

Thursday, 6 December 2018]

No 53 – 2018] FIFTH SESSION, FIFTH PARLIAMENT

REPUBLIC OF SOUTH AFRICA

MINUTES OF PROCEEDINGS

OF

NATIONAL ASSEMBLY

THURSDAY, 6 DECEMBER 2018

1. The House met at 14:00
2. The Deputy Speaker took the Chair and requested members to observe a moment of silence for prayer or meditation.
3. [14:01] The Chief Whip of the Majority Party moved, that the House –
 - (1) notes that the report of the Constitutional Review Committee on **Review of section 25 of the Constitution, 1996** (*Announcements, Tablings and Committee Reports, 15 November 2018, p 4-35*) was adopted by the Assembly and the Council on 4 and 5 December 2018 respectively, recommending that Parliament -
 - (a) amends section 25 of the Constitution to make explicit that which is implicit in the Constitution, with regards to expropriation of land without compensation, as a legitimate option for land reform, so as to address the historic wrongs caused by the arbitrary dispossession of land, and in so doing ensure equitable access to land and further empower the majority of South Africans to be productive participants in ownership, food security and agricultural reform programs;
 - (b) urgently establishes a mechanism to effect the necessary amendment to the relevant part of section 25 of the Constitution; and

- (c) tables, processes and passes a Constitutional Amendment Bill before the end of the Fifth Democratic Parliament in order to allow for expropriation without compensation;
- (2) establishes an *ad hoc* committee in terms of Rule 253, the committee to –
 - (a) initiate and introduce legislation amending section 25 of the Constitution;
 - (b) have regard to the recommendations as contained in the Constitutional Review Committee report;
 - (c) consist of 11 voting members of the Assembly, as follows: African National Congress 6, Democratic Alliance 2, Economic Freedom Fighters 1 and other parties 2;
 - (d) consist of 14 non-voting members of the Assembly, as follows: African National Congress 2, Democratic Alliance 1, Economic Freedom Fighters 1 and other parties 10;
 - (e) exercise those powers as set out in Rule 167 that may assist it in carrying out its task; and
- (3) sets the deadline by which the Committee is to report to 31 March 2019.

Question put: That the motion moved by the Chief Whip of the Majority Party be agreed to.

Declarations of vote made on behalf of the Democratic Alliance, Economic Freedom Fighters, Inkatha Freedom Party, National Freedom Party, United Democratic Movement, African Christian Democratic Movement, Freedom Front Plus, Congress of the People, African Independent Congress, African People's Convention and African National Congress.

Division demanded.

House divided.

AYES: - 183: Abraham-Ntantiso, N; Abrahams, B L; Adams, F; Adams, P E; Adams, R C; Bam-Mugwanya, V; Basson, J V; Bekwa, S D; Bhengu, N R; Bhengu, F; Bilankulu, N K; Booï, M S; Botes, A; Carrim, Y I; Cele, B H; Cele, M A; Chauke, H P; Chikunga, L S; Chiloane, T D; Chohan, F I; Chueu, M P; Coleman, E M; Cronin, J P; Cwele, S C; Dambuzza, N B; Didiza, A T; Dirks, M A; Dlakude, D E; Dlulane, B N; Dube, J J; Dunjwa, M L; Faku, Z C; Filtane, M L W; Fubbs, J L; Gcwabaza, N E; Gina, N; Godi, N T; Gumede, D M; Hanekom, D A; Hlonyana, N K F; Holomisa, S P; Jeffery, J H; Kabini, D J; Kalako, M U; Kekana, H B; Kekana, C D; Kekana, E; Kekana, M D; Kenye, T E; Khawula, M S; Khoarai, L P; Khosa, D H; Khubisa, N M; Khunou, N P; Koornhof, G W; Koornhof, N J J v R; Kubayi, M T; Kwankwa, N L S; Lesoma, R M M; Luyenge, Z; Luzipo, S; Maake, J J; Mabasa, X; Mabija, L; Madella, A F; Maesela, P; Mafu, N N; Magadla, N W; Magadzi, D P; Mahlangu, D G; Mahlangu, J L; Mahlobo, M D; Majeke, C N; Majola, F Z; Majola, T; Makhubela-Mashele, L S; Makondo, T; Makwetla, S P;

