PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

PROCEDURAL DEVELOPMENTS
IN THE NATIONAL ASSEMBLY

Second Session
Sixth Parliament from
January to December 2020

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OF THE REPUBLIC OF SOUTH AFRICA

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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 28th issue covers the second session of the Sixth Parliament from January to December 2020. Where no year appears next to a particular month in the text, the reference is made to 2020.

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PRESIDING OFFICERS, OFFICE-BEARERS AND OTHER OFFICE HOLDERS

[1] ELECTION OF TRUSTEES OF POLITICAL OFFICE-BEARERS PENSION FUND

The Political Office-Bearers Pension Fund (the Fund) which is a defined contribution arrangement, provides retirement and other benefits for all members of Parliament and the Provincial Legislatures, including members of Cabinet (except the President) and members of the Provincial Executives. The Fund was established with effect from 27 April 1994, although the formal structures of the Fund were only set up in 1998. The Fund has 16 Trustees, 14 of whom are chosen by members and two appointed by the Minister of Finance. All Trustees have alternates, thereby giving a total of 14 alternate member Trustees and two alternate employer Trustees. Each of the nine Provincial Legislatures elect one member Trustee (and his or her alternate), and five member Trustees are elected to represent Parliament – two from the majority party and two from the minority parties in the National Assembly (NA), and one by the National Council of Provinces (NCOP). The two Trustees representing the Minister of Finance have seven votes each when the Trustees have to decide on a matter by voting. The term of office of the Board of Trustees is five years and a new Board is elected after each national election.

The Trustees have a legal and fiduciary duty to act in the best interests of the Fund and in a way that is consistent with the Fund's Rules and with the Pension Funds Act (Act 24 of 1956) as amended. Importantly, this means that in making decisions the Trustees must consider the best interests of the Fund and its membership, and not the interests of any particular stakeholder group.

On 3 December, the NA adopted a resolution in response to a requirement that following a general election, the House must elect four members as Trustees and four as alternates to serve on the Board of Trustees of the Fund. In terms of the resolution, two Trustees and two alternates would be from the majority party and the remaining two Trustees and two alternates from the minority parties.

The NA accordingly elected eight members, namely Ms M G Boroto and Ms J M Mofokeng as Trustees; and Mr I K Morolong and Ms L F Shabalala as alternates (majority party); Dr D T George, and Dr C P Mulder as Trustees; Ms M E Sukers and Mr N Singh as alternates (minority parties) with the Economic Freedom Fighters (EFF) dissenting.

MEMBERS

[2] MEMBERSHIP OF THE ASSEMBLY

See Annexure 1

[3] CONDOLENCE MOTIONS

See Annexure 2

PROCEDURAL AND RELATED MATTERS

[4] FIRST REPORT OF NATIONAL ASSEMBLY RULES COMMITTEE, 2020

During March, following the spread of the coronavirus (Covid-19) pandemic in several countries, including South Africa, the President declared a National State of Disaster in terms of the National Disaster Management Act (No 57 of 2002) and announced a national lockdown with effect from midnight on Thursday, 26 March, as part of efforts to curb the rapid spread of the pandemic in the country. During the nationwide lockdown which was initially set for 21 days and later extended to the end of April, all South Africans, except for essential services workers, were required to stay at home and were not allowed to leave their homes except under strictly controlled circumstances. During this period, Parliament explored various means to carry out its constitutional obligations without being seen as interfering with the responsibility of the Executive to implement measures for which the National State of Disaster was declared.

On 16 April, the presiding officers of Parliament (Executive Authority) issued a statement that the business of Parliament would resume through virtual meetings during the lockdown. In terms of the statement, chief whips of political parties

represented in Parliament had agreed to the draft guidelines and rules on how these virtual meetings and voting should be conducted. The guidelines and rules were based on procedures, precedents, practices and conventions, which Parliament had developed over time. The presiding officers also confirmed that sittings of the two Houses would have to take place during this period, and framed rules to make provision for virtual House sittings. The Speaker subsequently announced the Rule on Virtual Meetings in terms of NA Rule 6 (Unforeseen Eventualities) in the ATC of 15 April.

Assembly Rule 6 provides that the Speaker may give a ruling or frame a rule in respect of any eventuality for which the rules and orders of the House do not provide, having due regard to the procedures, precedents, practices and conventions developed by the House and on the basis of constitutional values and principles underpinning an open and democratic society. A rule framed by the Speaker remains in force until the NA, based on a recommendation of the Rules Committee (NARC), has decided on it.

On 19 May, the NARC held a special meeting to deliberate on the rule framed by the Speaker in terms of Rule 6, amongst other matters. The NARC tabled its report in the ATC on 2 June and recommended that the following Rule on Virtual Meetings in terms of Rule 6, be approved:

Rule on Virtual Meetings in terms of National Assembly Rule 6 (Unforeseen Eventualities)

Part A – Purpose

The purpose of this rule is to enable the National Assembly and its committees to hold compliant virtual meetings using technological platforms.

Rule 6 of the National Assembly Rules provides that the Speaker may give a ruling or frame a rule in respect of any eventuality for which the rules or orders of the House do not provide, having due regard to the procedures, precedents, practices and conventions developed by the House and on the basis of constitutional values and principles underpinning an open, accountable and democratic society. A rule framed by the Speaker remains in force until the House, based on a recommendation of the Rules Committee, has decided thereon.

The Rules of the National Assembly remain in operation and are supplemented by this rule in order to provide for virtual meetings.

Part B - Application of rule

This rule applies to –

(a) sittings of the National Assembly in the event a physical sitting is not possible, as determined by the Speaker;

(b) meetings of committees in the event a physical meeting is not possible, as determined by the chairperson.

Part C - Notice and venue of meeting

In terms of this rule –

(a) the Speaker or chairperson of a committee shall issue a notice and agenda for a virtual meeting, which must include the date and time of the meeting;

(b) all documents of the meeting shall be distributed by electronic means to which Members have access; and

(c) the venue of a virtual meeting shall be deemed to be Cape Town as the seat of Parliament.

Part D - Privilege and order in meetings

In a virtual meeting –

(a) members shall have the same powers, privileges and immunities which they ordinarily enjoy in parliamentary proceedings; and

(b) where relevant, current rules on order in public meetings and order in debate shall apply.

Part E - Presiding Officers

In a virtual meeting the Presiding Officer or Chairperson of a committee shall have all the powers as provided for in the current Rules.

Part F - Quorum

In a virtual meeting –

(a) the quorum requirements shall be those as determined by the Constitution and the Rules;

(b) members who have accessed the meeting via the secure link sent to their email address shall be deemed present for the purposes of establishing a quorum, taking a decision or voting on a matter.

Part G - Voting

In a virtual meeting –

(a) members shall be entitled to cast their votes either electronically, by voice or by having their vote recorded by their respective whips;

(b) the procedure to be followed is predetermined by the Speaker and directives are announced in the meeting by the Presiding Officer or Chairperson of a committee;

(c) only members who are present when a vote is called shall be permitted to vote;

(d) the results of a vote are announced and, where possible, the names of members and how they voted are recorded in the Minutes of Proceedings; and

(e) members must ensure that their votes are correctly recorded.

Part H– Public involvement

Access to proceedings must be facilitated in a manner consistent with participatory and representative democracy and wherever possible a virtual meeting must be livestreamed.

