



**PARLIAMENT**  
OF THE REPUBLIC OF SOUTH AFRICA

# PROCEDURAL DEVELOPMENTS IN THE NATIONAL ASSEMBLY

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Issue **19**



# PROCEDURAL DEVELOPMENTS IN THE NATIONAL ASSEMBLY

A record of recent events and developments of a procedural nature in the National Assembly of the Parliament of the Republic of South Africa. The 19th issue covers the fifth session of the Fourth Parliament from January to December 2013. Where no year appears next to a particular month in the text, the reference is made to 2013.

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## **PRESIDING OFFICERS, OFFICE-BEARERS AND OTHER OFFICE-HOLDERS**

### **[1] RETIREMENT OF SECRETARY TO NATIONAL ASSEMBLY (NA) AND APPOINTMENT OF NEW SECRETARY TO NA**

On 27 February, the Speaker announced the retirement of Mr M K Mansura, the Secretary to the NA, effective from 1 March. Mr Mansura was the Secretary to the NA from 1 December 2006.

On 28 February, by way of a motion by the Chief Whip of the Majority Party, the NA noted the retirement of Mr Mansura and, on the recommendation of the Speaker, appointed Mr M Xaso as the new Secretary to the NA with effect from 1 March. On the same day parties were given an opportunity to pay farewell tributes to Mr Mansura.

### **[2] APPOINTMENT OF CHIEF WHIP AND DEPUTY CHIEF WHIP OF MAJORITY PARTY**

On 20 June, the Deputy Speaker announced the appointment of Mr P S Sizani as Chief Whip of the Majority Party and Ms D E Dlakude as Deputy Chief Whip of the Majority Party. The new appointees replaced Dr M S Motshekga and Mr G B Magwanishe, respectively.

### **[3] DESIGNATION OF MEMBER AS PARLIAMENTARY COUNSELLOR**

On 20 August, the Speaker announced the designation of Ms M T Kubayi as Parliamentary Counsellor to the Deputy President of the Republic in terms of NA Rule 319 with effect from 24 July. Ms Kubayi replaced Mr J H Jeffery who was appointed to the Executive as a Deputy Minister. In terms of Rule 319, Ms Kubayi would be responsible for facilitating communication between the NA and the office of the Deputy President in his capacity as Leader of Government Business (LOGB).

## **MEMBERS**

### **[4] MEMBERSHIP OF THE ASSEMBLY**

See Annexure 1.

### **[5] APPOINTMENT OF NEW MINISTERS AND DEPUTY MINISTERS**

See Annexure 2

## **[6] CONDOLENCE MOTIONS AND TRIBUTES**

See Annexure 3

## **PROCEDURAL AND RELATED ISSUES**

### **[7] SELECTED RULINGS**

- **Member asked to withdraw remark after Ruling delivered in the member's absence.**

*Issue 18, Item 7*, under "Selected Rulings", reported on a considered ruling delivered by the Speaker on 22 November 2012 regarding remarks by the Minister for Public Service and Administration during ministerial responses to Members' Statements on 13 November 2012, when she referred to Mr D J Maynier as possessing a "flea-infested body". The Speaker delivered the ruling in the Minister's absence from the House and indicated that he would ask the Minister to withdraw the remark at the first opportunity in 2013.

On 28 February, the Speaker asked the Minister to withdraw her remark, whereupon the Minister withdrew the remark.

- **Clarification of procedure for Members' Statements**

On 28 February, the Speaker delivered a ruling to clarify two issues of procedure that were raised during Members' Statements on 26 February. The first issue was raised by the Minister of Home Affairs about the relevance of Members' Statements to the portfolios of Ministers.

The Speaker ruled that –

I wish to remind members of the guidelines on Members' Statements that were agreed to by the Chief Whips' Forum and published in the Announcements, Tablings and Committee Reports (ATC) of 13 February 2003.

According to the guidelines, Members' Statements may cover any subject that a member wishes to raise, relevant to the national sphere of government, including topical international and national issues, and constituency matters. While it is not within my role to dictate what members must say during Members' Statements, I do wish to urge members to use this important opportunity in our proceedings effectively to raise pertinent issues.

The second issue was raised by Mrs J D Kilian about Ministers responding more than once to a particular member's statement.

The Speaker ruled that –

I have ruled on previous occasions that Rule 105 ensures that a member's statement dealing with a single matter is not responded to twice as it would either have been directed at a particular Minister or made in respect of a particular Minister's portfolio. I therefore appeal that we adhere to this approach.

- **Notice of motion transgresses the rule of anticipation (Rule 68)**

On 23 April, the Leader of the Opposition gave notice of a motion in the House on the deployment of South African National Defence Force troops in the Central African Republic. On the same day, a Ministerial Statement by the Minister of Defence and Military Veterans on developments regarding the deployment of the South African National Defence Force to the Central African Republic appeared on the Order Paper. The Deputy Chief Whip of the Majority Party contended that the motion transgressed the rule of anticipation (Rule 68) which provides that no member shall anticipate the discussion of a matter appearing on the Order Paper.

The Speaker ruled that –

Having now read the text of the notice of motion it is clear that the motion does indeed anticipate the discussion on the statement by the Minister of Defence and Military Veterans on developments regarding the deployment of the South African National Defence Force to the Central African Republic. The notice of motion is therefore out of order.

- **Public Protector made a “detective inspector” of the opposition and casting aspersions on member**

On 6 June, the Speaker delivered a considered ruling regarding two points of order raised during the debate on the use of Air Force Base Waterkloof on 22 May.

The first point of order was raised by Mrs S V Kalyan who asked whether the Minister of Home Affairs was maligning the Office of the Public Protector. The Minister had stated that –

*It is sad that the opposition is sullyng the positive contribution of the Public Protector and other Chapter 9 institutions by attempting to make the Public Protector a detective inspector of the DA rather than an institution promoting democracy.*

The Speaker ruled that –

Assembly Rule 66 states that no member shall reflect on the competence or honour of a holder of an office whose removal from such office is dependent upon a decision of the House, except by way of a substantive motion. The Minister's remark did not contravene Rule 66 as it did not reflect on the competence or honour of the Public Protector, and therefore was not unparliamentary.

The second point of order was raised by Ms M T Kubayi who enquired whether it was parliamentary for Mr B M Bhanga to cast aspersions on the Minister of Home Affairs when he used the floor microphone to interject and asked “*What happened to the truthful Naledi Pandor*”.

The Speaker ruled that –

This statement, apart from being disruptive to proceedings, is indeed out of order. It is unparliamentary for a member to suggest that another member is not telling the truth.

When I asked the hon Bhanga to withdraw, he indicated that he could not recall what he had said. I then undertook to study the Hansard. I have now unfortunately had to repeat the hon Bhanga's remarks, and I must again rule them unparliamentary.

The Speaker requested Mr Bhanga to withdraw his remarks, whereupon the member withdrew the remarks.

- **Political party accused of lying**

On 18 June, the Speaker delivered a considered ruling regarding a point of order raised by Mrs S V Kalyan requesting that an accusation by the Minister of Women, Children and People with Disabilities that the Democratic Alliance was lying be ruled unparliamentary.

The Speaker ruled that –

During her response, the Minister said the following, and I quote: “*We want to dispel all accusations that the DA hurled at us when the Budget Vote was presented. They said that I employed my friends in the department. I do not have any such friends in the department. Young people that I work with are too young to be my friends. Secondly, they accuse me of defrauding the department of millions of Rands to buy my household furniture. That is a pack of lies.*”

May I remind hon members that we have always drawn a distinction between insinuations made against members of the House and those made against political parties. Thus, an allegation that a member of the House is lying has always been ruled unparliamentary, whereas if such allegations were leveled against a political party, it would not be ruled unparliamentary. Such comments about political parties are part of acceptable parliamentary and political discourse, and therefore not unparliamentary.

- **Party inciting racism and member “behaves like a clown and a mascot”**

On 18 June, the Speaker delivered a considered ruling regarding a point of order raised during the debate on the Presidency’s Budget Vote on 12 June by Mr D T George who objected to remarks directed against Mrs S V Kalyan by Mr R B Bhoola.

Mr Bhoola had said that –

*The DA selectively targeting the Shaiks, Reddys and Guptas smack of racism. Interesting enough, hon Kalyan had made her mouth zipped while her own party incites racism. She, instead of being a professional, behaves like [a] clown and a mascot.*

The Speaker ruled that –

The Rules governing unparliamentary language are broadly framed in order to allow as much freedom of speech for hon members as possible. However, well established practice also dictates that any statement or remark that impairs a member’s dignity or affronts that person’s honour, must place a curb on freedom of speech. Accusations that a member is acting in a racist manner are regarded as particularly bad in the context of our history, and are not allowed at all.

In this particular case, hon Bhoola’s accusation of racism initially reflects on the DA as a party, but when he continues to infer that hon Kalyan is complicit in that racism by keeping quiet, it is unparliamentary. It is common practice that we allow such references with regard to parties.

As for hon Bhoola’s remarks about hon Kalyan being complicit in her party’s alleged racism and that she did not act in a professional manner, but rather like a clown and a mascot, I have to point out that referring to another hon member as a clown has been ruled unparliamentary on many occasions.

Though it does not reflect on hon Kalyan’s integrity as such, but rather on her actions, it does infer that she does not have the necessary regard for the dignity and decorum of the House in allowing herself to be manipulated.

The inference of covert racism on her part, exacerbated by the comparison to a clown and a mascot is unparliamentary. I therefore have to ask hon Bhoola to withdraw his remark. I am told that he is not in the House, but on the next occasion when he is in the House, we will ask him to withdraw. That remark is unparliamentary.

On 20 August, the Speaker asked Mr Bhoola to withdraw his remark, whereupon the member withdrew the remark.

- **Member used the word “darkie”**

On 18 June, the Speaker delivered a considered ruling on a point of order raised by Mr J J McGluwa during the debate on the Presidency’s Budget Vote on 12 June asking whether it was parliamentary for Mr K B Manamela to use the word “darkie” (an offensive term used to refer to a black person).

Mr Manamela had said that –

*Stop saying, ‘I job yi job [A job is a job]’, particularly those in the benches on that side, who know of this problem. Stop being the acceptable ‘darkie’ in the DA. You actually know where you belong. It is not enough to say, ‘I job yi job [A job is a job]’.*

The Speaker ruled that –

On a previous occasion, a point of order was raised when a member used the word “darkies” to demonstrate how some refer to black people in general. At that time the member in question was not asked to withdraw the term, however, members were cautioned to refrain from using words such as this one when referring to each other in the House.

I want to repeat the appeal that was made then, and I refer to it again today, that in the same way that the House does not want members to accuse each other of being racist because we are trying to move towards a future where in fact we do away with these kind of words, all members should not resort to using racial epithets when referring to each other.

I hope that deals with the question of “darkies” and “whities” in the House. I, again, want to urge members to use words carefully and observe the decorum and dignity of the House.