Maluleke, B J; Manana, M N S; Mantashe, P T; Maphanga, W B ; Maphatsoe, E R K; Mapulane, M P; Martins, B A D; Masehela, E K M; Maseko, L M; Mashabela, N R; Mashego-Dlamini, K C; Mashile, B L; Masondo, N A; Masuku, M B; Masutha, T M; Matiase, N S; Matlala, M H; Matsimbi, C; Mavunda, R T; Maxegwana, C H M; Mbuyane, S H; Mchunu, S; Mdakane, M R; Memela, T C; Meso, L D; Mfeketo, N C; Mfulo, A T; Mhlongo, S P; Mjobo, L N; Mkhalihi, H O; Mkongi, B M; Mmemezi, H M Z; Mmola, M P; Mmusi, S G; Mncwabe, S C; Mnganga - Gcabashe, L A; Mnguni, D; Mnguni, P J; Mogotsi, V P; Molebatsi, M A; Molekane, E; Mothapo, M R M; Mpanza, T K; Mthembu, N; Mthembu, J M; Mulaudzi, T E; Nchabeleng, M E; Ndaba, C N; Ndlovu, B C ; Ndlozi, M Q; Ndongeni, N; Nel, A C; Newhoudt-Druchen, W S; Ngwenya-Mabila, P C; Nkadimeng, M F; Nkonyeni, P; Nkonzo, T M; Nkwinti, G E; Nobanda, G N; Ntlangwini, E N; Ntshayisa, L M; Nyambi, H V; Nzimande, B E; Oliphant, G G; Paulsen, M N; Phaahla, M J; Pikinini, I A; Pilane-Majake, M C C; Radebe, B A; Ralegoma, S M; Ramatlakane, L; Raphuti, D D; Rawula, T; Seabi, A M; Semenya, M R; Senokoanyane, D Z; September, C C; Shabangu, S; Shope-Sithole, S C N; Sibande, M P; Skosana, G J; Skwatsha, M; Smith, V G; Sonti, N P; Surty, M E; Theko, L C; Thembekwayo, S S; Tleane, S A; Tobias, T V; Tom, X S; Tongwane, T M A; Tseke, G K; Tseli, R M; Tshwaku, M; Tshwete, P; Tsoleli, S P; Tsotetsi, D R; Tuck, A; Van Schalkwyk, S R; Wolmarans, M J; Xaba, N; Xalisa, Z R; Xego, S T; Zokwana, S; Zulu, L D.

NOES - 77: Alberts, A; America, D; Atkinson, P G; Bara, M R; Basson, L J; Bergman, D; Boshoff, H S; Bozzoli, B; Brauteseth, T J; Breytenbach, G; Buthelezi, M G; Cachalia, G K Y; Cardo, M J; Carter, D; Cassim, Y; Cebekhulu, R N; Chance, R W T; De Freitas, M S F; Dreyer, A M; Dudley, C; Esau, S; Geyer, H P; Gqada, T; Grootboom, G A; Hlengwa, M; Hoosen, M H; Hugo, R; Hunsinger, C H H; Jooste, K; Kalyan, S V; Khanyile, T A; Kohler, D; Kruger, H C C; Lees, R A; Lekota, M G P; Lorimer, J R B; Lotriet, A; Mackenzie, C; Majola, T R; Malatsi, M S; Marais, E J; Marais, S J F; Masango, B S ; Matsepe, C D; Maynier, D J; Mbabama, T M; Mbhele, Z N; Meshoe, K R J; Mhlongo, T W; Mileham, K J; Motau, S C; Motshidi, T K; Ngwenya, G W; Ngwezi, X; Nkomo, S J; Purdon, R K; Rabotapi, M W; Robertson, K P; Robinson, D; Ryder, D R; Schmidt, H C; Shackleton, S; Shinn, M R; Sithole, K P; Stander, T; Steenhuisen, J H; Steenkamp, J; Swart, S N; Tarabella Marchesi, N I; Van Dalen, P; Van Der Merwe, L L; Van Der Walt, D; Van Der Westhuizen, A P; Van Dyk, V; Walters, T C R; Waters, M; Wilson, E R.

Question agreed to.

Motion accordingly agreed to.

4. [14:56] The Chief Whip of the Majority Party moved: That the House approves the draft notice and schedule received from the President, dated 5 December 2018, determining the rate at which salaries and allowances or benefits are payable to Constitutional Court Judges or Judges annually, with effect from 1 April 2018, in terms of section 2(1)(a) of the Judges Remuneration and Conditions of Employment Act, 2001 (Act No 47 of 2001) as amended by section 15 of the Judicial Officers (Amendment of Conditions of Service) Act (No 28 of 2003) (Announcements, Tablings and Committee Reports, 5 December 2018, p 5).

Declaration of vote made on behalf of the Economic Freedom Fighters.

Motion accordingly agreed to.

