



# NCOP

National Council of Provinces

## RULES OF THE NATIONAL COUNCIL OF PROVINCES

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PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA



## PREFACE

### THE FOLLOWING RULES WERE AMENDED:

RULE 1 (DEFINITIONS)  
RULE 5 (3)  
RULE 10(1)(C-D)  
RULE 17(1-2)  
RULE 103(2)(A-B) AND (3)  
RULE 116(1)( C)  
RULE 118(1)(E)  
RULE 119  
RULE 121  
RULE 122  
RULE 125A, 125B, 125C AND 125D  
RULE 126  
RULE 129A, 129B, 129C AND 129D  
RULE 130  
RULE 134  
RULE 137  
RULE 154(A)  
RULE 166(A)  
RULE 230(1)  
RULE 237(1)  
RULE 240A(1-6)  
RULE 241  
RULE 243(3)  
RULE 244(3)  
RULE 16 (2)(A-C)  
RULE 243(1)  
RULE 244(1) AND (3)  
RULE 246  
RULE 247





# CONTENTS

RULE	PAGE
<b>CHAPTER 1: APPLICATION OF RULES</b>	
1. DEFINITIONS	13
2. UNFORESEEN MATTERS	14
3. SUSPENSION OF RULES	14
4. APPLICATION OF RULES TO NON-MEMBER PARTICIPANTS .	15
5. PUBLIC PARTICIPATION	15
<b>CHAPTER 2: PRESIDING AND OTHER OFFICERS</b>	
6. ELECTION OF CHAIRPERSON AND DEPUTY CHAIRPERSONS	15
7. FUNCTIONS OF CHAIRPERSON	15
8. ASSIGNMENT OF FUNCTIONS TO DEPUTY CHAIRPERSONS, COMMITTEES AND MEMBERS	16
9. ELECTION OF OTHER PRESIDING OFFICERS	16
10. ACTING CHAIRPERSON	16
11. RELIEF OF CHAIRPERSON	16
12. ABSENCE OF ALL PRESIDING OFFICERS	16
13. ELECTION OF CHIEF WHIP OF THE COUNCIL.	17
14. REMOVAL OF PRESIDING OFFICERS FROM OFFICE	17
14A FUNCTIONS OF THE HOUSE CHAIRPERSON OF COMMITTEES	18
14B FUNCTIONS OF THE HOUSE CHAIRPERSON OVERSIGHT AND INSTITUTIONAL SUPPORT	18
<b>CHAPTER 3: COUNCIL MEMBERS</b>	
15. PROOF OF APPOINTMENT OF DESIGNATION	19
16. OATH OR SOLEMN AFFIRMATION	19
17. ABSENCE OF PERMANENT MEMBERS	20
<b>CHAPTER 4: SITTINGS OF THE COUNCIL</b>	
18. CONDUCT OF BUSINESS AND PROCEEDINGS	20
19. SITTING DAYS	20
20. SITTING TIMES	20
21. VENUE	20
22. ORDER PAPER	21
23. MINUTES OF PROCEEDINGS	21
24. OPPORTUNITY FOR PRAYER OR MEDITATION	21
25. INTERRUPTION, SUSPENSION OR ADJOURNMENT OF PROCEEDINGS	21
26. ADMISSION OF THE PUBLIC	21



27.	ORDERS TO LEAVE SITTINGS	21
28.	REMOVAL OF PERSONS	22
29.	VISITING HEADS OF STATE	22

## CHAPTER 5: ORDER IN MEETINGS AND RULES OF DEBATE

### PART 1: ORDER IN MEETINGS

30.	FREEDOM OF SPEECH	22
31.	MOVEMENT IN CHAMBER	22
32.	MEMBERS MAY NOT CONVERSE ALOUD	22
33.	MEMBERS MAY NOT BE INTERRUPTED	22
34.	ORDER AT ADJOURNMENT	23
35.	PRECEDENCE OF PRESIDING OFFICER	23
36.	IRRELEVANCE OR REPETITION	23
37.	MEMBER ORDERED TO LEAVE	23
38.	CENSURE OF MEMBER	23
39.	PERIOD OF SUSPENSION	24
40.	APOLOGIES	24
41.	GRAVE DISORDER	24
42.	DEBATING OF CHARGES AGAINST MEMBERS	24

### PART 2: RULES OF DEBATE

43.	MEMBERS TO ADDRESS CHAIR	24
44.	CALLING OF MEMBERS	24
45.	TIME LIMITS FOR SPEECHES	25
46.	OFFENSIVE AND UNBECOMING LANGUAGE	25
47.	REFLECTIONS UPON PREVIOUS COUNCIL DECISIONS AND ON JUDGES, ETC	25
48.	MATTERS PENDING BEFORE THE COURTS	26
49.	RULE OF ANTICIPATION	26
50.	EXPLANATIONS	26
51.	POINTS OF ORDER	26
52.	ACTING FOR ABSENT MEMBER	26
53.	RIGHTS OF MEMBERS TO SPEAK	26
54.	WHEN REPLY ALLOWED	27
55.	DEBATE CLOSED	27

## CHAPTER 6: DECISION OF QUESTIONS

### PART 1: GENERAL

56.	DETERMINATION OF A DAY FOR DECISION OF POSTPONED QUESTIONS	27
57.	POSTPONEMENT OF DECISIONS	27
58.	POSTPONED QUESTIONS PUT WITHOUT FURTHER DEBATE	27





59.	QUESTIONS PUT AGAIN	27
60.	QUESTIONS FULLY PUT	27
61.	ABSENCE OF QUORUM FOR DECISIONS	28
62.	LIST OF SPECIAL MEMBERS TO BE SUBMITTED	28

#### PART 2: VOTING BY INDIVIDUAL MEMBERS

63.	DECLARATION OF VOTE	28
64.	RECORDING OF OPPOSITION	28
65.	DEMAND FOR DIVISION	28
66.	PROCEDURE FOR DIVISIONS	29
67.	POINTS OF ORDER DURING DIVISION	29
68.	CONFUSION OR ERROR DURING DIVISION	29
69.	CORRECTION OF MINUTES	29

#### PART 3: VOTING BY PROVINCES

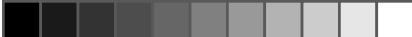
70.	BELLS TO BE RUNG BEFORE QUESTIONS ARE PUT	29
71.	DECLARATIONS OF VOTE	30
72.	VOTING	30
73.	MANDATES	30

### CHAPTER 7: MOTIONS

74.	NATURE OF MOTIONS	31
75.	SAME QUESTION RULE	31
76.	NO AMENDMENT TO DRAFT RESOLUTION	31
77.	MOTIONS WITHOUT NOTICE	31
78.	NOTICE OF MOTION	32
79.	ACTING FOR ABSENT MEMBER	32
80.	CHAIRPERSON MAY AMEND NOTICES	32
81.	QUESTION OF PRIVILEGE	32
82.	WITHDRAWAL AND LAPSING OF MOTION	32

### CHAPTER 8: MATTERS OF PUBLIC IMPORTANCE AFFECTING THE PROVINCES

83.	DEBATES ON PRESIDENTIAL ADDRESSES	33
84.	MATTERS OF PUBLIC IMPORTANCE	33
85.	PUBLIC DEBATE ON CONSTITUTIONAL AMENDMENTS	33



# CHAPTER 9: COMMITTEE SYSTEM

## PART 1: INTRODUCTION

86.	COUNCIL COMMITTEES	34
87.	SUBCOMMITTEES	35
88.	APPLICATION OF RULES TO COMMITTEES AND SUBCOMMITTEES ESTABLISHED IN TERMS OF LEGISLATION	35

## PART 2: RULES APPLICABLE TO ALL COMMITTEES

89.	COMPOSITION OF COMMITTEES	35
90.	ALTERNATES	35
91.	CHAIRPERSON	36
92.	ACTING CHAIRPERSON	36
93.	FIRST MEETINGS OF COMMITTEES	36
94.	MEETINGS OF COUNCIL COMMITTEES AND SUBCOMMITTEES	37
95.	MEETINGS AND FUNCTIONING OF COMMITTEES AND SUBCOMMITTEES	37
96.	QUORUMS AND DECISIONS	37
97.	ORDER IN MEETINGS	38
98.	ATTENDANCE BY MEMBERS	38
99.	CHARGES AGAINST MEMBERS	38
100.	INTERRUPTION, SUSPENSION OR ADJOURNMENT	38
101.	REFERRAL OF OFFICIAL WRITTEN INSTRUMENTS TO COMMITTEES	38
102.	REPORTING	39
103.	GENERAL POWERS OF COMMITTEES	40
104.	JOINT MEETINGS OF COMMITTEES	40
105.	EXCHANGE OF VIEWS BETWEEN COMMITTEES	41
106.	SUBCOMMITTEES	41
107.	PERSONS APPEARING BEFORE COMMITTEES AND SUBCOMMITTEES	42
108.	PRESENCE OF OTHER COUNCIL MEMBERS	42
109.	LOCAL GOVERNMENT REPRESENTATIVES	42
110.	ADMISSION OF THE PUBLIC	42
111.	EXCLUSION OF MEMBERS OF THE PUBLIC FROM MEETINGS	43
112.	EXCLUSION OF OTHER PERSONS FROM MEETINGS	43
113.	REMOVAL OF PERSONS	43
114.	PUBLICATION OF PROCEEDINGS, EVIDENCE, REPORTS, ETC	44

## PART 3: RULES COMMITTEE

115.	ESTABLISHMENT	44
116.	COMPOSITION	44
117.	CHAIRPERSON	44
118.	FUNCTIONS AND POWERS	44





119. IMPLEMENTATION OF POLICY	45
120. DECISIONS	45
121. SUBCOMMITTEES	45

#### **SUBCOMMITTEE ON THE COUNCIL BUDGET**

122. COMPOSITION	46
123. CHAIRPERSON	46
124. FUNCTION AND POWERS	46
125. DECISIONS.	47

#### **SUBCOMMITTEE ON SUPPORT FOR MEMBERS OF THE COUNCIL**

125A. COMPOSITION	48
125B. CHAIRPERSON	48
125C. FUNCTIONS AND POWERS	48
125D. DECISIONS	49

#### **SUBCOMMITTEE ON REVIEW OF THE COUNCIL RULES**

126. COMPOSITION	49
127. CHAIRPERSON	49
128. FUNCTIONS AND POWERS	49
129. DECISIONS.	49

#### **SUBCOMMITTEE ON PARLIAMENTARY POWERS AND PRIVILEGES**

129A. COMPOSITION	50
129B. CHAIRPERSON	50
129C. FUNCTIONS AND POWERS	50
129D. DECISIONS	50

#### **SUBCOMMITTEE ON INTERNAL ARRANGEMENTS**

130. COMPOSITION	50
131. CHAIRPERSON	50
132. FUNCTIONS AND POWERS	51
133. DECISIONS	51

#### **SUBCOMMITTEE ON INTERNATIONAL RELATIONS**

134. COMPOSITION	51
135. CHAIRPERSON	51
136. FUNCTIONS AND POWERS	52



**SUBCOMMITTEE ON DELEGATED LEGISLATION**

137. COMPOSITION	52
138. CHAIRPERSON	52
139. FUNCTIONS AND POWERS	52
140. DECISIONS	53

**PART 4: PROGRAMME COMMITTEE**

141. ESTABLISHMENT	53
142. COMPOSITION	53
143. CHAIRPERSON	53
144. FUNCTIONS AND POWERS	53
145. DECISIONS	54
146. SUBCOMMITTEE	54

**PART 5: COMMITTEE ON PETITIONS AND MEMBERS’ LEGISLATIVE PROPOSALS**

147. ESTABLISHMENT	54
148. CHAIRPERSON	54
149. FUNCTIONS AND POWERS	54
150. DECISIONS	55

**PART 6: SELECT COMMITTEES**

151. ESTABLISHMENT	55
152. PUBLICATION OF NAMES OF COMMITTEE MEMBERS	55
153. COMMITTEE CHAIRPERSONS	55
154. COMPOSITION	55
155. QUORUMS AND DECISIONS	55

**PART 7: COMMITTEE OF CHAIRPERSONS**

156. ESTABLISHMENT	56
157. COMPOSITION	56
158. CHAIRPERSON	56
159. FUNCTIONS AND POWERS	56

**PART 8: AD HOC COMMITTEES**

160. ESTABLISHMENT	57
161. COMPOSITION	57

**CHAPTER 10: LEGISLATIVE PROCESS**

**PART 1: GENERAL**

162. LEGISLATIVE POWERS OF COUNCIL	58
------------------------------------	----







163.	INITIATION OF LEGISLATION BY COUNCIL	58
164.	INITIATION OF LEGISLATION BY NATIONAL EXECUTIVE OR PROVINCES	59
165.	APPLICATION OF THIS CHAPTER	59

**PART 2: SECTION 76(1) BILLS**

166.	CHAIRPERSON’S FUNCTIONS WHEN 76(1) BILLS ARE RECEIVED FROM ASSEMBLY	59
167.	REFERRAL TO COMMITTEE	59
168.	OPPORTUNITY FOR PUBLIC INPUT	59
169.	COMMITTEE’S FUNCTIONS	60
170.	SUSPENSION OF FURTHER CONSIDERATION OF BILL BY COMMITTEE	60
171.	COMMITTEE’S REPORT	60
172.	CONSIDERATION OF COMMITTEE REPORT AND BILL BY COUNCIL	61
173.	AMENDMENTS AFTER BILL PLACED ON ORDER PAPER	61
174.	REFERRAL OF AMENDMENTS PROPOSED IN COUNCIL TO COUNCIL COMMITTEE	63
175.	CONSEQUENCES OF APPROVAL AMENDMENT OR REJECTION OF SECTION 76 (1) BILLS	63
176.	PROCESS IF MEDIATION SUCCESSFUL	63
177.	PROCESS IF MEDIATION UNSUCCESSFUL	64

**PART 3: SECTION 76(2) BILLS**

**BILLS INITIATED BY COUNCIL MEMBERS**

178.	COUNCIL’S PERMISSION REQUIRED FOR INTRODUCTION	65
179.	REFERRAL OF PROPOSALS TO COMMITTEE ON MEMBER’S LEGISLATIVE PROPOSALS	65
180.	COUNCIL’S CONSIDERATION OF PROPOSAL	65
181.	PREPARATION OF DRAFT BILL	66

**BILLS INITIATED BY COUNCIL COMMITTEES**

182.	COUNCIL’S PERMISSION REQUIRED FOR INTRODUCTION	66
183.	CONSIDERATION OF PROPOSAL	67
184.	PREPARATION OF DRAFT BILL	67
185.	CONSIDERATION OF DRAFT BILL BEFORE INTRODUCTION	67

**PUBLICATION**

186.	PRIOR NOTICE AND PUBLICATION OF DRAFT LEGISLATION	68
187.	NOTICE WITHDRAWING PROPOSED LEGISLATION	68

**INTRODUCTION**

188.	METHOD OF INTRODUCTION	68
189.	CLASSIFICATION OF BILLS	69



190.	REINTRODUCTION OF BILLS RULED OUT OF ORDER BY JTM	69
------	---	----

**CONSIDERATION**

191.	CHAIRPERSON’S FUNCTIONS WHEN SECTION 76(2)BILLS ARE INTRODUCED	69
192.	REFERRAL TO COMMITTEE	69
193.	COMMITTEE’S FUNCTIONS	70
194.	SUSPENSION OF FURTHER CONSIDERATION OF BILL BY COMMITTEE	70
195.	REFERRAL TO COUNCIL COMMITTEE IF JOINT COMMITTEE FAILS TO REPORT	70
196.	COMMITTEE’S REPORT	71
197.	CONSIDERATION OF COMMITTEE’S REPORT AND BILL BY COUNCIL	71
198.	AMENDMENTS AFTER BILL PLACED ON ORDER PAPER	72
199.	REFERRAL OF AMENDMENTS PROPOSED IN COUNCIL TO COUNCIL COMMITTEE	73
200.	REFERRAL TO ASSEMBLY COMMITTEE IF JOINT COMMITTEE FAILS TO REPORT	73
201.	CONSEQUENCES OF APPROVAL OR REJECTION OF SECTION 76 (2) BILL	74

**RECONSIDERATION IF AMENDED BY ASSEMBLY**

202.	BILL TO BE PLACED ON ORDER PAPER OR REFERRED TO SELECT COMMITTEE	74
203.	COMMITTEE’S REPORT	74
204.	DEBATE AND DECISION	75
205.	PROCESS IF MEDIATION SUCCESSFUL	75
206.	UNSUCCESSFUL MEDIATION	76

**PART 4: SECTION 75 BILLS**

207.	CHAIRPERSON’S FUNCTIONS WHEN SECTION 75 BILLS RECEIVED FROM ASSEMBLY	76
208.	REFERRAL TO COMMITTEE	76
209.	BILL NOT REFERRED TO COMMITTEE PLACED ON ORDER PAPER	76
210.	COMMITTEE’S FUNCTIONS	77
211.	COMMITTEE’S REPORT	77
212.	AMENDMENTS	78
213.	REPORT TO AND DECISION OF COUNCIL ON AMENDMENTS	79
214.	CONSEQUENCES OF APPROVAL OF AMENDMENT OR REJECTION OF SECTION 75 BILLS	80

**PART 5: SECTION 74 BILLS**

215.	TABLING OF PUBLIC COMMENTS ON BILLS AMENDING THE CONSTITUTION	80
216.	CHAIRPERSON’S FUNCTIONS WHEN SECTION 74 BILLS RECEIVED FROM ASSEMBLY	80
217.	REFERRAL TO COMMITTEE	80
218.	BILL NOT REFERRED TO COMMITTEE PLACED ON ORDER PAPER	81
219.	FUNCTIONS OF COMMITTEE ON REFERRAL	81



220.	OPPORTUNITY FOR PUBLIC INPUT	81
221.	SUSPENSION OF FURTHER CONSIDERATION OF BILL BY COMMITTEE	82
222.	COMMITTEE'S REPORT	82
223.	CONSIDERATION OF COMMITTEE REPORT AND BILL BY COUNCIL	83
224.	AMENDMENTS	83
225.	REPORT TO AND DECISION OF COUNCIL ON AMENDMENTS	84
226.	CONSEQUENCES OF APPROVAL, AMENDMENT OR REJECTION OF SECTION 74 BILLS	84
227.	PROCESS IF MEDIATION SUCCESSFUL	85
228.	PROCESS IF MEDIATION UNSUCCESSFUL	86

#### PART 6: PETITIONS

229.	FORM OF PETITIONS	86
230.	LANGUAGE OF PETITIONS	86
231.	SIGNING OF PETITIONS	86
232.	LODGING AND APPROVAL BY CHAIRPERSON OF THE COUNCIL	86
233.	TABLING	86
234.	REFERRAL OF PETITIONS TO COMMITTEES	86
235.	POWERS OF COMMITTEE	86
236.	PETITIONER AND OTHERS TO BE INFORMED	86

#### PART 7: MISCELLANEOUS

237.	SAME BILL MAY NOT BE INTRODUCED MORE THAN ONCE	87
238.	LAPSING AND RESUMPTION OF PROCEEDINGS WITH BILL	87
239.	TIME FOR CONSIDERATION OF A BILL	87
240.	LEGISLATIVE CYCLE	87
241.	WITHDRAWAL OF A BILL	87