- **Reflection on member's physical appearance**

On 18 June, the Deputy Speaker delivered a considered ruling regarding a point of order that was raised during Parliament's Budget Vote on 11 June by the Chief Whip of the Opposition objecting to a remark made by Mr J H Jeffery.

Mr Jeffery had said that –

*It also brings me to the issue that is in our Constitution. The Leader of the Opposition is meant to be the leader of the party; is meant to be a person of some stature. The hon Mazibuko may be a person of some weight, but is she a person of some stature?*

The Deputy Speaker ruled that –

The part of the statement that relates to hon Mazibuko's weight appears, on the face of it, to be a reference to her physical appearance.

Members will remember that in the past, many rulings were made on remarks regarding members' physical appearance. This has always been found to be insensitive, offensive and in violation of a member's dignity. I have no intention to depart from this precedent.

Accordingly, I find that remark not only insensitive, but also unparliamentary. It is indeed the responsibility of each and every one of us to ensure that we exercise the right to freedom of speech in a considerate and responsible manner.

The Deputy Speaker requested Mr Jeffery to withdraw his remark, whereupon the member withdrew the remark and apologised.

- **Party accused of deliberately misleading the nation**

On 20 August, the Speaker delivered a considered ruling on a point of order raised during the First Reading debate on the Appropriations Bill by the Chief Whip of the Opposition contending that Mrs L E Yengeni had accused the leader of the DA of deliberately misleading the nation and that the expression was unparliamentary. Mrs Yengeni had said that "*The DA of Premier Zille is deliberately misleading the nation with unfounded lies.*"

The Speaker ruled that –

Hon Yengeni was referring to the party of Premier Zille as misleading the nation. Previous rulings on unparliamentary language have held that remarks that would have been regarded as unparliamentary against members of the House were not unparliamentary if made

against a political party or people who are not members of this House. The same principle is applicable to hon Yengeni's reference to the party. It is a point of view of the hon member, and not unparliamentary.

- **Government accused of "ruthlessly annihilating and executing people"**

On 12 September, the Speaker delivered a considered ruling on a point of order raised during Members' Statements by the Minister of Cooperative Governance and Traditional Affairs about certain remarks made by Mr D A Kganare.

During his statement Mr Kganare had said that "*It was a day in which the democratic Government of the ANC decided that those who threaten the monopoly of their alliance should be ruthlessly annihilated*"; "*It was a sad day when the democratic Government of the ANC decided that those who honestly demanded a living wage were enemies of the revolution and therefore had to be executed*" and lastly "*Will the ANC do the same to Numsa members who are now on strike?*"

The Speaker ruled that –

From the context of hon Kganare's speech, it is quite clear that his reference to the "democratic Government of the ANC" is to members of the executive as a collective since they, in terms of the Constitution, comprise the Government at national level. In the Assembly, members of the executive enjoy the same protection under the Rules as other members of the House. It is a firmly established practice that a member who wishes to impute improper motives to another member of the House, including members of the executive, must do so by way of a substantive motion, supported by *prima facie* evidence.

To suggest that the Cabinet, either individually or as a collective, callously and deliberately decided to annihilate or execute citizens of South Africa, not only imputes improper motives to those members of the Cabinet, it goes even further by implying that they are in dereliction of their constitutional duty, which is to be loyal to, and secure the well-being of the people of South Africa as they undertake their oath of office.

The first two remarks by hon Kganare, namely that the Government has decided to ruthlessly annihilate and execute people are therefore clearly unparliamentary.

On the other hand, hon Kganare's question, namely, whether the ANC intended to do the



same to Numsa workers who are on strike, did not refer to the Government but to the ANC as a political party. As we have ruled on numerous occasions in this House, reflections on the actions of a political party, as perceived by an opposing party's members are not out of order, as long as aspersions are not cast on the character of members of the House. So, this particular remark by hon Kganare is therefore not unparliamentary.

The Speaker accordingly asked Mr Kganare to withdraw his remarks that the Government had decided to "annihilate and execute" people, whereupon the member withdrew the remarks.

- **Adherence to past rulings**

On 12 September, the Deputy Speaker delivered a considered ruling regarding a point of order that was raised by Ms M T Kubayi regarding whether a remark made by Mr J J McGluwa during a speech on 18 July was parliamentary.

Mr McGluwa had stated that –

*The core function of this Parliament is about oversight; it is not about sexist members who come here and look around to see what the opposition benches are wearing.*

The Deputy Speaker ruled that –

... where there have been instances in the past in which hon members have made sexist remarks directed at other hon members, such remarks were firmly dealt with by the Chair. Sexist remarks have always been ruled to be offensive as they detract from the dignity and decorum of this House.

Where issues have been dealt with by the Chair, it is expected that members, including you, hon McGluwa, adhere to the rulings given and not revisit these matters, either in an explicit or implicit manner.

While the remark in this instance cannot be ruled as unparliamentary owing to its general nature, I wish to remind hon members that all members are honourable and every member should therefore act towards other hon members with the same decorum and respect that he or she expects from them.

I also want to appeal to hon members to exercise their right to freedom of speech in a considerate and responsible manner, and, in doing so, to moderate their language and to refrain from using expressions that detract from the dignity and decorum of this House.

- **Minister accused of "misleading" the House and of having "bribed" the electorate**

On 29 October, the Deputy Speaker delivered a considered ruling regarding a point of order raised during Question Time on 11 September by the Deputy Minister of Sport and Recreation who objected to a remark made by Mr J J McGluwa.

Mr McGluwa had said that –

*Speaker, it seems to appear that the hon Minister is misleading this Parliament. It also appears that the Minister is abusing her position in this Parliament. Why are food parcels distributed in Potchefstroom and elsewhere only, and are people bribed to vote for the ANC? Why only distribute food parcels where there are by-elections?*

The Deputy Speaker ruled that –

In terms of the initial comment, let me first indicate that the Chair must, when considering whether a remark is unparliamentary or not, make a distinction between whether a member is accusing another of inadvertently or deliberately misleading the House. To ascertain what is meant in a particular circumstance the Chair must not only examine the language but also the context in which it is used. In this case, Mr McGluwa did not say that the Minister deliberately misled the House but rather that it "seems to appear" that she was misleading the House. Typically it is not unparliamentary to assert that a member is misleading the House, but it is considered unparliamentary to assert that a member is intentionally or deliberately doing so.

In terms of the second point, it is always unparliamentary to insinuate that a member is acting dishonourably, whether directly or by implication. The fact that the comments were put in the form of a question does not in any way make them less offensive. In this case, Mr McGluwa is implying, albeit by way of a question, that the Minister may have acted improperly and used state resources to "bribe" the electorate for party political purposes. It is completely unacceptable to make such an allegation in the House during the course of debate. Such an allegation can only be brought to this House by way of a properly motivated substantive motion supported by *prima facie* evidence. The remark is therefore unparliamentary.

The Deputy Speaker asked the member to withdraw his remark, whereupon the member withdrew the remark.

- **Breach of House Rules**

On 31 October, the Speaker delivered a considered ruling regarding various points of order that were raised during the Decision of Question on the Second Reading of the Lotteries Amendment Bill on 24 October, after Mrs S V Kalyan requested a division on behalf of the DA and left the Chamber before voting commenced.

The Speaker ruled that –

On that day I quoted Rule 88 which states that: *A member demanding a division shall not leave the Chamber until the result of the division has been declared and shall vote with those who, in the opinion of the Presiding Officers, are in the minority.*

There is no room for misinterpretation here. The hon Kaylan was, indeed, in breach of the Rules, since Rule 88 compels her to remain in the Chamber when she has demanded a division.

Rule 69 determines that a member may, with the prior consent of the Presiding Officer, explain a matter of a personal nature. Hon Kalyan has requested an opportunity to do so. Before granting her that opportunity, I shall briefly want to address a few issues that have had a disruptive effect on the ability of the House to fulfill its constitutional function of passing legislation.

The first is the quorum requirement created by the Constitution. The Constitution provides that a majority of Assembly members must be present before a vote on a Bill may be taken. In other words, there must be at least 201 members in the House. The onus is on the House to ensure that it is quorate for a vote. The House consists of all members from all parties. It follows, therefore, that the responsibility of ensuring that the requisite number of members are present to constitute a quorum does not rest entirely with the members of the majority party. Constitutionally speaking, that responsibility rests with all members, individually and collectively.

When members are asked to record their presence to establish whether there is a quorum present and they refrain from doing so, it can be construed as an attempt to frustrate the work of the House. As hon members and public representatives, it would not be appropriate for members to conduct themselves in that manner. Members must therefore record their presence

when requested to do so by the Presiding Officer.

The second issue is that of committee meetings during the sittings of the House. Once again, a number of points of order were raised and numerous arguments offered after hon Kalyan explained that some members of the DA had left the Chamber before the vote to attend committee meetings. Though some committees have particularly heavy legislative workloads and may have to meet during sittings, permission for such meetings is given with the express understanding that, when the bells are rung to summon members to the House for a vote, meeting proceedings must be suspended immediately and members must make their way to the Chamber. That was explained on Thursday by the hon House Chairperson, C T Frolick.

Requiring members to be present in the House for a vote does not constrain them when it comes to expressing their support for or opposition to a piece of legislation. Members are free to vote for or against a Bill, or even to abstain should they wish to do so. The Rules are clear however, that all members in the House, when a question is put, must vote.

The Speaker appealed to members to bear in mind that they are taking decisions on behalf of the people that they represent and, therefore, a vote, whether on a Bill or any other matter, should be approached with thought and circumspection. The Speaker thereafter gave Mrs S V Kalyan an opportunity to give a personal explanation for her conduct in terms of Rule 69.

## **[8] MOTION OF NO CONFIDENCE IN THE PRESIDENT**

*Issue 18, Item 10* reported on the appeal by Ms L D Mazibuko, the Leader of the Opposition, to the Constitutional Court against the decision of the Western Cape High Court regarding a motion of no confidence in the President. The Court ordered the Speaker to file a report with its Registrar by 14 March on the progress achieved in the process of ensuring that motions of no confidence are appropriately provided for in the NA Rules.

On 20 March, the NARC met to have a final discussion on measures to make appropriate provision for motions of no confidence in the NA Rules. As parties could not reach consensus on the matter, the Deputy Speaker informed the committee that, in the absence of consensus amongst parties, the document before the commit-

tee containing proposed rules would be submitted to the court as the input from the Speaker.

The Constitutional Court heard the matter on 28 March and ruled on a number of issues including:

- Whether the Speaker had the residual power in terms of Rule 2(1) to “give a ruling or frame a Rule in respect of any eventuality for which these Rules do not provide”;
- Whether the Rules of the NA were inconsistent with section 102(2) of the Constitution to the extent that it did not provide for a political party represented in, or a member of, the NA to enforce the right to exercise the power to have a motion of no confidence in the President scheduled for a debate and voted upon in the NA within a reasonable time, or at all; and
- Whether a motion of no confidence was inherently urgent.