5. [15:05] The Chief Whip of the Majority Party moved: That the House approves the draft notice and schedule received from the President, dated 5 December 2018, determining the rate at which salaries and allowances or benefits are payable to magistrates annually, with effect from 1 April 2018, in terms of section 12(1)(a) of the Magistrates Act (No 90 of 1993) as amended by section 3 of the Judicial Officers (Amendment of Conditions of Service) Act (No 28 of 2003) (Announcements, Tablings and Committee Reports, 5 December 2018, p 5).

Declarations of vote made on behalf of the Economic Freedom Fighters and Democratic Alliance.

Motion accordingly agreed to.

6. FIRST ORDER [15:15]

Decision of Question on Second Reading — **Road Accident Benefit Scheme Bill** [B 17B – 2017] (National Assembly – sec 75).

The Deputy Speaker announced that amendments to the Bill, in the name of Mr C H H Hunsinger, had been proposed in terms of Assembly Rule 291 and published on the Order Paper.

Mr C H H Hunsinger addressed the House on the amendments.

Amendments to the Bill put, as printed on the Order Paper (p 981), namely:

CLAUSE 1

1. On page 6, in line 8, after “law”, to insert:

to the extent that it would preclude a claimant from recovering pecuniary loss at common law

CLAUSE 34

1. On page 14, after line 39, to insert:

(c) in circumstances where the claimant of the benefit was the driver of the vehicle and such claimant used the vehicle whilst under the influence of intoxicating liquor or drugs to the extent that the claimant would be guilty of a criminal offence; or
(d) in circumstances where the claimant of the benefit was the driver of the vehicle and such claimant deliberately caused the road accident giving rise to the claim.

CLAUSE 40

1. On page 16, in lines 52 and 53, to omit “to the extent that they are willing and able to do so” and to substitute:

, and shall be entitled to the health care service provider of their choice

NEW PART

1. On page 22, after line 39, to insert:

PART E***Life enhancement benefit*****Liability of Administrator in respect of life enhancement benefit**

47. (1) Subject to this Act, the Administrator shall be liable to provide a life enhancement benefit to injured persons in respect of non-pecuniary losses limited to payments for a serious injury as contemplated in subsection (2) and shall be paid by way of a lump sum.

(2) Assessment of a serious injury shall be based on a prescribed method adopted after consultation with medical service providers and shall be reasonable in ensuring that injuries are assessed in relation to the circumstances of the claimant.

(3) The assessment shall be carried out by a medical practitioner registered as such under the Health Care Professions Act, 1974 (Act No. 56 of 1974).

CLAUSE 55

1. On page 26, after line 27, to add:

(5) A claimant may appeal to the Appeals Committee in terms of section 63 against any decision of the Administrator.

CLAUSE 63

1. On page 28, in line 43, to omit subsection (6) and to substitute:

(6) A claimant who feels aggrieved by a decision of the Appeals Committee may, within six weeks after the date of the decision, apply to the division of the High Court which has jurisdiction, for relief, and shall at the same time give written notice to the Appeals Committee of his or her intention to so apply.

(7) The division of the High Court contemplated in subsection (6) may consider the merits of the complaint made to the Appeals Committee and on which the Appeals Committee's decision was based, and may make any order it deems fit.

(8) Subsection (7) shall not affect the court's power to decide that sufficient evidence has been adduced on which a decision can be arrived at, and to order that no further evidence shall be adduced.

CLAUSE 64

1. On page 28, in line 47, to omit "otherwise provided in this Act" and to substitute:

determined and allowed by the Appeals Committee in any appeal before it or otherwise provided by this Act

Amendments accordingly negatived.

Question put: That the Bill be read a second time.

Division demanded.

House divided.

