PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

PROCEDURAL DEVELOPMENTS
IN THE NATIONAL ASSEMBLY

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PARLIAMENT
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 29th issue covers the third session of the Sixth Parliament from January to December 2021. Where no year appears next to a particular month in the text, the reference is to 2021.

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PRESIDING OFFICERS, OFFICE-BEARERS AND OTHER OFFICE HOLDERS

[1] ELECTION OF THE SPEAKER

On 5 August, the President announced changes to his Cabinet. Among other changes, the President announced that the Speaker, Ms T R Modise MP, would be appointed as Minister of Defence and Military Veterans. This resulted in a vacancy in the speakership.

Rule 21 provides that whenever it is necessary to elect a speaker, the Secretary to Parliament or an officer of Parliament nominated by him or her, must inform the National Assembly (NA) accordingly, whereupon the NA must immediately proceed to the election of the Speaker in terms of Section 52 of the Constitution, 1996, which provides for the election of the Speaker and Deputy Speaker. The Chief Justice or another judge designated by the Chief Justice presides over the election of the Speaker.

On 19 August, the NA convened for the election of a Speaker. Judge President, Mr M J Hlophe, presided over the election. He announced that rules, as contemplated in item 9 of Part A of Schedule 3 to the Constitution, 1996, had been made available to members. These had been published in the Announcements, Tablings and Committee Reports (ATC) on 17 August. The Judge President further announced the appointment of Ms P N Tyawa, the Acting Secretary to Parliament, as Returning Officer.

Ms P C P Majodina nominated Ms Mapisa-Nqakula for election as Speaker on behalf of the majority party. The nomination was seconded by Ms L D Zulu. Ms N W A Mazzone nominated Dr A Lotriet for the position of Speaker on behalf of the Democratic Alliance (DA). The nomination was seconded by Mr J H Steenhuisen. As there was more than one nominee, the Judge President announced that voting would take place by secret ballot in line with the provisions of item 6 of Part A to Schedule 3. Following the voting process, the Judge President announced the results of the ballot as follows: Ballot papers issued: 298; Ballots counted: 298; Invalid ballot papers: 17; Ms Mapisa-Nqakula: 199 votes; and Dr A Lotriet: 82 votes. Having been elected, Speaker Mapisa-Nqakula took the chair and expressed her sense of the honour conferred upon her.

[2] ELECTION OF TRUSTEES TO POLITICAL OFFICE-BEARERS PENSION FUND BOARD OF TRUSTEES

On 3 December 2020, the NA adopted a resolution in response to a requirement that following a general election, the NA must elect four members as trustees and four as alternates to serve on the Board of Trustees of the Political Office-Bearers Pension 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. On 1 June, the NA adopted a resolution to nominate Ms L F Shabalala to replace Ms J M Mofokeng (a trustee), who passed away leaving a vacancy to be filled from the majority party, and further nominate Ms S R van Schalkwyk to replace Ms L F Shabalala as an alternate.

MEMBERS

[3] MEMBERSHIP OF THE NATIONAL ASSEMBLY

See Annexure 1

[4] CONDOLENCE MOTIONS

See Annexure 2

PROCEDURAL AND RELATED MATTERS

[5] FIRST REPORT OF NATIONAL ASSEMBLY RULES COMMITTEE (NARC)

A. INTRODUCTION

The National Assembly Rules Committee (NARC) held a meeting on 9 March to deliberate on a rule framed by the Speaker in terms of Assembly Rule 6 (unforeseen eventualities) relating to the timeframe for the independent panel to report on its preliminary

inquiry on a motion initiated in respect of section 194 of the Constitution, 1996; the NARC Report of the Fifth Parliament on Monitoring Replies to Questions; and other matters considered and reported on by the Subcommittee on Review of Assembly Rules (the Subcommittee). These included: an amendment to Rule 257 on the Composition of the Chief Whips' Forum; consideration of a ruling by a presiding officer (Rule 92(12)); determination of time for declaration of vote (Rule 108(2)); an amendment to Rule 139(1) on Questions to the Deputy President; and opportunities for debate for smaller parties and monitoring of replies to questions.

The NA agreed to the report on 16 March.

B. RULE 129X(3) FRAMED BY THE SPEAKER IN TERMS OF RULE 6

(UNFORESEEN EVENTUALITIES)

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 House, based on a recommendation of the NARC, has decided thereon.

In terms of Rule 129U, the Speaker must, when required, establish an independent panel to conduct a preliminary inquiry on a motion initiated in a section 194 enquiry. Rule 129V provides that the panel must consist of three fit and proper South African citizens, which may include a judge, and who collectively possess the necessary legal and other competencies and experience to conduct such an assessment. In terms of Rule 129X(1)(b), the panel must, within 30 days of its appointment, conduct and finalise a preliminary assessment relating to the motion proposing a section 194 enquiry to determine whether there is prima facie evidence to show that the holder of a public office (i) committed misconduct; (ii) is incapacitated; or (iii) is incompetent.

Considering its workload, the panel which was appointed by the Speaker on 25 November 2020 to conduct a preliminary inquiry in terms of section 194 of the Constitution, 1996 to remove the Public Protector, Advocate B Mkhwebane, on the grounds of misconduct and/or incompetence in the South African Reserve Bank, Vrede Dairy and other matters, requested the Speaker to extend its timeframe from the original 30 days to 90 days. The Speaker subsequently framed Rule 129X(3), in light of limitations in the application of Rule 129X(1)(b) at the time the independent panel was appointed, in the ATC of 4 December 2020. Rule 129X(3) provides that:

(a) Notwithstanding Rule 129X(1)(b), the Speaker may, at the request of the panel and on good cause shown, extend the time period referred to in that rule to such later period as the Speaker may determine, which extended period may not exceed 90 days from the date of appointment of the panel.

(b) In the event that the panel requests a further extension beyond the period contemplated in paragraph (a), the Assembly may, on good cause shown, determine such an extended period.

The NARC recommended that Rule 129X(3), providing the Speaker with the discretion to determine the timeframe the independent panel had to report its findings, framed in terms of NA Rule 6, be approved.

C. Composition of the Chief Whips' Forum (Rule 257)

Assembly Rule 257 provides for the composition of the Chief Whips' Forum. The Forum provides a platform for parties to discuss, and co-ordinate matters for which the whips are responsible, and which the Speaker may consult when appropriate. Concerns had been raised that members not specifically designated by the rules had been attending forum meetings; that different members attended from week to week; and that some parties sent a number of representatives to the meetings. Moreover, some parties did not qualify to have a whip in terms of the formula agreed to by the NARC and were therefore not necessarily able to participate in its meetings.

Following deliberations on these matters, the NARC agreed that consideration be given to expanding the composition of the forum. The following amendment to Rule 257 was recommended:

257. Composition

(1) The Chief Whips' Forum consists of -

(a) the House Chairpersons;

(b) the Chief Whip and the deputy chief whip of the majority party and the whip of the majority party responsible for programming;

(c) [the deputy chief whip of the majority party] the parliamentary counsellors to the President and Deputy President; [and]

(d) [the most senior whip of each of the other parties represented in the Assembly] the Chief Whip of the largest opposition party and one other whip from that party; and

(e) one whip or member from each of the other parties represented in the Assembly.

(2) The Speaker and the Deputy Speaker may attend meetings of the Chief Whips' Forum or designate someone to attend on their behalf.

(3) A [whip] member referred to in [Subrule 1(d)] Subrules (1)(b), (d) and (e) who is unable to attend a meeting of the forum may designate another [whip] member to attend the meeting, provided that the number of party representatives in attendance may not exceed those provided for in the relevant rules.

(4) Rule 156 does not apply to this forum.

* [ ] denotes omissions to the text.

D. Consideration of a ruling by presiding officer (Rule 92(12))

On 29 July 2020, Ms H O Mkhaliphi lodged a complaint about the ruling of Temporary Chairperson, Mr Q R Dyantyi who had ordered her removal from the virtual platform during a hybrid sitting of the House on that day. The Speaker subsequently referred the principle of the ruling to the Subcommittee in terms of Rule 92(12).