In delivering judgment on 27 August, the court found the following:

**With regard to whether the Speaker had residual power in terms of Rule 2(1), the court found that:**

- The importance of a motion of no confidence to the proper functioning of our constitutional democracy cannot be gainsaid. The primary purpose of a motion of no confidence is to ensure that the President and the national executive are accountable to the Assembly. Thus a motion of no confidence plays an important role in giving effect to the checks and balances element of our separation-of-powers doctrine.
- Rule 2(1) does not apply as it is meant to cover matters not dealt with in the Rules. Setting and scheduling of “any motion” in the Assembly is regulated extensively by Rules 187 to 190, which confirm that the task of scheduling motions rests with the Programme Committee. Nothing in the Rules justify the inference that the power to set and schedule a motion devolves upon the Speaker when the Programme Committee cannot decide on a matter within its remit.
- Rule 2(1) is permissive and not peremptory. The residual power of the Speaker is not meant to override the powers and duties of the committees or to usurp a role that the Rules entrust to a committee.
- The Speaker, acting alone, has no residual power to schedule a motion of no confidence in the President for debate and vote in the Assembly.

**With regard to whether the Rules of the NA were inconsistent with section 102(2) of the Constitution, the court ruled that:**

- The Constitution requires that the Assembly must have a procedure or process which would permit its members to deliberate and vote on a motion of no confidence in the President. In order for members of the Assembly to vote on a motion, the Rules of the Assembly must permit a motion of no confidence in the President to be formulated, brought to the notice of members of the Assembly, tabled for discussion and voted for in the Assembly. Section 102(2) is silent on the source or origin of the motion of no confidence and given the text and purpose of the provision, any member of the Assembly has the right to formulate and request to have a motion of no confidence serve before and voted for in the Assembly.
- The Constitution does not set a time or preconditions for when the Assembly may vote on a motion of no confidence in the President. The ever present possibility of a motion of no confidence against the President and the Cabinet is meant to keep the President accountable to the Assembly which elects her or him. A motion of this kind is perhaps the most important mechanism that may be employed by Parliament to hold the executive to account, and to interrogate executive performance.
- The right to initiate a motion of no confidence is accorded to every member of the Assembly who is entitled to seek, by a motion of no confidence, to garner support for a majority vote of the Assembly. This entitlement flows readily from section 102(2) and its exercise may be regulated by the Assembly, but its Rules may not deny, frustrate, unreasonably delay or postpone the exercise of the right.
- When a member of a political party in the Assembly, acting alone or in concert with other members of the Assembly, tables a motion of no confidence in terms of section 102(2) in accordance with the Rules, the motion deserves the serious and prompt attention of the responsible committee or committees of the Assembly and, in the last resort, of the Assembly itself. The responsible committee or the Assembly must take steps that ensure that the motion is tabled and voted on without unreasonable delay.
- A vital constitutional entitlement to move a motion of no confidence in the President cannot be left to the whim of the majority or minority in the Programme Committee or any other com-

mittee of the Assembly. It would be inimical to the vital purpose of section 102(2) to accept that a motion of no confidence in the President may never reach the Assembly except with the generosity and concurrence of the majority in that Committee. It is equally unacceptable that a minority within the Committee may render the motion stillborn when consensus is the decision-making norm.

- Lobbying, bargaining and negotiating amongst political parties represented in the Assembly must be a vital feature of advancing the business and mandate of Parliament conferred by Chapter 4 of the Constitution. However, none of these facilitative processes may take place in a manner that unjustifiably stands in the way of, or renders nugatory, a constitutional prescript or entitlement. That is so, because our Constitution is supreme and demands that all law and conduct must be consistent with it. We may not hold that an entitlement that our Constitution grants is available only at the whim or discretion of the majority or minority of members serving on the Programme Committee or any other committee of the Assembly. A vote on a motion of no confidence in the President must occur in the Assembly itself.
- Reading the Rules as a whole reveals that there is indeed a lacuna in the Rules regulating the decision-making and deadlock-breaking mechanism of the Programme Committee charged with the power to arrange the programme of the Assembly. To the extent that the Rules regulating the business of the Programme Committee do not protect or advance or may frustrate the rights of the applicant and other members of the Assembly in relation to the scheduling, debating and voting on a motion of no confidence as contemplated in section 102(2), they are inconsistent with section 102(2) and invalid to that extent.

**With regard to whether a motion of no confidence was inherently urgent, the court ruled that:**

- A motion of no confidence must be accorded priority over other motions and business by being scheduled, debated and voted on within a reasonable time given the programme of the Assembly.
- Once sponsored in a manner prescribed by the Rules, the Assembly must take prompt and reasonable steps to ensure that the motion is scheduled, debated and voted on without undue delay.

The court accordingly ruled that the applicant was entitled to a declaratory order that Chapter 12 of the

Rules was inconsistent with section 102(2) of the Constitution to the extent that it failed to make provision for an unhindered exercise by a member of the Assembly, acting alone or in concert with other members, of the right to have the Assembly schedule, deliberate and vote on a motion of no confidence in the President. The Court suspended the declaration of invalidity for six months in order to afford the Assembly the opportunity to remedy the defect in Chapter 12 of the Rules.

**[9] FIRST REPORT OF THE NA RULES COMMITTEE**

On 22 August, the First Report of the NA Rules Committee (NARC) was adopted by the Assembly which contained rule adjustments pertaining to the NA Programme Committee (NAPC) as agreed to by the NARC on 20 August.

Following the approval of the proposed Rule amendments by the House, the Speaker announced that the Programme Committee would consist of 14 members in accordance with Rule 188 for the remainder of the 4th Parliament. Its composition would be as follows:

- (1) Speaker of the NA;
- (2) Deputy Speaker of the NA;
- (3) House Chairpersons;
- (4) Leader of Government Business or a designated representative;
- (5) Chief Whip of the Majority Party;
- (6) Deputy Chief Whip of the Majority Party;
- (7) Programme Whip of the Majority Party;
- (8) Chief Whip of the Opposition;
- (9) Deputy Chief Whip of the Opposition;
- (10) Chief Whip of the second largest opposition party; and
- (11) two representatives elected by and representing the opposition parties other than the largest and second largest opposition parties in the NA.

**[10] SITTING HOURS OF THE HOUSE**

On 25 April, the House resolved that, notwithstanding the hours of sitting of the House as provided for in Rule 23(2), the House would sit in plenary or Extended Public Committees (EPCs) at times agreed to by the NAPC for the period 25 April to 21 June. This was meant to enable EPCs to meet in the morning, where

necessary, for the purpose of conducting budget vote debates.

#### [11] ELECTION OF TEMPORARY CHAIRPERSONS

On 15 May, the House elected Mr G T Snell and Mrs N J Ngele to preside during the sitting of the House on 16 May when requested to do so by a Presiding Officer. On 16 May, two budget vote debates were conducted and Mr Snell and Mrs Ngele took the Chair when the Presiding Officer requested them to do so.

#### [12] TIME ALLOCATION FOR PARTY RESPONSES TO EXECUTIVE STATEMENTS

Rule 106 provides that a Cabinet member may make a factual or policy statement relating to government policy or executive action on which the Assembly should be informed and that this may not exceed 20 minutes except with the consent of the Assembly. Rule 106 further provides that after an executive statement, members of each political party may comment on the statement for no more than three minutes per party. Smaller parties were in the past given one minute to make their inputs to debates in the Assembly. However, the Speaker advised the NAPC that the Presiding Officers, in consultation with the whips, had agreed to grant smaller parties a minimum of three minutes for all debates.

In the wake of this announcement by the Speaker, the Chief Whips' Forum decided that a Task Team on Time Allocation should meet and consider a revised time allocation for party responses to executive statements and advise accordingly. Subsequently, on 19 March, the House resolved that, notwithstanding Rule 106(5), the time allocated for party responses to executive statements for the remainder of the Fourth Parliament would be as follows: African National Congress: 12 minutes; Democratic Alliance: 7 minutes; Congress of the People: 5 minutes; Inkatha Freedom Party: 4 minutes; and all other parties 3 minutes each.

#### [13] SUSPENSION OF RULES

The Rules provide that any provision of the Rules relating to the business or proceedings at a meeting of the NA may be suspended by resolution of the House. The suspension of any rule is limited in its operation to the particular purpose for which suspension has been approved.

The following Rules were suspended during the course of 2013:

#### Rule 23(2)

This rule provides for the sitting days and sitting hours of the Assembly. A motion to suspend the Rule was moved on 7 November in order to commence proceedings at 10:00 on Tuesday, 12 November instead of the normal start time of 14:00.

#### Rule 29

This rule provides for the sequence of proceedings in the Assembly. It was suspended on the following dates:

- 22 May to limit the business for that day's sitting to a debate on *The use of the South African Air Force Base Waterkloof by the Gupta family* as a matter of public importance in terms of Rule 103
- 22 May to limit the business for that day to a debate on *The tragic deaths of initiates in Mpumalanga*
- 11 and 12 June when the business of the House was limited to debates on Budget Vote No. 2 –Parliament and Budget Vote No. 1 –The Presidency, respectively
- 23 October to limit the business of the NA to the tabling of the Medium-Term Budget Policy Statement, the introduction of the Adjustments Appropriation Bill and related matters
- 31 October to limit the business on 6 November to Questions to the President, and
- 7 November to limit the business of the House to a debate on *The relevance and necessity of the National Key Points Act in a democratic South Africa* on 8 November.

#### Rule 29(8) and Rule 113(1)

These rules provide that precedence be given to Questions on Wednesdays. They were suspended on:

- 20 August to conduct a debate on National Women's Day
- 13 November to consider the Orders scheduled for the day

#### Rule 253(1)

This rule provides that the debate on the Second Reading of a bill may not commence before at least three working days have elapsed since the committee's report on the bill was tabled. It was suspended on:

- 14 March to conduct the Second Reading debate on the Division of Revenue Bill [B 2 – 2013]

debate and decision if the chairperson of the portfolio committee concerned or another relevant Assembly committee so requests.

On 20 June, the Broad-Based Black Economic Empowerment Amendment Bill [B 42D – 2012] was passed by the Assembly and sent to the NCOP for concurrence. On 6 November, the NCOP amended, passed and returned the bill to the NA. The bill was placed for debate and consideration on the Assembly Order Paper of 12 November at the request of the Chairperson of the Portfolio Committee on Trade and Industry. The Assembly agreed to the bill.

**[20] TABLING OF REPORT BY THE  
DEPARTMENT OF PUBLIC WORKS  
TASK TEAM ON THE SECURITY  
UPGRADE AT THE PRIVATE  
RESIDENCE OF THE PRESIDENT OF  
THE REPUBLIC**

In a letter dated 11 March, the Minister of Public Works indicated to the Speaker that the *Department of Public Works Task Team Report on the Security Upgrade at the Private Residence of the President of the Republic* (the report) would be tabled. He proposed that, when tabled, the report be dealt with by a parliamentary committee responsible for security matters or that a mechanism be devised by Parliament that would permit the matter to be discussed without compromising the security of the President and his immediate family.

