



GAUTENG

LEGISLATURE

Your View — Our Vision

STANDING RULES

This version of the Standing Rules of the Gauteng Provincial Legislature has been Framed under the provisions of the Constitution of the Republic of South Africa, 1996.

VERSION DATE: 27 NOVEMBER 2018

Honorable Members

The House has adopted Revision 9 of the Standing Rules of the Gauteng Provincial Legislature (GPL) on the 27th November 2018. The Revision is in accordance with the GPL's practice since 1994 and represents ongoing commitment to improve our internal arrangements in the execution of our mandate, and in accordance with Section 116 of the Constitution of the Republic of South Africa, 1996.

The improvements made in the House Rules are meant to provide for a number of additional GPL mechanisms for executing its legislative mandate. These mechanisms include the following; The Ministerial Accountability Manual; Financial Management of Parliament and Provincial Legislatures Act, Petitions Act, the Committee Inquiries process, recommendations from the Sector Oversight Model studies, as well as rulings of the Speaker on numerous House matters.

We also took into account the outcome of court decisions that affected our Standing Rules. All of these mechanisms have now been provided for in the House Rules and thus marking a new era of executing our mandate.

The rules enhancement is in pursuit of the vision and principles of the age-old values of good governance, of selfless service in a manner that ensures that the interests of the people take precedence at all times. At a practical level, the revised Standing Rules are intended to guide our processes and procedures as we carry out our mandate as elected representatives of our Province. I therefore call upon you to make use of these rules in advancing the values of our constitutional democracy.



LH Mekgwe
Honourable Speaker
Gauteng Provincial Legislature



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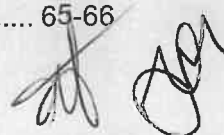
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INTRODUCTION

Part 1.

Purpose of Rules

1. (1) These Rules are rules for proceedings of the Gauteng Provincial Legislature and for the exercising of its powers.
- (2) The Rules are intended to enable the Legislature to fulfill its constitutional Responsibilities. To this end they must –
 - (a) promote the orderly conduct of the Legislature in accordance with the Constitution;
 - (b) promote the ability of the Legislature to pass laws, oversee the executive and forge links between the government and the public;
 - (c) facilitate deliberation;
 - (d) ensure that all parties and Members have an opportunity to participate in the work of the Legislature in a manner consistent with democracy;
 - (e) ensure public access to the Legislature, its proceedings and facilitate public involvement in its processes; and
 - (f) promote non-racialism and non-sexism as envisaged in Section 1 of the Constitution.
- (3) These Rules are not intended to diminish or restrict the Legislature's powers, privileges and immunities



Part 2.

Publication of the Rules

2. These Rules must be published in the language of Record

Definitions

3. In these Rules;
- a. **Ad hoc Committee:** means a Committee appointed through a resolution of the Legislature to carry out a particular assignment for a specific period;
 - b. **Adjourning the House or a meeting of a Committee:** means closing the meeting; any unfinished business needs to be rescheduled by inclusion on the next Order Paper or agenda;
 - c. **Announcements, Tablings and Committee Reports (ATC):** means the document listing announcements, items of business tabled and Committee reports under discussion on a specific working day of the Legislature;
 - d. **Business of the House:** means any matter of the Legislature business that the House may consider;
 - e. **Business period:** means the period designated for business of the Legislature in terms of the Gauteng Provincial Legislative programme
 - f. **Chairperson of Committees:** means the person who chairs the Committee of Chairpersons;
 - g. **Committee of Inquiry:** means a Committee of the Gauteng Provincial Legislature established in terms of the Gauteng Provincial Legislature Committee Inquiries Act 8 of 2008 to conduct an inquiry.
 - h. **Chamber:** means the venue in which the proceedings of the Legislature take place, including the public, VIP and media gallery;
 - i. **Constitution:** means the Constitution of the Republic of South Africa, 1996;
 - j. **Government business:** means any matter of business for which a Member of the Executive Council is responsible;
 - k. **House:** means the Legislature meeting in plenary;
 - l. **Language of record:** means English;
 - m. **Languages of the Legislature:** means Afrikaans, English, Sepedi and isiZulu;
 - n. **Leader of Government Business (LOGB):** means the person appointed by the Premier in terms of Rule 28;
 - o. **Legislature:** means the Gauteng Provincial Legislature;

- p. **Majority of the Members of the Legislature:** means fifty percent plus one of the Members of the Legislature;
- q. **Mandating Procedures of Provinces Act:** means the Mandating Procedure of Provinces Act, No 52 of 2008;
- r. **Matter of privilege:** means any matter that falls under privilege as set out Rule 259 of these Rules;
- s. **Member:** means a Member of the Legislature including Members of the Executive Council (MEC);
- t. **Motion:** means a proposal for a resolution of the House;
- u. **NCOP:** means the National Council of Provinces;
- v. **Order of the day:** means a matter of business under consideration on a specific day that the Legislature meets;
- w. **Order Paper:** means the document that describes the business of the Legislature and includes the agenda for the day;
- x. **Permanent delegate:** means a permanent delegate to the National Council of Provinces envisaged in section 60(2)(b) of the Constitution;
- y. **Petitions Act:** means the Gauteng Petitions Act, 5 of 2000;
- z. **Precincts of the Legislature:** are those areas that are occupied by the House and its Committees;
- aa. **Powers, Privileges and Immunities Act:** means the Gauteng Powers, Privileges and Immunities of and Provincial Legislatures, Act 2 of 1995 as amended;
- ab. **Premier:** means the Premier of Gauteng Province;
- ac. **Presiding Officers:** means the Speaker, Deputy Speaker, Chairperson of Committees and Deputy Chairperson of Committees
- ad. **Public Finance Management Act:** means the Public Finance Management Act, 1 of 1999 as amended;
- ae. **Question Paper:** means the weekly document listing questions put by Members to the Executive Council, other Members in charge and the Speaker for oral or written reply that have not yet been answered;
- af. **Resolution:** means a decision taken by the House;
- ag. **Recess:** means a period determined by the Programming Committee or by resolution of the House during which there are no plenary meetings of the Legislature
- ah. **Sergeant-at-Arms:** means the official of the Legislature responsible for the Mace and for security of the House
- ai. **Secretary:** means the person appointed in terms of the Legislative Services Act, No 6 of 1999 as amended;



- aj. **Session:** means the period between the opening and closing sitting of the Legislature in each year;
- ak. **Sitting:** means a plenary meeting of the Legislature;
- al. **Speaker:** means the person appointed in terms of Rule 11;
- am. **Speaking List:** means the House document indicating the names of Members who will speak in the House, in their order and time allocated as per the order paper;
- an. **Special delegate:** means a special delegate to the National Council of Provinces envisaged in section 60(2)(a) of the Constitution;
- ao. **Suspension of proceedings:** means interrupting a meeting; unfinished business is carried over to the time the meeting resumes;
- ap. **Tabling:** means documents published either on the ATC or placed on the Table in the Chamber during plenary for this purpose.
- aq. **Term:** means the period between the first sitting of the Legislature after an election and the last sitting of the Legislature before the next election;
- ar. **Unauthorised document:** any document that is not prescribed in the order paper of a particular sitting and has not been authorised by the Presiding Officer.
- as. **Working day:** means any day of the week except:
 - (i) Saturday and Sunday; or
 - (ii) 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;
- at. **Year:** means a period of twelve months starting from the 1st of January – ending 31st December



Part 3.

Authority and application of rules

- 4.** (1) These Rules are made in terms of Section 116(1) (b) of the Constitution.
(2) These Rules apply to –
(a) each Member;
(b) each party represented in the Legislature;
(c) permanent delegates to the NCOP when they participate in the Legislature.
(d) each employee of the Legislature in the course and scope of his or her employment by Legislature;
(e) any consultant or contractor to the Legislature, in the course of fulfilling their consulting or contractual obligations; and
(f) Members of the public.

5. Changing rules

- (1) A Rule may be amended revoked or added by a resolution of the House.
(2) If a Member wishes to propose a change to the Rules, that Member must submit the proposal to the Rules Committee.
(3) A motion to change the Rules must be introduced by the Chairperson of the Rules Committee or Member designated by the Chairperson and accompanied by a report of the Rules Committee.

6. Interpretation of rules

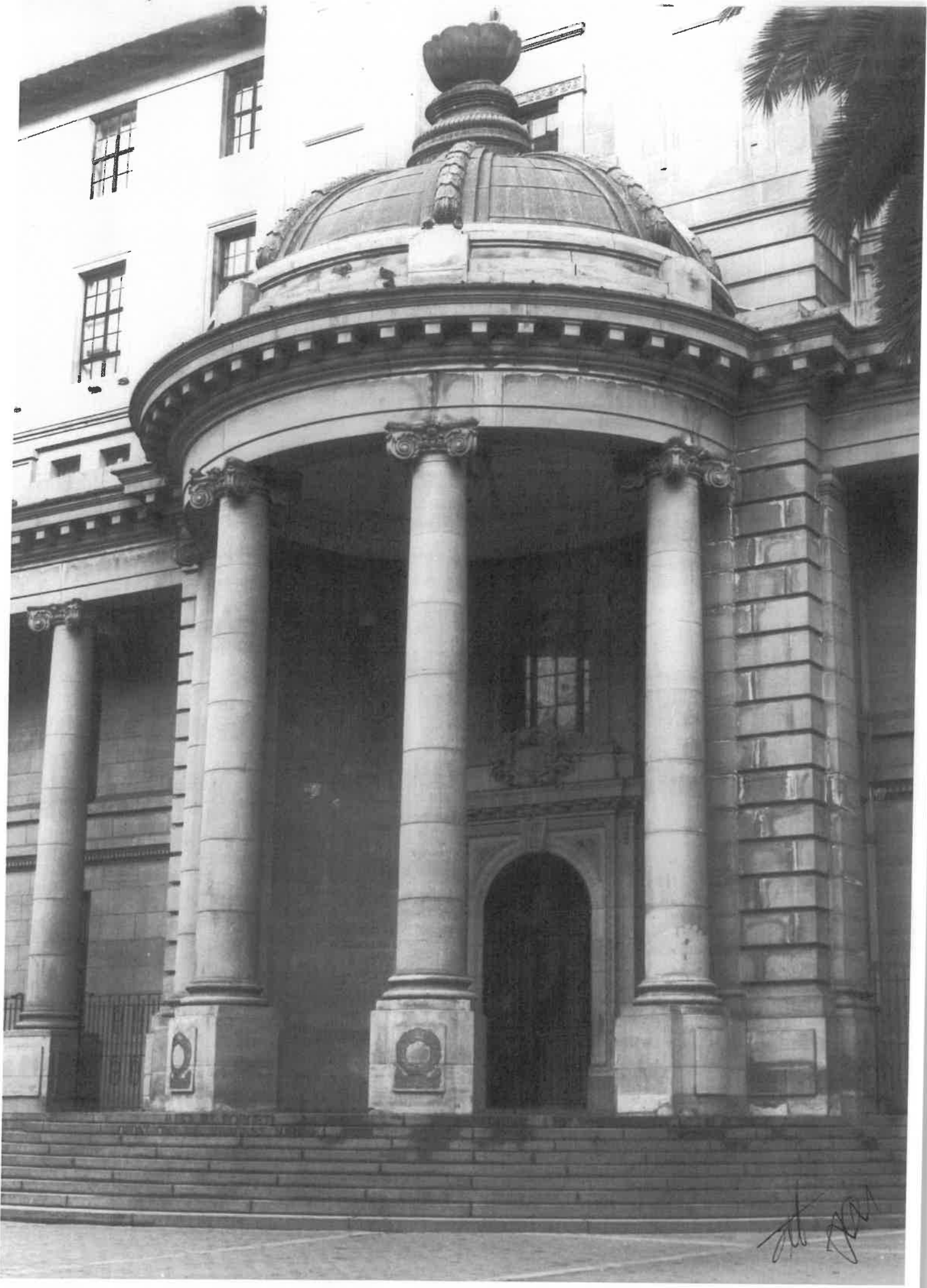
- (1) The Presiding Officer must give a ruling –
(a) Whenever a question arises about the interpretation or application of a Rule; and
(b) In cases not provided for in these Rules.
- (2) When the Presiding Officer gives a ruling, he or she must consider international best practice and be guided by –
(a) the purpose of these Rules as set out in Rule 1 of this Chapter;
(b) previous rulings; and
(c) the established practices of the Legislature.
- (3) When the Presiding Officer gives a ruling or as soon as possible afterwards he or she must provide reasons for the ruling.
- (4) A ruling on a case not provided for in these Rules remains in force until the Rules Committee has decided on the matter within a reasonable time, not exceeding three months.
- (5) A ruling must be published in the language of record. A copy of the ruling in one of the other languages of the Legislature must be made available to any Member on request.

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7. Suspension of rules

- (1) During a meeting of the House a Member may introduce a motion to suspend one or more Rules for the duration of all or part of the meeting.
- (2) A motion under this Rule may be introduced without notice and must indicate the reason for the proposed suspension.
- (3) Despite Sub-Rule (1), a motion to suspend the following Rules must be placed on the Order Paper five days before it is introduced and decided upon by a majority of two thirds of the Members present:
 - (a) This Rule;
 - (b) The Rule providing for a Member of the Executive Council to answer questions, Rule 44(2).
- (4) The suspension of any provision of the Rules must be limited in its operation to the particular purpose and the particular meeting for which the suspension has been approved.

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CHAPTER 2

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CEREMONIES AND SPECIAL SITTINGS

Part 1: Ceremonies

8. (1) The National Anthem must be performed at the beginning of:
- (a) the first sitting of the Legislature after an election;
 - (b) the opening and closing sitting of the Legislature each year;
 - (c) designated special and extraordinary sitting; and
 - (d) any other sitting as may be determined by the Speaker.
- (2) A praise singer may perform at the
- (a) first sitting of the Legislature after an election; and
 - (b) opening and closing of the Legislature each year.

Part 2: First sitting after an election

9. **House must sit within 14 days**

- (1) In accordance with section 110(1) of the Constitution, the House must sit within 14 days after the results of an election have been declared. A judge designated by the Chief Justice determines the date and time of the first sitting.
- (2) At the first sitting of the House after an election, the judge designated by the Chief Justice must read the notice convening the Legislature.

10. **Members take oath or affirmation**

After the notice convening the Legislature has been read and before Members may begin to perform their functions, they must swear or affirm faithfulness to the Republic and obedience to the Constitution in accordance with Schedule 2 of the Constitution before the convening judge.

11. **Election of Speaker and Deputy Speaker**

- (1) after all Members have taken an oath or affirmation, the House must elect one of its Members as the Speaker and another as Deputy Speaker in accordance with the procedure set out in section 111 and Part A of Schedule 3 of the Constitution.
- (2) In accordance with Section 111(5) of the Constitution, the House may elect from amongst its Members the Chairperson of Committees and the Deputy Chairperson of Committees as other Presiding Officers to assist the Speaker and the Deputy Speaker, and the Speaker presides over the elections of other Presiding Officers.

12. **Filling of Vacancy of the Presiding Officers**

- (1) whenever the position of the Speaker or the Deputy Speaker becomes vacant, the House must elect a Speaker or Deputy Speaker from among the Members of the Legislature in accordance with the procedure set out in Section 111 and part A of schedule 3 of the Constitution.
- (2) In the case of the Speaker, the Judge designated by the Chief Justice must determine the time of the election and in the case of the Deputy Speaker, the Speaker must determine the time of the election.



- (3) A Judge designated by the Chief Justice must preside over the election of the Speaker.
- (4) The Speaker must preside over the election of the Deputy Speaker and other Presiding Officers.
- (5) After being elected the Speaker may make a short statement expressing his or her sense of the honor conferred.

13. Election of the Premier

After the election of the Speaker and the Deputy Speaker, the House must elect one of its Members as the Premier of the Province in accordance with Section 128 and Part A of Schedule 3 of the Constitution.

14. Premier's address

- (1) After the election of the Premier, the Speaker must inform the House of the time at which the Premier will deliver his or her address on the State of the Province.
- (2) Notwithstanding the provisions of Sub-Rule (1), the Speaker may, before suspending the proceedings, call for the House to convene at a time prior to the Opening of the Legislature to dispose of any matter in accordance with the requirements of the Constitution and the Rules of the House.

Part 3: First sitting each year

15. First sitting each year

- (1) at the first sitting of the Legislature each year, the Premier must deliver an address on the State of the Province.
- (2) This is a special sitting solely designated to receive a state of the Province delivered by the Premier.

16. Discussion of the Premier's address

After the Premier's address on the State of the Province has been delivered, the Secretary must place it on the Order Paper for discussion.

Part 4: Extraordinary and other special sittings

17. Extraordinary sittings

- (1) The Premier may call an extraordinary sitting of the Legislature to conduct special business in terms of section 110(2) of the Constitution.
- (2) The Premier must inform the Speaker of his or her decision to call an extraordinary sitting

18. Special sittings

- (1) The Speaker may designate any sitting to be a special sitting to consider any business that is not on the programme of the Legislature.
- (2) The Speaker may also designate a sitting to be a special sitting to hear an address by a visitor.



- (3) The only business that may be conducted at that special sitting will be the business for which it has been designated.
- (4) The Speaker may in consultation with the Leader of Government Business invite the following to address the House-
 - (a) the Head of National or Provincial Legislature;
 - (b) the Head of National or Provincial Government;
 - (c) the Head of Local Government;
 - (d) the Head of organised local government association;
 - (e) the Head of Institution Supporting Democracy;
 - (f) a Judge-President; and
 - (g) any other person who has performed outstanding service to society.
- (5) The Speaker may designate a special sitting to commemorate a passing on of a former Member or a serving Member of the Legislature who has passed on.

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CHAPTER 3

OFFICE BEARERS, MEMBERS AND NCOP DELEGATES

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OFFICE BEARERS, MEMBERS AND NCOP DELEGATES

Part 1: Office Bearers

19. Speaker

- (1) As head of the Legislature, the Speaker safeguards the independence of the Legislature and maintains the authority of the Legislature.
- (2) The Speaker is the spokesperson for the Legislature in its relations with the other arms of government, and with outside institutions and persons. In representing the Legislature, the Speaker is responsible to the Legislature and its Members
- (3) The Speaker must ensure that these Rules are observed.
- (4) As presiding officer, the Speaker presides over the House and ensures that meetings are conducted in an orderly manner and according to the Constitution and these Rules.
- (5) The Speaker must protect freedom of speech and debate in the House and its Committees.
- (6) The Speaker is responsible for the management of the Legislature in accordance with Rule 64(2).
- (7) The Speaker must discharge his or her responsibilities in an impartial way.

20. Deputy Speaker

The Deputy Speaker –

- (1) assists the Speaker in the performance of his or her functions;
- (2) is a presiding officer and presides over the House whenever necessary; and
- (3) acts as the Speaker when the Speaker is absent or unable to perform his or her functions and when the position of Speaker is vacant.

21. Chairperson of Committees

The Chairperson of Committees –

- (1) Is the Chairperson of the Committee of Chairpersons.
- (2) Represents the Committee of Chairpersons at the Programming Committee;
- (3) Implements policy with regard to the coordination of the work of Committees and the scheduling of Committee meetings; and
- (4) Acts as Deputy Speaker when requested by the Speaker in terms of Rule 23(1).

22. Deputy Chairperson of Committees

The Deputy Chairperson of Committees –

- (1) assist the Chairperson of Committees in the performance of his or her functions.

23. Absence of Speaker or Deputy Speaker

- (1) The Speaker must request the Chairperson of Committees to act as Deputy Speaker when the Deputy Speaker is absent or unable to perform his or her functions and the position of Deputy Speaker is vacant.
- (2) The Chairperson of Committees must act as Speaker and the Deputy Chairperson must act as Deputy Speaker-



- (a) if the Speaker and Deputy Speaker are absent or unable to perform their functions or
- (b) If the positions of the Speaker and Deputy Speaker are both vacant
- (3) If the Speaker, Deputy Speaker, the Chairperson of Committees and the Deputy Chairperson are all absent at same time, the House must elect a Member to act as Speaker for the time during which all presiding officers are absent.

24. Chief Whip

The Chief Whip –

- (1) is responsible for ensuring the attendance in the House in liaison with other Whips;
- (2) arranges the Legislature business in the Order Paper, subject to the Rules and the directives of the Programming Committee; and
- (3) is responsible for political consultation among parties in the Legislature.

25. Deputy Chief Whip

The Deputy Chief Whip –

- (1) assists the Chief Whip in the performance of his or her functions.

26. Relief of presiding officers during sittings

If the presiding officer needs to leave the House during a sitting, he or she must be replaced by another presiding officer, or, if neither of them is present, by another Member identified by the presiding officer.

27. Appointment of Leader of Government Business

After an election or whenever the position of Leader of Government Business becomes vacant, the Premier must appoint a Member of the Executive Council as Leader of Government Business and inform the Speaker of the appointment.

28. Leader of Government Business

Responsibilities of the Leader of Government Business is responsible for:

- (1) The management of government business in the Legislature; and
- (2) Liaison between the Legislature and the Executive Council.

Part 2: Members

29. Members' oath/affirmation in case of vacancy

- (1) Members who fill a vacancy in the Legislature between elections must take the oath or affirm their faithfulness to the Republic and obedience to the Constitution in accordance with Schedule 2 of the Constitution.
- (2) Oath/affirmation in terms of Sub-Rule (1) must be done during a sitting before Members may begin to perform their functions in the Legislature.
- (3) When the Legislature is in recess, a Member who fills a vacancy in the Legislature may take the oath/affirmation before the Speaker.



30. Conduct of Members

When attending to the business of the Legislature, every Member must –

- (1) behave in a way that demonstrates respect for the Legislature and other Members;
- (2) dress appropriately in a formal or traditional way, taking into account diverse religious and cultural beliefs, excluding party regalia and insignia; and
- (3) When conducting inspections, Members may visit projects and facilities to assess service delivery subject to the rules and regulations of such, and without interfering with service delivery.

31. Members' right of access to documents

- (1) Every Member has the right to examine any document tabled in the Legislature including any of its Committees and to receive a copy of that document upon submitting a request to the Secretary.
- (2) A Member may not reveal the content of any document that has been deemed confidential and withheld from the public under Rule 52(4) & (5).

32. Members' attendance

- (1) Members must attend each meeting of the House and the relevant Committees unless they are granted leave.
- (2) A Member must apply to his or her party for leave if the period or proposed absence is less than 30 consecutive working days.
- (3) The party granting the leave to a Member must ensure that the Speaker in an event of a sitting or Chairperson of a Committee in an event of a Committee meeting are informed in writing of the leave granted.
- (4) The party may grant leave only if a Member has been present at 80 per cent or more of the meetings of the House and the Committees of which he or she is a Member in the preceding year, determined cumulatively on a quarterly basis.
- (5) A Member may not be absent for 30 or more consecutive working days unless he or she has been granted permission by the House.
- (6) The motion to grant leave of more than 30 days must be introduced by the Whip of the Member's party.
- (7) A Member who has arranged for an alternate Member to attend a meeting of a Committee on his or her behalf, will be deemed to have been granted leave from that meeting.
- (8) Sub-Rule (7) does not apply if the Member is absent for 30 or more consecutive working days.

33. Acting for absent Member

- (1) A Member may give notice of a motion or submit a question for an absent Member if that Member has been authorised in writing.
- (2) A Member may take charge of an item on the Order Paper in the absence of a Member in charge if that Member has been authorised in writing by the absent Member, or by the Whip of his/her party.



Part 3: Delegates to the National Council of Provinces

34. Nomination and appointment of permanent delegates

- (1) When a permanent delegate to the NCOP is to be appointed in terms of section 61(2) of the Constitution, the Speaker must within a reasonable time invite the parties represented in the Legislature in writing, to submit written nominations.
- (2) A permanent delegate must be appointed by a resolution of the House.

35. Appointment of special delegates

- (1) Special delegates to the NCOP referred to in section 60(2) of the Constitution must be designated from time to time by a resolution of the House. A resolution under this Rule may be proposed without notice.
- (2) The Committee of the Legislature concerned with the matter on the NCOP Agenda for which special delegates are needed must identify the special delegates.
- (3) If the Committee is unable to meet, the Speaker may identify the delegates.
- (4) A motion proposing the designation of special delegates must –
 - (a) indicate the purpose of the appointment; and
 - (b) be placed on the Order Paper.
- (5) The resolution appointing special delegates must be recorded in the Minutes of Proceedings.