Addendum: Process Guidelines

1. The Secretary to Parliament together with authorized officials and technical teams are responsible for technical support to facilitate virtual meetings.
2. The Secretariat must be given at least 3 days' notice of a meeting.
3. Pre-conference testing must take place at least a day before the meeting.
4. Technical support must be available during a virtual meeting.
5. The Secretariat must maintain the minutes and records of the proceedings.
6. The Secretariat must maintain a system that is capable of verifying the votes cast either electronically or manually.
7. Political parties must provide a signed copy of the votes cast for or against a question by their members, to the Secretariat within an agreed timeframe to ensure verification of results. This record may be submitted electronically.

On 9 June, the NA considered the "First Report of National Assembly Rules Committee, 2020 (Virtual Meetings)." There was no debate on the matter and following a request for a division, the NA adopted the report with 193 members voting in favour of the question, and 29 members abstaining. In terms of Rule 114, a member calling for a division must vote against the question put by the presiding officer, and accordingly one vote was recorded under the "noes" as the member calling for the division did not vote.

[5] RULES TO REMOVE AN OFFICE-BEARER IN A STATE INSTITUTION SUPPORTING CONSTITUTIONAL DEMOCRACY AND PROCEEDINGS RELATED TO MOTIONS TO REMOVE THE PUBLIC PROTECTOR

Section 194 of the Constitution provides, inter alia, that the NA may remove an office-bearer in a State Institution Supporting Constitutional Democracy. It further provides that such office-bearers may be removed from office only on the grounds of misconduct, incapacity or incompetence and a finding to that effect by a committee of the NA. In the case of the Public Protector, any recommendation for his or her removal must be supported by at least two-thirds of the members of the NA.

On 3 December 2019, the NA adopted the Third Report of the NARC and so agreed to Rules 129R-AF to enable the application of section 194. These rules provide that any member may, by way of a motion, initiate a procedure to remove an office-bearer in a State Institution Supporting Constitutional Democracy. Upon receipt of such a motion, the Speaker must request parties to nominate persons to serve on an independent panel to conduct a preliminary assessment and recommend to the NA whether a prima facie case exists for the House to proceed with a committee inquiry. The panel has 30 days to

complete such an assessment and report to the NA.

Rule 129Z states that, if the NA resolves to conduct an enquiry, the matter must be referred to a committee, established in terms of Rule 129AA. This committee consists of the number of members that the Speaker may determine, subject to the provisions of Rule 154. Members of the committee must, however, be appointed as and when necessary.

MOTIONS TO REMOVE THE PUBLIC PROTECTOR

On 6 December 2019, Ms NWA Mazzone, the Chief Whip of the Democratic Alliance (DA), submitted a notice of a substantive motion which requested the House to initiate a process to remove the incumbent Public Protector, Advocate B Mkhwebane, in terms of section 194(1) of the Constitution, as she was, based on specified court judgments and the requirements of section 194 of the Constitution, unfit to hold office. Ms Mazzone further withdrew all previous applications by her party to this effect. The motion acknowledged that various courts made findings against the Public Protector, stating inter alia, that she grossly over-reached her powers when she recommended that the Constitution be amended to alter the mandate of the South African Reserve Bank, and when she sought to unconstitutionally and irrationally dictate to Parliament how and when legislation should be amended, and failed to properly investigate a complaint in relation to the infamous Estina Dairy Farm. The motion further stated that the Public Protector was incompetent to occupy her office as she had demonstrated that she lacked the knowledge to carry out and the ability to perform her duties effectively and efficiently. Based on the motion, the Speaker requested parties to nominate candidates to serve on the independent panel by 7 February. Notice of the motion and the request to parties were announced in the ATC on 24 January.

On 21 February, Ms Mazzone wrote to the Speaker to withdraw the motion that she submitted in December 2019, in terms of Rule 128 which deals with the withdrawal and lapsing of a motion. The withdrawal of the motion concluded the process then underway. In addition, Ms Mazzone submitted a new motion which resolved to initiate an inquiry in terms of section 194(1) of the Constitution to remove Advocate Mkhwebane as the Public Protector on the grounds of misconduct and/or incompetence in the South African Reserve Bank, Vrede Dairy and other matters, together with associated documents as an annexure which substantiated the various charges. The motion and annexure were published on the Order Paper on 10 March. The Speaker subsequently requested political parties to nominate candidates afresh to serve on the independent panel. Parties were initially given until 6 March to do so, but the deadline was subsequently extended to 23 March.

While these processes were underway, the Public Protector approached the Western Cape High Court to interdict Parliament from proceeding with the motion and challenged the legality of the procedures. The High Court heard the appeal for an interdict in August. On 9 October, the Court dismissed the application for an interdict and the Public Protector unsuccessfully applied for leave to appeal the matter in the Supreme Court of Appeal.

On 25 November, the Speaker appointed Justice B Nkabinde (as Chairperson), Advocate D Ntsebeza SC and Advocate J De Waal SC to the independent panel. On 3 December, the panel made a representation to the Speaker in which it indicated that the 30-day period within which it had to complete the assessment was insufficient in light of the requirements and the specific nature of the matter and requested additional time. On 6 December, the Speaker announced in the ATC that, in light of the panel's request as well as the programme of the NA she, in terms of Rule 6, framed Rule 129(X)(3), which provided that she could, at the request of a panel and on good cause shown, extend the time period for a panel to such later period as she might determine, but such an extension should not exceed 90 days. In the event that the panel requested a further extension beyond 90 days, the NA might determine such an extended period. In the same ATC, the Speaker extended the time for the panel to 90 days. At its meeting on 9 March, the NARC concurred with Rule 129(X)(3), as framed by the Speaker. The report of the NARC was tabled in the ATC on 11 March and agreed to by the NA on 16 March.

[6] NATIONAL ASSEMBLY PROGRAMME COMMITTEE (NAPC) MAKES DECISIONS ON ROTATION OF QUESTIONS CLUSTERS

The rules provide for scheduling questions to the Ministers in the Executive. In this regard, Rule 138 provides, inter alia, that questions for oral reply by Ministers must be dealt with in accordance with a clustered system of government portfolios, as determined by the NARC from time to time and published in the ATC. Furthermore, the clusters rotate on a weekly basis, so that questions relating to each cluster are answered in succession in accordance with the agreed rotation system.

On 9 June, the NA resolved that, notwithstanding Rule 138(2), which provides for the rotation of clusters for Questions to Ministers on a weekly basis as determined by the NARC, the NAPC be mandated to make decisions regarding the combination of clusters of government portfolios and the rotation of clusters based on the determination of priorities as and when necessary for the duration of the 2020 annual session.

[7] ELECTION OF TEMPORARY CHAIRPERSONS FOR HYBRID SITTINGS

On 30 June, the NA resolved that the House, notwithstanding Rule 27 which provides for the election of temporary presiding officers, elect Mr Q R Dyantyi and Ms T Mahambehlala to act as temporary presiding officers in the Chamber during hybrid sittings, as and when necessary for the duration of the 2020 annual session. The rule provides that whenever the House has been informed that the elected presiding officers are unavoidably absent, the House must immediately elect one of its members to act as presiding officer for that day only.