Rule 92(12) provides that a member who is aggrieved by a ruling may subsequently request that the principle or subject matter of a ruling be referred to the NARC. The NARC must, however, confine its consideration to the principle underlying, or subject matter of, the ruling, and may not review the ruling itself, which is binding.

The Subcommittee followed a predetermined procedure and invited Mr Dyantyi and Ms Mkhaliphi to make representations to it. The Subcommittee deliberated on the matter and members agreed on the need for presiding officers to maintain order in sittings but differed on the application of the rules on the day in question. The EFF maintained that members had a right to speak and should not be unduly dismissed and, together with the IFP, expressed dissenting views on the matter and did not agree with other parties that the ruling was fairly applied by the Temporary Chairperson.

Based on the report of the Subcommittee, the NARC agreed that –

(a) as a principle, the imperative for presiding officers and members to maintain order be acknowledged; and

(b) the principle underlying the ruling and previous rulings from the Chair that interjections on the virtual platform were not permitted due to their disruptive nature of drowning out the member speaking on the floor, was correctly and fairly applied by the presiding officer.

E. Determination of time for declaration of vote (Rule 108(2))

Rule 108(2) states that the time allocated to a member from each party for making a declaration of vote must be determined by the NARC and must take into account the proportional strength of the party in the NA. In the Fifth Parliament, the time allocation was - ANC 7 minutes; DA 5 minutes; EFF 4 minutes and all other parties 3 minutes each.

In the context of Rule 108(2), the NARC resolved that the time allocated to parties for declaration of vote, as determined by the Fifth Parliament, be retained.

F. Rule related to Questions to the Deputy President (Rule 139(1))

Assembly Rule 139(1) states that questions to the Deputy President must be scheduled by the Programme Committee once per month during session in accordance with the programme of the NA, provided that the Programme Committee must determine which months qualify during session. On each question day, the Deputy President must answer six questions that relate to his or her functions, as designated by the President.

To ensure clarity and facilitate planning, a proposal was made that the Deputy President answer questions at least once per quarter instead of every month. The DA expressed its objection to the reduction in opportunities for questions to the Deputy President.

The following amendment to Rule 139(1) was recommended by the NARC:

139. Questions to Deputy President

(1) Questions to the Deputy President must be scheduled by the Programme Committee in accordance with Rule 210 for a question day at least once per [month] quarter during session time in accordance with the annual programme of the Assembly, [outside of the question time for Ministers;] provided that a question day to the Deputy President —

(a) [questions to the Deputy President] may not be scheduled for any week in which questions to the President are scheduled; and

(b) [the Programme Committee must further determine which months qualify as months during session time within the annual programme for purposes of this rule] is scheduled outside of the question time for Ministers.

* [ ] denotes omissions to the text.

G. Opportunities for Debates for Smaller Parties

The rules provide that members can table motions for debate in the House. The Programme Committee schedules motions. The practice has developed that members be provided an opportunity to have their motions debated, based on the proportional strength of parties in the NA. A proposal was put forward that additional opportunities be provided for smaller parties to have their motions debated. In this regard, it was agreed that, as an interim measure, the Programme Committee should increase the number of party motions debated in mini-plenaries, subject to confirmation. Pursuant to deliberations on the matter, the NARC endorsed the view that more opportunities be created for debate in mini-plenaries.

H. NARC Report of Fifth Parliament on Monitoring Replies to Questions

The NARC considered the report of the Fifth Parliament on Monitoring Replies to Questions. Rule 136 provides that the Speaker must in consultation with the NARC establish a system to monitor and report regularly to the NA on questions that have been endorsed as unanswered on the Question Paper in terms of Rules 143(2), 144(5) and 146(3), which concern unanswered oral and written questions.

The NARC resolved that the report be referred to the Subcommittee for consideration. The office of the Speaker would continue to monitor replies to questions from the Executive to ensure that questions posed by members were answered.

[6] SECOND REPORT OF NATIONAL ASSEMBLY RULES COMMITTEE (NARC): MECHANISM FOR MONITORING REPLIES TO QUESTIONS AND ESTABLISHMENT OF NEW PORTFOLIO COMMITTEE

A. MECHANISM FOR MONITORING OF REPLIES TO QUESTIONS

Assembly Rule 136 provides that the Speaker must in consultation with the NARC establish a system to monitor and report regularly to the House on

questions that have been endorsed as unanswered on the Question Paper in terms of Rules 143(2), 144(5) and 146(3). These rules relate to oral and written questions not replied to by the Executive within the stipulated timeframes. Rule 136 further provides that the Leader of Government Business (LOGB) must be informed of any steps taken in respect of any member of the Executive in giving effect to the monitoring of replies and the application of Rules 143 to 146. In relation to ministerial replies, the NARC noted that the mechanism of questions was an essential tool for members to serve their constituents and oversee Executive action. As such, while the Speaker may not dictate the form in which a Minister should reply to a question, it is expected of Ministers to answer the specific points contained in a question concerning matters under Executive control.

Subsequent to the referral of the matter to the Subcommittee by the NARC (see Item 5), the Speaker made a proposal for the Subcommittee's consideration. Having considered the mechanism adopted by the NARC of the Fifth Parliament and the Speaker's proposal, the Subcommittee made the following recommendations to the NARC for a mechanism to monitor replies to questions:

1) The Speaker writes to affected Cabinet members on a quarterly basis, requesting reasons for failure to meet the deadlines of Rules 143(1) where relevant, and 145(5)(a) with regard to all questions that are late and not replied to.
2) The Speaker writes to the LOGB, also quarterly, informing that office of the outstanding replies and correspondence sent to affected Ministers.
3) A report on the responses by Ministers regarding unanswered questions be submitted to the NARC for information and published in the ATC for the information of all members.
4) In the event of continuous non-compliance or lack of improvement, the Speaker should consider a reprimand in the plenary sitting of the NA and such reprimand be published fully in the minutes of proceedings of the NA.
5) As a last resort, the Speaker may escalate the matter through a formal complaint directed to the LOGB.

The application of Rule 136 does not require the matter to be considered by the House as the rule provides that the Speaker must establish a monitoring system in consultation with the NARC. The NARC accordingly agreed to the above proposal.

B. ESTABLISHMENT OF NEW PORTFOLIO COMMITTEE

In terms of Rule 225, the Speaker acting with the concurrence of the NARC must establish a range of portfolio committees, assign a portfolio of government affairs to each committee and determine a name for each committee. In practice, portfolio committees mirror Executive portfolios.

Rule 226 provides that a portfolio committee consists of the number of Assembly members that the Speaker may determine with the concurrence of the NARC, subject to the provisions of Rule 154, which deals with the composition of committees. At the start of the Sixth Parliament, therefore, the NARC created, among others, the Portfolio Committee on Human Settlements, Water and Sanitation for oversight purposes to reflect the Executive dispensation at the time.

On 5 August, however, the President of the Republic announced certain changes to his Cabinet. One of the changes led to the separation of the human settlements, water and sanitation portfolio into two distinct portfolios with their own Ministers. With the portfolios now separated in the new Cabinet, there was a need to establish a new, separate Portfolio Committee on Water and Sanitation. The new Committee would be established with the same composition as all other portfolio committees. The NARC agreed to the establishment of the Portfolio Committee on Water and Sanitation.

The NA agreed to the report on 2 September.

[7] ELECTION OF TEMPORARY CHAIRPERSONS

Assembly Rule 27 which deals with the election of a temporary presiding officer to act as Speaker whenever the House has been informed that the elected presiding officers are unavoidably absent, provides that the House must immediately elect one of its members to act as Speaker for that day only, the

question being put by the Secretary to Parliament.

On 16 March, the House agreed to a motion moved by the Chief Whip of the Majority Party that the House, notwithstanding the above-mentioned rule, elect Mr Q R Dyantyi and Ms R M M Lesoma to act as temporary presiding officers in the Chamber during hybrid sittings of the NA, as and when necessary, for the duration of the 2021 annual session. The two members were elected because it had been found that with competing commitments of the Speaker, Deputy Speaker and House Chairpersons, additional temporary chairpersons were required to relieve the elected presiding officers when circumstances required it.

