

Monday, 25 March 2024]

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PARLIAMENT

OF THE

REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

MONDAY, 25 MARCH 2024

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ANNOUNCEMENTS

National Assembly and National Council of Provinces

The Speaker and the Chairperson

1. Draft Bills submitted in terms of Joint Rule 159

- (1) **Immigration Amendment Bill, 2024**, submitted by the Minister of Home Affairs.

Referred to the **Portfolio Committee on Home Affairs** and the **Select Committee on Security and Justice**, for information.

National Assembly

The Speaker

1. Referral to Committees of papers tabled

- (1) The following paper is referred to the **Portfolio Committee on Home Affairs** for consideration and report:
- (a) Annual Performance Plan of the Electoral Commission for 2024/25.
- (2) The following paper is referred to the **Joint Standing Committee on Financial Management of Parliament** for consideration:
- (a) Monthly Financial Statements of Parliament – February 2024, tabled in terms of section 54(1) of the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No. 10 of 2009).
- (3) The following paper is referred to the **Portfolio Committee on Higher Education, Science and Innovation** for consideration:
- (a) Report on the Performance of the Research and Development Tax Incentive Programme for 2021-22.
- (4) The following paper is referred to the **Portfolio Committee on Home Affairs**:

- (a) Agreement between the Government of the Republic of South Africa and the Government of the Republic of Togo on Exemption of Visa Requirements for Holders of Diplomatic and Official Passports, tabled in terms of section 231(3) of the Constitution of the Republic of South Africa, 1996.
 - (5) The following papers are referred to the **Portfolio Committee on Justice and Correctional Services** for consideration and report:
 - (a) Annual Performance Plan of the Department of Correctional Service for 2024/25.
 - (b) Report dated 15 March 2024, on the suspension/removal from office on account of continued ill-health of Ms N B Dyeyi, Magistrate, Fauresmith, Free State in terms of section 13(4)(b) of the Magistrates Act, 1993 (Act No. 90 of 1993).
 - (6) The following paper is referred to the **Portfolio Committee on Public Works and Infrastructure** for consideration and report:
 - (a) Annual Performance Plan of the Department of Public Works and Infrastructure for 2024/25.
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TABLINGS

National Assembly and National Council of Provinces

1. The Minister of Higher Education, Science and Innovation

- (a) Annual Performance Plan of the Department of Science and Innovation for 2024/25.
- (b) Annual Performance Plan of the Academy of Science of South Africa for 2024/2025.
- (c) Shareholder's Compact of the Council for Scientific and Industrial Research for 2024/25.
- (d) Annual Performance Plan of the Human Science Research Council for 2024/25.
- (e) Annual Performance Plan of the National Advisory Council on Innovation for 2024/2025.
- (f) Annual Performance Plan of the National Research Foundation for 2024/25.
- (g) Annual Performance Plan of the South African Council for National Scientific Professions for 2024/25.
- (h) Annual Performance Plan of the South African National Space Agency for 2024/25.

- (i) Annual Performance Plan of the Technology Innovation Agency for 2024/25.

2. The Minister of Transport

- (a) Revised Annual Performance Plan of the Department of Transport for 2023/24.
- (b) Revised Annual Performance Plan of the Cross-Border Road Transport Agency (C-BRTA) for 2023/24.
- (c) Revised Annual Performance Plan of the Driving Licence Card Account Trading Entity for 2023/24.

National Assembly

1. The Speaker

- (a) First Report of the National Assembly Rules Committee 2024 (Rule amendment and Guidelines for Petitions).

National Assembly

1. The Speaker

(1) First Report of the National Assembly Rules Committee 2024.

FIRST REPORT OF NATIONAL ASSEMBLY RULES COMMITTEE (RULES COMMITTEE) ON RULE AMENDMENT AND GUIDELINES FOR PETITIONS, 2024

Following its meeting of 20 March 2024, the Speaker of the National Assembly, as Chairperson of the National Assembly Rules Committee, presents the First Report of the Rules Committee for 2024 as follows:

1. Amended rule on lodging of petitions

The Rules Committee recommends an amendment to Rule 347 (Lodging of petitions) for consideration by the Assembly as follows:

347. Lodging

- (1) A petition must be lodged by a member of Parliament or member of the public with the Secretary for tabling by the Speaker and must be signed at the beginning thereof by the member or member of the public.
- (2) A member of Parliament may not lodge a petition on his or her own behalf, but such a petition may be lodged by another member.

In terms of the rule amendment, a member of the public would also be able to lodge a petition with the Assembly, which is currently not the case.

2. Guidelines for Petitions

The Constitution (1996) provides that the National Assembly or any of its committees may receive petitions from any interested persons or institutions. Over the years, the institution has seen a significant rise in the number of petitions. There have also been complaints that Parliament takes a considerable amount of time to process petitions. In this context, Parliament has been looking at ways to enhance the processing of

petitions, including the relevant procedures. The guidelines will ensure compliance with the rules on petitions and seek to guide petitioners.

In terms of Assembly Rule 344, petitions must be in the form prescribed by the Speaker in accordance with guidelines determined by the Rules Committee.

The Rules Committee recommends the following guidelines for consideration by the Assembly:

Formal Requirements

A petition must -

- a) Comply with Assembly Rules 345 – 347;
- b) Include the name/s and contact detail/s of the petitioner/s;
- c) Be legible;
- d) Not contain improper or disrespectful language;
- e) Contain any supporting documents on the issue raised by the petitioner(s); and
- f) Indicate the nature of the relief (assistance) asked from the Assembly.

Substantive Requirements

A petition must -

- a) Request action where the House, national government or Minister has the authority to intervene;
- b) Not have been considered by the Committee previously, except if that petition, in the opinion of the Committee contains new information that may materially impact on the outcome of re-consideration of the matter;
- c) Not be in respect to a matter that a petitioner has not yet brought to the attention of a relevant body or if the petitioner has brought it to the attention of the relevant body, the relevant body has not been afforded reasonable time to consider the matter;
- d) Not concern a matter pending in a court of law, tribunal, forum, investigative institution or body contemplated within the Constitution or any other law;

- e) Not be in connection with the conviction and sentencing of a person by a criminal court or judgment made by a civil court of law;
- f) Not seek to review or overturn the proceedings of judgment of a competent court; and
- g) Should not deal with a matter that is already before the Assembly.

Report to be considered.

- (b) Supplementary Report of National Assembly Rules Committee on Government Assurances, House Resolutions and Study Tour to UK



National Assembly

1. The Speaker

(1) Supplementary Report to First Report of the National Assembly Rules Committee, 2024.

SUPPLEMENTARY REPORT TO FIRST REPORT OF NATIONAL ASSEMBLY RULES COMMITTEE (RULES COMMITTEE), 2024

Following its meeting of 20 March 2024, the Speaker of the National Assembly, as Chairperson of the National Assembly Rules Committee, presents the Supplementary Report to the First Report of the Rules Committee for 2024 as follows:

1. Government assurances and monitoring of House resolutions

The Rules Committee recommends a model for the Assembly to follow up with government assurances made by Ministers from the floor of the House. Members will be aware that Ministers do undertake to respond to issues raised by members during debates, in reply to statements and questions. In this regard, the Rules Committee has agreed that a record be maintained of these undertakings and that they be referred to the relevant oversight committee by the Speaker. This will therefore serve as another avenue for Parliament to hold the Executive to account. As another initiative, the Rules Committee endorsed a system to monitor the implementation of House resolutions. The Assembly can now expect regular reports on the status of compliance with these resolutions.

2. Rules for amending government budgets

Another matter on which the Rules Committee pronounced itself was the rules required for the Assembly to fully participate, and potentially amend, government budgets. The Money Bills Amendment Procedure and Related Matters Act, 2009 (Act 9 of 2009) as amended, has been in place for a number of years but certain processes in the Act required further elucidation. Draft rules have since been prepared and sent to the respective committees for political inputs. The intention is to finalize these rules before the end of the Sixth Parliament.

3. Physical removal of members from Chamber

The Committee received a report from the Subcommittee on Physical Removal of Member from Chamber relating to an incident on 21 February 2024, where several members of the Assembly were physically removed from the Chamber in terms of the rules. The Rules Committee agreed that the principle of the ruling by the presiding officer was correct and in line with the relevant rules. The Committee felt that Rule 112 which deals with the barring of the doors when voting occurs, should be re-looked at in circumstances where disruptions occur after the doors have been barred as the rules do not provide for such occurrences at the moment.

4. Study tour to United Kingdom

The last matter concerns a study tour that was undertaken in 2023 to the United Kingdom in order to assess how the Parliament of Westminster oversees the office of the Prime Minister. This arose in response to a proposal that the Assembly consider the possibility of a committee to scrutinize the Presidency. This study tour provided invaluable insights into international practices. Based on the engagements, the Rules Committee noted that, while the Assembly already has comprehensive procedures to facilitate oversight, it must remain proactive and receptive to reform. The report also suggested that, in the case of the Presidency, the Seventh Parliament consider which committee would be best placed to scrutinize the budget of the Presidency.