The resolution was necessary in light of challenges experienced during hybrid sittings, and in order to maintain and preserve order and proper decorum in the Chamber and ensure the proceedings of the House were not unexpectedly interrupted, in the event that the on-line presiding officer experienced connectivity and/ or technological challenges during hybrid sittings, despite an on-line presiding officer being deemed present in the House.

[8] APPOINTMENT OF MEMBERS TO CHAIR BUDGET VOTE MINI-PLENARIES

Mini-plenary sessions were scheduled from 21 to 24 July for the purpose of debating adjustment budget votes. An average of four debates were scheduled each sitting day, including Fridays, where only three debates were scheduled.

In terms of Assembly Rule 54, the Chair of a mini-plenary may be taken by a House Chairperson or a member appointed by the Speaker for that purpose. On 17 July, the Speaker announced that Ms L S Makhubela-Mashele, Ms R M M Lesoma, Mr F D Xasa, Mr M G Mahlaule, Mr Q R Dyantyi, and Ms T Mahambehlala were appointed in terms of Rule 33 to chair mini-plenaries on budget vote debates.

In terms of the same rule, on 4 November, the Speaker announced in the ATC that Ms R M M Lesoma and Mr M G Mahlaule were appointed to chair mini-plenaries for the remainder of the 2020 annual session.

[9] SUSPENSION OF RULES

Rule 4(1) and (2) which deals with the suspension or supplementing of rules relating to business or proceedings at a sitting of the NA or a mini-plenary session, or of a committee of the NA or any other forum of the NA, may be suspended by resolution of the NA. The suspension of any provision must be limited in its operation to the particular purpose and period for which such suspension has been approved.

Bills

Rule 290(2)(a) provides that if a Bill has been referred to an Assembly or joint committee, the debate on the Second Reading of the Bill may not commence before at least three working days have elapsed. On 15 July, 29 July and 2 December, the NA agreed to a motion moved by the Chief Whip of the Majority Party to suspend the debates on the Second Reading of the Division of Revenue Amendment Bill [B 9 - 2020]; Adjustments Appropriation Bill [B 10 - 2020] and Electoral Laws Amendment Bill [B 22 - 2020] respectively, to commence before at least three working days have elapsed since the committee reports were tabled on these days.

Declaration of vote

In accordance with Rule 108(2), the time allocated to a member from each party for making a declaration of vote had been determined by the NARC, taking into account the proportional strength of the parties in the NA. On 20 November, the NA agreed to a motion moved by the Chief Whip of the Majority Party that notwithstanding Rule 108, it would limit the time allocated to a member from each party for making a declaration of vote on any Budgetary Review and Recommendation Report (BRRR) to not more than two minutes for the remainder of the annual session.

Sequence of proceedings

Assembly Rule 47(1) provides that the sequence of proceedings for the business on each sitting day of the House must follow a particular sequence. On 1 December, the House agreed that orders 1 - 15 of the sitting of that day be taken before the Ministerial Statement.

[10] MOTION OF NO CONFIDENCE POSTPONED

Rule 129 which deals with motions of no confidence in the Cabinet or the President in terms of section 102 of the Constitution, provides that a member may propose such a motion of no confidence and that such motion be placed on the Order Paper for debate. The rule further provides that if a motion of no confidence cannot reasonably be scheduled by the last sitting day of an annual session, it must be scheduled for consideration as soon as possible in the next annual session.

On 3 December, the Speaker announced in the House that the motion of no confidence in terms of section 102 of the Constitution against the President, appearing on the Order Paper in the name of Mr V Zungula from the African Transformation Movement (ATM), had been postponed at the request of the member. Parties were afforded an opportunity to address the House on the matter.

[11] THE NEW MANAGED APPROACH TO SUPPLEMENTARY QUESTIONS FOR VIRTUAL/HYBRID PLENARY SESSIONS AND COMBINING OF CLUSTERS OF GOVERNMENT PORTFOLIOS

The President of the Republic, Mr M C Ramaphosa, declared on 15 March, in terms of the Disaster Management Act (No 57 of 2002), a national state of disaster to curb the spread of the Covid-19 pandemic in the Republic. On 17 March, following the announcement by the President, the presiding officers met with the chief whips and party representatives to consider the programme of the NA going forward. Consequently, the business of the Assembly was suspended at the conclusion of the plenary sitting on Wednesday, 18 March. Prior to the adjournment of the House, the Speaker announced that the business of the NA would be suspended until further notice. She encouraged members to continue taking personal precautions and to stay informed during the coming weeks as the public looked towards members for leadership. Parliament nevertheless remained competent to function and in terms of the national lockdown regulations the work of members of Parliament was categorised as an essential service.

In April, the Chief Whips' Forum (CWF) comprising of the chief whips and representatives of all parties represented in the Assembly, was advised that the Speaker had written to the Executive about the resumption of the business of the NA and that processes were underway to hold a hybrid question session. The question session would, amongst others, enable members to question the Executive on the implementation of the Disaster Management Act as it pertained to the Covid-19 pandemic. This was preceded on 15 April by the publication in the Announcements, Tablings and Committee Reports (ATC) document of a rule for virtual sittings, in line with the authority granted to the Speaker by Rule 6 (Unforeseen Eventualities) of the Assembly Rules (see item 4 above).

Proposals and options for a hybrid question session were presented to the CWF and the NAPC. The NAPC agreed that proceedings on the virtual platform should be refined to ensure that the NA would be ready for a virtual or hybrid sitting. Further refined proposals in respect of virtual/hybrid question sessions were presented to the NAPC and based on the proposals, it was agreed that:

- a hybrid system would be adopted in which some members would be in the Chamber (in compliance with the lockdown regulations) and others on the virtual platform;
- members in the Chamber together with members on the virtual platform would constitute the sitting of the NA;
- a hybrid sitting of the NA would take place on 27 May to deal with questions for oral reply to the Social Services and Governance Clusters – this would be the first sitting of the NA since the onset of the pandemic;
- questions from two clusters would be combined, as prioritised by political parties according to Assembly Rule 137(7), for three hours on one Question Paper; and
- supplementary questions would be posed in a managed approach.

Pursuant to the decision of the NAPC, a Question Paper containing questions to the Social Services and Governance Clusters was published, as prioritised by political parties. A managed approach to supplementary questions was agreed to, with a view to ensuring the smooth functioning of the hybrid plenary. It was therefore agreed that political parties would submit the names of their members who wished to put a supplementary question to the original question posed. The Speaker would make a prior determination as to who would be given the opportunity and parties were informed of the Speaker's determination a day ahead of the sitting.

The content of supplementary question did not have to be submitted in advance. This managed approach to supplementary questions was a departure from the practice followed for a sitting taking place wholly in the Chamber where no advance notice or determination of members wishing to pose a supplementary question was required. It was also determined that in the event of a technical failure preventing a member(s) from being heard, they would be called later, but not after the question had been concluded upon. Alternatively, if members were not able to connect to the virtual platform, their whip would be given the opportunity to pose the question on their behalf.

The further decision taken by the NAPC to combine the two clusters introduced a novel practice which necessitated the suspension of Rule 138(2), which provides that, for purposes of questions for oral reply, clusters rotate on a weekly basis, so that, questions relating to each cluster are answered in succession. On 9 June, the NA passed a resolution that mandated the NAPC to make decisions regarding the combination of clusters of government portfolios and the rotation of clusters based on the determination of priorities as and when necessary for the duration of the 2020 annual session (see item 6 above).

