

**PARLIAMENT**  
OF THE  
**REPUBLIC OF SOUTH AFRICA**

---

---

**ANNOUNCEMENTS,  
TABLINGS AND  
COMMITTEE REPORTS**

---

---

TUESDAY, 11 SEPTEMBER 2018

---

---

**TABLE OF CONTENTS**

**ANNOUNCEMENTS**

**National Assembly and National Council of Provinces**

1. Classification of Bills by JTM..... 2

**National Assembly**

1. Bill remitted..... 2  
2. Appointment of non-executive member and chairperson of  
MDDA board..... 2  
3. Correspondence on pension benefits of former President..... 3  
4. Referral to Committees of papers tabled..... 3

**National Council of Provinces**

1. Transmission of Bills for concurrence..... 5

**TABLINGS**

**National Assembly and National Council of Provinces**

1. Minister of International Relations and Cooperation ..... 6  
2. Minister of Small Business Development ..... 6

**National Assembly**

1. Speaker ..... 6

**COMMITTEE REPORTS****National Assembly**

1. Trade and Industry ..... 7
2. Rules Committee ..... 9

**National Council of Provinces**

1. Cooperative Governance and Traditional Affairs ..... 14

**ANNOUNCEMENTS****National Assembly and National Council of Provinces****The Speaker and the Chairperson****1. Classification of Bills by Joint Tagging Mechanism (JTM)**

- (1) The JTM in terms of Joint Rule 160(6) classified the following Bill as a section 75 Bill:
  - (a) **South African Reserve Bank Amendment Bill** [B 26 – 2018] (National Assembly – sec 75).

**National Assembly****The Speaker****1. Bill remitted**

- (a) The **National Environmental Management Laws Amendment Bill** [B 14B - 2017] (National Assembly - sec 76) was referred back to the Portfolio Committee on Environmental Affairs on 11 September 2018.

**2. Appointment of non-executive member and chairperson of MDDA board**

- (a) A letter dated 5 September 2018 has been received from the Minister of Communications, informing members of the Assembly that in terms of section 4(2) of the Media Development and Diversity Agency Act, 2002 (No 14 of 2002), Mr Norman Ndivhuho Munzhelele has been appointed for a

period of five years, with effect from 20 July 2018, as a non-executive member and Chairperson of the Board of the Media Development and Diversity Agency (MDDA), replacing Adv Musa Shishange, a representative of the commercial print media.

Referred to the **Portfolio Committee on Communications**.

**3. Correspondence on intention to publish recommendations regarding pension benefits of former President J G Zuma in Government Gazette**

- (a) A letter dated 7 September 2018 has been received from Judge C J Musi, Chairperson of the Independent Commission for the Remuneration of Public Office Bearers, informing members of the Assembly that the Commission intends to publish its recommendations regarding pension benefits of former President J G Zuma in the Government Gazette, as forwarded to the Assembly on 22 August 2018.

**4. Referral to Committees of papers tabled**

- (1) The following papers are referred to the **Portfolio Committee on Energy for** consideration and report:
  - (a) Amendment to the Convention on the Physical Protection of Nuclear Material, tabled in terms of section 231(2) of the Constitution, 1996.
  - (b) Explanatory Memorandum to the Amendment to the Convention on the Physical Protection of Nuclear Material.
- (2) The following papers are referred to the **Standing Committee on Finance** for consideration and report. The Report of the Auditor-General on the Financial Statements and Performance Information is referred to the **Standing Committee on Public Accounts** for consideration:
  - (a) Report and Financial Statements of the Independent Regulatory Board for Auditors for 2017-18, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2017-18 [RP 331-2018].

