



**PETITIONING PARLIAMENT IN
TERMS OF THE
RULES OF THE NATIONAL
ASSEMBLY**

1. What is a petition?

A petition is a formal request by an individual or group, calling for Parliament's intervention to address an injustice. It can call for assistance with a specific issue or for the redress of a grievance. The act of petitioning Parliament should be a last resort. A petitioner should exhaust all possible remedies authorised by law before approaching Parliament.¹

2. What does the Constitution say?

Section 17 of the Constitution of the RSA, 1996² recognizes the right to petition as a fundamental right. The Constitution therefore protects the right of every person to make direct submissions to Parliament. Section 56(d) of the Constitution in turn provides that "the National Assembly, or any of its committees, may receive petitions, representations or submissions".

3. What do the Rules of the National Assembly say?

Rules 309 to 315 of the Rules of the National Assembly make provision for petitions to be lodged by a Member of Parliament on behalf of an individual or group in a prescribed form and referred by the Speaker to the relevant committee.

3.1. What are the format and content requirements for a petition?

The following *format requirement* should be adhered to when submitting a petition –

- it must be in one of the official languages;
- it must be signed by the petitioner(s) personally, unless the Speaker decides otherwise; and
- it must not contain improper or disrespectful language.

Certain *content requirements* should also be adhered to when submitting a petition. A petition must –

- include the name(s) and contact detail(s) of the petitioner(s);
- indicate to whom the petition is addressed;
- indicate the subject of the petition / nature of the request being made;
- include clear motivation for the petition; and
- indicate the nature of the relief or assistance requested from Parliament.

¹ The facts and circumstances unique to every petition and petitioner will inform the possible remedies available to the petitioner. Therefore, the possible remedies available to one petition may not be the same available to another, as the remedies will also be informed by the type of relief sought by a petitioner.

² Hereinafter referred to as 'the Constitution'.

4. What are the different forms of petitions?

There are two forms of petitions, namely general and special.

4.1. General Petitions

A group of citizens with similar interests can request general relief or redress of a grievance from Parliament, by submitting a general petition, also referred to as a public petition. The Office of the Speaker reviews the content of the petition and determines whether the action called for would require an issue to be addressed on a general scale by a specific department. If this is the case, the Speaker of the National Assembly refers the general petitions to the relevant portfolio committee, as the grievance is usually directed at some act or omission by a department over which a specific portfolio committee has oversight. The consideration of and report on general petitions therefore falls within the oversight mandate of the relevant portfolio committee.

For example:

A 65-member group of Western Cape Province Land Restitution Claimants petition the Speaker of Parliament. The petitioners argue that the procedures introduced to redress forced removals that devastated communities during the apartheid-era were not sufficient, as no understanding of the human atrocities associated therewith was included in the TRC processes and the ambitious conciliation process that the victims were forced to follow lacked effective implementation. As expropriation is a human violation, the petitioners submit that the consistent failure of officials to effectively administer the restitution process has enforced the recollection of this emotional trauma to resurface on countless occasions. The petitioners appeal for the application of the administrative responsibility of Parliament to intervene in the failure of the Regional and National Land Claims Department. The petitioners specifically request

- an immediate interdict on all development where restitution claims were lodged;*
- the establishment of an impartial judicial commission of enquiry and the immediate removal of the Regional Land Claims Commissioner;*
- an investigation into the unresolved claims, a review of all agreements; and*
- aggressive resolution to the restoration delays.*

As land claim matters fall within the purview of the Department of Rural Development and Land Reform, it is appropriate for the Speaker of Parliament to refer the petition to the Portfolio Committee on Rural Development and Land Reform.

4.2. Special Petitions

The Committee on Private Members' Legislative Proposals and Special Petitions (upon referral by the Speaker of the National Assembly) is tasked to consider and report on special petitions. The Rules of the National Assembly define a special petition as "a petition requesting a pension or other specific or

personal relief from the State which is not authorized by law". Relief relating to State pension is the most common form of special petition.³

For example:

A widow of a state advocate receives a diminished pension as her late husband had an interruption in his service record. The interruption is less than one year, as he worked for the Department of Justice and Constitutional Development for eleven years, broke service for 9 months to pursue a postgraduate degree, and thereafter returned to the department. In total, he served the department for almost twenty years. The widow can petition Parliament for a condonation of the break in service so that she can benefit from a pension payment as if her late husband had twenty years of uninterrupted service.

The "other specific or personal relief" refers to relief which would similarly impact on State-spending, for example social grants. These will be instances where the personal circumstances of an individual (not a group) prevent him or her from making use of a specific State-support option (the requirements and guidelines which are usually stipulated in legislation or regulations), in such a manner that it cannot be remedied by any other legal means.