[12] REFERRAL OF MATTERS TO POWERS AND PRIVILEGES COMMITTEE

SONA incident of 13 February

On 14 February, the Speaker of the NA and the Chairperson of the NCOP referred "Allegations of conduct constituting contempt of Parliament by members of the Economic Freedom Fighters (EFF) during the Joint Sitting on Thursday, 13 February 2020" to the Powers and Privileges Committee (the Committee) of the NA in terms of Rule 214 and the Privileges Committee of the NCOP, when established, for consideration and report. The incident took place during the President's State-of-the-Nation Address (SONA) to Parliament.

Rule 214 provides that the Committee must consider any matter referred to it by the Speaker relating to contempt of Parliament or misconduct by a member or a request to have a response recorded in terms of section 25 of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act (Act No 4 of 2004) (the Act), except a breach of the Code of Ethical Conduct and Disclosure of Members' Interests for Assembly and Permanent Council Members contained in the Schedule to the Joint Rules. The Rule further provides that the Committee must table a report of any alleged contempt of Parliament, as defined in section 13 of the Act, or misconduct as defined by the Assembly Rules.

The Committee met on 11 March to, among other things, consider the allegations relating to the SONA incident. Members viewed the video footage of the incident and observed that members of the EFF raised several points of order objecting to the presence

in the gallery of former President F W de Klerk and asked that he be requested to leave the Chamber. They also objected to the presence in the Joint Sitting of Minister P Gordhan. The presiding officers repeatedly ruled the points of order to be invalid, but the members persisted in raising the same points of order. When the members failed to heed the rulings of the presiding officers, the proceedings were suspended and resumed after a short while. At the resumption of the proceedings, and after parties had been given an opportunity to make statements on what had transpired during the sitting, all the members of the EFF left the Chamber on their own volition.

As the Committee could not reach consensus on whether the conduct of the EFF members constituted contempt of Parliament, it sought a legal opinion on whether the members had committed contempt of Parliament, and whether the Committee had jurisdiction to deal with the matter.

Regarding the question of jurisdiction, the legal opinion stated that Rule 214 provides that the Committee must consider any matter referred to it by the Speaker involving contempt of Parliament, and deal with it in terms of the procedure set out in the Schedule to the Rules, and table a report on its findings and recommendations in respect of any alleged contempt of Parliament. The advice concluded that the Committee had jurisdiction to deal with the matter. In respect of the question as to whether the members had committed contempt of Parliament, the legal opinion stated that it was up to the Committee to make that determination after an investigation. In light of the legal opinion, the Committee agreed to conduct a preliminary investigation to determine whether any member(s) should be charged. In this regard, members viewed the video footage of the incident with a view to identifying members who, on the face of it, were in contempt of Parliament. Members of the EFF were observed repeatedly raising points of order objecting to the presence of former President de Klerk and Minister Gordhan at the Joint Sitting, which the presiding officers repeatedly ruled as invalid. After each ruling, the members were instructed to take their seats, which they ultimately did.

The Committee was of the view that the presiding officers were fully within their rights to attempt to restore order to the proceedings by invoking Joint Rule 14F and exercising patience in doing so. The rule provides that the presiding officer, after having called attention to the conduct of a member who persists in irrelevance or repetition of arguments, may direct the member to discontinue his or her speech. The Committee further observed that the presiding officers were empowered in terms of Joint Rule 14G to form an opinion that the members were deliberately contravening a provision of the Joint Rules, or that a member was in contempt of or was disregarding the authority of the Chair, or that a member's conduct was grossly disorderly, and accordingly order the member(s) to leave the Chamber for the remainder of the sitting. However, the presiding officers elected not to do so and opted to invoke Joint Rule 14F, which was their prerogative.

On 11 December, the Committee recommended to the NA, amongst others, that the referral of the SONA incident of 13 February did not have a reasonable prospect of success and therefore should not be proceeded with. At the end of the 2020 annual session, the NA had not considered the Committee's report and the report subsequently lapsed.

Referral of matter relating to Minister P Gordhan

On 10 September 2019, the NARC referred an incident of allegations of conduct constituting contempt of Parliament by affected members of the EFF to the Committee following its adoption of the Report of the Subcommittee on Physical Removal of Member from Chamber (the Subcommittee). Assembly Rule 73(12) requires that when a member has been physically removed from the Chamber in terms of Rule 73, the circumstances of such a removal should be referred by the Speaker for consideration to a subcommittee of the NARC.

The incident referred to the Committee took place on 11 July 2019 during the mini-plenary debate on Budget Vote 9: Public Enterprises in Room E249. Members of the EFF were physically removed from the Chamber in terms of Rule 73(2) following their disruption of Minister Gordhan's budget vote speech when he was prevented from continuing with his speech while at the podium.

On 11 March, the Committee met to consider, amongst others, the allegations relating to the 11 July 2019 incident. In addition to reflecting on the Minutes of Proceedings of the mini-plenary of that day and the unrevised Hansard, the Committee also viewed the video footage of the incident and deliberated on these. It observed the affected members raising repeated points of order objecting to Minister Gordhan participating in the debate on his budget vote. The presiding officer at the time, House Chairperson M G Boroto, repeatedly ruled the points of order to be invalid, but the members persisted in raising the same points of order. When the members stood up from their seats and crossed the floor to proceed towards the Minister at the podium, the presiding officer initially called upon the Serjeant-at-Arms to remove the members from the Chamber and subsequently the Parliamentary Protection Services to assist in removing the members in terms of Rule 73(2).

The Committee concluded, on the basis of the information before it, that there was a prima facie case for the members to answer. It resolved that the affected members be charged for contempt of Parliament and that an external Initiator be procured to present the evidence regarding the allegations against the 16 affected members.

Soon after the Committee met, the President announced that following the outbreak of the Covid-19 pandemic, the country would be placed under a hard lockdown for one month to prevent the spread of the virus. This hard lockdown and subsequent restrictions placed on the movement of people impacted on and delayed the procurement processes in respect of the Initiator. On 15 September, the Committee was informed that Advocate N Mayosi had been appointed as the Initiator for the proceedings. The Committee accepted her appointment.

The notification of allegations and charges preferred against the affected members were done in terms of Item 1 of the Schedule to the Procedure to be followed in the Investigation and Determination of Allegations of Misconduct and Contempt of Parliament (the Procedure) contained in the Rules of the National Assembly. The affected members were informed that should they require outside legal representation they could direct the request to the Committee. Furthermore, if the members wished to give an explanation after they had received the notices, they were free to do so orally or in writing to the Committee. Such an explanation could also be presented at the hearing.

The attorneys of the affected members requested an extension with regard to the submission of the written representations and, by implication, the postponement of the hearing. The period for submission of written representations was subsequently extended to 23 November. However, by 24 November, on the eve of the hearing, no representations were received from the affected members or their attorneys. The attorneys requested that the hearing be postponed to 25 November, which was agreed to by the Committee.