AYES - 160: Abraham-Ntantiso, N; Abrahams, B L; Adams, F; Adams, P E; Adams, R C; Bam-Mugwanyana, V; Basson, J V; Bekwa, S D; Bhengu, F; Bhengu, N R; Bilankulu, N K; Booi, M S; Botes, A; Carrim, Y I; Cele, M A; Chauke, H P; Chikunga, L S; Chilokane, T D; Chohan, F I; Chueu, M P; Coleman, E M; Cronin, J P; Cwele, S C; Dambuzza, N B; Didiza, A T; Dirks, M A; Dlakude, D E; Dlalane, B N; Dube, J J; Dunjwa, M L; Faku, Z C; Fubbs, J L; Gcwabaza, N E; Gina, N; Gumede, D M; Hanekom, D A; Holomisa, S P; Jeffery, J H; Kabini, D J; Kalako, M U; Kekana, H B; Kekana, C D; Kekana, M D; Kekana, E; Kenye, T E; Khoarai, L P; Khosa, D H; Khunou, N P; Koornhof, G W; Koornhof, N J J v R; Kubayi, M T; Lesoma, R M M; Luyenge, Z; Luzipo, S; Maake, J J; Mabasa, X; Mabija, L; Madella, A F; Maesela, P; Mafu, N N; Magadla, N W; Magadzi, D P; Mahlangu, D G; Mahlangu, J L; Mahlobo, M D; Majola, F Z; Majola, T; Makhubela-Mashele, L S; Makondo, T; Makwetla, S P; Maluleke, B J; Manana, M N S; Mantashe, P T; Maphanga, W B; Maphatsoe, E R K; Mapulane, M P; Martins, B A D; Masehela, E K M; Maseko, L M; Mashego-Dlamini, K C; Mashile, B L; Masondo, N A; Masuku, M B; Masutha, T M; Matlala, M H; Matsimbi, C; Mavunda, R T; Mbuyane, S H; Mchunu, S; Mdakane, M R; Memela, T C; Meso, L D; Mfeketo, N C; Mfulu, A T; Mjobo, L N; Mkongi, B M; Mmemezi, H M Z; Mmola, M P; Mmusi, S G; Mnganga - Gcabashe, L A; Mnguni, D; Mnguni, P J; Mogotsi, V P; Molebatsi, M A; Molekane, E; Mothapo, M R M; Mpanza, T K; Mthembu, J M; Mthembu, N; Nchabeleng, M E; Ndaba, C N; Ndlovu, B C; Ndongeni, N; Nel, A C; Newhoudt-Druchen, W S; Ngwenya-Mabila, P C; Nkadimeng, M F; Nkonyeni, P; Nkonzo, T M; Nkwinti, G E; Nobanda, G N; Ntshayisa, L M; Nyambi, H V; Nzimande, B E; Oliphant, G G; Phaahla, M J; Pikinini, I A; Pilane-Majake, M C C; Radebe, B A; Ralegoma, S M; Ramatlakane, L; Raphuti, D D; Seabi, A M; Semenya, M R; Senokoanyane, D Z; Shabalala, N F; Shabangu, S; Shope-Sithole, S C N; Sibande, M P; Skosana, G J; Skwatsha, M; Smith, V G; Surty, M E; Theko, L C; Tleane, S A; Tobias, T V; Tom, X S; Tongwane, T M A; Tseke, G K; Tseli, R M; Tshwete, P; Tsoleli, S P; Tsotetsi, D R; Tuck, A; Van Schalkwyk, S R; Wolmarans, M J; Xaba, N; Xego, S T; Zokwana, S; Zulu, L D.

NOES - 13: Cebekhulu, R N; De Freitas, M S F; Hlengwa, M; Khubisa, N M; Kwankwa, N L S; Mkhalihi, H O; Mncwabe, S C; Ngwezi, X; Nkomo, S J; Ntlangwini, E N; Sithole, K P; Steenhuisen, J H; Waters, M.

ABSTAIN - 1: Buthelezi, M G.

As the result of the division showed that there was not a majority of the members of the National Assembly present for a vote to be taken on a Bill as required by Rule 96(b), decision of question postponed.

7. SECOND ORDER [15:30]

Consideration of Report of Portfolio Committee on Home Affairs on **Civil Union Amendment Bill** [B 11 - 2018] (Announcements, Tablings and Committee Reports, 28 November 2018, p 4).

There was no debate.

The Chief Whip of the Majority Party moved: That the Report be adopted.

Motion agreed to.

Report accordingly adopted.

8. THIRD ORDER [15:30]

Second Reading debate – **Civil Union Amendment Bill** [B 11B - 2018] (National Assembly – sec 75).

Debate concluded.

Bill read a second time (African Christian Democratic Party, National Freedom Party and African Independent Congress dissenting).

9. FOURTH ORDER [16:24]

Consideration of Report of Joint Standing Committee on Financial Management of Parliament on **Parliament of Republic of South Africa's 2017/18 Annual Report** (Announcements, Tablings and Committee Reports, 22 November 2018, p 3).

Mr N E Gcwabaza, as a member of the Committee, introduced the report.

There was no debate.

Ms S R van Schalkwyk moved: That the Report be adopted.

Declarations of vote made on behalf of Democratic Alliance, Economic Freedom Fighters, Inkatha Freedom Party, National Freedom Party, United Democratic Movement and African National Congress.

Motion agreed to.

Report accordingly adopted.