#### CHAPTER 11: QUESTIONS

##### PART 1: GENERAL

242.	NOTICE	88
243.	QUESTION DAYS	88
244.	PLACING AND ARRANGEMENT	88

##### PART 2: QUESTIONS FOR ORAL REPLY

245.	PERIOD AFTER NOTICE	89
246.	FORM OF QUESTION	89
247.	TIMES ALLOTTED	89

##### PART 3: QUESTIONS FOR WRITTEN REPLY



248.	FORM OF QUESTIONS	90
249.	WRITTEN REPLY NOT GIVEN	90

## CHAPTER 12: MISCELLANEOUS

### PART 1: COMMUNICATION WITH THE EXECUTIVE

250.	MESSAGES BY THE PRESIDENT	90
251.	EXECUTIVE STATEMENT	91
252.	RESOLUTIONS AFFECTING THE EXECUTIVE	91
253.	ADVICE, RECOMMENDATION OR APPROVAL OF THE COUNCIL OR A COMMITTEE OF THE COUNCIL TO THE EXECUTIVE	91

### PART 2: INTERVENTIONS

254.	NATIONAL INTERVENTIONS IN PROVINCES	92
255.	PROVINCIAL INTERVENTIONS IN LOCAL GOVERNMENT	93

### PART 3: CONTEMPT

256.	ESTABLISHMENT	93
257.	COMPOSITION	94
258.	CHAIRPERSON	94
259.	MEETINGS	94
260.	FUNCTIONS AND POWERS	94
261.	MEMBER ADJUDGED GUILTY OF CONTEMPT	95
262.	FINES	95
263.	RECOVERY OF FINES	95
264.	FINES REMITTED AND PERSONS DISCHARGED	95
265.	COMPLAINTS BY PERSONS OTHER THAN MEMBERS	95

### PART 4: WITNESSES

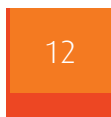
266.	WITNESS EXPENSES	95
------	------------------	----

### PART 5: OFFICE OF SECRETARY AND RECORDS OF COUNCIL

267.	MINUTES OF PROCEEDINGS	96
268.	JOURNALS OF COUNCIL	96
269.	PAPERS	96
270.	SUBMISSION OF DOCUMENTATION TO PROVINCES	96
271.	GENERAL DUTIES OF SECRETARY	96

### ANNEXURE

	PROCEDURE TO BE FOLLOWED IN THE INVESTIGATION AND DETERMINATION OF ALLEGATIONS OF MISCONDUCT AND CONTEMPT OF PARLIAMENT	97
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# CHAPTER 1

## APPLICATION OF RULES

### Definitions

1. In these Rules, unless the context otherwise indicates –

“**Act**” means the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004;

“**A.T.C**” means the document entitled Announcements, Tablings and Committee Reports;

“**classification**”, with reference to a Bill, means the classification of a Bill in terms of **joint rule 160** (6) or the reclassification of a Bill in terms of **joint rule 163**, and “**classify**” and “**classified**” have corresponding meanings;

“**constitution amendment Bill**” means a Bill to which section 74 of the Constitution applies;

“**document**” means any written instrument, and includes any electronic or other device in or on which information, including visual material is recorded, stored or kept;

“**Gazette**” means the national Government Gazette;

“**JTM**” means the Joint Tagging Mechanism established by **joint rule 151**;

“**member**”, with reference to the Council, means a permanent or special delegate to the Council, and “**permanent member**” and “**special member**” have a corresponding meaning;

“**mixed section 75/76 Bill**” means a Bill that contains provisions to which section 75 of the Constitution applies and provisions to which section 76 applies;

“**money Bill**” means a Bill to which section 77 of the Constitution applies;

“**permanent member**” means a permanent delegate to the Council envisaged in section 60 (2) (b) of the Constitution;

“**person in charge**”, with reference to a Bill introduced –

(a) in the Council by a Council member, means that member;

(b) in the Council by a Council committee, means the chairperson or other member of the committee designated by the committee; or

(c) in the Assembly, means the Council member designated in terms of joint rule 217 (1);



**“recess”**, with reference to the Council, means a period determined as a recess by the Programme Committee, or by resolution of the Council, during which the business of the Council is interrupted;

**“section 75 Bill”** means a Bill to which the procedure prescribed in section 75 of the Constitution applies, and includes a money Bill;

**“section 76 Bill”** means a Bill to which the procedure prescribed in section 76 of the Constitution applies;

**“section 76(1) Bill”** means a section 76 Bill introduced in the Assembly;

**“section 76(2) Bill”** means a section 76 Bill introduced in the Council;

**“Secretary”** means the Secretary to Parliament;

**“sitting day”**, with reference to the Council, means a day on which the Council sits in plenary and it includes committee meetings;

**“special member”** means a special delegate to the Council envisaged in section 60 (2) (a) of the Constitution;

**“working day”** means any day of the week except -  
(a) Saturday and Sunday; or

(b) a public holiday in terms of the Public Holidays Act, 1994 (Act 36 of 1994); and, if such a holiday falls on a Sunday, also the Monday.

### **Unforeseen matters**

2. (1) The Chairperson of the Council may give a ruling or make a rule on a matter for which these Rules do not provide.

(2) A rule made by the Chairperson remains in force until the Rules Committee has decided on it.

### **Suspension of Rules**

3. The Council may by resolution dispense with or suspend a provision of these Rules for a specific period or purpose.



### Application of Rules to non-member participants

4. Except where clearly inappropriate, these Rules apply to a Cabinet member, a Deputy Minister, a local government representative or an official in the national or a provincial executive participating in the proceedings of the Council in terms of section 66 or 67 of the Constitution, as they apply to a member of the Council.

### Public participation

5. (1) Members of the public may participate in the proceedings of the Council by -
  - (a) attending sittings of the Council or meetings of Council committees;
  - (b) submitting petitions to the Council on any matter within the Council's competence;
  - (c) responding to public or specific invitations—
    - (i) to comment in writing on Bills or other matters before, or which are due to come before, the Council;
    - (ii) to make representations or recommendations in writing on such Bills or other matters; or
    - (iii) to give evidence or to make representations or recommendations before Council committees on such Bills or other matters, either in person or through a representative.
- (2) Public participation in terms of subrule (1) is subject to, and must be exercised in accordance with, the applicable provisions of these Rules.
- (3) The public has access to all official notices to members and to all documents tabled in the Council, subject to reasonable measures taken by the Chairperson of the Council to regulate such access, in a manner consistent with national laws.

## CHAPTER 2

### PRESIDING AND OTHER OFFICERS

#### Election of Chairperson and Deputy Chairpersons

6. Whenever it is necessary to elect a Chairperson or a Deputy Chairperson of the Council, the Secretary must inform the Council of that fact, and the Council must summarily, or at a time announced by the Secretary, proceed to elect a Chairperson or Deputy Chairperson in accordance with section 64 and Part A of Schedule 3 of the Constitution.

#### Functions of Chairperson

7. The Chairperson of the Council must exercise the powers and perform the functions of the office of Chairperson after consulting the Deputy Chairpersons, other presiding officers, the delegation heads, the whips and any relevant committee wherever these Rules or the



proper functioning of the Council requires such consultation.

### **Assignment of functions to Deputy Chairpersons, committees and members**

8. The Chairperson of the Council may authorise a Deputy Chairperson, or a committee or member to exercise a power or perform a function vested in terms of these Rules in the Chairperson.

### **Election of other presiding officers**

9. (1) The Council may elect from among its members a House Chairperson Committees and House Chairperson Oversight and Institutional Support to assist the Chairperson and Deputy Chairpersons of the Council as additional presiding officers.  
  
(2) A member elected under this rule holds office until that person's term as a permanent member or period of designation as a special member expires.

### **Acting Chairperson**

10. (1) Whenever the Chairperson of the Council is absent or unable to perform the functions of Chairperson, or during a vacancy in the office of Chairperson, an office-bearer in the order below acts as Chairperson:
  - (a) The permanent Deputy Chairperson.
  - (b) The rotating Deputy Chairperson.
- (2) An acting chairperson has the responsibilities, powers and functions of the Chairperson.
- (3) For the purpose of subsection (2) a reference in these Rules to the Chairperson of the Council must be read as a reference also to the permanent Deputy Chairperson of the Council if –
  - (a) the Chairperson is absent or unable to perform the functions of Chairperson;
  - (b) there is a vacancy in the office of Chairperson; or
  - (c) the Chairperson is not available to perform a function or exercise a power conferred on the Chairperson in terms of these Rules.

### **Relief of Chairperson**

11. A Deputy Chairperson or the House Chairperson Committees or House Chairperson Oversight and Institutional Support or another member must take the Chair during a sitting of the Council whenever requested to do so by the Chairperson of the Council.

### **Absence of all presiding officers**

12. If all the presiding officers are absent, the Council may summarily elect one of its members to act as Chairperson of the Council for that day only, the question being put by the Secretary.





### Election of Chief Whip of the Council

13. (1) The Council must elect from among its permanent members a Chief Whip of the Council.
- (2) A member elected under this rule holds office until that person's term as a permanent member expires.

### Removal of presiding and other officers from office

14. (1) The Council may, by resolution moved by the head of a provincial delegation and seconded by the heads of at least three other delegations, remove from office the Chairperson or a Deputy Chairperson of the Council or another presiding officer or the Chief Whip of the Council.
- (2) A draft resolution calling for the removal from office of the Chairperson, a Deputy Chairperson or another presiding officer or the Chief Whip -
  - (a) may not be placed on the Order Paper unless the delegation head giving notice of the draft resolution has the support of at least three other delegation heads;
  - (b) may not be moved within seven working days of the day on which it appears on the Order Paper for the first time;
  - (c) must set out the reason for the proposed removal from office in sufficient detail to enable the officer concerned to reply; and
  - (d) may provide for the removal of the officer concerned with immediate effect upon adoption of the resolution or from a later date mentioned in the resolution.
- (3) The officer concerned may not preside over proceedings of the Council when that officer's removal from office is considered.
- (4) After the draft resolution has been moved and seconded -
  - (a) the proposer may explain the reason for the proposed removal in a speech not exceeding 10 minutes;
  - (b) the officer concerned must be given an opportunity to address the Council; and
  - (c) each delegation head, in a speech not exceeding three minutes, may explain the reasons for the vote of the province concerned.
- (5) The draft resolution lapses if, on being put to the vote, it is neither passed nor rejected by the votes of at least five provinces.


## Functions of the House Chairperson Committees

- 14A.(1) The House Chairperson Committees shall perform the following functions-
- (a) ensuring the compilation of the programme by the Select Committees that are in compliance with their strategic plans;
  - (b) providing reports to the Programme Committee meeting regarding legislation and committee activities;
  - (c) monitor the support provided by the committee section to committees;
  - (d) facilitate the drafting of committee budgets;
  - (e) tracking the processing of legislation by committees;
  - (f) co-ordinate the strategic and business plans and programme of Select Committees' activities;
  - (g) convene and chair the Forum of Chairpersons of Committees and caucus chairpersons quarterly to exchange information, perspectives and discuss where necessary, issues relating to support to members or members' interest;
  - (i) convenes and chairs the Chairperson of Committees meetings to deal with the business of Select Committees, in particular the processing of legislation; and perform any function that the Chairperson of the Council may from time to time assign to the House Chairperson Committees;
  - (j) Consider and approve committees request for travel for purposes of oversight.

## Functions of the House Chairperson Oversight and Institutional Support

- 14B.(1) The House Chairperson Oversight and Institutional Support shall perform the following functions-
- (a) co-ordinate the oversight activities of Select Committees;
  - (b) ensure the compilation of the committee reports on oversight activities;
  - (c) ensure that all committees are briefed on the Budget Votes by government departments and table progress reports on such briefings to the Programme Committee meeting;
  - (d) monitor compliance by the Executive with respect to recommendations set out in reports of Select Committees through the Office of the Chairperson of the National Council of Provinces;
  - (e) to facilitate the implementation of the recommendations of the oversight subcommittee;
  - (f) to attend to queries regarding Members Interest and ensuring that policies are implemented including-
    - (i) working with the Deputy Chairperson to review the document on Benefits for Members;
    - (ii) continuously monitor and report on the implementation of the policy;
    - (iii) monitor and report on the needs of members with disabilities; and
    - (iv) monitor and report on the implementation of policy in relation to former MP's facilities.



- (g) to monitor support for members and advise the Chairperson of the Council on the support needs of members;
- (h) to monitor and report on policies on leave for members, artwork management, exhibitions and the library; and
- (i) perform any function that the Chairperson of the Council may from time to time assign to the House Chairperson Oversight and Institutional Support.

## CHAPTER 3

### COUNCIL MEMBERS

#### Proof of appointment or designation

15. (1) When a provincial legislature appoints a person as a permanent member or designates a person as a special member of the Council, the appointment or designation must be substantiated by an official communication to the Secretary from or on behalf of the legislature.
- (2) When the Premier of a province designates a member of a delegation to head the delegation on the Premier's behalf, the designation must be substantiated by an official communication to the Secretary from or on behalf of the Premier.
- (3) A communication in terms of subrule (1) or (2) must be in writing, which may include electronically transmitted print, and must indicate -
  - (a) the date from which the appointment as a permanent member takes effect;
  - (b) the period or purpose for which the designation as a special member is made; or
  - (c) the period for or the circumstances in which the delegation member is designated to head the delegation on the Premier's behalf.

#### Oath or solemn affirmation

16. (1) Before permanent members begin to perform their functions in the Council they must swear or affirm faithfulness to the Republic and obedience to the Constitution as prescribed by section 62 (6) of the Constitution.
- (2) The oath or solemn affirmation of members must be in accordance with item 4 of Schedule 2 of the Constitution and must be made-
  - (a) before the Chief Justice or a judge designated by the Chief Justice; unless
  - (b) it is a person filling a vacancy in a delegation; or
  - (c) a person appointed in terms of section 61 (2)(b) of the Constitution as amended, before any presiding officer of the Council.



### Absence of permanent members

17. (1) A person ceases to be a permanent member of the Council if that person is voluntarily and without leave absent from the Council on each of 15 consecutive sitting of the Council and committees of the Council.
- (2) A permanent member seeking leave to be absent from the Council for a period covering 15 or more consecutive sitting of the Council and committees of the Council, must apply for such leave to the Council.

## CHAPTER 4

### SITTINGS OF THE COUNCIL

#### Conduct of business and proceedings

18. The Council must conduct its business and proceedings in accordance with the Constitution, these Rules, the Joint Rules, resolutions of the Council and parliamentary practice -
  - (a) plenary sittings; and
  - (b) committees and subcommittees.

#### Sitting days

19. (1) The Council sits only on a working day.
- (2) Subrule (1) does not apply to a sitting of the Council called by the President in terms of section 42 (5) or 203 (2) of the Constitution.

#### Sitting times

20. The sitting time of the Council is 10h00 or any other time as the Chairperson of the Council may determine, until the Council is adjourned for the day.

#### Venue

21. (1) The Council sits at the seat of Parliament.
- (2) The Council may sit at a place other than the seat of Parliament on the grounds of public interest, security or convenience, provided the Council, by resolution -
  - (a) identifies the public interest, security or convenience that is the reason for the change of venue;
  - (b) approves the change of venue to a specified place and for a specified period; and
  - (c) specifies the estimated costs of effecting the change of venue and maintaining it for the specified period.



### Order Paper

22. The business of the Council to be attended to at a sitting of the Council must be set out on an Order Paper arranged by the Chief Whip of the Council.

### Minutes of Proceedings

23. The proceedings in the Council must be minuted by the Secretary and formally recorded in the Minutes of Proceedings.

### Opportunity for prayer or meditation

24. At the start of the proceedings of the Council the officer presiding must afford members an opportunity for silent prayer or meditation.

### Interruption, suspension or adjournment of proceedings

25. (1) The officer presiding at a sitting of the Council may interrupt or suspend the proceedings or may adjourn the Council to another day.

(2) During an adjournment the Chairperson of the Council may change the date for the resumption of business.

### Admission of the public

26. (1) Sittings of the Council are open to the public, including the media, subject to section 72 of the Constitution.

(2) The Chairperson of the Council must –

(a) set aside places for the public in the Chamber where the Council sits; and

(b) determine the entrances and routes through which the public can obtain access to these places

(3) The Chairperson of the Council may take reasonable measures -

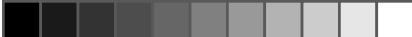
(a) to regulate public access, including access of the media, to the Council;

(b) to prevent and control misconduct in the public gallery; and

(c) to provide for the searching of any person, including that person's vehicle or other property in that person's possession, and, where appropriate, the refusal of entry to, or the removal of, any person.

### Orders to leave sittings

27. The officer presiding at a sitting of the Council may order a member of the public to leave the Chamber when it is necessary to give effect to the measures taken by the Chairperson of the Council under rule 26 (3).



### Removal of persons

28. When instructed by the presiding officer, the Usher must remove or arrange for the removal of a person -
- (a) who, without permission, is present in that part of the Chamber designated for members only or in another place which is out of bounds for that person; or
  - (b) who disrupts the proceedings of the Council, causes a nuisance or does not withdraw from the Chamber when ordered to withdraw under rule 27.

### Visiting Heads of State

29. The Chairperson of the Council, after consultation with the delegation heads, may invite any Head of State who is on a state visit to the Republic, to address the Council.

## CHAPTER 5

### ORDER IN MEETINGS AND RULES OF DEBATE

#### Part 1: Order in meetings

#### Freedom of speech

30. Members-
- (a) have freedom of speech in the Council and in its committees and subcommittees, subject to these Rules; and
  - (b) are not liable to any civil or criminal proceedings, arrest, imprisonment or damages for -
    - (i) anything they have said in, produced before or submitted to the Council or any of its committees or subcommittees; or
    - (ii) anything revealed as a result of anything said in, produced before or submitted to the Council or any such committee or subcommittee.

#### Movement in Chamber

31. A member of the Council may not -
- (a) pass between the Chair and a member addressing the Chair;
  - (b) pass between the Chair and the Table; or
  - (c) stand in any of the passages in the Chamber.

#### Members may not converse aloud

32. During a debate in the Council no member may converse aloud.

#### Members may not be interrupted

33. No member may interrupt another member who is addressing the Chair, except to call attention to a point of order or a question of privilege.



### **Order at adjournment**

34. When a sitting of the Council adjourns, the members must rise and remain in their places until the presiding officer has left the Chamber.

### **Precedence of presiding officer**

35. Whenever the officer presiding rises during a debate in the Council, a member addressing or seeking to address the Chair must sit down and allow the officer presiding to be heard without interruption.

### **Irrelevance or repetition**

36. The officer presiding may order a member addressing the Chair to stop speaking if that member, despite warnings from the Chair, persists in irrelevant or repetitive arguments.

### **Member ordered to leave**

37. (1) The officer presiding may order a member to leave the Chamber immediately for the remainder of the day's sitting if the officer presiding is of the opinion that -

- (a) the member is deliberately contravening a provision of these Rules;
- (b) the member is in contempt of or is disregarding the authority of the Chair; or
- (c) the member's conduct is grossly disorderly.

(2) A member ordered to leave the Chamber may not participate in any parliamentary activities during that day.

### **Censure of member**

38. (1) If an officer presiding is of the opinion that the behaviour of a member is of so serious a nature that an order to leave the Chamber for the remainder of the day's sitting is inadequate, the officer presiding may order the offending member to leave the precincts of Parliament until the Chairperson of the Council has announced what action is to be taken against the member.