The Committee received and considered a presentation from the members' attorneys on the need for outside legal representation and concluded that the request for outside legal representation be granted. In addition, the Committee was informed that the affected members had decided not to attend the hearing as they were of the view that if the hearing continued in the manner it had been unfolding it would be a gross procedural and substantive unlawfulness committed against them. The attorneys also indicated that they would not participate in the hearing. The Committee however took the view that it had been properly constituted in terms of the Act and the rules and had followed the Procedure stipulated in the Rules and proceeded to the hearing stage.

On 25 November, the Committee proceeded with the hearing in the absence of the affected members and their attorneys. In terms of Item 6 of the Procedure, the Initiator must put the charges to the member and the Chairperson must request the member to plead to the charges. The Item further states that if the member refuses to enter a plea, the Chairperson must enter a plea of not guilty. In the absence of the affected members, the Chairperson entered a plea of not guilty for each of the members. The charges in respect of the affected members were grouped into two categories, namely, those who had seven (7) charges preferred against them and those who had five (5) charges preferred against them.

On 11 December, the Initiator gave closing arguments, and summarised the evidence presented to the hearing. The next stage was for the Committee to deliberate on the evidence presented and to arrive at a verdict of the affected members regarding the charges that were preferred against them. The Committee postponed its deliberations on the matter to the following year.

LEGISLATION AND COMMITTEES

[13] RE-ESTABLISHMENT OF AD HOC COMMITTEE TO INITIATE LEGISLATION TO AMEND SECTION 25 OF THE CONSTITUTION

On 30 June, the NA resolved to re-establish the Ad Hoc Committee to initiate and introduce legislation amending section 25 of the Constitution. The motion noted that the ad hoc committee was established on 25 July 2019 with a deadline to complete its work and report to the House by 31 March. On 5 March, the NA extended the deadline for reporting to 29 May. As the committee did not meet its deadline of 29 May, it ceased to exist. It was re-established with the same composition and powers as its predecessor and instructed to incorporate in its work the proceedings of the previous committee. The deadline for the re-established committee to report was set as 31 December. On 3 December, the House resolved to further extend the deadline for the committee to report to 31 March 2021.

[14] BILLS RETURNED TO ASSEMBLY FOR CONSIDERATION OF PRESIDENT'S RESERVATIONS

A. LIQUOR PRODUCTS AMENDMENT BILL

In a letter, dated 2 June, the President informed the Speaker that he was returning the Liquor Products Amendment Bill [B10B-2016] (the Bill) to the NA for consideration of his reservations about its constitutionality. The President indicated that after carefully considering the Bill, he was of the view that the Bill which, among other measures, would regulate how traditional beer was produced, should have been referred to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act (No 41 of 2003) (the Act). The President's view was based on the fact that traditional beer was an intrinsic part of a number of cultural practices. Customary practice requires that the production and consumption of such beverages be effected in a particular manner. The President pointed out that sections 211 and 212 of the Constitution recognise the role of traditional leadership and its institutions in matters affecting local communities.

The Bill and the President's reservations thereon were referred to the Portfolio Committee on Agriculture, Forestry and Fisheries for consideration and report. This matter was not concluded during the 2020 annual parliamentary session.

B. COPYRIGHT AMENDMENT BILL [B13B-2017] AND PERFORMERS' PROTECTION AMENDMENT BILL [B24B-2016]

On 16 June, the President referred the Copyright Amendment Bill and the Performers' Protection Amendment Bill back to the NA for reconsideration in terms of section 79(1) of the Constitution. The Constitution permits the President to refer a bill back to the NA if he/she has reservations about the constitutionality of the Bill.

The Copyright Amendment Bill seeks to accommodate the visually impaired and otherwise print disabled persons by introducing exceptions to the exclusive right of authors or their assignees preventing the reproduction or copying of their work in any manner or form. Proponents of the Bill contended that the visually impaired would have limited access to copyright literary works, as such works could not be transcribed to braille and other formats for the print-disabled. Educators and librarians also sought greater and easier access to works of all kinds; broadening access was aimed at increasing access to information and facilitating freedom of expression.

In his letter, the President said that he had reservations about the constitutionality of the Bills for the following reasons:

- Incorrect tagging of the Bills: The President

contended that the Bills should have been tagged as Bills to which section 76 of the Constitution applies, as the provisions of the Bills impact on trade and cultural matters as contemplated in Schedule 4 of the Constitution, which deals with functional areas of concurrent national and provincial legislative competence.

- The retrospective application of the proposed new sections: Sections 6A, 7A and 8A of the Copyright Amendment Bill to copyright assigned before the new sections come into operation may indeed be unconstitutional on the ground that it constituted arbitrary deprivation of property under section 25 of the Constitution.
- New exceptions introduced: The new sections introduced by sections 12A, 12B, 12C, 12D, 19B and 19C of the Copyright Amendment Bill were likely to be declared unconstitutional on the basis that they were in breach of section 25(1) of the Constitution and the Three-Step test binding South Africa under international law.

The President concluded that although the submissions received by his office broadly related to the constitutionality of the Copyright Amendment Bill, similar concerns were also raised in relation to the provisions of the Performers' Protection Amendment Bill, which incorporate the provisions of the Copyright Amendment Bill through cross referencing. Based on this, both Bills were referred back to the NA. The President's letter was tabled in the Announcements, Tablings and Committee Reports document of 22 June.

On 24 June, the Speaker referred the Bills to the Portfolio Committee on Trade and Industry for consideration and report in terms of Joint Rule 203, which provides that on receipt of a remitted Bill, the Speaker must refer the Bill and the President's reservations to an Assembly committee. The Committee did not report on the President's reservations before the end of the 2020 annual session.

[15] REQUEST FOR AMENDMENT OF BILL

In a letter, dated 20 July, the Minister of Finance requested the Standing Committee on Appropriations (the Committee) to amend section 6 of the Appropriation Act (Act No 7 of 2020), in the Adjustments Appropriation Bill [B 10—2020] (the Bill) which was before the NA. The Bill was tabled by the Minister as part of the Special Adjustments Budget on 24 June in response to the Covid-19 pandemic. The budget was tabled in February before the onset of the Covid-19 pandemic. The Minister confirmed that the proposed amendment would not affect the revised fiscal framework for the 2020/21 financial year, the Division of Revenue Act or Division of Revenue Amendment Bill [B9 – 2020].

Section 6 of the Appropriation Act enables the Minister to approve expenditure which cannot reasonably be delayed without negatively affecting service delivery. For example, if the expenditure is unforeseen and unavoidable or was announced by the Minister during the tabling of the budget. The expenditure under section 6 of the Appropriation Act, may not exceed the contingencies for the 2020/21 financial year. Such expenditure must be approved before the introduction of an Adjustments Appropriation Bill. The Appropriation Act was assented to by the President on 22 June and took effect on 23 June. On 24 June, the Minister tabled an Adjustments Appropriation Bill [B 10-2020] in the NA. Following this tabling, section 6 of the Appropriation Act could not be used. The use of section 6 therefore was only available for one day. When the Appropriation Bill was tabled in February by the Minister, it was not anticipated that an Adjustments Appropriation Bill would be tabled in Parliament much earlier than October, the month in which such a Bill is usually tabled annually. The wording of section 6(1) of the Appropriation Act was based on the date of tabling in October.

The Minister indicated in his letter that the inability to use section 6 of the Appropriation Act, i.e., approving the use of contingencies' funding, would impact negatively on affected institutions that qualified for such funding.