Report to be considered.

- (c) Report of the Powers and Privileges Committee on allegations of conduct constituting contempt of Parliament by members of the National Assembly during debate on Budget Vote 1 – The Presidency on 9 & 10 June 2022.

Report of the Powers and Privileges Committee on allegations of conduct constituting contempt of Parliament by members of the National Assembly during debate on Budget Vote 1 – The Presidency on 9 & 10 June 2022

A. Background

- 1) On 2 September 2022, the National Assembly Rules Committee (the Rules Committee) adopted the Report of the Subcommittee on Physical Removal of Member from Chamber (the Subcommittee) and agreed with its recommendation that the Report be referred to the Powers and Privileges Committee (the Committee) for investigation and report. The Committee was asked to inquire whether the conduct of the affected members on 9 and 10 June 2022 amounted to contempt of Parliament in terms of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act No 4 of 2004) (the Act).
- 2) The Subcommittee's Report noted that during the sittings of the National Assembly on 9 and 10 June, on Budget Vote 1 – The Presidency, several members of the Assembly were physically removed from the Chamber in terms of the Assembly Rules. According to Rule 73(12), whenever a member has been physically removed from the Chamber in terms of this rule, the circumstances of such removal must be referred by the Speaker to the Subcommittee for its consideration.
- 3) The members who were physically removed on 9 June 2022 were:
 - Hon E N Ntlangwini
 - Hon A Matumba
 - Hon W T I Mafanya
 - Hon N Tafeni
 - Hon B Mathulelwa
- 4) On 10 June 2022, the following members were physically removed:
 - Hon P Marais
 - Hon N N Chirwa
 - Hon S Tambo
 - Hon B Mathulelwa
 - Hon N Tafeni
 - Hon M K Montwedi
 - Hon E N Ntlangwini
 - Hon Y N Yako
 - Hon P Madokwe

- Hon B S Madlingozi
- Hon A Matumba
- Hon C N Mkhonto

- 5) The Report noted that the affected members disregarded the authority of the Chair when they were called to order by the Speaker for their grossly disorderly conduct, the invasion of the floor of the Chamber by a member, the physical interference with the Serjeant-at-Arms while carrying out an instruction of the Speaker and the throwing of water bottles by members at staff.
- 6) The Subcommittee found that there was sufficient evidence, based on the unrevised Hansard, the video footage, the Minutes of Proceedings of the National Assembly, and the Speaker's report that the members who had been physically removed from the Chamber had violated the Assembly Rules and the Act.

B. Consideration of the matter by the Powers and Privileges Committee

- 1) In terms of Assembly Rule 214, the Committee must deal with a contempt matter in accordance with the procedure in the Schedule to the Rules of the National Assembly (the Schedule) and must table a report in the Assembly on its findings and recommendations. If the Committee finds a member guilty of contempt, it must recommend an appropriate penalty from those contained in section 12(5) of the Act.
- 2) On 21 April 2023, the Committee met to consider the matter and resolved that as per Item 5 of the Schedule, a duly qualified person who is not a member of the Committee should be appointed as an initiator for the hearings on the matter. The role of the initiator is to present 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 to it and may propose an appropriate penalty to be recommended by the Committee in its report.
- 3) Advocate Tanya Golden was appointed as the Initiator and Advocate Penny Magona-Dano was appointed as her junior.

C. Notices of the hearings and charges served on the affected members

- 1) In line with the provisions of the Schedule, the affected members were informed that they were entitled to be assisted by a fellow member or could request the Committee to allow them legal representation by a person who was not a member. Any such legal representation would be at the cost of the affected

members. The members, through their attorneys, requested to be allowed legal representation, which the Committee agreed to.

- 2) The notices of hearings and charges preferred against the affected members were served on the members and their attorneys on 22 September 2023. Furthermore, the affected members were notified that if they wished to give an explanation after they had received the notices, they were free to do so either orally or in writing at the hearings.
- 3) The hearings were initially held on 15 and 16 January 2024, and subsequently on 12 and 14 March 2024.
- 4) The charges preferred against the members were that their conduct constituted contempt of Parliament in terms of section 13(c) and 13(d)(i) of the Act, in that as a member of Parliament and during the sitting of the National Assembly convened on 9 June 2022 for the purposes of the President, Mr Cyril Ramaphosa, to address the National Assembly on his Budget Vote they breached the Act and the rules of the National Assembly.
- 5) The members charged for the incident of 9 June 2022 were:
 - Ms E N Ntlangwini;
 - Ms B Mathulelwa;
 - Ms W T I Mafanya; and
 - Mr A Matumba.

(See Annexure A for the charges preferred against the members)

- 6) The charges preferred against 10 members for their conduct on 10 June 2022, during the debate on Budget Vote 1 – the Presidency, were that they breached the Act and the Rules of the Assembly, and thereby committing contempt of Parliament.
- 7) The members charged for the incident of 10 June were:
 - Hon P Marais
 - Hon N N Chirwa
 - Hon S Tambo
 - Hon B Mathulelwa
 - Hon N Tafeni
 - Hon M K Montwedi
 - Hon E N Ntlangwini

- Hon Y N Yako
- Hon A Matumba

(See Annexure B for charges preferred against the members)

- 8) Charges that were preferred against Ms Mkhonto were not proceeded with due to her being mistakenly identified as Ms Mokgotho, who had resigned from Parliament. It was subsequently confirmed that Ms Mkhonto was not in the Chamber on 10 June 2022. And Ms Tafeni had also resigned.

D. APPLICATION FOR POSTPONEMENT OF HEARING

- 1) Before the charges were put to the members, the legal representative of the affected members, Advocate ka-Siboto, requested and was given an opportunity to raise points *in limine*. He stated that he was repeating arguments Advocate Ngcukaitobi had made in a previous hearing related to a different matter. He suggested that there were challenges with the processes of the Committee. It was their contention that the Speaker should have been called to give evidence in the proceedings and to be cross-examined by his clients on her rulings on the days in question.
- 2) He suggested that the alternative to the Speaker not giving evidence before the Committee was to let Part B of their high court application run its course first and the court must then decide whether the Speaker must give evidence to the Committee. That meant that the proceedings should be postponed pending the finalisation of the court proceedings.
- 3) The second point in limine was that as a matter of law it was untenable to have the political opponents of the EFF deciding their fate. The ANC and DA had an interest in the matter as political opponents of the EFF.
- 4) He argued that there would be no prejudice to the Committee if it were to postpone the proceedings until Part B had been completed, which was anticipated to be completed by February, March, or April.
- 5) Advocate Golden noted that although Advocate ka-Siboto had prepared a written submission for his *in limine* points, which he had addressed to the Committee, he had not made her aware and neither was she informed by the EFF's legal team that they would take legal points *in limine*, and neither was she given a copy of the written submission.

- 6) She placed on record that it would have been appropriate to warn her of that and also to send her the submission ahead of the hearing so that she was not taken by surprise.
- 7) She reminded the Committee that several of Adv ka-Siboto's points, or submission were made to the Committee at the hearing related to the incident of 30 August 2022. That hearing was finalised on 14 December 2023.
- 8) The charges were put to the affected members in relation to their conduct on 9 and 10 June 2022. They all pleaded not guilty to the charges preferred against them.
- 9) On the issue of the Speaker giving evidence and being cross-examined, she had indicated previously, including in correspondence, that they did not intend to call the Speaker to prove the charges or allegations against the affected members. The reason for that was quite simply the evidence of the Speaker was not required to prove the charges against the affected members. They would rely largely on the video recording of the incidents of 9 and 10 June. Furthermore, she would lead the evidence of Mr Xaso, who was the sole witness she would call and the affidavits of other witnesses whom she did not intend to call.
- 10) In relation to the request to postpone the hearing in order to allow for the Par B application to run its course, she indicated that the judge in the interdict application by the affected members dismissed it and gave a go ahead for the hearings to proceed. The issue of the Speaker was also a central issue in the interdict application, and it was dismissed. In her view, there was absolutely no basis in law or for any other reason for the Committee to suspend the hearing and postpone it in order to allow for the Part B review application to proceed in the High Court.
- 11) She cautioned that practically speaking if the proceedings of the hearing were to be postponed then it would mean that the review application would run at its own pace and on its own time. No one had an idea when that application would be finally determined.
- 12) The Committee concurred with the view that it had not been interdicted from proceeding with the hearing and therefore the hearing should proceed. Furthermore, the Committee was of the view that at that stage there was no need for the Speaker to be called to give evidence. As regards the composition of the Committee, members confirmed that committees were constituted in terms of the principle of proportional representation and to date there had been no finding by a court against the Rules of the Assembly. Dr Ndlozi agreed with the legal representative of the affected members that it would be fair to allow

the matter to stand down until the review application had been concluded by the court.