The reasons advanced by the Minister were that the President's private residence had been declared a National Key Point, and the report dealt with security measures at a National Key Point; hence the request that the report should be dealt with the outmost sensitivity in line with the *National Key Point Act* (No 102 of 1980). The Speaker announced the Minister's intention to table the report in the House on 13 March.

In his reply to the Minister, the Speaker indicated that he appreciated the Minister's concerns regarding the sensitive nature of the contents of the report and his request that the report be dealt with without compromising the security of the President and his immediate family. The Speaker informed the Minister that he was of the view that given the sensitive nature of the report an ad hoc committee should be established to deal with it, and that the committee would be advised to consider the report with due regard to the sensitivity of the information contained in it and any other issues of confidentiality. The reason for considering the route of referring the report to an ad hoc committee rather than the Joint Standing Committee on Intelligence (JSCI) was that the issues in the report could be cross-cutting.

At the time the Speaker wrote to the Minister, indications were that the ad hoc committee would be

established by House resolution by 19 March. The Speaker advised the Minister that the tabling of the report should coincide with the establishment of the ad hoc committee.

On 19 June, the Minister again wrote to the Speaker informing the NA that he wished to submit the report to the JSCI. According to the Minister, he was directed by the Minister of State Security to refer the report to the JSCI in accordance with a decision by the Ministers in the Cabinet's justice and security cluster as they were of the opinion that the report falls within the ambit of that committee.

In his reply to this letter, the Speaker informed the Minister that he would proceed to announce in the ATC for the information of members of the Assembly that the Minister of Public Works, on behalf of the Minister of State Security, would submit the report to the Chairperson of the JSCI in terms of Item 17(3) of Schedule B to the Joint Rules of Parliament by Thursday, 20 June. The Minister duly tabled the report on 21 June.

The JSCI reported on 14 November, but its report was not considered by the House before the end of the 2013 parliamentary session.

**[21] REPORTS BY THE PUBLIC PROTECTOR**

In terms of section 8(2) of the *Public Protector Act* (No 23 of 1994), the Public Protector regularly submits reports on its investigations and findings to Parliament. A summary of the reports tabled during 2013 follows below.

**Allegations of maladministration against Bloemwater**

The Speaker tabled Public Protector Report No 20 of 2012–13 on an investigation into allegations of maladministration by Bloemwater for failure to comply with a decision of its internal appeal authority and an award of the SA Local Government Bargaining Council on 11 March.

The Public Protector had found that Bloemwater failed to reinstate a dismissed employee after its own internal appeal authority had upheld an appeal by the employee against his dismissal, and that Bloemwater had ignored an award by the Bargaining Council in favour of the employee. The Public Protector directed that Bloemwater reinstate the employee, pay his outstanding salary, pay the award by the Bargaining Council and re-imburse the employee for his legal costs.

### **Alleged incorrect calculation of pension benefits by Eastern Cape Department of Education**

Public Protector Report No 3 of 2013–14 on the above subject was tabled by the Speaker on 28 May. The report found that the Eastern Cape Department of Education had not adequately dealt with a complaint about incorrect calculation of pension benefits as instructed by the provincial MEC for Education in 2008. The Public Protector directed that the Eastern Cape Director-General: Education recalculate the pension benefits of the complainant and make a formal apology to the complainant.

### **Alleged undue delay in paying a service provider**

The Speaker tabled Public Protector Report No 4 of 2013–14 on 28 May. The report detailed an investigation into allegations that the Ngwathe Local Municipality had not paid a service provider for more than four years after the services were rendered. The Public Protector found that the undue delay amounted to maladministration and directed that the Executive Mayor of the municipality issue a formal apology to the complainant and ensure that the outstanding amount for services rendered together with interest calculated over the four-year period is paid to the complainant.

### **Allegations of maladministration and corruption in procurement of Head Office for Electoral Commission**

Public Protector Report No 13 of 2013–14 on an investigation into allegations of maladministration and corruption in the procurement of the Riverside Office Park to accommodate the Head Offices of the Electoral Commission was tabled by the Speaker on 28 August.

See Item 26 for a full explanation of the parliamentary procedures followed after tabling of the above report.

### **Allegations of maladministration, corruption and conflict of interest against former Minister of Communications**

On 13 December, the Speaker tabled Public Protector Report No 22 of 2013–14 on an investigation into allegations of maladministration, corruption and a potential conflict of interest against the former Minister of Communications, Ms D Pule, in connection with the appointment of service providers to render event management services for the hosting of the ICT Indaba held in Cape Town from 4 to 7 June 2012.

The Public Protector found that Ms Pule had in a number of respects breached the Executive Ethics Code and recommended a range of remedial actions. (*See also Item 23*)

## **LEGISLATION AND COMMITTEES**

### **[22] PROCESSING OF PROTECTION OF STATE INFORMATION BILL**

#### **A. RE-ESTABLISHMENT OF AD HOC COMMITTEE ON PROTECTION OF STATE INFORMATION BILL**

The Protection of State Information Bill [B6B – 2010] was passed, with proposed amendments, by the NCOP on 29 November 2012 and returned to the Assembly for agreement with the amendments.

On 26 February, the Assembly, by resolution, re-established the Ad Hoc Committee on the Protection of State Information Bill to consider the NCOP amendments. This committee originally processed the bill in the Assembly but had ceased to exist once its task had been completed. The Assembly resolution re-established the committee with the same composition and powers as its predecessor, and instructed the committee to incorporate all its previous work up to and including 18 November 2011 in its consideration of the NCOP amendments. The committee was instructed to complete its work by no later than 20 June.

The committee reported on 23 April that it had agreed to the NCOP amendments. The committee noted that, while the DA, Cope and the ACDP agreed to the amendments, they were not in favour of the bill as a whole. The Assembly adopted the bill on 25 April and it was submitted to the President for assent.

#### **B. CONSIDERATION OF PRESIDENT'S RESERVATIONS ON CONSTITUTIONALITY OF BILL**

On 12 September, the Speaker received a letter from the President informing the Assembly that he had reservations about the constitutionality of the bill and was therefore returning it to the Assembly for consideration of his reservations in terms of section 79(1) of the Constitution. In particular, the President was concerned that sections 42 and 45 of the bill lacked meaning and coherence, were consequently irrational and therefore unconstitutional.

On the same day, the Assembly resolved to establish an ad hoc committee to consider and report on the President's reservations in terms of Joint Rule 203. The resolution authorised the committee to exercise the powers set out in NA Rule 138 and instructed it to take into account all the work done by the previous committee that had been established to consider the bill. The committee had to report by no later than 31 October.

Joint Rule 203(2)(a) provides that the committee to which the remitted bill and the President's reservations

were referred must consider, and confine itself to the President's reservations. Joint Rule 203(3)(b) provides that if the committee agrees with the President's reservations, it must present with its report an amended bill correcting any constitutional defect in the substance of the bill, if the reservations relate to the substance.

The ad hoc committee reported on 15 October that it agreed with the President's reservations on the substance of the bill and recommended that the reservations be accommodated. It also submitted a bill with amendments. The report noted abstentions from the DA, Cope and the IFP. NA Rule 251(3)(e) provides that a committee's report on a bill, must, if not an unanimous report, specify in which respects there was not consensus; and in addition to the majority report, express any views of a minority in the committee.

### C. RECOMMITTAL OF BILL

In light of the absence of the reflection of minority views in the report, the Assembly, on 22 October, resolved that the bill, the committee's report thereon and the President's reservations on the constitutionality of the bill be recommitted to the committee which originally considered it.

Since the ad hoc committee had ceased to exist when it reported on the remitted bill, the Chief Whip of the Majority Party, on the same day, proposed the re-establishment of the Ad Hoc Committee on the Protection of State Information Bill with the same membership, chairperson and powers as its predecessor. The resolution re-establishing the committee indicated that it should incorporate in its work the proceedings and all the work of the previous committee up to and including 15 October, and set the deadline by which the committee had to report at 7 November. On resolution of the Assembly on 7 November, the term of the committee was further extended to 12 November.

The committee reported on the recommitted bill on 11 November and included a full exposition of opposing views. The amended bill, the committee's report thereon and the President's reservations were considered by the Assembly on 12 November. The House supported the President's reservations and passed the amended bill after a division. The bill was sent to the President for assent in line with Joint Rule 206(2)(a)(ii) which requires that if the Assembly accommodates the President's reservations and passes an amended bill, the amended bill must be submitted to the President for assent.

### [23] REPORT OF JOINT COMMITTEE ON ETHICS AND MEMBERS' INTERESTS ON COMPLAINTS AGAINST FORMER MINISTER OF COMMUNICATIONS

After allegations appeared in the media, and complaints by Members of Parliament, the Joint Committee on Ethics and Members' Interests launched an investigation into alleged breaches of the Code of Conduct for Assembly and Permanent Council Members by the former Minister of Communications, Ms D D Pule MP.

In its report, dated 7 August, the committee found that Ms Pule had breached the following provisions of the Code:

- Paragraph 9(g): Failing to disclose the financial interests of her permanent companion / spouse;
- Paragraph 13: Failing to disclose to Telkom that her permanent companion / spouse had a financial interest in the ICT Indaba which Telkom sponsored; and
- Paragraph 16(b): Providing the Registrar with incorrect or misleading details.

In light of the above, the committee recommended that Ms Pule be issued with a reprimand in the House, be fined 30 days' salary and that her privileges and right to a seat in parliamentary debates or committees be suspended for 15 days. In addition, the committee recommended that Ms Pule had to submit full details in respect of any non-disclosure and correct her incomplete declarations for 2009–13.

The Assembly adopted the report without debate on 20 August. The Speaker administered a reprimand to Ms Pule in the following terms:

“Ms Pule, the charges you have been found guilty of by this House are extremely serious.

As public representatives, we are constantly aware that the people of South Africa look to Parliament and its members to display the highest ethical values and standards in what they say and how they conduct themselves. A great amount of trust has been placed in us as members of Parliament to chart a course that will lead to a better life for our people. That we do by protecting our national assets and by ensuring, in an open and transparent manner, that those assets are used only in the public interest and not for private gain.

Your breach of the Code of Conduct, Ms Pule, has gravely undermined the people's trust and brought this House and its members into



disrepute. Furthermore, you wilfully misled the Ethics Committee by lying under oath in your continued attempts to conceal your relationship. In doing so, you showed complete disregard for the exceptional privilege members of Parliament have of freedom of speech in this House and before its committees.

Both as a member of this House and as a Cabinet Minister you had undertaken to uphold the Constitution and to act according to its principles when you took your oath of office. Your direct contravention of the provisions of section 96(2) of the Constitution by allowing your position to be used to improperly benefit your permanent companion shows indifference to our Constitution which is unacceptable.”

The Speaker indicated that the suspension of the member’s privileges and right to a seat in parliamentary debates or committees for 15 days would come into effect the following day and that he would ensure that the fine of 30 days’ salary was imposed.

The Speaker further indicated that Ms Pule would be required to submit full details in respect of any non-disclosure of her financial interests and to correct the incomplete declarations for the years 2009 to 2013.

At Ms Pule’s request, the Speaker afforded her an opportunity to apologise for her conduct.