The Committee was briefed on the Bill by National Treasury. As part of the briefing on the Bill, National Treasury also included the proposed amendment to the Bill, which related to section 6 of the Appropriation Act. Section 12 of the Money Bills Amendment Procedure and Related Matters Act (No 9 of 2009) (the Act) as amended, regulates the processing of an Adjustments Appropriation Bill including amendments thereto. In terms of section 12(17) of the Act, the Minister must be given at least

four days to respond to any proposed amendments to the Adjustments Appropriation Bill by the Committee. The Minister indicated that since he had requested the Committee to make the amendments, it obviated the need for him to be consulted on the proposed amendments.

The Minister's letter was referred to the Committee in the Announcements, Tablings and Committee Reports document of 22 July. The Committee invited interested persons and stakeholders to submit written comments on the proposed amendment to the Adjustments Appropriation Bill. The NA passed the amended Bill on 29 July.

STATUTORY FUNCTIONS

[16] DESIGNATION OF MEMBER TO MAGISTRATES COMMISSION

On 15 July, the House resolved to designate Dr M Q Ndlozi to replace Mr G A Gardee on the Magistrates Commission in terms of section 3(1)(a)(x) of the Magistrates Act (Act No 90 of 1993). This section provides that the Commission shall consist of four persons designated by the NA from among its members, at least two of whom must be members of opposition parties represented in the Assembly. Dr Ndlozi, a member of the EFF, would represent the opposition parties on the Commission.

[17] REQUEST FOR SUBMISSION OF LIST OF CANDIDATES FOR APPOINTMENT TO CRITICAL INFRASTRUCTURE COUNCIL

In a letter, dated 29 October, the Minister of Police requested the Speaker to urgently facilitate the recruitment of members of the Critical Infrastructure Council in terms of the Critical Infrastructure Protection Act (Act No 8 of 2019). The Act replaced the National Key Points Act (Act 102 of 1980) to provide for the identification and declaration of infrastructure as critical infrastructure and to provide for the protection, safeguarding and resilience of critical infrastructure. The Act also provides for the establishment of the Critical Infrastructure Council and its functions and the administration of the Act under the control of the National Commissioner of Police.

In terms of section 4(6) of the Act, the Minister must request the NA to submit a list of candidates for appointment. Section 4(2)(c) provides that the NA must nominate five members from the private sector and civil society, who are appropriately qualified, knowledgeable and experienced in fields that include critical infrastructure protection, risk management, disaster management or basic public services which must include at least one person who is appropriately qualified in cybersecurity.

The matter was referred to the Portfolio Committee on Police for consideration and report. The Committee had not finalized the matter by the end of the 2020 annual session.

[18] REQUEST TO FILL VACANCY IN SA HUMAN RIGHTS COMMISSION (SAHRC)

In a letter, dated 28 October, the Chairperson of the SAHRC, requested the NA to initiate a process to fill a vacancy which had arisen after the passing away of Deputy Chairperson Priscilla Jana. This request was submitted in terms of section 8(3)(a) of the South African Human Rights Commission Act (Act No 40 of 2013). In terms of this section, the SAHRC must, as soon as a vacancy occurs, in writing, inform the NA of such vacancy.

The matter was referred to the Portfolio Committee on Justice and Correctional Services for consideration and report and was not finalized by the end of the 2020 annual session.

[19] APPOINTMENT OF CHAIRPERSON OF NATIONAL LOTTERIES COMMISSION

In a letter, dated 12 November, the Minister of Trade, Industry and Competition requested the NA to make recommendations regarding the suitability of any or all of the submitted names of nominees for appointment as Chairperson of the National Lotteries Commission, in terms of section 3(3) of the Lotteries Act (No 57 of 1997).

The matter was referred to the Portfolio Committee on Trade and Industry for consideration and report and was not finalized by the end of the 2020 annual session.

[20] NOMINATION OF EXECUTIVE DIRECTOR OF INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE (IPID)

A letter, dated 30 June, was received from the Minister of Police informing the NA that he had nominated Ms Jennifer Dikeledi Ntlatseng for appointment to the position of Executive Director of IPID, in terms of section 6(1) of the Independent Police Investigative Directorate Act (No 1 of 2011) (the Act). The Speaker referred the matter to the Portfolio Committee on Police for consideration and report.

Section 6(2) of the Act states that the relevant parliamentary committee must, within a period of 30 parliamentary working days of the nomination in terms of subsection (1), confirm or reject such nomination. Section 6(3) of the Act provides that in the event of an appointment being confirmed, (a) the successful candidate is appointed to the office of Executive Director subject to the laws governing the public service with effect from a date agreed upon by such person and the Minister; and (b) such appointment is for a term of five years, which is renewable for one additional term only.

On 15 July, the Minister was afforded an opportunity to explain to the Committee his reasons for nominating Ms Ntlatseng and the Committee proceeded to discuss and formally consider his nomination. The nomination was supported by the majority of the members of the Committee. In its report dated 22 July, the Committee requested the Speaker to communicate the Committee's confirmation of the Minister's nomination of Ms Ntlatseng as the Executive Director of IPID to the Minister. The Assembly adopted the Committee's report on 30 July.

[21] FILLING OF VACANCY IN PUBLIC SERVICE COMMISSION (PSC)

A letter, dated 2 July, was received from the President of the Republic requesting the NA to initiate a process to fill an upcoming vacancy in the PSC, in terms of section 4(1) of the Public Service Commission Act (No 46 of 1997) (the Act).

Section 4(1) of the Act states that whenever the President is required to appoint a commissioner who has been approved by the Assembly, the President must address a request in writing to the Speaker of the NA that a fit and proper person contemplated in section 196(10) of the Constitution be approved as soon as may be practicable by the Assembly, in accordance with section 196(8)(a) of the Constitution.

The Speaker referred the President's request to the Portfolio Committee on Public Service and Administration for consideration and report. The Committee tabled its report on 25 November for the Assembly's consideration. In its report, the Committee recommended Dr Somadoda Fikeni for appointment by the President to serve as a commissioner in the PSC. The Assembly adopted the Committee's report on 2 December.

[22] FILLING OF VACANCIES IN INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)

In Item 34 of Issue 27, it was reported that the Portfolio Committee on Communications (the Committee) had not finalized its consideration of the request from the Minister of Communications and Digital Technologies, dated 6 August 2019, for the filling of a vacancy that arose following the removal of Mr Rubben Mohlaloga as a councillor and Chairperson of Icasa.

The Committee received a further letter on 7 August 2019 from the Acting Speaker of the Assembly informing it and the Minister that four vacancies would arise in April 2020 as a result of the expiry of the terms of four councillors, namely, Mr P Mashile, Ms B Mokhele, Mr P Zimri and Dr K Modimoeng, and advising the Minister that the NA would commence with a process of identifying suitable candidates to fill the vacancies in accordance with section 5 of the Independent Communications Authority of South Africa Act (No 13 of 2000) (the Act).

Section 5 of the Act stipulates that the Icasa Council consists of a Chairperson and eight other councillors appointed by the Minister upon the approval by the NA according to the following principles: a) participation by the public in the nomination process, b) transparency and openness, and c) the publication of a shortlist of candidates for appointment.