E. Summary of evidence presented to the Committee

- 1) Before proceeding to call her first and only witness, the initiator indicated that the evidence of commissioned affidavits of Mr M Xaso, the Secretary to the National Assembly, Mr T Maleeme, the Acting Serjeant-at-Arm, Mr N Stander, the Control Language Practitioner, Ms L Ann Bryan, the Control Language Practitioner, Mr S Makana, Chamber Support Officer, and Mr T Meko, the Manager of Parliament's Broadcasting and Technical Support Unit would be submitted at the appropriate time.
- 2) The legal team of the affected members had no objection to the submission of the technical affidavits of Messrs Meko, Stander, and Ms Ann-Bryan. As regards the rest of the affidavits, the legal team of the affected members indicated that they would decide that based on the evidence to be given by Mr Xaso on whether the officials who deposed to those affidavits should be called to give evidence.
- 3) After the charges were put to the members, the initiator called her only witness, Mr M Xaso, the Secretary to the National Assembly to give evidence concerning the charges put to the affected members. Mr Xaso is the Chief Advisor on matters of parliamentary procedure in the Assembly. He plays that role in relation to joint sittings, Assembly sittings and committees of the House or joint committees of the two Houses. He has the responsibility to ensure that proceedings run smoothly in accordance with the Constitution, the rules, parliamentary procedure and practice, and any applicable law.
- 4) He stated that administratively, he reports to the Secretary to Parliament, and in relation to House duties and matters of procedure in the House he works directly with the Speaker.
- 5) In his evidence, Mr Xaso stated that he was present at the sittings of the Assembly on 9 and 10 June 2022 and had played an advisory role with regard to the proceedings. The sittings were convened to debate Budget Vote 1 – The Presidency. The programme of the House had been determined beforehand by the National Assembly Programme Committee. The item would have been discussed at the weekly meeting of the Chief Whips' Forum and finalised by the Programme Committee. It was standard practice that orders of the House were decided beforehand by the Programme Committee.
- 6) He recalled the events of that day as they were shown in the video footage. To give context to how matters panned out on those days, he explained the

procedure that is followed when a member has to be removed from the Chamber, which is found mainly in Rule 70. The rule is applied by a Presiding Officer when a member refuses to abide by the instructions of the Presiding Officer, or the member is acting in a disorderly manner. When a member acts in such a manner, the Presiding Officer may order the member to leave the Chamber. If the member refuses to leave, the Presiding Officer may instruct the Serjeant-at-Arms in terms of Rule 73 to remove the member from the House. If the Serjeant-at-Arms fails to remove the member, the next step would be for the Speaker to call upon the Parliamentary Protection Services to remove the member from the Chamber.

- 7) There was an expectation that members would not interfere with the removal of their colleagues from the Chamber. The rules state that in the event of such interference, the Speaker may order the members to be removed from the Chamber forthwith. Once the removal had taken place, the circumstances of that removal must be reported to the Subcommittee on Physical Removal of Member from Chamber, which was a Subcommittee of the Rules Committee. The Subcommittee reports to the Rules Committee, which deliberates and takes a decision on the processing of the report, specifically its recommendations. With regard to the matter before the Committee, the Rules Committee had agreed with the Subcommittee's report that the members' conduct be referred to the Committee for investigation and report.
- 8) Regarding the incident of 9 June 2022, Mr Xaso identified Mr Matumba, Ms Ntlangwini, Ms Tafeni, Mr Mafanya and Ms Mathulelwa on the video footage as members who were physically removed from the House on that day.
- 9) He testified that the affected members spoke without being recognised, insisted on making unparliamentary and abusive remarks about the President, refused to withdraw unparliamentary remarks such as money launderer. When the members refused to leave the Chamber as directed by the Speaker, the Speaker called upon the Serjeant-at-Arms to remove the members, but they refused to leave. The Speaker then directed the Parliamentary Protection Services to remove the members. He noted that Mr Matumba and Ms Mathulelwa physically resisted to be removed from the House.
- 10) With regard to the events of 10 June 2022, he identified Ms Marais, Ms Chirwa, Ms Ntlangwini, Ms Mathulelwa, Ms Tafeni, Ms Yako, Mr Tambo, Mr Montwedi, and Mr Matumba as the members who were physical removed on that date.
- 11) He stated that the authority of the Speaker included maintaining the decorum of the House by ensuring that there was strict observance of the Assembly Rules. The Speaker was vested with the power and authority to deal with points of

order, and to rule on them. Her rulings and that of other Presiding Officers were final and may not be challenged. A member who felt aggrieved by a ruling, could request that the ruling be referred to the Rules Committee for consideration and report. In considering the ruling, the Rules Committee must confine itself to the principle or subject of the ruling and not the ruling itself which was final.

- 12) At the sitting of 9 June, members spoke without being recognised and persisted in speaking although ordered to take their seats, made similar points of order that had been ruled out order by the Speaker, refused to withdraw unparliamentary remarks they had made and were asked to withdraw, refused to leave the Chamber when they had been asked to do so by the Speaker, refused to leave the Chamber when requested by the Serjeant-at-Arms to assist them to leave as instructed by the Speaker. They had to be removed by the PPS. Some members violently resisted to be removed or interfered with the PPS who had been instructed to remove members from the Chamber.
- 13) When Ms Chirwa refused to leave the House as ordered by the Speaker, the Speaker directed the Serjeant-at-Arms to remove Ms Chirwa, but Mr Tambo interfered with the Serjeant-at-Arms from carrying out the Speaker's instructions. At that point, the Speaker ordered the PPS to remove Mr Tambo forthwith as he was in breach of Rule 73(5). He was forcibly removed from the Chamber as he was resisting being removed. Ms Chirwa violently resisted being removed by the PPS, who had to use reasonably necessary force to remove her.
- 14) Ms Mathulelwa was observed in an exchange and resistance with the members of the PPS. She was trying to prevent Ms Chirwa from being physically removed from the Chamber. Ms Mathulelwa and Ms Tafeni were instructed to leave the House for obstructing the removal of a member. Ms Mathulelwa also crossed the floor of the House, which is not permitted in term of Rule 64(d).
- 15) The Speaker had great difficulty in restoring order and maintaining the decorum of the House and the affected members contributed to the disruption and delayed the business of the House. The Speaker made various rulings before she ordered the members to leave the House, which they refused to do.
- 16) The Speaker had no choice but to ask the members to leave the House in order to restore order to the proceedings. When they refused to do so, she asked the Serjeant-at-Arms to assist the members to leave the House. When they still refused to heed the Serjeant-at-Arm's request to leave as ordered to do so by the Speaker, the Speaker then had to call the Parliamentary Protection Services to remove the affected members.

- 17) Lastly, Ms Yako and Mr Mafanya were ordered to leave the House but refused. The Serjeant-at-Arms was instructed to assist them to leave the House, but they still refused to do so. The Parliamentary Protection Services had to be called in and escort them out of the House.
- 18) Adv ka-Siboto requested Mr Xaso to briefly restate what happens when a member has been physically removed from the House. He stated that the circumstances of the removal of the member is referred to the Subcommittee on Physical Removal of Member from Chamber. The Subcommittee would then meet and express itself on the circumstances that led to such a removal. It would look at the conduct of the member concerned, the ruling of the Presiding Officer, and the manner in which the member was removed. The relevant and applicable rule in such circumstances is Rule 73.
- 19) At the conclusion of its deliberations, the Subcommittee reports to the Rules Committee. The Rules Committee considers the report and decides what ought to happen to the report and its recommendations. If the Rules Committee is of the view that the matter should be considered by the Committee, it refers it to the Committee for investigation and report. The House makes the ultimate decision on matters referred to the Committee.
- 20) Adv ka-Siboto sought to imply that the Committee was both a complainant and a judge in the matter before it as it first applies its mind on whether a member must be charged or not, and then sits in judgment on whether a member is guilty or not. Mr Xaso responded that it was up to the Committee to answer that question.
- 21) Mr Xaso disagreed with the notion that the Committee may have preconceived ideas of guilt or not of the affected members just because they formed an opinion that the members had a case to answer based on the initial evidence before it as submitted by the Presiding Officer, the report of the Subcommittee, unrevised Hansard and the video footage. He pointed out that there had been cases where the Committee had decided that there was no basis to charge members. One such case related to the SONA of 2020.
- 22) Adv ka-Siboto pointed out that the Committee had charged a member who was not in the House on the day in question, i.e. 10 June, and that member was Ms Mkhonto. Mr Xaso indicated that if they had misidentified Ms Mkhonto, he would concede that after verification. Furthermore, he agreed that if it was not Ms Mkhonto who was removed from the Chamber on that day, she would have been improperly charged. But that was his personal opinion as it was up to the Committee to make that determination.