#### **[24] MEDIATION COMMITTEE: NATIONAL HEALTH AMENDMENT BILL**

Joint Rule 186(1)(b) provides that a section 76(1) bill must be referred to the Mediation Committee if the Council has amended the bill as passed by the Assembly and the Assembly rejects the Council’s amended version.

On 19 March, the National Health Amendment Bill [B 24D – 2011] was rejected by the NA after the bill had been amended by the NCOP. On the same day, the Assembly resolved to refer the bill to the Mediation Committee in terms of Joint Rule 186(1)(b).

The Mediation Committee considered the bill as well as the papers referred to it, and reported on 24 April that it had agreed to a new version of the bill which was adopted by the Assembly on 25 April.

#### **[25] AD HOC COMMITTEE ON THE CODE OF JUDICIAL CONDUCT AND REGULATIONS ON JUDGES’ DISCLOSURE OF REGISTRABLE INTERESTS**

On 28 February 2012, the NA agreed to the establishment of an ad hoc committee to consider the Code of Judicial Conduct and the Regulations on Judges’ Disclosure of Registrable Interests tabled on 20 October 2010 in terms of the *Judicial Service Commission Act* (No 9 of 1994). As part of the motion, the House agreed that this committee should take into account the proceedings of the ad hoc Joint Committee on the Code of Judicial Conduct and Regulations on Judges’ Disclosure of Registrable Interests initially established to consider this matter. The committee had to report to the House by 6 June 2012.

The Assembly extended the deadline for reporting by the ad hoc committee on 22 November 2012 to 15 March 2013 to enable the committee to finalise the Regulations on Judges’ Disclosure of Registrable Interests. On 12 March, a further extension was agreed to by the House, for the committee to report by 20 June.

On 19 June, the ad hoc committee reported the regulations without amendments and on 20 June, the Assembly adopted the second and final report of the ad hoc committee.

#### **[26] ESTABLISHMENT OF AD HOC COMMITTEE TO CONSIDER AND REPORT ON RECOMMENDATIONS CONTAINED IN PUBLIC PROTECTOR REPORT NO 13 OF 2013/2014**

On 11 September, the Assembly agreed to the establishment of an ad hoc committee to consider and report on the recommendations contained in Public Protector Report No 13 of 2013/2014 entitled *Report on an Investigation into Allegations of Maladministration and Corruption in the Procurement of the Riverside Office Park to Accommodate the Head Offices of the Electoral Commission*. The House noted that the Public Protector requested that consideration be given to referring the report to the Electoral Court to allow it to investigate the matter in terms of section 20(7) of the *Electoral Commission Act* (No 51 of 1996).

The ad hoc committee reported on 31 October that it was unable to accede to the “recommendations” or requests by the Public Protector to refer the matter to the Electoral Court on the grounds that to do so would

be unlawful and/or unconstitutional; and recommended that the Electoral Commission, the Department of Home Affairs, the National Treasury and, to the extent that it was already involved, the Auditor-General, complete the actions in which they were currently engaged in pursuance of the “Remedial Action” recommended by the Public Protector in the report, but only to the extent that it was legally permissible.

The report of the ad hoc committee was adopted by the NA on 7 November.

#### **[27] AD HOC COMMITTEE ON THE GENERAL INTELLIGENCE LAWS AMENDMENT BILL**

The ad hoc committee which had been established by House resolution on 24 November 2011 to consider the General Intelligence Laws Amendment Bill failed to report by 17 June 2012 and therefore ceased to exist in terms of NA Rule 214(6). The House resolved on 7 November 2012 to re-establish the ad hoc committee, and set 28 March 2013 as a new deadline for the committee to report (*See Issue 18, Item 26*).

Before the deadline of 28 March, the House, by way of a resolution, extended the deadline for the ad hoc committee to report to 25 April. The committee duly tabled its report on the General Intelligence Laws Amendment Bill on 17 April and the Assembly adopted the report on 23 April.

#### **[28] ESTABLISHMENT OF AD HOC COMMITTEE TO EXERCISE CO-ORDINATED OVERSIGHT ON THE LEGACY OF THE NATIVE LAND ACT OF 1913**

On 6 June, the House noted that 2013 marked the centenary of the *Native Land Act* (No 27 of 1913). It began a dispensation in which Africans were prohibited from owning or renting land outside of designated reserves. The House resolved to establish an Ad Hoc Committee to Exercise Co-ordinated Oversight on the Legacy of the Native Land Act of 1913. The committee was mandated to –

- enquire about the systems put in place for, and monitor processes towards the re-opening of the lodgement of land claims so that the Commission on Restitution of Land Rights can implement a programme that is fair and transparent to all South Africans;
- assess the extent to which the programmes of land reform and rural development have addressed the legacy of the Native Land Act of 1913, especially with regard to the committee mandate in respect of land divisions and agricultural development;

- assess the success or otherwise of the land restitution programme;
- make recommendations on the removal of blockages preventing the restitution of land; and
- exercise those powers in Rule 138 that may assist it in carrying out its task.

The House required the committee to report no later than 20 September. The deadline for reporting was, however, extended to 22 October. The committee tabled its report on 22 October and the Assembly adopted it on 29 October.

#### **[29] REFERRAL OF COMMITTEE REPORT TO JOINT RULES COMMITTEE (JRC)**

The report of the Constitutional Review Committee (CRC) on a workshop held on 23 June 2012 was scheduled for consideration in the Assembly on 22 August. When the report came up for consideration in the House, on a motion moved by the Chief Whip of the Majority Party, the House referred it to the JRC for consideration.

The report, amongst others, proposed amendments to the Joint Rules and a consequential amendment to the Assembly Rules and recommended that:

- Consideration should be given to a review of the relevant Rules of Parliament to accommodate the possible expansion of the CRC’s mandate by reviewing the rules regulating the powers and functions of the CRC.
- The Rules should be amended to facilitate scrutiny by the CRC of any bills that seek to amend the Constitution.
- Effect should be given to the above by the JRC by amending the rules to reflect one of the proposed options.

The JRC did not consider the report before the end of the 2013 session.

#### **[30] INTRODUCTION OF LEGISLATIVE PROPOSAL BY COMMITTEE**

NA Rule 238 provides that an Assembly committee intending to introduce a bill in the Assembly must table a memorandum on the bill which sets out the particulars of the proposed legislation, explains the purpose of the legislation and states whether the proposed legislation will have financial implications for the State. The Speaker must place the proposal and relevant information on the Order Paper for decision on the request by the Assembly. The Assembly may give permission for the committee to proceed with the proposal, refer the

proposal back to the committee for reconsideration or refuse permission to proceed with the proposal. If the Assembly gives permission for the committee to proceed with the proposal, it may express itself on the desirability of the proposal or place certain conditions on its permission.

On 20 June, the NA granted the Portfolio Committee on Justice and Constitutional Development permission, in terms of Rule 238(3), to proceed with a legislative proposal amending the *Criminal Law (Sexual Offences and Related Matters) Amendment Act* (No 32 of 2007). During its deliberations, the committee resolved to change the short title of the bill from Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill to the Judicial Matters Second Amendment Bill in order to address concerns about the clumsiness of the short title. On 7 November, the committee introduced the Judicial Matters Second Amendment Bill [B51 – 2013] by submitting a copy of the bill to the Speaker in line with Rule 243.

The committee also considered the Judicial Matters Amendment Bill [B7 – 2013] which was tabled as a proposed section 75 bill, but was tagged as a section 76 bill by the JTM on the basis that it contained provisions that affected the concurrent powers of the provinces as set out in schedule 4 of the Constitution. To expedite the passage of the bill, the committee decided to reject the clauses of the bill which could be argued to affect the concurrent powers of the provinces in substantial measure. The committee then agreed to initiate a separate bill that focused solely on the clauses rejected by the committee.

In the ATC of 8 November, the Speaker announced the submission of a legislative proposal seeking the permission of the House to introduce a bill. The Portfolio Committee on Justice and Constitutional Development requested the permission of the Assembly in terms of Rule 230(1) to submit the Judicial Matters Third Amendment Bill and, in terms of Rule 238(1), also submitted a memorandum on the proposed bill. On 12 November, the Assembly, in terms of Rule 238(3) gave permission for the legislative proposal to be proceeded with.

The committee received public inputs and deliberated on the Judicial Matters Amendment Bill [B7 – 2013] that had been referred to it prior to the initiation of a separate bill that focused on the clauses rejected by the committee and which would be contained in the Judicial Matters Third Amendment Bill [B53 – 2013]. The committee therefore believed that there was no need for the Judicial Matters Third Amendment Bill [B53 – 2013] to be published in the *Gazette* for public comments. It was further considered important for the Judicial Matters Amendment Bill [B7 – 2013] and the Judicial Matters Third Amendment Bill [B51 – 2013]

to be passed together in order to ensure the smooth administration of justice.

In the ATC of 12 November, the Speaker announced that Mr L T Landers, on behalf of the Portfolio Committee on Justice and Constitutional Development and in consultation with the Speaker, had certified the Judicial Matters Third Amendment Bill [B53 – 2013] as an urgent matter in terms of Rule 241(5) and consequently, that the rules pertaining to the prior notice of the introduction of the bill in the *Gazette* and the publication of an explanatory summary of the bill did not apply.

On 13 November, the Assembly passed the Judicial Matters Amendment Bill [B7D – 2013], the Judicial Matters Second Amendment Bill [B51 – 2013] and the Judicial Matters Third Amendment Bill [B53 – 2013]

## INTERNATIONAL RELATIONS

### [31] ESTABLISHMENT OF GLOBE CHAPTER IN PARLIAMENT

The Global Legislators Organisation (GLOBE International) is an international organisation comprising national parliamentarians that are involved in finding solutions to the challenges posed by climate change and sustainable development. GLOBE supports legislators through national chapters which provide economic, political and policy capacity to develop and advance legislation as well as to monitor its implementation.

South Africa hosted the Conference of the Parties (COP17) to the United Nations Framework Convention on Climate Change (UNFCCC) in December 2011. Prior to the conference, Parliament hosted the National Consultative Seminar on Climate Change in October and the GLOBE Legislative Forum in early December of the same year.

On 25 April, the NA resolved, subject to the concurrence of the NCOP, that a GLOBE Chapter be recognised as a focus group of the Parliamentary Group on International Relations (PGIR). The Council concurred with the decision on 21 August.

### [32] MEMORANDUM OF UNDERSTANDING BETWEEN ASSEMBLY OF THE REPUBLIC OF MOZAMBIQUE AND NATIONAL ASSEMBLY

On 10 September, the President of the Assembly of the Republic of Mozambique, Ms V N M Dlovo, paid an official visit to the Parliament of South Africa. One of the purposes of the visit was to establish a regular exchange programme between the NA and the Assem-

bly of the Republic of Mozambique. A draft memorandum of understanding establishing an exchange programme had been agreed prior to the visit by the Parliamentary Group on International Relations (PGIR). On the same date, the Speaker published the agreement in the ATC.

