.

**33. Registrable Financial Interests**

Members must register the following financial interests in the Register of Members’ Interests:

(1) **Shareholdings and financial interests in companies and other corporate entities**

(a) The number, nature and nominal value of shares of any type in any public or private company;

(b) The name of that company; and

(c) The nature and value of any other financial interests held in a private or public company or any corporate entity.

(2) **Ownership of land or property**

(a) A description and extent of land or property;

(b) Area in which it is situated;

(c) The nature of the interest;

(d) Properties outside the Republic of South Africa.

(3) **Pension**

(a) The source of the pension; and

(b) The value of the pension.

(4) **Any other benefit or of material nature**

(a) The nature and source of any other benefit of a material nature;

(b) The value of that benefit;

(5) **Employment outside the Legislature**

(a) The type of employment;

(b) The name, and type of business activity, of the employer; and

(c) The amount of remuneration received for such employment.

(6) **Consultancies**

(a) The nature of the consultancy or any retainer of any kind;

(b) The name, and type of business activity, of the client concerned; and

(c) The amount of any remuneration or other benefits received for such a consultancy or retainer.

(7) **Directorship and partnerships**

(a) The name and type of business activity, of the corporate entity or partnership;

(b) The amount of any remuneration received for such directorship or partnership.

(8) **Sponsorship**

(a) The source and description of direct financial sponsorship or assistance from non-party sources; and

(b) The value of the sponsorship or assistance.

(9) **Gifts and hospitality received by a Member as a public representative from a source other than a family Member or permanent companion**

(a) A description, value, and source of a gift with a value in excess of R 1500.00 and or gifts from a single source which cumulatively exceed the value of R 1500.00 in any calendar year; and

(b) Hospitality intended as a gift of any kind.

(10) **Travel** (other than personal visits paid for by the Member, business visits unrelated to the Member’s role as a public representative and official and formal visits paid for by the state or the Member’s party).

(a) A brief description of the journey abroad; and

(b) Particulars of the sponsor.

(11) **Public contract**

(a) the organ of state from which the contract was obtained;

(b)the value and period of the contract;

(c)the nature of the contract; and

(d)where a pre-existing contract prevails, disclose the terms and details of the contract.

(12) **Trusts**

(a) details of the trust;

(b) details all benefits accruing from the trust; and

(c) all other direct and indirect benefits received from a trust.

(13) **Encumbrances**

(a) details of long term loans; and

(b) registered mortgage bonds against any property of any Member.