- 23) It was put to Mr Xaso that the Speaker was not always consistent in applying the rules. In some instances, she would merely ask members to desist from whatever impermissible conduct they were engaged in, but in others she would ask them to withdraw from the House. He responded that it was not always necessary to caution members as it was not required by the rules. It would depend on the nature of the transgression. If it was considered a minor incident, a caution would sometime be sufficient, but it was not a requirement.
- 24) With regard to the physical removal of members who were alleged to have interfered with the removal of a colleague, Advocate ka-Siboto noted that the Speaker did not follow the procedures prescribed by Rule 73, which required that the member must first be ordered to leave the Chamber, if he or she refuses, the Serjeant-at-Arms must be requested to remove the member. Mr Xaso responded that Rule 73(5) and (6) provides that a member who interferes with the removal of a member may be removed from the Chamber forthwith. The Rules do not suggest that the Serjeant-at-Arms must first be called.
- 25) Mr Xaso explained repeatedly that there was a procedure for members who felt aggrieved with a ruling of a Presiding Officer, which was to write to the Speaker and request that the principle or subject matter of the ruling be referred to the Rules Committee.
- 26) Adv ka-Siboto called his only witness, Mr Tambo, to give evidence on his behalf and that of some other members. Mr Tambo contested that he not supposed to was treated without courtesy before he was removed from the House. He was of the view that he should have been asked to leave the House. He indicated that the Serjeant-at-Arms was not asked to assist him to leave the House.
- 27) Mr Tambo testified that he had stood up when the Serjeant-at-Arms came to remove Ms Chirwa and that he interacted with him on the basis that there could not be another situation where female members could be removed by male members of the PPS. In his view, he wanted that to be related to the Speaker. He had no intention to interfere with the staff member but to raise an objection regarding males removing female members.
- 28) During cross-examination, Mr Tambo admitted that after an order was made by the Speaker for Ms Chirwa to be removed from the Chamber, he exchanged chairs with Ms Chirwa from sitting to her right and then to her left. He also admitted that he interacted with the Serjeant-at-Arms that the ruling of the Speaker may not be effected by a male, and had to be effected by a female member of the PPS.
- 29) He furthermore admitted that the Serjeant-at-Arms did not proceed to remove Ms Chirwa after his interaction with him. Mr Tambo also stated that he was

aware that the Serjeant-at-Arms did not have the power to act on his own, but on the Speaker's instruction.

- 30) Mr Tambo admitted that he had observed the Serjeant-at-Arms approach a member ordered to leave the House speaking respectfully to the member and then return to the Speaker. It was only then that the PPS staff would be called by the Speaker to remove a member.

F. Findings of the Committee

- 1) Having engaged with the evidence presented by the initiator, including the video footages of 9 & 10 June 2022, the unrevised Hansard, the Reports of the Subcommittee and the Speaker, the Committee found the evidence persuasive in terms of the arguments and evidence put forward.
- 2) The Committee found that the affected members had disrupted and delayed proceedings beyond what was reasonable when members interject and heckle, disregarded blatantly the rulings and authority of the Speaker by refusing to withdraw unparliamentary remarks, to leave when ordered to do so by the Speaker and the Serjeant-at-Arms and had to be physically removed from the Chamber.
- 3) It further found that some members physically and violently resisted being removed or interfered with the removal of their colleagues. It regarded that conduct as egregious.
- 4) The Committee noted that the issue of the composition of the Committee was before the court, but the Assembly Rules regarding the matter were not suspended.
- 5) Furthermore, the issue before the Committee was a narrow one. It was to look at the evidence presented and decide whether contempt had indeed been committed by the affected members.
- 6) Lastly, the Committee found all the charged members guilty as charged.

G. Aggravating and mitigating factors with respect to penalties

- 1) With respect to aggravating factors, the initiator drew the attention of the Committee to the relevant provisions in the Act, namely, section 12(1), 12(3), 12(5) and 12(9).
- 2) Section 12(5) of the Act states:

“When a House finds a member guilty of contempt, the House may in addition to any other penalty to which the member is liable under this Act or any other law, impose anyone or more of the following penalties:

- a) a formal warning;
- b) a reprimand;
- c) an order to apologise to Parliament or House or any person, in a manner determined by the House;
- d) the withholding, for a specific period, of the member’s right to the use or enjoyment of any specified facility provided to members by Parliament;
- e) the removal, or the suspension for a specified period, of the member from any Parliamentary position occupied by the member;
- f) a fine not exceeding 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 (Act No 20 of 1998); or
- g) the suspension of the member, with or without remuneration, for a period not exceeding 30 days, whether or not the House, or any of its committees is scheduled to meet during that period.”

- 3) The initiator submitted that the charges of contempt of Parliament which the affected members had been found guilty of were serious.
- 4) The affected members acted deliberately and engaged in conduct that created disorder and disruption in the House. They undermined the authority of the Presiding Officer (the Speaker) by refusing to obey her rulings.
- 5) The initiator submitted that the affected members warranted a penalty that was sufficiently serious. To this end, she recommended that the penalty set out in section 12(g) of the Act read with section 12((9) of the Act would be appropriate for Ms Ntlangwini, Mr Tambo and Mr Montwedi, i.e. suspension of the three affected members without remuneration for a period of one month, whether or not the House or any of its committees was scheduled to meet during that period. She suggested that the penalty of suspension without remuneration begin from 1 April to 30 April 2024. Furthermore, the three members were repeat offenders and none of the sections prescribed by the Act would be sufficient to deter the members.
- 6) She submitted that a further appropriate penalty for five affected members, i.e. Ms Marais, Ms Mathulelwa, Ms Chirwa and Mr Matumba, would be a fine equivalent to a month’s salary and allowances in terms of section 12(5)(f) of the Act. These members either physically resisted to be removed from the House or interfered with the removal of a member.

- 7) Lastly, a further appropriate penalty for Ms Yako and Mr Mafanya, would be a fine equivalent to 50% of their salary and allowances in terms of section 12(5) of the Act. Although the PPS had to remove the members, they did not physically resist being removed.
- 8) A further appropriate penalty for all the charged members was an order to apologise in person and physically in the House to the President, the Speaker, and the people of South Africa in terms of section 12(5)(c) of the Act.
- 9) The legal representative of the affected members addressed the Committee and argued in mitigation that the charges were preferred against the affected members in an inconsistent manner which was clear from the evidence presented. He submitted that an appropriate penalty for all the affected members would be a reprimand in the House in terms of section 12(5)(b) of the Act.
- 10) The Committee found the submission of the Initiator persuasive on aggravation, and reached consensus that her proposed penalties be agreed to.

H. Recommendations to the House

In light of its findings of guilt against the affected members, the Committee recommends that the National Assembly impose the following penalties with respect to the affected members:

- a) An order to apologise in person by all the affected members in the House to the President, the Speaker and the people of South Africa as determined by the House as set out in section 12(5)(c) of the Act before 29 March 2024;
- b) With respect to Ms Yako and Mr Mafanya, a fine equivalent to a 50% (fifty percent) of their salary and allowances in terms of section 12(5)(f) of the Act with effect from 1 April 2024;
- c) For Ms Marais, Ms Mathulelwa, Mr Matumba and Ms Chirwa, a fine equivalent to 30 days of their salary and allowances in term of section 12(5)(f) of the Act with effect from 1 April; and
- d) Suspension of Ms Ntlangwini, Mr Tambo and Mr Montwedi without remuneration for a period of 30 days, whether or not the House or any of its committees is scheduled to meet during that period starting from 1 April to 30 April 2024 as set out in section 12(5)(g) read with section 12(9) of the Act.

The Committee adopts the Report with the Economic Freedom Fighters dissenting.

Report to be considered.

ANNEXURE A

Charges preferred against members for incident of 9 June 2022

1. Charges preferred against Ms Ntlangwini were that:

Charge 1

"You contravened section 7(a) of the Act when during the proceedings you wilfully refused and/or failed to obey Rule 69(d) of the Rules of the National Assembly when you called the President a "money launderer" and accused him of criminal conduct. Your conduct disrupted the proceedings of the National Assembly and improperly interfered with the performance by the House of its authority and functions."

Charge 2

"You contravened section 7(a) of the Act in that you wilfully refused and/or failed to obey Rule 69(c) when you repeatedly undermined the authority of the Presiding Officer or repeatedly refused to obey rulings of the Presiding Officer. You disrespected her and interrupted her when she requested you to withdraw the improper statements you made about the President."

Charge 3

"You contravened Section 7(a) of the Act in that you wilfully refused and/or failed to obey Rule 73(1) when you refused to leave the Chamber when ordered to do so by the Presiding Officer. You created serious disorder and disruption in the House in contravention of Rule 70 and/or Rule 69(a)."

Charge 4

"You contravened Section 7(a) of the Act in that you wilfully refused and/or failed to obey Rule 69(f) when you acted in a manner seriously detrimental to the dignity, decorum, and orderly procedure of the House."

Charge 5

"You wilfully refused and/or failed to obey Rule 70 and Rule 73(1) and (2) when you failed to respect the authority of the Presiding Officer when she ordered that you leave the Chamber. You refused to leave the Chamber after the Serjeant-at-Arms requested your removal."

