

REPUBLIC OF SOUTH AFRICA

MINUTES OF PROCEEDINGS

OF

NATIONAL COUNCIL OF PROVINCES

THURSDAY, 1 DECEMBER 2011

1. The Council met at 14:01 in the Old Assembly Chamber.
2. The Chairperson took the Chair and requested members to observe a moment of silence for prayers or meditation.
3. [14:03] Notices of motion.
4. [14:18] Mr M C Maine moved without notice: That the Council -
 - (1) notes that a record of five million South Africans have submitted their returns between July and November 2011 and that the South African Revenue Services, reported that it is on track to collect R728 billion from taxpayers, which amounts to a 23% increase on last year, but 750 000 returns are still outstanding;
 - (2) further notes that this is as a result of the innovative introduction of the E-filing system by National Treasury;
 - (3) acknowledges that tax collection is what actually enables our fiscal system to work because the money that the government spends comes largely from taxes that are collected from South Africans and makes it possible for government to deliver services to our people; and
 - (4) therefore wants to commend all South Africans who have complied with their obligations to submit their tax returns and in particular congratulates the South African Revenue Services for the excellent service which they have provided to ensure a smooth and efficient process for all our people.

Motion agreed to in accordance with section 65 of the Constitution.

5. [14:19] Mr T A Mashamaite moved without notice: That the Council -

- (1) notes with concern the findings of a study by the Limpopo Department of Social Development that the majority of teenage mothers in Limpopo fall pregnant after having been raped;
- (2) further notes that this study was commissioned to examine factors behind the high rate of teenage pregnancy in the province;
- (3) notes that this study revealed that more than a quarter of cases were statutory rape and that more than half was explicit rape, with statutory rape being significantly high in the Waterberg and Mopani areas while explicit rape is the highest in Sekhukhune and Vhembe;
- (4) acknowledges that legislation prohibits sex with a person under the age of 16 and that it is a criminal offence for anyone to have sex with a child under the age of 16 and that such a person can be charged with statutory rape, even if sex with a child under 16 had been consensual; and
- (5) therefore notes with concern the further findings of the study that violence against women in South Africa is on the rise and calls on the police and the National Prosecuting Authority to leave no stone unturned to ensure that the perpetrators meet with the full force of the law and that they are not released on bail.

Motion agreed to in accordance with section 65 of the Constitution.

6. [14:23] Ms B V Mncube moved without notice: That the Council -

- (1) notes and expresses its shock and sadness at the sudden death of ANC member of the Gauteng provincial legislature, Kenneth Batyi;
- (2) further notes that –
 - (a) Hon Batyi was born and raised in the Eastern Cape in the 1960s and finished his schooling at Cala High School in 1984, then moved to Daveyton, Ekurhuleni, in search of work;
 - (b) prompted by his experiences of living in a shack, in 1988 he became a leader of the Daveyton Civic Association, going on to become Deputy Chairperson of the township's arm of the South African National Civic Association until 1998;
 - (c) in 1994 he went to the Gauteng legislature and joined the social development, health, sport, recreation, arts and culture committees;

- (d) in 1996 he was elected as a Daveyton ANC branch chairperson;
 - (e) following the 2004 elections, he was seconded to the Department of Social Development as Deputy Director, on a seven month assignment and returned to the legislature in December 2004; and
- (3) dips its revolutionary banner in honour of this dedicated ANC cadre and conveys its heartfelt condolences to the Batyi family and the entire ANC family in these trying times. “inkosi mazizole, izichaka zizolile” – the words said last Monday at the legislature.

Motion agreed to in accordance with section 65 of the Constitution.

7. [14:25] Mr T M H Mofokeng moved without notice: That the Council -

- (1) notes that the Eastern Cape police have arrested more than a thousand people as part of the government’s “Operation Duty Calls” programme launched last month, among which were two of the province’s most wanted men;
- (2) further notes that those arrested were sought for a variety of crimes, including car theft, hijacking and possession of stolen goods;
- (3) acknowledges that stolen goods valued at R250 000 were recovered, 27 illegal fire arms and ammunition confiscated as well as dagga with an estimated street value of R500 000; and
- (4) commends the Eastern Cape police on a job well done and expresses appreciation to them and all other members of the South African Police Services who selflessly put their lives on the line to make South Africa a safer and better place.