- (3) The following paper is referred to the **Standing Committee on Finance**:
- (a) Draft Prudential Standard providing for transitional arrangements for co-operative financial institutions made under section 46(1) read with section 44 (4) (b) of Co-operative Banks Act, 2007 and Sections 100, 103, 106 and 108 of Financial Sector Regulations Act, 2017.
- (4) The following papers are referred to the **Portfolio Committee on Small Business Development** for consideration and report. The Report of the Auditor-General on the Financial Statements and Performance Information is referred to the **Standing Committee on Public Accounts** for consideration:
- (a) Report and Financial Statements of the Small Enterprise Development Agency (SEDA) for 2017-18, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2017-18 [RP 368-2018].
- (5) The following papers are referred to the **Portfolio Committee on Transport** for consideration and report. The Report of the Auditor-General on the Financial Statements and Performance Information is referred to the **Standing Committee on Public Accounts** for consideration:
- (a) Report and Financial Statements of the Passenger Rail Agency of South Africa (PRASA) for 2016-17, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2016-17.
- (6) The following papers are referred to the **Portfolio Committee on Labour** for consideration and report. The Reports of the Auditor-General and Independent Auditors on the Financial Statements and Performance Information are referred to the **Standing Committee on Public Accounts** for consideration:
- (a) Report and Financial Statements of Vote 28 – Department of Labour for 2017-18, including the Report of the Auditor-General on the Financial Statements and Performance Information of Vote 28 for 2017-18 [RP 305-2018].
  - (b) Report and Financial Statements of the Commission for Conciliation, Mediation and Arbitration (CCMA) for 2017-18, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2017-18 [RP 252-2018].

- (c) Report and Financial Statements of the Compensation Fund for 2017-18, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2017-18.
  - (d) Report and Financial Statements of the Unemployment Insurance Fund (UIF) for 2017-18, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2017-18 [RP 285-2018].
  - (e) Report and Financial Statements of Productivity South Africa for 2017-18, including the Report of the Independent Auditors on the Financial Statements and Performance Information for 2017-18 [RP 348-2018].
- (7) The following papers are referred to the **Portfolio Committee on Trade and Industry** for consideration and report. Report of the Independent Auditors on the Financial Statements and Performance Information is referred to the **Standing Committee on Public Accounts** for consideration:
- (a) Report and Financial Statements of Export Credit Insurance Corporation of South Africa (ECIC) SOC Ltd for 2017-18, including the Report of the Independent Auditors on the Financial Statements and Performance Information for 2017-18 [RP 339-2018].

## **National Council of Provinces**

### **The Chairperson**

#### **1. Message from National Assembly to National Council of Provinces in respect of Bills passed by Assembly and transmitted to Council**

- (1) Bill passed by National Assembly and transmitted for concurrence on 11 September 2018:
  - (a) **Defence Amendment Bill** [B 18 - 2017] (National Assembly – sec 75).

The Bill has been referred to the **Select Committee on Security and Justice** of the National Council of Provinces.

---

## TABLINGS

### National Assembly and National Council of Provinces

#### 1. The Minister of International Relations and Cooperation

- (a) Treaty on the Prohibition of Nuclear Weapons, tabled in terms of section 231(2) of the Constitution, 1996.
- (b) Explanatory Memorandum to the Treaty on the Prohibition of Nuclear Weapons.

#### 2. The Minister of Small Business Development

- (a) Report and Financial Statements of the Small Enterprise Finance Agency (SEFA) for 2017-18, including the Report of the Independent Auditors on the Financial Statements and Performance Information for 2017-18.

### National Assembly

#### 1. The Speaker

- (a) A letter dated 31 August 2018 has been received from the Minister of Police, withdrawing the remuneration scales of the National Head, Deputy National Head and Provincial Heads of the Directorate for Priority Crime Investigation (DPCI), made in terms of section 17 CA (8) and (9) of the South African Police Service Act, 1995 (Act No. 68 of 1995), as tabled by the former Minister of Police, Mr N P T Nhleko, in a letter dated 31 August 2016; in order to make a fresh determination of the said remuneration scales and resubmit to Parliament for approval.

Referred to the **Portfolio Committee on Police** for consideration.