[8] JOINT RULES APPLICABLE TO JOINT VIRTUAL OR HYBRID SITTINGS AND JOINT COMMITTEES

Joint Rule 2 of the Joint Rules of Parliament provides that the Speaker and Chairperson of the National Council of Provinces (NCOP), acting jointly, may give a ruling or make a rule in respect of any matter for which the Joint Rules do not provide, having due regard to the procedures, precedents, practices and conventions developed by joint sittings of both Houses and on the basis of constitutional values and principles underpinning an open, accountable and democratic society. A rule framed by the Speaker and Chairperson, acting jointly, remains in force until a meeting of the Joint Rules Committee (JRC) has decided on it.

Pursuant to Joint Rule 2 of the Joint Rules, the Speaker and the Chairperson of the NCOP made rules to enable the NA and the NCOP to conduct hybrid or virtual joint sittings and joint committees. On 8 February, the Speaker and the Chairperson announced the rules applicable to joint hybrid and virtual sittings of the NA and NCOP as well as joint committees in the ATC of that day.

The rules applicable to both hybrid and virtual joint sittings and hybrid and virtual joint committees are as follows:

1) The venue of a virtual or hybrid joint sitting or joint committee shall be deemed to be Cape Town, the seat of Parliament;
2) Papers of the hybrid or virtual joint sitting or joint committee shall be distributed by electronic means to which delegates to the NCOP and members of the NA have access;
3) In a virtual or hybrid joint sitting or joint committee delegates to the NCOP and members of the NA shall have the same powers, privileges and immunities which they ordinarily enjoy in parliamentary proceedings and the Joint Rules shall apply;
4) In a virtual or hybrid joint sitting or joint committee meeting, the presiding officers or co-chairpersons shall have all the powers as provided for in the Constitution, 1996, any other law and Joint Rules as the case may be; and
5) Public access to hybrid or virtual joint sittings shall be facilitated in a manner consistent with participatory and representative democracy and, wherever possible, a virtual or hybrid joint sitting must be livestreamed.

For the purposes of a hybrid sitting, attendance shall be constituted by those members of the NA and delegates to the NCOP who have logged in and those who are physically present in the Chamber. In a virtual sitting, attendance will be constituted of those members who have logged into the virtual platform. In a virtual or hybrid joint sitting when a member or delegate does not comply with an order or ruling or direction of the presiding officer or acts in a disruptive or grossly disorderly manner during the sitting, the presiding officer may direct that the delegate's or member's microphone be muted/switched off. The presiding officer or co-chairperson must inform the member or delegate and the House of their intention to do so.

Joint sittings do not take decisions and therefore the framed rules applicable to quorum and voting are only applicable to joint committees. In a virtual or hybrid joint committee meeting quorum shall be determined by the Joint Rules; and for the purposes of determining a quorum, all joint committee members who have logged in and those who are physically present in the committee room shall be deemed to be present. Members will be entitled to cast their votes either electronically, by voice or by having their vote recorded by their respective whips and the

procedure to be followed is predetermined by the co-chairpersons, and directives are announced by the co-chairpersons. Only members who are present when a vote is called shall be permitted to vote and members must ensure that their votes are correctly recorded in the Minutes of the meeting.

[9] SUSPENSION OF RULES

Assembly Rule 4 provides that any provision of the rules relating to the business or proceedings at a sitting of the House or a mini-plenary session, or of a committee of the House or any other forum of the House may be suspended by resolution of the House. The suspension of any provision must be limited in its operation to the particular purpose and period for which such suspension was approved.

The following rules were suspended during the course of 2021:

Rule 47

This rule provides for the sequence of proceedings in the NA. It states that precedence must be given to questions on question days. The rule was suspended on 8 September to allow for Orders No 1 to 3 (Consideration of Report of Portfolio Committee on Police on Appointment and introduction of National Forensics Oversight and Ethics Board (DNA Board), consideration of Report of Portfolio Committee on Police Interview Panel on Interviews for candidates for Critical Infrastructure Council on 8 - 10 June 2021 and consideration of Report of Portfolio Committee on Police on Petition of Mrs Nicky Kinnear on the death of her husband, Lt Colonel Charl Kinnear) on the Order Paper to be taken before questions on that day.

Rule 290(2)(a)

This rule provides, inter alia, that the debate on the second reading of a Bill may not commence before at least three working days have elapsed since the committee's report has been tabled. The rule was suspended on:

- 30 November for the purposes of conducting the Second Reading debate on the Division of Revenue Amendment Bill [B 19-2021].
- 10 December for the purposes of conducting the Second Reading debate on the Adjustments Appropriation Bill [B 20 – 2021] on that day.

[10] ALLEGATIONS OF CONDUCT CONSTITUTING CONTEMPT OF PARLIAMENT: MINI-PLENARY 11 JULY 2019

On 10 September 2019, the NARC referred an incident of allegations of conduct constituting contempt of Parliament by several members of the EFF to the Powers and Privileges Committee (the Committee) following its adoption of the Report of the Subcommittee on Physical Removal of Member from Chamber on an incident that resulted in the physical removal of members from the Chamber.

The incident referred to the Committee took place on 11 July 2019 during the mini-plenary debate on Budget Vote 9: Public Enterprises. Members of the EFF were physically removed from the Chamber in terms of Rule 73(12) following their disruption of the Minister's budget vote speech.

In terms of Assembly Rule 214, the Committee is required to consider any matter referred to it by the Speaker relating to contempt of Parliament or misconduct 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 (No 4 of 2004) (the Act). The Rule also requires that the Committee must table a report in the NA on its findings and recommendations in respect of any alleged contempt of Parliament or misconduct, as defined in the Act.

The Committee was established late in 2019 after the general elections and did not start its work until February 2020. Shortly after that, the country was placed on level four restrictions due to the Covid-19 pandemic and the Committee could not continue its work on this matter. When it eventually started its work on this matter there were lengthy delays in starting the hearings due to continuous requests for postponements by the accused members' legal teams. The Committee reported its findings on the incident on 17 May. It found, inter alia, that the members acted deliberately, and engaged in conduct that created disorder and disruption in the House; and that the members undermined the authority of

the presiding officer, by refusing to obey her ruling and repeatedly interrupting her when she was addressing the House. The Committee further found that the members physically intervened, obstructed and hindered their own removal when the presiding officer ordered such a removal in terms of the rules.

The Committee report recommended penalties in respect of the members found guilty of contempt, including that two members be suspended without remuneration for 30 days and that the remaining members be fined a month's salary and allowances.

The NA considered the report of the Committee on 7 December. A division was demanded and a manual voting procedure was utilised, with 274 members in support of the adoption of the report, while 35 members were against its adoption. The NA therefore resolved to accept the recommendations of the Committee in finding the members guilty of contempt of Parliament, and to impose the penalties recommended in the report.

[11] ALLEGATIONS OF CONDUCT CONSTITUTING CONTEMPT OF PARLIAMENT: STATE OF THE NATION ADDRESS ON 13 FEBRUARY 2020

On 14 February 2020, the Speaker and the Chairperson of the NCOP, in the ATC of that day, referred allegations of conduct constituting contempt of Parliament by members of the EFF during the state of the nation address (SONA) on Thursday, 13 February 2020, to the Powers and Privileges Committee (the Committee) of the NA in terms of Rule 214 and the Powers and Privileges Committee of the NCOP, when established, for consideration and report.

In terms of Assembly Rule 214, 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 (No 4 of 2004) (the Act). The rule also requires that the Committee must table a report in the NA on its findings and recommendations in respect of any alleged contempt of Parliament or misconduct, as defined in section 13 of the Act.

The allegations the Committee were to consider related to disruptions to the SONA by members of the EFF who raised objections to the presence of former President F W de Klerk, and later the presence of Minister P J Gordhan in the Chamber.