2. Charges preferred against Mr Mafanya were that:

Charge 1:

"You wilfully refused and/or failed to obey Rule 92(8) and (9) of the Rules of the National Assembly when you continuously proceeded to raise a point of order

when the Presiding Officer had ruled that no member may raise a point of order again until the President had delivered his Budget Speech."

Charge 2:

"You wilfully refused and/or failed to obey Rule 69(a) when you deliberately created serious disorder and disruption in the House when you refused to obey the authority of the Presiding Officer when she ruled on the points of order."

Charge 3:

"You wilfully refused and/or failed to obey Rule 69(c) when you repeatedly undermined the authority of the Presiding Officer and/or repeatedly refused to obey her rulings and you disrespected and continuously interrupted the Presiding Officer while she addressed the House."

Charge 4:

"You wilfully refused and/or failed to obey Rule 69(f) when you behaved in a manner which was seriously detrimental to the dignity, decorum and orderly procedure of the House."

3. Charges preferred against Ms Mathulelwa were that:

Charge 1:

"You wilfully refused and failed to obey Rule 92(8) and subrule (9) when you continued to raise a point of order despite the fact that the Presiding Officer had ruled that no points of order would be allowed until the President delivered his Budget Speech."

Charge 2:

"You wilfully refused and/or failed to obey Rule 69(d) when you made serious allegations against the President by calling him a criminal without adequate substantiation or following the correct procedure."

Charge 3

"You wilfully refused and/or failed to obey Rule 69(c) when you repeatedly undermined the authority of the Presiding Officer and you repeatedly refused to obey the ruling of the Presiding Officer when she instructed you to withdraw the statement that the President was a criminal."

Charge 4:

"You contravened Section 7(a) in that you wilfully refused and/or failed to obey Rule 69(a) when you deliberately created serious disorder and disruption in the House."

Charge 5:

"You wilfully refused and/or failed to obey Rule 69(f) when you acted in a manner which was seriously detrimental to the dignity, decorum and orderly procedure of the House."

Charge 6:

"You wilfully refused and/or failed to obey Rule 70(1), read with Rule 70(2) when the Presiding Officer ordered you to leave the Chamber immediately, and you refused to do so. You again refused to leave the Chamber after the Serjeant-at-Arms requested you to do so. You were then removed by the Parliamentary Protection Services (the PPS), after they were instructed to remove you by the Presiding Officer."

Charge 7

"You wilfully refused and/or failed to obey Rule 73(4) and (5) when you refused to leave the Chamber when requested to do so by the Serjeant-at-Arms and when you physically resisted and physically fought with members of the PPS when they tried to remove you from the Chamber."

4. Charges preferred Mr Matumba were that:

Charge 1

"You wilfully refused and/or failed to obey Rule 69(a) of the Rules of the National Assembly when you deliberately created serious disorder or disruption in the House."

Charge 2

"You contravened Section 7(a) when you deliberately breached Rule 69(c) when you repeatedly undermined and disregarded the authority of the Presiding Officer and repeatedly refused to obey rulings of the Presiding Officer and/or you repeatedly disrespected her and interrupted her whilst the latter was addressing the House."

Charge 3

"You contravened Section 7(a) in that you further contravened Rule 69(f) where you behaved in a manner which was detrimental to the dignity, decorum and orderly procedure of the House."

ANNEXURE B

Charges preferred against members for incident of 10 June 2022

2. Charges against Ms Ntlangwini were that:

Charge 1:

"You contravened Section 7(a) of the Act in that you wilfully refused and/or failed to obey Rule 69(a) when you deliberately created serious disorder and/or disruption in the House."

Charge 2:

"You contravened Section 7(a) of the Act in that you wilfully refused and/or failed to obey Rule 69(c) when you repeatedly undermined the authority of the Presiding Officer and/or repeatedly refused to obey the rulings of the Presiding Officer, or repeatedly disrespected and interrupted the Presiding Officer while the latter addressed the House."

Charge 3:

"You wilfully refused and/or failed to obey Rule 69(f) when you acted in a manner that was seriously detrimental to the dignity, decorum and orderly procedure of the House."

Charge 4:

"You wilfully refused and failed to obey those 70(1) and (2) when you disrespected the authority of the Presiding Officer when she asked you to leave the House and when you refused to do so."

Charge 5:

"That you wilfully refused and/or failed to obey Rule 73(1) and (2) when you refused to leave the House when the Serjeant-at-Arms requested you to leave."

2. Charges against Mr Matumba were that:

Charge 1:

"You wilfully refused and/or failed to obey Rule 92(6), (8) and (9) when you refused to accept the ruling of the Presiding Officer that no points of order may be raised, and you deliberately continued to disrupt the proceedings of the House by raising points of order that do not comply with the rules. Your conduct disrupted the proceedings of the National Assembly."

Charge 2:

"You wilfully refused and/or failed to obey Rule 69(a) when you deliberately created serious disorder and disruption of the House when you refused to obey and respect the authority of the Chair."

Charge 3:

"You wilfully refused and/or failed to obey Rule 69(b) when you physically intervened and physically prevented and/or obstructed and/or hindered your removal from the House after the Presiding Officer ruled that you leave the House. You physically pushed the Serjeant-at-Arms away when he approached you to leave the House."

Charge 4:

"You wilfully refused and/or failed to obey Rule 69(c) when you repeatedly undermined the authority of the Presiding Officer and/or repeatedly refused to obey the rulings of the Presiding Officer, and you repeatedly disrespected and/or interrupted her while the latter was addressing the House."

Charge 5:

"You contravened and failed to obey Rule 69(f) when you behaved in a manner which was seriously detrimental to the dignity, decorum and orderly procedure of the House."

3. Charges against Ms Mathulelwa were that

Charge 1:

"You wilfully refused and/or failed to obey Rule 69(a) when you deliberately created serious disorder and/or disruption in the House."

Charge 2:

"You wilfully refused and/or failed to obey Rule 69(b), when you physically intervened and prevented and/or obstructed and/or hindered the removal of EFF members, Ms Chirwa and Mr Tambo by the PPS."

Charge 3:

"You wilfully refused and/or failed to obey Rule 69(e) when you used violence against the PPS, who were called in to remove you from the Chamber. You physically fought with the PPS members and pushed them out of the way to stop them from removing you from the Chamber."

Charge 4:

"You wilfully refused and/or failed to obey Rule 69(a) when you deliberately created serious disorder and disruption in the House."

Charge 5:

"You wilfully refused and/or failed to obey Rule 69(c) when you repeatedly undermined the authority of the Presiding Officer and refused to obey the rulings of the Presiding Officer and/or you disrespected and interrupted the Presiding Officer while she addressed the House."

Charge 6:

"You wilfully refused and/or failed to obey Rule 69(f) when you acted in a manner which was seriously detrimental to the dignity, decorum and orderly procedure of the House."

Charge 7:

"You wilfully refused and/or failed to obey Rule 64(d) when you crossed the floor of the House in front of the benches and when the mace was still in the House. Your conduct improperly interfered with or impeded the exercise or performance by the House of its authority and functions."

4. Charges against Ms Marais were that:**Charge 1:**

"You wilfully refused and failed to obey Rule 69(a) when you created serious disruption and disorder in the House when you continued to shout at the Presiding Officer."

Charge 2:

"You contravened section 7(a) in that you wilfully refused and/or failed to obey rule 69© when you repeatedly undermined the authority of the Presiding Officer and/or repeatedly refused to obey rulings of the Presiding Officer. You repeatedly disrespected and interrupted the Presiding Officer while she addressed the House."

Charge 3:

"You wilfully refused and/or failed to obey Rule 69(f) when you acted in a manner which was seriously detrimental to the dignity, decorum and orderly procedure of the House."

Charge 4:

"You wilfully refused and/or failed to obey Rule 73(1), (2), (4) and (5) in that you refused the instruction of the Presiding Officer to leave the House. You continued to refuse to leave the House when the Serjeant-at-Arms requested you to do so. You continued to shout and disrupt the proceedings even when the PPS were called in to remove you from the Chamber."

5. Charges against Ms Chirwa were that:

Charge 1:

"You wilfully refused and/or failed to obey Rule 69(a) when you deliberately created serious disorder and/or disruption in the House."

Charge 2:

"You wilfully refused and failed to obey Rule 69(c) when you repeatedly undermined the authority of the Presiding Officer and/or repeatedly refused to obey rulings of the Presiding Officer and you disrespected and continuously interrupted the Presiding Officer when she addressed the House. You continued to shout at the Presiding Officer even though she ordered you to leave the House, which you refused to do."

Charge 3:

"You wilfully refused and/or failed to obey Rule 69(f) when you acted in a manner seriously detrimental to the dignity, decorum and orderly procedure of the House."