(2) If the Chairperson did not preside at the sitting the officer presiding must report the matter immediately to the Chairperson.

(3) The Chairperson -

- (a) must report the offending member to the provincial legislature concerned; and
- (b) may suspend the offending member if that member is a permanent member.

(4) Any action taken by the Chairperson against an offending member must be announced in the Council.



### Period of suspension

39. (1) The suspension of a permanent member on the first occasion during an annual session continues for five working days, on the second occasion for 10 working days, and on any subsequent occasion for 20 working days.
- (2) During a suspension the permanent member concerned may not enter the precincts of Parliament.

### Apologies

40. (1) A permanent member who has been suspended or whose suspension is being considered may submit a written apology to the Chairperson of the Council.
- (2) The Chairperson may accept or reject the apology, and if accepted -
- (a) may revoke the suspension where the member has been suspended, or authorise the member to return to the precincts of Parliament where suspension was under consideration; and
  - (b) must inform the Council accordingly.
- (3) An apology accepted by the Chairperson must be recorded in the Minutes of Proceedings.

### Grave disorder

41. In the event of grave disorder at a sitting of the Council, the officer presiding may suspend the proceedings or adjourn the sitting.

### Debating of charges against member

42. If a charge is made against a member, that member must be given the opportunity to be heard.

**Note: Rule 42 to be revisited when Committee inquiring into powers and privileges submits its report.**

## PART 2: RULES OF DEBATE

### Members to address Chair

43. A member must address the Chair when speaking and, if possible, must stand while doing so.

### Calling of members

44. (1) A member may speak in a debate in the Council only when called by the officer presiding.





- (2) The officer presiding must call members in accordance with –
  - (a) a list of scheduled speakers for the debate; and
  - (b) the times allocated for speeches by members representing different provinces or parties.
  
- (3) The list of scheduled speakers must be prepared by the delegation whips or, if the debate concerns a matter to be decided in terms of section 75 of the Constitution, the party whips.

#### **Time limits for speeches**

45. (1) Except where these Rules provide otherwise, members may not speak in a debate in the Council longer than the time allocated to them in the list of scheduled speakers.
  
- (2) If or in so far as times have not been allocated –
  - (a) the President, the Deputy President, and the Council member in charge of the business before the Council, may speak for as long as they need; and
  - (b) other members may not speak on a budget vote for longer than 10 minutes at a time, or on any other business before the Council for longer than 30 minutes at a time.

#### **Offensive and unbecoming language**

46. No member may –
  - (a) use offensive or unbecoming language in the Council; or
  - (b) deliberately make a statement in the Council which the member knows is false.

#### **Reference to a member by name**

- 46A. No member shall refer to any member by his or her first name or names only.

#### **Reflection upon previous Council decisions and on judges, etc**

47. (1) No member, while addressing the Council, may reflect upon any decision of the Council taken in the same annual session, except for the purpose of moving that such decision be amended or rescinded.
  
- (2) No member, while addressing the Council, may reflect upon the honour of a judge, or of the holder of an office whose removal from office is dependent upon a decision of the Council, except upon a substantive motion in the Council alleging facts which, if true, would in the opinion of the Chairperson of the Council warrant the removal of the judge or the holder of that office.



### **Matters pending before the courts**

48. No member, while addressing the Council, may reflect on the merits of any matter on which a judicial decision is pending.

### **Rule of anticipation**

49. (1) No member, while addressing the Council, may anticipate the discussion of a matter appearing on the Order Paper.

(2) In determining whether an address to the Council is out of order on the ground of anticipation, the officer presiding must consider whether it is probable that the matter anticipated will be discussed in the Council within a reasonable time.

### **Explanations**

50. (1) (a) During a debate in the Council a member may be allowed to explain a previous speech but only when and to the extent that the speech has been misquoted or misunderstood in a material respect.

(b) The member giving the explanation may not introduce any new matter.

(c) No debate on the explanation may be allowed.

(2) (a) A member may, with the prior consent of the officer presiding, explain a matter of a personal nature to the Council.

(b) The member may not speak for longer than three minutes and is strictly confined to vindicating own conduct.

(c) No debate on the explanation may be allowed.

### **Points or order**

51. When a point of order is raised, the member addressing the Chair must stop speaking and sit down, and after the point of order has been stated the officer presiding may summarily give or reserve the Chair's ruling or decision.

### **Acting for absent member**

52. If the member in charge of a motion or an order of the day is absent from the Council, another member authorised by the absent member may take charge of the motion or order.

### **Rights of member to speak**

53. A member may speak in the Council -

(a) when called by the officer presiding; or

(b) to a point of order.



### **When reply allowed**

54. A reply must be allowed to the member -
- (a) who introduced a subject for discussion; or
  - (b) who is in charge of the order of the day under discussion.

### **Debate closed**

55. A reply to a debate closes a debate in the Council unless the officer presiding allows further discussion.

## **CHAPTER 6**

### **DECISION OF QUESTIONS**

#### **Part 1: General**

#### **Determination of a day for decision of postponed questions**

56. Whenever expedient the Chairperson of the Council may determine a day for the decision of questions by the Council.

#### **Postponement of decisions**

57. When the debate on a question is concluded in the Council, the presiding officer may postpone the decision of the question.

#### **Postponed questions put without further debate**

58. A question that was postponed after the debate on it was concluded in the Council must be put without further debate.

#### **Questions put again**

59. If the presiding officer has put a question and it is not heard or understood, the question must be put again.

#### **Question fully put**

60. (1) No member, except a member who is permitted to make a declaration of vote, may speak to any question after it has been fully put by the officer presiding.
- (2) A question to be decided by the votes of individual members is fully put when the voice of both the "Ayes" and the "Noes" has been given on it.
- (3) A question to be decided by the votes of provinces is fully put when put immediately before an opportunity for declaration of votes is or may be given.



### Absence of quorum for decisions

61. (1) When a question before the Council is to be decided by the votes of individual members and fewer than one third of the members are present when the vote is to be taken, the bells must be rung for three minutes.

(2) If at least one third are still not present after the bells have been rung, the presiding officer must postpone the decision of the question.

### List of special members to be submitted

62. (1) Each delegation head must from time to time submit to the Secretary a list of the names of persons who serve as special members in the provincial delegation for the respective matters on the Order Paper which must be decided by the votes of individual members.

(2) A dispute on which person is entitled to vote as a special member on any particular question must be settled by referring to the latest relevant list before the vote on that question is taken.

## PART 2: VOTING BY INDIVIDUAL MEMBERS

### Declaration of vote

63. When a question to be decided by the votes of individual members has been fully put, the officer presiding, on request, may allow each political party in a speech not exceeding three minutes by a Council member belonging to that party, to state the reasons why the party is in favour of or against the question.

### Recording of opposition

64. (1) Whenever a question to be decided by the votes of individual members is put by the officer presiding, any member, instead of demanding a division, may request the opposition of that member, or of that member's party, to be formally recorded in the Minutes of Proceedings.

(2) The officer presiding may order that a division take place if four or more members request that their opposition be formally recorded.

### Demand for division

65. (1) After a question has been put and the officer presiding has indicated whether the "Ayes" or the "Noes" have it, any member may demand a division.

(2) If fewer than four members support the demand for the division, the officer presiding



must forthwith declare the decision on the question.

- (3) If four or more members support the demand, a division must take place and without debate.

### **Procedure for divisions**

66. A division takes place in accordance with the following procedure:

- (a) The officer presiding must order the bells to be rung and, after the bells have rung for three minutes, order the doors to the floor of the Chamber to be locked.
- (b) When the doors have been locked, no member is allowed to enter or leave the Chamber until the result of the division has been declared.
- (c) The officer presiding must put the question again and then instruct the “Ayes”, the “Noes” and members abstaining to take their seats in areas designated by the officer presiding. Any persons referred to in sections 66 and 67 of the Constitution must withdraw to a neutral part of the Chamber.
- (d) The Secretary must record the names and numbers of the members in the various designated areas, but the officer presiding may appoint tellers from among the members present to assist in recording the names and numbers.
- (e) When the names and numbers have been recorded the officer presiding must declare the result of the division.

### **Points of order during division**

67. While a division is in progress, members may speak to a point of order arising out of or during the division.

### **Confusion or error during division**

68. In the event of confusion or error in a division, the procedure set out in rule 66 must be repeated, but if there is an inaccuracy in the numbers of the votes and these numbers can accurately be corrected in another, less cumbersome, way the procedure need not be repeated.

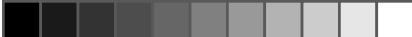
### **Correction of Minutes**

69. If the numbers have been inaccurately reported or any errors occur in the names on the division lists, the officer presiding must order the Minutes of Proceedings to be corrected.

## **PART 3: VOTING BY PROVINCES**

### **Bells to be rung before questions are put**

70. (1) Before a question that is to be decided by the votes of provinces is put, the officer presiding must order the bells to be rung three times for 30 seconds at a time, separated by 10-second intervals.



(2) The bells need not be rung if all the delegation heads are present in the Chamber.

### Declarations of vote

71. If all the delegation heads are present, or if not all the delegation heads are present and at least three minutes have elapsed since the bells have stopped ringing, the officer presiding –
- (a) must put the question; and
  - (b) on request, may allow each province, in a speech not exceeding three minutes by the delegation head or another member authorised by the delegation head, to state the reasons why the province is in favour of or against the question.

### Voting

72. (1) After the question has been put and the rule 71(b) declarations of vote (if any) have been made, the delegation heads present must cast the provinces' votes in accordance with their mandates.
- (2) Voting takes place by allowing each delegation head in turn to cast the province's vote, which vote must be recorded in the Minutes.
- (3) After the votes have been cast and recorded the presiding officer must declare the result of the vote.

**Note: The Council has noted**

- *that the legislation required by section 65(2) of the Constitution is still outstanding; and*
- *that these Rules cannot tie in procedures for mandates in isolation of such legislation.*

### Mandates

73. (1) Mandates in respect of proposed legislation before the Council must be –
- (a) official communications from the provincial legislature to its delegation;
  - (b) in writing, which may include electronically transmitted print; and
  - (c) in a uniform format as may be prescribed by the Secretary after consultation with the Rules Committee.
- (2) The head of a provincial delegation is responsible to communicate the official mandate of the province to the Council.

### Voting on International Agreements

73A.(1) No mandate is required when the House vote on International Agreements provided



in terms of section 231(2) of the Constitution, however, the head of the provincial delegation must cast a vote on behalf of the province.

- (2) In the absence of the head of the provincial delegation a member may vote on behalf of the province.
- (3) A decision is agreed to when at least five or more provinces vote in favour.

## CHAPTER 7

### MOTIONS

#### Nature of motions

74. Any member of the Council may propose –

- (a) a matter for discussion in the Council; or
- (b) a draft resolution for approval as a resolution of the Council.

#### Same question rule

75. (1) A matter proposed for discussion in the Council may not in substance be the same as a matter that has been discussed in the Council during the preceding six months.

- (2) (a) A draft resolution proposed for approval by the Council may not in substance be the same as a draft resolution which has been approved or rejected by the Council during the preceding six months.  
  
(b) Paragraph (a) does not prevent the Council from amending or rescinding any order, resolution or vote on the previous draft resolution.

#### No amendment to draft resolution

76. No amendment to a draft resolution may be proposed, except an amendment –

- (a) on a question of privilege;
- (b) to replace the name of a member in the draft resolution with the name of another member; or
- (c) allowed by the officer presiding.

#### Motions without notice

77. Notice of a motion must be given, except when –

- (a) an amendment to a draft resolution is proposed in terms of these Rules;
- (b) a motion arises out of a question of privilege;
- (c) the postponement or discharge of, or giving precedence to, an order of the day



- is proposed;
- (d) the referral of a Bill to a committee is proposed;
  - (e) the member in charge proposes a draft resolution on the report of a committee immediately after the debate on the report has been concluded;
  - (f) all the delegation heads present unanimously concur that the motion be dispensed with without notice;
  - (g) these Rules specifically provide otherwise; or
  - (h) the officer presiding rules that notice may be dispensed with in any particular case.

### **Notice of motion**

78. (1) When giving notice of a motion a member must -

- (a) read it aloud and deliver at the Table a signed copy of the notice; or
- (b) deliver to the Secretary a signed copy of the notice on any working day, for placing it on the Order Paper.

(2) Written notices of motion delivered to the Secretary after 12:00 on any working day may be placed on the Order Paper only after the expiry of 24 hours unless the Chairperson of the Council directs otherwise.

(3) No motion may be proposed on the day on which notice is given, except if all the delegation heads present unanimously concur.

### **Acting for absent member**

79. A member authorised by an absent member may give notice of a motion on behalf of the absent member.

### **Chairperson may amend notices**

80. A notice of motion which offends against practice, the Council Rules or the Joint Rules, may be amended or otherwise dealt with as the Chairperson of the Council may decide.

### **Question of privilege**

81. An urgent motion directly concerning the privileges of the Council takes precedence over other motions and over orders of the day.

### **Withdrawal and lapsing of motion**

82. (1) A member who has proposed a motion may propose without notice that it be withdrawn.

(2) A motion on the Order Paper which has not been disposed of when the Council rises on the last sitting day in any year, lapses.





## CHAPTER 8

### MATTERS OF PUBLIC IMPORTANCE AFFECTING THE PROVINCES

#### Debates on Presidential Addresses


83. (1) When the President has delivered the Opening Address, the Chief Whip of the Council may place it on the Order Paper of the Council for discussion.
- (2) The Midyear Address by the President must be debated in the Council immediately after the President has delivered the address.

#### Matters of public importance

84. (1) A member may on any sitting day of the Council request the Chairperson of the Council in writing to allow a matter of public importance to be discussed by the Council.
- (2) If the matter affects the provinces or one or more of them, the Chairperson may grant the request and -
- (a) place the matter on the Order Paper or, if it is an urgent matter and the Council is sitting, allow the discussion to take place on the day the request is made after having considered the availability of special members to participate in the debate;
  - (b) allocate a period of time for the discussion; and
  - (c) arrange for a Cabinet member, a Deputy Minister, a member of a provincial executive or other person to reply to the debate.
- (3) Such a discussion may not exceed the time allocated for it by the Chairperson.
- (4) If 15 minutes before the expiration of the allocated time a member, other than the person replying to the debate, is speaking, the officer presiding must interrupt the member and allow that person to reply if that person so wishes.
- (5) (a) Questions of privilege may not be discussed under this rule.
- (b) Matters already discussed by the Council during an annual session may not be discussed under this rule during the same session.
- (6) Rule 49 does not apply during such a debate.

#### Public debate on constitutional amendments

85. (1) The particulars of a proposed constitutional amendment that must be submitted to the Council in terms of section 74 (5)(c) of the Constitution for a public debate, must be



submitted to the Chairperson of the Council within seven days after those particulars were published in the Gazette in accordance with section 74 (5)(a).

- (2) The Chairperson must -
- (a) table the particulars at the first sitting of the Council after their receipt; and
  - (b) place the particulars on the Order Paper for discussion on a day determined by the Chairperson.
- (3) The debate on the particulars or on any specific part of the draft amendments to which the particulars relate, may not exceed the time allocated for it by the Chairperson.
- (4) The Secretary must supply a copy of the particulars to each Council member before the day determined for the debate.


## CHAPTER 9

### COMMITTEE SYSTEM

#### Part 1: Introduction

##### Council committees

86. (1) The Council has the following committees:
- (a) The Rules Committee;
  - (b) the Programme Committee;
  - (c) the Committee on Petitions and Members' Legislative Proposals;
  - (d) the select committees;
  - (e) the Committee of Chairpersons established by rule 156;
  - (f) any ad hoc committees; and
  - (g) any other committees established by the Council by resolution.
- (2) Before any Council committee or other Council structure is established, the proposal must first be referred to the Rules Committee for a report and recommendation. If the proposal to establish a committee or other Council structure is contained in draft legislation before a select committee, the select committee must first refer the proposal to the Rules Committee for a report and recommendation before it considers the proposal.
- (3) Special members may be members of committees.
- (4) When committee members are appointed, the need for women to be fairly represent-



ed on committees must be taken into account. If women are not fairly represented on Council committees, the Chairperson and the delegation heads must consider methods of achieving fair representation.

### Subcommittees

87. (1) A committee –

- (a) has such subcommittees as are established by these Rules; and
- (b) may appoint a subcommittee only when –
  - (i) there is provision for such appointment in these Rules; or
  - (ii) authorised by the Rules Committee or by resolution of the Council.

(2) Subrule (1) does not prevent a committee from assigning a task to one or more of its members for a purely internal or administrative purpose.

### Application of Rules to committees and subcommittees established in terms of legislation

88. These Rules also apply to a committee or subcommittee established in terms of legislation, and in such application the committee or subcommittee must be regarded as having been established in terms of these Rules.

## PART 2: RULES APPLICABLE TO ALL COMMITTEES

### Composition of committees

89. (1) Provinces are entitled to be equally represented in committees except –

- (a) where these Rules provide otherwise; or
- (b) in the case of matters to which section 75 of the Constitution applies.

(2) A member of a committee or subcommittee may at any time be replaced or withdrawn by –

- (a) a province, if the member represents a province in the committee; or
- (b) a party, if the member represents a party in the committee.

(3) The names of the members of a committee or subcommittee must be announced in the ATC.

### Alternates

90. (1) Alternates may be appointed for one or more specific members of a committee or subcommittee.

(2) An alternate acts as a member when the member for which the alternate was appointed –

- (a) is absent; or
- (b) has vacated office, until the vacancy is filled.


## Chairperson

91. (1) Unless these Rules provide otherwise in a specific case-
- (a) a committee must elect one of its members as the chairperson of the committee; and
  - (b) the parent committee of a subcommittee must appoint the chairperson of the subcommittee.
- (2) The chairperson of a committee or subcommittee, subject to the provisions of these Rules and the directions of the committee, or the parent committee in the case of a subcommittee –
- (a) presides at meetings of the committee or subcommittee;
  - (b) may act in any matter on behalf of and in the best interest of the committee or subcommittee when it is not practical to arrange a meeting of the committee or subcommittee to discuss that matter, if that matter concerns –
    - (i) a request by a person to give evidence or make oral representations to the committee or subcommittee;
    - (ii) any other request to the committee or subcommittee; and
    - (iii) the initiation of any steps or decisions necessary for the committee or subcommittee to perform its functions or exercise its powers; and
  - (c) performs the functions, tasks and duties and exercises the powers that legislation, resolutions of the Council and the committee, or the parent committee in the case of a subcommittee, assigns to the chairperson.

## Acting chairperson

92. (1) If the chairperson of a committee or subcommittee is absent or unable to perform the functions of chairperson, the committee or subcommittee may elect another of its members as acting chairperson unless these Rules provide otherwise in a specific case,.
- (2) An acting chairperson performs the functions and may exercise the powers of the chairperson.

## First meetings of committees

93. (1) The Secretary must call a meeting of a committee within five working days after the names of the members of the committee have been announced.
- (2) If the Council is in recess the Secretary must notify the members of the committee, the Chief Whip of the Council and the most senior whip of each of the other parties, of the time and place of the meeting at least 10 working days before the meeting.



