

NATIONAL COUNCIL OF PROVINCES



Celebrating
20 years
of the Constitution and
20 years since
the establishment of the NCOP

Induction programme: SALGA members
03 & 04 October 2017
LAWMAKING PROCESS IN THE NCOP

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THE MANDATE OF THE COUNCIL

- ▶ Represents the interests of the provinces in the national sphere of government
- ▶ Participates in the national legislative process
- ▶ Provides national forum for consideration of issues affecting provinces

Section 42(4)

LEGISLATIVE POWERS

Legislative powers of the NCOP:

- ▶ Consider
- ▶ Pass
- ▶ amend section 76 bills,
- ▶ propose amendments to sections 75 and 77 bills,
- ▶ reject any legislation, or
- ▶ initiate legislation falling within the functional area of concurrent competence (Schedule 4)
- ▶ May not initiate money bills - only the Minister of Finance may initiate money bills

HOW LEGISLATION COMES ABOUT

What informs legislation...?

- ▶ Political party policies
- ▶ Election manifestos
- ▶ Submissions by and pressure from interested citizens, community groups
- ▶ Suggestions from Members of Parliament

HOW LEGISLATION COMES ABOUT

What role is played by state departments...?

- ▶ The state department under whose jurisdiction the matter falls, is responsible for the initial drafting of Bill
- ▶ Officials submit the draft Cabinet memorandum and draft Bill to the Minister for approval
- ▶ Sometimes the draft Bill is published for comment before submission to Cabinet for approval

HOW LEGISLATION COMES ABOUT

What role is played by state departments...?

- ▶ Minister submits Cabinet memorandum together with draft Bill to Cabinet for approval
- ▶ Once Cabinet has given its approval, the Bill is handed to State Law Advisers to finalise drafting thereof

HOW LEGISLATION COMES ABOUT

What is the initial role of Parliament and parliamentary staff...?

- ▶ Draft Bill is submitted to Presiding Officers in terms of Joint Rule 159
- ▶ Draft Bill is referred to the JTM
- ▶ Draft Bill is referred to committees

TAGGING OF BILLS

- ▶ Joint Tagging Mechanism (JTM) is responsible for final classification (tagging) of Bills
- ▶ JTM consists of the Speaker, Deputy Speaker, Chairperson of the NCOP and Permanent Deputy Chairperson of the NCOP
- ▶ JTM can classify a Bill into one of the following: s74, s75, s76, s77 or that a Bill is constitutionally or procedurally out of order

TYPES OF LEGISLATION

There are 4 types of bills...

- ▶ Section 74 Bills (Bills amending the Constitution)
- ▶ Section 75 Bills (Ordinary Bills not affecting provinces)
- ▶ Section 76 Bills (Ordinary Bills affecting provinces)
- ▶ Section 77 Bills (Money Bills)