10. FIFTH ORDER [16:55]

Consideration of Report of Portfolio Committee on Environmental Affairs on **Colloquium on Captive Lion Breeding for Hunting in South Africa** (Announcements, Tablings and Committee Reports, 13 November 2018, p 5).

Mr M P Mapulane, as Chairperson of the Committee, introduced the report.

There was no debate.

Mr F Bhengu moved: That the Report be adopted.

Declarations of vote made on behalf of the Democratic Alliance, Economic Freedom Fighters, Inkatha Freedom Party and African National Congress.

Motion agreed to.

Report accordingly adopted.

11. SIXTH ORDER [17:14]

Consideration of Report of Portfolio Committee on Justice and Correctional Services on **Provisional suspension from office of Mr E S Nzimande, Regional Court President KwaZulu-Natal, tabled in terms of section 13(3)(b) of Magistrates Act, 1993 (Act No 90 of 1993)** (Announcements, Tablings and Committee Reports, 19 November 2018, p 30).

Mrs M R M Mothapo, as Acting Chairperson of the Committee, introduced the report.

There was no debate.

Question put: That the Report of the Committee be adopted, including the recommendation that the provisional suspension from office of Mr E S Nzimande, Regional Court President KwaZulu Natal, be confirmed.

Declarations of vote Democratic Alliance, Economic Freedom Fighters, Inkatha Freedom Party, National Freedom Party, United Democratic Movement and African National Congress.

Agreed to.

Report adopted and provisional suspension from office of Mr E S Nzimande approved.

12. SEVENTH ORDER [17:34]

Consideration of Report of Portfolio Committee on Higher Education and Training on **Meetings with National Student Financial Aid Scheme and stakeholders** (Announcements, Tablings and Committee Reports, 16 November 2018, p 46).

Ms B C Ndlovu, as a member of the Committee, introduced the report.

There was no debate.

Mr F Bhengu moved: That the Report be adopted.

Declarations of vote made on behalf of the Democratic Alliance, Economic Freedom Fighters, National Freedom Party, United Democratic Movement, African Independent Congress and African National Congress.

Motion agreed to.

Report accordingly adopted (Economic Freedom Fighters dissenting).

13. EIGHTH ORDER [18:03]

Consideration of Report of Portfolio Committee on Higher Education and Training on **Oversight visit to Cape Peninsula University of Technology** (Announcements, Tablings and Committee Reports, 16 November 2018, p 24).

Mr R T Mavunda, as a member of the Committee, introduced the report.

There was no debate.

The Chief Whip of the Majority Party moved: That the Report be adopted.

Declarations of vote made on behalf of Democratic Alliance, Economic Freedom Fighters, Inkatha Freedom Party and National Freedom Party.

Motion agreed to.

Report accordingly adopted (Economic Freedom Fighters dissenting).

14. NINTH ORDER [18:22]

Consideration of Report of Portfolio Committee on Higher Education and Training on **Commission for Gender Equality Report on Gender Transformation in tertiary institutions** (Announcements, Tablings and Committee Reports, 16 November 2018, p 5).

Mr M J Wolmarans, as a member of the Committee, introduced the report.

There was no debate.

The Chief Whip of the Majority Party moved: That the Report be adopted.

Declarations of vote made on behalf of Democratic Alliance, Economic Freedom Fighters, Inkatha Freedom Party, National Freedom Party and United Democratic Movement.

Motion agreed to.

Report accordingly adopted (Economic Freedom Fighters dissenting).

15. TENTH ORDER [18:43]

Consideration of Report of Standing Committee on Appropriations on **Oversight visit to Free State Province from 13-17 August 2018** (Announcements, Tablings and Committee Reports, 30 November 2018, p 39).

There was no debate.

Ms S R van Schalkwyk moved: That the Report be adopted.

Declarations of vote made on behalf of Democratic Alliance, Economic Freedom Fighters and African National Congress.

Motion agreed to.

Report accordingly adopted (Economic Freedom Fighters dissenting).

16. ELEVENTH ORDER [18:52]

Consideration of Report of Standing Committee on Appropriations on **Municipal Innovative Infrastructure Financing Conference** (Announcements, Tablings and Committee Reports, 17 October 2018, p 49).

There was no debate.

The Chief Whip of the Majority Party moved: That the Report be adopted.

Declarations of vote made on behalf of Democratic Alliance, Economic Freedom Fighters, National Freedom Party, Inkatha Freedom Party, United Democratic Movement and African National Congress.

Motion agreed to.

Report accordingly adopted (Economic Freedom Fighters dissenting).

17. [19:15] Farewell Speeches

18. The House adjourned at 19:54

P N Tyawa
Acting Secretary to Parliament