### Meetings of Council committees and subcommittees

94. (1) Council committees and subcommittees meet whenever necessary and as determined in accordance with these Rules and the decisions and directives of the House Chairperson Committees-
- (a) acting within the guidelines of the Programme Committee; and
  - (b) taking into account requests of committees to meet urgently or to meet jointly with Assembly committees.
- (2) A meeting of a committee or subcommittee may be called in terms of subrule (1) –
- (a) by the chairperson of the committee;
  - (b) by the Chairperson of the Council, if the chairperson of the committee is not available; or
  - (c) by resolution of the Council.
- (4) A meeting of a subcommittee may be called in terms of subrule (1) –
- (a) by the chairperson of the subcommittee; or
  - (b) by the parent committee.
- (5) When a meeting is called the members of the committee or subcommittee must –
- (a) be given notice of the venue and time of the meeting; and
  - (b) be provided with all relevant documents, including an agenda or details of the purpose of the meeting.
- (6) A meeting which has a section 76 agenda item must be called with at least 72 hours notice, except in an exceptional case and after the chairperson of the relevant committee has consulted with the delegation whips.

### Meetings and functioning of committees and subcommittees

95. (1) The Chairperson of Committees is responsible for scheduling and co-ordinating meetings of all committees and subcommittees, and must for this purpose consult the committee chairpersons and the whips.
- (2) The Chairperson of Committees, after having consulted the committee chairpersons and the whips, may issue directives and guidelines on –
- (a) the venues for committee and subcommittee meetings;
  - (b) the scheduling and functioning of committees and subcommittees;
  - (c) the control of funds for the functioning of committees and subcommittees.

### Quorums and decisions

96. (1) A committee may proceed with business irrespective of the number of members pres-



ent, but, when a question is to be decided, members representing at least five provinces must be present.

- (2) A question is decided by a supporting vote of at least five provinces or, if it is a constitutional amendment, at least six provinces
- (3) Subrules (1) and (2) do not apply to select committees.

### **Order in meetings**

97. Rules 32, 33, 36, 41, 46 and 48, adjusted as may be necessary in the context, apply to meetings of committees and subcommittees.

### **Attendance by members**

98. A person loses membership of a committee or subcommittee if -

- (a) that person is absent from three consecutive meetings of the committee or subcommittee without the leave of the chairperson of the committee or subcommittee; and
- (b) in the opinion of the Chairperson of the Council, that person did not have good reasons to be absent from the meetings.

### **Charges against members**

99. If any information charging a Council member comes before a committee, the committee may not proceed upon that information, but must report it to the Chairperson of the Council without delay.

### **Interruption, suspension or adjournment**

100. The member presiding at a meeting of a committee or subcommittee may interrupt or suspend the proceedings or adjourn the meeting, and may change the date for the resumption of business in the committee.

### **Referral of official written instruments to committees**

101.(1) Except where these Rules provide otherwise, the Chairperson of the Council must refer to an appropriate committee-

- (a) all Bills introduced in, or referred by the Assembly to, the Council;
- (b) all reports and other written instruments tabled in the Council by the Chairperson of the Council or submitted for tabling in the Council by a member of the national or a provincial executive or in terms of legislation; and
- (c) all requests, applications and other written submissions made to the Council in terms of legislation as part of or to activate a parliamentary process prescribed by such legislation.







- (2) If there is doubt as to which committee is the appropriate committee, the Chief Whip of the Council must decide the issue subject to these Rules and any directions of the Rules Committee or a resolution of the Council.
- (3) If a matter is referred to two or more committees, the referral may be accompanied by an instruction -
  - (a) whether the committees must confer; and
  - (b) which of them must report, if a report is required.
- (4) A committee must deal with an instrument referred to it in terms of subrule (1) in accordance with any applicable prescribed procedures. If the committee is not required in terms of such procedures to report to the Council on the matter concerned, it may nevertheless submit such a report.

### Reporting

- 102.(1) A committee must report to the Council on a matter referred to the committee-
- (a) when the Council is to decide the matter in terms of these Rules, the Joint Rules, a resolution of the Council or legislation;
  - (b) if the committee has taken a decision on the matter, whether or not the Council is to decide the matter as contemplated in paragraph (a); or
  - (c) if the committee is unable to decide a matter referred to it for a report.
- (2) A committee must report to the Council on -
- (a) all other decisions taken by it, except those decisions concerning its internal business; and
  - (b) its activities at least once per year.
- (3) A report of a committee -
- (a) must be submitted to the Council by the chairperson or another member of the committee designated by the committee; and
  - (b) may request that the chairperson or another member of the committee designated by the committee introduces or explains the report in the Council.
- (4) A committee may not present a minority report but must reflect minority views in the committee in its reports.
- (5) If a committee reports on a matter other than a matter mentioned in subrule (1) (a) and is of the view that its report, or a specific matter mentioned in the report, should be considered by the Council, it may make a request to that effect in the report. When such a request is made the matter must be placed on the Order Paper.

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- (6) A committee of the Council representing the Council on a joint committee of the Council and the National Assembly may present its own report to the Council.
  - (7) A subcommittee must report to its parent committee.

### General powers of committees

103.(1) For the purposes of performing its functions a committee may, subject to the Constitution, legislation, the other provisions of these Rules and resolutions of the Council –


- (a) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;
  - (b) receive petitions, representations or submissions from interested persons or institutions;
  - (c) conduct public hearings;
  - (d) permit oral evidence, representations and submissions;
  - (e) determine its own procedure;
  - (f) meet at a venue determined by it, which may be a venue beyond the seat of Parliament if the Council is not in session;
  - (g) meet on any day and at any time, including-
    - (i) on a day which is not a working day;
    - (ii) on a day on which the Council is not sitting;
    - (iii) at a time when the Council is sitting; or
    - (iv) during a recess; or
  - (h) exercise any other powers assigned to it by the Constitution, legislation, the other provisions of these Rules or resolutions of the Council.
- (2) A committee may sit at a venue beyond the seat of Parliament, or on a day that is not a working day, or at a time the Council is sitting, or during a recess of the Council, –
- (a) only with the permission of the House Chairperson Committees after consultation with the Chief Whip of the Council, provincial whips and whips designated by parties; and
  - (b) with the approval by the Chairperson of the Council.
- (3) A committee referred to in rule 86 (1)(f) has the powers listed in subrule (1) only when assigned to it in terms of these Rules or by a resolution of the Council.

### Joint meetings of committees

104.(1) Two or more committees of the Council may meet jointly to consider a matter referred to them by the Council or the Chairperson of the Council.

- (2) When a matter is referred to two or more committees meeting jointly, the Council or





the Chairperson must identify one of the committees as the committee in charge for administrative purposes. The chairperson of the committee in charge presides over joint meetings, but the committees involved must present a single report.

- (3) Each province has only one vote at a joint meeting of Council committees. When a matter falls under section 75 of the Constitution, the participation and voting rights of party members on committees sitting jointly are the same as the rights that they have on the separate committees.

### **Exchange of views between committees**



105.(1) A committee may invite another Council committee to meet with it to exchange views on a matter of common interest.

- (2) The Council or the Chairperson of the Council may instruct a committee to consult another committee when it considers a particular matter.

### **Subcommittees**

106.(1) A subcommittee established by or in terms of these Rules –

- (a) is accountable to its parent committee;
  - (b) must carry out its task and responsibilities within a policy framework determined by its parent committee and in accordance with these Rules and any directives, guidelines or regulations issued by the parent committee;
  - (c) may consult another subcommittee or any joint committee or House committee;
  - (d) may only make recommendations to its parent committee; and
  - (e) must report to its parent committee regularly or when requested by the parent committee.
- (2) A subcommittee has the powers listed in rule 103 only when assigned to it in terms of these Rules or by a resolution of the Council.
  - (3) When a committee which has the power to establish a subcommittee, establishes a subcommittee, it –
    - (a) must define the subcommittee’s task;
    - (b) must designate a chairperson for the subcommittee;
    - (c) may determine a period within which the subcommittee must complete its task;
    - (d) must determine the extent, nature and form of the subcommittee’s report to the committee, and time limits for the submission of the report; or
    - (e) may delegate any of its powers to the subcommittee which the subcommittee requires for the performance of its task.

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- (4) A subcommittee referred to in subrule (3) ceases to exist –
- (a) when it has completed the task for which it was established; or
  - (b) if it is dissolved earlier by the committee.

### **Persons appearing before committees and subcommittees**

107. Any person, including counsel and attorneys, appearing before a committee or subcommittee must observe the directions and conform to the procedures determined by the chairperson of the committee or subcommittee.

### **Presence of other Council members**

108. A Council member who is not a member of a committee or subcommittee –

- (a) may be present at a meeting of the committee or subcommittee; and
- (b) may speak on a matter before the committee or subcommittee subject to any reasonable restrictions the committee chairperson may impose, but may not vote except when the vote is cast as an alternate.

### **Local government representatives**

109. When the interests of local government are affected by a matter that is being discussed in a committee or subcommittee, a representative of local government designated to represent local government in the Council in terms of section 67 of the Constitution –

- (a) may be present at a meeting of the committee or subcommittee; and
- (b) may speak on that matter subject to any reasonable restrictions the member presiding at the meeting may impose, but may not vote.

### **Admission of the public**

110.(1) Meetings of committees and subcommittees are open to the public, including the media, and the member presiding may not exclude the public, including the media, from the meeting, except when –

- (a) legislation, these Rules or resolutions of the Council provide for the committee or subcommittee to meet in closed session; or
- (b) the committee or subcommittee is considering a matter which is –
  - (i) of a private nature that is prejudicial to a particular person;
  - (ii) protected under parliamentary privilege, or for any other reason privileged in terms of the law;
  - (iii) confidential in terms of legislation; or
  - (iv) of such a nature that its confidential treatment is for any other reason reasonable and justifiable in an open and democratic society.

(2) A decision in terms of subrule (1) to exclude the public must be taken by the commit-



tee or subcommittee concerned, provided that the chairperson of the committee or subcommittee may at any time –

- (a) before the start of the meeting rule that the meeting must take place in closed session, but the committee or subcommittee may at any time after the start of the meeting open the meeting; or
  - (b) close the meeting for a decision by the committee or subcommittee whether the committee or subcommittee should consider any matter in closed session.
- (3) The Chairperson of the Council must -
- (a) set aside places for the public during committee and subcommittee meetings; and
  - (b) determine the entrances and routes through which the public can obtain access to the places where committees and subcommittees meet.
- (4) The Chairperson of the Council may take reasonable measures -
- (a) to regulate public access, including access of the media, to the committees and subcommittees;
  - (b) to prevent and control misconduct of the public during committee and subcommittee meetings; and
  - (c) to provide for the searching of any person, including that person's vehicle or other property in that person's possession, and, where appropriate, the refusal of entry to, or the removal of, any person.

#### **Exclusion of members of the public from meetings**

111. The member presiding at a meeting of a committee or subcommittee may –

- (a) order a member of the public to leave the meeting -
  - (i) when the public is excluded from a meeting in terms of rule 110 (1); or
  - (ii) when necessary to give effect to the measures taken by the Chairperson of the Council under rule 110 (4); or
- (b) order a person referred to in rule 107 to leave the meeting if that person does not comply with a ruling of the presiding member.

#### **Exclusion of other persons from meetings**

112. When the public is excluded from a meeting of a committee or subcommittee in terms of rule 110 (1), the member presiding may order a staff member, a member or official of the executive or a member of Parliament or a provincial legislature who is not a member of the committee or subcommittee, also to leave the meeting.

#### **Removal of persons**

113. When instructed by the member presiding, the Usher of the Council must remove or

arrange for the removal of any person who -

- (a) without permission, is present in that part of a committee room designated for members of the committee or subcommittee only;
- (b) disrupts the proceedings of a committee or subcommittee, causes a nuisance; or
- (c) does not leave when ordered to leave under rule 111 or 112.

#### **Publication of proceedings, evidence, reports, etc.**

114.(1) All documents officially before, or emanating from, a committee or subcommittee are open to the public, including the media, but the following documents and recordings may not be published and their contents may not be disclosed, except with the permission of the committee or subcommittee, or by order of the Chairperson of the Council, or by resolution of the Council:

- (a) The proceedings of, or evidence taken by or placed before the committee or subcommittee while the public were excluded from a meeting in terms of rule 110 (1).
  - (b) Any report on or summary of such proceedings or evidence.
  - (c) Any document placed before or presented to the committee or subcommittee as a confidential document and accepted by it as a confidential document.
  - (d) Any document –
    - (i) submitted or to be submitted to members of the committee or subcommittee as a confidential document by order of the chairperson of the committee or subcommittee; or
    - (ii) after its submission to members declared by the chairperson as a confidential document.
- (2) The permission, order or resolution authorising the publication, or the disclosure of the contents, of documents mentioned in subrule (1), may provide that specific parts of, or names mentioned in, the document or recording may not be published or disclosed.
- (3) For the purposes of subrule (1) a document is officially before a committee or subcommittee when –
- (a) the presiding member places the document or permits the document to be placed before the committee or subcommittee; or
  - (b) a person appearing before the committee or subcommittee as a witness or to make representations, presents the document to the committee or subcommittee.
- (4) Subrules (1) (c) and (d) apply only to documents that –
- (a) contain private information that is prejudicial to a particular person;
  - (b) are protected under parliamentary privilege, or for any other reason are privileged in terms of the law;
  - (c) are confidential in terms of legislation;



- (d) are subject to a media embargo, until the embargo expires; or
- (e) are of such a nature that their confidential treatment is for any other reason reasonable and justifiable in an open and democratic society.

### Part 3: Rules Committee

#### Establishment

115. There is a Rules Committee.

#### Composition

116.(1) The Rules Committee consists of –

- (a) the Chairperson of the Council;
- (b) the permanent Deputy Chairperson;
- (c) the Chief Whip of the Council;
- (d) the House Chairperson Committees and House Chairperson Oversight and Institutional Support;
- (e) the Programming Whip; and
- (f) two representatives from each provincial delegation one of whom must be a permanent delegate.

(2) A political party represented in the Council that is not represented in the Rules Committee, may designate a Council member to attend, and to speak in, the Committee but that Council member may not vote.

#### Chairperson



117.(1) The Chairperson of the Council is the chairperson of the Rules Committee.

(2) If the Chairperson of the Council is not available the permanent Deputy Chairperson of the Council performs the functions of the chairperson of the Committee.

#### Functions and Powers

118.(1) The Rules Committee may –

- (a) develop, formulate and adopt policy concerning the exclusive business of the Council in respect of –
  - (i) the management, administration and functioning of the Council;
  - (ii) the financial management and policy of the Council, including the sources of funding, the budget, income and expenditure of the Council;
  - (iii) the proceedings, procedures, rules, orders and practices concerning the business of the Council; and
  - (iv) the provision of facilities and other support for Council members;

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- (b) make recommendations to the Council concerning the Council's annual budget;
  - (c) monitor and oversee the implementation of policy on all matters referred to in paragraph (a);
  - (d) make recommendations to the Joint Rules Committee on any matter falling within the functions and powers of that Committee;
  - (e) lay down guidelines, issue directives and formulate regulations regarding any aspect of policy referred to in this rule;
  - (f) appoint subcommittees to assist it with the performance of any of its functions or the exercise of any of its powers;
  - (g) recommend to the Council rules and orders concerning the business of the Council, including amendments to these Rules; and
  - (h) perform any other functions assigned to it by legislation, the other provisions of these Rules or resolutions of the Council.

- (2) The Rules Committee may deal with a matter falling within its functions and powers –
  - (a) on its own initiative; or
  - (b) when referred to it for consideration and report by –
    - (i) the Council; or
    - (ii) the Chairperson of the Council.

### Implementation of policy

119. The responsibility for the implementation of policy determined by the Rules Committee vests in the Chairperson of the Council, subject to the decisions of the Rules Committee and resolutions of the Council.

### Decisions

120.(1) Each province has one vote on the Rules Committee.

- (2) All questions before the Rules Committee are agreed when at least five provinces vote in favour of the question.

### Subcommittees

121.(1) The Rules Committee has the following subcommittees:

- (a) the Subcommittee on the Council Budget;
- (b) the Subcommittee on Review of the Council Rules;
- (c) the Subcommittee on Internal Arrangements;
- (d) the Subcommittee on Delegated Legislation;
- (e) the Subcommittee on International Relations;
- (f) the subcommittee on Parliamentary Powers and Privileges;



- (g) the subcommittee on Support for Council Members; and
  - (h) any other subcommittees appointed in terms of rule 118 (1) (f).
- (2) When appointing the members of a subcommittee, the Rules Committee -
- (a) is not restricted to the members of the Rules Committee; and
  - (b) may appoint any Council member.
- (3) Rule 106 (1) and (2) apply to all subcommittees of the Rules Committee.
- (4) A subcommittee of the Council's Rules Committee may take a matter to the Joint Rules Committee or a Joint Subcommittee of the Joint Rules Committee only if authorised by the Council's Rules Committee.
- (5) A subcommittee of the Council's Rules Committee may not issue directives relating to any aspect of the control and management of the administration of the Council.

#### SUBCOMMITTEE ON THE COUNCIL BUDGET

##### Composition


122. The Subcommittee on the Council Budget consists of the Council members appointed in such a way that -
- (a) the majority party has three representative; and two members, each of whom must belong to a different minority party, represent the minority parties.

##### Chairperson

- 123.(1)The Rules Committee must appoint one of the members of the Subcommittee as the chairperson of the Subcommittee.
- (2) If the chairperson is not available the remaining members must elect another member to act as chairperson.

##### Functions and powers

- 124.The Subcommittee may -
- (a) make recommendations to the Rules Committee on the development, formulation and adoption of policy regarding -
    - (i) the financial management of the Council;
    - (ii) the sources of funding, resources, income and expenditure of the Council; and
    - (iii) the preparation of the Council's input for Parliament's annual budget;

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- (b) make recommendations to the Rules Committee on the development, formulation and adoption of policy regarding the provisions of facilities and other support for Council members;
  - (c) monitor and oversee the implementation of policy on matters referred to in paragraphs (a) and (b) and make recommendations in this regard to the Rules Committee; and
  - (d) perform any other function and exercise any other power assigned to it by the Rules Committee.

### Decisions

125.(1) A question before the Subcommittee is decided by consensus.

- (2) If consensus cannot be reached all views in the Subcommittee must be reported to the Rules Committee.

### SUBCOMMITTEE ON SUPPORT FOR MEMBERS OF THE COUNCIL

#### Composition

125A. The Subcommittee on Support for Members of the Council consists of the Council members appointed in such a way that -

- (a) the majority party has three representative; and two members, each of whom must belong to a different minority party, represent the minority parties.

#### Chairperson

125B.(1) The Rules Committee must appoint one of the members of the Subcommittee as the chairperson of the Subcommittee.

- (2) If the chairperson is not available the remaining members must elect another member to act as chairperson.

#### Functions and powers

125C. The Subcommittee may -

- (a) make recommendations to the Rules Committee on the development, formulation and adoption of policy regarding the provisions of facilities and other support for Council members;
- (b) monitor and oversee the implementation of policy on matters referred to in paragraphs (a) and make recommendations in this regard to the Rules Committee; and
- (c) perform any other function and exercise any other power assigned to it by the Rules Committee.





## Decisions

125D.(1) A question before the Subcommittee is decided by consensus.

- (2) If consensus cannot be reached all views in the Subcommittee must be reported to the Rules Committee.