---

## COMMITTEE REPORTS

### National Assembly

#### **1. Report of the Portfolio Committee on Trade and Industry and the Standing Committee on Finance on the Review of the 2002 Southern African Customs Union (SACU) Agreement, dated 11 September 2018**

The Portfolio Committee on Trade and Industry and Standing Committee on Finance, having considered the subject of the Review of the 2002 Southern African Customs Union (SACU) Agreement, and having been briefed by the Ministers of Trade and Industry and of Finance thereon, report as follows:

The Committees note that the 2002 SACU Agreement is currently undergoing a review. SACU needs to be transformed to implement a developmental integration approach that seeks to promote industrialisation and economic diversification of SACU economies. The Committees therefore resolve that the Ministers of Trade and Industry and of Finance should undertake the following during their engagements with SACU:

1. Emphasise the importance of the developmental integration approach that combines market integration with industrial and infrastructure development so as to move SACU towards a sustainable developmental trajectory.
2. Advance the position that the architecture entailed in the 2002 SACU Agreement on tariff setting be reviewed to find a more suitable decision-making mechanism for tariff setting.
3. Advocate for the need to preserve tariffs as instruments for industrial development, and ensure an efficient tariff setting mechanism that is responsive to current global developments on trade.

4. Advocate for the review of the revenue sharing formula to take into consideration the current economic environment and the future of SACU, including provision for the establishment of a financing mechanism for cross-border projects.
5. Ensure that the tariff setting mechanism is adjusted on the basis of discussions in the revenue sharing arrangement.
6. Promote efficient cross-border movement of goods especially for agricultural products across SACU.

### **RECOMMENDATION**

The Committees recommend that the National Assembly approve the said resolution.

Report to be considered.

**REPORT OF THE NATIONAL ASSEMBLY RULES COMMITTEE  
PROCEDURES TO GIVE EFFECT TO SECTION 89 OF THE CONSTITUTION**

**28 AUGUST 2018**

---

**A. INTRODUCTION**

On 29 December 2017, the Constitutional Court, in its Judgment on the matter of *The Economic Freedom Fighters vs the Speaker and others (CT 76/17)*, (the Judgment) ruled that the National Assembly must put in place procedures to give effect to Section 89 of the Constitution (Removal of President).

Following the Judgment, the National Assembly Rules Committee (the Committee) duly met to consider the matter and initiate a process to finalize the procedures in question. This included soliciting a legal opinion from senior counsel, which served to guide deliberations. On 28 August 2018, the Committee agreed to the proposed rules, with the addition of a clause reinforcing the independence and impartiality of the Panel established to conduct preliminary enquiries on Section 89 motions. With this addition, the Committee recommends that the Assembly adopt the Rules.

**B. DRAFT RULE TO REMOVE A PRESIDENT FROM OFFICE IN TERMS OF  
SECTION 89 OF THE CONSTITUTION**

**Definitions**

For the purpose of a section 89(1) enquiry in terms of these rules –

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

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

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

“Section 89” means Section 89 of the Constitution, 1996.

“a section 89 enquiry” means an enquiry initiated by the Assembly to remove the President in terms of section 89 of the Constitution and this rule.

### **Part 3: Procedures to give effect to Section 89 of the Constitution**

#### **Initiation of Section 89 enquiry**

##### **129A. Initiation of Section 89 enquiry**

- (1) Any member of the Assembly may, by way of a substantive notice of motion in terms of Rule 124(6), initiate proceedings for a Section 89 enquiry, provided that –
  - (a) the motion must be limited to a clearly formulated and substantiated charge on the grounds specified in Section 89, which must *prima facie* show that the President:
    - (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 President in person; and
  - (d) the motion is consistent with the Constitution, the law and these rules.
- (2) For purposes of proceedings to remove the President in terms of Section 89(1)(c), the term “charge” must be understood as the grounds for averring the President’s removal from office.

##### **129B Compliance with criteria**

Once a member has given notice of a motion to initiate proceedings in a Section 89 enquiry the Speaker may consult the member to ensure the motion is compliant with the criteria set out in Rule 129A.

##### **129C 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 89 matters.
- (2) The Speaker must inform the Assembly and the President of such referral without delay.