4.2.1 What is the Role of the Committee on Private Members' Legislative Proposals and Special Petitions?

The committee considers the merits of a special petition. If the petitioner's request is favourably received the committee will report to the National Assembly that assistance should be granted to the petitioner by the relevant government department, usually the National Treasury, by means of the enactment of specific legislation.⁴

5. What is the role of the Members of Parliament in their constituencies?

The National Assembly requires that a petition be formally presented by a Member of Parliament, for consideration. Therefore a petitioner should approach a Member of Parliament in his or her constituency for assistance. The member must determine whether all relevant legal avenues or departmental procedures have been exhausted by the petitioner before advising on the option to submit a general or special petition to Parliament. The member should assist the petitioner(s) with the format and content of the petition. The member must lodge the petition with the Secretary to Parliament who will submit the petition to the Speaker of the National Assembly for approval.

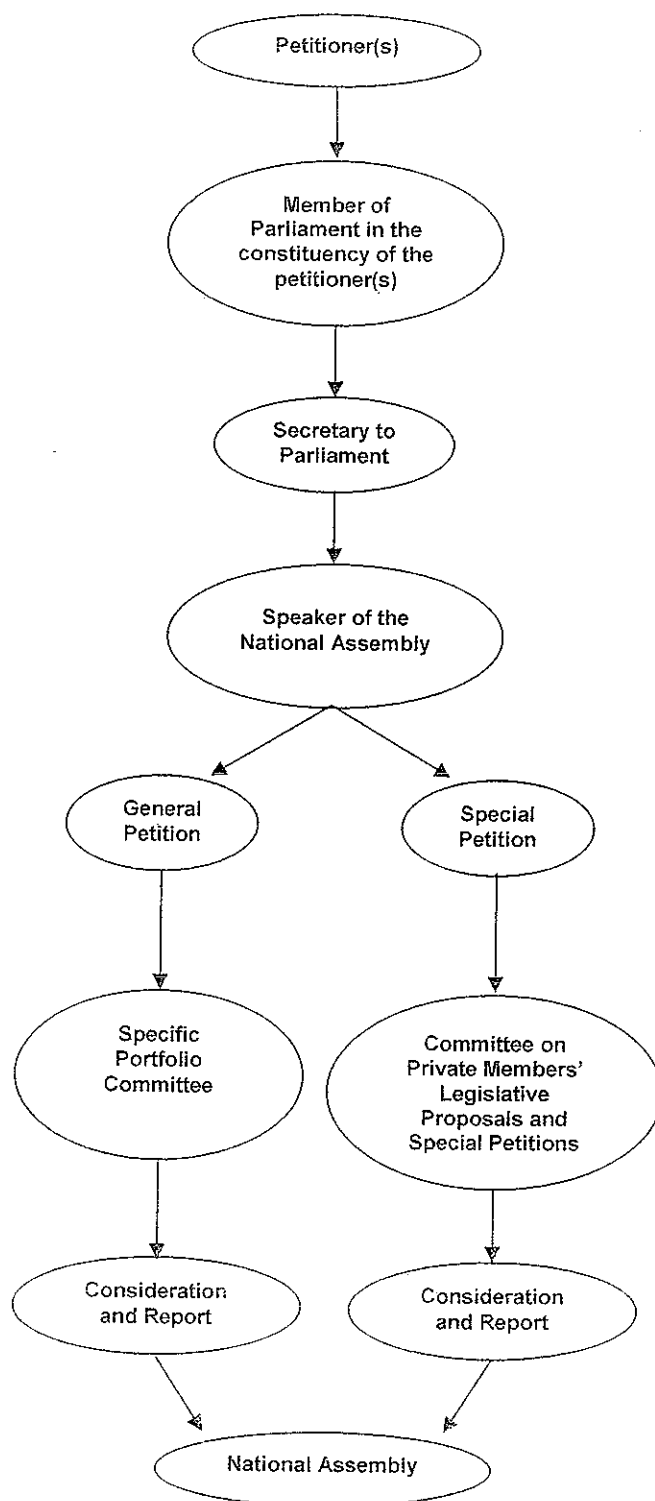
6. What is the role of the Speaker of the National Assembly?

On receipt of a petition from the Secretary to Parliament, the Speaker of the National Assembly determines whether the petition is of a special or general nature and, if approved, tables it in the National Assembly and refers it to the relevant Assembly committee for consideration and report.

³ Special petitions are therefore usually submitted by retired public servants.

⁴ During its consideration of the merits of a special petition, the committee will liaise with the National Treasury and any other relevant department.

7. Schematic Outline of Petition Referral Process



For further information please contact:

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