The Committee's report was published in the ATC on 11 December 2020. The Committee found that, inter alia, the presiding officers were fully within their right to attempt to restore order to the proceedings of the joint sitting, by invoking Joint Rule 14F. The Committee further found that the Joint Rules on Order and Rules of Debate in joint sittings were not as explicit and developed as the NA Rules, which amongst others, provided that a ruling of the presiding officer is final and may not be challenged in the House. The Committee found that consequently, the tools given to the presiding officers by the Joint Rules were inadequate to deal with the problems experienced during the incident.

The Committee recommended, amongst others, that the referral of the incident of 13 February 2020 did not have a reasonable prospect of success and should not be proceeded with and that, in view of the inadequacy of the Joint Rules to deal with challenges as experienced during the joint sitting of 13 February 2020, a process to update/review the Joint Rules should be embarked upon as a matter of urgency.

The NA adopted the Committee's report on 7 December. The year-long delay for the Committee to report was mainly due to the Covid-19 pandemic and the fact that the Committee was without a chairperson for almost a year after its chairperson was appointed to the Executive.

[12] APPOINTMENT OF MEMBERS TO CHAIR MINI-PLENARY SESSIONS FOR 2021 ANNUAL SESSION

Assembly Rule 54 which deals with the appointment of members to chair a mini-plenary session states that the Chair must be taken by an elected presiding officer; or any other member, appointed by the Speaker for that purpose.

In the ATC of 3 March, the appointment of the following members of the NA to Chair mini-plenary

sessions for the 2021 annual session in terms of Rule 54 was announced as follows: Mr Q R Dyantyi, Mr M G Mahlaule, Ms R M M Lesoma and Ms L S Makhubela-Mashele.

A further announcement was made by the Speaker in the ATC of 12 May, on the appointment of Ms T M Joemat Pettersson to Chair mini-plenary sessions specifically dealing with budget vote debates in terms of Rule 54.

[13] DELAYED REPLIES TO PARLIAMENTARY QUESTIONS

Assembly Rule 136 provides that the Speaker must in consultation with the NARC establish a system to monitor and report regularly to the NA on questions that have been endorsed as unanswered on the Question Paper in terms of Rules 143(2), 144(5) and 146(3). See (Item 5) above for a detailed description of the mechanism dealing with delayed replies to questions.

On 26 June, in accordance with Step 1 of the mechanism, a communication was sent to Ministers in respect of all parliamentary questions to which replies had not been received in accordance with Rules 145(5) and 146(3). Replies that were received from members of the Executive were distributed by the Questions Office.

MONEY BILLS

[14] PROPOSED TECHNICAL CORRECTIONS TO APPROPRIATION BILL [B4 - 2021]

A letter dated 25 March, was received from the Minister of Finance, requesting the NA to amend the Appropriation Bill [B4-2021] to align it with Schedule 1 to the Public Service Act (No 103 of 1994) by amending the name of vote 32 in column 2 of the Schedule, by the substitution of the phrase "Environment, Forestry and Fisheries" with the phrase "Forestry, Fisheries and the Environment", and vote 37 in column 2 of the Schedule, by the substitution of the phrase "Sports, Arts and Culture" with the phrase "Sport, Arts and Culture", in terms of section 14 of the Money Bills and Related Matters Act (No 9 of 2009).

Section 14 of the Money Bills and Related Matters Act states that notwithstanding any provision in the Act, a House or committee may consider a section 25 amendment to a money Bill proposed by the Minister in order to make technical corrections to the Bill. The letter was referred to the Standing Committee on Appropriations, the Portfolio Committee on Environment, Forestry and Fisheries and Portfolio Committee on Sports, Arts and Culture for consideration and report. The report of the Standing Committee on Appropriations tabled on 1 June made reference to the effected technical corrections in respect of votes 32 and 37 as requested by the Minister of Finance.

The NA adopted the report on 1 June.

[15] INSTRUCTION TO STANDING COMMITTEE ON FINANCE TO REVIEW THE FINANCIAL MANAGEMENT OF PARLIAMENT AND PROVINCIAL LEGISLATURES ACT

The Third Parliament initiated and passed the Financial Management of Parliament Act (No 10 of 2009), in order to regulate the legislature's finances as an independent arm of the State. Parliament subsequently passed the Financial Management of Parliament Amendment Act (No 34 of 2014), which was assented to by the President on 29 August 2014. Additional amendments to the Act were proposed to strengthen the budgeting and financial management processes in Parliament and provincial legislatures.

On 19 March, the NA instructed the Standing Committee on Finance to review the Financial Management of Parliament Act (as amended), in order to introduce amending legislation, if necessary, taking into account the work done by relevant structures on the matter, including the Speakers' Forum, and report to the NA by 30 September. By the end of the 2021 annual session, the matter had not been concluded.

LEGISLATION AND COMMITTEES

[16] PERMISSION TO INQUIRE INTO AMENDING OTHER PROVISIONS OF SECTIONAL TITLES ACT, 1986 IN TERMS OF RULE 286(4)(C)

The Sectional Titles Amendment Bill [B 31 - 2020]

(National Assembly – section 76) was tabled and referred to the Portfolio Committee on Agriculture, Land Reform and Rural Development (the Committee) on 2 November 2020 for consideration and report, in terms of Rule 286(4).

On 3 September, the Committee published an interim report on the Bill in which it sought permission of the NA to amend certain provisions of the Sectional Titles Act (No 95 of 1986), in terms of Rule 286(4)(c); which provides that if a committee is considering an amendment bill, the committee must seek the permission of the NA to inquire into amending other provisions of that legislation.

Specifically, the Committee sought permission from the NA to amend section 54(2)(c) of the principal Act in order to remove a requirement for the Sectional Titles Regulation Board to include two persons having special knowledge of sectional title development schemes. This requirement was no longer necessary as the Sectional Titles Schemes Management Act (No 8 of 2011) regulated and managed Sectional Titles Schemes.

On 9 September, after considering the interim report of the Committee, the NA agreed to a motion giving permission to the Committee to enquire into amending other provisions of the principal Act. The Committee reported on the Sectional Titles Amendment Bill on 10 September and presented an amended bill to the NA for consideration. The NA adopted the Committee's report and passed the Sectional Titles Amendment Bill [B 31B - 2020] on 16 November. The Bill was transmitted to the NCOP on the same day for concurrence.

[17] PERMISSION TO INQUIRE INTO AMENDING OTHER PROVISIONS OF THE COPYRIGHT ACT IN TERMS OF RULE 286(4)(C)

The Copyright Amendment Bill [B 13B - 2017] was referred back to the NA by the President on the basis of reservations he had on the constitutionality of the Bill (See Issue 28, Item 14). The Portfolio Committee on Trade and Industry (the Committee) published a report on 14 May outlining how it intended to address the President's reservations, namely, by calling for public comment in respect of the President's reservations. The NA adopted the report on 1 June. The Bill was recommitted and submitted for retagging to the Joint Tagging Mechanism (JTM).

The retagging of the Bill, as a Bill to which section 76 of the Constitution, 1996 applied, was announced in the ATC of 18 June.

On 19 November, the Committee published an interim report, seeking permission from the NA to inquire into amending other provisions of the Copyright Act (No 98 of 1978) in terms of Rule 286(4)(c).

The Committee sought to consider additional provisions of the Act beyond the scope of the Copyright Amendment Bill [B 13B - 2017], related to new definitions relating to personal copies, to exceptions for persons with disabilities, and to broadcasting, and making the new exclusive rights of communications to the public, making available and distribution applicable to published editions and computer programmes.

On 1 December, the NA granted the Committee permission to amend the Act beyond the scope of the Copyright Amendment Bill [B 13B - 2017].

[18] PRESIDENT'S RESERVATIONS ON THE CONSTITUTIONALITY OF COPYRIGHT AMENDMENT BILL

The NA passed the Copyright Amendment Bill [B17 of 2017] on 28 March 2019. However, in a letter, dated 16 June 2020, the President informed Parliament that he had constitutional reservations about the Bill (together with the Performers' Protection Amendment Bill [B24 of 2016]. The letter appeared in the ATC of 22 June. Section 79(1) of the Constitution, 1996 requires that the President must assent to and sign a Bill, or if the President has reservations about the constitutionality of a Bill, refer the Bill back to Parliament. The President's concerns related to, inter alia, the tagging of the Bill; questions about the possible retrospective and arbitrary deprivation of property; the legality of delegated powers to the responsible Minister; questions about copyright exceptions; and whether the Bill complied with various international treaties. These reservations were referred to the Portfolio Committee on Trade and Industry (the Committee) for consideration and report.