## **Independent panel to conduct preliminary inquiry into Section 89 enquiry**

### **129D Establishment**

The Assembly must, if and when required, establish an independent panel to conduct any preliminary inquiry on a motion initiated in a Section 89 enquiry.

### **129E 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 National Assembly 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.

### **129F Chairperson**

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

### **129G Functions and Powers**

- (1) The panel –
  - (a) 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;
  - (b) must consider any preliminary enquiry relating to a motion proposing a Section 89 enquiry, referred to it by the Speaker, and must make a recommendation to the Speaker, within 30 days, whether sufficient evidence exists to show that the President:
    - (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; and
  - (c) in considering the matter –
    - (i) may, in its sole discretion, afford any member an opportunity to place relevant written or recorded information before it within a specific timeframe;
    - (ii) must provide the President immediately with copies of all information available to the panel relating to the inquiry;
    - (iii) must provide the President with a reasonable opportunity to respond, in writing, to all relevant allegations against him or her;

- (iv) 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
  - (v) 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.

**129H Quorum**

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

**129I Consideration and referral of panel report**

- (1) Once the panel has reported the Speaker must schedule the report for consideration by the Assembly, with due urgency, given the programme of the Assembly.
- (2) The President must be informed of the scheduling and any decision on the report.
- (3) In the event the Assembly resolves that a Section 89(1) enquiry be proceeded with, the matter must be referred to the Impeachment Committee established by this rule for that purpose.

**Impeachment committee for Section 89 Enquiry****129J Establishment**

There is an Impeachment Committee to consider motions in terms of a Section 89 enquiry, referred to it in terms of Rule 129I(3) above.

**129K Composition and appointment**

- (1) The committee consists of the number of Assembly members that the Speaker may determine, subject to the provisions of Rule 154, provided that all parties in the Assembly must be represented.
- (2) Notwithstanding Rule 155(2), the members of the committee must be appointed as and when necessary.

**129L Chairperson**

The Committee must elect one of its members as Chairperson.

**129M Functions and powers of committee**

- (1) The committee must when the Assembly has approved the recommendation from the Panel to proceed with a Section 89 Enquiry, proceed to establish the veracity and, where required, the seriousness of the charges and report to the Assembly 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 President the right to be heard in his or her own defence and to be assisted by a legal practitioner or other expert of his or her choice.
- (4) For the purposes of performing its functions, the committee has all the powers applicable to Parliamentary committees as provided for in the Constitution, applicable law and the Rules of the Assembly.

**129N Decisions**

A question before the committee is decided when a quorum in terms of Rule 162(2) 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.

**129O Consideration of report**

- (1) Once the committee has concluded the enquiry, it must report to the Assembly 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 Assembly, with due urgency, given the programme of the Assembly.
- (4) If the report recommends that the President be removed from office, the question must be put to the Assembly 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 Assembly, the President is thereby removed from office with immediate effect.

**General**

**129P Recommendations are not binding**

- (1) The Assembly 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 Assembly, including on any decision the Assembly intends to make in terms of this Rule.

**129Q Benefits of the President**

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

Report to be considered.

**National Council of Provinces****1. REPORT OF THE SELECT COMMITTEE ON CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS INSPECTION IN LOCO ON NOTICE OF INTERVENTION, ISSUED IN TERMS OF SECTION 139(1)(B) OF THE CONSTITUTION (1996), IN DR NKOSAZANA DLAMINI-ZUMA LOCAL MUNICIPALITY, DATED 11 SEPTEMBER 2018****1. Background and Overview**

- 1.1 The Select Committee on Co-operative Governance and Traditional Affairs, having considered the request by the National Council of Provinces (NCOP), to consider and report on the intervention notice invoked in Dr Nkosazana Dlamini-Zuma Local Municipality in terms of section 139(1)(b) of the Constitution, the Select Committee reports as follows:
- 1.2 In terms of NCOP Rule 101, the Office of the Chairperson of the NCOP referred the notice of intervention by the KwaZulu-Natal MEC for Cooperative Governance and Traditional Affairs (CoGTA), to the Select Committee for consideration and reporting. On 7 September 2018, the Select Committee conducted a loco inspection in Dr Nkosazana Dlamini-Zuma Local Municipality.