Charge 4:

"You wilfully refused and/or failed to obey Rule 69(e) when you used violence against the PPS when they attempted to remove you from the Chamber. You physically fought with the PPS to prevent your removal from the house. You also contravened Rule 73(4) and (5) when you refused to leave the Chamber when requested to do so by the Serjeant-at-Arms and the PPS."

6. Charges against Mr Tambo were that:

Charge 1:

"You wilfully refused and/or failed to obey Rule 69(a) when you deliberately created serious disorder and interruption in the House."

Charge 2:

"You contravened Section 7(a) in that you wilfully refused and/or failed to obey Rule 69(d) when you made serious allegations against the President that he was a criminal without adequate substantiation or following the correct procedure. You also continued to disregard the authority and instruction of the Presiding Officer when she warned you of the relevant rule which you had breached by calling the President a criminal."

Charge 3:

"You wilfully refused and/or failed to obey Rule 69(c) when you undermined the authority of the Presiding Officer and/or repeatedly refused to obey her rulings as the Presiding Officer and/or you repeatedly disrespected and interrupted her"

while she addressed the House."

Charge 4:

"You wilfully refused and/or failed to obey Rule 69(a) and (c) when you refused to take your seat after the Speaker repeatedly told you to sit down."

Charge 5:

"You wilfully refused and/or failed to obey Rule 69(f) when you behaved in a manner, which was seriously detrimental to the dignity, decorum, and orderly procedure of the House."

Charge 6:

"You wilfully refused and/or failed to obey Rule 73(5) when you physically blocked the Serjeant-at-Arms from approaching member Ms Naledi Chirwa who was also asked by the Presiding Officer to leave the House. By doing so, you physically intervened and prevented and/or obstructed and/or hindered the removal of Ms Chirwa from the Chamber."

Charge 7:

"You wilfully refused and/or failed to obey Rule 69(e) when you physically fought and/or physically resisted your removal from the Chamber by the PPS pursuant to an instruction from the Presiding Officer that you be so removed. You also contravened Rule 73(1) (2) and (5)."

7. Charges against Mr Montwedi were that

Charge 1:

"You wilfully refused and/or failed to obey Rule 69(a) when through your conduct you deliberately created serious disorder and/or disruption in the House."

Charge 2:

"You wilfully refused and/or failed to obey Rule 69(c) when you repeatedly undermined the authority of the Presiding Officer and/or repeatedly refused to obey rulings of the Presiding Officer and you continuously interrupted the Presiding Officer when she addressed the House."

Charge 3:

"You wilfully refused and/or failed to obey Rule 69(f) when you acted in a manner seriously detrimental to the dignity, decorum and orderly procedure of the House."

Charge 4:

"You wilfully refused and/or failed to obey Rule 69(e) when you fought with the

Parliamentary Protection Services when they attempted to remove you from the Chamber. You also contravened Rule 92(8) when you refused to leave the Chamber when requested to do so by the Serjeant-at-Arms."

8. Charges against Ms Yako were that:

Charge 1

"You wilfully refused and/or failed to obey Rule 69(a) when you deliberately created serious disorder and/or disruption in the House."

Charge 2:

"You wilfully refused and/or failed to obey Rule 69(c) when you repeatedly undermined the authority of the Presiding Officer and repeatedly refused to obey her rulings. You repeatedly disrespected and interrupted the Presiding Officer."

Charge 3:

"You wilfully refused and/or failed to obey Rule 69(f) when you behaved in a manner which was seriously detrimental of the dignity, decorum and orderly procedure of the House."

COMMITTEE REPORTS

National Assembly

1. Report of the Portfolio Committee on Sport, Arts and Culture on the South African Institute for Drug-Free Sport Amendment Bill [B41—2023] (National Assembly – Section 75), Dated 25 March 2024

The Portfolio Committee on Sport, Arts and Culture (“the Committee”), having considered the South African Institute for Drug-Free Sport Amendment Bill, 2023 [B41—2023], referred to and classified by the Joint Tagging Mechanism (JTM) as a section 75 Bill, reports the Bill with amendments [B41B—2023]:

1. INTRODUCTION

The South African Institute for Drug-Free Sport (SAIDS) Amendment Bill, 2023 [B41—2023] (“the Amendment Bill”) was approved by Cabinet for introduction in Parliament on 04 October 2023. On 23 November 2023, the Minister of Sport, Arts and Culture (“the Minister”) published a notice of intention to introduce the Amendment Bill in Parliament in Government Gazette No. 49763. Subsequently, on 24 November 2023, the Minister introduced the Amendment Bill which was referred to the Committee on the same day (Announcements, Tablings and Committee Reports (ATC) No. 166 – 2023) as a proposed section 75 bill, i.e. a bill that would not affect the provinces. Simultaneously, the Amendment Bill was referred to the Parliamentary Joint Tagging Mechanism (JTM) for classification in terms of Joint Rule 160. On 13 December 2023 (ATC No. 179 – 2023), the Amendment Bill was officially tagged as a section 75 bill by the JTM in terms of Joint Rule 160(6).

The Amendment Bill proposes to amend various sections of the South African Institute for Drug-Free Sport (SAIDS) Act, 1997 (Act No. 14 of 1997) (“the Principal Act”), previously amended by the SAIDS Amendment Act, 2006 (Act No. 25 of 2006).

2. OBJECTIVES OF THE AMENDMENT BILL

The objectives of the Amendment Bill are to amend the South African Institute for Drug-Free Sport Act, 1997, so as to:

- delete, amend and insert certain definitions;
- provide for consequential amendments in certain provisions; and
- provide for matters connected therewith.

3. MEETINGS OF THE COMMITTEE

The Committee had scheduled the following meetings on the SAIDS Amendment Bill, held on:

1.	05 December 2023:	Introduction of the Amendment Bill
2.	20 February 2024:	Oral submission by the South African Institute for Drug-Free Sport (SAIDS)
3.	21 February 2024:	Oral submission by the South African Sports Confederation and Olympic Committee (SASCOC)
4.	22 February 2024:	Oral submission by the South African Rugby Union (SARU)
5.	23 February 2024:	Oral submission by National Treasury
6.	27 February 2024:	Oral submissions by Body Building South Africa (BBSA), Athletics South Africa (ASA), and Boxing South Africa (BSA)
7.	05 March 2024:	Oral submission by The New loveLife Trust (loveLife)
8.	11 March 2024:	Oral submissions by Culture, Arts, Tourism, Hospitality and Sport Sector Education and Training Authority (CATHSSETA); Free State Academy of Sport (FSAS); Eastern Cape Academy of Sport (ECAS)
9.	12 March 2024:	Consideration of written submissions and presentation of submissions (oral and written) to the Department of Sport, Arts and Culture (DSAC)
10.	13 March 2024:	Responses to oral and written submissions by DSAC; Deliberations on the SAIDS Bill following DSAC's responses
11.	14 March 2024:	Consideration and adoption of Motion of Desirability; Clause-by-clause deliberations
12.	15 March 2024:	Clause by clause deliberations
13.	20 March 2024:	Consideration and adoption of the A-list of the amendments
14.	25 March 2024	Adoption of the SAIDS Amendment Bill in its entirety and Committee Report on the Bill.

4. CLAUSES OF THE BILL AMENDED BY THE COMMITTEE

Clause 1

1. On page 2, in line 3, to omit the heading to clause 1 and to substitute:

“Substitution of section 1 of Act 14 of 1997, as amended by section 1 of Act 25 of 2006”.
2. On page 2, in line 6, after “**Definitions**” to insert “**and Interpretation**”.
3. On page 2, after line 7, to insert the following definition:

“Anti-Doping Organisation’ means an Anti-Doping Organisation as defined in Appendix 1;”.
4. On page 3, in line 5, to omit “a” and to substitute “the”.
5. On page 3, from line 14, to omit the definition “SASCOC” and to substitute the following definition:

“the Sports Confederation’ means the Sports Confederation as defined in section 1 of the National Sport and Recreation Act, 1998 (Act No. 110 of 1998);”;
6. On page 3, in line 26, after the first “**Therapeutic Use Exemption**” to insert “**(TUE)**”.
7. On page 3, in line 31, after “;” to insert “and”.
8. On page 3, after line 33, to insert the following subsection:

“(2) When interpreting a provision of this Act, any reasonable interpretation which is consistent with the Code must be preferred over any alternative interpretation which is inconsistent with the Code.”

Clause 2

1. On page 3, in line 37, to omit, “and”.
2. On page 3, in line 37, after “entity” to insert “in terms of the Public Finance Management Act”.
3. On page 3, in line 40, after “Republic” to insert “of South Africa”.

Clause 3

1. On page 3, in line 41, to omit the heading to clause 3 and to substitute:

“Amendment of section 10 of Act 14 of 1997, as amended by section 5 of Act 25 of 2006”.
2. On page 3, from line 45, to omit paragraph (d) and to substitute the following paragraph:

“(d) to promote and ensure the adoption of a centralised doping control programme, which **[may subject any athlete to]** focuses on implementing intelligent testing, **[with or without advance notice,]** both in and out of competition, on athletes over whom it has authority;”.