After considering the letters from the Minister and the Acting Speaker, the Committee advertised the vacancies in the media. On 11 February, the Committee considered the criteria and skills required to fill the five vacancies and unanimously agreed to shortlist 20 candidates. As the Committee was preparing for the interviews, Mr S Tsotetsi, who had been shortlisted, withdrew from the process. On 11 May, the Committee in its report recommended to the Assembly the approval of eight names from which the Minister would appoint five councillors; i.e. Dr K Modimoeng, Ms T Kedama, Ms Z K Mathews, Mr P Zimri, Adv L Mkutumela, Dr C Lewis, Ms A Cuba and Ms S Ncemane.

On 12 May, the Committee received a further letter from the Acting Minister of Communications and Digital Technologies, Minister J Mthembu, informing the NA that Ms N Gongxeka-Seopa had resigned as a councillor with effect from 12 July. He requested the NA to initiate a process to fill the vacancy in terms of the Act. The Committee resolved at its meeting of 29 May to fill the vacancy created by the resignation of Ms Gongxeka-Seopa together with the other five vacancies.

On 4 June, the Committee resolved to add two suitable candidates to the initial list of eight candidates it had recommended, thus recommending 10 candidates to the Minister. The additional candidates were Ms D Mushi and Mr A Patel.

On 9 June, the NA considered and agreed to the Report of the Committee and its recommendation that 10 names be recommended to the Minister for appointment to the Icasa Council.

[23] FILLING OF VACANCY ON SOUTH AFRICAN BROADCASTING CORPORATION (SABC) BOARD

On 21 September, the Speaker referred a letter from the Minister of Communications and Digital Technologies to the Portfolio Committee on Communications, informing the Assembly that Ms B Muthien had resigned from the SABC Board and requesting it to advise the President, in accordance with the provisions of the Broadcasting Act (No 4 of 1999) (the Act), of a suitable candidate to fill the vacancy for the unexpired portion of the term of Ms Muthien.

In terms of section 13 of the Act, non-executive members of the Board must be appointed by the President on the advice of the Assembly following a process that ensures, a) the participation by the public in the nomination process, b) transparency and openness, and c) a shortlist of candidates for appointment is published, taking into account the objects and principles of the Act.

At the end of the 2020 annual session, the Committee had not completed the process of filling the vacancy.

[24] REQUEST FOR FILLING FOUR VACANCIES ON THE MEDIA DEVELOPMENT AND DIVERSITY AGENCY (MDDA) BOARD

On 4 November 2019, the Acting Speaker referred a letter from the Minister in The Presidency: Planning, Monitoring and Evaluation to the Portfolio Committee on Communications (the Committee) informing the Committee of four vacancies on the MDDA Board, and requesting the Assembly to initiate a process of nominating and recommending candidates for appointment by the President in terms of section 4(1)(a) of the Media Development and Diversity Agency Act (No 14 of 2002) (the Act).

The Committee recommended the approval of Mr Hlengani Mathebula, Ms Brenda Leonard, Ms Andiswa Ngcingwana and Ms Marina Clarke for appointment. On 30 July, the NA agreed to recommend Mr Hlengani Mathebula, Ms Brenda Leonard, Ms Andiswa Ngcingwana and Ms Marina Clarke to the President for appointment to the MDDA Board.

Subsequent to these recommendations, a further letter, dated 26 May, was received from the Minister in The Presidency informing the NA of the expiry of the terms of office of Ms Nombeko Mbava and Ms Martina Della-Togna on the MDDA Board in October. The Minister requested the NA to initiate a process to fill the vacancies in terms of the Act.

On 23 September, the Speaker referred the matter

to the Committee for consideration and report. The Committee did not conclude the process of filling the vacancies by the end of the 2020 annual session.

[25] FILLING OF VACANCIES ON LAND AND AGRICULTURAL DEVELOPMENT BANK BOARD

A letter was received from the Minister of Finance, informing the Assembly of three vacancies upon expiry of the terms of office of the non-executive directors in the Land and Agricultural Development Bank (Land Bank) Board, and requesting in terms of section 4(2) of the Land and Agricultural Development Bank Act (No 15 of 2002) that the Assembly submit to him the names and curricula vitae of persons with strong agricultural sector industry knowledge and experience, economics, banking, financial management (chartered accountant), financial markets, auditing, legal, information technology, digital, human resource management, development finance and governance skills/experience, to be considered for appointment. On 1 October, the Speaker referred the matter to the Standing Committee on Finance and the Portfolio Committee on Agriculture, Land Reform and Rural Development for consideration and report in line with the provisions of the Act.

The Standing Committee on Finance and the Portfolio Committee on Agriculture, Land Reform and Rural Development did not conclude the nomination process before the end of the 2020 annual session.

[26] APPOINTMENT OF PART-TIME MEMBER TO INFORMATION REGULATOR

A letter, dated 4 November 2019, was received from the President of the Republic, informing the Assembly of the resignation of Professor Tana Pistorius as a part-time member of the Information Regulator, and requesting the NA to start the process of filling the vacancy created by the resignation, in terms of section 41(2) of the Protection of Personal Information Act (No 4 of 2013). Professor Pistorius had served three years of her five-year term. The Act provides that any member appointed under this subsection holds office for the rest of the period of the predecessor's term of office, unless the President, upon a recommendation by the NA, appoints that member for a longer period which may not exceed five years.

On 20 November 2019, the matter was referred to the Portfolio Committee on Justice and Correctional Services (the Committee) for consideration and report. On 7 October, the Committee resolved to recommend Ms Alison Tilley for appointment as a part-time member of the Information Regulator. The Committee also considered the period of the term of office and did not deem it desirable to appoint a new member for such a short period and therefore, also recommended that the appointment be for a longer period which may not exceed five years.

On 3 November, the Assembly approved the recommendation that Ms Alison Tilley be appointed as a part-time member to the Information Regulator. The Assembly's recommendation was conveyed to the President as the appointing authority.

[27] NOMINATION OF AUDITOR-GENERAL

In terms of section 193(4) of the Constitution, the President of the Republic, acting on the recommendation of the NA, must appoint the Auditor-General for a fixed, non-renewable, period of between 5 and 10 years.

Section 6(1) of the Public Audit Act (No 25 of 2004) provides that whenever it is required to appoint a new Auditor-General, the Speaker must initiate the process in the Assembly 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 the parties in the NA and approved by a resolution with a supporting vote of at least 60 per cent of members of the NA.

As the Act does not make provision for the Standing Committee on the Auditor-General to be involved in the appointment of the Auditor-General, the Assembly resolved on 9 June to establish an ad hoc committee to nominate a person for appointment as Auditor-General. The committee consisted of 11 members as follows: ANC - 6; DA - 2; EFF - 1 and other parties 2.

On 21 October, the ad hoc committee reported that it nominated Ms Tsakani Maluleke for appointment as Auditor-General. On 27 October, the Assembly agreed to the nomination with the requisite majority of 60 per cent of the members of the Assembly.