Prior to the visit of Ms Dlovo, on 22 August, the NA also adopted a motion, moved by the Chief Whip of the Majority Party, which mandated the Speaker, on behalf of the House, to enter into an agreement and table and refer any such agreement to the NA Rules Committee and Parliamentary Oversight Authority (POA).

## **MONEY BILLS AND RELATED MATTERS**

### **[33] APPOINTMENT OF DIRECTOR OF PARLIAMENTARY BUDGET OFFICE**

Section 15 of the *Money Bills Amendment Procedure and Related Matters Act* (No 9 of 2009) established the Parliamentary Budget Office to provide independent, objective and professional advice and analysis to Parliament on matters related to the budget and other money bills. On 4 June, the NA resolved that Professor M I Jahed be appointed Director of the Parliamentary Budget Office from 4 June. In terms of the Act, this was done on the recommendation of the Standing Committee on Finance and the Standing Committee on Appropriations. Prof Jahed had previously served in various business, government and academic bodies such as the Development Bank of Southern Africa (DBSA), Office of the Premier in Limpopo Province, the National Business Initiative (NBI), the New Partnership for African Development (NEPAD) Secretariat and as Professor in the Graduate School of Public and Development Management at the University of the Witwatersrand.

### **[34] FINANCIAL MANAGEMENT OF PARLIAMENT ACT: EXTENSION OF SUSPENSION ORDER**

The *Financial Management of Parliament Act* (No 10 of 2009) (the Act) was passed in 2009. The Act provides, *inter alia*, for financial and accounting systems for Parliament and for norms and standards for provincial legislatures.

On 11 August 2011, the Constitutional Court in *Premier: Limpopo Province v Speaker of the Limpopo Provincial Legislature* found that a provincial legislature was competent to legislate its own financial management only if this had been expressly assigned to it by national legislation and that the Act did not do this. On 22 March 2012, the Court subsequently found the various provincial acts dealing with financial management of provincial legislatures unconstitutional. The

declarations of invalidity were suspended until 9 September. The Court ordered the parties to the matter, including Parliament, to file a report indicating what progress had been made to remedy this defect by 9 September.

On 21 August, the Speaker submitted an affidavit to the Constitutional Court requesting an order that the suspension of the declaration of invalidity be extended to 1 April 2014. In the affidavit, the Speaker indicated that the Speaker's Forum, which comprised of Presiding Officers from both national and provincial legislatures, had met on various occasions to discuss the matter. It had resolved that the most appropriate course of action would be to amend the Act so that it would apply to all provincial legislatures. The NA referred the Act to the Standing Committee on Finance with a view to developing an amending bill. The request for the extension of the suspension of invalidity was based on the time anticipated for Parliament to consult and process the bill. On 2 September, the Constitutional Court granted the order extending the suspension of invalidity to 1 April 2014.

## **STATUTORY FUNCTIONS**

### **[35] APPOINTMENT OF NEW AUDITOR-GENERAL**

In terms of section 193(4) of the Constitution, the President, acting on the recommendation of the NA, must appoint the Auditor-General. Section 189 of the Constitution provides that the Auditor-General must be appointed for a fixed, non-renewable period of between 5 and 10 years. (See *Issue 1, Item 46 and Issue 12, Item 49*)

On 26 April, the Auditor-General, Mr T M Nombembe, wrote to the Speaker to remind the Assembly that his term of office would expire on 30 November, and requested the Assembly to consider concluding the process of recommending a new Auditor-General by 1 September to allow sufficient time for a proper handover and smooth transition.

Section 6(1) of the *Public Audit Act* (No 25 of 2004) provides that whenever it is necessary to appoint an Auditor-General, the Speaker must initiate the process in the NA for the recommendation of a person to be appointed by the President. Furthermore, in terms of the Act, the President determines the term of office of the Auditor-General. In terms of section 193(5)(a) and (b) of the Constitution, the President appoints a person as Auditor-General after nomination by a committee composed proportionally of all parties in the Assembly and approved by a resolution adopted with a supporting vote of at least 60 per cent of members of the NA.

As the Act does not make provision for the Committee on the Auditor-General to be involved in the appointment of the Auditor-General, the NA on 4 June resolved to establish an ad hoc committee to nominate a person for appointment as Auditor-General. The committee consisted of 12 members of the Assembly as follows: ANC 7, DA 2, Cope 1, IFP 1, and other parties 1. The committee had to submit its report on the nomination of the Auditor-General by 20 September.

On 10 September, the committee reported that, after interviewing 6 candidates, it had unanimously agreed to recommend Mr T K Makwetu for appointment as Auditor-General by the President. The Assembly on 11 September approved the recommendation of the ad hoc committee and informed the President accordingly. In a letter dated 4 December, the President informed the Assembly that he had appointed Mr T K Makwetu as Auditor-General for a period of seven years with effect from 1 December.

#### **[36] APPROVAL OF ANTI-TERROR PROCLAMATIONS**

In terms of section 25 of the *Protection of Constitutional Democracy Against Terrorist and Related Activities Act* (No 33 of 2004), the President must, by proclamation in the Gazette and other appropriate means of publication, give notice that the Security Council of the United Nations, under Chapter VII of the Charter of the United Nations, has identified a specific entity as being:

- an entity who commits, or attempts to commit, any terrorist and related activity or participated in or facilitated the commission of any terrorist and related activity; or
- an entity against whom member states of the United Nations must take actions specified in resolutions of the Security Council in order to combat or prevent terrorist and related activities.

Section 26 of the Act gives Parliament a supervisory role as it provides that every proclamation issued under section 25 must be tabled in Parliament for its consideration and decision.

Proclamations 39, 40, 42, 43, 57, 58, 64 and 1 were tabled by the Minister of Police in Parliament on 6 March. On 20 March, the proclamations were referred to the Portfolio Committee on Police for consideration and report. The committee, in its report of 21 June, recommended to the House that the proclamations be approved which the Assembly did on 22 August.

#### **[37] REQUEST FOR APPROVAL OF NOTICE CONTAINING ALTERATION OF HIGH COURT AREAS OF JURISDICTION**

In a letter dated 16 May, the Minister of Justice and Constitutional Development requested Parliament, in terms of section 2(2) of the *Interim Rationalisation of Jurisdiction of High Courts Act* (No 41 of 2001), to approve the draft notice and schedule containing the alteration, with effect from 1 August, of the areas of jurisdiction for which the Northern Cape High Court and the North West High Court were established, respectively.

The matter was referred to the Portfolio Committee on Justice and Constitutional Development for consideration and report. On 19 June, the committee recommended that the NA approve the draft notice and schedule. The Assembly adopted the report on 20 June.

#### **[38] DISSOLUTION OF SOUTH AFRICAN BROADCASTING CORPORATION (SABC) BOARD; APPOINTMENT OF INTERIM BOARD AND RECOMMENDATION FOR APPOINTMENT OF 12 NON-EXECUTIVE MEMBERS OF THE BOARD**

The Portfolio Committee on Communications, having been briefed by the Minister of Communications and the SABC Board, reported on 19 March that it had received notice of the resignations of Dr Ben Ngubane, Chairperson of the SABC Board and his Deputy, Mr Thamie ka Plaatjie. These resignations were followed by the resignation of the following seven members of the board: Adv Cawekazi Mahlati, Mr Cedric Gina, Mr Lumko Mtimde, Mr Desmond Golding, Mr John Danana, Ms Noluthando Primrose Gosa and Ms Pippa Green.

The committee indicated that the resignation of the majority of board members left the board with only two non-executive serving members, and that section 13(1) of the *Broadcasting Act* (No 4 of 1999) required twelve non-executive members to serve on the board. The committee recommended that the Assembly adopt a resolution to dissolve the board as it could not carry out its duties as contemplated in section 13(11) of the Act. The committee further recommended that should the House adopt a resolution to dissolve the board, another resolution be adopted to recommend to the President the appointment of five interim board members in terms of section 15A(3)(a) of the Act. The recommended names to serve on the interim board were: Ms Zanele Ellen Tshabalala, Ms Noluthando Primrose Gosa, Mr Vusumuzi Mavuso, Mr Mashangu Ronny Lubisi and Dr Iraj Abedian. The committee also recommended that Ms Zanele Ellen Tshabalala and Ms Noluthando Primrose Gosa be appointed Chairperson and Deputy Chairperson of the board, respectively. The

report was considered and adopted by the House on 19 March. The board was accordingly dissolved and an interim board appointed.

The Speaker announced in the ATC of 15 August that a letter had been received from the Minister of Communications informing the House that the term of office of the interim board of the SABC would expire on 25 September. In this letter, the Minister requested the Assembly to commence with the process of recommending 12 non-executive board members in accordance with the requirements of section 13(2) of the Act.

The committee reported on 17 September and recommended that the Assembly approve the following list of 12 candidates for appointment by the President as non-executive members of the board:

Ms Rachel Kalidaas, Ms Ellen Zandile Tshabalala, Mr King Thembinkosi Bonakele, Mr Vusumuzi Mavuso, Ms Nomvuyo Mhlakaza, Mr Ronnie Lubisi, Prof Bongani Khumalo, Prof Mbulaheni Obert Maguvhe, Mr Krish Naidoo, Dr Aaron Tshidzumba, Ms Noluthando Gosa and Ms Hope Zinde.

The report was considered and adopted by the House on 19 September.

#### **[39] FILLING OF VACANCIES IN COMMISSION FOR GENDER EQUALITY (CGE)**

In a letter dated 13 September, the Minister of Women, Children and People with Disabilities requested the Assembly to recommend, from a list of 42 nominees and their curricula vitae submitted for consideration, suitable candidates for the filling of vacancies in the CGE in accordance with section 193(5) of the Constitution, 1996, and the relevant provisions of the *Commission on Gender Equality Act* (No 39 of 1996).

Subsequently, the Assembly received a letter, dated 1 September, from Ms Lulama Nare, a commissioner of the CGE, resigning from the Commission with effect from 1 November and requesting Parliament, in terms of section 3(8) of the Act, to allow her to serve a notice period of less than three months. Ms Nare's letter was referred to the Portfolio Committee on Women, Children and People with Disabilities for consideration and report. After interacting with the committee, Ms Nare withdrew her resignation from the Commission and consequently her request to Parliament to allow her to serve notice of less than three months on 18 November.

On 24 October, the House established the Ad Hoc Committee on Filling of Vacancies in the Commission for Gender Equality and instructed it to submit a report with recommended candidates to the House by 7 November. The ad hoc committee tabled its report on 7 November for the consideration of the House. It

recommended that eight candidates be recommended by the House for appointment to the Commission. The eight candidates were:

- Ms Lulama Nare (full-time starting in January 2014)
- Mrs Nomsisi Lindelwa Hicksnia Bata (full-time starting in January 2014)
- Ms Nomasonto Grace Mazibuko (part-time starting in January 2014)
- Mr Mbuyiselo Albert Botha (part-time starting in June 2014)
- Mr Wallace Amos Mgoqi (full-time starting in June 2014)
- Ms Nondumiso Maphazi (full-time starting in June 2014)
- Ms Primrose Siyanda Sobahle (part-time starting in June 2014)
- Ms Priscilla Lynette Fundisile Nzimande (part-time starting in June 2014)

The House considered and adopted the report of the committee on 12 November.