3. On page 3, in line 51, to omit “SASCOC” and to substitute “[SASCOC] the Sports Confederation”.

Clause 4

1. On page 4, in line 1, to omit the heading to clause 4 and to substitute:
“Amendment of section 11 of Act 14 of 1997, as amended by section 6 of Act 25 of 2006”.
2. On page 4, from line 9, to omit paragraph (c) and to substitute:

“(c) by the substitution for paragraph (m) of subsection 2 of the following paragraph:

“(m) require that athletes who have been included in the testing pools provide accurate information on their current whereabouts which shall be made available to WADA and to other Anti-Doping Organisations having authority to test the athletes; and”.
3. On page 4, in line 24, after “tion” to insert “(TUE)”.
4. On page 4, in line 27, to omit “therapeutic use exemption committee” and to substitute “Therapeutic Use Exemption Committee”.
5. On page 4, in line 28, to omit “Exemption” and to substitute “Exemptions”.
6. On page 4 in line 31, after “Exemption” to insert “(TUE)”.

Clause 6

1. Clause rejected.
2. On page 4, from line 35 to insert a new clause as follows:

“Substitution of section 17 of Act 14 of 1997, as amended by section 10 of Act 25 of 2006

6. The following section is hereby substituted for section 17 of the principal Act:

“Results Management

17. (1) Results Management shall be the responsibility of, and shall be governed by the procedural rules and anti-doping rules of the Institute aligned with the principles of the Code and relevant International Standards.

(2) (a) There is hereby established by the Institute a first instance hearing panel named the Independent Doping Hearing Panel which has jurisdiction in the first instance to hear and determine whether an athlete or other person subject to the anti-doping rules of the Institute has committed an anti-doping rule violation and if applicable to impose relevant consequences.

(3) (a) There is hereby established an independent board which shall be known as the Anti-Doping Appeal Board.

(b) The Minister shall appoint an Appeal Board, which shall consist of not fewer than eight persons possessing special knowledge and expertise relevant to anti-doping and dispute resolution.

(c) The members of the Appeal Board are appointed for a period of five years and are eligible for re-appointment.

(d) The Appeal Board must consist of no fewer than four practising attorneys or advocates, two sports medical physicians and two sports administrators.

(e) The Minister may terminate the appointment of an Appeal Board member for serious misconduct, incapacity or incompetence.

(4) A party to an appeal shall be entitled to be represented by a person of his or her own choice.

(5) The procedure to be followed in connection with appeals shall be determined by the Appeals Board.

(6) Appeals involving International-Level Athletes shall be heard by the Court of Arbitration for Sport (CAS) in accordance with the relevant provisions of the Code.

(7) Any proceedings, pending before the Independent Doping Hearing Panel at the commencement of this Act must be continued and concluded in terms of this Act in the Independent Doping Hearing Panel and, for that purpose those proceedings are deemed to have been instituted in terms of this Act in the Independent Doping Hearing Panel.”

Clause 7

1. On page 5, in line 46, to omit “SASCOC” and to substitute “[SASCOC] the Sports Confederation”.
2. On page 5, in line 46, to omit “as it deems fit” and to substitute “[as it deems fit] in a fair, transparent, just and equitable manner”.
3. On page 5, in line 50, to omit “SASCOC” and to substitute “[SASCOC] the Sports Confederation”.
4. On page 5, in line 50, after “SASCOC,” to insert “and after any national sports federation is found, subsequent to an investigation as contemplated in subsection (1) above to be non-compliant”.
5. On page 5, line 55 to omit “SASCOC” and substitute “[SASCOC] the Sports Confederation”.

Clause 8

1. On page 6, in line 13, to omit “appeals” and to substitute “results management”

New Clause

1. On page 6, after line 14, to insert the following new clause after clause 8 and to renumber the existing clause accordingly:

“Amendment of Arrangement of Section of Act 14 of 1997

9. The Arrangement of Sections of the principal Act is hereby amended by—
 - (a) the substitution of item 1 of the following item:
“1. Definitions and Interpretation”
 - (b) the deletion of items 11A-11C; and
 - (c) the substitution of item 17 of the following item:
“17. [**Appeals**] Result Management”.

New Clause

1. To insert the following new clause:

“Amendment of Principal Act

10. The principal Act is hereby amended by the substitution of the expression “SASCOC”, wherever it occurs, with the expression “the Sports Confederation”.

New Clause

LONG TITLE

1. To insert the following new clause:

“Amendment of long title

11. On page 2, to omit the long title and to substitute the following long title:

“To amend the South African Institute for Drug-Free Sport Act, 1997, so as to delete, amend and insert certain definitions; to provide for consequential amendments in certain provisions, to clarify that the Institute is a public entity and is the National Anti-Doping Organisation in the Republic; to provide for Results Management, to provide that investigations by the Department must be conducted in a manner that is fair, transparent, just and equitable, that punitive measures may only be imposed by the Department after a finding of non-compliance, and to provide for matters connected therewith.

5. PUBLIC PARTICIPATION PROCESS AND PUBLIC HEARINGS

5.1 Advertisement calling for public comments

The call for public submissions was opened on 22 February 2024 and the advertisement was published in all official languages in national and regional newspapers. The deadline for submissions was set for 14 March 2024. The call for public comment was published in the following newspapers:

- Isolezwe (isiXhosa)
- Mail and Guardian (English)
- Free State Sun (Sesotho)
- Business Ink (Sesotho)
- Ngoho News (Tshivenda)
- Thembisile News (isiNdebele)
- Coal City (siSwati)
- Bushbuckridge News (Xitsonga)
- Nthavela News (Sepedi)
- Isolezwe Ngesonto (isiZulu)
- Die Burger (Afrikaans)

The total cost of advertisements amounted to **R121,274.18**

The Committee also directly invited stakeholders in the sporting environment to comment on the Amendment Bill.

5.2 Public submissions received by the Committee

The Portfolio Committee on Sport, Arts and Culture accommodated stakeholders over several days to hear their oral submissions. These engagements were all held on virtual platforms.

In total, the Committee heard 11 oral submissions. The Committee received five non-substantive submissions which all indicated support for the Amendment Bill. A further two stakeholders, directly invited by the Committee, were scheduled to make oral submissions, but were unable to do so.

The following stakeholders, listed in alphabetical order, responded with submissions:

1. Athletics South Africa (ASA);
2. Body Building South Africa (BBSA);
3. Boxing South Africa (BSA);
4. Culture, Arts, Tourism, Hospitality and Sport Sector Education and Training Authority (CATHSSETA);
5. Eastern Cape Academy of Sport;
6. Free State Academy of Sport (FSSA);
7. loveLife;
8. National Treasury (NT);
9. South African Institute for Drug-Free Sport (SAIDS);
10. South African Rugby Union (SARU); and
11. South African Sport Confederation and Olympic Committee (SASCOC).

The stakeholders made non-substantive submissions, but who expressed their support for the Amendment Bill are:

1. KwaZulu-Natal Academy of Sport;
2. Sport for the Physically Disabled;
3. Sports Trust;

4. South African National Boxing Organisation (SANABO); and
5. University Sport South Africa.

The two stakeholders who were not able to make oral submissions are:

1. KwaZulu-Natal Academy of Sport; and
2. Stellenbosch Academy of Sport.

Through the submissions, the Committee's attention was drawn to the need for the Amendment Bill in its current form to be brought in alignment with the World Anti-Doping Code, which was in fact the impetus for the drafting and tabling of this Amendment Bill.

The bulk of the submissions focused on clause 6 which relates to appeals to the Appeals Board. Except for clause 5 and clause 9, submissions were received on all clauses and the comments and identified areas of concern underscores the usefulness and significance of public participation in Parliament's legislative process.

5.3 Public participation report

The Committee considered and noted its public participation report on 13 March 2024.

6. CONCLUSION

Parliament's Portfolio Committee on Sport, Arts and Culture is satisfied with the positive and detailed discussions that took place during its engagements with the various stakeholders. The Committee notes that it has not received any submissions that were not in support of the SAIDS Amendment Bill. Further, the Committee expresses its gratitude to the organisations and individuals that made submissions on the SAIDS Amendment Bill and reiterates the importance of public participation when Parliament deals with legislation.

The Committee thanks the Minister of Sport, Arts and Culture, Deputy Minister of Sport, Arts and Culture, the Parliamentary Legal Advisor, and the support staff of the Portfolio Committee on Sport, Arts and Culture, in processing the SAIDS Amendment Bill.

The Democratic Alliance has reserved their rights on the adoption of the Amendment Bill and the report.

Report to be considered.

National Council of Provinces

1. Report of the Select Committee on Finance on the Revenue Laws Amendment Bill [B39B - 2023] (National Assembly- section 77), dated 25 March 2024

1. Introduction and background

The 2023 Revenue Laws Amendment Bill (RLAB) was formally tabled on 01 November 2023. The objectives of the RLAB are to amend the Income Tax Act (ITA), 1962, and certain definitions and provisions.