TYPES OF SECTION 76 LEGISLATION

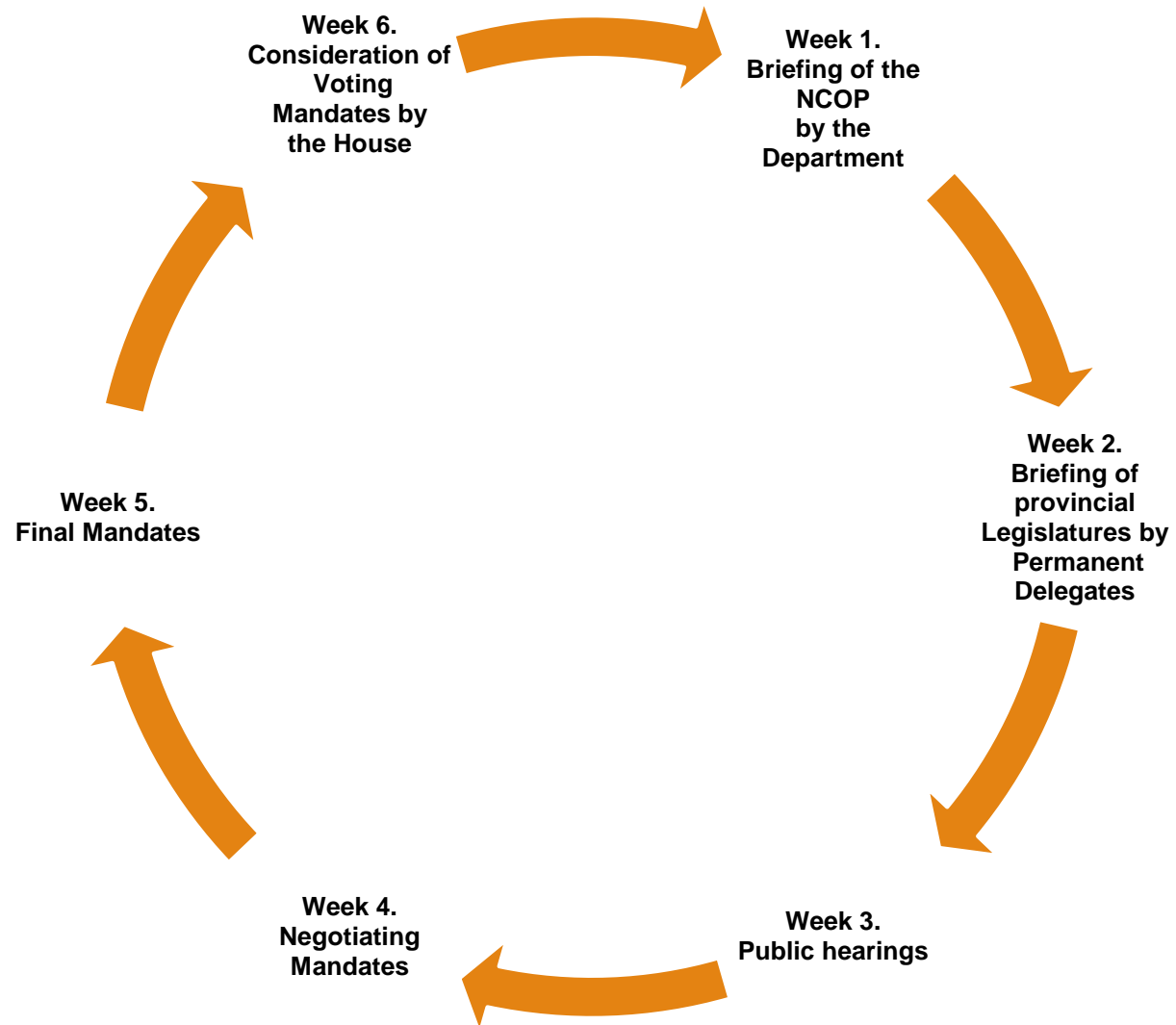
Section 76 (1)

- ▶ Bill introduced in the National Assembly
- ▶ Referred to respect Portfolio Committee

Section 76(2)

- ▶ Bill introduced in the National Council of Provinces
- ▶ Referred to respective Select Committee

COUNCIL PROCESS: SECTION 76



PROVINCIAL MANDATES

What is provincial mandate...?

- ▶ Authority by the provincial legislature on the delegation to cast votes on their behalf

PROVINCIAL MANDATES

Types of mandates...

- ▶ Negotiating mandate
- ▶ Final mandate
- ▶ Voting mandate

PROVINCIAL MANDATES

When are mandates required ?

- ▶ Sec... 64 of the Constitution
- ▶ Sec... 74 of the Constitution
- ▶ Sec... 76 of the Constitution
- ▶ Sec... 78 of the Constitution

MANDATING PROCEDURES OF PROVINCES ACT

Who can vote on behalf of the Province ?

- ▶ A Premier / delegate designated by the Premier

DECISIONS

Section 76

- ▶ each province has one vote cast by the head of delegation at least five provinces must vote in favour
- ▶ Section 65

Section 74

- ▶ each province has one vote cast by the head of delegation at least five provinces must vote in favour
- ▶ however, there are exceptions e.g amendments to section 1, Chapter 2 (i.e bill of rights) etc, requires at least six provinces to vote in favour

Sections 75 and 77

- ▶ each delegate has one vote
- ▶ at least one third of members must be present - decided by the majority of the votes cast

THE END

THANK YOU!!

QUESTIONS / COMMENTS