#### **[40] NOMINATION OF CANDIDATES TO SERVE ON AGRICULTURAL RESEARCH COUNCIL (ARC)**

A letter, dated 11 December 2012, was received from the Minister of Agriculture, Forestry and Fisheries, inviting the relevant parliamentary committees in terms of section 9(3)(a)(i) of the *Agricultural Research Act* (No 86 of 1990) to nominate candidates, before 20 March, to serve on the board of the ARC. This request was referred to the Portfolio Committee on Agriculture, Forestry and Fisheries for consideration on 29 January.

The committee recommended the following 13 candidates for appointment in its report dated 26 March:

- Mr JWA Godden
- Prof S Vil-Nkomo
- Ms AD Aphane
- Mr M Dyasi
- Mr AD Young
- Ms D Msomi
- Mr JH McBain
- Ms FW Jansen van Rijssen
- Dr JM Chitja

- Prof TV Mayekiso
- Prof TA Mofokeng
- Prof FJC Swanepoel
- Prof MJ Kahn.

The Assembly adopted the report on 25 April.

**[41] CONSIDERATION OF CANDIDATES FOR APPOINTMENT TO BOARD OF TECHNOLOGY INNOVATION AGENCY (TIA)**

The Minister of Science and Technology wrote to the Speaker on 27 February, requesting the Assembly, in terms of section 5 of the *Technology Innovation Agency Act* (No 26 of 2008), to consider a shortlist of candidates to serve on the TIA Board. The request was referred to the Portfolio Committee on Science and Technology for consideration and report on 11 March.

The committee reported on 27 March and recommended the following shortlist of candidates for the board:

- Ms Helen Brown
- Mr Fadl Hendricks
- Prof David Ellis Kaplan
- Dr Steve Lennon
- Dr Bonakele Mehlomakulu
- Ms Khungeka Njobe
- Adv Motlatjo Josephine Ralefatane
- Dr Petro Terblanche
- Ms Rosetta Xaba
- Mr Mahomed Moolla

The Assembly adopted the report on 25 April.

**[42] CONSIDERATION OF SHORTLIST OF CANDIDATES FOR APPOINTMENT TO BOARD OF NATIONAL RESEARCH FOUNDATION (NRF)**

The Minister of Science and Technology wrote to the Speaker on 9 April and informed him that a vacancy had occurred in the NRF Board. The Minister submitted a shortlist of 3 candidates and their curricula vitae to fill the vacancy in terms of section 6(2)(c) of the *National Research Foundation Act* (No 23 of 1998). The shortlist was referred to the Portfolio Committee

on Science and Technology on 23 April for consideration and report.

The committee reported on 5 June and recommended the appointment of Prof. SG Burton to the NRF Board. The Assembly agreed to the report on 20 June.

**[43] VACANCIES IN HUMAN SCIENCES RESEARCH COUNCIL (HSRC) BOARD**

The Minister of Science and Technology wrote a letter to the Speaker dated 5 September informing the NA about the end of tenure of the HSRC Board on 31 October. The Minister submitted a shortlist of 20 candidates and their curricula vitae to the Assembly for consideration and approval in terms of section 5(3) of the *Human Sciences Research Council Act* (No 17 of 2008). The letter was referred to the Portfolio Committee on Science and Technology for consideration and report on 9 September.

The first report of the committee published on 18 September approved the shortlist of candidates but the Department of Science and Technology then advised the committee that Professor Amanda Lourens was no longer available for nomination to the board.

In a letter dated 27 September, the committee received new information from the Minister of Science and Technology to the effect that Professor Lourens had reconsidered her position and was now available for nomination. In light of the new information, the committee agreed to submit a second report to the House and recommended that the House approve the inclusion of Professor Lourens in the shortlist of candidates. The Second Report was published on 10 October. The Assembly approved the shortlist of candidates on 22 October.

**[44] FILLING OF VACANCIES IN PUBLIC SERVICE COMMISSION (PSC)**

A letter, dated 10 October, was received from the President of the Republic of South Africa requesting the NA to approve two fit and proper persons in accordance with section 196(8)(a) of the Constitution, 1996 in order to fill the vacancies that would arise in the PSC when the terms of office of Ms P M Tengeneni and Ms S S Nkosi expired on 15 January 2014 and 22 February 2014, respectively. This request was referred to the Portfolio Committee on Public Service and Administration for consideration and report on 14 October.

The committee did not finalise this matter in the 2013 parliamentary session.

**[45] APPOINTMENT OF EXECUTIVE  
DIRECTOR OF INDEPENDENT POLICE  
INVESTIGATIVE DIRECTORATE (IPID)**

The Minister of Police wrote a letter to the Speaker dated 8 November requesting the relevant parliamentary committee to confirm or reject the nomination of Mr Robert John McBride as Executive Director of the IPID in terms of section 6(2) of the *Independent Police Investigative Directorate Act* (No 1 of 2011).

The letter was referred to the Portfolio Committee on Police for consideration and report on 11 November. The committee did not report before the end of the 2013 parliamentary session.

**[46] DRAFT SUPPLY CHAIN REGULATIONS  
FOR PARLIAMENT**

The *Financial Management of Parliament Act* (No 10 of 2009) provides that the Executive Authority must through regulations prescribe a supply chain management policy for Parliament. Section 65(5) of the Act requires that a draft of any proposed regulation must be published for public comment. On 4 February, the draft regulations were duly published in *Government Gazette No 36130* (Notice 56 of 2013). Section 65(6) further provides that, after publication, the regulations only come into effect once they have been approved by Parliament.

On 24 October, the Standing Committee on Finance tabled the draft supply chain regulations which the Executive Authority, after publication, referred to the Standing and Select Committees on Finance as well as the Interim Joint Mechanism on Scrutiny of Delegated Legislation for consideration and report on 28 October. The Assembly approved the draft regulations on 5 November.

**[47] FILLING OF VACANCIES ON PAN  
SOUTH AFRICAN LANGUAGE BOARD  
(PANSALB)**

The Minister of Arts and Culture wrote to the Speaker on 12 February, requesting the Assembly to commence with the process outlined in the *Pan South African Language Board Act* (No 59 of 1995) for the filling of vacancies on PanSALB. The board is appointed by the Minister responsible for Arts and Culture for a term of five years. Members are eligible for reappointment for a further term of five years. The Minister's request was referred to the Portfolio Committee on Arts and Culture on 21 February.

The Committee reported on 7 August that it had received 69 nominations and had shortlisted 25 candidates who were subsequently interviewed. In terms of section 5(3)(b)(iii) of the Act, the committee recom-

mended that the Assembly recommend 20 candidates for consideration by the Minister. The Assembly approved the recommendation on 22 October.

**[48] NOMINATION OF CANDIDATES FOR  
NATIONAL AGRICULTURAL  
MARKETING COUNCIL (NAMC)**

In a letter to the Speaker, dated 11 September, the Minister of Agriculture, Forestry and Fisheries, invited the relevant parliamentary committees in terms of section 4(4)(a) of the *Marketing of Agricultural Products Act* (No 47 of 1996) to nominate candidates to serve on the NAMC.

Section 4(4)(a) of the Act provides that the Minister must, by notice in the Gazette as well as in the national news media, including at least two newspapers circulating throughout the Republic, call for the nomination of persons who comply with prescribed criteria for appointment as members of the NAMC. The section, in subsections (b)-(f), further provides that the Minister must establish a selection committee that would compile a shortlist of candidates that the Minister submits to the Secretary to Parliament for submission to the appropriate parliamentary committees. The section also prescribes that the Minister shall appoint such number of members as is required from the list of candidates recommended by the parliamentary committees (*see Issue 18, Item 35*).

The Minister's request was referred to the Portfolio Committee on Agriculture, Forestry and Fisheries for consideration on 1 October. In its report, dated 29 October, the committee recommended the nomination of Mr Neo Harrison Masithela and Dr Edwin Alfred Conroy to serve on the NAMC.

**[49] FILLING OF VACANCY IN SOUTH  
AFRICAN HUMAN RIGHTS  
COMMISSION (SAHRC) AND  
APPOINTMENT OF ADDITIONAL  
COMMISSIONER**

In terms of section 193(4) of the Constitution, the President, on the recommendation of the NA, must appoint members of the SAHRC. On 13 February, the Minister of Justice and Constitutional Development wrote to the Speaker to request that the Assembly undertake the process of making recommendations for a candidate for appointment as full-time commissioner to the SAHRC, and consider the appointment of an additional full-time commissioner, pending the introduction of relevant legislation to enable the SAHRC to fulfil its constitutional mandate. The request was referred to the Portfolio Committee on Justice and Constitutional Development on 20 February.



In its report dated 6 November, the committee noted that it would be premature to appoint an additional commissioner until legislation to bring the Commission's enabling legislation in line with the Constitution is passed. This legislation, among other things, would clarify the number of commissioners to be appointed to the SAHRC (*See Issue 15, Item 40*). In addition, the committee noted that legislation, which would address the remuneration of members of constitutional institutions, had only just been introduced in Parliament.

The committee recommended that Adv M Ameerma should be appointed as a Commissioner of the SAHRC. The Assembly agreed to the recommendation in accordance with section 193(5)(b)(ii) of the Constitution on 12 November.

#### **[50] FILLING OF VACANCY ON MEDIA DEVELOPMENT AND DIVERSITY AGENCY (MDDA) BOARD**

On 5 August, the Minister in the Presidency: Performance Monitoring and Evaluation as well as Administration in the Presidency wrote to the Speaker to inform him that the term of office of MDDA Board member Ms Nadia Bulbulia would expire on 31 December. The Minister requested the NA to commence with the process of nominating candidates to replace the outgoing board member.

In terms of section 4 of the *Media Development and Diversity Agency Act* (No 14 of 2002), the board consists of nine members of whom six members are appointed by the President on the recommendation of the NA. The other three members are also appointed by the President, but not on the recommendation of the NA (*See also Issue 18, Item 40*).

On 14 August, the Minister's request was referred to the Portfolio Committee on Communications for consideration and report. The committee reported on 6 November that it recommended Mr Roland Williams to fill the vacancy on the board. The House approved the recommendation on 12 November.

#### **[51] SOUTH AFRICAN NATIONAL SPACE AGENCY (SANSa): APPROVAL OF SHORTLIST OF CANDIDATES**

A letter, dated 11 December 2012 from the Minister of Science and Technology requested the Assembly to approve a shortlist of candidates for appointment to the board of SANSa in terms of section 7(1)(c) of the *South African National Space Agency Act* (No 36 of 2008). The Minister's request was referred to the Portfolio Committee on Science and Technology for consideration and report on the same day.

