

# Parliamentary Petitions Procedures

National Assembly & National Council of Provinces

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# Background

- Participatory democracy is established at the outset of the Constitution in chapter 1. The founding provisions state that our democracy is founded on values ensuring accountability, responsiveness and openness.
- Petitions are manner in which civil society is enabled through the Constitution to engage with Parliament as a means of enhancing the public participation process.
- Petitions are formal requests to an authority to take action either by making a demand or requesting redress of a grievance.
- Petitions are a public participation tool which ought to facilitates public involvement in the legislative process.

# Background

- The two parliamentary committees dealing with petitions which have a legislative proposal component to their composition and mandate.
- Section 57 of the Constitution directs the National Assembly (NA) to have rules concerning its business with due regard to participatory democracy and public involvement.
- Section 59 of the Constitution provides that the NA must facilitate public involvement in the legislative process.
- Section 72 of the Constitution imposes similar duties on the National Council Of Provinces.

# Introduction

- Submission of petitions to Parliament is one of the methods of public involvement in realising the Constitutional provisions.
- The NA and NCOP may receive petitions from any interested person(s) or institutions in terms of section 17 of the Constitution.
- The Constitution therefore stipulates that the NA and NCOP may receive petitions, however each House of Parliament has rules governing the procedure for the considerations petitions.

# Petitions in Parliament

- Parliamentary rules define, make provision and differentiate between two types of petitions, namely special petitions (considered by the NA) and general petitions (considered by the NCOP).
- **What is a petition:**
  - 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 the last resort. A petitioner should exhaust all possible remedies authorised by law before approaching Parliament.
- **A special petition:**
  - is from an individual requesting for specific relief, in the form of a pension, for services rendered by the State for which there is no legislation providing guidance.
- **A general petition:**
  - is from an individual or group of people requiring relief of a general nature.

# Formal Requirements of a Petitions in terms of the NA and NCOP Rules

- Parliamentary petitions must be in the form prescribed by the Speaker of the NA in accordance with guidelines determined by the Rules Committee or the Chairperson of the NCOP in accordance with guidelines determined by the Subcommittee on Review of Rules: -
  - be in one of the official languages;
  - be signed by the petitioners, unless the Speaker or the Chairperson of the NCOP decides otherwise. If a person is unable to write they must make their mark on the petition in the presence of two witnesses, who must sign the petition in that capacity.
  - not contain improper or disrespectful language.

# Formal Requirements of a Petitions in terms of the NA and NCOP Rules

- **Other requirements include that the petition must:**
  - Include the name(s) and contact details of the petitioner(s);
  - Indicate to whom the petition is addressed;
  - Indicate subject of the petition / nature of the request being made;
  - Include a clear motivation for the petition ; and
  - must indicate the nature of the relief asked and which Parliament is able to grant in terms of its authority.

# Procedure of Lodging a Petition

## 5.1 National Assembly

- A special petition must be formally presented to Parliament by a member of the public approaching their constituency Member of Parliament (MP) within their community.
- In terms of the NA Rules, a petitioner is responsible for finding an MP to support and present a petition to Parliament
- The MP approached by the petitioner must lodge the petition to the Secretary to Parliament who will review whether the petition documentations meets the formal requirements for a period of 1 day.
- Upon satisfaction of the formal requirements the Secretary submits the petition to the Speaker of the NA for approval before it is tabled in the NA.
- **Once tabled the Speaker must:**
  - Refer a special petition to the Committee on Private Members' Legislative Proposals and Special Petitions; or
  - Refer a general petition to the relevant Portfolio Committee on an appropriate committee.

# Procedure of Lodging a Petition

## 5.1 National Assembly

- After tabling a petition in the Assembly, the Speaker must: -
  - (a) If it's a special petition, refer the petition to the Committee on Private Member's Legislative Proposals and Special Petitions; or
  - (b) If it is a petition of a general nature, refer the petition to the relevant portfolio committee or other appropriate committee.
- Should the relevant committee finds merit in the petitions, it may recommend that a bill be introduced granting relief.
- Where referred to a relevant committee, the NA will consider the report emanating from this committee before taking a decision.
- Ultimately the Committee on Private Members' Legislative Proposals and Special Petitions must consider and make recommendations to the Assembly on all special petitions referred to it by the Speaker in terms of Rule 315.

# Procedure of Lodging a Petition

## 5.2 National Council of Provinces

- Petition of a general nature are dealt with by the NCOP, such petitions must also be deposited with the Secretary to Parliament for at least one day, who must submit it to the Chairperson of the NCOP for approval before it is tabled in the Council in terms of NCOP Rule 232.
- The Rules are silent on who can lodge a petition in the Council, if the petition has satisfied the formal requirements of a petition, it is tabled in the Council in terms of Rule 233.
- After tabling a petition in the Council, the Chairperson of the Council must refer the petition to the Select Committee on Petitions and Members Legislative Proposals in terms of Rule 234.
- This Committee may refer the subject matter of the petition to the Executive or a particular department or other administrative agency for further attention, subject to the approval of the Chairperson in terms of Rule 235(1).
- A committee considering a petition is empowered by Rule 235(2) to recommend to the NCOP any course of action it deems fit and proper. The committee is obliged to inform a petitioner of the decision or other courses of action regarding the petition together with reasons in terms of Rules 236.

# conclusion

- Unlike provisional legislatures in the provinces Parliament does not have an Act detailing the procedures, turn around times and punitive provisions in relation to petitions as is currently practiced by provincial legislatures in this regard.
- The current NA Rules place an onus on a member of the public to find an MP to support and present their petition to Parliament.
- No provisions are made to assist members of the public living in under resourced rural areas assisting with utilisation of this public participation tool.
- The current parliamentary rules pertaining to petitions have not been adapted to Constitutional requirement relating to public participation. There needs to be guidelines regarding relief that can be recommended in response to a petition.
- The Rules should stipulate timeframes for dealing with petitions in respect of eliciting response from government departments, other bodies and informing the petitioner of the progress in the matter.
- The current Parliamentary Rules do not have punitive measures in place to address non-complying bodies.