36. Regulation of the House business when the House is not in sitting during Business period

- (1) The Speaker may, in consultation with the leaders of political parties, settle certain matters including but not limited to the adoption of the final mandate.
- (2) In the absence of consensus, the matter must be dealt with by the House Sitting.
- (3) Any such matter settled in terms of this Rule, must be ratified by the House at the first available opportunity.
- (4) All decisions taken in accordance with this Rule shall have full effect of the House resolution.
- (5) The Speaker must, at the next sitting, announce information on the resolution adopted in terms of this Rule.

37. Concurrence for appointment of special delegates

A resolution appointing special delegates may not be adopted if the Premier or Whip of the party entitled to the special delegate objects to it.

38. Proof of appointment as special delegates

The Speaker in consultation with the Premier must –

- (1) certify the appointment of special delegates and the purpose of the appointment in writing; and
- (2) provide a copy of the certification to each special delegate and to the Chairperson of the NCOP.

39. Termination of appointment as special delegate

- (1) The appointment of a Member as a special delegate may be terminated at any time by a resolution of the House.

- (2) If the House is not in session, a Member's appointment as a special delegate may be terminated by a resolution that is proposed by the Speaker and adopted following the procedure set out in Rule 36.

40. Permanent delegates' rights and duties in the Legislature

- (1) In accordance with section 113 of the Constitution, the Province's permanent delegates may attend and speak in the House and its Committees, but may not vote.
- (2) If a permanent delegate wishes to speak in the House or any of its Committees, arrangements must be made with the Speaker or the Chairperson of the relevant Committee.
- (3) The Legislature may require a permanent delegate to attend and report to the Legislature or any of its Committees.
- (4) Permanent delegates may put questions for written reply to any Member of the Executive Council subject to Rule 136.

41. Changes of permanent delegates

The Speaker must submit a written notice informing the Chairperson of the NCOP that a permanent delegate has been changed if –

- (1) the party to which that delegate belongs submits a written notice signed by its leader or Whip, stating that the delegate has ceased to be a Member of the party and is therefore recalled by the party; or
- (2) the House adopts a resolution that a permanent delegate has been changed.

42. Delegate in the Mediation Committee

If a Bill is referred to the Mediation Committee in the National Parliament, the Province's delegation must designate one of its delegates to represent the Province in the Mediation Committee.

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CHAPTER 4

THE EXECUTIVE COUNCIL

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THE EXECUTIVE COUNCIL

43. Appointment of the Executive Council

When the Premier appoints Members of the Legislature to the Executive Council or dismisses them in terms of section 132 of the Constitution, he or she must inform the Speaker immediately.

44. Duties of Executive Council

- (1) Members of the Executive Council must ensure and account for implementation of all legislation in their area of responsibility.
- (2) A Member of the Executive Council must ensure implementation of the House resolutions.

Part 1: Annual Reports

45. (1) Every Member of the Executive Council must submit to the Legislature the Annual Report, in a format as prescribed by the Legislature, financial statements in a format as provided by Treasury regulations, and the Auditor-General's report on the department/s for which he/she is responsible within six months of the end of the financial year as required by section 40 of the PFMA.
- (2) Members of the Executive Council must submit Annual Reports of all entities under their control in terms of section 55 of the PFMA.
- (3) Where a Member of the Executive Council is unable to submit an annual report within the specified period, as prescribed in section 65 of the PFMA, such Member must submit a written explanation to the Speaker within 10 days of expiry of the period, setting out the reasons why the report was not tabled.
- (4) The Speaker shall, through Programming Committee determine a date for tabling of Annual Reports in the House.
- (5) In the event of erroneous information being submitted to the Legislature in an Annual Report, the Member of the Executive Council responsible must submit an erratum within the time specified by the Legislature or a Committee thereof.
- (6) Despite Sub-Rule 6 where a Member of the Executive Council discovers an error or incorrect information relating to a matter before the House or a Committee, he/she must inform the House or a Committee thereof prior to the adoption of a report on the matter.

Part 2: Quarterly Reports

46. (1) A Member of the Executive Council must submit a Quarterly report in a format prescribed by the Legislature, financial reports in a format as provided by Treasury Regulations, for which he/she is responsible within one calendar month after the end of each quarter.
- (2) Where a Member of the Executive Council is unable to submit a Quarterly report within the specified period, as prescribed in Sub-Rule 1, he/she must submit a written explanation to the Speaker setting out the reasons why the report was not tabled. The written explanation must be submitted within 5 days of expiry of the period set out in Rule Sub-Rule 1 above.



- (3) In the event of erroneous information being submitted to the Legislature in a quarterly report, the Member of the Executive Council responsible must submit an erratum within the time specified by the Legislature or a Committee thereof.
- (4) Notwithstanding Sub-Rule 3 where a Member of the Executive Council discovers an error or incorrect information relating to a matter before the House or a Committee, he/she must inform the House or a Committee hereof prior to adoption of a report on the matter.
- (5) The Speaker shall through the programming committee determine a date and time for tabling of quarterly reports.

47. Interference with the Committee Processes

Members of the Executive Council must not interfere with Committee processes.

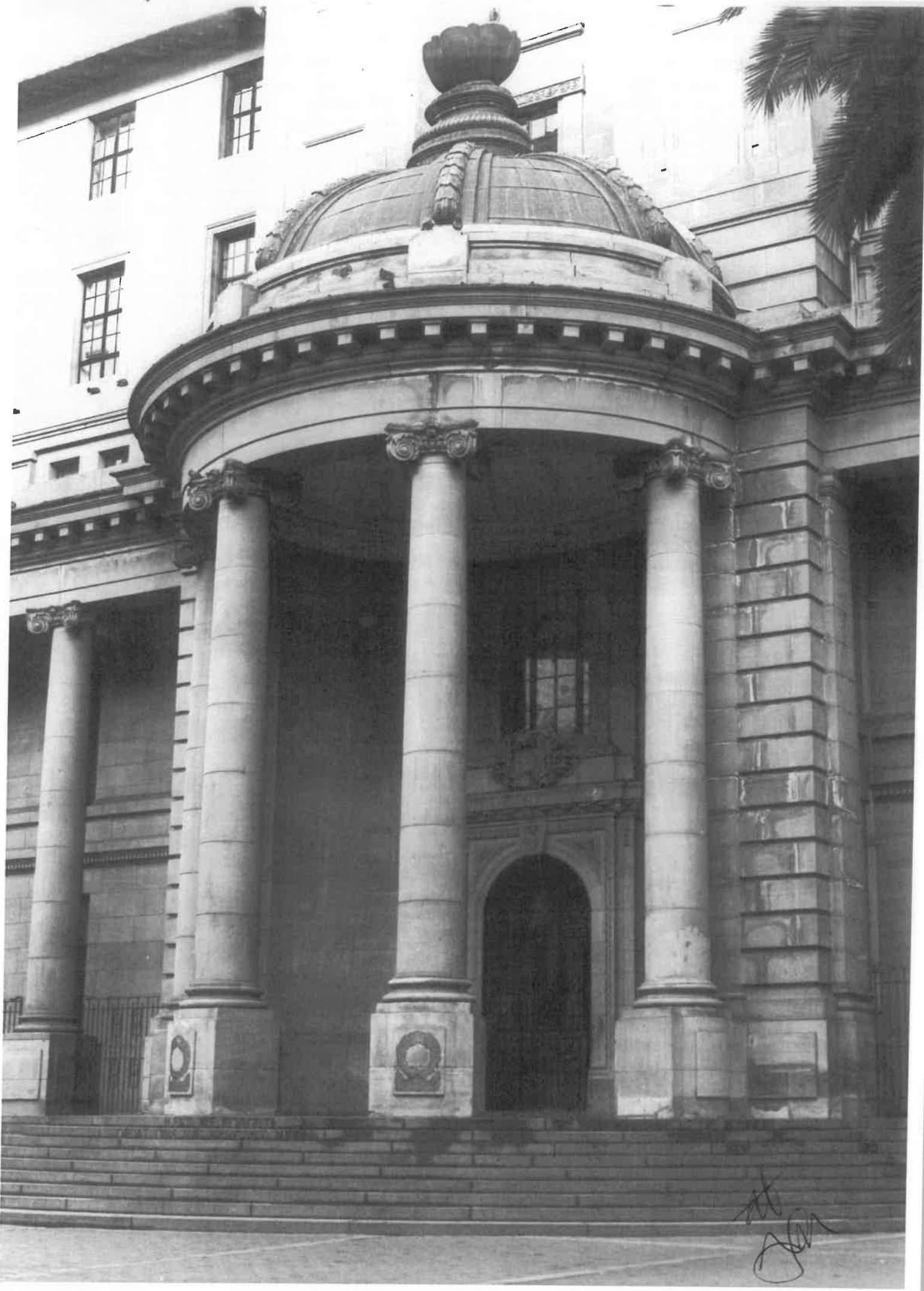
48. Matters affecting the Executive Council

- (1) When the Legislature or any of its Committees brings a matter to the attention of a Member of the Executive Council, it must indicate –
 - (a) whether or not it requires a response from a Member of the Executive Council; and
 - (b) if it requires a response, the period within which a response must be given.
 - (c) that such a Member must submit a response that is correct and accurate to the Legislature or committee thereof within the specified timeframe.
- (2) The Speaker must send any resolution affecting a Member of the Executive Council to the Premier or the appropriate Member.

49. Vacancy in Premiership

- (1) When a Premier resigns or when the Premier's office is vacant for other reasons, the outgoing Premier or another party leader must inform the Speaker of the vacancy.
- (2) At the first opportunity after the Speaker is informed of the vacancy in the Premier's office, he or she must –
 - (a) inform the House;
 - (b) inform the Chief Justice; and
 - (c) request the Chief Justice to set a date and time for the election of a Premier and to designate a judge to preside over the election.
- (3) At the time and date set by the Chief Justice, the Legislature must elect one of its Members as Premier in accordance with section 128 and Part A Schedule 3 of the Constitution.





CHAPTER 5

PUBLIC

PARTICIPATION

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PUBLIC PARTICIPATION

Part 1: General

50. Public involvement

- (1) The Rules in this chapter are to guide the Legislature in fulfilling its constitutional responsibility of openness and to facilitate the participation of the public in its proceedings as required by section 118 of the Constitution.
- (2) The Legislature should be guided by the commitment in the Preamble to the Constitution for building a democratic and open society in which government is based on the will of the people and every citizen is equally protected by the law.

51. Public access

- (1) The plenary meetings of the Legislature and its Committee meetings must be open to the public, subject to Rule 52.
- (2) The Speaker must inform the public of the proceedings of the House and its Committees by publishing details of the time and place of meetings and their subject matter.

52. Regulating public access

- (1) The Legislature must take reasonable measures to regulate public access.
- (2) The regulation of the public's access to the precincts of the Legislature, subject to the Constitution and these Rules, is the responsibility of the Speaker.
- (3) In the interest of security or to prevent any disruption of proceedings, the Legislature may provide for the searching of any person and refuse entry to or remove any person.
- (4) A Committee may exclude the public, including the media, from a meeting in terms of section 118(2) of the Constitution only when it is reasonable and justifiable to do so in an open and democratic society.
- (5) Circumstances in which it is reasonable and justifiable to exclude the public from a Committee meeting may, but will not necessarily, occur when the Committee is considering a matter that –
 - (a) should be discussed behind closed doors to avoid prejudicing any person unfairly; or
 - (b) is confidential in terms of legislation.

53. Conduct of Members of the public

- (1) When in the precincts of the Legislature, Members of the public must conduct them in an orderly manner.
- (2) Members of the public attending a plenary meeting of the Legislature or a Committee meeting may not disrupt proceedings and must observe the directive of the Member presiding over the House or chairing the Committee meeting.
- (3) The Member presiding over the House or chairing a Committee meeting may order a Member of the public to leave from a meeting and leave the precincts of the Legislature when he or she disrupts proceedings or is involved in any misconduct.
- (4) The Sergeant-at-Arms may remove Members of the public from the precincts of the Legislature if they –



- (a) do not leave a meeting or the precincts of the Legislature on the instruction of the Member presiding over the House or chairing a Committee meeting;
- (b) have entered any part of the precincts which has been set aside for Members only;
- (c) interrupt proceedings or are involved in misconduct; or
- (d) are a threat to the security of the Legislature.

54. Public participation in Committee meeting

- (1) Any member of the public and any institution or organisation may ask to appear before or may make a written submission to a Committee with regard to a particular matter.
- (2) Rule 140 regulates this process.

55. Assistance for public participation

In order to provide effective opportunities for public participation, the Secretary may assist a person to -

- (1) formulate a written submission to a Committee;
- (2) appear before a Committee; or
- (3) present a submission to a Committee.

56. Meeting outside the ordinary precinct

- (1) The Legislature or a Committee of the Legislature may hold meetings outside of the ordinary precinct of the Legislature.
- (2) The Speaker or a Chairperson of a Committee holding a meeting outside the precinct of the Legislature must declare the area as a precinct of the Legislature for the duration of the meeting.

Part 2: Petitions

57. Right to petition

- (1) A member of the public has the right to petition the Legislature.
- (2) The right to petition the Legislature must be exercised in accordance with the Petitions Act.

58. Submission of petitions

- (1) A petition must be submitted to the Secretary in writing and in the form prescribed by the Petitions Act.
- (2) All petitions that meet the requirements of the Act must be referred to the Petitions Committee.

59. Assistance for petitions

The Secretary must render all reasonable assistance to any person who is unable to submit a petition meeting all the requirements of the Petitions Act.

60. Consideration of petitions

- (1) The Petitions Committee must consider all petitions that are properly submitted in terms of the Petitions Act.

- (2) The Committee may use all the powers given to it by the Act to deal with a petition.
- (3) The Secretary must inform the petitioner and other members of the public concerned of the decision of the Committee and of any action taken by the Committee.
- (4) The Petitions Committee must consider all petitions within a period of six (6) months. Where this is not possible, the Committee must table a report with the recommendation to the House to resolve the matter.

61. Reports of Petitions and Public Participation Committee

- (1) The Petitions Committee must –
 - (a) submit an Annual Report to the House in terms of Rule 160; and
 - (b) report to the House on a quarterly basis on the petitions submitted to it during the past three months.
- (2) The quarterly report must –
 - (a) set out the activities of the Committee and the time it has taken to respond to the petitions received; and
 - (b) include an assessment of the effectiveness of the petitions process and procedures.
- (3) The Chair of the Committee is the Member in charge of a report and must present it to the House

Part 3: Promotion of Human Rights

- 62.** (1) All reports as prescribed herein, submitted by a Member of the Executive Council must have specific indicators concerning measures taken by his/her department or entity under his/her responsibility in promoting –
- (a) gender equality;
 - (b) youth development;
 - (c) rights of people with disabilities; and
 - (d) any other rights enshrined in the Bill of Rights.
- (2) The Legislature highlights the importance of enabling women, youth and people with disabilities to participate in deliberations on matters relating to women, youth and people with disabilities thus encouraging inclusiveness through –
- (a) ensuring that the Legislature, through its Committees, pays attention to issues relating to gender, youth and people with disabilities when it conducts oversight;
 - (b) ensuring that the concerns of women, youth and people with disabilities are adequately taken into account in the oversight and public participation programme of the Legislature; and
 - (c) Ensuring that the Executive pays attention to issues relating to gender, youth and people with disabilities.
- (3) Committees must report annually to the House on the role they played in promoting matters of gender, youth and people with disabilities.

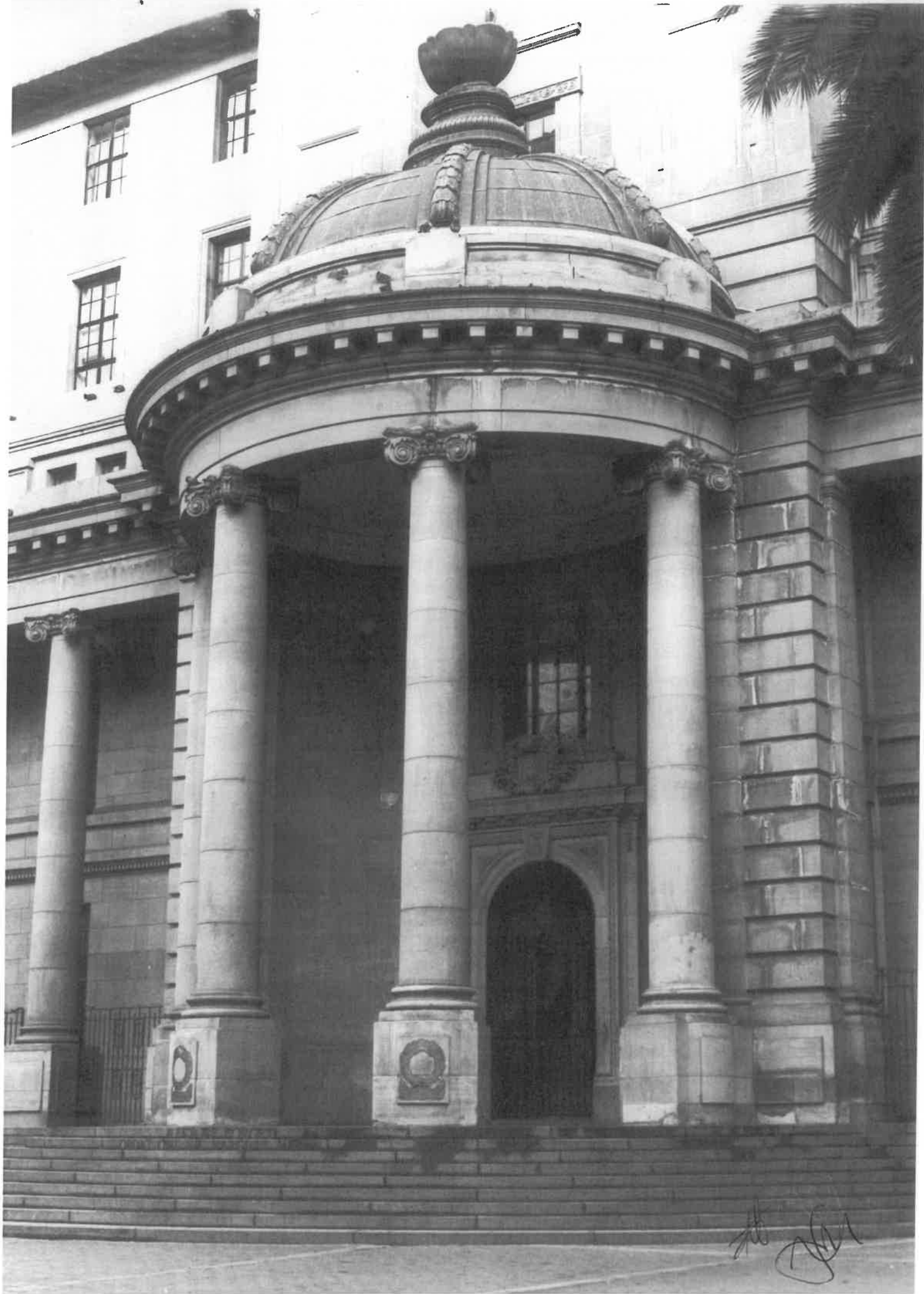


Part 4: Resolutions of the House

63. Resolutions affecting Executive Council

- (1) The Speaker must communicate to the Leader of the Government Business, the relevant Member of the Executive Council, Head of Department and Chairperson of the Portfolio Committee –
 - (a) a resolution of the House affecting the Executive Council, a Member of the Executive Council, or Provincial Department; and
 - (b) a recommendation of a Portfolio Committee in a Committee report affecting the Executive Council, a Member of the Executive Council, or Provincial Department, and adopted by the House.
 - (c) Resolutions of the sector parliaments, Multi-Party Women's Caucus and the Speaker's Forum as recommended and adopted by the House.
- (2) A Member of the Executive Council who receives communication in terms of Sub-Rule must, within 30 days of receipt, report in writing to the Speaker –
 - (a) the steps undertaken to implement the resolution; and
 - (b) the planning to implement the resolution or recommendation.
- (3) If the resolution has not been implemented within 30 days, the relevant MEC must report in writing to the Speaker –
 - (a) the reasons for not implementing the resolution;
 - (b) the corrective steps undertaken to implement the resolution; and
 - (c) the planning to implement the resolution.
- (4) Members of the Executive Council must provide an account of their departments' performance against resolutions of the House in their annual and quarterly reporting.



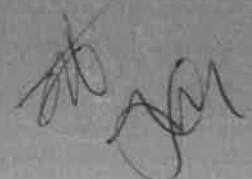


CHAPTER 6

LEGISLATURES'

EXECUTIVE AUTHORITY

Part 1: Duties of the Executive Authority.....30

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LEGISLATURES' EXECUTIVE AUTHORITY

64. Executive Authority

- (1) The Executive Authority of the Legislature is vested in the Speaker of the Legislature.
- (2) The Executive Authority is accountable to the Legislature for the sound financial management of the Legislature.

Part 1: Duties of the Executive Authority

65. Preparation of strategic, annual performance plans and budget

The Executive Authority must –

- (1) oversee the preparation of the Legislature's strategic plan, annual performance plan, budget and adjustment budgets in accordance with this chapter; and
- (2) table the strategic plan and annual performance plan in the House.

66. Submission of drafts of strategic plan, annual performance plan and budget

The Executive Authority must –

- (1) After consultation with the MEC for Finance, determine a process for submitting the Legislature's budget and adjustments budget to the Provincial Treasury;
- (2) submit the budget and adjustments budget to the Provincial Treasury; and
- (3) represent the Legislature in any discussions with the MEC for Finance on any aspect of the Legislature's budget or adjustments budget.

67. Submission of reports to oversight mechanism

- (1) The Executive Authority must table the quarterly and mid-year reports to the Legislature in line with the Financial Management of Parliament and Provincial Legislatures 2009 (Act no: 10 Of 2009) and amendments thereof.
- (2) The Legislature must refer the reports to the oversight mechanism promptly.
- (3) The Legislature must submit any other report(s) in compliance with the oversight mechanism.

68. Tabling and consideration of Annual Report

- (1) The Executive Authority must table the Annual Report in the House as determined by the Programming Committee.
- (2) The Annual Report of the Legislature must be referred for oversight to relevant Committee(s).



CHAPTER 7

MEETINGS

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MEETINGS

Part 1: General

69. Working days

- (1) Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, excluding Public Holidays, are working days of the Legislature.
- (2) The Legislature may not meet in plenary on a Wednesday.
- (3) The Speaker determines the times of plenary meetings of the Legislature.
- (4) Despite Sub-Rules (1) and (2), the Speaker may, if he or she deems it necessary and after consultation with the Leader of Government Business and the Programming Committee, determine any day for a plenary meeting of the Legislature.

70. Quorum requirements

- (1) At least one third of all the Members of the Legislature must be present to constitute a plenary meeting of the Legislature.
- (2) A majority of the Members of the Legislature must be present when a vote is taken on a Bill or an amendment to a Bill.
- (3) At least two thirds of all the Members of the Legislature must be present when a vote is taken on a constitution for the Province or an amendment to a constitution for the Province.

71. Absence of a quorum

- (1) If there is no quorum when a meeting is due to begin, the Presiding Officer may not enter the Chamber and the bells must be rung for three minutes at ten minute intervals, for a total of thirty minutes or until a quorum is present, whichever occurs first.
- (2) If a quorum is not achieved thirty minutes after a meeting was due to begin, the Presiding Officer must enter the Chamber to adjourn the meeting.
- (3) If during a sitting of the Legislature the number of Members present falls below that required to constitute a plenary meeting, the Presiding Officer may allow the meeting to continue or require that the bells are rung for three minutes. If there is still no quorum after three minutes have passed, the Presiding Officer may suspend proceedings or adjourn the House.
- (4) Whenever the House is adjourned owing to the absence of a quorum, the time of such adjournment, as well as the names of the Members present, must be recorded in the Minutes of Proceedings.
- (5) Any Member calling the attention of the Presiding Officer to the absence of a quorum must be recorded as present, whether present or not when the Members are counted.

72. Order at the beginning of a meeting

All Members must rise when the Presiding Officer enters the Chamber at the beginning of a meeting and must remain standing until the Presiding Officer takes his or her seat.