## SUBCOMMITTEE ON REVIEW OF THE COUNCIL RULES

### Composition

126. The Subcommittee on Review of the Council Rules consists of Council members appointed in such a way that –

- (a) the majority party has three representatives; and two members, each of whom must belong to a different minority party, represent the minority parties.

### Chairperson

127.(1) The Rules Committee appoints one of the members of the Subcommittee as the chairperson of the Subcommittee.

- (2) If the chairperson is not available the remaining members must elect another member to act as chairperson.

### Functions and powers

128. The Subcommittee may –

- (a) make recommendations to the Rules Committee regarding –
  - (i) the proceedings, procedures, rules, orders and practices of the Council; and
  - (ii) the development, formulation and adoption of policy on a matter mentioned in subparagraph (i); and
- (b) perform any other function and exercise any other power assigned to it by the Rules Committee.

## Decisions

129.(1) A question before the Subcommittee is decided by consensus.

- (2) If consensus cannot be reached all views in the Subcommittee must be reported to the Rules Committee.

## SUBCOMMITTEE ON PARLIAMENTARY POWERS AND PRIVILEGES

### Composition

129A. The Subcommittee on Parliamentary Powers and Privileges consists of Council members appointed in such a way that –

- (a) the majority party has three representatives; and two members, each of whom must belong to a different minority party, represent the minority parties.

### Chairperson

129B.(1) The Chairperson of the Council is the chairperson of the Subcommittee .

- (2) If the chairperson is not available the remaining members must elect another member to act as chairperson.

### Functions and powers

129C. The Subcommittee may –

- (a) review existing legislation, the common law and practices relating to parliamentary powers and privileges; make recommendations to the Rules Committee to transform the existing law and practice on parliamentary powers and privileges; and perform any other function, and exercise any other power assigned to it by the Rules Committee.

### Decisions

129D.(1) A question before the Subcommittee is decided by consensus.

- (2) If consensus cannot be reached all views in the Subcommittee must be reported to the Rules Committee.

## SUBCOMMITTEE ON INTERNAL ARRANGEMENTS

### Composition

130.(1) The Subcommittee on Internal Arrangements consists of the permanent Deputy Chairperson of the Council and other Council members appointed in such a way that–

- (a) the majority party has three representatives; and two members, each of whom must belong to a different minority party, represent the minority parties.

### Chairperson

131.(1) The permanent Deputy Chairperson is the chairperson of the Internal Arrangements Committee.

- (2) If the permanent Deputy Chairperson is not available the remaining members must elect another member to act as chairperson.

## Functions and powers

132. The Subcommittee on Internal Arrangements may -

- (a) make recommendations to the Rules Committee on the development, formulation and adoption of policy regarding the administration and management of the Council, including -
  - (i) staff;
  - (ii) infrastructure;
  - (iii) household services and catering;
  - (iv) human resource development and training;
  - (v) information systems and the library; and
  - (vi) public relations and public education;
- (b) monitor and oversee the implementation of policy on the matters referred to in paragraph (a) and make recommendations in this regard to the Rules Committee; and
- (c) perform any other function and exercise any other power assigned to it by the Rules Committee.

## Decisions

133.(1) A question before the Subcommittee is decided by consensus.

- (2) If consensus cannot be reached all views in the Subcommittee must be reported to the Rules Committee.

## SUBCOMMITTEE ON INTERNATIONAL RELATIONS

### Composition

134. The Subcommittee on International Relations consists of the Chairperson of the Council, the permanent Deputy Chairperson of the Council and other Council members appointed in such a way that -

- (a) the majority party has three representatives; and
- (b) two members, each of whom must belong to a different minority party, represent the minority parties.

### Chairperson

135.(1) The Chairperson of the Council is the chairperson of the Subcommittee.

- (2) If the chairperson is not available the permanent Deputy Chairperson of the Council acts as chairperson.


## Functions and powers

136. The Subcommittee may –

- (a) make recommendations to the Rules Committee on the development, formulation and adoption of policy regarding the Council’s international relations, including –
  - (i) relations with other Parliaments and international organisations;
  - (ii) membership of international parliamentary organisations;
  - (iii) visits abroad by groups of Council members; and
  - (iv) the hosting and receiving of delegations from abroad;
- (b) monitor and oversee the implementation of policy on the matters referred to in paragraph (a) and make recommendations in this regard to the Rules Committee; and
- (c) perform any other function or exercise any other power assigned to it by the Rules Committee.

## SUBCOMMITTEE ON DELEGATED LEGISLATION

### Composition

137. The Subcommittee on Delegated Legislation consists of Council members appointed in such a way that the provinces have one member each.

### Chairperson

138.(1) The Rules Committee must appoint one of the members as the chairperson of the Subcommittee.

- (2) If the chairperson is not available the remaining members must elect another member to act as chairperson.

### Functions and powers

139. The Subcommittee –

- (a) must investigate and make recommendations to the Rules Committee on possible mechanisms that could be used –
  - (i) by legislators to maintain oversight of the exercise of legislative powers delegated to the executive; and
  - (ii) by the Council to perform the functions conferred on the Council in terms of section 146 of the Constitution; and
- (b) must perform any other function and may exercise any other power assigned to it by the Joint Rules Committee.



## Decisions

140. (1) A question before the Subcommittee is decided by consensus.

- (2) If consensus cannot be reached all views in the Subcommittee on the question must be reported to the Rules Committee.

## PART 4: PROGRAMME COMMITTEE

### Establishment

141. There is a Programme Committee.

### Composition

142. (1) The Programme Committee consists of –

- (a) the Chairperson of the Council;
- (b) the Deputy Chairpersons of the Council;
- (c) two representatives from each provincial delegation one of whom must be delegation whip and the other a special member in the delegation;
- (d) the House Chairperson Committees;
- (e) the House Chairperson Oversight and Institutional Support;
- (f) the Chief Whip of the Council; and
- (g) the whip of a party represented in the Council.

- (2) A whip referred to in subrule (1)(c), (f) or (g) who is unable to attend a meeting of the Committee may designate another whip to attend the meeting.

### Chairperson

143.(1)The Chairperson of the Council is the chairperson of the Committee.

- (2) If the Chairperson of the Council is not available the permanent Deputy Chairperson of the Council performs the functions of the chairperson of the Committee.

### Functions and powers

144. The Programme Committee –

- (a) must prepare and, if necessary, from time to time adjust the annual programme of the Council, subject to any relevant decision of the Joint Programme Committee;
- (b) must monitor and oversee the implementation of Parliament’s annual programme in the Council including the legislative programme;
- (c) must implement the Council rules regarding the scheduling or programming of the business of the Council, and the functioning of the Council committees and subcommittees;



- (d) must make recommendations to the Joint Programme Committee on any matter falling within the functions and powers of that Committee;
- (e) may take decisions and issue directives and guidelines to prioritise any business of the Council; and
- (f) must perform any other function and may exercise any other power as may be assigned to it by resolution of the Council.

### Decisions

145. A question before the Programme Committee is agreed when at least five provinces vote in favour of the question.

### Subcommittee

146. The Programme Committee may appoint a subcommittee from among its members to perform any of its functions or exercise any of its powers as it may assign to the subcommittee.

## PART 5: COMMITTEE ON PETITIONS AND MEMBERS' LEGISLATIVE PROPOSALS

### Establishment

147.(1) The Committee on Petitions and Members' Legislative Proposals consists of one Council member from each province designated by the delegation head.

- (2) A political party represented in the Council that is not represented in the Committee, may designate a Council member to attend, and to speak in, the Committee, but that Council member may not vote.

### Chairperson

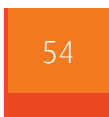
148.(1) The Committee on Petitions and Members' Legislative Proposals must elect one of its members as the chairperson of the committee.

- (2) If the chairperson of the Committee is not available the remaining members must elect another member to act as chairperson.

### Functions and powers

149.(1) The Committee on Petitions and Members' Legislative Proposals must consider and make recommendations to the Council on all legislative proposals made by Council members intending to introduce Bills and referred to the Committee in terms of rule 179.

- (2) Consider all petitions referred to it in terms of rule 234.





## Decisions

150. A question before the Committee on Petitions and Members' Legislative Proposals is agreed when at least five provinces vote in favour of the question.

## PART 6: SELECT COMMITTEES

### Establishment

151.(1) The Rules Committee must establish select committees to deal with legislation, oversight and other matters concerning the affairs of government.

(2) Any number of divisions of affairs of government may be clustered under any single select committee as the Rules Committee may determine.

(3) The Rules Committee must determine the number of members of each select committee.

### Publication of names of committee members

152. The Chairperson of the Council must table in the Council a list of names of all permanent members of the Council appointed to a select committee.

### Committee chairpersons

153.(1) A select committee must elect a chairperson from among its members before it does any other business. The question must be put by the clerk assigned to the committee.

(2) If the chairperson is not available, the remaining members must elect another of its members to act as chairperson.

### Composition

154. The membership of a select committee must be composed so as to deal both with matters falling under section 75 of the Constitution and with other matters as follows:

- (a) Each province is entitled to an equal number of permanent members nominated by its delegation head.
- (b) Each party represented in the Council is entitled to proportional representation or, if proportional representation is not possible on account of the party's size, to one representative on the committee.
- (c) Each delegation head may whenever necessary authorise one or two special members to attend a committee meeting.

### Quorums and decisions

155.(1) Except when a question is decided, business may proceed irrespective of the number of members present.



- (2) When a question that does not fall under section 75 of the Constitution is to be decided -
  - (a) committee members representing at least five provinces, or six provinces in the case of a constitutional amendment, must be present; and
  - (b) the question is decided by the supporting vote of at least five provinces, or six provinces in the case of a constitutional amendment.
  
- (3) When a question is to be decided in terms of section 75 of the Constitution -
  - (a) the question may be decided only if a majority of the permanent members of the committee is present;
  - (b) the question is decided by the majority of the votes cast;
  - (c) if there is an equal number of votes on each side of a question, the chairperson must cast a deciding vote in addition to a vote as an ordinary member.

## PART 7: COMMITTEE OF CHAIRPERSONS

### Establishment

156. There is a Committee of Chairpersons.

### Composition

157.(1) The Committee of Chairpersons consists of –

- (a) the House Chairperson Committees;
  - (b) the House Chairperson Oversight and Institutional Support; and
  - (c) the chairperson of each select committee or a member of that committee designated by the chairperson.
- (2) The Committee may co-opt the chairperson of an ad hoc committee as a member of the Committee.

### Chairperson

158.(1) The House Chairperson Committees presides at meetings of the Committee of Chairpersons.

- (2) If the House Chairperson Committees is not available the House Chairperson Oversight and Institutional Support presides at a meeting of the Committee.

### Functions and powers

159. The Committee of Chairpersons may make recommendations to the Rules Committee or the Programme Committee regarding any matter affecting the scheduling or functioning of any Council committee, subcommittee or other Council forum.





## PART 8: AD HOC COMMITTEES

### Establishment

- 160.(1) An ad hoc committee may be established –
- (a) by resolution of the Council; or
  - (b) during an adjournment of the Council for a period of more than 14 days, by the Chairperson of the Council after consulting the Chief Whip of the Council and the most senior whip of each of the other parties.
- (2)
- (a) Any decision by the Chairperson of the Council to appoint an ad hoc committee in terms of subrule (1) (b) must be tabled in the Council for ratification by the Council.
  - (b) The decision in terms of subrule (1) (b) must be tabled in the Council on its first sitting day after the decision was taken.
- (3) An ad hoc committee may only be established for the performance of a specific task.
- (4) The resolution of the Council or decision of the Chairperson establishing an ad hoc committee must include time frames for –
- (a) the completion of any steps in performing the task; and
  - (b) the completion of the task.
- (5) An ad hoc committee has those of the powers listed in rule 103 only as are specified in the resolution or decision establishing the committee.
- (6) An ad hoc committee ceases to exist –
- (a) when it has completed the task for which it was established; or
  - (b) if it is dissolved earlier by the Council.

### Composition

- 161.(1) The resolution establishing an ad hoc committee must either specify the number of members to be appointed or the names of the members who are appointed.
- (2) The Chairperson of the Council appoints the members if –
- (a) the resolution of the Council does not specify the names of the committee members; or
  - (b) the Chairperson establishes the ad hoc committee.
- (3) The names of the members appointed must without delay be published in the ATC.

## CHAPTER 10

### LEGISLATIVE PROCESS

#### Part 1: General

##### Legislative powers of Council

162.(1) The national legislative authority as vested by the Constitution in Parliament confers on the Council, in terms of section 44 (1) of the Constitution, the power –

- (a) to participate in amending the Constitution in accordance with section 74 of the Constitution;
  - (b) to pass, in accordance with section 76 of the Constitution, legislation with regard to any matter within a functional area listed in Schedule 4 of the Constitution and any other matter required by the Constitution to be passed in accordance with section 76; and
  - (c) to consider, in terms of section 75 of the Constitution, any other legislation passed by the Assembly.
- (2) The Council may in terms of section 44 (2) and in accordance with section 76(1) of the Constitution, pass legislation falling within a functional area listed in Schedule 5 of the Constitution, when it is necessary –
- (a) to maintain national security;
  - (b) to maintain economic unity;
  - (c) to maintain essential national standards;
  - (d) to establish minimum standards required for the rendering of services; or
  - (e) to prevent unreasonable action taken by a province which is prejudicial to the interests of another province or to the country as a whole.
- (3) Only the following Bills may be introduced in the Council:
- (a) Any Bill falling within a functional area listed in Schedule 4, excluding a money Bill.
  - (b) Any Bill providing for legislation envisaged in section 65 (2), 163, 182, 195(3) and (4), 196 and 197 of the Constitution.
- (4) In exercising its legislative powers, the Council in terms of section 68 of the Constitution may –
- (a) consider, pass, amend, propose amendments to or reject any legislation before the Council, in accordance with Chapter 4 of the Constitution; and
  - (b) initiate or prepare legislation which may be introduced in the Council.

##### Initiation of legislation by Council

163.(1) The Council initiates legislation through its committees and members acting with the permission of the Council in terms of these Rules.



- (2) Any committee or member of the Council may in terms of section 73 (4) of the Constitution introduce a Bill in the Council that has been initiated in terms of subrule (1).

#### **Initiation of legislation by national executive or provinces**

- 164.(1) If the national executive or a provincial executive or legislature initiates and prepares legislation for introduction in the Council, that legislation may only be introduced by a Council member or committee in terms of these Rules.

#### **Application of this Chapter**

165. This Chapter must be read with Chapter 4 of the Joint Rules.

#### **PART 2: SECTION 76 (1) BILLS**

##### **Chairperson's functions when section 76 (1) Bills are received from Assembly**

166. When a section 76 (1) Bill has been passed by the Assembly and is referred to the Council in terms of joint rule 184 (1), the Chairperson of the Council must –
- (a) send a copy or electronic transmission of the Bill and the annexures to the Speaker of each provincial legislature for purposes of enabling the legislature to confer authority on its delegation to vote on the Bill; and
  - (b) table the Bill in the Council or, if the Council is not sitting, table the Bill on the day on which the Council resumes its sittings.

##### **Referral to committee**


- 167.(1) When the Bill has been tabled or if the Council is not scheduled to sit for at least two working days after the Bill has been referred from the Assembly to the Council, the Chairperson of the Council must refer the Bill and its annexures to the appropriate select committee or, after consulting the delegation whips, to any other Council committee.

- (2) The Chairperson may place the Bill on the Order Paper for debate and decision if the Bill has been agreed to by a joint committee during the Assembly proceedings.

##### **Opportunity for public input**

168. If a Bill has not been published for public comment in the Assembly proceedings, the Council committee to which the Bill is referred, on request by at least five delegations, may, after consulting the Chairperson of the Council and the person in charge of the Bill, direct that the Bill be published in the Gazette or in such other way as the committee may determine.

- (2) When a committee has directed that the Bill be published, the Secretary must publish the



Bill in the Gazette or in such other way as the committee has determined, together with a notice inviting interested persons and institutions to submit representations on the Bill to the committee before a date determined by the committee and mentioned in the notice.

### Committee's functions

- 169.(1) The select committee or other Council committee to which the Bill is referred –
- (a) must enquire into the subject of the Bill; and
  - (b) if it is a Bill amending provisions of an Act, may seek the permission of the Council to enquire into amending other provisions of that Act;
  - (c) may, or if ordered by the Chairperson of the Council must, consult with any other committee that has a direct interest in the substance of the Bill;
  - (d) may consult the person in charge of the Bill, or the relevant Cabinet member if the Bill was initiated by the national executive;
  - (e) may require any suitable person to brief the committee on the objects and substance of the Bill;
  - (f) may consult with the appropriate Assembly portfolio committee or chairperson of that committee;
  - (g) may recommend that the time limit for the Council's consideration of the Bill as may have been set in terms of the Joint Rules, be extended;
  - (h) may consult the JTM on whether any amendments to the Bill proposed in the committee –
    - (i) may affect the classification of the Bill; or
    - (ii) may render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
    - (iii) may not propose an amendment that –
      - (i) changes the classification of the Bill;
      - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
  - (j) may recommend approval or rejection of the Bill or present an amendment Bill; and
  - (k) must report to the Council in accordance with rule 171.

### Suspension of further consideration of Bill by committee

170. When the committee has concluded its deliberations under rule 162 it may suspend its further consideration of the Bill until a later date within the time limit as may have been set in terms of the Joint Rules, or any extended time limit agreed to in terms of the Joint Rules.

### Committee's report

- 171.(1) The committee to which a Bill is referred must table in the Council –
- (a) its report;



- (b) the Bill that has been agreed on by it, or, if it has not agreed on a Bill, the Bill as referred to it; and
  - (c) the supporting memorandum which was introduced with the Bill or, if the memorandum has been amended by the committee, the amended memorandum.
- (2) In its report the committee –
- (a) must state whether it recommends approval of the Bill with or without amendments, or rejection of the Bill;
  - (b) must specify each amendment if an amended Bill was agreed on by it, and each amendment that was considered and, for a reason other than it being out of order, was rejected by it;
  - (c) must certify that –
    - (i) all amendments are constitutionally and procedurally in order within the meaning of joint rule 161; and
    - (ii) no amendment affects the classification of the Bill;
  - (d) must, if it is not a unanimous report –
    - (i) specify in which respects there was not consensus; and
    - (ii) in addition to the majority report, express the views of any minority concerned;
  - (e) may specify such details or information about its enquiry and any representations or evidence received or taken by it, as it may consider necessary for the purposes of the debate on the Bill;
  - (f) may report on any matter arising from its deliberations on the Bill but which is not necessarily related to the Bill; and
  - (g) may recommend to the Council that any matter contained in the report be placed on the Order Paper for separate consideration either before or after the Council considers the Bill.

### **Consideration of committee report and Bill by Council**

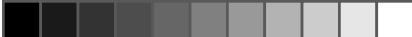
172.(1) The Chairperson of the Council must place the committee’s report and the Bill presented to the Council on the Order Paper.

(2) The chairperson or other member of the committee who tables the report in the Council on behalf of the committee, may, if the committee has so recommended in its report, address the Council in order to explain the report.

(3) A Bill is passed by the Council if it is agreed to by the Council in terms of section 65 (1) of the Constitution.

### **Amendments after Bill placed on Order Paper**

173.(1) (a) After a Bill has been placed on the Order Paper but before the Council decides



the Bill, a member may place amendments to the Bill on the Order Paper.