[28] APPOINTMENT OF DIRECTOR OF PARLIAMENTARY BUDGET OFFICE

Section 15 of the Money Bills Amendment Procedure and Related Matters Act (No 9 of 2009) (the Act), as amended, establishes the Parliamentary Budget Office (PBO). The PBO must provide independent, objective and professional advice and analysis to Parliament on matters related to the budget and other money Bills. Part of its core function is to support the implementation of the Act by undertaking research and analysis for the Finance and Appropriations Committees of Parliament. A Director must manage the PBO and must be appointed by a resolution of both Houses of Parliament, after a recommendation of the Committees on Finance and Appropriations of both Houses. In terms of subsection 15(7) of the Act, any committee considering making such recommendation contemplated in the Act must do so in an open and transparent manner. In addition, the committees must also recommend to the Houses of Parliament the conditions of service in respect of the appointee.

On 2 October 2019, the chairpersons of the Finance and Appropriations Committees received letters from the respective House Chairpersons, dated 17 September 2019, advising them of the request from the presiding officers of both Houses to undertake the process of nominating a candidate for the position of a Director of the PBO. During a joint meeting of the four committees on 22 October 2019 to consider the request, it was resolved that a joint subcommittee be established to deal with the appointment processes and report back to the four committees. The subcommittee consisted of seven members representing all four committees.

After conducting interviews, and after the results of the qualifications verification and security vetting had been received, the subcommittee met to deliberate and identify the final three names to be recommended to the four committees. In order of preference, the recommended candidates were:

1. Dr D J Jantjies;
2. Dr N Orlandi; and
3. Dr S Mohamed.

In accordance with paragraphs (a) and (b) of subsection (5) of section 15 of the Act, the Standing Committees on Appropriations and Finance recommended to the Assembly that Dr D J Jantjies be appointed with effect from 1 December. The Assembly agreed to the nomination of Dr Jantjies on 2 December. The NCOP agreed to the nomination of Dr Jantjies on the same day.

ABBREVIATIONS

ATC	Announcements, Tablings and Committee reports
BRRR	Budgetary Review and Recommendation Report
Covid-19	Coronavirus disease
CWF	Chief Whips' Forum
ICASA	Independent Communications Authority of South Africa
IP	Intellectual Property
IPID	Independent Police Investigative Directorate
LOGB	Leader of Government Business
MDDA	Media Diversity and Development Agency
NA	National Assembly
NAPC	National Assembly Programme Committee
NARC	National Assembly Rules Committee
NCOP	National Council of Provinces
OCSLA	Office of the Chief State Law Advisor
PBO	Parliamentary Budget Office
PPAB	Performers' Protection Amendment Bill
PSC	Public Service Commission
SABC	South African Broadcasting Corporation
SAHRC	South African Human Rights Commission
SONA	State-of-the-Nation Address
UDF	United Democratic Front

POLITICAL PARTIES

ANC	African National Congress
DA	Democratic Alliance
EFF	Economic Freedom Fighters
IFP	Inkatha Freedom Party
FF Plus	Freedom Front Plus
ACDP	African Christian Democratic Party
UDM	United Democratic Movement
ATM	African Transformation Movement
GOOD	GOOD
NFP	National Freedom Party
AIC	African Independent Congress
COPE	Congress of the People
PAC	Pan-Africanist Congress
AL JAMA-AH	Al Jama-ah

ANNEXURE 1

MEMBERSHIP OF THE ASSEMBLY

In the second session of the Sixth Parliament, several vacancies occurred in the NA. Some were due to resignations and others as a result of members passing away or losing their membership in terms of section 47(3)(c) of the Constitution.

In terms of Item 23 of Schedule 1A to the Electoral Act (No 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 during 2020:

- Ms B G Hlongwa (ANC – KZN) passed away on 13 September 2019. Replaced by Ms F E Khumalo wef 23 May.
- Mr M A Maimane (DA – National) resigned wef 24 October 2019. Replaced by Mr D J Stubbe wef 3 September.
- Adv T E Mulaudzi (EFF – National) resigned wef 2 March. Replaced by Ms B Mathulelwa wef 18 May.
- Mr G A Gardee (EFF – NW) resigned wef 29 February. Replaced by Ms C N Mkhonto wef 18 May.
- Ms N P Mokonyane (ANC – National) was not available to take up her seat. Replaced by Adv L K B Mpumlwana wef 23 May.
- Ms D D Dlamini (ANC – KZN) passed away on 10 June. Replaced by Mr M A Zondi wef 31 August.
- Mrs T G Mpambo-Sibhukwana (DA – WC) passed away on 19 June. Replaced by Mr D W Bryant wef 3 September.
- Mr Z J Peter (ANC – EC) passed away on 31 July. Replaced by Ms P T Mpushe wef 14 August.
- Adv H Mohamed (ANC – WC) passed away on 24 August. Replaced by Ms L N Moss wef 29 September.
- Mr P P Keetse (EFF – KZN) resigned wef 5 October. Replaced by Ms P Madokwe wef 7 October.
- Mr L G Mokoena (EFF – LP) resigned wef 16 October. Replaced by Mr S Tambo wef 16 October.
- Prof B Bozzoli (DA – GP) passed away on 5 December.
- Dr P P Dyantyi (ANC – EC) passed away on 7 December.
- Adv L K B Mpumlwana (ANC – National) passed away on 23 December.
- Ms N F Shabalala (ANC – KZN) passed away on 26 December.

ANNEXURE 2

LIST OF CONDOLENCE MOTIONS AND TRIBUTES TO MEMBERS

- Ms Dora Dunana Dlamini was sworn-in as a member of the Sixth Parliament for the ANC following the 2019 elections. She previously served as a member of the KwaZulu-Natal provincial legislature for five years before she was deployed to the NA where she served as a member of the Portfolio Committee on Public Enterprises. The debate on the condolence motion for Ms Dlamini was held on 20 October. It was agreed to, with members standing.

- Mrs Thandi Gloria Mpambo-Sibhukwana served as a Member of Parliament for the DA, first serving as a permanent delegate of the Western Cape in the NCOP during the Fifth Parliament, and in the NA since the start of the Sixth Parliament. Mrs Mpambo-Sibhukwana served the people of the Western Cape as a senior official in the Office of the Premier, before becoming a Member of Parliament in 2014. The motion on her passing away was debated and agreed to by the Assembly on 20 October, with members standing.

- Mr Zamuxolo Joseph Peter was a longstanding ANC leader in the Eastern Cape Province and a former United Democratic Front (UDF) activist. He joined the Sixth Parliament as a member of the NA and served in the Portfolio Committee on Tourism and the Standing Committee on Auditor-General. He previously served as a ward councillor from 2000 to 2011, and from 2011 to 2015 as the Executive Mayor of Makana Municipality. His condolence motion was debated on 20 October and agreed to, with members standing.

- Advocate Hishaam Mohamed served as a Member of the NA for the ANC since the start of the Sixth Parliament. He previously served as the provincial head of the Department of Justice and Constitutional Development in the Western Cape for over a decade and steered the establishment of the first Family Courts, Tax Court, Environmental Court, Mobile Courts, and the development of Community Safety Fora. He also chaired several forums in the criminal and civil justice system at provincial level. He served as a Public Prosecutor at the Mitchells Plain Magistrates Office from 1993 to 1994 and was appointed as a Senior Family Advocate in the Office of the Family Advocate in Cape Town in 1995. He was also elected as the ANC's first chairperson of its Southern Suburbs Region, where he remained actively involved until his death. The Assembly debated his condolence motion on 20 October, which was agreed to, with members standing.

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

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