73. Prayer and meditation at the beginning of meeting

At the commencement of each plenary meeting of the Legislature, there will be a moment of silence to allow for individual prayer and meditation.

74. Suspension and adjournment of proceedings

- (1) Only the Presiding Officer may suspend or adjourn the proceedings of the House.
- (2) When a Presiding Officer suspends proceedings, he or she must decide when the meeting should resume.
- (3) If the Presiding Officer wishes to suspend proceedings until a later day than the following working day, he or she must consult the Leader of Government Business.
- (4) Despite Sub-Rule (3), the Speaker may accelerate or postpone the date for the resumption of business.

75. Order at adjournment

All Members must rise when the House adjourns and must remain standing until the Presiding Officer has left the Chamber.

Part 2: Arrangement of business

76. Business of the House and Order Paper

- (1) The Programming Committee, after consultation with the Leader of Government Business, must arrange all business of the House in accordance with these Rules.
- (2) The Leader of Government Business must agree to any arrangement of government business.
- (3) As far as possible all business of the House must be arranged in a manner that receives support from all parties.
- (4) The Speaker must ensure that all business of the House is placed on the Order Paper.
- (5) At each meeting, the House conducts its business in the order shown on the Order Paper unless –
 - (a) the House decides otherwise in terms of Rule 120;
 - (b) the Presiding Officer decides otherwise after consultation with the Whips; or
 - (c) the Rules allow otherwise.

77. Speeches and open time in debates

- (1) For each debate, the Whips must compile a speaking list of the Members who are to speak in the debate, the order in which they are to speak, and the amount of time each Member has for his or her speech. No Member will be allowed to arrange to allocate time during the sitting.
- (2) In compiling the speaking list, the Whips must ensure that all parties represented in the Legislature have an opportunity to participate in the proceedings in a manner consistent with democracy.
- (3) The Premier, the Leader of the Official Opposition and the Speaker shall not be restricted with regard to the length of time they may speak.

- (4) Members other than those referred to in Sub-Rule (3) may not speak for longer than 30 minutes at a time to a question provided that the time does not exceed the parties' allocated time.
- (5) At the end of each speech according to the speaking list any Member including Members who have already spoken in the debate may indicate to the Presiding Officer that he or she wishes to ask a question or make a remark directly related to the speech.
- (6) For each debate, the Whips must determine the amount of time available for open debate after all the speeches according to the speaking list.
- (7) A Member who wishes to speak during open time must indicate his or her wish to the Presiding Officer.
- (8) The Presiding Officer must use his or her discretion to call on Members to speak during open time.
- (9) A Member who has already spoken during a debate may not speak again during open time in the same debate unless he/she speaks in terms of Sub-Rule 5
- (10) Points of order shall not be applicable during this period.

78. Urgent debate and statements by Members of the Executive Council

- (1) Despite Rule 124, the Speaker may allow a matter of urgent public Importance to be debated in the House in accordance with Rules 124 and 125.
- (2) Despite Rule 76, at the beginning of a meeting before any business of the House, the Presiding Officer may give one or more Members of the Executive Council the opportunity to make a statement in accordance with Rule 79.

79. Statement by Members of the Executive Council

- (1) A Member of the Executive Council who wishes to make a statement in the House with regard to a matter falling under his or her responsibility must give written notice to the Speaker at least two hours before the beginning of the meeting.
- (2) A Member of the Executive Council may make up to two statements per meeting and may speak for up to five minutes per statement.

Part 3:
Rules of debate

80. Members' Privileges and Freedom of speech

- (1) Members enjoy privileges and immunities specified in Section 117(1) of the Constitution and any Provincial and national legislation, which are necessary to fulfil their duties.
- (2) In accordance with section 117 of the Constitution, Members must be allowed to speak and debate freely in the House and its Committees as and when recognised by the Presiding officer in line with orders of the day and the speaking list.

81. Statements by Members

- (1) A Member, other than the Premier or a Member of the Executive Council may be recognized by the Presiding Officer to make a statement on any matter for not more than two minutes.



- (2) The number of Members entitled to make a statement, shall be restricted to 5 Members per sitting.
- (3) The Speaker may at his/her own discretion extend the number of Members who wish to make a statement.
- (4) Members of various parties must be recognized in accordance with the proportional representation in the House.
- (5) A copy of the statement must be sent to the Speaker at least two (2) hours before the Sitting.

82. Precedence of Presiding Officer

The Presiding Officer's right to speak takes precedence over the right of other Members to speak.

83. Members called to speak

- (1) A Member may speak in a debate only when called by the Presiding Officer.
- (2) A Member who wishes to speak in a debate but is not on the speaking list must indicate his or her wish to the Presiding Officer by rising in his or her seat or by show of hand.
- (3) Notwithstanding Sub-rule (2), the Member will only be allowed to speak, if his/her party has free time available

84. Conduct of Members speaking

Members must rise and address the Presiding Officer when speaking in a debate unless they are unable to do so.

85. Conduct of Members during debate

In the course of a debate Members may not -

- (1) walk between the Presiding Officer and a Member who is speaking;
- (2) walk in front of the Table;
- (3) use electronic equipment that disturbs proceedings;
- (4) have conversations among themselves; and
- (5) distribute any unauthorised document in the House

86. Member may not speak twice to a matter

- (1) Except when required or allowed by these Rules, no Member may speak more than once to a matter.
- (2) A Member may request permission to speak to a matter a second time in order to -
 - (a) clarify any misquotation or misunderstanding of any material part of his or her original speech;
 - (b) ask a question or make a remark in terms of Rule 77; and
 - (c) place an interruption in terms of Rule 88.

87. Content of debate

- (1) Members may not -
 - (a) discredit the House by using disrespectful words;
 - (b) refer to proceedings in Committee meetings that were closed to the public until those proceedings are reported to the House;
 - (c) refer to any other Member by that Member's first name or names only;

- (d) comment upon the merits of any matter pending before the courts in a way that could interfere with the administration of justice or infringe upon the independence of the courts;
 - (e) comment upon matters that are irrelevant to the matter under discussion;
 - (f) use offensive language;
 - (g) repeat arguments; or
 - (h) anticipate the discussion of a matter appearing on the Order Paper.
- (2) When a Member persists in irrelevance or repetition of arguments the Presiding Officer must call attention to the conduct of the Member and may then direct the Member to stop his or her speech.
- (3) In determining whether a Member is out of order on the ground of anticipating the discussion of a matter appearing on the Order Paper, the Presiding Officer must take into account whether the matter is likely to be discussed in the House within a reasonable time.

88. Interruptions

Members may interrupt a Member who is speaking in a debate only to –

- (1) raise a point of order, such Member must quote the rule of order which in his or her opinion, is being breached.
- (2) raise a matter of privilege; or
- (3) call attention to the presence of an unauthorised person.

89. Points of order

- (1) A Member may raise a point of order to call the attention of the Presiding Officer to a breach of order.
- (2) When a point of order is raised during a debate, the Member who is speaking must stop speaking and resume his or her seat.
- (3) After the point of order has been stated, the Presiding Officer must immediately make a decision or indicate when a decision will be made.

90. Personal explanations

- (1) A Member may request the Presiding Officer's permission to explain matters of a personal nature raised in the House.
- (2) The Member must confine the explanation strictly to the personal matter and may speak for up to three minutes.
- (3) The explanation may not be debated.

91. Reply to a debate

- (1) The Member in charge of an item on the Order Paper, as envisaged in Rules 117, 121, 164, 199, may reply to the debate on the matter.
- (2) A reply to a debate closes the debate.

Part 4: Order in meetings

92. Applicability of Rules

The Rules in this part apply to order in the House and, when applicable, to order in Committee meetings.

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93. Maintaining order

The Member presiding over the House or chairing a Committee meeting must maintain order in meetings.

94. Respect for Presiding Officer

In the House every Member must bow to the Presiding Officer when passing in front of his or her seat.

95. Member ordered to withdraw

- (1) The Member presiding over the House or chairing a Committee meeting may order a Member to withdraw immediately from a meeting for the remainder of that meeting or a shorter period if he or she is of the opinion that –
 - (a) the Member is deliberately contravening a provision of the Rules;
 - (b) the Member is in contempt of or disregarding the authority of the Member presiding over the House or chairing the Committee meeting; or
 - (c) The Member's conduct is grossly disorderly.
- (2) An order to withdraw must be recorded in the Minutes of Proceedings.
- (3) If the member refuse to withdraw from the meeting, the Presiding Officer will:
 - (a) Not recognize the member to speak for the duration/reminder of the meeting
 - (b) Order the protection service or security officers or authorized staff members to remove the Member from the House

96. Serious contravention and suspension of Member

- (1) If the Member presiding over the House or chairing a Committee meeting determines that a contravention committed by a Member is so serious that an order to withdraw is inadequate, he or she may –
 - (a) if he or she is the Speaker, suspend the Member or refer the matter to the Privileges and Ethics Committee to conduct an inquiry on the matter and to make recommendations to the House;
 - (b) if he or she is not the Speaker, report the contravention to the Speaker, whereupon the Speaker, after consultation with the Member presiding over the House or chairing the Committee meeting, may suspend the Member and or refer the matter to the Privileges and Ethics Committee to conduct an inquiry on the matter and to make recommendations to the House; and
- (2) any action taken under this rule must be announced in the House and recorded in the Minutes of Proceedings.

97. Member ordered to withdraw and suspension

- (1) A Member ordered to withdraw, under Rule 96 may remain within the precinct of the Legislature.
- (2) A Member whose matter has been referred to the Privileges and Ethics Committee to conduct an inquiry and to make recommendations may remain within the precincts of the Legislature unless the House pronounces itself on the matter.
- (3) A Member who is suspended in terms of Rule 96(1)(a) and (b) shall forthwith withdraw from the precincts of the Legislature for the duration of his suspension.
- (4) The suspension of a Member shall be in writing and forthwith be tabled through the ATC and announced in the next sitting of the House.

98. Period of suspension

The suspension of a Member shall for any contravention on the first occasion during a session continue for 5 parliamentary working days, on the second occasion for 10 parliamentary working days, and on any subsequent occasion for 20 parliamentary working days.

99. Effect of order of suspension

- (1) A Member who has been suspended under Rule 96 must leave the precincts of the Legislature, and may not, during the period of suspension, without written permission by the Speaker –
 - (a) enter the precincts for whatever purpose;
 - (b) participate in any activity of the Legislature or any of its Committees.
- (2) A Member who has been suspended by the House shall also have his / her parliamentary rights and privileges suspended which include but not limited to:
 - (a) the right to debate in the House;
 - (b) the right to speak on his/her official capacity as a Member of the Legislature or any of its Committees;
 - (c) the right to pose questions including written questions;
 - (d) the right to have his / her speeches or parts thereof read on his behalf in the House or any of its Committees.

100. Penalties for contempt

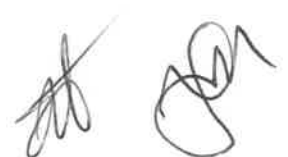
A Member whom the House finds guilty of contempt may among other penalties be given a formal warning, reprimanded, ordered to apologise to the House, Committee or any person, have his or her rights to certain privileges within the Legislature withheld, be suspended for a specified period or be required to pay a fine.

101. Expression of regret

- (1) A Member who has been suspended or reported to the Speaker for a serious contravention may submit to the Speaker a written expression of regret.
- (2) If the Speaker approves of the expression of regret, he or she may discharge the suspension and permit the Member to take his or her seat. The Speaker must inform the House accordingly.
- (3) The Speaker must report an expression of regret that he or she has approved to the House and it must be recorded in the Minutes of Proceedings.

102. Grave disorder

In the event of grave disorder in the House or at a meeting of a Committee, the Member presiding over the House or chairing the Committee meeting may adjourn the meeting or suspend proceedings for such period as he or she deems necessary.



Part 5: Decisions and voting

103. Quorum requirement for voting

- (1) When a decision is taken the quorum requirements of Rule 70 of this chapters apply.
- (2) When the number of Members present is below that required for the vote, the bells must be rung for three minutes. If there is still no quorum after three minutes have passed, the Presiding Officer may suspend proceedings or adjourn the House and postpone the decision of the question.

104. Decisions postponed

- (1) When the debate on a question has been concluded, the Presiding Officer may postpone the decision on the question until a time determined for such decision.
- (2) When the decision on a matter before the House involves more than one question, the Presiding Officer may postpone the decision on each question until the debate on all the questions has been concluded.
- (3) At the time for the decision of a postponed question, the Presiding Officer must put the question without further debate.

105. Question put

- (1) The question to be decided must be put by the Presiding Officer and, if it is not heard or understood, the Presiding Officer must put it again.
- (2) No Member, except a Member permitted to make a declaration of vote under Rule 106 of this chapter, may speak to a question after the Presiding Officer has put it.

106. Declaration of vote

- (1) After a question has been put but before it has been decided, the Presiding Officer may allow one Member of each political party to state on behalf of that party the reasons why the party is in favour or against the question.
- (2) If the question is one on which a free vote has been granted by any party or a roll-call is to take place in terms of Rule 109, the Speaker may allow individual Members to declare the reasons for their intended vote.
- (3) The statement must be included in the Minutes of Proceedings.
- (4) A declaration of vote may not exceed three minutes.

107. Voting

- (1) Members decide a question by calling "Yes" or "No" after the Presiding Officer has put the question.
- (2) Questions before the Legislature are decided by a majority of the votes cast but –
 - (a) the support of a majority of the Members of the Legislature is necessary for a motion of no confidence in the Premier or the Executive Council under section 141 of the Constitution;
 - (b) the support of at least two thirds of the Members present is necessary to suspend the Rules mentioned in Rule 7
 - (c) the support of at least two thirds of the Members of the Legislature is necessary for –
 - (i) a decision to adopt or amend a Provincial constitution under section 142 of the Constitution; and
 - (ii) a decision to remove the Premier under section 130(3) of the Constitution.



108. Presiding Officer's vote

In accordance with section 112(2) of the Constitution, the Presiding Officer may not vote but –

- (1) must cast a deciding vote when there is an equal number of votes on each side of a question; and
- (2) may cast a deliberative vote when a question must be decided with a supporting vote of at least two thirds of the Members of the Legislature.

109. Demand for roll-call

- (1) A Member may demand a roll-call either when a question is put in terms of Rule 105 or after Members have decided on a question by calling "Yes" or "No" and the Presiding Officer has indicated the result of the vote.
- (2) The Presiding Officer must ascertain whether at least four Members support the demand for a roll-call.
- (3) If four or more Members do support the demand for a roll-call, it must take place and may not be debated.

110. Roll-call: Bells rung

- (1) When a roll-call is to take place, the Presiding Officer must order –
 - (a) the bells to be rung for eight minutes; and
 - (b) after the lapse of eight minutes, the doors to be locked.
- (2) Despite Sub-Rule (1), the Presiding Officer may order the doors to be locked in a period less than eight minutes if the Whips or the agreed representatives of all parties present make such a request in writing.
- (3) If further roll-calls are required to decide the question and such roll-calls follow immediately upon the first roll-call, the roll-call bells must again be rung and the doors must be locked as soon after the lapse of one minute as the Presiding Officer may direct.
- (4) When the doors have been locked, no Member may enter or leave the House until the result of the roll-call has been announced.

111. Roll-call: Procedure after doors are locked

- (1) When the doors have been locked the Presiding Officer must put the question.
- (2) After the question is put, the Secretary must call each Member present to stand and to voice "Yes" or "No" on the question. The results must be recorded.
- (3) Every Member present in the House must vote when the question is put.
- (4) After completion of the roll-call, the tellers must sign the roll-call lists and hand them to the Presiding Officer, who must immediately declare the decision on the question.
- (5) If the declaration of the decision is challenged the Presiding Officer may again put the question and hold another roll-call as prescribed by this Rule.

112. Roll-call: Minority of fewer than five Members

- (1) When, after the doors have been locked and the question has been put, the Presiding Officer suspects that fewer than five Members are voting with the minority on the question, he or she may ask the voting minority to stand.

- (2) If fewer than five Members stand and the Members who supported the demand for a roll-call do not object, the Presiding Officer may immediately declare the decision on the question.
- (3) If five or more Members stand, the Secretary must proceed with the roll-call.

113. Points of order during roll-call

While a roll-call is in progress, Members may speak only to a point of order arising out of or during the roll-call.

114. Roll-call: Confusion or error

- (1) If there is confusion or error concerning a roll-call, another roll-call must take place, unless the results can be corrected in another way.
- (2) If the results have been inaccurately reported or errors occur in the names on the roll-call lists, the Presiding Officer must order the Minutes of Proceedings to be corrected.

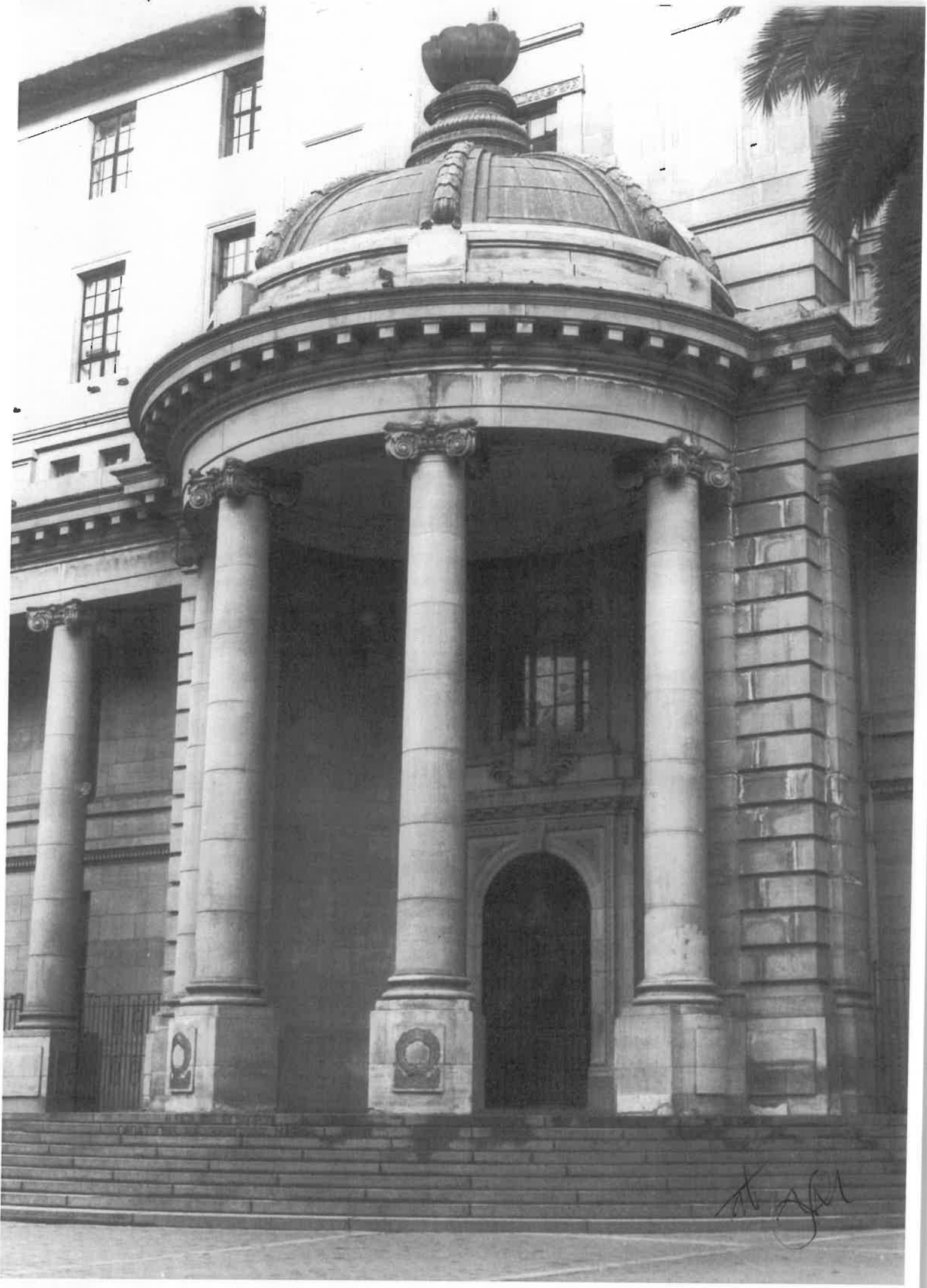
115. Recording of individual vote

- (1) After Members have decided on a question by calling "Yes" or "No" and the Presiding Officer has indicated the result of the vote, any Member may, instead of demanding a roll-call, inform the Presiding Officer that he or she or the party to which the Member belongs wishes their vote to be formally recorded in the Minutes of Proceedings.
- (2) The Presiding Officer may order a roll-call if four or more Members request their individual vote to be recorded.

116. Order in which amendments to questions are put

- (1) The Presiding Officer determines the order in which amendments to a question may be moved but no amendment may be moved to the earlier part of a question after an amendment to a later part has been decided.
- (2) When a Member reads a motion or a Committee Report, the version that appears on the Announcements, Tabling and Committee Reports (ATC) shall be deemed to be the correct version.
- (3) In the event that a motion or an amendment is not published in the ATC, the written version submitted to the table will be deemed as the correct version: Provided that it is identical to the version read out by the Secretary or the Speaker when the question was put.
- (4) Notwithstanding the provisions of Sub-Rules (2) and (3), in the event that there are substantive differences between the spoken version and the written version, the spoken version will take precedence.





CHAPTER 8

MOTIONS AND URGENT DEBATES

Part 1: Motions..... 44-45

Part 2: Debates and matters of urgent public importance..... 46

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MOTIONS AND URGENT DEBATES

Part 1: Motions

117. Nature of motions

- (1) A Member who wishes the House to adopt a resolution with or without debate, must introduce a motion.
- (2) A motion may, amongst other things, propose that the House resolves to –
 - (a) pass a Bill;
 - (b) censure a person or a body;
 - (c) adopt a report;
 - (d) make a recommendation[s] to the Executive;
 - (e) express an opinion;
 - (f) amend a motion before the House; and
 - (g) pass a motion pursuant to any specific section of the Constitution.

118. Form of a motion

- (1) A motion must be in writing in one of the languages of the Legislature and must be signed by the Member who introduces the motion.
- (2) A motion must be seconded by another Member, unless the Speaker decides otherwise.

119. Admissibility of a motion

- (1) A motion is admissible only if it complies with the Rules.
- (2) The Speaker decides whether a motion is admissible, should the motion be disallowed, the Presiding Officer must provide reasons for such a decision.
- (3) No matter may be proposed for discussion in the House which is the same as a matter that has been discussed and resolved during the preceding period of 6 months.
- (4) No motion may be moved in the House which is the same as a draft resolution that was approved or rejected during the preceding period of 6 months.

120. Motions without notice

- (1) Every motion requires notice except a motion –
 - (a) proposing an amendment to a motion under Rule 123;
 - (b) raising a point of order on a matter of privilege;
 - (c) postponing, discharging or giving precedence to an item on the Order Paper;
 - (d) by a Member in charge proposing a resolution on the report of a Committee immediately after the conclusion of the debate on the report;
 - (e) appointing special delegates to the NCOP under Rule 35;
 - (f) for which another Rule states that notice is not required; and
 - (g) accepted unanimously by all the Members present as a motion for which notification is not required.
- (2) To introduce a motion without notice, a Member must read the motion out loud in the House and deliver a signed copy to the Secretary.
- (3) A motion without notice must be considered by the House immediately.

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121. Giving notice of a motion

- (1) A Member who wishes to introduce a motion must –
 - (a) submit a signed copy of the motion to the Secretary for placing on the Order Paper, or
 - (b) give oral notice of the motion in the House during the period set aside for “Notices of a motion”.
- (2) A Member who wishes to introduce a motion may–
 - (a) seek the support of other Members to introduce a motion. The names and parties of the supporting Members must be recorded on the Order Paper; and
 - (b) with the support of one or more Members ensure that these Members add their signatures to the motion before it is submitted to the Secretary.
- (3) A Member may submit a motion to the Secretary on behalf of an absent Member, if he/she has been authorised by the absent Member in writing.
- (4) Each motion must be placed on the Order Paper before it is considered by the Programming Committee, except when the Rules permit otherwise or when the Speaker has given his/her consent.
- (5) A motion delivered to the Secretary before 16:00 on any working day of the Legislature must be placed on the Order Paper on the following working day.
- (6) If the Legislature is in recess when a motion is submitted to the Secretary it must be placed on the Order paper on the first working day of the Legislature after recess.