- (b) If the Bill has not been agreed to by the committee or if the committee has recommended its rejection, the Bill may not be amended under this rule.
- (2) Amendments delivered to the Secretary after 12:00 on any working day may be placed on the Order Paper only after the expiry of 24 hours, unless the Chairperson of the Council directs otherwise in a particular case.
- (3) (a) The following amendments are out of order and may not be proposed under this rule:
- (i) Amendments that affect the principle of the Bill and in respect of which the Council has not given any instruction.
  - (ii) Amendments that change the classification of the Bill.
  - (iii) Amendments that would render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161.
  - (iv) Amendments that are out of order for any other reason.
- (b) The Chairperson's ruling on whether an amendment is out of order or in order, is final. If the JTM has made a finding on the amendment the Chairperson is bound by the finding.
- (4) No amendment which has the same effect as an amendment previously rejected by the committee may be placed on the Order Paper, unless the Chairperson directs otherwise.
- (5) If an amendment has been placed on the Order Paper for the day on which the Bill is to be put for decision by the Council, the Chairperson may, before putting the question on the Bill –
- (a) recommit the Bill for reconsideration to the Council or joint committee which considered the Bill together with the amendment; or
  - (b) put the amendment for decision by the Council and then the Bill as a whole, including any approved amendment.
- (6) A Council committee to which a Bill is recommitted must deal with the Bill in terms of rule 174. A joint committee to which a Bill is recommitted must deal with the Bill in terms of joint rule 170.
- (7) A Bill may not be recommitted to a committee more than once in terms of this rule.



### Referral of amendments proposed in Council to Council committee

- 174.(1) If a Bill is recommitted in terms of rule 173 (5) (a) to a Council committee, the committee –
- (a) may consider only the clauses in respect of which amendments have been placed on the Order Paper and consequential amendments that have to be effected;
  - (b) may consult the JTM on whether any of the amendments –
    - (i) affect the JTM’s classification of the Bill; or
    - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
  - (c) must mention in the report each amendment agreed to by the committee; and
  - (d) must specify in the report each amendment placed on the Order Paper in terms of rule 173 (4) but rejected by the committee;
  - (e) may not agree on any amendment that –
    - (i) changes the classification of the Bill; or
    - (ii) renders the Bill constitutionally or procedurally out of order within the meeting of joint rule 161; and
  - (f) must table its report together with the Bill in the Council.
- (2) The report of the committee must be placed on the Order Paper for the consideration of –
- (a) any amendments agreed to by the committee; and
  - (b) any amendments specified in the report in terms of subrule (1) (d) and moved in the Council.
- (3) A motion in terms of subrule (2) (b) may be moved without notice.
- (4) The Council must first decide on the amendments and then on the Bill as a whole, including any approved amendments.

### Consequences of approval of amendment or rejection of section 76 (1) Bills

175. A section 76(1) Bill must be referred –
- (a) to the President in terms of joint rule 185 (1) (a) if the Council approves the Bill as passed by the Assembly;
  - (b) to the Assembly in terms of joint rule 185 (1) (b) if the Council amends the Bill as passed by the Assembly; or
  - (c) to the Mediation Committee in terms of joint rule 186 (1) (a) if the Council rejects the Bill as passed by the Assembly.

### Process if mediation successful

- 176.(1) The Chairperson of the Council must table a notice in the Council stating that the Council’s version has been agreed on by the Mediation Committee if the Mediation Commit-



tee has agreed on the Bill as amended by the Council and as referred to the Assembly in terms of rule 175 (b).

- (2) The Chairperson must place a Bill agreed on by the Mediation Committee on the Order Paper for debate and decision if that Bill is –
  - (a) the version as passed by the Assembly and which the Council has either amended or rejected as stated in rule 175 (b) or (c);
  - (b) a version that differs from any version of the Bill as passed by either the Assembly or the Council.
  
- (3) If, after consultation with the delegation whips and the chairperson of the select committee or other Council committee concerned, the Chairperson of the Council is of the view that the Council debate on the Bill in terms of subrule (2) may be facilitated by a report of the select committee concerned or any other appropriate Council committee, the Chairperson must first refer the Bill to the committee for a report before placing the Bill on the Order Paper.
  
- (4) If the Bill is referred to a committee, the committee may –
  - (a) consult with the appropriate Assembly committee or the chairperson of that committee; and
  - (b) not propose any amendments to the Bill.
  
- (5) The committee must table in the Council –
  - (a) the committee's report; and
  - (b) the version of the Bill as agreed on by the Mediation Committee.
  
- (6) The debate in the Council on the Bill agreed on by the Mediation Committee must be confined –
  - (a) to the matters dealt with in the committee's report, if the Bill was referred to a committee; and
  - (b) to the question whether the Bill as agreed on by the Mediation Committee should be passed.

#### **Process if mediation unsuccessful**

177. A section 76(1) Bill must be referred back to the Assembly if mediation is unsuccessful.





### PART 3: SECTION 76(2) BILLS

#### Procedure before introduction: Section 76(2) Bills initiated by Council members

##### Council's permission required for introduction

178. A Council member intending to introduce a section 76(2) Bill in the Council in an individual capacity (other than on request by the national executive or a provincial executive or legislature) must, for the purpose of obtaining the Council's permission in terms of rule 163 (1), submit to the Chairperson of the Council a memorandum which –

- (a) sets out particulars of the proposed legislation;
- (b) explains the objects of the proposed legislation; and
- (c) states whether the proposed legislation will have financial implications for the state and, if so, whether those implications may be a determining factor when the proposed legislation is considered.



##### Referral of proposals to Committee on Petitions and Members' Legislative Proposals

179.(1) The Chairperson of the Council must refer the member's memorandum to the Committee on Petitions and Members' Legislative Proposals.

- (2) The Committee must consult the select committee within whose authority the proposal falls.
- (3) If the Committee after such consultation is of the view that the member's proposal warrants further investigation, but that it has financial implications for the state that may be significant enough to affect its desirability, the Committee must request the Chairperson of the Council to refer the member's memorandum to the appropriate select committee for a report on the financial implications of the proposal.
- (4) After considering the member's memorandum and the select committee's report, if there is such a report, the Committee must recommend that permission either be –
  - (a) be given to the member to proceed with the proposed legislation; or
  - (b) refused.
- (5) If the Committee recommends that the proposed legislation be proceeded with, it may –
  - (a) express itself on the desirability of the proposal;
  - (b) recommend that the Council approve the member's proposal in principle; or
  - (c) recommend that the permission be given subject to conditions.

##### Council's consideration of proposal

180.(1) The member's memorandum and the recommendation of the Committee on Petitions and Members' Legislative Proposals, including any views of a select committee on the financial and other implications of the proposal, must–

- 
- 
- 
- (a) be sent to the Speaker of each provincial legislature to enable the legislature to develop its position with regard to the proposed legislation; and
  - (b) be placed on the Order Paper for a decision in terms of section 65 (1) of the Constitution.

(2) The Council may –

- (a) give permission that the proposal be proceeded with;
- (b) refer the proposal back to the Committee or the select committee concerned for a further report; or
- (c) refuse permission.

(3) If the Council gives permission that the proposal be proceeded with, it may, if it so chooses –

- (a) express itself on the desirability of the proposal; or
- (b) subject its permission to conditions.

### **Preparation of draft Bill**

181.(1) If the Council gives permission that the proposal be proceeded with, the member concerned must –

- (a) prepare a draft Bill, and a memorandum setting out the objects of the Bill, in a form and style that complies with any prescribed requirements;
- (b) consult the JTM for advice on the classification of the Bill; and
- (c) comply with rule 186.

(2) The Secretary must reimburse a member for any reasonable expenses the member may have incurred in giving effect to subrule (1), provided that those expenses were approved by the Chairperson of the Council before they were incurred.

### **PROCEDURE BEFORE INTRODUCTION: SECTION 76(2) BILLS INITIATED BY COUNCIL COMMITTEES**

#### **Council's permission required for introduction**

182.(1) A Council committee intending to introduce a section 76 (2) Bill in the Council must, for the purpose of obtaining the Council's permission in terms of rule 163 (1), table in the Council a memorandum which –

- (a) sets out particulars of the proposed legislation;
- (b) explains the objects of the proposed legislation; and
- (c) states whether the proposed legislation will have financial implications for the state and, if so, gives an account of those implications.

(2) The Chairperson of the Council must –

- (a) send a copy of the committee's memorandum to the Speaker of each provincial



- legislature to enable the legislature to develop its position with regard to the proposed legislation; and
- (b) place the proposal on the Order Paper for debate and decision.

### Consideration of proposal

183.(1) The Council may –

- (a) give permission that the proposal be proceeded with;
  - (b) refer the proposal back to the committee for reconsideration; or
  - (c) refuse permission.
- (2) If the Council gives permission that the proposal be proceeded with, it may, if it so chooses –
- (a) express itself on the desirability of the proposal; or
  - (b) subject its permission to conditions.

### Preparation of draft Bill

184.(1) If the Council gives permission that the proposal be proceeded with, the committee must –

- (a) prepare a draft Bill, and a memorandum setting out the objects of the Bill in a form and style that complies with any prescribed requirements;
  - (b) consult the JTM for advice on the classification of the Bill; and
  - (c) comply with rule 186.
- (2) If the committee chooses in terms of rule 186 to publish the draft Bill and not an explanatory summary of the Bill, it is not bound to publish the Bill as it is to be introduced. Instead, the committee may publish any version of the draft Bill prepared by it in terms of subrule (1)(a).
- (3) The Committee must report to the Council when it publishes the draft Bill.

### Consideration of draft Bill before introduction

185. Before introducing its Bill, the committee –

- (a) must arrange its business in such a manner that interested persons and institutions have a period of at least three weeks after the draft Bill, or particulars of the draft Bill, have been published in terms of rule 186, to comment on the proposed legislation;
- (b) must give officials of any relevant state department or other executive organ of state a sufficient opportunity to state their case before the committee;
- (c) must consult the JTM for advice on the classification of the draft Bill; and
- (d) may in view of any comments received in terms of paragraph (a) or (b), or advice given in terms of paragraph (c), adjust the draft Bill before its introduction.


## PUBLICATION OF SECTION 76 (2) BILLS

### **Prior notice and publication of draft legislation.**

186.(1) A section 76(2) Bill, whether initiated by a Council member or committee or which is to be introduced by a Council member or committee on request of the national executive or a provincial executive or legislature, may be introduced in the Council only if -

- (a) prior notice of its introduction has been given in the Gazette; and
  - (b) an explanatory summary of the Bill, or the draft Bill as it is to be introduced, has been published in the Gazette. The draft Bill itself, as it is to be introduced, must be published if the Chairperson of the Council so orders.
- (2) The notice referred to in subrule (1)(a) must contain an invitation to interested persons and institutions to submit written representations on the draft legislation to the Secretary within a specified period.
- (3) The Council committee or member intending to introduce the Bill must consult the Chairperson on whether the draft Bill itself or an explanatory summary should be published.

### **Notice withdrawing proposed legislation**

187.(1) If a Council committee or member decides not to proceed with the introduction of a Bill after rule 186 has been complied with, the committee or member must without delay inform the Secretary in writing of the decision.

- (2) The Secretary must publish a notice in the Gazette stating that the proposed legislation has been withdrawn.

## INTRODUCTION OF SECTION 76 (2) BILLS

### **Method of introduction**

188.(1) A Council member or committee introduces a section 76(2) Bill by submitting to the Chairperson of the Council -

- (a) a copy of the Bill or, if the Bill as it is introduced was published in terms of rule 186, a copy of the Gazette concerned;
- (b) the explanatory summary referred to in rule 186 (1) (b), if the Bill itself was not published; and
- (c) a supporting memorandum which must -
  - (i) state that the Bill is introduced as a section 76 (2) Bill;
  - (ii) explain the objects of the Bill;
  - (iii) give an account of the financial implications of the Bill for the state; and
  - (iv) contain a list of all persons and institutions that have been con-



sulted in preparing the Bill.

- (2) The Bill must contain on its cover page –
  - (a) a reference to the name of the member or committee as the member or committee introducing the Bill; and
  - (b) a statement to the effect that the Bill is introduced –
    - (i) with the permission of the Council; or
    - (ii) on request of the national executive or a provincial executive or legislature.

### **Classification of Bills**

189.(1) When a Bill is introduced in the Council in terms of rule 188, the Secretary must refer the Bill to the JTM for classification of the Bill in terms of joint rule 160.

- (2) The classification of the Bill and all findings of the JTM must be –
  - (a) conveyed to the select committee or other Council committee considering the Bill; and
  - (b) tabled in the Council.

### **Reintroduction of Bills ruled out of order by JTM**

190. A Bill reintroduced in the Council in terms of joint rule 162 (2) must follow the same procedure as if it were introduced for the first time, except that the steps prior to introduction as prescribed by the Council Rules do not apply if no substantive new provisions were added to the Bill.

### **CONSIDERATION OF SECTION 76(2) BILLS**

#### **Chairperson's functions when section 76 (2) Bills are introduced**

191. When a section 76 (2) Bill is introduced in the Council the Chairperson of the Council must –
- (a) send a copy of the Bill and the annexures to the Speaker of each provincial legislature for purposes of enabling the legislature to confer authority on its delegation to vote on the Bill; and
  - (b) table the Bill in the Council or, if the Council is not sitting, table the Bill on the day on which the Council resumes its sittings.

#### **Referral to committee**

- 192.(1) When the Bill has been tabled or if the Council is not scheduled to sit for at least two working days after the Bill was introduced, the Chairperson of the Council must refer the Bill and its annexures –
- (a) to the appropriate select committee or, after consulting the delegation head, to any other Council committee; or

(b) to a joint committee, if this is required by a decision in terms of joint rule 166.

(2) If the Bill is referred –

- (a) to a Council committee, the committee must deal with the Bill in accordance with rules 193 and 196; or
- (b) to a joint committee, the Joint Rules apply.

### **Committee's functions**

193. The select committee or other Council committee to which the Bill is referred –

- (a) must enquire into the subject of the Bill; and
- (b) if it is a Bill amending provisions of an Act, may seek the permission of the Council to enquire into amending other provisions of that Act;
- (c) may, or if ordered by the Chairperson of the Council must, consult with any other committee that has a direct interest in the substance of the Bill;
- (d) may consult the person in charge of the Bill;
- (e) consult with the appropriate Assembly portfolio committee or chairperson of that committee;
- (f) may consult the JTM on whether any amendments to the Bill proposed in the committee –
  - (i) may affect the classification of the Bill; or
  - (ii) may render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
- (g) may not propose an amendment that –
  - (i) changes the classification of the Bill;
  - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
- (h) may recommend approval or rejection of the Bill or present an amendment Bill; and
  - (i) must report to the Council in accordance with rule 196.

### **Suspension of further consideration of Bill by committee**

194. When the committee has concluded its deliberations under rule 193 it may suspend its further consideration of the Bill until a later date.

### **Referral to Council committee if joint committee fails to report**

195.(1) If the Bill has been referred to a joint committee in terms of rule 192 (1) (b) and that joint committee fails to present a report or fails to reach consensus on the Bill, the Chairperson of the Council must refer the Bill and its annexures –

- (a) to the select committee within whose authority the subject of the Bill falls; or
- (b) by resolution of the Council, to any other Council committee.



- (2) The committee to which the Bill is referred must deal with the Bill in accordance with rules 193 and 196.

### **Committee's report**

196.(1) The committee to which a Bill is referred must table in the Council –

- (a) its report;
  - (b) the Bill that has been agreed on by it, or, if it has not agreed on a Bill, the Bill as referred to it; and
  - (c) the supporting memorandum which was introduced with the Bill or, if the memorandum has been amended by the committee, the amended memorandum.
- (2) In its report the committee –
- (a) must state whether it recommends approval of the Bill with or without amendments, or rejection of the Bill;
  - (b) must specify each amendment if an amendment Bill was agreed on by it, and each amendment that was considered and, for a reason other than its being out of order, was rejected by it;
  - (c) must certify that –
    - (i) all amendments are constitutionally and procedurally in order within the meaning of joint rule 161; and
    - (ii) no amendment affects the classification of the Bill;
  - (d) must, if it is not a unanimous report –
    - (i) specify in which respects there was not consensus; and
    - (ii) in addition to the majority report, express the views of any minority concerned;
  - (e) may specify such details or information about its enquiry and any representations or evidence received or taken by it, as it may consider necessary for the purposes of the debate on the Bill;
  - (f) may report on any matter arising from its deliberations on the Bill but which is not necessarily related to the Bill; and
  - (g) may recommend to the Council that any matter contained in the report be placed on the Order Paper for separate consideration either before or after the Council considers the Bill.

### **Consideration of committee's report and Bill by Council**

197.(1) The Chairperson of the Council must place the Council or joint committee's report and the Bill presented to the Council on the Order Paper.

- (2) The chairperson or other member of the committee who tables the report in the Coun-



cil on behalf of the committee, may if the committee has so recommended in its report, address the Council in order to explain the report.

- (3) A Bill is passed by the Council if it is agreed to by the Council in terms of section 65 (1) of the Constitution.

#### **Amendments after Bill placed on Order Paper**

198.(1) (a) After a Bill has been placed on the Order Paper but before the Council decides the Bill, a member may place amendments to the Bill on the Order Paper.

(b) If the Bill has not been agreed to by the committee or if the committee has recommended its rejection, the Bill may not be amended under this rule.

- (2) Amendments delivered to the Secretary after 12:00 on any working day may be placed on the Order Paper only after the expiry of 24 hours, unless the Chairperson of the Council directs otherwise in a particular case.

- (3) (a) The following amendments are out of order and may not be proposed under this rule:

(i) Amendments that affect the principle of the Bill and in respect of which the Council has not given any instruction.

(ii) Amendments that change the classification of the Bill.

(iii) Amendments that would render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161.

(iv) Amendments that are out of order for any other reason.

(b) The Chairperson's ruling on whether an amendment is out of order or in order, is final. If the JTM has made a finding on the amendment the Chairperson is bound by the finding.

- (4) No amendment which has the same effect as an amendment previously rejected by the committee may be placed on the Order Paper, unless the Chairperson directs otherwise.

- (5) If an amendment has been placed on the Order Paper for the day on which the Bill is to be put for decision by the Council, the Chairperson may, before putting the question on the Bill –

(a) recommit the Bill for reconsideration to the Council or joint committee which considered the Bill together with the amendment; or

(b) put the amendment for decision by the Council and then the Bill as a whole, including any approved amendment.





- (6) A Council committee to which a Bill is recommitted must deal with the Bill in terms of rule 199. A joint committee to which a Bill is recommitted must deal with the Bill in terms of joint rule 170.
- (7) A Bill may not be recommitted to a committee more than once in terms of this rule.

#### **Referral of amendments proposed in Council to Council committee**

199.(1) If a Bill is recommitted in terms of rule 198 (5) (a) to a Council committee, the committee –

- (a) may consider only the clauses in respect of which amendments have been placed on the Order Paper and consequential amendments that have to be effected;
  - (b) may consult the JTM on whether any of the amendments –
    - (i) affects the JTM’s classification of the Bill; or
    - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
  - (c) must mention in the report each amendment agreed to by the committee; and
  - (d) must specify in the report each amendment placed on the Order Paper in terms of rule 198 (4) but rejected by the committee;
  - (e) may not agree on any amendment that –
    - (i) changes the classification of the Bill; or
    - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of joint rule 161; and
  - (f) must table its report together with the Bill in the Council.
- (2) The report of the committee must be placed on the Order Paper for the consideration of –
- (a) any amendments agreed to by the committee; and
  - (b) any amendments specified in the report in terms of subrule (1)(d) and moved in the Council.
- (3) A motion in terms of subrule (2)(b) may be moved without notice.
- (4) The Council must first decide on the amendments and then on the Bill as a whole, including any approved amendments.