Motion agreed to in accordance with section 65 of the Constitution.

8. [14:27] Mr G G Mokgoro moved without notice: That the Council -

- (1) notes with utter dismay and shock that a pregnant mother from the Northern Cape appeared in court on charges of murdering her five children, aged between 2 and 13, by allegedly forcing them to drink a cocktail of brake fluid and cool drink and then drowning them when she thought that they were not dying quickly enough;
- (2) further notes that she allegedly fetched two of the children from school and took them to their grandmother’s house where the other three were waiting and on her way to fetch the children from school, she apparently asked a nephew to fill the bathtub in the meantime; and

- (3) calls on all relevant authorities and in particular the Department of Social Services and all relevant agencies as well as churches, church organisations, welfare organisations and community workers to join hands and develop and implement appropriate measures and programs to identify families and individuals that are in distress or with mental disorders and in particular children that are in the care of such families or persons and to ensure timeous intervention.

Motion agreed to in accordance with section 65 of the Constitution.

9. [14:29] Mr S S Mazosiwe moved without notice: That the Council -

- (1) notes with utter dismay and aversion that a 32 year old woman near Mthatha in the Eastern Cape has been gang raped and robbed at her home allegedly by 4 youth aged between 16 and 17 after they kicked open the door of her house on Tuesday night;
- (2) further notes that they took turns in raping her whereafter they robbed her and ran away;
- (3) also notes with concern that this gruesome incident took place amidst the Sixteen Days of Activism Against Gender Violence and in particular sexual violence and condemns this cowardice and horrific act;
- (4) commends the police who followed up leads swiftly and efficiently and arrested the youths who have already appeared in court; and
- (5) calls on the Minister of Justice and Constitutional Development and the National Prosecuting Authority to review the penalties for rape with a view to introducing much harsher penalties.

Motion agreed to in accordance with section 65 of the Constitution.

10. [14:31] Mr V M Manzini moved without notice: That the Council -

- (1) notes the passing away of 17 people in a head on collision between a taxi and a truck;
- (2) further notes that the accident took place along the N4 route in Belfast, Mpumalanga early this morning;
- (3) also notes that three passengers were flung on the hard tar and the rest were burnt beyond recognition;
- (4) notes that the taxi moved to the wrong side of the road, which may have been caused by fatigue; and
- (5) calls on all long distance drivers to rest at hourly intervals in order to Arrive Alive!

May the souls of the departed rest in peace.

Motion agreed to in accordance with section 65 of the Constitution.

11. [14:32] Mr M P Sibande moved without notice: That the Council -

- (1) notes the plans by the national department of Transport to build a railway line linking the Western Cape, Eastern Cape and KwaZulu-Natal;
- (2) also notes that this railway line will transport people as well as goods and thus benefit thousands of people who travel between the Western Cape and Eastern Cape every weekend and will drastically ease congestion on the N2, which will in turn reduce fatal road accidents ;
- (3) further notes that this will lead to tourism and economic development, particularly for the Eastern Cape
- (4) acknowledges that the rail connectivity between the three coastal provinces is therefore key to their growth and development; and
- (5) commends the Department of Transport on this initiative to implement plans that will serve as a stimulus for economic growth and job creation for our people.

Motion agreed to in accordance with section 65 of the Constitution.

12. [14:33] Mr L P M Nzimande moved without notice: That the Council -

- (1) notes that a violent storm killed eight people in Durban and Pietermaritzburg on Sunday night and destroyed scores of homes which brings the number of people killed by floods in KwaZulu-Natal to 13 in less than two weeks;
- (2) also notes that about 100 homes were flooded and damaged in Isipingo and that this unexpected and extreme weather patterns are attributed to climate change;
- (3) further notes that this happens at a time when up to 20 000 delegates from more than 190 countries are gathered in Durban to thrash out a plan to counter global warming and the catastrophic climate change, including the extreme weather patterns which is causing havoc in many parts of the world; and
- (4) takes this opportunity to welcome the speedy response by the provincial government of KwaZulu-Natal in providing assistance to those affected by this disaster and further urges delegates at COP 17 to find lasting solutions to the problem of global warming by committing to a legally binding agreement and establish a climate change global fund and lastly, conveys condolences to the bereaved and affected communities.