122. Motions considered by the House

- (1) Substantive motions must be selected by the Programming Committee before it is considered by the House, unless the Rules provide otherwise.
- (2) The Programming Committee must consider the selection of the motion for consideration by the House at its first meeting after the motion was placed on the Order Paper.
- (3) After the Programming Committee has selected a motion, the House must consider such a motion at a sitting designated by the Programming Committee.
- (4) Only with the consent of the Speaker, a Member may withdraw a motion that has been selected by the Programming Committee.

123. Amended motions

- (1) A Member may propose amendments to a motion, subject to the Rules.
- (2) A Member may move amendments without notice only –
 - (a) when it is a motion raising a matter of privilege;
 - (b) to substitute the name of a Member mentioned in a motion with the name of another Member, or
 - (c) with the approval of the Presiding Officer.

Part 2: Debates on matters of urgent public importance

124. Request for debate on a matter of urgent public importance

- (1) A Member who wishes the House to discuss a matter of urgent public importance, must make a request to the Speaker in writing in one of the languages of the Legislature.
- (2) A Member must make a request at least two hours before the beginning of a meeting of the House.
- (3) The Speaker may allow a debate on a matter of urgent public importance if it:
 - (a) concerns a matter of recent occurrence;
 - (b) requires urgent attention of the House; and
 - (c) does not concern a matter of privilege.
- (4) There must be one urgent debate on a meeting day. If the Speaker receives more than one request, he/she will decide which matter is most urgent and important.
- (5) If the Speaker grants a request, he/she must notify the LGB and the relevant Member of the Executive Council.
- (6) The Speaker must place the matter on the Order Paper. If the matter could not be placed on the Order Paper, the Presiding Officer must announce it in the House.

125. Debate on a matter of urgent public importance

- (1) The Speaker must decide when a debate on a matter of urgent public importance will start and the time allocated for it after consultation with the Leader of Government Business.
- (2) A Member who made the request that a particular matter of public importance should be debated, speaks first and the Premier or the relevant Member of the Executive Council must be allocated time in the debate.
- (3) If ten minutes before the allocated time for the debate expires when a Member other than the Member who made the request is speaking, the Presiding Officer must interrupt that Member to ascertain from the Member who made the request whether he/she wishes to reply.
- (4) If the Member who made the request wishes to reply, the remainder of the time may be allocated to him/her.
- (5) The rule of anticipation, Rule 87(1) (h) and (3) does not apply during the debate on a matter of urgent public importance.

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CHAPTER 9

ORAL AND WRITTEN QUESTIONS

Oral and Written Questions48-51

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ORAL AND WRITTEN QUESTIONS

126. Questions to Members of the Executive Council

A Member may put questions for oral or written reply to an MEC relating to –

- (1) public affairs relating to the MEC's department; or
- (2) any matter of administration for which the MEC is responsible.

127. Questions by permanent delegates

Permanent delegates may put questions for written reply to the Premier and any other MEC in accordance with Rule 40(4) and 136(3).

128. Form and content of questions

- (1) Questions must be –
 - (a) in writing in one of the languages of the Legislature; and
 - (b) brief and clearly worded.
- (2) A question must specify whether it is for oral reply or for written reply and may not:
 - (a) contain offensive language;
 - (b) express a point of view;
 - (c) break a rule of law;
 - (d) seek only legal opinion;
 - (e) ask for excessive documentation;
 - (f) be based on hypotheses, arguments or deductions;
 - (g) request comment upon the merits of any matter pending before the courts in a way that could interfere with the administration of justice or infringe upon the independence of the courts;
 - (h) discredit the House by using disrespectful language;
 - (i) anticipate discussion of a matter appearing on the Order Paper; or
 - (j) refer to proceedings in Committee meetings that were closed to the public until those proceedings are reported to the House.

129. Admissibility of questions

A question is not admissible if it –

- (1) does not comply with Rule 128; or
- (2) seeks information that has been provided in response to a similar question in the previous six months.

130. Placing questions on the Question Paper

- (1) A Member who wishes to ask a question must deliver a signed copy of the question to the Secretary for placing on the Question Paper.
- (2)
 - (a) A Member may seek the support of other Members to ask a question. The names and parties of the supporting Members must be recorded on the Question Paper.
 - (b) A Member who wishes to ask a question with the support of one or more other Members must ensure that these Members add their signature to the question before it is delivered to the Secretary.
- (3) A Member may deliver a question to the Secretary on behalf of an absent Member, if he or she has been authorised in writing.



- (4) Except when a question is asked under Rule 135 or when the Speaker has given his or her consent, each question must be placed on the Question Paper before it can be replied to.

131. Scheduling questions

- (1) A Member who wishes to put a question for oral reply to an MEC must deliver a signed request to the Secretary within ten working days but not less than five working days before a Question day.
- (2) A question for oral reply-
 - (a) must be placed on the Order Paper within two working days after it has been delivered to the Secretary; and
 - (b) may not be placed on the Question Paper for answering until five working days have passed after it first appeared on the Order Paper, but it must be placed on the Question Paper for answering within ten working days of its first appearance on the Order Paper.
- (3) A question for written reply delivered to the Secretary before 12:00 noon on Friday must be placed on the Question Paper on Tuesday.
- (4) Questions must be placed on the Question Paper in the order in which they are submitted to the Secretary.
- (5) Questions may not be submitted during leave period.

132. Withdrawing of questions

A Member who has submitted a question may withdraw it at any time before it is answered by notifying the Secretary.

133. Questions for oral reply

- (1) Questions for oral reply must be answered at question time.
- (2) Question Time is a period not exceeding 60 minutes each week, normally on Tuesdays during which questions placed on the question paper may be put to and answered by MECs except the Premier.
- (3) Questions for oral reply must be dealt with in the order in which they appear on the Question Paper.
- (4) Questions standing over from the previous question time must be dealt with before new questions.
- (5) All oral replies and supporting documents must be published in the ATC the following day.

134. Restrictions on questions for oral reply

- (1) A question for oral reply may contain up to five subdivisions.
- (2) If the Presiding Officer is of the opinion that a question for oral reply deals with matters of a statistical nature, the Speaker may decide that the question be placed on the Question Paper for written reply.
- (3) A Member may ask up to two questions for oral reply at any Question Time.
- (4) A maximum of four questions for oral reply relating to a particular department may be put to MECs at any Question Time.
- (5) Members may only read questions during Question Time.
- (6) After the MEC has replied to a question, the Member who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply.



- (7) At the discretion of the Presiding Officer, any Member may ask an additional supplementary question or make an additional remark related to the original question or reply. The total time for supplementary questions may not exceed ten minutes per question.
- (8) Such supplementary question or remark must not exceed two (2) minutes per Member.

135. Urgent questions

- (1) A Member who wishes to ask an urgent question for oral reply must submit a signed copy of the question to the Speaker at least two hours before the sitting of the Legislature.
- (2) The Rules regarding the form, content and admissibility of questions also apply to urgent questions in terms of Rule 128.
- (3) If the Speaker decides that the question should be answered urgently, he or she must –
 - (a) inform the Leader of Government Business; and
 - (b) call upon the Member to ask the question after Question Time.
- (4) The Speaker may allow an urgent question if it –
 - (a) requires an urgent response from the Executive Council; and
 - (b) does not concern a matter of privilege.
- (5) If a question is disallowed by a ruling of the Presiding officer, he or she must provide reasons for excluding such a question.

136. Restrictions on questions for written reply

- (1) A question for written reply may contain up to ten subdivisions.
- (2) A Member may ask up to three questions for written reply in a week.
- (3) A permanent delegate to the National Council of Provinces may ask one question for written reply in a week.

137. Written Replies

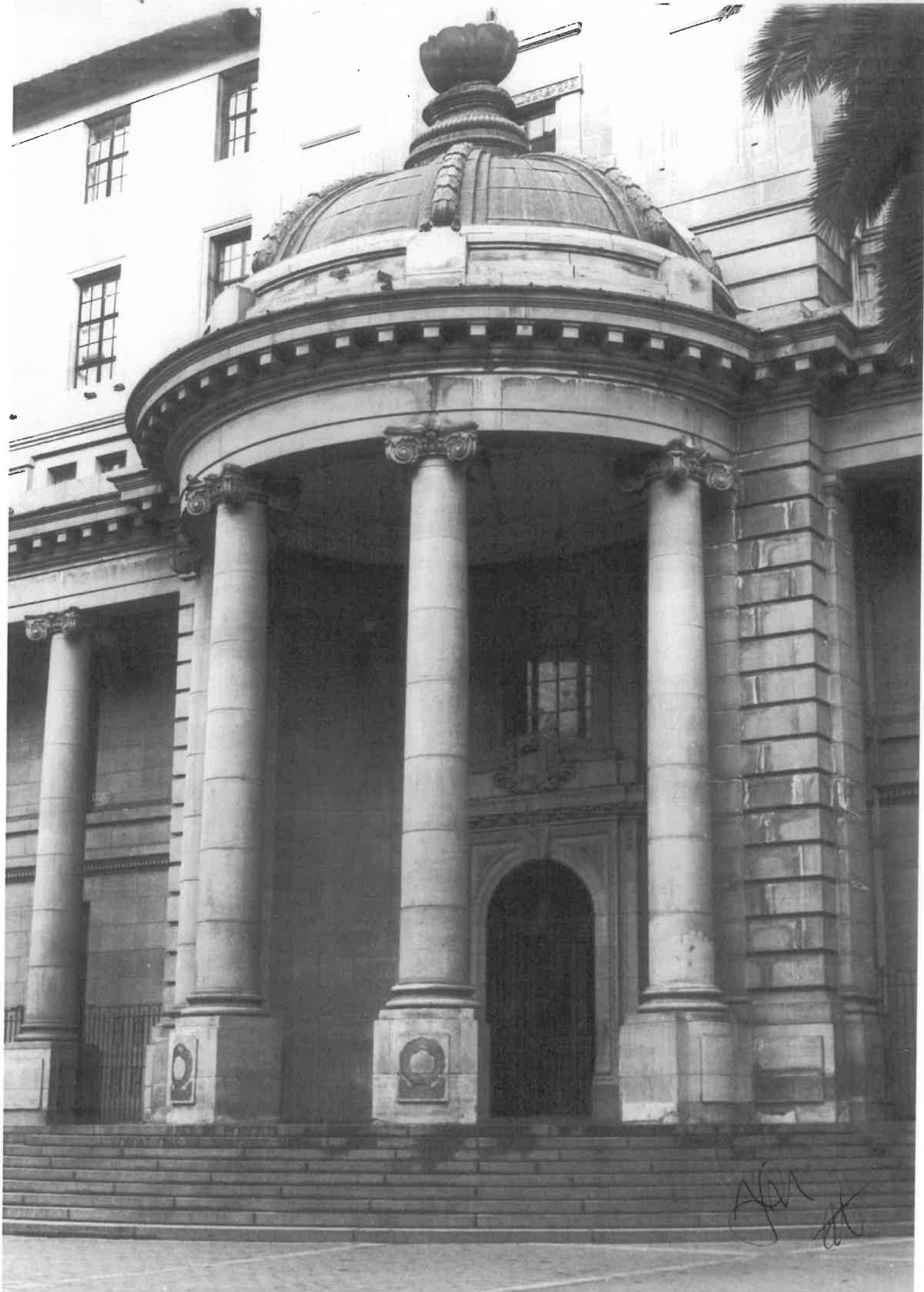
- (1) The relevant MEC must answer a question for written reply within ten working days of the question first appearance on the Question Paper.
- (2) An MEC may request an extension to answer a question for written reply. The request must indicate the reasons why and how much more time is needed.
- (3) The request for extension may be granted by the Speaker who shall inform the Member who posed the question. The Speaker may not grant more than two extensions.
- (4) An MEC may decline to answer a question for written reply only when such a reply would be too costly or require inappropriate use of Provincial resources.
- (5) If a question for written reply is not replied within the stipulated time frame and no extension is requested by an MEC, during the next Question Day, the relevant MEC must provide an oral explanation in the House for his or her failure to reply to the question and still hand over the written reply to the Table.
- (6) All written replies submitted must be signed by the MEC concerned.



138. Premier's Question Time

- (1) Premier's Question Time is a period of up to 45 minutes every second week immediately preceding Question Time during which questions selected under Sub-Rule (3) may be put to and answered by the Premier.
- (2) There will be no Premier's Question Time during the weeks when the Premier's opening address and the vote on the budget of the Officer of the Premier are discussed in the House.
- (3)
 - (a) Despite Rules 129 and 130, a Member who wishes to put a question for oral reply to the Premier must deliver a signed request to the Secretary within ten working days but not less than five working days before the Premier's Question Time.
 - (b) Members will be selected on a random basis for each Premier's Question Time, to put a question for oral reply to the Premier.
 - (c) The first question during any Premier's Question Time must be asked by a Member of a party other than the Premier's party.
- (4) Not more than two Members of the same party may ask a question during any given Premier's Question Time.
- (5) A Member who wishes to put a question without notice for oral reply to the Premier must deliver a signed request to the Secretary by no later than 12:00 noon, two working days before the Premier's Question Time.
- (6) A Member may ask only one question for oral reply at any Premier's Question Time.
- (7) Members may only read their question during Premier's Question Time.
- (8) After the Premier has replied to a question, the Member who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply.
- (9) At the discretion of the Presiding Officer, any Member may ask an additional supplementary question or make an additional remark related to the original question or reply.

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CHAPTER 10

COMMITTEES

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COMMITTEES

Part 1: General

139. Committees of the Legislature

- (1) The Legislature has the following Committees –
 - (a) Rules Committee;
 - (b) Committee of Chairpersons;
 - (c) Programming Committee;
 - (d) Privileges and Ethics Committee;
 - (e) Committee on Public Accounts;
 - (f) Petitions Committee;
 - (g) Committee of Oversight of the Legislature and the Premier's Office;
 - (h) Committee for the Scrutiny of Subordinate Legislation;
 - (i) Portfolio Committees on Provincial executive matters;
 - (j) Committee of Inquiry;
 - (k) Combined Committees established under Rule 146; and
 - (l) Ad hoc Committees.
- (2) Other Committees may be established only by the Rules Committee or a resolution of the House.
- (3) A Committee may establish a sub Committee. A sub Committee of a Committee may –
 - (a) consist of Members of the Committee only; or
 - (b) be an Ad hoc technical Committee and may consist of Members of the Committee and outside experts.
- (4) An Ad hoc technical Committee may be established to deal with a specific matter that requires expert knowledge. It dissolves when it has reported on that matter, unless the Committee decides to disestablish it earlier.
- (5) Experts from outside the Legislature may not vote on an Ad hoc technical Committee.
- (6) A sub Committee is accountable to its parent Committee.

140. Public involvement

- (1) The Legislature must facilitate public involvement in the processes of its Committees as required by section 118 of the Constitution.
- (2) The Speaker must set aside places for the public, in Committee rooms.

141. Composition of Committees

- (1) The Rules Committee must determine the number of Members of a Committee.
- (2) Parties are entitled to be represented on Committees in the same proportion as the proportion in which they are represented in the Legislature, except where –
 - (a) these Rules or the House prescribe the composition of a Committee; or
 - (b) the number of Committee Members does not allow for all parties to be represented.
- (3) The Legislature and parties represented in the Legislature should, as far as possible, ensure that women are represented on all Committees.



- (4) Parties that are not represented on a Committee may participate in Committee proceedings.
- (5) The Speaker must allocate each party a number of votes in Committee proceedings in proportion to its representation in the Legislature.

142. Appointment of Committee Members

- (1) The Speaker must appoint the Members of the Rules Committee in accordance with Rule 168 as soon as possible after the election of the Legislature.
- (2) Subject to sub rule (3), the Rules Committee must appoint the Members of a Committee after consulting the Whip of each party in the case of –
 - (a) an Ad hoc Committee, within five working days after the establishment of the Committee; and
 - (b) any other Committee, as soon as possible after the Legislature meets after an election or after a vacancy has occurred.
- (3) When the House is in recess the Speaker may, after consultation with the Whip of each party affected, appoint Members to, and fill a vacancy in, any Committee.
- (4) Alternate Members may be appointed for each Member of a Committee. An alternate act as a Member when the Member for whom the alternate was appointed is absent or has vacated the office.
- (5) The names of the Members and any alternate Members appointed to a Committee must be published as soon as possible in the Announcement, Tabling and Committee Reports.
- (6) In the event that there are changes to Committees Membership the Speaker may, after consultation with the Whip of each party affected, confirm the required changes through publication of such changes on the Announcement, Tabling and Committee Report.

143. Committee Chairpersons

The Committee Chairpersons must be appointed by the Speaker.

144. Committee Chairperson

- (1) A Committee Chairperson –
 - (a) presides at meetings of the Committee;
 - (b) represents the Committee on the Committee of Chairpersons;
 - (c) determines the agenda of each meeting of the Committee in consultation with the Deputy Chairperson if there is a Deputy Chairperson;
 - (d) performs the functions, tasks and duties and exercises the powers the Committee, resolutions of the House and legislation may assign to the Chairperson.
 - (e) if there is an equal number of votes on each side of a question before the Committee, must cast a deciding vote; and
 - (f) may act in any matter on behalf of and in the best interest of the Committee when it is not practical to arrange a Committee meeting to discuss the matter, if the matter concerns –
 - (i) a request by a person to give evidence or make an oral representation to the Committee;
 - (ii) any other request to the Committee; or

- (iii) decisions or the initiation of any steps necessary for the Committee to perform its functions or exercise its powers.
- (g) If the Chairperson act in accordance with Sub-Rule (f) above, a report on the matter must be tabled for ratification
- (2) A Committee may set aside any decisions taken by its Chairperson in terms of Sub-Rule (1) (f).

145. Absence of Chairperson

In the absence of a Chairperson, the Chairperson delegates a Member of the Committee to facilitate the meeting, if not the Committee must elect one of its Members to act on behalf of the Chairperson.

146. Combined Committees

- (1) The Speaker may combine two or more Committees to form a new Committee for a specific purpose.
- (2) The Speaker must appoint one of the Chairpersons involved as the Chairperson of the combined Committee.

147. Duration of Committees

- (1) A Committee continues to exist until the Legislature is dissolved or its term expires unless the Speaker, or the House resolves that the Committee should be dissolved.
- (2) Despite Sub-Rule (1), and Ad hoc Committee and a combined Committee formed by the Speaker under Rule 146 continues to exist only until it has completed its business.

148. Powers of Committees

Every Committee may –

- (1) determine its own procedures, subject to these Rules;
- (2) determine its annual programme;
- (3) consider Bills referred to it;
- (4) amend or propose a substitute for Bills other than Money Bills referred to it;
- (5) initiate and introduce legislation;
- (6) investigate and report on issues that are referred to it or on its own initiative;
- (7) exercise oversight of the Executive;
- (8) call for evidence, summon persons to appear before it and require people to produce any documents that it requires;
- (9) publish a Bill that is before the Committee for written and oral representations and comments from the public;
- (10) hold public hearings;
- (11) receive submissions from the public;
- (12) establish sub Committees including Ad hoc technical Sub Committees; and
- (13) exercise any other powers granted to it by the Constitution, legislation, other provisions of these Rules or resolutions of the House.

149. Matters referred to Committees

A matter may be referred to a Committee by the Speaker or by a resolution of the House. If there is a dispute about which Committee should deal with a matter the Speaker must decide.

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150. Meetings of Committees

- (1) The Secretary must convene the first meeting of a Committee within five working days after the names of the Members appointed to the Committee has been published in the Announcements, Tablings and Committee Reports.
- (2) Committees may meet on any day as determined by the Programming Committee and, with the consent of the Speaker, on other days.
- (3) A Committee may meet during a plenary meeting of the Legislature or during recess only with the consent of the Speaker.
- (4) With the consent of the Speaker a Committee may meet at a venue outside the precincts of the Legislature.

Part 2. Proceedings of Committees

151. Quorum

- (1) At least one third of the Members of a Committee must be present to constitute a meeting of the Committee.
- (2) If there is no quorum and there is no Chairperson after 15 minutes have elapsed from the time the meeting was to have begun, the Chairperson may decide to adjourn the meeting to a later time/date.
- (3) A Committee may decide a question only if a majority of the Members drawn from the majority of parties represented on the Committee is present.
- (4) If a Committee has to decide a question when a quorum is not present, the Chairperson may either suspend business until a quorum is present or adjourn the Committee till a next meeting is convened, in which instance a quorum required to decide the relevant question is a majority of the Members of the Committee.

152. Decisions

- (1) A majority of the Members of a Committee must be present when a vote is taken.
- (2) Questions before a Committee are decided by a majority of the votes cast.
- (3) The Member chairing the Committee must cast a deciding vote if there are an equal number of votes on each side of a question before the Committee.

153. Order in Committee meetings

- (1) The right to speak of the Member chairing the Committee takes precedence over the right of other Members to speak.
- (2) Committee Members must be allowed to speak and debate freely in Committee meetings but they may not –
 - (a) discredit the Legislature by using disrespectful words;
 - (b) use offensive language; or
 - (c) comment upon the merits of any matter pending before the courts in a infringe upon the independence of the courts.

154. Suspension and adjournment of proceedings

- (1) Only the Member chairing a Committee meeting may suspend or adjourn the proceedings of the Committee.
- (2) When a meeting is suspended, the Member chairing must decide when the meeting should resume.



155. Joint meetings of Committees

- (1) A Committee may meet with any other Committee in order to consider a matter of mutual interest.
- (2) The Chairpersons of the Committees involved must determine the agenda for a joint meeting of Committees and who will preside. In the absence of agreement, the Speaker must determine the agenda and decide who will preside.
- (3) When a report of the joint meeting is required or when the Committees decide that a report on their joint meeting is necessary the Committees must decide whether each Committee should write a separate report or whether a joint report is appropriate.

156. Committees and local government

- (1) When a Committee considers any matter, it must determine whether the matter affects local government.
- (2) When a matter before a Committee affects local government, the Committee must invite organised local government and may invite individual local government authorities, to attend its meetings and make representations.
- (3) Participants referred to in Sub-Rule (2) may take part in the deliberations of the Committee at the discretion of the Committee but may not vote.

157. Appearance before Committees

- (1) A person or institution, including organised local government or a local government authority, may submit a request to appear before a Committee with regard to a particular matter. Such a person or institution must be given the opportunity to appear if the Committee believes that they have a substantial interest in the matter.
- (2) If a Committee rejects a request to appear before it, the person or institution that made the request may appeal to the Speaker. In considering an appeal, the Speaker may refer the issue to the Petitions Committee for advice.

158. Information against a Member

If any information negatively reflects on the conduct of a Member comes before a Committee, the Committee may not proceed upon such information, but must refer it to the Speaker.

159. Informing the Executive

When a Committee requests an official of the Provincial Administration to attend a Committee meeting or calls for the production of documents from the Provincial Administration, the responsible Member of the Executive Council must be informed.

Part 3. Committee Reports

160. Annual Report to the House

- (1) A Committee must report at least once a year to the House on its activities. Rule 161 does not apply to this report.
- (2) A Committee's Annual Report should include an assessment of the way in which the Committee has fulfilled –



- (a) the goals identified in its annual programme; and
- (b) its law-making; public participation and oversight responsibilities.

161. Reports on study visits

- (1) Committees must table a report within a month upon return from such visits that they have undertaken.
- (2) Study visit reports that include recommendations to the Executive must be referred to the Executive for comments before being tabled in the House.
- (3) Should a study report not be tabled within thirty days after a study visit has been undertaken, the Chairperson responsible for tabling the report must submit a letter of explanation to the Speaker immediately upon expiry of the specified time frame.

162. Content of report

- (1) Every report of a Committee must reflect the agreement reached in the Committee. In the absence of agreement, the report must reflect the decision of the Committee and dissenting views.
- (2) When there is substantial disagreement on policy issues, a minority report must accompany the Committee report.
- (3) Every Committee report must also –
 - (a) indicate, giving reasons, whether or not the matter concerned affects local government. If the matter does affect local government, the report must set out the measure the Committee adopted to ensure that the views of local government were considered in its deliberations.
 - (b) Explain the implications of the matter under consideration for promoting the rights in the Bill of Rights and particularly, gender, equity and socioeconomic rights.
- (4) A minority report as contemplated in Rule 162(2) must –
 - (a) identify clearly the policy issues on which there is substantial disagreement and the reasons for the disagreement;
 - (b) set out the view of the minority on the policy issues; and
 - (c) set out the alternative approach that the minority proposes.
- (5) Every Committee report must give an account of the implementation and tracking of House resolutions.