#### **Referral to Assembly committee if joint committee fails to report**

200.(1) If a Bill is recommitted to a joint committee in terms of rule 198 (5) and that joint committee fails to present a report or fails to reach consensus on any amendments, the Chairperson of the Council must refer the Bill and its annexes –

- (a) to the select committee within whose authority the subject of the Bill falls; or



(b) by resolution of the Council, to any other Council committee.

(2) The committee to which the Bill is referred must deal with the Bill in terms of rule 199.

### **Consequences of approval or rejection of section 76 (2) Bill**

201. A section 76(2) Bill –

- (a) must be referred to the Assembly in terms of joint rule 184 (2) if the Council approves the Bill; or
- (b) lapses if the Council rejects the Bill.

### **RECONSIDERATION OF SECTION 76(2) BILLS IF AMENDED BY ASSEMBLY**

#### **Bill to be placed on Order Paper or referred to select committee**

202.(1) If the Assembly amends a Bill referred to it in terms of joint rule 184(2) the Chairperson of the Council must –

- (a) place the Bill on the Order Paper for debate and decision if the chairperson of the select committee concerned or other relevant Council committee so requests; or
- (b) submit the amended Bill to the select committee concerned or any other appropriate Council committee for a report and recommendations on the Assembly's amendments.

(2) The committee to which the Assembly's amended Bill is referred –

- (a) may consult the appropriate Assembly committee or the chairperson of that committee;
- (b) may not propose any amendments to the Bill; and
- (c) may consult the JTM on whether any of the Assembly's amendments –
  - (i) affects the JTM's classification of the Bill; or
  - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of joint rule 161.

#### **Committee's report**

203.(1) The committee to which the Assembly's amended Bill is referred must table in the Council –

- (a) its report and recommendations; and
- (b) the Assembly's amended Bill.

(2) When the report is tabled the Chairperson of the Council must place the report and the Assembly's amended Bill on the Order Paper for debate and decision.



## Debate and decision

204.(1) The debate on the report and the Assembly's amended Bill must be confined to –

- (a) the matters dealt with in the report; and
- (b) the question whether the amended Bill should be passed or not.

(2) No amendments may be proposed to the Assembly's amended Bill.

(3) If the Council passes the Assembly's amended Bill in accordance with section 65(1) of the Constitution, the Secretary must without delay submit the Bill to the President for assent

(4) If the Council refuses to pass the Assembly's amended Bill, the Bill must be referred to the Mediation Committee in terms of joint rule 186 (2) (b).

## Process if mediation successful

205.(1) The Chairperson of the Council must table a notice in the Council stating that the Council's version of the Bill has been agreed on by the Mediation Committee, if the Mediation Committee has agreed on the version of the Bill as originally passed by the Council before its amendment by the Assembly.

(2) The Chairperson must place a Bill agreed on by the Mediation Committee on the Order Paper for debate and decision if that Bill is –

- (a) the Assembly's amended Bill which the Council has refused to pass as stated in rule 204 (4); or
- (b) a version that differs from any version of the Bill as passed by either the Assembly or the Council.

(3) If, after consultation with the delegation whips the Chairperson of the Council is of the view that the Council debate on the Bill in terms of subrule (2) may be facilitated by a report of the select committee concerned or any other appropriate Council committee, the Chairperson must first refer the Bill to the committee for a report before placing the Bill on the Order Paper.

(4) If the Bill is referred to a committee, the committee may –

- (a) consult with the appropriate Assembly committee or the chairperson of that committee; and
- (b) not propose any amendments to the Bill.

(5) The committee must table in the Council –

- (a) the committee's report; and



- (b) the version of the Bill as agreed on by the Mediation Committee.
- (6) The debate in the Council on the Bill as agreed on by the Mediation Committee must be confined –
- (a) to the matters dealt with in the committee’s report, if the Bill was referred to a committee, or to the clauses of the Bill which differ from the clauses of the Bill as originally passed by the Council, if the Bill was not referred to a committee; and
  - (b) to the question whether the Bill as agreed on by the Mediation Committee should be passed.
- (7) No amendments may be proposed to the Bill as agreed on by the Mediation Committee.

### **Unsuccessful mediation**

206. A section 76 (2) Bill lapses if mediation is unsuccessful.

### **PART 4: SECTION 75 BILLS**

#### **Chairperson’s functions when section 75 Bills received from Assembly**

207. When a Bill passed by the Assembly is referred to the Council in terms of joint rule 181, the Chairperson of the Council must –
- (a) send a copy of the Bill and the accompanying memorandum to the Speaker of each provincial legislature for information purposes: and
  - (b) table the Bill in the Council or, if the Council is not sitting, table the Bill on the day on which the Council resumes its sitting.

#### **Referral to committee**

208.(1) When the Bill has been tabled or if the Council is not scheduled to sit for at least two working days after the Bill has been referred from the Assembly to the Council, the Chairperson of the Council must refer the Bill and its annexures to the appropriate select committee or, after consulting the party whips, to any other Council committee.

- (2) Despite subrule (1), the Council may decide that the Bill must be placed on the Order Paper for consideration without referral to a committee of the Council.

#### **Bill not referred to committee placed on Order Paper**

209.(1) A Bill not referred to a committee of the Council in terms of rule 208 (2) must be placed on the Order Paper for consideration.

- (2) The Bill is passed by the Council if it is agreed to by the Council in terms of section 75

(2) of the Constitution.

### Committee's functions

210.(1) The select committee or other Council committee to which the Bill is referred –

- (a) must enquire into the subject of the Bill; and
- (b) may, or if ordered by the Chairperson of the Council must, consult any other committee that has a direct interest in the substance of the Bill;
- (c) may consult the person in charge of the Bill;
- (d) may require any suitable person to brief the committee on the objects and substance of the Bill;
- (e) may consult the appropriate Assembly portfolio committee or chairperson of that committee;
- (f) may recommend that the time limit for the Council's consideration of the Bill as may have been set in terms of the Joint Rules, be extended;
- (g) may consult the JTM on whether any amendments to the Bill proposed in the committee –
  - (i) may affect the classification of the Bill;
  - (iii) may render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
- (h) may not propose an amendment that may –
  - (i) change the classification of the Bill;
  - (iii) render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
- (i) may recommend approval or rejection of the Bill or present an amendment Bill; and
- (j) must report to the Council in accordance with rule 211.

### Committee's report

211.(1) The committee to which a Bill is referred must table in the Council –

- (a) its report;
- (b) the Bill that has been agreed on by it, or, if it has not agreed on a Bill, the Bill as referred to it; and
- (c) the supporting memorandum which was introduced with the Bill.

(2) In its report the committee –

- (a) must state whether it recommends approval of the Bill with or without proposed amendments, or rejection of the Bill;
- (b) must specify each amendment if an amended Bill was agreed on by it, and each amendment that was considered and, for a reason other than its being out of order, was rejected by it;
- (c) must certify that –



- (i) all amendments are constitutionally and procedurally in order within the meaning of joint rule 161; and
  - (ii) no amendment affects the classification of the Bill;
  - (d) must, if it is not a unanimous report –
    - (i) specify in which respects there was not consensus; and
    - (ii) in addition to the majority report, express the views of any minority concerned;
  - (e) may specify such details or information about its enquiry and any representations or evidence received or taken by it, as it may consider necessary for the purposes of the debate on the Bill;
  - (f) may recommend to the Council that any matter contained in the report be placed on the Order Paper for separate consideration either before or after the Council considers the Bill.
- (3) The report of the committee together with the Bill, any proposed amendments and the memorandum must be placed on the Order Paper for consideration.
- (4) The Bill, subject to proposed amendments where applicable, is passed by the Council if the Bill and any amendments are agreed to by the Council in terms of section 75(2) of the Constitution.

### Amendments



- 212.(1) (a) After a Bill has been placed on the Order Paper but before the Council decides the Bill a member may place proposals for amending the Bill on the Order Paper.
- (b) If the Bill was referred to a committee of the Council and the committee did not agree to it or recommended its rejection, no amendments may be proposed under this rule.
- (2) Amendment proposals delivered to the Secretary after 12:00 on any working day may be placed on the Order Paper only after the expiry of 24 hours, unless the Chairperson directs otherwise in a particular case.
- (3) (a) The following amendments are out of order and may not be proposed under this rule:
- (i) Amendments that affect the principle of the Bill and in respect of which the Council has not given any instruction.
  - (ii) Amendments that change the classification of the Bill.
  - (iii) Amendments that would render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161.



- (iv) Amendments that are out of order for any other reason.
- (b) The Chairperson's ruling on whether an amendment is out of order or in order, is final. If the JTM has made a finding on the amendment the Chairperson is bound by the finding.
- (4) If the Bill was referred to a committee of the Council, no amendment proposal which has the same effect as an amendment proposal previously rejected by the committee may be placed on the Order Paper, except by the person in charge of the Bill.
- (5) If any amendment proposal has been placed on the Order Paper for the day on which the Bill is to be put for decision by the Council, the Chairperson must, before putting the question on the Bill -
  - (a) if the Bill was referred to a select committee or other committee of the Council, submit the Bill together with the amendment proposal for reconsideration to the committee which considered the Bill; or
  - (b) put the amendment proposal for decision by the Council and then the Bill as a whole, including any approved amendment proposals.
- (6) A Bill may not be recommitted to a committee more than once in terms of this rule.

#### **Report to and decision of Council on amendments**

- 213.(1) A committee to which the Bill has been recommitted for reconsideration together with any amendment proposal -
- (a) may consider only the clauses in respect of which amendment proposals were placed on the Order Paper and consequential amendments that have to be effected;
  - (b) may consult the JTM on whether any of the amendment proposals may -
    - (i) affect the JTM's classification of the Bill; or
    - (ii) render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
  - (c) must mention in the report each amendment proposal agreed to by the committee;
  - (d) must specify in the report each amendment proposal placed on the Order Paper in terms of rule 212 (4) but rejected by the committee.
  - (e) may not agree on any amendment that may -
    - (i) change the classification of the Bill; or
    - (ii) render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161; and
  - (f) must table its report together with the Bill in the Council.

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- (2) The report of the committee must be placed on the Order Paper for the consideration of -
    - (a) any amendment proposals agreed to by the committee; and
    - (b) any amendment proposals specified in the report in terms of subrule (1) (d) and moved in the Council.

(3) A motion referred to in subrule (2)(b) may be moved without notice.

(3) The Council must first decide on the amendment proposals and then on the Bill as a whole, including any approved amendment proposals.

### **Consequences of approval of amendment or rejection of section 75 Bills**

214. A section 75 Bill must be referred to –

- (a) the President in terms of joint rule 182 if the Council approves the Bill as passed by the Assembly; or
- (b) the Assembly in terms of joint rule 183 if the Council rejects or proposes amendments to the Bill as passed by the Assembly.

## **PART 5: SECTION 74 BILLS**

### **Tabling of public comments on Bills amending the Constitution**

215. When any written comments received from the public and the provincial legislatures on constitutional amendments referred to in section 74 (1), (2) or (3)(b) of the Constitution are submitted to the Chairperson of the Council in terms of section 74 (6)(b), the Chairperson must forthwith table them in the Council, or if the Council is not sitting, table them on the day the Council resumes its sittings.

### **Chairperson's functions when section 74 Bills received from Assembly**

216. When a Bill amending the Constitution that has been passed by the Assembly is referred to the Council in terms of section 74 (1), (2) or (3)(b) for consideration, the Chairperson of the Council must –

- (a) send a copy of the Bill and the accompanying memorandum to the Speaker of each provincial legislature to enable the legislature to confer authority on its delegation to vote on the Bill; and
- (b) table the Bill in the Council or, if the Council is not sitting, table the Bill on the day on which the Council resumes its sitting.

### **Referral to committee**

217.(1) When the Bill has been tabled or if the Council is not scheduled to sit for at least two working days after the Bill has been referred from the Assembly to the Council, the Chairperson of the Council must refer the Bill and its annexures to the appropriate





select committee or, after consulting the delegation whips, to any other Council committee.

- (2) Despite subrule (1) the Chairperson of the Council may decide that the Bill must be placed on the Order Paper for consideration without referral to a Council committee.

#### **Bill not referred to committee placed on Order Paper**

218.(1) A Bill not referred to a committee of the Council in terms of rule 217 (1) must be placed on the Order Paper for consideration.

- (2) The Bill is passed by the Council if it is agreed to by the Council with a supporting vote of at least six provinces.

#### **Functions of committee on referral**

219. If the Bill has been referred to a committee of the Council, the committee –

- (a) must enquire into the subject of the Bill; and
- (b) may, or if ordered by the Chairperson of the Council must, consult with any other committee that has a direct interest in the substance of the Bill;
- (c) may consult the person in charge of the Bill;
- (d) may require any suitable person to brief the committee on the objects and substance of the Bill;
- (e) may consult with the appropriate Assembly portfolio committee or chairperson of that committee;
- (f) may recommend that the time limit for the Council's consideration of the Bill as may have been set in terms of the Joint Rules, be extended;
- (g) may consult the JTM on whether any amendments to the Bill proposed in the committee –
  - (i) may affect the classification of the Bill; or
  - (iii) may render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
- (h) may not propose an amendment that may –
  - (i) change the classification of the Bill;
  - (iii) render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
- (i) may recommend approval or rejection of the Bill or present an amendment Bill; and
- (j) must report to the Council in accordance with rule 222.

#### **Opportunity for public input**

220.(1) If a Bill has not been published for public comment in the Assembly proceedings, the committee to which the Bill is referred, on request by at least five delegations may,



after consulting the Chairperson of the Council and the person in charge of the Bill, direct that the Bill be published in the Gazette or in such other way as the committee may determine.

- (2) When a committee has directed that the Bill be published, the Secretary must publish the Bill in the Gazette or in such other way as the committee has determined, together with a notice inviting interested persons and institutions to submit representation on the Bill to the committee before a date determined by the committee and mentioned in the notice.

### **Suspension of further consideration of Bill by committee**

221. When the committee has completed its functions under rule 219 in respect of a Bill, it may suspend its further consideration of the Bill until a later date within the time limit as may have been set in terms of the Joint Rules or any extended time limit as may be agreed to in terms of the Joint Rules.

### **Committee's report**

222.(1) The committee to which a Bill is referred must table in the Council –

- (a) its report;
- (b) the Bill that has been agreed on by it, or if it has not agreed on a Bill, the Bill as referred to it; and
- (c) the supporting memorandum which was introduced with the Bill or, if the memorandum has been amended by the committee, the amended memorandum.

(2) In its report the committee –

- (a) must state whether it recommends approval of the Bill with or without amendments, or rejection of the Bill;
- (b) must specify each amendment if an amended Bill was agreed on by it, and each amendment that was considered and, for a reason other than its being out of order, was rejected by it;
- (c) must, if it is not a unanimous report –
  - (i) specify in which respects there was not consensus; and
  - (ii) in addition to the majority report, express the views of any minority concerned;
- (d) may specify such details or information about its enquiry and any representations or evidence received or taken by it, as it may consider necessary for the purposes of the debate on the Bill;
- (e) may report on any matter arising from its deliberations on the Bill which is not necessarily related to the Bill; and
- (f) may recommend to the Council that any matter contained in the report be



placed on the Order Paper for separate consideration either before or after the Council considers the Bill.

### Consideration of committee report and Bill by Council

223.(1) The Chairperson of the Council must place the committee's report and the Bill presented to the Council on the Order Paper.

- (2) The chairperson or other member of the committee who tables the report in the Council on behalf of the committee, may if the committee has so recommended in its report, address the Council in order to explain the report.
- (3) A Bill is passed by the Council if it is agreed to by the Council with the supporting vote of at least six provinces.

### Amendments

224.(1) (a) After a Bill has been placed on the Order Paper but before the Council decides the Bill a member may place amendments to the Bill on the Order Paper.  
(b) If the Bill was referred to a committee of the Council and the committee did not agree to it or recommended its rejection, the Bill may not be amended under this rule.

(2) Amendments delivered to the Secretary after 12:00 on any working day may only be placed on the Order Paper after the expiry of 24 hours, unless the Chairperson directs otherwise.

(3) (a) The following amendments are out of order and may not be proposed under this rule:

- (i) Amendments that affect the principle of the Bill and in respect of which the Council has not given any instruction.
- (ii) Amendments that change the classification of the Bill.
- (iii) Amendments that would render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161.
- (iv) Amendments that are out of order for any other reason.

(b) The Chairperson's ruling on whether an amendment is out of order or in order, is final. If the JTM has made a finding on the amendment the Chairperson is bound by the finding.

(4) If the Bill was referred to a committee of the Council, no amendment which has the same effect as an amendment previously rejected by the committee may be placed on the Order Paper, unless the Chairperson directs otherwise.

(5) If any amendment has been put on the Order Paper for the day on which the Bill is to be put for decision by the Council, the Chairperson must, before putting the question on the Bill -

- (a) recommit the Bill for reconsideration to the committee that considered the Bill, together with the amendment; or
- (b) put the amendment for decision by the Council and then the Bill as a whole, including any approved amendments.

(5) A Council committee to which a Bill is recommitted must deal with the Bill in terms of rule 219. A joint committee to which a Bill is recommitted must deal with the Bill in terms of joint rule 170.

(6) A Bill may not be recommitted to a committee more than once in terms of this rule.

### **Report to and decision of Council on amendments**

225.(1) A committee to which the Bill has been recommitted for reconsideration together with any amendments must -

- (a) present the Bill together with its report to the Council;
- (b) mention in the report each amendment agreed to by the committee; and
- (c) specify in the report each amendment placed on the Order Paper in terms of rule 224 (4) but rejected by the committee.

(2) The report of the committee must be placed on the Order Paper for the consideration of -

- (a) any amendments agreed to by the committee; and
- (b) any amendments specified in the report in terms of subrule (1)(c) and moved in the Council.

(3) A motion referred to in subrule (2) (b) may be moved without notice.

(4) The Council must first decide on the amendments and then on the Bill as a whole, including any approved amendments.

### **Consequences of approval, amendment or rejection of section 74 Bills**

226. A section 74 Bill must be referred to -

- (a) the President in terms of joint rule 175 (a) if the Council approves the Bill as passed by the Assembly;
- (b) the Assembly in terms of joint rule 175 (b) if the Council amends the Bill as passed by the Assembly; or
- (c) the Mediation Committee in terms of joint rule 177 (1) (a) if the Council rejects



the Bill as passed by the Assembly.