**2. Objective of the Loco Inspection in Dr Nkosazana Dlamini-Zuma Local Municipality**

- 2.1 The main objective was to interact with the internal and external stakeholders of the Municipality in order to solicit their opinions on the constitutional, procedural and substantive matters related to the invocation of section 139(1)(b) of the Constitution.

**3. Composition of the Delegation**

- 3.1 The Select Committee's delegation was composed of the following Members of Parliament and Officials: Hon J Mthethwa (ANC) KwaZulu-Natal; Hon T Mateme (ANC) Limpopo; Hon M Chetty (DA) KwaZulu-Natal; Mr TM Manele (Committee Secretary: Committee Section); Mr N Mfuku (Content Adviser: Committee Section); Mr M Mbebe (Procedural Officer: NCOP) and Mr P Bongco (Intern: Committee Section).

**4. General Overview of the Loco Inspection at Dr Nkosazana Dlamini-Zuma Local Municipality**

- 4.1 On 17 August 2017, the delegation of the Select Committee interacted with senior officials of the Department of CoGTA, representatives of the African National Congress (ANC), Democratic Alliance (DA), Economic Freedom Fighters (EFF); Inkatha Freedom Party (IFP), the South African Municipal Workers Union (SAMWU), Farmers Association, Youth Formation, Women Forum and the Business Chamber.
- 4.2 The departmental official made a presentation on the constitutional, procedural and substantive reasons for the intervention. The representatives of the political parties and Organised Labour, shared their opinions with regard to the intervention as tabled by the MEC for CoGTA.

**5. Presentation by Department of CoGTA**

- 5.1 A presentation on the status of intervention in the Municipality was made by the senior departmental official. The presentation focused on the background; procedural matters. substantive reasons for the intervention, support provided by the department, resolutions of the Provincial Executive Council (PEC), including the terms of reference and support measures implemented to date.
- 5.2 The Department reported that the Municipality experienced serious and persistent governance and institutional challenges, which appeared to have been caused, particularly, by disagreements within the Municipal Council around the filling of the position of the Municipal Manager. The employment contract of the Municipal Manager at the Municipality expired by operation of the law in August 2017. The Municipal Council subsequently resolved to appoint him on an acting basis for a period of three months. The period expired on 31 December 2017, before the municipality could complete the appointment process.
- 5.3 The Municipal Council had the option of requesting the MEC to extend the period by another three months in terms of section 54A of the Systems Act, however, they opted to request for secondment in terms of section 54A(6) of the Act. The Municipal Council was specific in its secondment request that it should be for one month only, namely January 2018. The assumption was that the appointment process would have been completed by the end of January 2018.
- 5.4 The selection panel undertook the process as prescribed in the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers (2014), and presented its recommendations to the Municipal Council on various occasions without success. In an effort to guide the Municipal Council on the correct legislative framework with regard to the recruitment of a

Municipal Manager, the Head of Department of CoGTA, directed that a senior official attend various Municipal Council meetings to provide technical advice on this matter.

- 5.5 The Municipal Council appeared to have followed the prescribed process in recruiting and selecting the Municipal Manager, until the Municipal Council appointed the Selection Panel when one of the candidates objected to the appointment of the Deputy Mayor on that panel. The Municipal Council subsequently appointed another councillor to the panel when the Deputy Mayor withdrew from the panel. The Department of CoGTA also invited the political leadership of the Municipality and had an extensive meeting on the appointment of the Municipal Manager, particularly the legislative requirements associated with the appointment.
- 5.6 Once the panel had been reconstituted, it shortlisted four out of eight applicants. The shortlisting was concluded on 15 December 2017, while the interviews were conducted on 19 December 2017. The four shortlisted and interviewed candidates included the Acting Municipal Manager. The Department was invited and participated in the process as an observer, and provided technical advice. Despite several attempts and technical legal advice from the Department, the Municipal Council failed to appoint the Municipal Manager. The Municipal Council in the process failed to comply with the requirements of both the Systems Act and the Regulations on the Appointment of Senior Managers.
- 5.7 In the circumstances it was recommended that the PEC consider intervening at the Municipality, and assume the powers to appoint senior managers and associated processes and procedures. On that basis, the PEC was requested to consider intervening in terms of section 139(1)(b) of the Constitution at the Municipality and assume the power to appoint senior managers. Thus the PEC resolved to intervene at Municipality on 28 March 2018, in terms of section 139(1)(b) of the Constitution.