In a report, dated 14 May, which appeared in the ATC of 19 May, the Committee agreed with most of the President's reservations. In so doing, the Committee recommended that the NA should rescind the Bill as a section 75 Bill and mandate the Committee to proceed to correct the Bill. On 1 June, the NA agreed to rescind its decision in terms of Joint Rule 203(3)(c) and to refer the Bill back to the Committee. The Bill was retagged as a section 76 Bill by the JTM. In a report, dated 19 November, the Committee invoked Assembly Rule 286(4)(c) to seek the permission of the NA to amend other provisions of the Copyright Act. The NA granted permission to the Committee to amend other provisions of the Act on 1 December.

[19] PRESIDENT'S RESERVATIONS ON THE CONSTITUTIONALITY OF THE PERFORMERS' PROTECTION AMENDMENT BILL

The NA passed the Performers' Protection Amendment Bill [B24 of 2016] on 28 March 2019. However, in a letter dated 16 June 2020, the President replied to Parliament to indicate that he had constitutional reservations about the Bill (together with the Copyright Amendment Bill [B17 of 2017]) (letter appeared in the ATC of 22 June). Section 79(1) of the Constitution requires that the President must assent to and sign a Bill, or if the President has reservations about the constitutionality of a Bill, refer the Bill back to Parliament.

The President's concerns related, in the main, to the Copyright Amendment Bill (See Item 18) but they also applied to the Performers' Protection Amendment Bill through cross-referencing. In a report, dated 14 May, which appeared in the ATC of 19 May, the Portfolio Committee on Trade, Industry and Competition (the Committee) agreed with most of the President's reservations. In so doing, the Committee recommended that the NA should rescind the Bill as a section 75 Bill and mandate the Committee to proceed to correct the Bill. On 1 June, the NA agreed to rescind its decision in terms of Joint Rule 203(3)(c) and referred the Bill back to the Committee. The Bill was retagged as a section 76 Bill by the JTM (as announced in the ATC of 18 June).

[20] PRESIDENT'S RESERVATIONS ON THE CONSTITUTIONALITY OF THE LIQUOR PRODUCTS AMENDMENT BILL

The NA passed the Liquor Products Amendment Bill on 26 June 2018 [B10B – 2016]. In a letter dated 2 June 2020, the President informed Parliament that he had reservations about the constitutionality of the Bill (letter appeared in the ATC of 12 June). Section 79(1) of the Constitution, 1996 requires that the President must assent to and sign a Bill, or if the President has reservations about the constitutionality of a Bill, refer the Bill back to Parliament. The President was of the view that the Bill should have been referred to the National House of Traditional Leaders (NHTL) in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act (No 41 of 2003). On 12 June, the Portfolio Committee on Agriculture, Land Reform and Rural Development (the Committee), as the responsible committee, reported to the NA on the matter (this report replaced the report of the Committee which was published in the ATC of 25 May).

In its report, the Committee explained that the Bill had been reclassified by the JTM in terms of Joint Rule 163(3) as a section 75 Bill pertaining to customary law or customs of traditional communities (ATC, 25 February 2021, p2). Subsequently, the remitted Liquor Products Amendment Bill was referred to the NHTL. The NA subsequently adopted the Committee report and corrections on 3 June and the Bill was referred to the NCOP for concurrence on the same day.

[21] PRESIDENT'S RESERVATIONS ON THE CONSITUTIONALITY OF THE NATIONAL LAND TRANSPORT AMENDMENT BILL

The NA passed the National Land Transport Amendment Bill [B7 of 2016] on 9 March 2020. However, in a letter dated 9 September, the President informed Parliament that he had constitutional reservations about the Bill. This letter appeared in the ATC of 21 September. The President's concerns related to clauses in the Bill that would affect the statutory responsibilities of the different spheres of government. These reservations were referred to the Portfolio Committee on Transport (the Committee) for consideration and report. The Committee agreed, in the main, to remove the identified clauses.

[22] RE-ESTABLISHMENT OF AD HOC COMMITTEE TO INITIATE AND INTRODUCE LEGISLATION AMENDING SECTION 25 OF THE CONSTITUTION

Section 25 of the Constitution, 1996, which deals with property, relates to the deprivation of land. The NA of the Fifth Parliament established an ad hoc committee to initiate and introduce legislation amending section 25 of the Constitution, but the ad hoc committee could not complete its task by the end of that Parliament. The ad hoc committee therefore recommended that the matter be concluded in the Sixth Parliament.

On 25 July 2019, the Sixth Parliament re-established the ad hoc committee with a mandate to report to the NA by 31 March 2020. The ad hoc committee was, however, unable to finalize its work by that date and ceased to exist. On 4 June, the NA re-established the ad hoc committee with the same composition, mandate and powers as its predecessor, with an instruction that it incorporate the work of the previous ad hoc committee and report by 30 August. This deadline was further extended to 10 September. The ad hoc committee reported on 9 September. On 7 December, the NA considered the ad hoc committee's report and the recommendation that the Constitution Eighteenth Amendment Bill [B 18 – 2021] be agreed to. In brief, the Bill proposed expropriation of private land without compensation. The Bill was put to the vote and not approved in accordance with section 74(2) of the Constitution, 1996, which requires that a two-thirds majority of members must be in support of a constitutional amendment bill.

STATUTORY FUNCTIONS

[23] INTERVIEWS OF CANDIDATES FOR CRITICAL INFRASTRUCTURE COUNCIL

The Critical Infrastructure Protection Act (No 8 of 2019) (the Act) provides that the Minister responsible for policing must appoint members of the Critical Infrastructure Council. It also provides that the composition of the Council must include the Secretary for the Police Service; and an official at the level of at least Chief Director or an equivalent level, designated by each of the heads of the following institutions:

Department of Defence;

Department of Home Affairs;

Department of Public Works;

National Disaster Management Centre;

South African Local Government Association;

South African Police Service; and

State Security Agency.

Also included in the composition of the Council must be five members appointed from the private sector and civil society in terms of the Act. The Council must provide for identification and declaration of infrastructure as critical infrastructure; to provide for guidelines and factors to be taken into account to ensure transparent identification and declaration of critical infrastructure and to provide for measures to be put in place for the protection and safeguarding of such infrastructure.

A request from the Minister of Police to facilitate the recruitment of members of the Critical Infrastructure Council was received by the Speaker and referred to the Portfolio Committee on Police (the Committee) for consideration and report.

Following the recruitment process, the Committee recommended that Adv Lufuno Khorommbi, Mr Wilie Renier Du Preez, Ms Keletso Lefothane, Mr Grant Son, Mr Richard Zita, Dr Vincent Melo, Mr Nkhangweni Rambau, Dr Patience Mbava, Mr Eugene Van Rooyen and Ms Nomabandla Silinyana be appointed to the Council.

The NA adopted the report of the Committee on 8 September.

[24] DECISION BY JUDICIAL SERVICE COMMISSION ON COMPLAINT BY JUSTICES OF THE CONSTITUTIONAL COURT AGAINST JUDGE PRESIDENT M J HLOPE

Section 177(1) of the Constitution, 1996, provides that a judge may be removed from office only if the Judicial Service Commission (JSC) finds that the judge suffers from an incapacity, is grossly incompetent or is guilty of gross misconduct; and the NA calls for that

judge to be removed, by a resolution adopted with a supporting vote of at least two thirds of its members. It further provides that the President of the Republic must remove a judge from office upon adoption of a resolution calling for that judge to be removed.