In this Bill, the government proposes implementation of the “two-pot” retirement system to address the concerns related to lack of preservation before retirement and lack of access to the retirement funds by households that are in financial distress. The “two-pot” system comprises a savings and retirement component for contributions made after 1 September 2024, while historical retirement benefits will be housed in a vested component. Individuals will have access to amounts in the savings component before retirement, for time of financial distress, and amounts in the retirement component are preserved until retirement.

The Bill also proposes (1) to make provision for the inclusion of defined benefit funds in the “two-pot” retirement regime, (2) to calculate the contributions to the savings and retirement components, and (3) that legacy retirement annuity funds be excluded from the provisions of the “two-pot” retirement system. Under the regime, pension fund members will be allowed to make the intra-fund transfers at any time they wish, and these transfers will be treated as tax-free transfers.

2. Processing of the Bill

Section 77 of the Constitution requires all money Bills to be considered by a procedure for passing revenue Bills established by the Money Bills Amendment Procedure and Related Matters Act, 2009 (Money Bills Act). Section 11 (4) requires the Committee to hold public hearings on the revenue Bills and report to the House.

On 21 November 2023, the Committee received a briefing on the RLAB from the National Treasury (NT). On 12 March 2024, the Committee received a briefing from NT on the changes made to the RLAB through the NA process.

The Committee received three submissions from the Association for Savings and Investment South Africa (ASISA), the Institute for Retirement Funds Africa (IRFA) and Congress of South African Trade Unions (COSATU). On 15 March 2024, the Committee held virtual public hearings which included COSATU and ASISA and considered the Bill clause-by-clause. NT

responded to the issues raised during the public participation process on 15 and 19 March 2024. On 19 March, ASISA made a submission following their written submission the day before.

3. Changes made since the tabling of the draft 2023 RLAB.

Since the tabling of the draft legislation, proposals have been made to (1) postpone the effective date of implementation, (2) change the seeding capital from R25 000 to R30 000, (3) by default exclude provident fund members who were 55 years and older as at 1 March 2021 from the “two-pot” regime with the opportunity to opt-in should they choose, and (4) amend the proposed definition for legacy retirement annuity funds as contained in the draft legislation to include features unique to a legacy policy, such as universal life or pre-universal life construct.

4. Issues raised during the Public Participation Process and National Treasury’s responses.

Below is a summary of issues raised by the stakeholders:

- 4.1 Errors in the drafting of the Bill:** There were drafting errors that do not correctly reflect the responses of NT in October 2023 to the National Assembly (NA) Standing Committee on Finance (SCoF). These include that the definition of “vested component” does not correctly reflect that members of provident funds who were aged 55 and over on 1 March 2021 will remain in the vested component with the option to opt into the “two-pot” system; the incorrect wording of the apportionment of seed capital in the definition in the definition of “savings component”; the proposed wording for cessation of the tax residency clause; that not all funds and categories of members were excluded from the “two-pot” system as proposed; the definition of the term “retirement interest” should be retained and intra-fund transfers should not be part of the definition; the maintenance awards clause; the use of the words “member” and “employee” in different definitions; and different dates for the calculation of the amount of seed capital for each fund member. NT agreed to correct the errors and improve the proposed wording. These comments are to be considered in the 2024 draft RLAB that NT published on 21 February 2024.
- 4.2 Members’ contracts within a retirement fund:** In a response to the SCoF in October 2023, NT indicated that amendments would be made “to ensure that the policy intent that the various components can exist on a per contract basis is fully expressed.” The Bill before the National Council of Provinces (NCOP) Committee does not contain these amendments. For example, in the definition of “savings component”, seed capital should be per contract in the fund, not at the fund level. Several drafting changes are required to ensure that the “two-pot” system operates on a per contract basis as intended. NT agreed to correct the errors and improve the proposed wording in the 2024 draft RLAB.
- 4.3 Tax directives on seeding and intra-fund transfers:** The Bill requires a tax directive when the seeding of the savings withdrawal benefit takes place. This seeding is a

transfer from the vested component within a fund to the savings component within the same fund. Similarly, the Bill requires a tax directive for a transfer between components within the same fund. Transfers from component to component within the same fund do not, and should not, result in any accrual to the fund member as no funds ever become available to the member, and neither do such funds leave the retirement fund. The administrator will simply re-allocate the funds between the components. Therefore, intra-fund transfers should not constitute taxable events that are subject to tax directives. NT accepted the comment. The 2024 draft RLAB proposes that reallocations of amounts between the three components are not treated as transfers and that the requirement to obtain a directive for reallocations between the three components be withdrawn.

- 4.4 **Adherence to the agreed implementation date of 01 September 2024:** This date means that the Committee should seek to process this Bill through the NCOP as soon as reasonably possible. The implementation deadline will have to be strictly adhered to, and all the necessary legislative and administrative processes need to be addressed in time. NT will need to work with the South African Revenue Service (SARS) and the pension fund administrators to ensure this.
- 4.5 **Proposals on further engagements after the passage of the RLAB:** These include not only the matters of retrenchments, dismissals, and resignations, but also affordable home and educational loans that workers could take from their pension funds. These matters need to begin to be discussed by May 2024 and be concluded by August 2024, so that they can be tabled in Parliament by November 2024 and come into effect on 1 March 2025. NT noted the comments and would revisit these issues once all the changes to the “two-pot” system have been implemented.

5. Committee’s observations

- 5.1 The Committee welcomes the new implementation date of 01 September 2024. Ideally, this should have been earlier. The Committee notes NT’s response that, while the draft legislation had a very ambitious implementation date, the changes that were required to be put into the system were substantial. These changes needed a lot of time not only for the industry, but also to enable SARS to put in place measures to be able to implement the withdrawals. The Committee accepts this.
- 5.2 The Committee notes, with considerable disappointment, that only three stakeholders made submissions on the 2023 RLAB. It notes too that big business that expressed concerns about the “two-pot system” did not make submissions to the Committee and engaged more with the Executive than with Parliament. It is in the interests of big business to engage with parliamentary committees as it is Parliament that ultimately decides on legislation, not the Executive. Not only will business advance their own interests by more actively engaging with Parliament, they also have economic, financial and other technical skills and experience that will help committees to better process

more technically complex bills, irrespective of whether committees agree or disagree with businesses' particular policy proposals on bills.

- 5.3 The provision for withdrawal from the savings component was introduced to assist financially stressed people, particularly following the substantial economic disruptions caused by the response to COVID 19. These withdrawals, however, will be taxed at marginal rates and undermine this objective. Taxation of withdrawals at the marginal rate is effectively an application of punitive taxation intended to discourage withdrawal, similar to the historical way that individuals were taxed when they moved from one scheme to another as a result of an employment change. In those cases, the aim was to disincentivise withdrawals from the funds. The Committee felt that a lower tax rate on withdrawals should be considered in the proposed "two-pot system". However, the Committee notes NT's response that taxation of savings withdrawals from the "two pot" system at a marginal tax rate could benefit individuals in a year where they have lower income, and that applying the normal withdrawal tax table rates would be more punitive to members who have had previous withdrawals. While the Committee understands NT's arguments, we remain concerned about the serious tax implications for people in genuine need.
- 5.4 Taking into account the need to process this Bill and the complexities of effecting amendments to it, ASISA and IRFA agreed to defer consideration of their proposed amendments, and rather engage with NT on the 2024 draft RLAB before 01 September 2024. The Committee agrees with the proposed amendments from ASISA and IRFA. These include: that the "two-pot" system operates at a contract level and not a fund level, such that the seed capital in the savings component is allowed per contract; that tax directives for the seed capital and for intra-fund transfers are not required; and that further amendments to the legislation are needed to remove some errors and reduce

6. Committee's recommendations

- 6.1 NT should seriously consider the proposed amendments from ASISA and IRFA before it tables the 2024 draft RLAB in Parliament. The Committee supports their proposed amendments.
- 6.2 NT and SARS should consider the proposals made by COSATU, after the approval of the 2023 RLAB. These include not only the matters of retrenchments, dismissals, and resignations, but also affordable home and educational loans that workers could take from their pension funds.
- 6.3 As the withdrawals are to be taxed at the marginal rate, and will be a huge percentage of what is withdrawn, it is extremely likely that most of those who withdraw from their funds will be very disappointed and maybe even very frustrated. It is utterly important that NT, SARS, COSATU, and the pension fund industry inform and educate members

about the tax implications of accessing their savings in the “two pot” system before retirement. The Committee urges that this be done.

- 6.4 SARS and NT should monitor the tax implications on individuals and the state with a view to easing the tax burden on withdrawals made in terms of the “two-pot system” in future iterations of the Bill.

The Select Committee on Finance, having considered and examined the Revenue Laws Amendment Bill [B39B - 2023] (National Assembly – section 77), referred to it, and classified by the JTM as a Money Bill, accepts the Bill.

Report to be considered.