## **6. Constitutional and Procedural Matters Related to the Intervention**

6.1 Section 139(2) of the Constitution provides that whenever a PEC intervenes in terms of section 139(1)(b) of the Constitution, the Minister for CoGTA, the NCOP as well as the relevant Provincial Legislature should be notified within 14 days after the intervention began. The Minister was notified of the intervention on 29 March 2018. The Minister approved the intervention within 28 days as prescribed by the Constitution. The Chairperson of the NCOP was notified of the intervention on 29 March 2018. The Municipality was notified of the intervention on 28 March 2017, and this was thus followed by several engagements between the Municipal Council and the Provincial Department of CoGTA.

## **7. Substantive Reasons for the Intervention**

7.1 The Municipality experienced serious and persistent governance and institutional challenges, which appeared to have been caused, particularly, by disagreements within the Municipal Council around the filling of the position of the Municipal Manager. The employment contract of the then Municipal Manager at the Municipality expired in August 2017. The Municipal Council subsequently resolved to appoint him on an acting basis for a period of three months. This period expired on 31 December 2017, before the municipality could complete the appointment process. The Municipal Council failed to appoint the Municipal Manager, and it also failed to fill other three other Senior managers' posts and such posts remained vacant. This includes: Community Services, Development and Town Planning and Public Works and Basic Services.

**8. Support Provided by Department of CoGTA**

8.1 Given the governance and institutional challenges experienced by the Municipality, the Department assisted the Municipality to appoint the Municipal Manager and has provided technical advices on the filling of other three vacant senior managers positions, which are expected to be approved by the Municipal Council. Further, the Department has also provided capacity building to councillors, supported the review of Skills Development and Employment Equity Plan. Lastly, the Department assisted the Municipality on the implementation of consequence management to ensure maintenance of stability in the workplace.

**9. Resolutions of the PEC and Terms of Reference of the Administrator**

9.1 The PEC resolved to authorize the MEC for CoGTA to appoint suitably qualified person(s) to implement the terms of reference including; the preparation and implementation of a recovery plan approved by the Municipal Council; undertaking the appointment of senior managers in terms section 54A and section 56 of the Municipal Systems Act, 32 of 2000 as amended including disciplinary procedures for senior managers as prescribed where applicable; implement programmes to capacitate the councillors of the Municipality on their governance role including oversight on the institutional, financial and service delivery affairs of the Municipality.

**10. Opinions of Political Parties and Stakeholders of the Municipality**

10.1 During the loco-inspection, the Select Committee interacted and solicited opinions of the various political parties, internal and external stakeholders of the Municipality. Their opinions are tabled below:

**11. Opinion of the African National Congress (ANC)**

11.1 The representative of the ANC welcomed and supported the PEC's decision to invoke section 139(1)(b) of the Constitution in the Municipality, and the progress made by the administrator. He attested that the unqualified audit opinion from the Auditor-General was proof that the Municipality was functioning well.

**12. Opinion of the Democratic Alliance (DA)**

12.1 The representative of the DA tabled an opinion that supported the intervention. However, concerns were raised with regard to the chairing of the Municipal Public Accounts Committee (MPAC) by the ruling party and the misuse of political power.

**13. Opinion of the Economic Freedom Fighters (EFF)**

13.1 The representative of the EFF tabled an opinion that did not supported the intervention, and the problem was with regard the appointment of the Municipal Manager, and not the functioning of the Municipal Council. The representative argued that the appointment of the Municipal Manager could have been dealt with differently, without placing the Municipality under section 139(1)(b) of the Constitution.