The Speaker received correspondence from the Chief Justice of the Republic of South Africa, communicating findings of gross misconduct against Judge President M J Hlophe in terms of section 20(4) of the Judicial Service Commission Act (No 9 of 1994), read with section 177(1) of the Constitution, 1996. On 2 September, the Speaker referred the decision by the Judicial Service Commission, finding Judge President M J Hlophe guilty of gross misconduct to the Portfolio Committee on Justice and Correctional Service (the Committee) for consideration and report. The Committee requested a legal opinion on the matter as it was the first time that it had to deal with a matter of this nature. The Committee met on 9 September to receive a legal briefing on the matter from the Constitutional and Legal Services Office of Parliament. At the time, the matter was sub judice and could not be finalised by the NA.

[25] ELECTION OF MEMBER TO SADC-PF

In terms of Article 7(2) of the Constitution of the Southern African Development Community Parliamentary Forum (SADC-PF), the Forum consists of the presiding officers of the member Parliaments and up to a maximum of five representatives designated by each national Parliament. In designating the five representatives, each Parliament must ensure equitable representation of women and political parties that are represented in its Parliament and include the Chairperson of the National Women's Parliamentary Caucus. A representative of the Forum serves from the date of his/her designation to the Forum unless he/she ceases to be a member of, or is replaced, by his/her Parliament. The term of a representative runs concurrently with his or her term in Parliament.

The designation of members to the SADC-PF requires approval of both Houses. On 27 June 2019, the NA designated the following members to the SADC-PF: Ms T R Modise (former Speaker of the National Assembly), Mr D L Moela, Mr T B Matibe, Mr D Bergman, Ms H O Mkhaliphi and the Chairperson of the Multi-Party Women's Caucus, Ms N K Bilankulu (whose name as Chairperson of the Caucus was confirmed by her election on 12 July 2019). On 9 July, the NCOP agreed to a motion to designate the members as approved by the Assembly without amendments. After Ms T R Modise was appointed Minister of Defence and ceased to be Speaker, the NA replaced her with Ms N N Mapisa-Nqakula, the new Speaker of the NA.

[26] VACANCY IN ICASA COUNCIL

A letter dated 15 March, was received from the Minister of Communications and Digital Technologies informing the NA of the resignation of Mr Zolani Kgosie Matthews from the Council of the Independent Communications Authority of South Africa (Icasa), and the vacancies that arose when the terms of office of three other councillors had expired. The Minister requested the NA to initiate the process of filling the vacancies in terms of section 5(1) of the Independent Communications Authority of South Africa Act (No 13 of 2000).

The term of office for the following council members was due to expire: Adv Dimakatso Qocha (term to expire on 20 September), Ms Palesa Kadi (term to expire on 25 September), and Ms Thembeka Simanes (term to expire on 31 January 2022).

On 1 April, the Speaker tabled and referred the Minister's letter to the Portfolio Committee on Communications and Digital Technologies (the Committee) for consideration. The Committee established a seven-member Subcommittee to process the matter.

The Committee recommended that the NA approve the names of Adv Dimakatso Qocha, Ms Nompucuko Nontombana, Ms Dikeledi Mushi, Ms Thabisa Faye, Ms Ntombiza Sithole, Ms Sesethu Gqomo and Ms Rossana Gell for submission to the Minister in order for her to appoint four from the seven candidates as Icasa councillors.

This matter was not concluded in the 2021 annual parliamentary session.

[27] REQUEST FOR ADDITIONAL CANDIDATES TO SERVE ON CENTRAL DRUG AUTHORITY (CDA) BOARD

The Central Drug Authority (CDA) is a statutory body established in terms of section 53(1) of the Prevention of and Treatment for Substance Abuse Act (No 70 of 2008) (the Act). In terms of the Act, the CDA consists of representatives of various government departments holding the rank of Director or an equivalent rank, National Youth Commission, Medicines Control Council, National Prosecuting Authority, and not more than 13 other members appointed by the Minister of Social Development, who must be persons who have knowledge or experience in the management of the demand and supply of substances or who are able to make a substantial contribution to the combating of substance abuse. The Portfolio Committee on Social Development (the Committee) and the Select Committee on Health and Social Services (the Select Committee) make recommendations to the Minister in relation to such appointments after a transparent and open process of considering persons so nominated.

On 30 April, the Minister of Social Development wrote to the Speaker, requesting the Committee to recommend two additional names from the list of interviewed candidates to fill vacancies on the Board of the CDA in terms of the Act. The Speaker tabled and referred the Minister's letter to the Committee on 18 May for consideration. On 1 September, a Subcommittee of the Committee and the Select Committee requested a legal opinion in respect of the Minister's request and whether the matter could be reopened.

The legal opinion stated that in terms of section 53(2)(u) of the Act, the maximum number of persons that the Minister could appoint to the CDA Board was 13. The Committee had previously recommended 13 candidates to the Minister in its report which was adopted by the NA, and therefore once the candidates were appointed, Parliament had discharged its mandate.

The Minister had appointed 11 candidates from the names recommended by Parliament. Two candidates were not appointed. One candidate had passed on before the appointment could be made, and the Minister had reservations on appointing the remaining candidate based on the reasons outlined in her correspondence to the Committee and the Select Committee.

The Committee agreed that the CDA Board could function with the remaining board members appointed by the Minister in terms of section 53(2)(u) of the Act, and therefore the process of scheduling further interviews was abandoned. The Committee did not report to the House on the matter.

[28] VACANCIES IN INFORMATION REGULATOR

The Information Regulator (South Africa) is an independent body established in terms of section 39 of the Protection of Personal Information Act (No 4 of 2013) (the Act).

A letter dated 13 September from the Minister of Justice and Correctional Services requested the NA to initiate a process to fill vacancies on the Information Regulator, in terms of the Act. The Speaker tabled the letter on 27 July and referred it to the Portfolio Committee on Justice and Correctional Services (the Committee) for consideration and report.

Section 41(2)(a) of the Act provides for the President of the Republic to appoint the Chairperson and the members of the Regulator on the recommendation of the NA. Section 41(2)(b) of the Act requires that the NA must recommend a person for appointment who is: (i) nominated by a committee of the NA composed of members of parties represented in the NA; and (ii) approved by the NA by a resolution adopted with a supporting vote of a majority of the members of the NA.

On 17 November, the Committee interviewed the candidates and resolved that the NA recommend: a) Adv Pansy Tlakula as the Chairperson, b) Adv Lebogang Stroom-Nzama as an ordinary member in a full-time capacity, c) Adv Johannes Collen Weapond as an ordinary member in a full-time capacity, and d) Mr Mfana Gwala as an ordinary member in a part-time capacity.

The Committee report was considered and agreed to by the NA, following a manual vote on 23 November. A manual voting system was used as the House

was sitting in hybrid format with some members physically in the Chamber and others on the virtual platform. The party whips counted the total votes of their parties and presented them to the presiding officer when so requested.

[29] REVIVAL OF RECOMMENDATION OF CANDIDATE FOR APPOINTMENT TO PUBLIC SERVICE COMMISSION (PSC)

In (Issue 27, Item 14), it was reported that the decision of question on the recommendation of

a candidate for appointment to the PSC was postponed due to the absence of the requisite majority required in terms of the Constitution, 1996. The matter was not finalized by the end of the 2019 annual parliamentary session. The report of the Portfolio Committee on Public Service and Administration (the Committee) on the matter subsequently lapsed at the end of the 2019 annual parliamentary session.

On 18 March, the NA resolved to revive the report of the Committee from the stage it had reached on the last day of the first session of the Sixth Parliament. On 11 October, and while the Committee was still finalising this vacancy, it received a letter dated 28 September from the President, requesting the NA to initiate a process to fill vacancies that would arise in the PSC.

These vacancies were not finalized by the end of the 2021 annual session.

[30] APPOINTMENT OF COMMISSIONERS TO SOUTH AFRICAN HUMAN RIGHTS COMMISSION (SAHRC)

In (Issue 28, Item 19), it was reported that the Portfolio Committee on Justice and Correctional Services (the Committee) had not finalized its consideration of the request from the Chairperson of the South African Human Rights Commission (SAHRC), dated 28 October 2020, for the filling of a vacancy that had arisen after the passing of the Deputy Chairperson, Priscilla Jana.