163. Report of Committee on a Bill

- (1) When a Committee has considered a Bill it must write a report on the Bill in which it indicates whether it –
 - (a) supports the Bill as introduced without amendments;
 - (b) supports the Bill with amendments; or
 - (c) does not support the Bill.
- (2) A Committee report on a Bill must –
 - (a) summarise the Committee process including the number of meetings at which the Bill was discussed, the participation of the Executive Council and the Provincial Government, the participation of the public.
 - (b) deal in separate sections with the policy and detail of the Bill;
 - (c) provide an explanation of the position of the Committee on the Bill;

- (d) unless there is a minority report, indicate differing views in the Committee, identifying clearly issues on which there is disagreement and the reasons for that disagreement;
 - (e) explain in general terms any amendments that the Committee has made to the Bill;
 - (f) indicate whether or not the Committee is satisfied that the Bill is constitutional;
 - (g) indicate the degree to which the Bill fulfils the Province's obligation to promote and fulfil the rights in the Bill of Rights and, particularly, gender equity and socio-economic rights; and
 - (h) if the Bill includes a grant of power to the Executive or another Body to adopt Subordinate Legislation, be accompanied by the report of the Committee for Scrutiny of Subordinate Legislation.
- (3) When a Committee accepts a Bill with amendments, its report must include –
- (a) the Bill as amended;
 - (b) a schedule indicating the ways in which the Bill has been amended.
 - (c) an indication of any public involvement during the consideration of a matter before a Committee; and if there was no public involvement, furnish reasons thereof; and
 - (d) an indication of recommendations for resolution of the House.

164. Member in charge

A Committee report must be presented to the House by the Chairperson, in his or her absence, another Member of the Committee presenting such a report is the Member in charge.

165. Reports on focused intervention studies

- (1) A Committee must table to the House a focused intervention study report or Oversight Visit report within (30) thirty days of having undertaken such a study or visit.
- (2) The report as contemplated in Sub-Rule 1 above must be presented to the House in the manner, timeframe and format as prescribed by the Presiding Officers.
- (3) The minimum content of the report on study visit as contemplated in Sub-Rule 1 must include inter alia the following:
 - (a) A background to the study or visit, with respect to the nature as well as reasons for undertaking thereof;
 - (b) The objectives of the study or visit, and
 - (c) Committee findings and recommendations.
- (4) The manner, timeframe and format as contemplated in Sub-Rule 1 shall be subject to annual review by the Presiding Officers, or any other instances as stipulated by the Speaker.

166. Publication of Proceedings, Evidence, Reports, etc.

- (1) All documents and recordings officially before or emanating from a Committee or Sub Committee is open to the public.
- (2) Despite to Sub-Rule 1 above, the following may not be disclosed or published without the permission of the Speaker:



- (a) the proceedings of, or evidence taken by or placed before the Committee or sub-Committee meeting, from which the public was excluded;
 - (b) any report on or summary of such proceedings or evidence of a closed session of a Committee or subCommittee; and
 - (c) any document or recording placed before, or presented to or submitted to and accepted by the Committee or subCommittee as a confidential document or recording.
- (3) The permission authorising the publication or the disclosure of the contents of documents and recordings referred to in this Rule may provide that specific parts of or names mentioned in the document or recording may not be published or disclosed.
 - (4) A meeting, or part thereof, must be explicitly declared closed by the Chairperson before confidential information, testimony, and evidence, proceedings or documentation is discussed.
 - (5) a document serving before a Committee will only be deemed confidential if;
 - (a) Such document is clearly marked as confidential on its title page; and
 - (b) The Committee where it serves is declared closed in terms of the Rules

Part 4: Committees of the House

167. STANDING COMMITTEES

168. Rules Committee

Composition of Rules Committee

- (1) The Rules Committee consists of the Speaker, Deputy Speaker and at least eight other Members appointed in consultation with the Whip of each party.
- (2) Parties without a Member on the Rules Committee will be entitled to vote in respect of decisions of the Rules Committee, in proportion to their representation in the Legislature.

169. Functions of Rules Committee

The Rules Committee may make recommendations to the House concerning the Rules of the Legislature and determines the Membership of Committees of the Legislature.

Committee of Chairpersons

170. Composition of Committee of Chairpersons

The Committee of Chairpersons consists of –

- (1) The Chairperson of Committees appointed under Rule 11(2)
- (2) The Deputy Chairperson of Committees appointed under Rule 11(2); and
- (3) the Chairpersons of all Committees of the Legislature except Ad hoc Committees and Sub-Committees.

171. Functions of Committee of Chairpersons

The Committee of Chairpersons –

- (1) must coordinate the work of the Committees of the Legislature;
- (2) considers the annual programme of Committees; and

- (3) may make recommendations to the Rules Committee and the Programming Committee regarding any matter affecting the scheduling or functioning of any Committee.

PROGRAMMING COMMITTEE

172. Composition of Programming Committee

- (1) The Programming Committee consists of the Speaker, Deputy Speaker, the Chairperson of Committees, the Chief Whip and a Whip designated by each party. Other Whips may attend as observers. An alternate Member may also be appointed for each party.
- (2) The Speaker chairs the Programming Committee. In the absence of the Speaker and the Deputy Speaker the Committee may appoint one of its Members to chair the meeting for the day.
- (3) The Speaker convenes meetings of the Programming Committee and must issue a notice of meeting at least seven days before a meeting.

173. Functions of Programming Committee

The Programming Committee must –

- (1) prepare and if necessary, from time to time adjust the annual programme of the Legislature;
- (2) monitor and oversee the implementation of the Legislature's annual programme;
- (3) must implement the Rules regarding the scheduling or programming of the business of the House, and the functioning of Committees;
- (4) take decisions and issue directives and guidelines to prioritise or postpone any business, but when the Committee prioritises or postpones any government business, it must act with the agreement of the Leader of Government Business;
- (5) ensure that Committee reports are properly debated in the House;
- (6) ensure that matters of concern to the Province that must be discussed nationally are brought to the attention of the NCOP;
- (7) ensure that the programme of the Legislature is submitted to the NCOP in time for it to be taken into account in the NCOP's annual planning process; and
- (8) ensure that the Province's permanent delegates to the NCOP are aware of the Legislature's programme and negotiate on behalf of the Legislature in planning processes in the NCOP.

PRIVILEGES AND ETHICS COMMITTEE

174. Composition of the Privileges and Ethics Committee

- (1) The Privileges and Ethics Committee consists of the Deputy Speaker, the Chief Whip and a Member of each party represented in the Legislature.
- (2) The Speaker must appoint Members of the Committee in consultation with the Whip of each party.
- (3) The Deputy Speaker is the Chairperson of the Committee. In the absence of the Deputy Speaker, the Committee may appoint one of its Members to chair the meeting for the day.

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- (4) If any Member of the Committee is unable to attend a meeting, the Committee may allow senior Member of the relevant party to attend a meeting of the Committee as a substitute.

175. Functions

The Privileges and Ethics Committee must –

- (1) oversee the implementation of the Code in Annexure 1;
- (2) investigate and report on charges of breach of privilege and contempt against Members; and
- (3) consider any reports of the Integrity Commissioner and act on them when it is appropriate to do so.

176. Proceedings of Privileges and Ethics Committee

- (1) The Privileges and Ethics Committee, must conduct hearings according to the Procedures in Chapter 14.
- (2) Access to information
A Member of the public may gain access to information on matters decided upon by the Privileges and Ethics Committee as prescribed by the Constitution, the Promotion of Access to Information Act 2 of 2000 or any other law.

COMMITTEE ON PUBLIC ACCOUNTS

177. Composition

The Committee on Public Accounts is composed in accordance with Rules 141 and 142.

178. Functions

- (1) The Committee on Public Accounts –
 - (a) must examine –
 - (i) the financial statements of the Legislature; all executive organs of the Province and other Provincial organs of state;
 - (ii) any audit reports issued on those statements;
 - (iii) any reports issued by the Auditor-General on the affairs of any Provincial organ of state; and
 - (iv) any other financial statements or reports referred to the Committee by the House.
 - (b) may report on any of those financial statements or reports to the House;
 - (c) may initiate any investigation in its area of competence; and
 - (d) must perform any other function assigned to it by legislation, the Standing Rules or resolutions of the House.
- (2) The Speaker must refer the financial statements and reports mentioned in paragraph (a) (i),(ii) and (iii) to the Committee when they are submitted to the Legislature irrespective of whether they are also referred to another Committee.
- (3) When the Committee examines the financial statements and reports of an organ of state, it must take into account the previous statements and reports of such an organ and also report on the degree to which shortcomings have been rectified.

179. Relationship to other Committees

- (1) If the Committee is of the opinion that a report or financial statement raises issues relating to the policy of a particular department, the Committee must inform the Speaker and the report or statement must either be considered by both the Committee on Public Accounts and the relevant Committee or by a joint meeting of both Committees.
- (2) The Committee on Public Accounts must advise the Speaker whether a joint meeting or separate meetings are appropriate.
- (3) If matters arise in the examination of statements or reports that the Committee is of the opinion that it should be taken into account in the next budget, it must make appropriate recommendations in its report to the House and draw to the attention of the Finance Committee.
- (4) If matters arise in the examination of statements or reports that the Committee is of the opinion that it should be monitored by another Committee, such as weak risk management, staffing problems or poor asset management, it must make appropriate recommendations in its report and draw the matters to the attention of the relevant Committee.

PETITIONS COMMITTEE

180. Composition

The Petitions Committee is composed in accordance with Rule 141 and 142.

181. Functions

The Committee carries out the functions assigned to it by the Petitions Act 5 of 2002. Committee on Oversight of the Legislature and the Premier's Office (OCPOL) Composition.

182. OCPOL is composed in accordance with Rules 141 and 142.

183. Functions

OCPOL oversees the activities of the Legislature and the Premier's Office which includes –

- (1) scrutiny of the Vote of the Legislature;
- (2) scrutiny of the Legislature's Annual Report;
- (3) an analysis of the Legislature's activities in fulfilling its constitutional mandate and supporting Members in the exercise of their functions and performance of their duties;
- (4) scrutiny of the Vote and administration of the Premier's Office;
- (5) scrutiny of the Annual Report of the Premier's Office; and
- (6) dealing with any other matter referred to it by the Speaker.

Committee for the Scrutiny of Subordinate Legislation (CSSL)

184. Composition

CSSL is composed in accordance with Rule 141 and 142.



185. Functions (CSSL)

- (1) The Committee for the Scrutiny of Subordinate Legislation must –
 - (a) review every Provincial Bill that grants power to the Provincial executive or another body to adopt Subordinate Legislation; and
 - (b) scrutinise and review all Subordinate Legislation.
- (2) The Committee must fulfill its functions in accordance with Part 3 of Chapter 12

PORTFOLIO COMMITTEES**186. Functions**

A Portfolio Committee –

- (1) deals with Provincial Bills and other Provincial matters that are referred to it by the Speaker or by resolution of the House;
- (2) deals with National Bills and other national matters submitted to the Committee by the Speaker;
- (3) maintains oversight on the relevant Member of the Executive Council and his/her department in fulfilling their responsibilities including the implementation of legislation;
- (4) reports regularly to the House on the relevant department;
- (5) reports annually to the House on its activities;
- (6) ensures that the interests of the public are served through the law-making and oversight processes in the Legislature; and
- (7) performs any other function assigned to it by the Legislature.

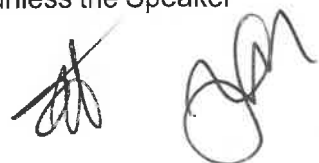
AD HOC COMMITTEE

- 187.** (1) An Ad hoc Committee may be established by –
- (a) resolution of the House;
 - (b) the Speaker after consulting the Whip of each party during recess;
- (2) If the Speaker decides to establish an Ad hoc Committee, such a decision must be tabled during the first plenary meeting of the Legislature after recess.
- (3) A resolution of the House or a decision of the Speaker to establish an Ad hoc Committee must specify the task of such a Committee and set out time frames.

PART 5: Committee Inquiries

COMMITTEE OF INQUIRY**188. Initiation and Composition of an Inquiry**

- (1) A Committee inquiry must be initiated by a Standing or Portfolio Committee of the Legislature established in terms of the Standing Rules in consultation with the Speaker.
- (2) Members of a Committee that initiates an inquiry are automatically Members of the Committee of inquiry.
- (3) A Chairperson of a Committee shall preside over an inquiry, unless the Speaker decides otherwise.



- (4) The Chairperson or acting Chairperson of the Committee, or in the absence of both, any Member of the Committee specially designated by the Chairperson or acting Chairperson for that purpose must administer an oath or affirmation.
- (5) A Committee inquiry meeting is conducted in accordance with section 8 of the Gauteng Provincial Legislature Committee Inquiries Act of 2009.
- (6) A Member may be recused from the proceedings of a Committee of inquiry if such a Member has conflict of interest in the matter before that Committee.

189. Reports of a Committee of Inquiry.

- (1) Subsequent to a conclusion of an inquiry the Committee must formulate a report for the records of the Legislature, subject to Section 9(4) and 10(3) of the GPL Committee Inquiries Act.
- (2) The report must include –
 - (a) the subject of the inquiry;
 - (b) the process of the inquiry;
 - (c) public participation;
 - (d) findings and recommendations of the Committee; and
 - (e) in the instance of a differing views, a minority report identifying issues on which there is disagreement.
- (3) At the discretion of the Speaker, a report contemplated in subsection (1) may be tabled for consideration and adoption by the House.

190. Matters excluded from a Committee of inquiry.

A Committee of inquiry may not be conducted on the following:

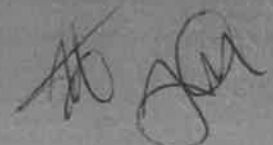
- (1) Any matter that is sub-judice; and
- (2) Any matter that is regulated by the Code of Conduct and Ethics of GPL.

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CHAPTER 11

LAW-MAKING

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LAW-MAKING

Part 1: General

191. All Bills introduced in the Legislature must be drafted in clear and simple language and must use as little technical language as possible.

192. Types of Bills

A Bill may be introduced as –

- (1) a Government Bill – introduced by a Member of the Executive Council;
- (2) a Money Bill – introduced by the Member of the Executive Council responsible for financial matters and that –
 - (a) appropriates money;
 - (b) imposes Provincial taxes, levies, duties or surcharges;
 - (c) abolishes, reduces, grants exemptions from any Provincial taxes, levies, duties or surcharges; or
- (3) a Member's Bill as introduced by a Member who is not a Member of the Executive Council; or
- (4) a Committee Bill as introduced by a Committee.

193. Memorandum on Bill

A memorandum accompanying every Bill must be drafted in simple, clear and Non-technical language and must include –

- (1) a statement explaining the policy underlying the Bill;
- (2) a social impact statement, the possible effects of the Bill with due consideration to the Bill of Rights particularly gender equality.
- (3) environmental impact statement where relevant;
- (4) financial implications of the Bill;
- (5) implications of the Bill for local government;
- (6) public participation in the development of the Bill, incorporating comments received, if any, and evaluation of those comments;
- (7) a clause-by-clause explanation of the content of the Bill; and
- (8) any other information considered necessary by the Member in charge of the Bill to enable Members to understand the Bill.

Part 2: Steps Prior To Introduction

194. Government Bills

- (1) The LOGB must within five working days after the Executive Council has approved the introduction of the Government Bill –
 - (a) inform the Speaker; and
 - (b) supply the Speaker with a copy of the proposed Bill and its memorandum.
- (2) Sub-Rule (1) does not apply to a Money Bill introduced under the special procedure set out in part 5.
- (3) The Speaker must refer the draft of the proposed Bill to the relevant Committee.

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195. Committee Bills

- (1) A Committee may introduce a Bill other than a Money Bill in the Legislature.
- (2) When a Bill is introduced, it must be accompanied by a report as outlined in Rule 162.

196. Member's Bills

- (1) A Member may introduce a Bill in the Legislature as envisaged in Section 119 of the Constitution;
- (2) A legislative proposal must be drafted by a Member intending initiating legislation. Such a proposal must be in the form of a memorandum and outline, amongst others the following –
 - (a) objects of the legislation including the reasons for initiating;
 - (b) particulars of the proposed legislation;
 - (c) implications of the proposed legislation on existing law;
 - (d) financial implications;
 - (e) implications for Local Government;
 - (f) involvement of relevant stake-holders;
 - (g) implications for the Executive Council;
 - (h) consultation undertaken if any;
 - (i) that the legislative proposal is within the competence of the Province as envisaged in the Constitution;
 - (j) the legislative proposal must be submitted to the Speaker;
 - (k) the Speaker must instruct the Secretary to draft the Bill, if the memorandum was submitted without the draft Bill;
 - (l) the Secretary must also translate into the official languages of the Province and publish the draft Bill in the government gazette and notices in the newspapers for general information and public comments.
 - (m) the Secretary must issue a certificate to the Member to confirm that the draft Bill conforms to the drafting standards and conventions, and thereafter the draft Bill must follow the procedure contemplated in Chapter 11 for Ordinary Bill.

197. Publication of Bills

- (1) Every Bill other than a Money Bill to be introduced under part 5, together with its memorandum and the notice described in Sub-Rule (4), must be published in the Provincial Gazette at least 14 days before it is introduced in the House.
- (2) Despite Sub-Rule (1), a Bill or amendment to a Bill concerning a constitution for the Province must be published at least two months before it is introduced.
- (3) The Bill must be published as it is to be introduced.
- (4) The notice to introduce the Bill must–
 - (a) be drafted in consultation with the Chairperson of the relevant Committee;
 - (b) comply with any general guidelines issued by the Petitions Committee;
 - (c) invite the public to submit comments and representations to the relevant Committee before a closing date mentioned in the notice, but, the closing date must be at least fifteen working days after the date of the publication of the Bill;
 - (d) must also be published in at least two newspapers circulating throughout the Province; and

- (e) may include details of the time and place of any public hearings to be held by the Committee.
- (5) Copies of the Bill and other information published with the Bill must be delivered to each Member.

198. Urgent Bills

- (1) A Bill that has not been published as prescribed in Rule 201 may be introduced if –
 - (a) the Premier has declared it an urgent measure; and
 - (b) the Speaker has agreed that it should be introduced without publication.
- (2) If a Bill has not been published before its introduction, the Secretary immediately upon its introduction, must publish –
 - (a) the Bill together with the memorandum referred to in Rule 197 in the Provincial Gazette; and
 - (b) notices of the Bill as required by Rule 196(4).
- (3) Copies of the Bill and other information published with the Bill must be sent to each Member.
- (4) A Bill concerning constitution for the Province, a Committee Bill and a Member's Bill may not be treated as an urgent measure.

Part 3: Introduction of Bills and consideration by the Committee

199. Member in charge

- (1) The Member in charge of a Government Bill or Money Bill is the Member of the Executive Council who introduces the Bill or who is subsequently appointed by the Premier to take general responsibility for the Bill.
- (2) The Member in charge of a Member's Bill is the Member who introduces the Bill.
- (3) The Member in charge of a Committee Bill is the Chairperson of the Committee that made the proposal for the Bill.
- (4) The Member in charge of a Bill may designate another Member to act as Member in charge.

200. Introduction of Bills

- (1) A Bill is introduced when a Member submits the Bill and its memorandum to the Speaker for consideration by the Legislature.
- (2)
 - (a) When a Bill is introduced the Member in charge may deliver an introductory speech.
 - (b) If the Member in charge wishes to make a speech, provision must be made on the Order Paper for a speech within ten working day of the introduction of the Bill.
 - (c) If the Legislature is in recess when the Bill is introduced, the Member in charge must be given an opportunity to make a speech within ten working days of the first meeting of the Legislature after recess.
- (3) As soon as a Bill has been introduced –
 - (a) it must be placed on the Order Paper;
 - (b) the Secretary must notify every Member of the introduction of the Bill;
 - (c) unless it is a Bill initiated by a Committee, the Speaker must refer the Bill to the relevant Committee; and

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- (d) a translation into any of the languages of the Legislature must be made available to any Member on request.
- (4) The House may resolve to refer the Bill to another Committee including an Ad hoc Committee.
- (5) If the Legislature is in recess when a Bill is introduced, the Speaker may refer the Bill to another Committee including an Ad hoc Committee at the request of the Member in charge.
- (6) A Bill initiated by a Committee may be referred to another Committee when it is introduced. If it is not referred to a Committee it must be considered by the House.
- (7) This Rule does not apply to a Money Bill introduced according to the special procedure set out in Part 5.

201. Consideration by the Committee

- (1) When a Bill has been referred to a Committee, the Committee must consider the principle and detail of the Bill and prepare a report for the House in terms of Rule 163.
- (2) A Committee may not start to consider a Bill that has been declared an urgent measure before at least two working days have elapsed after the introduction of the Bill, and it may not hold public hearings or hear evidence on an urgent Bill before at least five working days have elapsed after the introduction of the Bill.

202. Committee report on Order Paper

- (1) When a Committee has concluded its consideration of a Bill, the Speaker must place the Bill and the report of the Committee on the Order Paper.
- (2) If the Committee has amended the Bill, the version supported by the Committee must be placed on the Order Paper.
- (3) The Committee report and the Bill or amended Bill must be distributed to all Members.

Part 4: Consideration of Ordinary Bills by the House

203. Application of this part

The Rules in this part do not apply to those Money Bills that follow this process set out in Part 5.

204. Consideration of Ordinary Bill by the House

- (1) The House may not commence its consideration of the Bill before at least two working days have elapsed after the day on which the Bill has been put on the Order Paper, unless the Speaker, after consulting the Leader of Government Business (LGB), determines otherwise.
- (2) The Bill that is placed on the Order Paper and considered by the House is the Bill as amended by the Committee, but if the Bill is a Money Bill, the House considers the Bill as introduced.
- (3) The House must consider the principle and detail of the Bill separately.
- (4) The Programming Committee must determine the time allocated for consideration of the principle and detail of the Bill.

205. Order of proceedings

Consideration by the House of ordinary Bills takes place in the following order:

- (1) Consideration of parts of the Committee report referred to in Rule 208.
- (2) Consideration of the principle of the Bill.
- (3) Consideration of the detail of each clause.
- (4) Decision on the detail of each clause.
- (5) Decision on the Bill.

206. Consideration of Committee report

When the House considers the Committee report it considers only the summary of the Committee process as required by Rule 163(2)(a).

207. Consideration of the principle

When the House considers the principle of a Bill, the detail of the Bill may not be debated.

208. Conclusion of consideration of principle

- (1) No decision may be taken at the conclusion of the consideration of the principle of a Bill except a decision on a motion to postpone the consideration of the detail of the Bill.
- (2) Only the Member in charge of a Bill may introduce a motion requesting the postponement of the consideration of the detail of a Bill.

209. Consideration of detail

- (1) When the House has concluded its debate on the principle of a Bill or when the time allotted for debate has expired, the House must proceed immediately to the consideration of the detail of the Bill unless a motion to postpone consideration of the detail of the Bill has been accepted.
- (2) During the consideration of the detail of a Bill –
 - (a) only the details of the Bill may be discussed; and
 - (b) each clause of the Bill and any amendments proposed to them will be open for consideration.

210. Consideration of detail: sequence in which clauses are considered

The clauses of a Bill must be considered in the order in which the Presiding Officer puts them.

211. Consideration of detail: closure and extension of debate

- (1) No motion for the closure of the debate on the detail of a Bill may be allowed.
- (2) A motion for the closure of the debate on a particular clause may be allowed only if the presiding officer is satisfied that the debate has become repetitive.
- (3) A motion for the closure or the extension of the debate on a particular clause does not require notice.

212. Consideration of detail: amendments

- (1) After a Bill and the Committee report on the Bill have been placed on the Order Paper, a Member may place amendments on the Order Paper.