Motion agreed to in accordance with section 65 of the Constitution.

13. FIRST ORDER [14:37]

Consideration of Report of Select Committee on Co-operative Governance and Traditional Affairs (Announcements, Tablings and Committee Reports, 23 November 2011, p 5095 - **Consideration of Termination of Intervention in Thabo Mofutsanyana District Municipality**).

Debate concluded.

Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

14. SECOND ORDER [14:37]

Consideration of Report of Select Committee on Co-operative Governance and Traditional Affairs (Announcements, Tablings and Committee Reports, 23 November 2011, p 5100 - **Consideration of termination of Intervention in Thembisile Hani Local Municipality**).

Debate concluded.

Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

15. THIRD ORDER [14:37]

Consideration of Report of Select Committee on Co-operative Governance and Traditional Affairs (Announcements, Tablings and Committee Reports, 23 November 2011, p 5104 - **Termination of Intervention in Umhlabuyalingana Local Municipality and extension of Interventions in Indaka, Okhahlamba and Msunduzi Local Municipalities**).

Debate concluded.

Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

16. FOURTH ORDER [14:46]

Consideration of Report of Select Committee on Finance (Announcements, Tablings and Committee Reports, 17 November 2011, p 4767 - **Agreement between the Government of the Republic of South Africa and the Government of the States of Guernsey for the exchange of information relating to tax matters**).

Debate concluded.

Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

17. FIFTH ORDER [14:46]

Consideration of Report of Select Committee on Finance (Announcements, Tablings and Committee Reports, 17 November 2011, p 4768 - **Protocol Amending the Agreement between the Government of the Republic of Seychelles and the Government of the Republic of South Africa for the Avoidance of Double Taxation and the prevention of fiscal evasion with respect to taxes on income**).

Debate concluded.

Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

18. SIXTH ORDER [14:46]

Consideration of Report of Select Committee on Finance (Announcements, Tablings and Committee Reports, 17 November 2011, p 4766 - **Protocol and additional protocol amending the convention between the Republic of South Africa and the Republic of Austria for the Avoidance of Double Taxation with respect to taxes on income and capital**).

Debate concluded.

Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

19. SEVENTH ORDER [14:46]

Consideration of Report of Select Committee on Finance (Announcements, Tablings and Committee Reports, 17 November 2011, p 4768 - **Protocol Amending the Agreement between the Government of the Republic of South Africa and the Government of Malaysia for the Avoidance of Double Taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Pretoria on 26 July 2005**).

Debate concluded.

Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

20. EIGHTH ORDER [14:46]

Consideration of Report of Select Committee on Finance (Announcements, Tablings and Committee Reports, 17 November 2011, p 4768 - **Agreement between the Government of the Republic of South Africa and the Government of the Republic of San Marino for the exchange of information relating to tax matters**).

Debate concluded.

Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

21. NINTH ORDER [14:46]

Consideration of Report of Select Committee on Finance (Announcements, Tablings and Committee Reports, 17 November 2011, p 4767 - **Agreement between the Government of the Republic of South Africa and the Government of the Cayman Islands for the exchange of information relating to tax matters**).

Debate concluded.

Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

22. TENTH ORDER [14:46]

Consideration of Report of Select Committee on Finance (Announcements, Tablings and Committee Reports, 17 November 2011, p 4767 - **Agreement between the Government of the Republic of South Africa and the Government of Jersey for the exchange of information with respect to taxes**).

Debate concluded.

Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

23. ELEVENTH ORDER [14:46]

Consideration of Report of Select Committee on Finance (Announcements, Tablings and Committee Reports, 17 November 2011, p 4766 - **Agreement between the Government of the Republic of South Africa and the Government of Bermuda for the exchange of information relating to tax matters**).

Debate concluded.

Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

24. TWELFTH ORDER [14:46]

Consideration of Report of Select Committee on Finance (Announcements, Tablings and Committee Reports, 17 November 2011, p 4766 - **Agreement between the Republic of South Africa and the Government of the Commonwealth of the Bahamas for the exchange of information relating to tax matters**).

Debate concluded.

Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

25. [15:06] Ruling by the Chairperson on a point of order raised by Mr TE Chaane during the sitting.
26. The Council adjourned at 15:07.

Z A DINGANI
Secretary to Parliament