In its report, dated 31 May, the Committee reported that the Chairperson of the SAHRC had previously alerted the NA to a vacancy that would arise when the term of office of Advocate Mohammed Shafie Ameermia expired at the beginning of February. Both requests were referred to the Committee for consideration and report.

The Committee advertised the positions requesting members of the public to nominate candidates for appointment and received 59 nominations or applications. The following 10 persons were shortlisted: (a) Mr Jonas Sibanyoni; (b) Ms Philile Ntuli; (c) Ms Ferrial Adam; (d) Ms Nomfundo Ntloko-Gododo; (e) Adv Mohamed Ameermia; (f) Ms Fatima Chohan; (g) Mr Leonardus Joubert; (h) Ms Vidhu Vedalankar; (i) Ms Nomahlubi Khwinana; and (j) Mr Moss Ntlha.

The Committee interviewed the shortlisted candidates on the virtual platform and recommended that the NA nominate Ms Philile Ntuli and Ms Fatima Chohan for appointment as full-time commissioners for a period of seven years. It further recommended that Ms Fatima Chohan be appointed as the Deputy Chairperson of the SAHRC.

The NA agreed to the report of the Committee on 3 June.

[31] FILLING OF VACANCIES ON THE NATIONAL YOUTH DEVELOPMENT AGENCY (NYDA) BOARD

In (Issue 27, Item 32), it was reported that the Portfolio Committee on Women, Youth and Persons with Disabilities (the Committee) had not finalised the filling of vacancies for the National Youth Development Agency (NYDA) Board by the end of the 2019 annual session.

Section 9 of the National Youth Development Agency Act (No 54 of 2008) (the Act) stipulates that the Board consists of seven members, two of whom are Executive Directors. Members of the Board hold office for a period of three years and are appointed by the President, on the recommendation of Parliament. The term of office of the NYDA Board expired on 31 May 2020.

The Committee and the Select Committee on Health and Social Services (the Select Committee) established a Subcommittee in terms of NA Rule 172 and NCOP Rule 106, on 26 November 2019.

On 15 December 2019, Parliament advertised in various local, regional and national newspapers, including the parliamentary website, inviting applications for persons to serve on the Board. The deadline for applications was 24 January 2020. The Subcommittee interviewed 29 candidates between 27 and 28 July and again on 30 and 31 July 2020. The Committee and the Select Committee recommended the following seven candidates for appointment by the President to serve for a period of three years: (i) Mr John Sifiso Mtsweni; (ii) Ms Karabo Mohale; (iii) Ms Thuthukile Zuma; (iv) Ms Paballo Ponoane; (v) Mr Lukhona Afika Mnguni; (vi) Mr Avela Mjajubana; and (vii) Mr Molaoli Sekake. Both Committees adopted their reports, which were published in the ATC of 6 August 2020.

However, several complaints were received by the Speaker that the recruitment process was not fair and that there were sections of communities whose views were not represented in the report of the Committee. On 3 September 2020, the NA considered the report of the Committee and resolved to return the report to the Committee for further consideration and report. This resolution was followed by the decision of the National Assembly Programme Committee (NAPC) on 28 January, for the Subcommittee to restart the process, having due consideration to demographics, geographical representation, as well as persons with disabilities on the list of candidates to be recommended for appointment.

On 9 February, the Subcommittee met and resolved to restart the process in line with the NAPC decision, and as such, accordingly, adopted reports, to give effect to that resolution. The Subcommittee further agreed that the new Subcommittee membership should remain the same as the membership that served in the previous process. The reports of the Committee and the Select Committee were published on 9 February.

The Committee and the Select Committee subsequently resolved that the following 17 candidates should be recommended for appointment by the President, to serve as board members for a period of three years: (i) Ms Karabo Mohale; (ii) Mr Molaoli Sekake; (iii) Mr Mihlali Pedro Mzileni; (iv) Mr Lukhona Afika Mnguni; (v) Ms Paballo Ponoane; (vi) Mr Kutloano Esau Rakosa; (vii) Mr Micarlo Malan; (viii) Mr Avela Mjajubana; (ix) Ms Lebogang Mulaisi; (x) Mr Thabo Shingange; (xi) Ms Alexandria Syrah Procter; (xii) Mr Thulisa Ndlela; (xiii) Ms Asanda Luwaca; (xiv) Ms Busisiwe Cathrine Seabe; (xv) Ms Nomcebo Nkosi (person with a disability); (xvi) Ms Nompumelelo Mpatha; and (xvii) Ms Pearl Pillay. The Committee noted that the above list of candidates was representative of the demographics and geographic spread of the Republic, as required by the Act, and ensured gender parity and inclusion of women and persons with disabilities in terms of the Employment Equity Act (No 55 of 1998) (See ATC of 15 July).

The NA adopted the report of the Committee on 31 August while the NCOP adopted the report of the Select Committee on 1 September.

On 18 November, the President informed the NA that he had appointed the following seven members to serve on the Board: (i) Ms Asanda Luwaca; (ii) Ms Karabo Mohale; (iii) Mr Thulisa Ndlela; (iv) Ms Lebogang Mulaisi; (v) Ms Alexandria Procter; (vi) Ms Pearl Pillay; and (vii) Mr Avela Mjajubana. The President further informed the NA that he had, in terms of the Act, appointed Ms Asanda Luwaca as Chairperson, and Ms Karabo Mohale as Deputy Chairperson of the Board.

[32] RESIGNATION OF ICASA COUNCILLOR AND REQUEST TO FILL VACANCIES ON ICASA COUNCIL

On 15 March, the Minister of Communications and Digital Technologies informed the NA of the resignation of Mr Zolani Kgosie Matthews from the Icasa Council and the vacancies that arose when the terms of office of three other councillors had expired. The Minister requested the NA to initiate the process of filling the vacancies in terms of section 5(1) of the Independent Communications Authority of South Africa Act (No 13 of 2000).

On 1 April, the Speaker tabled and referred the Minister's letter to the Portfolio Committee on Communications and Digital Technologies (the Committee) for consideration and report.

The Committee did not finalise this matter in the 2021 annual parliamentary session.

ABBREVIATIONS

ARC	Agricultural Research Council
ATC	Announcements, Tablings and Committee reports Council National Council of Provinces
CDA	Central Drug Authority
CRC	Constitutional Review Committee
CWF	Chief Whips' Forum
GCIS	Government Communications and Information Systems
ICASA	Independent Communications Authority of South Africa
JRC	Joint Rules Committee
JSC	Judicial Service Commission
JTM	Joint Tagging Mechanism
LOGB	Leader of Government Business
MP	Member of Parliament
NA	National Assembly
NAPC	National Assembly Programme Committee
NARC	National Assembly Rules Committee
NCOP	National Council of Provinces
NHTL	National House of Traditional Leaders
NYDA	National Youth Development Agency
OCPOL	Oversight Committee on the Premier's Office and the Legislature
PSC	Public Service Commission
SADC-PF	Southern African Development Community Parliamentary Forum
SAHRC	South African Human Rights Commission
SANCO	South African National Civic Organisation
SONA	State of the Nation Address
UDF	United Democratic Front

POLITICAL PARTIES

ANC	African National Congres
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 NATIONAL 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 2021:

1. Mr X Ngwezi (IFP – KZN) resigned wef 11 January 2021. Replaced by Ms S A Buthelezi wef 11 January 2021.

2. Mr J M Mthembu (ANC – National) passed away on 21 January 2021. Replaced by Ms X Havard wef 26 January 2021.

3. Ms P T Mantashe (ANC – EC) passed away on 31 January 2021. Replaced by Prince Z Burns-Ncamashe wef 9 February 2021.

4. Mr M Waters (DA – National) resigned wef 19 February 2021. Replaced by Ms T Bodlani wef 17 March 2021.

5. Ms J M Mofokeng (ANC – GP) passed away on 22 April 2021. Replaced by Ms A Ramolobeng wef 23 June 2021.

6. Ms P T van Damme (DA – National) resigned wef 20 May 2021. Replaced by Mr N G Myburgh wef 3 September 2021.

7. Mr M Nyhontso (PAC – National) lost his membership in terms of section 47(3)(c) of the Constitution wef 23 June 2021. Replaced by Mr B Joko wef 23 June 2021. Mr B Joko (PAC – National) lost his membership in terms of section 47(3)(c) of the Constitution wef 31 August 2021. Replaced by Mr M Nyhontso wef 31 August 2021.