The committee reported on 1 March and noted that there were considerable differences in the legislation governing the appointment of members to boards in the science and technology portfolio. The committee recommended that the Minister consider reviewing the relevant legislation in order to ensure that there was a uniform approach to the appointment processes (*See Issue 15, Item 43*). The committee also reported that it recommended a shortlist of 13 candidates from 45 nominations for appointment to the board. The Assembly approved the committee's recommended shortlist of candidates on 14 March.

#### **[52] APPROVAL OF COMPOSITION OF NATIONAL COUNCIL FOR LIBRARY AND INFORMATION SERVICES (NCLIS) APPOINTMENT PANEL**

A letter, dated 4 October, was received from the Minister of Arts and Culture requesting the Portfolio Committee on Arts and Culture, in accordance with section 7(2)(a) of the *National Council for Library and Information Services Act* (No 6 of 2001) to approve the composition of a panel to reconstitute the NCLIS.

The request was referred to the Portfolio Committee on Arts and Culture for consideration on 15 October. The committee reported on 6 November that it recommended that Ms E Tise, Mr V Ndima, Ms M Gilder, Mr AP Kekana, Mr G Mditshwa, Mr K Madumo and Ms K Meyer be approved as candidates for the Appointment Panel to reconstitute the NCLIS. The report further recommended Ms N Skhosana, Ms U Janke and Ms I Assman as reserve candidates if one or more of the other candidates were not available for appointment to the panel. The committee's report was approved by the Assembly on 12 November.

#### **[53] DESIGNATION OF MEMBER TO MAGISTRATES' COMMISSION**

The Deputy Minister of Higher Education and Training, Mr C M Manana MP, wrote to the Speaker on 14 October tendering his resignation from the Magistrates' Commission after he had been appointed as a Deputy Minister. Mr Manana was designated as a representative of the NA on the Commission on 26 May 2009.

Section 3(1)(a)(x) of the *Magistrates Act* (No 90 of 1993) provides that four members of the NA shall be designated as members of the Commission. At least two of the four members must be members of the opposition parties represented in the Assembly. Mr Manana, as a member of the majority party, had to be replaced by a member of the African National Congress.

On 12 November, the Assembly designated Ms M C C Pilane-Majake to replace Mr Manana as a member of the Magistrates' Commission.

**[54] DESIGNATION OF MEMBER TO SOUTHERN AFRICAN DEVELOPMENT COMMUNITY PARLIAMENTARY FORUM (SADC-PF)**

On 26 May 2009, the South African Parliament designated a presiding officer and four representatives to the SADC-PF in accordance with Section 6(3) of the SADC-PF Constitution.

In November 2011, during the 30th SADC-PF Plenary, Section 6(3) of the SADC-PF Constitution was amended to allow each country to designate an additional representative. On 20 June, the NA, subject to the concurrence of the NCOP, designated Mr L S Ngonyama of the Congress of the People (Cope), as the fifth Member of Parliament of South Africa's delegation. The Council concurred with this decision on 1 August.

**THE CHAMBER**

**[55] APPOINTMENT OF DEPUTY SERJEANT-AT-ARMS**

On 12 March, the Speaker announced the appointment of Mr T R Maleeme as Deputy Serjeant-at-Arms of the NA with effect from 1 September 2012. The Deputy Serjeant-at-Arms reports directly to the Serjeant-at-Arms and has the following responsibilities related to House sittings: provision of security in and around the NA Chamber; performance of ceremonial and protocol duties; supervision of NA Chamber services; coordinating, controlling and maintaining the members' attendance register; seating allocations and related administrative duties.

**UNPARLIAMENTARY EXPRESSIONS**

**[56] EXPRESSIONS RULED UNPARLIAMENTARY DURING 2013**

Mouth zipped while her party incites racism, member's

Clown and a mascot, member behaves like a

Truthful [member], what happened to the

Person of some weight, member may be a

Abusing her position in this Parliament, Minister is

People bribed to vote for the ANC (with reference to a Minister)

Ruthlessly annihilated, those who threaten the monopoly of their alliance should be (with reference to "the democratic government of the ANC")

Enemies of the revolution and therefore had to be executed, those who honestly demanded a living wage were (with reference to "the democratic government of the ANC")

Shut up (with reference to a member)

It is the work of some witches who go around during the stealth of the night, trying to kill us (with reference to a member)

Lies, the member should not tell

**[57] EXPRESSIONS CHALLENGED BUT NOT RULED UNPARLIAMENTARY DURING 2013**

DA of Premier Zille deliberately misleading the nation with unfounded lies

Public Protector a detective inspector of the DA rather than an institution promoting democracy

Pack of lies (with reference to a political party)

Darkies

Misleading this Parliament, member is

Misinform Parliament by using selective bits from her spies and misleading the House, member continues to

**ABBREVIATIONS**

ATC	Announcements, Tablings and Committee Reports (a daily parliamentary paper which is effectively an appendix to the Minutes of Proceedings)
CDA	Central Drug Authority
CGE	Commission for Gender Equality
DPP	Deputy Public Protector
EPC	Extended Public Committee (a mechanism that enables the NA to conduct more than one public debate simultaneously)
Icasa	Independent Communications Authority of South Africa
JRC	Joint Rules Committee
JTM	Joint Tagging Mechanism
LoGB	Leader of Government Business
MDDA	Media Development and Diversity Agency

Minutes	Minutes of Proceedings of the NA
NA	National Assembly
NAMC	National Agricultural Marketing Council
NAPC	NA Programme Committee
NARC	NA Rules Committee
NCOP	National Council of Provinces
NPA	National Prosecuting Authority
NPC	National Planning Commission
NYDA	National Youth Development Agency
PAP	Pan-African Parliament
SABC	South African Broadcasting Corporation
SONA	State of the Nation Address

## PARTIES

ANC	African National Congress
DA	Democratic Alliance
Cope	Congress of the People
IFP	Inkatha Freedom Party
ID	Independent Democrats
UDM	United Democratic Movement
FF Plus	Freedom Front Plus
ACDP	African Christian Democratic Party
UCDP	United Christian Democratic Party
PAC	Pan Africanist Congress of Azania
MF	Minority Front
Azapo	Azanian People's Organisation
APC	African People's Convention

## Annexure 1

### MEMBERSHIP OF THE ASSEMBLY

In the 2013 annual session, several vacancies occurred in the NA. Some were due to resignations and others as a result of members passing away. At the time of reporting, some of the vacancies had still not been filled.

In terms of Item 23 of Schedule 1A to the *Electoral Act* (Act 73 of 1998), casual vacancies have to be filled by parties nominating the next qualified and available member from the same candidates' list from which the member vacating the seat had originally been nominated.

The following vacancies occurred and were filled in 2013:

- Mr E J Lucas (IFP – KwaZulu-Natal) resigned with effect from 15 January 2013. Replaced by Ms S J Nkomo with effect from 21 May 2013.

- Ms K R Magau (ANC – Free State) resigned with effect from 1 February 2013. Replaced by Mr S J Mohai with effect from 26 March 2013.
- Mr G R Morgan (DA – KwaZulu-Natal) resigned with effect from 4 February 2013. Replaced by Mr F A Rodgers with effect from 14 March 2013.
- Mr N B Fihla (ANC – Eastern Cape) resigned with effect from 22 March 2013. Replaced by Mr Z G Wayile with effect from 26 March 2013.
- Mr R A P Trollip (DA – Eastern Cape) resigned with effect from 1 June 2013. Replaced by Mr K J Mileham with effect from 1 June 2013.
- Rev K R J Meshoe (ACDP – National) resigned with effect from 21 June 2013. Replaced by Mr W M Thring with effect from 21 June 2013.
- Mr M R Baloyi (ANC – National) resigned with effect from 10 July 2013. Replaced by Mr F Beukman with effect from 16 August 2013.
- Mr L M Mphahlele (PAC – National) Ceased to be a member of the NA in terms of section 47(3)(c) of the Constitution with effect from 11 July 2013. Replaced by Mr S A Mpethi with effect from 15 July 2013.
- Mr N M Kganyago (UDM – National) passed away on 17 July 2013. Replaced by Mr N L Kwankwa with effect from 6 August 2013.
- Ms L Jacobus (ANC – Gauteng) resigned with effect from 1 August 2013. Replaced by Ms F Mahomed with effect from 15 August 2013.
- Ms S C van der Merwe (ANC – National) resigned with effect from 16 October 2013. Replaced by Mr D W Swanepoel with effect from 16 October 2013.
- Ms S P Rwexana (Cope – National) resigned with effect from 1 November 2013. Replaced by Ms N G Matiwane with effect from 1 November 2013.
- Mr W M Thring (ACDP – National) resigned with effect from 21 November 2013. Replaced by Rev K R J Meshoe with effect from 21 November 2013.
- Mr I O Davidson (DA – Gauteng) resigned with effect from 1 December 2013. Replaced by Mr J de Goede with effect from 1 December 2013.

## Annexure 2

### APPOINTMENT OF NEW MINISTERS AND DEPUTY MINISTERS

On 16 July, the President informed the NA of appointments made to Cabinet in terms of sections 91(2), 91(3) and 93(1) of the Constitution.

The following appointments were announced by the President:

- Mr S L Tsenoli was appointed as Minister of Cooperative Governance and Traditional Affairs;
- Mr C C September was appointed as Minister of Human Settlements;
- Mr Y I Carrim was appointed as Minister of Communications;
- Mr B A D Martins was appointed as Minister of Energy;
- Ms E D Peters was appointed as Minister of Transport;
- Mr J H Jeffrey was appointed as Deputy Minister of Justice and Constitutional Development;
- Mr A C Nel was appointed as Deputy Minister of Cooperative Governance and Traditional Affairs;
- Mr T M Masutha was appointed as Deputy Minister of Science and Technology; and
- Ms P Tshwete was appointed as Deputy Minister of Rural Development and Land Reform.

## Annexure 3

### LIST OF CONDOLENCE MOTIONS AND TRIBUTES

- Mr Pius Langa was the former Chief Justice of the Republic of South Africa. He was among the first judges selected for the Constitutional Court, established in 1994 under the country's first democratic constitution and was appointed Chief Justice of the Republic of South Africa in 2005. Before he served in the Constitutional Court, he served the Department of Justice for 17 years, became an advocate of the Supreme Court of South Africa in 1977 and was appointed to the Bench by former President Nelson Mandela in 1994. The motion on his passing was debated and agreed to by the Assembly on 20 August, members standing.
- Mr Ntopile Marcel Kganyago was the Deputy President of the United Democratic Movement (UDM) and served as a UDM municipal councillor in Polokwane for four years, after which he became a member of the Limpopo Provincial Legislature until he became a Member of Parliament in 2004. He also served as a Deputy Minister of Public Works and had a long career as an educator, a school inspector and as the Head of Psychological Services at the Department of Education. The motion on his passing was debated and agreed to by the Assembly on 22 August, members standing.
- Dr Jean Swanson-Jacobs, also known as Jean Benjamin, became a Member of Parliament in 1997 and served as the Deputy Minister of Social Development from April 2004 to May 2009. Her condolence motion was agreed to by the Assembly on 22 August, members standing.