- (2) An amendment that does not appear on the Order Paper may be moved only –
 - (a) by the Member in charge of a Bill, his or her Whip; and
 - (b) If the Presiding Officer considers that the consideration of the amendment enjoys adequate cross-party support.
- (3) An amendment to a clause may be moved only when that clause is under consideration.
- (4) The insertion of a new clause must be moved immediately after the question on the preceding clause has been determined.
- (5) If an amendment is moved the Presiding Officer may either –
 - (a) refer the Bill back to the Committee which considered the Bill; or
 - (b) put the proposed amendment for decision by the House.
- (6) If the amendment is not clear or if the Bill is not likely to be clear as amended, the Presiding Officer must refer the Bill back to the Committee.
- (7) The Presiding Officer must determine the order in which amendments to the same clause must be put.
- (8) A majority of the Members of the Legislature must be present before a decision may be taken on an amendment to a Bill.

213. Consideration of detail: decisions on clauses

- (1) The question on each clause of a Bill must be put and determined in the same order in which the clauses were considered. However, the Presiding Officer may decide that the question on a particular clause must stand over pending the decision on any other question, or until all clauses have been considered.
- (2) A majority of the Members must be present when a decision is taken on a clause of a Bill.

214. Consideration of detail: conclusion

The Presiding Officer must declare the consideration of the detail of a Bill to be concluded when all the clauses of the Bill and all amendments duly moved have been considered.

215. Adoption of Bill

- (1) A majority of the Members of the Legislature must be present before a decision may be taken on a Bill.
- (2) The motion for the adoption of a Bill must be determined without debate.
- (3) When the consideration of the detail of the Bill is concluded, the motion for the adoption of a Bill must be put but if amendments which did not appear on the Order Paper have been accepted in terms of Rule 212, the motion for the adoption of the Bill may not be put until the Secretary has printed the amended sections of the Bill and delivered copies to every Member.
- (4) The Member in charge must place the Bill as amended on the Order Paper for adoption after the amended sections of the Bill have been printed and a copy has been delivered to every Member.
- (5) The Legislature passes a Bill by agreeing to the motion for its adoption.



Part 5: Consideration of Money Bills by the House

216. Application

The Rules in this part apply to Money Bills as defined in section 120 of the Constitution.

217. Introduction

- (1) Only the Member of the Executive Council who is responsible for financial matters may introduce a Money Bill in the Legislature.
- (2) The Member of the Executive Council may introduce a Money Bill by following either the ordinary procedure set out in Rule 200 or the special procedure set out in this part.
- (3) If the Money Bill is a Bill appropriating money for the ordinary services of the government or imposing taxes, levies or duties for this purpose, the special procedure must be followed.

218. Procedure for Money Bills

- (1) If the ordinary procedure is followed, the Bill must be dealt with as if it were an Ordinary Bill and not a Money Bill, subject to any Act envisaged in Section 120(2) of the Constitution.
- (2) If the special procedure is followed, the Rules in this part apply.

219. Special introductory procedure

- (1) The Money Bill must be introduced during a plenary meeting of the Legislature only.
- (2) On the appointed day, the Member of the Executive Council responsible for financial matters must make an introductory speech.
- (3) After making the speech, the Member must introduce the Bill by tabling it and any accompanying schedule and papers in the House.

220. Procedure after introduction

As soon as the Money Bill has been introduced –

- (1) the Secretary must deliver to every Member a copy of the Bill together with any papers that were submitted with it;
- (2) the Speaker must refer the Bill, the introductory speech and any papers submitted with the Bill to the relevant Committee for consideration; and
- (3) the Bill must be placed on the Order Paper.

221. Consideration by the Committee

- (1) The period for the consideration of a Money Bill by the relevant Committee must commence on a day to be determined by the Speaker after consultation with the Leader of Government Business, and may not exceed seven consecutive working days of the Legislature, excluding Wednesdays, unless the Speaker after consulting the Leader of Government Business decides otherwise.
- (2) The Committee has the same powers to deal with a Money Bill as it has for other Bills but it may not amend a Money Bill. The Committee may make recommendations for amendments to a Money Bill.
- (3) The Committee must present its report to the House on or before the first working day of the Legislature following the expiry of the period allowed for deliberation by the Committee.



222. Consideration of a bill in the House

- (1) The consideration of a Money Bill may not proceed until two working days after the report of the Committee to which the Bill is referred has been received.
- (2) Despite Sub-Rule (1) the Speaker, after consultation with the Leader of Government Business, may permit the Money Bill to be debated in the House as soon as the report of the Committee is received.
- (3) The House must consider both the principle and detail of a Money Bill.

223. Order of special proceedings for Money Bills

Consideration by the House takes place in the following order:

- (1) Consideration of the principle of the Bill.
- (2) Decision on the principle of the Bill
- (3) Consideration of the votes in the schedule.
- (4) Consideration of the votes in respect of which supplementary amounts are requested.
- (5) Decision on the separate votes in the schedule.
- (6) Decision on the schedule.
- (7) Decision on the Bill by roll-call.

224. Adoption of Money Bill

- (1) The motion for the adoption of Money Bill that has no schedule must be determined without debate.
- (2) The question on the adoption on a Money Bill must be determined by a roll-call.
- (3) Where an electronic voting system is in operation, questions may, at the discretion of the Presiding Officer be decided by the utilization of such a system.

Part 6: Rules applicable to all Bills

225. Distribution of adopted Bill

When the House has adopted a Bill, the Secretary must notify Members and publish the Bill on the Legislature's website promptly.

226. Certification of Bill by Speaker

- (1) When a Bill has been adopted, the Speaker must certify at least two legible copies of it as being correct and must forward the copies to the Premier for assent.
- (2) If any error or defect is discovered in a Bill after it has been adopted but before it has been presented to the Premier for assent, the Speaker must report such error or defect to the House and, if the House agrees to correct the error or defect, the House will be deemed to have agreed to the adoption of the Bill as corrected.

227. Assent to Bill

- (1) As required by Section 237 of the Constitution, the Premier must assent to the Bill without delay and at least within 10 working days of receiving it.
- (2) If the Premier has reservations about the constitutionality of the Bill, he or she must not assent to it and must refer it back to the Legislature without delay for reconsideration under Section 121 of the Constitution.
- (3) If the Premier refers a Bill back to the Legislature, the Premier must set out the reservations in a memorandum and submit it, with the Bill to the Legislature.

228. Resumption of proceedings on a Bill

- (1) If the proceedings on a Bill are not complete when the House adjourns, the proceedings must continue at the next meeting.
- (2) Any Bill that has not been disposed of by the House within twelve calendar months from a date of its introduction, shall lapse unless the House resolves otherwise.
- (3) A Money Bill that has been introduced, but has not yet been adopted, before the first day of polling for the next Legislature, shall be concluded in the next Legislature.

229. Same Bill not introduced twice

When a Bill has been passed or rejected, no Bill of the same substance may be introduced during the same calendar year.

230. Withdrawal of a Bill

The Member in charge of a Bill may introduce a motion to withdraw the Bill at any stage before the Bill has been adopted.

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CHAPTER 12

OVERSIGHT

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OVERSIGHT

Part 1: General

231. Constitutional mandate

- (1) The Rules in this Chapter are to guide the Legislature in fulfilling its constitutional responsibility of ensuring accountable and responsive government and, in particular, of holding the Members of the Provincial executive collectively and individually accountable to the Legislature as anticipated by Section 133 of the Constitution.
- (2) To fulfill this responsibility, the Legislature must scrutinize and oversee the exercise of Provincial executive authority and Provincial organs of state.
- (3) The oversight role of the Legislature includes scrutiny of the extent to which the Province is fulfilling its obligation, in terms of Section 7 of the Constitution, to promote, and fulfill the Bill of Rights.

232. Oversight procedures in the Legislature

- (1) the following procedures contribute to effective oversight of the Executive by the Legislature:
 - (a) questions posed to Members of the Executive Council.
 - (b) motion and debates in the House and Committees.
 - (c) statements by Members of the Executive Council.
 - (d) the public petitions process regulated in the Petitions Act and Part 2 of chapter 5.
 - (e) the scrutiny of Subordinate Legislation.
 - (f) the budget process.
 - (g) scrutiny of the reports of departments and other Provincial organs of state.
 - (h) scrutiny of the reports of the institutions established by Chapter 9 of the Constitution, especially the reports of the Auditor-General.
 - (i) scrutiny of the reports of the Financial and Fiscal Commission;
 - (j) consultation with the Committee on the Scrutiny of Subordinate Legislation on matters relating to grants of power to the Executive or other bodies to adopt Subordinate Legislation.
 - (k) quarterly reports.
 - (l) Annual Reports.
 - (m) Focused intervention studies.
 - (n) Committee Inquiries.
 - (o) Inspection visits by individual Members; and
 - (p) Members' Statements.
- (2) The Legislature must facilitate the participation of the public in its oversight processes.
- (3) In addition to the procedures listed in Sub-Rule (1), Portfolio Committees and other relevant Committees must fulfill the oversight role described in Rule 233.
- (4) To ensure that the oversight work of the Committees is properly considered by the Legislature, the Programming Committee must allow time for the debate in the House of oversight reports.

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Part 2: Oversight by Committees

233. Oversight by Portfolio Committees

- (1) Every Portfolio Committee must maintain oversight of the way in which the relevant Member of the Executive Council and his or her department fulfill their including the implementation of legislation. To do this it must –
 - (a) review the departmental vote submitted to the Legislature by the department in terms of Section 27(2) of the Public Finance Management Act;
 - (b) review the Annual Report submitted to the Legislature by the department in terms of Section 65 of the Public Finance Management Act;
 - (c) deal with issues referred to it by the Petitions Committee;
 - (d) consider quarterly reports from the department; and
 - (e) may deal with any other matter that concerns the effective functioning of the Provincial government and other Provincial organs of state.
- (2) Each Portfolio Committee shall conduct at least two focused intervention studies annually.
- (3) The first focused intervention study must be conducted and concluded by the end of the 2nd quarter of each financial year.
- (4) A Portfolio Committee must include in its annual programme, a programme for conducting oversight of the department and other Provincial organs of state for which it is responsible. The Committee must take account of the goals set by the department.
- (5) Every Portfolio Committee must report to the House on –
 - (a) the department's activities and the Committee's assessment;
 - (b) any oversight visits undertaken; and
 - (c) all the steps taken to facilitate public participation when conducting oversight.
- (6) A Portfolio Committee's Annual Report to the Legislature must include a report on oversight.

234. Conducting oversight

- (1) to conduct oversight Committees may, among other things –
 - (a) hold hearings at which the Member of the Executive Council or head of the relevant department or Provincial body is asked to explain matters in any report of the department or body that are of concern to the Committee;
 - (b) visit projects and facilities and assess service delivery;
 - (c) invite Members of the public to make submissions on the work of the department or body; and
 - (d) consult with the Public Accounts Committee on matters relating to the financial statements of the department or body.
- (2) If the head of the department (HOD) or entity does not give an adequate explanation of the way in which the department is dealing with problematic issues, a Committee must ask the relevant Member of the Executive Council to explain to the Committee what is being done to rectify the problems.



Part 3: Subordinate Legislation

235. Bills referred to the Committee for the Scrutiny of Subordinate Legislation

- (1) The Speaker must refer every Bill that contains a grant of power to the Executive or another body to adopt Subordinate Legislation to the Committee for the Scrutiny of Subordinate Legislation (CSSL).
- (2) When the Committee reviews Provincial Bills that grant the power to adopt Subordinate Legislation to the Provincial executive or another body, it must ensure that the grant of power –
 - (a) as clear parameters and is not unduly general or without clear directions to the subordinate law-making authority; and
 - (b) does not authorise the Executive or another body to make Subordinate Legislation which would not comply with the Constitution.

236. Publication, tabling and referral of Subordinate Legislation

The (MEC) responsible for making Subordinate Legislation must table such legislation, once adopted, be published in the Government Gazette.

237. Powers in relation to grants of authority to adopt Subordinate Legislation

- (1) If the Committee for the Scrutiny of Subordinate Legislation (CSSL) considers that a grant of power to adopt Subordinate Legislation does not meet the requirements of Rule 235(2), the Committee must consult with the Committee responsible for the Bill and make recommendations for correcting the problem.
- (2) The Report of the Committee for the Scrutiny of Subordinate Legislation CSSL on a Bill together with the relevant Portfolio Committee report must be tabled in the House.

238. Subordinate Legislation must be referred to the Legislature

- (1) All Subordinate Legislation made in terms of a National or Provincial Act must be submitted to the Legislature by the person who made it.
- (2) The Speaker must refer all Subordinate Legislation to the Committee for the Scrutiny of Subordinate Legislation (CSSL).
- (3) When the Committee reviews Subordinate Legislation, it must ensure that the legislation –
 - (a) is constitutional, does not interfere with the jurisdiction of the courts or infringe rights or the rule of law; and
 - (b) is authorised by the Act under which it was made.
- (4) The Member of the Executive Council responsible for making Subordinate Legislation must publish such legislation, in the Government Gazette within fourteen days of adoption by the Legislature.
- (5) In fulfilling its functions under Sub-Rule (3) the Committee must consider that the Subordinate Legislation before it:
 - (a) is authorised by the terms of the enabling Act and complies with any condition set out in the Act;
 - (b) is in conformity with the Bill of Rights; and does not:
 - (i) have a retrospective effect without express authority having been provided for in the enabling legislation;



- (ii) Impose a tax, levy or duty or requires spending by the Province without express authority having been provided for this in the enabling Act;
- (iii) impose a fine, imprisonment or other penalty without express authority having been provided for this in the enabling Act;
- (iv) tend directly or indirectly to exclude the jurisdiction of the courts;
- (v) appear for any reason to infringe the rule of law;
- (vi) make the rights of the person unduly dependent on administrative discretion or is not consistent with the rules of natural justice;
- (vii) contain matter more appropriate for enactment by the Legislature; and
- (viii) is not defective in its drafting or requires explanation as to its form or purport.

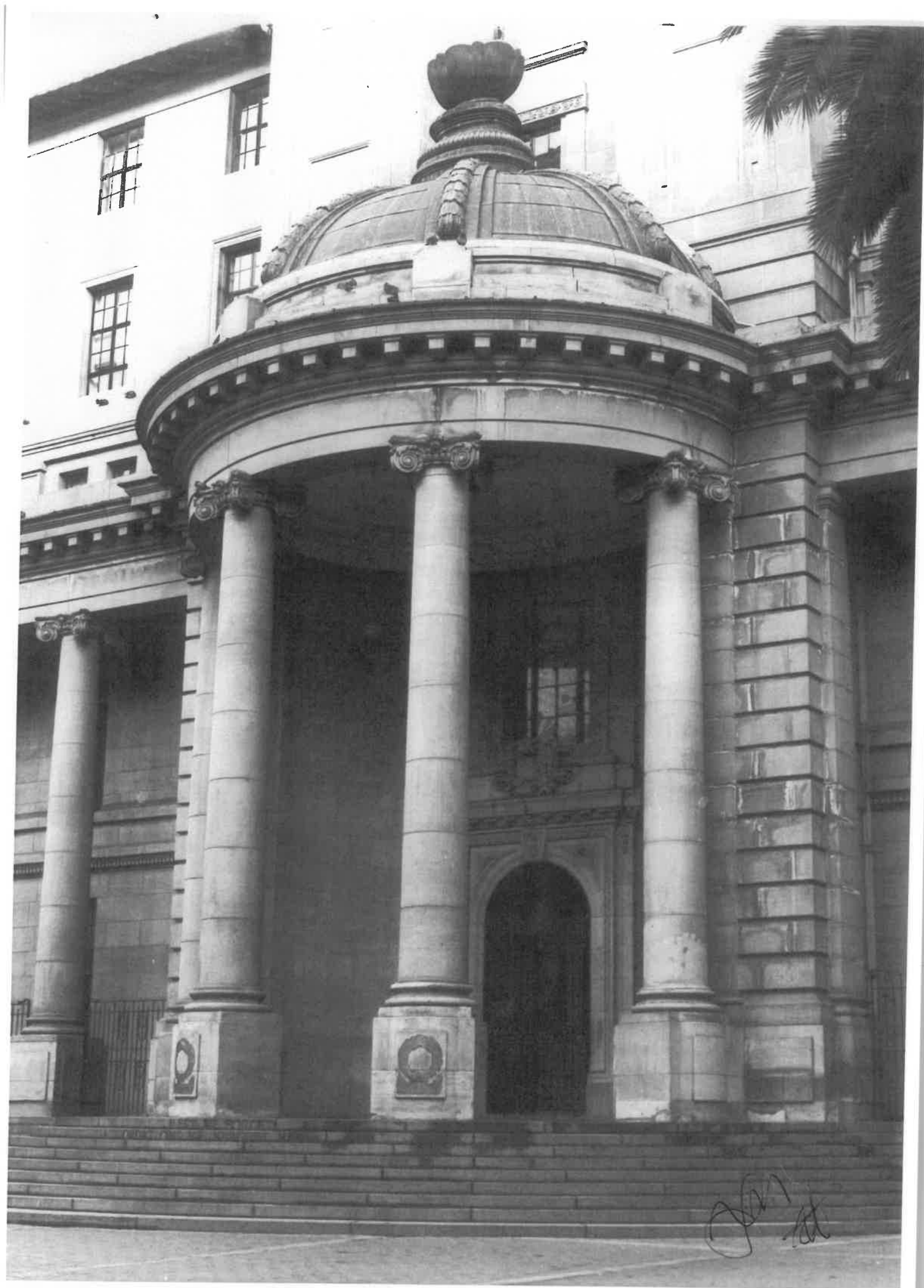
239. Powers in relation to Subordinate Legislation

- (1) If the Committee for Scrutiny of Subordinate Legislation (CSSL) considers that a Subordinate Legislation submitted to it under Rule 238(1) fails to meet the standards set out in Rule 238(3)&(4); it must request the relevant Member of the Executive Council or head of the relevant organ of state to amend the Subordinate Legislation.

240. Invalidation of Subordinate Legislation

- (1) The Legislature may invalidate any of the provisions of Subordinate Legislation reported in terms of Rule 238 (3)&(4).
- (2) The Legislature may permit or allow time for the responsible person empowered to make the Subordinate Legislation to correct the defect in such legislation.
- (3) Subject to Sub-Rule (2), the invalidity of Subordinate Legislation take effect from the date of invalidation.





CHAPTER 13

CONSTITUTIONAL MATTERS AND MATTERS FROM THE NCOP

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CONSTITUTIONAL MATTERS AND MATTERS FROM THE NCOP

Part 1: General

241. Co-operative government

The principles of cooperative government in Chapter 3 of the Constitution must inform the application of the Rules in this Chapter.

Part 2: National Constitutional Matters

242. Particulars of a constitutional amendment

- (1) When particulars of a proposed amendment to the National Constitution are submitted to the Legislature for its views in terms of Section 74(5) (b) of the Constitution, the:
 - (a) particulars must be placed on the Order Paper;
 - (b) Secretary must send a copy of the particulars of the amendment to every Member; and
 - (c) Speaker must refer the particulars to the relevant Committee.
- (2) The Committee must report to the House within a time specified by the Speaker. The report must comply with Rule 162 and must include any comments that the Committee recommends that the Legislature should make on the proposed constitutional amendment.
- (3) If the House resolves to comment on the proposal, the Speaker must send the agreed comments to the national Minister, any other Member or Committee responsible for constitutional matters.
- (4) When particulars of a proposed constitutional amendment that does not require NCOP approval is referred to the Legislature, the Committee to which the particulars are referred under Sub-Rule (1) (c) must, in its report to the House:
 - (a) indicate whether or not the House should take a formal position on the matter; and
 - (b) recommend whether the House should appoint a special delegate to participate in the public debate in the NCOP under Section 74(5)(c) of the Constitution or whether a permanent delegate should be briefed on the matter to participate in the debate.

243. Constitutional amendment that must be approved by the Legislature

- (1) If any clause of a Bill amending the National Constitution requires the approval of the Legislature in terms of Section 74(8) of the Constitution, the:
 - (a) the Bill must be placed on the Order Paper;
 - (b) Secretary must send a copy of the Bill to every Member; and
 - (c) Speaker must refer it to the relevant Committee or an Ad hoc Committee.
- (2) The Legislature must deal with the Bill as if it were an ordinary Provincial Bill.
- (3) The Chairperson of the Committee to which the Bill is referred is the Member in charge.



Part 3: Bills and other matters for decision in the NCOP

244. Informal referral of matters from Parliament

- (1) When a Bill referred to in Section 74(1), (2) or (3)(b) or Section 76 of the Constitution is informally referred to the Legislature, before it has been introduced or tabled in the NCOP, the Speaker must send the Bill for information, to the:
 - (a) relevant Committee or an Ad hoc Committee; and
 - (b) relevant Member of the Executive Council.
- (2) When a Bill referred to in Section 75 of the Constitution or another matter is informally referred to the Legislature, before it has been tabled in the NCOP, the Speaker must send the Bill or other matters for information to a Committee if he/she believes that the matters is of importance to the Province and should be considered by a Committee at this stage.
- (3) A Committee to which an NCOP matter is sent under this Rule may consider the matter but need not consider it and need not report to the House on the matter.

245. Formal referral of Section 74 or 76 Bill

- (1) When a Bill referred to in Section 74(1), (2) (3)(b) or Section 76 of the Constitution is introduced or tabled in the NCOP and formally referred to the Speaker by the NCOP, the Speaker must refer the Bill and any accompanying papers to:
 - (a) the relevant Committee or an Ad hoc Committee; and
 - (b) the relevant Member of the Executive Council with a request that he or she submit the views of the Executive Council on the Bill to the Committee.
- (2) The Secretary must deliver a copy of the Bill immediately to every Member.

246. Formal referral of other matters

- (1) When the NCOP formally refers a matter other than a Bill to the Speaker; the Speaker must refer the matter to:
 - (a) the relevant Committee or an Ad hoc Committee; and
 - (b) if appropriate, the relevant Member of the Executive Council with a request that he/she submit the views of the Executive Council on the matter to the Committee.
- (2) The Secretary must ensure that all Members are informed of the referral And make copies of the Bill or other matter available on request to any Member.

247. Requirements for negotiation mandates

- (1) Every negotiating mandate required in terms of schedule 1 of the Mandating Procedures for Provinces Act must be in accordance with the following format:
 - (a) indicate the name and number of the Bill being negotiated;
 - (b) contain the signature of the Chairperson of a Committee designated by the Legislature;
 - (c) addressed to the Chairperson of a Select Committee of the NCOP;
 - (d) indicating parameters for negotiation and proposed amendments to the Bill if any; and
 - (e) confer authority on the Provincial delegation to the NCOP when the relevant NCOP Select Committee considers a Bill after tabling and before consideration of final mandates.



248. Requirements for final mandates

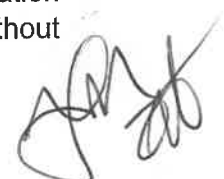
- (1) Every final mandate required in terms of schedule 2 of the Mandating Procedures for Provinces Act must be on the letterhead of the Legislature and must:
 - (a) indicate the name and number of the Bill being voted on;
 - (b) indicate whether the Provincial Legislature votes in favor of or against; or abstains from voting on the Bill;
 - (c) contain the signature of the Speaker or of a person designated by the Speaker to preside over that specific Bill; and
 - (d) be addressed to the Chairperson of the NCOP or a person designated by the Chairperson of the NCOP.
- (2) The Legislature must confer authority on the Premier or a delegate designated by the Premier, to cast a vote in an NCOP plenary.
- (3) The Premier, or a delegate of a Provincial delegation to the NCOP designated by the Premier, must cast a vote on behalf of a Provincial Legislature.
- (4) The Legislature must confer authority on its Provincial delegation to the NCOP to cast a vote when the relevant NCOP Select Committee considers a Bill prior to voting thereon in an NCOP plenary.
- (5) If no matter arises from the deliberations of the NCOP Select Committee when considering final mandates which may necessitate consideration by a Provincial Legislature, the Provincial delegation to the NCOP must table the Province's final mandate in the NCOP plenary as the Province's voting mandate.

249. Referral of Section 75 Bill

- (1) When the NCOP refers a Bill described in Section 75 of the Constitution to the Speaker:
 - (a) the referral of the Bill by NCOP must be noted in the Announcements, Tabling and Committee Reports; and
 - (b) the Speaker may refer the Bill and any accompanying papers to the relevant Committee if he or she thinks that the Legislature should consider the Bill.
- (2) The Secretary must make copies of the Bill available on request to any Member.