8. Mr C MacKenzie (DA – GP) passed away on 7 July 2021. Replaced by Dr N V Khumalo wef 9 September 2021.

9. Ms B Maluleke (ANC – LP) passed away on 16 July 2021. Replaced by Ms G T Mukwevho wef 23 August 2021. Ms G T Mukwevho (ANC – LP) resigned wef 19 November 2021. Replaced by Ms M R M Mothapo wef 24 November 2021.

10. Mr L M Ntshayisa (AIC – National) passed away on 23 July 2021. Replaced by Mr S M Jafta wef 18 August 2021.

11. Mr M N Nxumalo (IFP – KZN) passed away on 2 August 2021. Replaced by Mr S S Zondo wef 8 February 2022.

12. Prof H B Mkhize (ANC – National) passed away on 16 September 2021. Replaced by Ms Z A Kota-Mpeko wef 16 November 2021.

13. Mr G G Hill-Lewis (DA – National) resigned wef 9 November 2021. Replaced by Mr C M Fry wef 25 April 2022. Mr C M Fry (DA – National) resigned wef 3 August 2022. Replaced by Mr T A Le Goff wef 10 November 2022.

14. Mr J Selfe (DA – National) resigned wef 31 December 2021. Replaced by Mr F Essack wef 25 April 2022.

15. Mrs D B Ngwenya (EFF – National) resigned wef 30 November 2021. Replaced by Ms P Marais wef 10 December 2021.

16. Mr T D Khalipha (ANC – FS) resigned wef 24 November 2021. Replaced by Ms S T Maneli wef 24 November 2021.

17. Mr P Sindane (EFF – GP) resigned wef 8 December 2021. Replaced by Mr A Matumba wef 10 December 2021.

18. Mr D M Nkosi (ANC – GP) passed away on 16 December 2021. Replaced by Mr C N Malematja wef 25 January 2022.

ANNEXURE 2

LIST OF CONDOLENCE MOTIONS AND TRIBUTES TO MEMBERS

Ms Jacqueline Motlagomang Mofokeng's political leadership roles began in the early 1990s when she was elected to serve in various ANC structures of Gauteng from Branch Executive Committee to Greater Tshwane Region and Provincial Executive Committees, as well as in the Women's League and the South African National Civic Organisation (SANCO) in the Gauteng Province. Ms Mofokeng became a Member of the Gauteng Provincial Legislature from 1999 to 2019, serving as the Chairperson of the Oversight Committee on the Premier's Office and the Legislature (OCPOL), the Chairperson of Community Safety Portfolio Committee, the Deputy Chief Whip of the Legislature, and the Chairperson of the Standing Committee for the Scrutiny of Subordinate Legislation. Ms Mofokeng became a Member of the Sixth Democratic Parliament in 2019 and served in the Joint Constitutional Review Committee, the Joint Standing Committee on Intelligence, the Portfolio Committee on Justice and Correctional Services and the Portfolio Committee on Police. She took over as the Whip of the Study Group on Justice and Correctional Services following the passing on of the late Advocate Hishaam Mohamed in 2020. Ms Mofokeng also served and led within the structures of the Commonwealth Parliamentary Association and Commonwealth Women Parliamentarians. Her condolence motion was debated on 26 May and agreed to, with members standing.

Ms Tshoganetso Mpho Adolphina Tongwane joined Parliament in 2008 as a Member of the National Assembly and served on the Portfolio Committees on Home Affairs and Human Settlements. In the Sixth Parliament, Ms Tongwane served in the Portfolio Committee on Environment, Forestry and Fisheries. She also served as an additional regional executive member of the Northern Cape ANC Women's League. Ms Tongwane's political career dated back to the 1980s when she was a member of the United Democratic Front (UDF) and later joined the ANC. Parliament lost a dedicated and loyal member who carried out her duties with grace and compassion; a member who embraced unity to make the lives of South Africans better. Through her experience, knowledge and understanding of legislative and oversight matters, she made an immense contribution to the quality of laws and other work of the committees she participated in. Her condolence motion was debated on 9 September and agreed to, with members standing.

Mr Cameron MacKenzie served as a Member of Parliament for the Democratic Alliance in the National Assembly since 2014. He served on the Portfolio Committee on Telecommunications and Postal Services, and later on the Portfolio Committee on Communications and Digital Communications. Mr MacKenzie began his career in the financial services in the United Kingdom. He got involved in politics in the Republic more than 30 years ago when he joined the African National Congress following the Boipatong Massacre. Mr MacKenzie briefly left politics in protest after the conclusion of the Arms Deal in 1996. He later joined the Democratic Alliance Caucus in the City of Johannesburg in 2006, where he served on the Finance, Economic Development, Transport and the Municipal Public Accounts Section 79 committees. Mr MacKenzie held a bachelor's degree in communication sciences from the University of South Africa and several other certificates from the University of Witwatersrand. He was the Managing Director of the Crisis Communications and Reputations Management Consultancy, Sentinel 360. Mr MacKenzie was a dedicated public servant and true patriot, and the country is much poorer for not having him fight for their rights and his passing has left a massive gap in the lives of many. His condolence motion was debated on 9 September and agreed to, with members standing.

Ms Boitumelo Joyce Maluleke began her political career as a Member of the Limpopo Provincial Legislature, serving as the Chairperson of the Education Committee until May 2014. She became a Member of Parliament in 2015, serving on the Portfolio Committee on Cooperative Governance and Traditional Affairs and the Ad Hoc Committee on the Filling of Vacancies in the Commission for Gender Equality. At the time of her passing, she was serving as a Member in the Powers and Privileges Committee of Parliament, the Portfolio Committee on Women, Youth and Persons with Disabilities and the Portfolio Committee on Public Service and Administration. Ms Maluleke also played a critical role in the shortlisting and interviewing process of candidates for the National Youth Development Agency (NYDA) Board. Parliament lost a dedicated member, a

compassionate human being and a fierce gender activist who was committed to the advancement of an equal, just and democratic society. Her condolence motion was debated on 9 September and agreed to, with members standing.

The Assembly acknowledged Mr Lulama Maxwell Ntshayisa's unstinting commitment to the rule of law and the values underpinning our constitutional democracy. Mr Ntshayisa diligently fulfilled his constitutional mandate within the committees he served, which included the Portfolio Committee on Basic Education, the Portfolio Committee on Sports, Arts and Culture, the Portfolio Committee on Employment and Labour and the Portfolio Committee on Agriculture, Land Reform and Rural Development. Mr Ntshayisa brought to the Assembly his passionate way of dealing with issues of accountability. He will be remembered for his spirit of giving and embrace of the communal value of Ubuntu. His condolence motion was debated on 9 September and agreed to, with members standing.

Mr Mthokozisi Nkululeko Nxumalo served as an Inkatha Freedom Party (IFP) Member of Parliament (MP) in the National Assembly since 2019, and made an enormous contribution, especially in the higher education sector. Mr Nxumalo was an ardent voice for transformation and accountability while serving as a member in the Portfolio Committees on Higher Education, Science and Technology; and Public Works, and previously served on the Portfolio Committee for Mineral Resources and Energy. He was one of the youngest Members of Parliament, dedicated to improving the interests of the youth, and served the people of South Africa with passion, integrity and diligence. Mr Nxumalo served in many structures of the IFP and was elected as the IFP Youth Brigade National Chairperson in July 2019. He was subsequently appointed as the IFP Deputy Chief Whip in January 2021, after being elected to Parliament in 2019. Before joining Parliament, he also served as the President of the South African Democratic Student's Movement. His condolence motion was debated on 9 September and agreed to, with members standing.

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

Parliament of the Republic of South Africa,
P O Box 15, Cape Town 8000.