

# The National Council of Provinces (NCOP)

Parliament consists of two houses - the National Assembly and the National Council of Provinces (NCOP).

The Constitution says the NCOP represents the provinces to ensure that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the national legislative process, and by providing a national forum for public debate of important issues affecting the provinces. The NCOP also ensures that local government concerns are represented at the highest level.

## Composition

The NCOP consists of nine provincial delegations nominated by the provincial legislatures, and a delegation from the South African Local Government Association (SALGA). Each provincial delegation has ten members made up of:

- four special delegates drawn from the provincial legislature, including the Premier of the province or a person designated by the Premier as head of the delegation. These delegates may change from time to time
- six permanent delegates

This means every province is equally represented in the NCOP. The political parties in each provincial legislature are entitled to be proportionally represented in that province's NCOP delegation. The SALGA delegation comes from the nine provincial local government associations to represent local government, but it may not vote.

## Membership of permanent delegations

Every citizen who may be a member of a provincial legislature may be a permanent member of that province's NCOP delegation except:

- people employed or appointed by the state who are paid for this work, although that province's Premier, members of the Executive Council (provincial cabinet), and certain other provincial office bearers may become members
- members of the National Assembly, the provincial legislature in question, or a municipal council
- insolvents (people declared bankrupt) who have not been rehabilitated
- people declared by a court to be mentally unsound
- people convicted of an offence and sentenced to more than a year in prison without the option of a fine after October 1996. This disqualification ends five years after the sentence has been completed.

Political parties hold the seats in the NCOP, not individuals. If a member of the NCOP resigns, dies or is expelled from the party, the party that holds that seat chooses another party member to take up the seat. The party's choice has to be ratified by the relevant provincial legislature.

### **NCOP office bearers**

The NCOP elects presiding officers from amongst its members - a Chairperson and two Deputy Chairpersons. These officers manage the work of the NCOP and preside over debates, making sure that delegates can speak freely while remaining within the rules. The permanent Deputy Chairperson is elected for five years while provincial premiers take turns to be rotating Deputy Chairpersons for a year. A provincial whip organises the work of each provincial delegation. Parties with at least seven permanent delegates, and who do not have members functioning as provincial whips, are also entitled to a party whip. A programming whip helps the Chief Whip schedule the work of the NCOP.

### **Decisions**

Each provincial delegation has one vote that is cast on behalf of the province by the head of its delegation. Questions before the NCOP are decided when five provincial delegations vote in favour, but amendments to the Constitution require the approval of six delegations. In NCOP votes on ordinary bills not affecting the provinces, each delegate has a vote, a third of delegates must be present, and the decision is taken by a majority of those present.

### **Lawmaking role**

The NCOP considers, passes, amends, propose amendments to, or rejects legislation. It must consider all national bills. It may also initiate or prepare bills falling within Schedule 4 of the Constitution (matters over which national and provincial legislatures jointly have the power to make laws) and certain bills affecting the provinces. However, only the Minister of Finance may introduce a bill to do with finance. Most of this lawmaking work is done in committees, but all bills must be referred to a sitting of the NCOP for debate and for a vote on whether to accept or reject the bill.

### **Debates and questions**

Issues of provincial importance are debated in the national forum of the NCOP. Members may ask Cabinet ministers questions which must be answered in the NCOP. The NCOP may require a member of the Cabinet, a Deputy Minister or an executive official in national or provincial government to attend a meeting or committee meeting. A verbatim (word-for-word) record of all debates and questions is published in the parliamentary publication Hansard.

### **Committees**

The NCOP's committees are called select committees, for example, the Select Committee on Housing, Public Works and Transport. Each committee shadows the work of some government departments, debates and amends bills, and organises public hearings if an issue is of great public interest.

Committees may summon any person to give evidence or to produce documents, and they may require any person or institution to report to them. Once a bill has been debated by a committee, it is submitted to the NCOP for a vote.

### **Oversight of the executive**

The NCOP has oversight of the executive within its role as the representative of the provinces.

- In certain situations the national executive may intervene in the affairs of a province, and a provincial executive may intervene in the affairs of a local authority. Interventions like these must be approved by the NCOP, and they must be regularly reviewed by the NCOP
- A national government decision to stop the transfer of funds to a province must be approved by both houses of Parliament
- Provinces have certain executive powers under the Constitution, as long as they have the capacity to do what needs to be done. The NCOP must resolve any dispute between national and provincial government over the capacity of a province to do this work
- Both houses of Parliament must approve the declaration of a state of national defence

### **The Budget**

At the beginning of every year the Minister of Finance tables the Budget. There are two Budget bills: one that divides the money up between national, provincial and local government (the division of revenue bill) and another that states how the national government will spend its money. The NCOP debates the Budget and votes on it, and it must be involved in the final decision about the division of revenue.