250. Consideration by Committee

- (1) A Committee to which a Bill has been referred under Rule 245(1) may consider the Bill immediately. A Committee may not consider any other NCOP matter until the Programming Committee has prioritized it, but the Committee may make recommendations concerning the prioritization of the matter to the Programming Committee.
- (2) After the Programming Committee has prioritized the NCOP matter, the Committee to which it has been referred must deal with it in accordance with its prioritization, but a Committee may decide that it does require hearings on a matter that the Programming Committee classified as ordinary or unimportant.
- (3)
 - (a) Whenever a Committee considers a matter on which the Provincial delegation will be expected to vote in the NCOP, the Committee must inform the relevant Member of the Executive Council and give him/her an opportunity to present the views of the Executive Council on the matter to the Committee.
 - (b) If the Member of the Executive Council does not respond to the invitation and the Committee believes that it cannot conclude the matter without



hearing the views of the Executive Council, the Committee must send a formal request to the Member of the Executive Council to attend a meeting of the Committee.

- (4) Any Member may table an amendment to the Bill or a comment on another matter for consideration by the Committee.

251. Plenary consideration and resolution on mandate

- (1) The House must deal with a report on an NCOP matter from a Committee taking into account the prioritization of the matter.
- (2) The Chairperson or another Member of the Committee designated by the Chairperson that considered the matter is the Member in charge.

Part 4: Raising issues in the NCOP

252. Legislative proposals

- (1) If a Committee identifies a matter that should be dealt with in the National legislation, it must draft a memorandum proposing the introduction of the legislation in the NCOP. The proposal should comply with the requirements in the NCOP Rules for the initiation of a Bill by the Provincial Legislature.
- (2) A proposal for the introduction of legislation must concern a matter that would be dealt with under section 76(2) of the Constitution.
- (3) The Committee must submit the proposal to the House with a recommendation as to who should introduce the proposal in the NCOP. The Committee may recommend that:
 - (a) the Province's permanent delegate who usually deals with such
 - (b) matters in the NCOP should introduce the proposal in the NCOP; or
 - (c) a special delegate should submit the proposal to the NCOP.
- (4) A Committee's report on a legislative proposal must indicate:
 - (a) if it is possible, the law on the matter in other Provinces;
 - (b) what steps the Committee has taken to consult other Provincial Legislatures on the matter;
 - (c) the outcome of any consultations;
 - (d) the implications of the matter under consideration for promoting the rights in the Bill of Rights and, particularly, gender equity and socioeconomic rights;
 - (e) differing views in the Committee, identifying clearly issues on which there is disagreement and the reasons for, that disagreement; and constitutional.
- (5) If the House supports the Committee proposal or an amended proposal, the Speaker must forward it to the relevant NCOP delegate to introduce in the NCOP on behalf of the Provincial Legislature.

253. Questions from Committees

When fulfilling its oversight responsibility or during other deliberations, a Committee may identify a matter on which information is needed from the National Executive. The Committee may frame an appropriate question for written or oral answer and ask the permanent delegate who usually deals with such matters in the NCOP to ask the question in the NCOP.

254. Matters of public importance affecting the Province

If the House or a Committee decides that a matter of public importance that affects the Province should be debated in the NCOP, the House or Committee must ask the permanent delegate who usually deals with such matters in the NCOP to request the Chairperson of the NCOP to allow the matter to be debated in the NCOP.

255. Motions on behalf of the Legislature

If the House or a Committee wishes a motion to be introduced in the NCOP, the House or Committee must ask the permanent delegate who usually deals with such matters in the NCOP to propose the motion.

256. Report from permanent delegate

- (1) If a permanent delegate has been asked by the Legislature to table a legislative proposal in the NCOP, ask a question on behalf of the Legislature or request a debate on a matter of public importance, the delegate must report back to the House or to the Committee which made the request within a month.
- (2) Despite Sub-Rule (1), if the NCOP is in recess when the Legislature makes the request, the permanent delegate must report back within a month of the NCOP's first meeting after the recess.

257. NCOP Programme and Provincial Week

- (1) A report on the NCOP Provincial week must be tabled in the ATC for information as soon as it becomes available.
- (2) The Speaker must study the report and refer the recommendations to relevant Committees.

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CHAPTER 14

ETHICS, PRIVILEGE AND CONTEMPT

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ETHICS, PRIVILEGE AND CONTEMPT

Part 1: Privilege and Contempt

258. Ethics

- (1) The Rules in this chapter are to guide the Legislature in conducting its business in a way that ensures that it is a free institution, able to fulfil its role of representing the public.
- (2) To do this the Legislature and all its Members must act in an ethical way and protect the powers, privileges and immunities of the Legislature.

259. Privileges

- (1) The privileges of Members of the Legislature and its permanent delegates include:
 - (a) the privilege of freedom of speech in the Legislature and its Committees conferred by Section 117(1)(a) of the Constitution;
 - (b) immunity from liability for civil or criminal proceedings, arrest, imprisonment or damages to the extent conferred by Section 117(1)(b) of the Constitution; and
 - (c) any other privileges or immunities of the Legislature and its Members as conferred by the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act 4 of 2004.
- (2) The privileges of the Legislature include the powers conferred by sections 115 and 116 of the Constitution.

260. Contempt of the Legislature

- (1) A breach of privilege is contempt of the Legislature.
- (2) Contempt of the Legislature is conduct which potentially or actually interferes improperly with the ability of the Legislature, its Committees or any of its Members to perform their functions.
- (3) Contempt includes, but is not limited to:
 - (a) failing to attend the Legislature or one of its Committees when summoned to do so;
 - (b) failing to report to the Legislature or one of its Committees when required to do so;
 - (c) giving evidence to a Committee knowing it to be false;
 - (d) punishing someone for giving evidence to the Legislature or one of its Committees;
 - (e) induce someone not to give evidence to the Legislature or one of its Committees;
 - (f) comments by a Member speaking in the House or a Committee that are extremely injurious to another Member of the Legislature;
 - (g) a breach of the Rules (a breach of the Code of Conduct is a breach of the Rules);
 - (h) failing to obey any ruling, order or resolution of the Legislature; and
 - (i) intentionally, recklessly or deliberately misleading the Legislature regarding material facts on an issue.

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261. Raising a breach of privilege or contempt

- (1) A Member may raise a matter relating to contempt, including a breach of privilege:
 - (a) in the House or a Committee meeting under Rule 88 or
 - (b) in writing with the Speaker.
- (2) The matter must be raised as soon as possible after it has occurred and, before the next plenary meeting of the Legislature.
- (3) If the matter raised in writing with the Speaker concerns another Member, the Member who raises a matter must provide the other Member with a copy of the document submitted to the Speaker as soon as possible.

262. Formulation of the allegation

An allegation of contempt must be formulated as precisely as possible, providing but not limited to the:

- (1) name of the person alleging the contempt;
- (2) name of the person against whom the contempt is leveled;
- (3) nature of the contempt;
- (4) specific rule upon which the allegation is based; and
- (5) contact details of the person alleging the contempt.

263. Consideration by the Speaker

- (1) When a Member informs the Speaker of a matter under Rule 260(1), the Speaker must determine whether contempt is involved.
- (2) In determining whether contempt is involved the Speaker must take into account the importance of the matter.
- (3) If the matter is technical or trivial and does not warrant the further attention of the Legislature, the matter is not a matter of contempt.

264. Speaker's decision

- (1) If the Speaker decides that the matter is a matter of contempt, he/she must report to the House.
- (2) If the matter concerns a person who is not a Member, the Speaker must either:
 - (a) refer the matter to the Directorate of Public Prosecutions for action under the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act; or
 - (b) if the Speaker thinks that the matter does not warrant the institution of criminal proceedings, propose to the House that the House should deal with the matter.
- (3) If the matter concerns a Member, the Speaker may:
 - (a) if it is appropriate, make a ruling; or
 - (b) refer the matter to the Privileges and Ethics Committee; or
 - (c) may, if the allegation would constitute an offence under the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act 4 of 2004 and the Speaker thinks that the Legislature should not deal with it, recommend to the House that the matter should be referred to the Directorate of Public Prosecutions.



Part 2: Proceedings of the Privileges and Ethics Committee

265. Member making an allegation not to serve on inquiry

A Member who has made an allegation of a breach of privilege or of contempt, including an alleged breach of the Code of Conduct, may not serve on an inquiry into that allegation.

266. Memorandum by the Secretary

- (1) The Secretary must prepare a memorandum outlining briefly the issues involved, the facts of the case, the law, parliamentary practice and precedents bearing on the matter before the Committee.
- (2) The Secretary must submit such a memorandum to the Committee at least five days before the hearing is scheduled to commence.
- (3) This Rule does not apply to matters referred to the Committee by the Integrity Commissioner.

267. Rights of an alleged offender

An alleged offender must be granted a reasonable opportunity to represent his/her own case.

268. Legal Representation

The respondent, complainant and witnesses shall as appropriate have the right to legal assistance during the hearing at their own expense.

269. Written submissions

Alleged offenders, complainants and witnesses must be given the opportunity to submit a written submission to the Committee.

270. Evidence

The Committee may not receive hearsay evidence, that is, the witnesses may testify only to matters that are within their direct and personal knowledge.

271. Admissibility of evidence

Evidence shall be submitted in terms of the Law of Evidence.

272. Oath or Affirmation

- (1) Witnesses, including alleged offenders who wish to give evidence, must testify under oath or affirmation.
- (2) Witnesses must make the following oath or affirmation:

Oath

"I swear that the evidence that I shall give, shall be the truth, the whole truth and nothing but the truth."

Affirmation

"I solemnly affirm that the evidence that I shall give, shall be the truth, the whole truth and nothing but the truth."



- (3) The Chairperson or any person designated by him/her must administer the Oath or Affirmation with respect to witnesses.
- (4) If the Privileges and Ethics Committee believes that a person has committed perjury in a hearing before the Committee, the allegation must be referred to the Director for Public Prosecutions for prosecution under Section 21 of the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act 4 of 2004.

273. Recess

The Committee may sit when the House is in recess.

274. Report of the Privileges and Ethics Committee

- (1) When the Committee has completed its investigation; it must table a report on its findings for consideration by the House.
- (2) If the Committee finds that the Member concerned has committed a breach of privilege or contempt, the report must recommend an appropriate sanction as authorised by section 12 of the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act 4 of 2004.
- (3) If the Committee considers it necessary and not prejudicial to the rights of any party to the matter, it may append submitted evidence to its report.
- (4) Rule 162 does not apply to a report of the Privileges and Ethics Committee but dissenting views of Members of the Committee must be appended to the report.

275. Decision by the House

- (1) The Committee's recommendations to the House are not final and may be amended by the House; but a motion relating to matters not covered by the report or referring the report back to the Committee may not be moved.
- (2) The House may impose only those sanctions authorised by section 9 of the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act 4 of 2004.



Part 3:

Conflict of Interest Code, Disclosure Framework and Integrity Commissioner

276. Conflict of Interest Code and Disclosure Framework for Members of the Gauteng Provincial Legislature attached as Annexure A, is part of these Standing Rule.

277. Integrity Commissioner

- (1) The Integrity Commissioner is responsible for the implementation of the Code
- (2) The Integrity Commissioner initiates, receives, investigates, adjudicate and recommend over the matters of breach of Code referred to him/her.
- (3) The Integrity Commissioner's main function is to ensure that Members conduct conforms to the standards set out in the Code.

278. Independence and Impartiality

- (1) The Integrity Commissioner shall be independent, impartial and non-partisan.
- (2) The Integrity Commissioner shall carry out his or her duties and functions independently by interpreting and applying this Code as it relates to an individual Members particular circumstances.
- (3) The Integrity Commissioner shall in consultation with the Secretary, be responsible for setting up of his/her office, appointment of staff and the preparation of the budget for consideration by the Speaker.

279. Appointment and remuneration of the Integrity Commissioner

- (1) The person to occupy the position of Integrity Commissioner shall be a person with integrity and honesty, possess knowledge of law, public policy, politics and socio-economic issues.
- (2) The Speaker, through the Provincial Secretary, and after consultation with the leaders of the parties represented in the Legislature, shall set up a multi-party selection panel to select a person to be the Integrity Commissioner.
- (3) The Speaker shall present the appointment of the Integrity Commissioner to the House for adoption by a two-thirds majority.
- (4) The Speaker shall, after consultation with the Provincial Secretary, determine the remuneration and conditions of service of the Integrity Commissioner.

280. Term of office and removal of Integrity Commissioner

- (1) The Integrity Commissioner shall be appointed for a period of five years.
- (2) The Integrity Commissioner may not remain in office for more than ten years.
- (3) The tenure of the Integrity Commissioner ends if he/she:
 - (a) resigns;
 - (b) becomes unfit and improper to perform functions of the office; or
 - (c) is guilty of misconduct.
- (4) The Speaker, after following appropriate procedures and with the supporting vote of two-thirds of the Members of the Legislature, may remove the Integrity Commissioner from office for inability to perform the functions of the office or for misconduct.

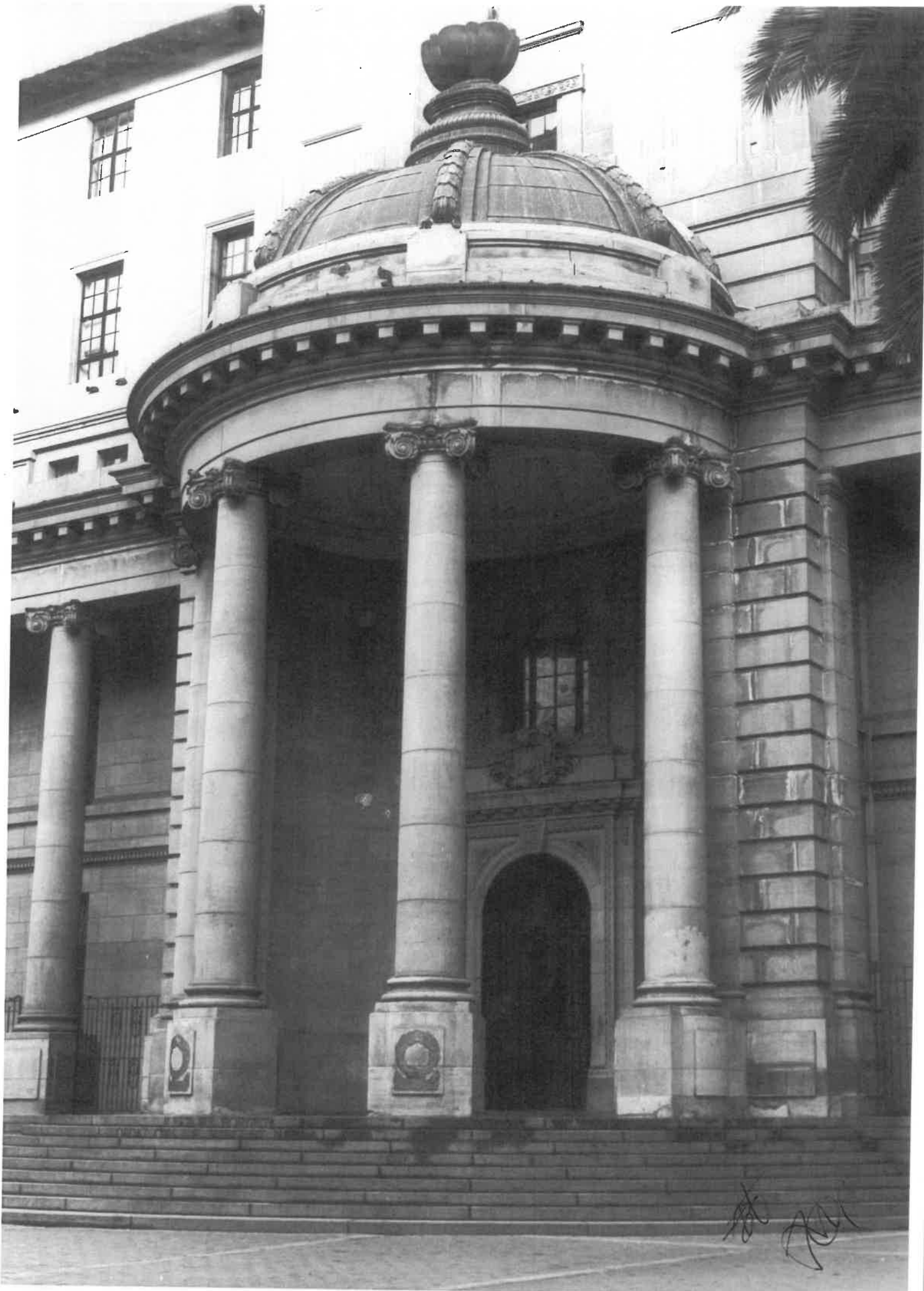


281. Functions of the Integrity Commissioner

The Integrity Commissioner:

- (1) May of his /her own accord investigate any alleged violation of the Code.
- (2) The Integrity Commissioner must:
 - (a) implement the Code
 - (b) receive complaints;
 - (c) conduct investigations
 - (d) submit reports and recommendations to the Privileges and Ethics Committee for consideration
 - (e) open and keep a Register for the purpose of this Code, called the Register of Members Interests.
 - (f) provide advice and counsel to Members
 - (g) Submit a quarterly and Annual Reports on his /her work to the Privileges and Ethic Committee; and
 - (h) perform any other duties in relation to the Code.

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CHAPTER 15

MISCELLANEOUS

Part 1: Secretary and records	98
Part 2: People ordered to give evidence or produce documents	98

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MISCELLANEOUS

Part 1: Secretary and Records

282. Duties of Secretary

In addition to the duties mentioned in these Rules, the Secretary is responsible for the regulation of all matters connected with the business of the Legislature, subject to directions of the Speaker or the House.

283. Minutes of Proceedings

The Minutes of Proceedings must be taken by the Secretary and, after having been perused by the Speaker must be printed and delivered to each Member.

284. Journals of the Legislature

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

285. Order Paper

The Secretary must print the Order Paper for each working day of the House and deliver it to each Member.

286. Custody of papers

- (1) The Secretary has custody of all records and other papers of the Legislature.
- (2) Records or other papers of the Legislature cannot be removed from the precincts of the Legislature without the permission of the Speaker.
- (3) No unauthorized documents will be publicized or displayed in the House or its Committees.

Part 2: People ordered to give evidence or produce documents

287. Committee meeting for examination of witness

Whenever a Committee requires the examination of a witness in terms of section 19 of the Powers, Privileges and Immunities Act, 2 of 2000 over a period longer than one day, the Committee must meet on consecutive working days.

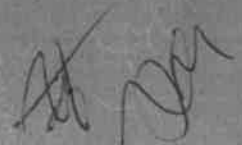
288. Witness expenses

Subject to approval by the Speaker, the Secretary may pay a witness a reasonable sum for travelling and attendance time and for transport expenses actually incurred.



ANNEXURE 1

Code of Conduct and Ethics..... 100-110

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ANNEXURE 1. CODE OF CONDUCT AND ETHICS

PART1: CONFLICT OF INTEREST CODE AND DISCLOSURE FRAMEWORK FOR MEMBERS OF THE GAUTENG PROVINCIAL LEGISLATURE

1. DEFINITIONS

In this Code, unless the context otherwise indicates, the following words or phrases mean –

Business Partner: Means a person who shares a financial interest with a Member

Conflict of Interests: Means a situation in which a Member contrary to the obligation and absolute duty to act for the benefit of the public or a designated individual is presented with an opportunity to exploit and/or manipulate the obligation for personal or pecuniary benefit.

Code: Means the Conflict of Interest Code and Disclosure Framework for Members of the Gauteng Provincial Legislature

Committee: means the Privileges and Ethics Committee of the Gauteng Provincial Legislature.

Constitutional body or office: means an office or body established in terms of the Republic of South Africa Constitution Act 108 of 1996, as amended.

Family: means a Member's spouse or permanent companion and dependent children.

Government: means the Provincial Government of the Gauteng Province

Immediate Family: Means a Member's spouse or permanent companion and dependent children.

Integrity Commissioner: means an Integrity Commissioner appointed in terms of the Conflict of Interest Code and Disclosure Framework for Members of the Gauteng Provincial Legislature.

Legislature structure: means any body or Committee established to conduct the business of the Legislature in terms of the laws, Standing Rules, resolutions of the House, or policies that govern the Legislature.

Member: means a Member of the Gauteng Provincial Legislature.

Permanent companion: Means a person who is cohabiting with a Member and is publicly acknowledged by the Member as the Member's permanent companion.

Presiding Officer: Means the Speaker, Deputy Speaker, and Chairperson of Committees and Deputy Chairperson of Committees.

Public Interests: Means an outcome which affects the public rights, finances or public good.

Register: Means the Register of Members' Interests



Registrable interest: means financial interests required to be disclosed in terms of 16 herein.

Spouse: Means partner in marriage or common law spouse

State: Means National, Provincial or local government, state agencies, entities, state owned enterprises, and any other public body

2. PURPOSE OF THE CODE:

This code is intended to provide a framework of reference for Members of the Legislature ("Members") when discharging their responsibilities. The code outlines the minimum ethical standards of behaviour that South Africans expect of elected representatives including, upholding propriety, integrity and ethical values in their conduct. The purpose of the code is to create public trust and confidence in public representatives and to protect the integrity of the Legislature.

3. SCOPE OF THE CODE

The Code applies to all Members of the Gauteng Provincial Legislature, including Members of the Executive. However Members of the Executive are also subject to the Executive Members Ethics Act and Code as well as the provisions of the Ministerial Handbook for Members of the Executive and Presiding Officers.

The Code must be read with the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act, No 4 of 2004 and the Prevention and Combating of Corrupt Activities Act, 12 of 2004.

4. ROLE OF THE SPEAKER

Procedural matters referred to in the Code that are expressly provided for in the Standing Rules of the Legislature, are under the jurisdiction and authority of the Speaker or relevant Committees rather than this Code.

PART 2 - ETHICAL CONDUCT

5. GENERAL OBLIGATIONS

A Member shall, at all times, in the exercise of his/her duties adhere to the principles as set out in Part I of the Code and shall, inter alia:

- (1) Not willfully mislead the Legislature to which they are accountable;
- (2) Not act in a way that is inconsistent with their position;
- (3) When acting in his/her public representative capacity, not take any decision or influences in order to gain financial or other material benefit for himself/herself, his/her family or his/her friends.
- (4) Exercise his/her duties and conduct himself/herself with dignity and integrity appropriate for his/her office;
- (5) Not place himself/herself under financial or other obligations to outside individuals or organisations that might improperly influence him/her in the performance of his/her duties;

- (6) Make choices on merit in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for reward or benefit;
- (7) declare any private interest relating to his/her official duties;
- (8) Declare, in the Members' Register of Interest all the interests as required in Part IV hereof; and
- (9) Take steps to resolve any conflict of interest that may arise in a manner that protects the public interest.
- (10) Take steps to resolve any conflict of interest that may arise in favor of public interest.

6. GIFTS:

- (1) All Members may not solicit or accept a gift or benefit which:
 - (a) is in return for any benefit received from the Member in the Member's official capacity;
 - (b) constitutes improper influence on the Member, or
 - (c) constitutes an attempt to influence the Member in the performance of the Member's duties.
- (2) When a Member, in the course of the Member's duties, has received or has been offered a gift with a value in excess of 0.5% percent of the annual Members remuneration and/or gifts from a single or multiple sources which cumulatively exceed the value of 0.5% on the annual members remuneration, the Member must request permission from the Integrity Commissioner, to retain or accept the gift. If the permission is granted, the Member may retain or accept the gift, but must disclose particulars thereof in terms of the financial disclosure framework of this Code. Where such permission has not been requested or granted the Member must either-
 - (a) return the gift or decline the offer; or
 - (b) donate the gift to the state.
- (3) For the purposes of this section 'gift' does not include travel facilities or hospitality arising from attendance of functions, meetings, cocktail parties, conventions, conferences or similar events attended by the Member as part of the Member's official duties.

7. SPECIFIC OBLIGATIONS APPLICABLE TO PRESIDING OFFICERS

In addition to the General obligations applicable to all Members, Presiding Officers of the Legislature may not engage in the following conduct:

- (1) Receive remuneration for any work or service other than for the performance of their functions as Executive Members of the Legislature or;
- (2) Make improper use of any allowance or payment properly made to them, or disregard the administrative rules which apply to such allowance or payments.