### Process if mediation successful

- 227.(1) The Chairperson of the Council must table a notice in the Council stating that the Council's version has been agreed on by the Mediation Committee if the Mediation Committee has agreed on the Bill as amended by the Council and as referred to the Assembly in terms of rule 226 (b).
- (2) The Chairperson must place a Bill agreed on by the Mediation Committee on the Order Paper for debate and decision if that Bill is –
- (a) the version as passed by the Assembly and which the Council has either amended or rejected as stated in rule 226 (b) or (c);
  - (b) a version that differs from any version of the Bill as passed by either the Assembly or the Council.
- (3) If, after consultation with the delegation whips and the chairperson of the select committee or other Council committee concerned, the Chairperson of the Council is of the view that the Council debate on the Bill in terms of subrule (2) may be facilitated by a report of the select committee concerned or any other appropriate Council committee, the Chairperson must first refer the Bill to the committee for a report before placing the Bill on the Order Paper.
- (4) If the Bill is referred to a committee, the committee may –
- (a) consult with the appropriate Assembly committee or the chairperson of that committee; and
  - (b) not propose any amendments to the Bill.
- (5) The committee must table in the Council –
- (a) the committee's report; and
  - (b) the version of the Bill as agreed on by the Mediation Committee.
- (6) The debate in the Council on the Bill agreed on by the Mediation Committee must be confined –
- (a) to the matters dealt with in the committee's report, if the Bill was referred to a committee; and
  - (b) to the question whether the Bill as agreed on by the Mediation Committee should be passed.



### **Process if mediation unsuccessful**

228. A section 74 Bill lapses if mediation is unsuccessful.

## **PART 6: PETITIONS**

### **Form of petitions**

229. Petitions must be in the form prescribed by the Chairperson of the Council in accordance with guidelines determined by the Subcommittee on Review of Rules.

### **Language of petitions**

230. A petition must be in one of the official languages.

### **Signing of petitions**

233.(1) Unless the Chairperson decides otherwise, every petition must be signed by the petitioner.

(2) Persons unable to write must make their mark on the petition in the presence of two witnesses, who must sign the petition in that capacity.

### **Lodging and approval by Chairperson of the Council**

232. Each petition must be deposited for at least one day with the Secretary, who must submit it to the Chairperson of the Council for approval before it is tabled in the Council.

### **Tabling**

233. If approved the Chairperson of the Council must table the petition in the Council.

### **Referral of petitions to committees**

234. After tabling a petition in the Council, the Chairperson of the Council must refer the petition to the Select Committee on Petitions and Members Legislative Proposal.

### **Powers of committee**

235.(1) A committee to which a petition has been referred may refer the subject matter of the petition to the Executive or a particular department or other administrative agency for further attention, subject to the approval of the Chairperson of the Council.

(2) A committee considering a petition may recommend to the House any course of action it deems fit and proper.

### **Petitioner and others to be informed**

236. The committee shall inform a petitioner of the decision or other course of action with regard to a particular petition and the reasons therefore.



## PART 7: MISCELLANEOUS

### Same Bill may not be introduced more than once

237. When a Bill has been passed or has been rejected during any annual session, no Bill of the same substance may be introduced in that year except by leave of the Council.

### Lapsing and resumption of proceedings on Bills

238.(1) All Bills introduced in the Council and which have not yet been passed by the Council in terms of Rule 197, when it rises on the last sitting day in any annual session, lapses, but may be reinstated on the Order Paper during the next ensuing session by resolution of the Council.

- (2) The approval or rejection of a draft resolution for the resumption of proceedings on a Bill does not prohibit the introduction of a Bill of the same substance during the same or an ensuing session or during an ensuing recess.

### Time for consideration of a Bill

239. (1) The Council may not consider or pass a Bill before at least three working days have lapsed, since the committee's report was tabled;

- (a) unless it is a Bill before the House in terms of Rule 216 of the Joint Rules; or
- (B) an urgent Bill before the House.

### Legislative cycle

240.(1) All section 76 or 74(1),(2) and (3) Bills should be dealt with in a manner that will ensure that provinces have sufficient time to consider the Bill and confer mandates.

- (2) Depending on the substance of the Bill, the period may not exceed six weeks.
- (3) In the event that the substance of the Bill requires sufficient time beyond the six-weeks period, the cycle may be extended with the approval of the Chairperson of the Council.

### Withdrawal of a Bill

241. The person in charge of a Bill introduced in the Council may withdraw the Bill at any time before the Bill has been disposed of in the Council.



# CHAPTER 11

## QUESTIONS

### Part 1: General

#### Notice

242.(1) Except as otherwise provided in these Rules or with the prior consent of the Chairperson of the Council -

- (a) notice must be given of each question by placing it on the Question Paper;
  - (b) no question for oral reply may be asked on the day on which notice thereof is given.
- (2) A member who wants to give notice of a question must deliver to the Secretary for placement on the Question Paper a signed copy of the notice, indicating the day for the question.
- (3) A member may give notice of a question on behalf of an absent member, provided the member has been authorised to do so by the absent member.
- (4) A notice of a question which offends against the practice or these Rules may be amended or otherwise dealt with as the Chairperson may decide.
- (5) No question may be addressed to any person other than a member of the Cabinet.

#### Question days

243. The Chairperson of the Council, after consultation with the whips, must from time to time determine days and times for replies to oral questions.

#### Placing and arrangement

244.(1) Questions delivered to the Secretary before 12:00 on any day may appear on the Question Paper on the second working day thereafter and not earlier.

- (2) Subject to this rule, the Secretary must place the questions on the Question Paper in the order in which they are received.
- (3) Questions for oral reply must be dealt with in the following order:
  - (a) Questions to the President standing over from previous question days;
  - (b) new questions to the President;
  - (c) questions to the Deputy President standing over from previous question days;
  - (d) new questions to the Deputy President;





- (e) questions to Ministers standing over from previous question days; and
- (f) new questions to Ministers.

## PART 2: QUESTIONS FOR ORAL REPLY

### Period after notice

245. A question for oral reply may be placed on the Question Paper for reply on a question day at least 5 working days after the day on which it appears on the Question Paper for the first time.

### Form of question

- 246.(1) (a) A member who wants an oral reply to a question must distinguish it by an asterisk.
- (b) If the Chairperson of the Council is of the opinion that a question deals with matters of a statistical nature, the Chairperson may direct that it be placed on the Question Paper for written reply.
- (2) Questions for oral reply are limited to four questions per member per day.
- (3) A question for oral reply may not contain more than five subdivisions.
- (4) No more than six questions for oral reply may be put to a Minister in respect of any one Government department on any particular day.
- (5) If a member does not rise when a question for oral reply standing in that member's name comes up for reply, the question lapses unless the person who is to reply to the question elects to reply to the question or tables the reply.
- (6) The restrictions imposed by subrules (1)(b), (2), (3) and (4) do not apply to questions for written reply placed on the Question Paper for oral reply in terms of rule 239.

### Times allotted

- 247.(1) A sitting of the Council will be dedicated for oral questions.
- (2) The reply to a question for oral reply may not exceed five minutes.
- (3) The officer presiding may allow supplementary questions.
- (4) A member asking a supplementary question may not exceed two minutes.
- (5) The reply to a supplementary question may not exceed four minutes.

(6) Only four supplementary questions may be allowed per question.

(4) Written replies to questions for oral reply that have not been reached on the expiry of the time allotted and those portions of questions that have not been replied to at the expiry of the period of five minutes referred to in subrule (2), must be handed to the Secretary for inclusion in the official report of the Debates of the Council.

### PART 3: QUESTIONS FOR WRITTEN REPLY

#### Form of questions

248.(1) A question for written reply may not contain more than 15 subdivisions.

(2) Questions for written reply are limited to three per member in respect of any one working week.

#### Written reply not given

249. If the responsible Cabinet member has not replied in writing to a question within 10 working days of the day for which the question was set down for written reply, and the member in whose name the question stands so requests, the Secretary must place the question on the Question Paper for oral reply.

## CHAPTER 12

### MISCELLANEOUS

#### Part 1: Communication with the executive

##### Messages by the President

250.(1) The President may communicate with the Council –

- (a) by addressing the Council; or
- (b) by message.

(2) The Chairperson of the Council must –

- (a) present any message received from the President to the Council by reading it out at a meeting of the Council or by printing it in the Minutes of Proceedings; and if the message is to be considered by the Council, either interrupt the business of the Council and give precedence to the consideration of the message or place it on the Order Paper.



### Executive statement

- 251.(1) A member of the executive may make a factual or policy statement relating to government policy, any executive action or other similar matter of which the Council should be informed.
- (2) The time allocated for executive member making an executive statement in terms of subrule (1) may not exceed 20 minutes, except with the consent of the Council.
- (3) Whenever possible, a copy of an executive statement must be delivered to the members of the Council at or before the time that the statement is made in the Council.
- (4) After any executive statement has been made, the executive member concerned may, if applicable, table a background information.
- (5) Following any executive statement a member from each provincial delegation or were applicable a member of each of the party may comment on the executive statement.
- (6) Such comment shall not exceed three minutes per province and were applicable per party.

### Resolutions affecting the executive

252. Resolutions of the Council affecting the executive must be communicated to the President by the Secretary, and a response may be communicated to the member who initiated the resolution.

### Advice, recommendation or approval of the Council or a committee of the Council to the executive

- 253.(1) When the Chairperson of the Council receives a request for the advice, recommendation or approval, in terms of an Act of Parliament, of the Council or of a Council committee mentioned in the request on or of a matter so mentioned, the Chairperson must refer it to the relevant committee for consideration and report or to a committee established for the purpose of such consideration and report, as the circumstances may require.
- (2) The Secretary must supply to each member of the committee a copy of the request together with a notification of the referral.
- (3) The committee must adopt a report and submit it to the Chairperson for tabling.
- (4) In the case of a request for the advice, recommendation or approval of a committee, the Secretary must supply a copy of the report to the authority that made the request.


## PART 2: INTERVENTIONS

### National interventions in provinces

- 254.(1) Whenever the national executive intervenes in a provincial executive in terms of section 100 (1)(b) of the Constitution, the Cabinet member responsible for provincial affairs must submit a written notice of the intervention in the Council within 14 days after the intervention began.
- (2) The notice must be accompanied by a memorandum explaining the reasons for the intervention.
  - (3) The Chairperson of the Council must refer the matter to the appropriate committee of the Council.
  - (4) The Committee must –
    - (a) investigate whether or not the intervention was necessary;
    - (b) afford the provincial administration concerned and the national executive each the opportunity to state their case;
    - (c) confer with the select committee responsible for finance matters, if the intervention is for the purpose of maintaining economic unity;
    - (d) confer with the select committee responsible for security matters, if the intervention is for the purpose of maintaining national security; and
    - (e) report to the Council within 10 days of the report having been referred to it.
  - (5) The report of the Committee must –
    - (a) contain a recommendation whether or not the intervention should be approved; and
    - (b) be placed on the Order Paper for consideration.
  - (6) If the Council approves the intervention, the committee must on a continuous basis investigate whether or not it is necessary to continue the intervention, and report to the Council.
  - (7) The Council must review the intervention regularly and make any appropriate recommendations to the national executive.
  - (8) The Secretary must communicate any relevant resolution of the Council to the national executive, the Speaker of the provincial legislature concerned and to the Premier of the province concerned.

### Provincial interventions in local government

- 255.(1) Whenever a provincial executive intervenes in a municipality in terms of section 139(1) (b) of the Constitution, the provincial executive must submit a notice of the intervention in the Council within 14 days after the intervention began.
- (2) The notice must be accompanied by –
- (a) a memorandum explaining the reasons for the intervention.
- (3) The Chairperson of the Council must refer the matter to the appropriate committee of the Council.
- (4) The Committee must –
- (a) investigate whether or not the intervention was necessary;
  - (b) afford the municipality concerned and the provincial executive each the opportunity to state their case;
  - (c) confer with the select committee responsible for finance matters, if the intervention is for the purpose of maintaining economic unity; and
  - (d) report to the Council within 10 days of the matter having been referred to it.
- (5) The report of the Committee must –
- (a) contain a recommendation whether or not the intervention should be approved; and
  - (b) be placed on the Order Paper for consideration.
- (6) If the Council approves the intervention, the committee must on a continuous basis investigate whether or not it is necessary to continue the intervention, and report to the Council.
- (7) The Council must review the intervention regularly and make any appropriate recommendations to the provincial executive.
- (8) The Secretary must communicate any relevant resolution of the Council to the Speaker of the provincial legislature concerned and to the Premier of the province concerned.

### PART 3: CONTEMPT

#### Establishment

256. There is a standing committee in terms of section 12(2) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004



## Composition

- 257.(1) The committee consists of Council members appointed in such a manner that-
- (a) the majority party has three representative; and
  - (b) two members, each of whom must belong to a different minority party, represent the minority parties.

## Chairperson

- 258.(1) The Chairperson of the Council must appoint one of the members of the committee as the chairperson of the committee.
- (2) If the chairperson of the committee is not available the remaining members must elect another member to act as chairperson.

## Meetings

259. The chairperson of the committee convenes meetings of the committee.

## Functions and Powers

260. (1) The Chairperson of the Council may refer a matter to the standing committee.
- (2) The committee must enquire into and table a report in the House on its findings and recommendations in respect of any alleged misconduct or contempt of Parliament as defined in section 13 of the Act, by any member, except a breach of the Code of Conduct contained in the Schedule to the Joint Rules.
- (3) An enquiry by the committee must follow the procedure contained in the Schedule in the rules.
- (4) The committee must recommend an appropriate penalty in accordance with section 25(2) of the Act.
- (5) The committee must consider a request referred to it in terms of section 25(2) of the Act.
- (6) After receiving the request referred to in subrule (5), the committee must, without delay, forward a copy of the complain to the member or witness concerned, and thereafter consider the complaint.
- (7) In considering the complaint the committee may consider verbal or written representations by the member or witness concerned.



(8) After considering the complaint, the committee must issue an appropriate response in the A.T.C

### **Member adjudged guilty of contempt**

261. Any member adjudged guilty of contempt must be committed to the custody of the Usher by order of the Chairperson and dealt with as the Council may direct.

### **Fines**

262. The amount of a fine leviable under the Powers, Privileges and Immunities of Parliament and Provincial Legislature Act, 2004, for each of the offences mentioned therein, and for each offence referred to in these Rules or any resolution of the Council, must be determined in every case by an order or a resolution of the Council; but such fine may in no case exceed the equivalent of one month's salary and allowances payable to the member concerned by virtue of the Remuneration of Public Office Bearers Act, 1998, except where otherwise provided in the Act.

### **Recovery of fines**

263. All fines must be recovered by the Secretary and paid into Parliament's bank account.

### **Fines remitted and persons discharged**

264. A fine or a portion of a fine may be remitted or the commitment of any person may be discharged by order of the Council.

### **Complaints by persons other than members**

265. On receipt of a written complaint by a person, other than a member, regarding a statement or remark made by a member or a witness in or before the House or committee, or by a member of the House in or before a joint sitting or joint committee, the Secretary must refer the complaint to the Chairperson of the Council.

## **PART 4: WITNESSES**

### **Witness expenses**

266. Subject to the approval of the Chairperson of the Council, the Secretary may pay to witnesses a reasonable sum for travelling and attendance time and for transport expenses actually incurred.

  
**PART 5: OFFICE OF SECRETARY AND RECORDS OF COUNCIL****Minutes of proceedings**

267.(1) The Minutes of Proceedings of the Council must be noted by the Secretary, and after having been perused by the Chairperson of the Council, be printed and supplied to each permanent member.

- (2) Minutes of the proceedings of each committee and subcommittee must be noted by an official of Parliament designated by the Secretary, and after having been approved by the chairperson of the committee and subcommittee, be printed and supplied to each member of the committee and subcommittee.

**Journals of Council**

268. The Minutes of Proceedings, signed by the Secretary, constitute the Journals of the Council.

**Papers**

269.(1) The Secretary has custody of all papers tabled in the Council or submitted to committees of the Council.

- (2) Papers are open to all Council members and to all members of the public, but if the Council has ordered that the content of any paper may not be made public, or if it is marked as being confidential, neither the paper nor its contents may be divulged to anyone except a member.

**Submission of documentation to provinces**

270. The Secretary must submit to the Speaker of each provincial legislature, either through the post or by electronic means –

- (a) a copy of the printed Minutes of Proceedings of the Council;
- (b) all section 74 and 76 documentation tabled in the Council, within three days of tabling, unless another period is prescribed in terms of these Rules for any specific document; and
- (c) a copy of the minutes of each committee or subcommittee as approved by the chairperson of the committee and subcommittee, within three days of approval.

**General duties of Secretary**

271.(1) The Secretary is responsible for the regulation of all matters connected with the business of the Council, subject to the directions of the Chairperson of the Council.

- (2) The Secretary may authorise any staff member to exercise a power or perform a function vested in terms of these Rules in the Secretary.





## Annexure

### SCHEDULE

#### **Procedure to be followed in the investigation and determination of allegations of misconduct and contempt of Parliament**

##### **Notification to member**

1. A member charged with misconduct or contempt must receive written notice of all allegations and charges against him or her. The notification must be delivered to the member at least five working days before the hearing. The notice must also clearly indicate the date, time and venue of the hearing, that the member is entitled to be assisted by a fellow member and that the member may request the Committee to allow legal representation by a person who is not a member.
2. If it is not possible to serve the notice personally on the member, the Sheriff may be requested to serve such notice.

##### **Outside legal representation**

3. In unusual complex cases involving complicated evidence or legal issues where the Committee is of the view that such legal representation might be essential for a fair hearing, the Committee may allow the member charged to be represented by a legal counsel who is not a member.

##### **Explanation by member**

4. If the member wishes to give an explanation after receiving the notice, he or she may do so either verbally or in writing. Such explanation may also be presented at the hearing.

##### **Initiator**

5. The Committee must nominate a member or a person who is duly qualified, but who is not a member of the Committee, to act as the initiator for the duration of the hearing. The initiator presents the evidence regarding the allegations and may cross-examine the member and any witness giving evidence on behalf of the member. At the conclusion of the hearing, the initiator may address the Committee on the evidence presented before it and may also propose a penalty to be recommended by the Committee in its report.

##### **Plea to charge**

6. The initiator must put the charge to the member and the Chairperson must request the member to plead to the charge(s). If the member so wishes, he or she can also give a plea explanation. If the member refuses to enter a plea, the Chairperson must enter a plea of not guilty.


## Hearing

7. The member has a right to be present at the hearing. The Committee, initiator and the member may call witnesses and these witnesses may be questioned by the Chairperson, initiator or the member, either directly or through the fellow member. Members of the Committee may also put questions to the member, but only through the Chairperson or with the permission of the Chairperson. After all the witnesses have been called, the member or fellow member may sum up the evidence and make a presentation to the Committee.
8. If after receiving the notice, the member fails, without just cause, to attend the hearing, the Committee may proceed in the absence of the member.

## Penalty

9. If the Committee finds the member guilty of misconduct or contempt, the member or fellow member must be given an opportunity to present mitigating factors to the Committee before the Committee reports to the House. Such representation may be verbal or in writing. The initiator may also address the Committee on aggravating or other factors.

## Suspension of member

10. In order to facilitate an investigation in terms of section 12 of the Powers, Privileges and Immunities of Parliament and Provincial Legislature Act, 2004 against a member in circumstances where there is a possibility that the member may interfere with evidence or witnesses or in circumstances where the allegations are of a very serious nature, the Chairperson of the Council may request the House to suspend the member. Such suspension may be with or without remuneration and may not be for longer than 14 days. A member who has been suspended must leave the parliamentary precinct, and may not, during the period of suspension, without the permission of the Chairperson –
  - **Enter the precinct of Parliament for whatever purpose; or**
  - **Participate in any activity of Parliament or any committee.**
11. The Chairperson of the Council must in writing inform the member of the suspension prior to it taking effect.





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