**14. Opinion of the Municipal Organised Labour**

14.1 The representative of SAMWU tabled an opinion that supported the intervention, and welcomed the progress made in respect of the functionality of the local labour forum and the development of the Job Evaluation Committee.

**15. Opinion of Traditional Leaders**

15.1 The representative of the traditional leaders tabled an opinion that supported the intervention and welcomed the progress made by the Municipality, more especially with regard to the participation of traditional leaders in the municipal programmes and the Council.

**16. Opinion of Farmers Association**

16.1 The Farmers' Association tabled an opinion that supported the intervention. The Association has a relationship with the municipality to develop emerging black farmers to be commercial farmers. The observation from the Association revealed that the Administrator was helpful.

**17. Opinion of Business Sector**

17.1 The Business Sector supported the intervention. However, concerns were raised with regard to exclusion of the business sector' participation in other districts and local municipalities.

**18. Opinion of Youth Formation**

18.1 The representative of the youth formation supported the intervention. The arrival of the Administrator was appreciated and the increase of the youth budget from R600 000 to R5 million. The representative appealed to the Municipality to establish youth desk that can deal with strategic matters affecting the youth within the Municipality.

**19. Opinion of Women Forum**

19.1 Like the youth formation, the Women Forum supported the intervention. The representative appealed to the Municipality to establish women's desk that can deal with strategic matters affecting the women in the Municipality.

**20. Select Committee Observations and Opinion**

- 20.1 With regard to the procedural requirements of section 139(2) of the Constitution, the Minister was notified of the intervention on 29 March 2018. The Minister approved the intervention within 28 days as prescribed by the Constitution. The Chairperson of the NCOP was notified of the intervention on 29 March 2018. The Municipality was notified of the intervention on 28 March 2017.
- 20.2 The Select Committee wishes to emphasize that interventions should be driven by the municipal failures to fulfil executive obligations, and not be driven by political and other factors that weigh unduly on the decisions to intervene.
- 20.3 Intervention oversight to municipalities under administration should be made earlier and not at the end of the intervention period by the Select Committee, in order to play a more meaningful role in providing objectivity, mediation, and rectifying emerging governance/institutional and service delivery problems.
- 20.4 It has been observed that the Municipal Council has repeatedly failed to appoint a Municipal Manager, and in so doing, paralysed the administrative capacity of the Municipality to manage its affairs and to deliver basic services to its residents.
- 20.5 The problems facing the Dr Nkosazana Dlamini-Zuma Municipality could be a thing of the past if the councillors and political parties, work together instead of working against each other.
- 20.6 It should be remembered that councillors are elected to represent local communities on municipal councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, effectively and sustainably within the means of the Municipality.

## **21. Recommendations**

21.1 Having conducted the oversight visit to Dr Nkosazana Dlamini-Zuma Local Municipality and interacted with internal and external stakeholders, the Select Committee on Co-operative Governance and Traditional Affairs recommends as follows:

21.1.1 The NCOP approves the intervention in Dr Nkosazana Dlamini-Zuma Local Municipality in terms of section 139(1)(b) of the Constitution.

21.1.2 The Provincial Department of Cooperative Governance and Traditional Affairs in KwaZulu-Natal Province, together with SALGA and in co-operation with the Local Government Sector Education and Training Authority, should facilitate training and capacity building for municipal officials and councillors, to further deepen their competencies and understanding of the oversight role, legal framework, management and policies that govern the activities of the Municipality.

21.1.3 The KwaZulu-Natal MEC for CoGTA should table an exit report to the NCOP on the status of the intervention in the Municipality.

21.1.4 The Select Committee on Co-operative Governance and Traditional Affairs, in co-operation with the relevant Portfolio Committee in KwaZulu-Natal Provincial Legislature, should in future conduct a follow-up oversight visit to the Municipality in order to evaluate the progress made in respect of the intervention in the Municipality.

Report to be considered.