8. DECLARATION OF PRIVATE INTERESTS IN COMMITTEES AND PROCEEDINGS OF THE LEGISLATURE

- (1) A Member shall declare any personal or private financial or business interest that his/her family, a spouse, companion or business partner of that Member may have, in a Committee or Legislature structure in which that Member serves.

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- (2) A Member shall withdraw from the proceedings of that Committee or Legislature structure when a matter referred to in section 9 (1) is considered, unless that Standing Committee or Legislature structure decides that the Members' interest is immaterial.

A Member acting in accordance with (1) and (2) above shall notify the Integrity Commissioner of their action within 30 days.

9. DECLARATION OF PRIVATE INTERESTS WHEN MAKING REPRESENTATIONS

If a Member makes representations, in his/her capacity as a public representative, to a Member of the Executive Council with regard to a matter in which that Member or his/her family, spouse, companion or business partner has a personal or private financial interest or business interest, the Member must declare that interest to that Member of the Executive Council or organ of state.

10. LOBBYING FOR REWARD

No Member shall lobby in circumstances which may give rise to a conflict between his/her personal interests and those of the public.

11. PROHIBITED STATE BUSINESS CONTRACTS

- (1) A Member, may not by any means do any new business with the state.
- (2) Business contracts entered into by Members prior to being appointed to the Legislature shall continue for the duration of the contract. Upon expiry these business contracts shall not be renewed.
- (3) A Member shall not utilise the influence he/she derives from public office or play any role in enabling his immediate family to receive any benefit including but not limited to a tender, or a contract with an organ of state.

12. REMUNERATED EMPLOYMENT OUTSIDE THE LEGISLATURE

A Member, excluding Presiding officers, may only engage in remunerated employment outside the Legislature when such employment is:-

- (1) Sanctioned by the political party leader to which the Member belongs; and
- (2) compatible with that Members' function as a public representative.
- (3) In the event of a party agreeing to such employment of a Member outside of the Gauteng Provincial Legislature, the party must within 30 days provide the Integrity Commissioner, in writing, with all relevant details in this regard. When the Integrity Commissioner is satisfied that all relevant information has been adequately provided by the relevant party, the Committee must within a reasonable time cause such decision to be recorded in the ATC.
- (4) In accordance with the provisions of the Executive Members Ethics Act 82 of 1998, Members of the Executive shall not undertake any other paid work.

13. IMPROPER EXERCISE OF INFLUENCE

A Member shall not utilise the influence he/she derives from public office to obtain an improper advantage for private entities or persons in their dealings with the Provincial Government, where this will result in pecuniary gain for such entities or persons.

14. REFRAIN FROM USING 'INSIDER' INFORMATION

A Member shall not use non-public information derived from a Legislative structure or information obtained in the course of exercising a public duty to advance a private interest.

PART 3: 15 Functions of the Integrity Commissioner

- (1) The Integrity Commissioner is responsible for the implementation of the Code
- (2) The Integrity Commissioner's main function is to ensure that Members conduct conforms to the standards set out in the Code.
- (3) The Integrity Commissioner may on his/her own accord investigate any alleged violation of the Code
- (4) Should the Integrity Commissioner find evidence of a violation, he/she must report the facts and conclusions to the Privileges and Ethics Committee.
- (5) The Integrity Commissioner shall:
 - (a) report any alleged violation with the relevant facts and any conclusions he / she may have reached to the Committee;
 - (b) open and keep a Register for the purposes of this Code, called the Register of Members' Interests;
 - (c) record in the Register particulars of Member's registrable interests;
 - (d) scrutinise the Register of Members Interest in order to counsel Members in managing conflicts of interests.
 - (e) the Integrity Commissioner shall submit quarterly and annual reports to the Committee on functions of his/her office throughout the year.
 - (f) perform any other related duties in relation to the functions of the Integrity Commissioner as set out in the Code.

15. ADVICE AND COUNSEL TO MEMBERS

- (1) A Member may approach the Integrity Commissioner to obtain personal advice and counsel, if the Member suspects that he/she may have committed a violation of the Code or for advice on any matter which may pose as a potential conflict of interest for a Member.
- (2) The Integrity Commissioner may on his/her own accord initiate advice and counselling sessions with Members.
- (3) All sessions of advice and counsel between the Integrity Commissioner and the Member shall be confidential.
- (4) The Integrity Commissioner must report to the Privileges and Ethics Committee, quarterly and annually on the number of times he/she has had advice sessions in that period.
- (5) When the Integrity Commissioner during an advice and counselling session realises that a violation has been committed inadvertently by a Member, the Integrity Commissioner shall reserve the right to keep that matter confidential, provided the violation is rectified within the agreed time period.

16. SUBMISSION OF A COMPLAINT

- (1) Any Member, or official of the government or state organ, or any Member of the public who reasonably believes that a Member of the Legislature has violated the Code, may make a written complaint in regard thereto to the Integrity Commissioner.



- (2) The Integrity Commissioner shall assist any person wishing to report such a violation and who requires assistance.
- (3) If the Complainant is unable to write, staff in the Integrity Commissioners office must assist the complainant with writing the complaint.
- (4) All complaints must be submitted confidentially to the Integrity Commissioner. The Integrity Commissioner shall register all complaints received in terms of this section.
- (5) The complaint must state the complainant's name and address and also the name of the Member who is the subject of a complaint.
- (6) The complaint must set out facts relevant to the conduct complained about.
- (7) The complainant must submit supporting evidence, if available, together with the complaint.

17. ADMISSIBILITY OF COMPLAINTS

- (1) The Integrity Commissioner shall investigate and determine whether or not a complaint is admissible.
- (2) A complaint is admissible if it appears to the Integrity Commissioner that the complaint:-
 - (a) Is relevant, which means that it is about the conduct of a Member; and
 - (b) Warrants further investigation, which means it appears to the Integrity Commissioner after an initial investigation that the evidence is sufficient to suggest that the conduct complained about may have taken place.
- (3) The Integrity Commissioner must acknowledge receipt of the complaint.

18. INVESTIGATION AND REPORT

- (1) The Integrity Commissioner shall commence an investigation into the matter after registration of the complaint.
- (2) The Integrity Commissioner must within seven days of receiving a complaint, inform the Member concerned of the complaint, in writing, and include all the relevant information relating to the alleged breach.
- (3) The Member concerned must sign for receipt of the complaint.
- (4) The Member implicated in the violation shall make himself or herself accessible to the Integrity Commissioner for the purpose of the investigation within seven days of the request being made by the Integrity Commissioner.
- (5) Should the Member fail without good reason to respond within seven days the Integrity Commissioner may proceed with the investigation.
- (6) If the Integrity Commissioner, when conducting an inquiry, discovers that the subject-matter of the complaint is being investigated by police or that a charge has been laid, the Commissioner shall suspend the investigation until the police investigation or charge has been finally disposed of, and shall report the suspension to the Committee.
- (7) If the Integrity Commissioner, when conducting an investigation, discovers that the subject-matter of the complaint is being dealt with in accordance with a procedure established under another Act, the Integrity Commissioner may suspend the investigation until the matter has been finally disposed of. The Integrity Commissioner shall report the suspension of the investigation to the Privileges and Ethics Committee.



- (8) Under these circumstances the Integrity Commissioner shall not proceed until disposal by the other party.
- (9) The Integrity Commissioner shall have the power to demand documentation and evidence from a Member, or from any person involved in the complaint.
- (10) The Integrity Commissioner shall produce a report that includes detailed recommendations for action in the matter and that report shall be submitted to the Committee for consideration.
- (11) The findings of the Integrity Commissioner shall be made public after the House has considered the report of the Committee.
- (12) The Integrity Commissioner may recommend to the Privileges and Ethics Committee to subpoena witnesses, the complainant/any other relevant party required in order to further his/her investigation.
- (13) If the Integrity Commissioner considers it necessary and not prejudicial to the rights of any party to the matter, he/she may append submitted evidence to his/her report to the Committee.
- (14) Should the complainant and or the respondent be a Member of Privileges and Ethics Committee, he/she must recuse him/herself from the Committee when considering the report of the Integrity Commissioner.
- (15) Notice of Committee Meeting to the Member subject to the complaint: A ten day notice of the Committee meeting scheduled to discuss the investigation report of the Integrity Commissioner, must be issued to the Member subject to the complaint, by the Chairperson of the Committee.
- (16) The Member should be given the opportunity to address the Committee.
- (17) The notice must contain the following:
 - (i) a short description of the complaint against the Member;
 - (ii) date, time and venue of the meeting; and
 - (iii) an indication that he or she should not bring a legal representative but that he or she may be assisted by another Member;
- (18) When the Committee has completed it's consideration of the report, it must table a Committee report on it's findings for consideration by the House.


PART 4: DISCLOSURE OF REGISTRABLE INTERESTS

19. PURPOSE OF THE REGISTER OF MEMBERS INTEREST

- (1) The main purpose of the Register of Members Financial Interests is to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence the Member in the execution of his/her functions and in his decision making as a public representative.
- (2) The registration form specifies the categories of registrable interests which Members are obliged to disclose. There is also a general obligation on Members to keep the overall definition of the Registers' purpose in mind when registering their interests.

20. ESTABLISHMENT OF A REGISTER OF MEMBERS INTEREST

- (1) The Integrity Commissioner shall establish a Register of Members Interests divided into public and confidential sections.
- (2) A Member shall disclose to the Integrity Commissioner, on the form prescribed particulars of all his or her registrable interests.



- (3) The disclosure shall be within 30 days after the opening of Legislature or appointment of the Member. If a Member has no registrable interests he or she must indicate this in writing to the Integrity Commissioner.
- (4) Where a material change in respect of the following categories of declarations exist, a Member must notify the Integrity Commissioner of the change within 30 days: gifts; employment outside the Legislature; sponsored travel and Private interests in Committees and structures of the Legislature: In respect of sponsored travel, the disclosure must be made within 60 days of the travel.

21. CONFIDENTIALITY

The Integrity Commissioner must record all details of registrable interests in the public section of the Register of Members Interest, except the following which must be recorded in the confidential section:

- (1) The value of the financial interests in a corporate entity other than a private or public company.
- (2) The amount of any remuneration for any employment outside the Legislature.
- (3) The amount of any remuneration for any directorship or partnership.
- (4) Details of foreign travel when the nature of the visit requires those details to be confidential.
- (5) Details of private(s) residences.
- (6) The value of any pensions.
- (7) Details of all financial interests of a Member's spouse or permanent companion, dependent child to the extent that the Member is aware of.
- (8) Details of any registered mortgage bonds and long term loans existing against any fixed property of the Member.

Where any doubt exists as to whether any financial interests must be disclosed, the Member concerned may seek advice from the Integrity Commissioner.

Only the Committee, the Integrity Commissioner and his or her staff shall have access to the confidential part of the Register of Members' Interest.

22. DISCLOSURE OF THE REGISTER OF MEMBERS' INTEREST

- (1) Members of the public shall have access to the public part of the Register on working days and at times prescribed by the Integrity Commissioner.
- (2) The Integrity Commissioner shall publish the public section of the Register during April of each year in a manner prescribed by the Integrity Commissioner.
- (3) The Committee, the Integrity Commissioner and support staff shall not disclose information that is in the confidential section of the Register to anyone, unless otherwise directed by a court order.
- (4) A Member who contravenes section 22 (3) is in breach of the Code and shall be ineligible to continue as Member of the Committee.
- (1) A staff Member who contravenes section 22 (3) is in breach of the Code and shall be disciplined by the Provincial Secretary or a person delegated by him or her. No person shall gain access to the confidential part of the Register, except through a court order.



23. REGISTRABLE FINANCIAL INTERESTS

Members shall register the following financial interest in the established Register of Members' Interest:

Categories of Registrable Interest

- (1) Shareholdings and financial interests in companies and other corporate entities
 - (i) the number, nature and nominal value of shares of any type in any public or private company;
 - (ii) the name of that company; and
 - (iii) the nature and value of any other financial interests held in a private or public company or any corporate entity.
- (2) Ownership of land or property
 - (i) a description and extent of land or property;
 - (ii) area in which it is situated;
 - (iii) the nature of the interest;
 - (iv) properties outside the state.
- (3) Pension
 - (i) the source of the pension; and
 - (ii) the value of the pension.
 - (iii) monthly or Lump sum
- (4) Any other benefit or of material nature
 - (i) the nature and source of any other benefit of a material nature;
 - (ii) the value of that benefit;
- (5) Employment outside the Legislature
 - (i) the type of employment;
 - (ii) the name, and type of business activity, of the employer; and
 - (iii) the amount of remuneration received for such employment.
- (6) Consultancies and Retainerships
 - (i) the nature of the consultancy or any retainership of any kind;
 - (ii) the name, and type of business activity, of the client concerned; and
 - (iii) the amount of any remuneration or other benefits received for such a consultancy or retainership.
- (7) Directorship and partnerships
 - (i) the name and type of business activity, of the corporate entity or partnership;
 - (ii) the amount of any remuneration received for such directorship or partnership.
- (8) Sponsorship
 - (i) the source and description of direct financial sponsorship or assistance from non-party sources; and
 - (ii) the value of the sponsorship or assistance.



(9) Gifts:

A description, value, and source of a gift with a value in excess of 0.5% percent of the annual Members remuneration and or gifts from either a single or multiple sources which cumulatively exceed the value of 0.5% percent of the annual Members remuneration in any calendar year;

- (i) hospitality intended as a gift of any kind; and
- (ii) culture gifts are allowed and should not be disclosed.

(10) Travel

Other than personal visits paid for by the Member, business visits unrelated to the Member's role as a public representative and official and formal visits paid for by the state or the Member's party.

- (i) a brief description of the journey abroad; and
- (ii) particulars of the sponsor.
- (iii) cost of the travel and/or benefit received.

(11) Prohibited State Business Contracts for New Members

This category only applies to Members appointed to the Legislature for the first time.

A Member in his personal capacity or juristic person, is required to disclose any public contract which the Member has obtained.

The following categories of information will be stipulated in the declaration forms:

- (i) the organ of state from which the contract was obtained;
- (ii) the value and period of the contract;
- (iii) the nature of the contract; and
- (iv) where a pre-existing contract prevails, disclose the terms and details of the contract

(12) Trusts

- (i) details of the trust;
- (ii) details of all direct and indirect benefits accruing from a trust; and
- (iii) all other direct and indirect benefits received from a trust

(13) Encumbrances

- (i) details of long term loans; and
- (ii) registered mortgage bonds against any fixed property of any Member.

(14) Miscellaneous

"Any relevant interest, not falling within one of the above categories, which nevertheless falls within the definition of the main purpose of the Register which is 'to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence the Member in the execution of his/her functions and in his decision making as a public representative.

24. BREACHES OF THE CODE:

A Member breaches the Code if the Member-

- (1) Contravenes or fails to comply with the requirements of the provision for disclosing interests;
- (2) When disclosing registrable interests, wilfully or is grossly negligently, provides the Integrity Commissioner with incorrect or misleading details; or
- (3) Receives any financial benefit arising from any conflict of interest
- (4) Contravenes the following clauses as set out in the relevant sections of this code; namely:
 - the general obligations
 - the provisions relating to conflict of financial or business interests;
 - The provisions relating to prohibited of business activity
 - or instances relating to failure by a Member to comply with the provisions relating to remunerated employment outside the Legislature.

25. PENALTIES:

The Integrity Commissioner may recommend to the Committee the imposition of one or more of the following penalties where it has found that a Member has breached a provision of this Code:-

- (1) A reprimand;
- (2) A fine not exceeding the value of 30 days' remuneration;
- (3) A reduction of remuneration or allowance for a period not exceeding 15 days; or
- (4) The suspension of privileges or a Members' right to a seat in the Legislature's debates or Committees for a period not exceeding 15 days.



ANNEXURE 2

Manual of procedures on ministerial accountability112-132

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ANNEXURE 2. MANUAL OF PROCEDURES ON MINISTERIAL ACCOUNTABILITY

ABBREVIATIONS

MEC	MEMBER OF THE EXECUTIVE COUNCIL
HOD	HEAD OF DEPARTMENT
MPL	MEMBER OF THE PROVINCIAL LEGISLATURE
GPG	GAUTENG PROVINCIAL GOVERNMENT
PFMA	PUBLIC FINANCE MANAGEMENT ACT
DORA	DIVISION OF REVENUE ACT
SCOPA	STANDING COMMITTEE ON PUBLIC ACCOUNTS
PSA	PUBLIC SERVICE ACT

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PURPOSE OF THE MANUAL

In South Africa the government is constituted at national, provincial and local spheres. For each sphere of government, the Constitution provides for a system of government that is distinctive, interdependent and interrelated. The Constitution also requires that all spheres of government observe and adhere to the principles outlined and must conduct their activities within the parameters as provided in Chapter 3 of the Constitution of the Republic of South Africa. The Constitution vests all three spheres of government with legislative and executive authority, with the national sphere also vested with the judicial authority, which also caters for the provincial and the local spheres of government.


Insofar as the three different spheres of government are concerned, the Constitution does not provide for any overlapping in that no sphere of government may assume any power or discharge functions that are not duly conferred to it or which encroach on the institutional integrity of the other spheres of government. The Constitution does, however, make provision for instances wherein the provincial sphere of government may intervene on matters falling under the competence of the local sphere of government. In terms of the Constitution, such intervention can only occur wherein the local sphere of government fail to fulfill its executive obligation in line with the Constitution. This intervention is, however, based on the principles of mutual respect and independence of the different spheres of government.

By conferring the legislative, executive and judicial authority to different spheres of government, the Constitution entrenches the doctrine of separation of powers for the three powers of government. The only sphere of government wherein the doctrine of separation of powers does not operate is the local sphere of government. This is due to the dual functions performed by the municipal councillors who act as legislators and members of the municipal councils at the same time.

Whereas the doctrine of separation of powers remains important for the independence and autonomy of the different powers of government, the Constitution also makes provision for checks and balances between them. In short, when the Legislature conducts oversight over the work of the executive council, it provides the necessary checks and balances by holding the executive council accountable. In line with its oversight function over the executive council, the Legislature through this Manual seeks to further ensure that the executive council remains accountable. In view of the above, the three main objectives of the Manual are the following:

- To ensure effective accountability by the Executive Council to the Legislature in terms of House resolutions, questions etc;
- To provide a clear definition of administrative and political accountability as it obtains within the functions of the Executive Council; and
- To foster a more robust regime on accountability by the Executive Council.

¹ See section 40(1) & (2) of the Constitution of the Republic of South Africa, Act 108 of 1996

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1. LEGISLATIVE FRAMEWORK

The purpose of the legal framework is to provide the legal parameters within which the Manual must operate. Of essence the legal framework makes provision for the enforceability of the Manual. The legal obligations with regard to Ministerial Accountability are derived from various pieces of legislation. Due to the fact that legislation pertaining to Ministerial Accountability has never been collated before, the development of a legal framework will assist in that regard. Whereas there are numerous pieces of legislation that relate to functions of the executive council, only those with a direct bearing on issues of accountability and those that impact directly on the work of the Gauteng Provincial Legislature have been considered.

1.1 CONSTITUTION

The Constitution provides the basis for the rule of law in the Republic of South Africa. By voting for it and declaring it as the supreme law of the Republic, the National Assembly created a path for a constitutional dispensation. The constitutional dispensation made the Constitution the supreme law in the Republic thus compelling every law to be in line with it. Any law or conduct that is inconsistent with the Constitution is therefore rendered invalid. A section in the Constitution also provides that the Bill of Rights binds all law, and binds the legislature, the executive, the judiciary and all organs of state.

The Constitution, amongst other values, advocates for a democratic government that is accountable, responsive and transparent. In fulfilling these values and in strengthening constitutional democracy, the Constitution established state institutions that will act as watchdogs to the government. These state institutions are the:

- Public Protector;
- South African Human Rights Commission;
- Commission for the Promotion of the Rights of Cultural, Religious and Linguistic Communities;
- Commission for Gender Equality;
- Auditor-General; and
- Electoral Commission.

The Constitution also provides for government power that is shared between the Legislature, the Executive and the Judiciary. Whilst the obligation to deliver on the rights in the Bill of Rights is generally perceived as a primary responsibility of the executive council, other arms of government namely, the Legislature and the Judiciary, bear similar responsibilities. In terms of the doctrine of the separation of powers, the courts also have an equivalent role to play in terms of providing for checks and balances. Whereas the courts may not provide checks and balances insofar as the daily running of government is concerned, their role remains critical in ensuring that the promises made in the Constitution and other legislation are enforced. In observing the rights in the Bill of Rights, the courts have concurrent functional areas of competence which are required of both the national and the provincial sphere of government.

¹ See section 2 of the Constitution

² See section (891) of the Constitution

In view of the fact that the Constitution does not impose any obligation on the courts with regard to issues of ministerial accountability, checks and balances, legislatures are required to provide for mechanisms to ensure that all provincial executive organs of state in the province are accountable to it; and to maintain oversight on the exercise of provincial executive authority in the province, any provincial organs of state, including the implementation of legislation . Such Executive authority is vested in the Premier of the Province and is exercised together with other members of the executive council .

Against this background and in accordance with the recommendation of the Ad - Hoc Committee Report on Ministerial Accountability "that a Manual of Procedures for Ministerial Accountability be formulated", the focus of this manual will deal mainly with the oversight of the legislature over the accountability and responsibilities of the executive council .

1.1.1 OBLIGATIONS IN TERMS OF THE CONSTITUTION

In terms of the Constitution the following obligations are imposed on the executive council:

- Members of the Executive Council are responsible for the functions of the executive assigned to them by the Premier;
- Members of the Executive Council are accountable collectively and individually to the legislature for the exercise of their powers and functions;
- Members of the Executive Council must provide the legislature with full and regular reports concerning matters under their control;
- Members of the Executive Council must develop and implement provincial policy;
- Members of the Executive Council must implement all provincial and national laws that are relevant/apply to their functional areas of government
- Members of the Executive Council must co-ordinate the functions of the provincial administration and its departments;
- Members of the Executive Council must act in accordance with the Constitution and, if a provincial constitution has been passed for the province, also that constitution as well as in accordance with a code of ethics as prescribed by national legislation;
- Members of the Executive Council must prepare and initiate provincial legislation; and
- Members of the Executive Council are individually responsible for the overall performance of their specific areas of responsibility and accountable for how their departments perform and the Accounting officers are answerable to the legislature.
- Members of the Executive Council may in certain circumstances be obliged to resign. The resignatory obligation is a matter of political consideration, given the fact that Members of the Executive Council are in terms of our electoral system delegates of Political parties with party mandates.

⁴ See section 114(2) of the Constitution of the Republic of South Africa, Act 108 of 1996

⁵ See section 125(1) & (2) of the Constitution of the Republic of South Africa, Act 108 of 1996

⁶ See Ad Hoc Committee report as adopted by the House on the 29 November 2008

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1.1.2 REQUIREMENTS FOR COMPLIANCE

In order to meet the requirements for compliance, the Executive Council must perform the following tasks:

- Account to both the Premier as well as to the Legislature concerning how they have fulfilled their responsibilities;
- Provide full, concise and accurate explanation to the legislature concerning the operations of their departments and executive agencies included in their portfolio;
- Explain and defend provincial governmental policies, financial and performance audits to the legislature over which the MEC has control;
- Reports to the legislature on an organisation within their broad spheres of responsibility over which they do not have direct control; and
- Give an answer to every question put to them by the House, member, a permanent delegate or a committee and submit a response, if required, to any matter brought to the attention of the member of the executive council within a stipulated time

1.2 PUBLIC FINANCE MANAGEMENT ACT

The purpose of the Public Finance Management Act (PFMA) is to regulate financial management in the national and the provincial spheres of government by ensuring that all revenue, expenditure, assets and liabilities are managed efficiently and effectively and to provide for the responsibilities of persons entrusted with financial management in those two spheres of government. The PFMA also contains the functions and responsibilities of Members of the Executive Council (referred to as the executive authority) and that of their respective accounting officers.

Whereas the PFMA allocates specific functions to be carried out by the accounting officers (referred to as the accounting authority) on issues of accountability, this Manual on Executive Accountability requires the relevant member of the executive council to carry the ultimate responsibility whenever issues of accountability arise. In terms of the PFMA, an accounting authority of a provincial department must prepare financial statements for each year and must submit them within two months after the end of the financial year to the Auditor-General and the relevant Treasury. This is to enable the Treasury to prepare the consolidated financial statements.

The Act also requires the accounting authority to submit, within five months of the end of a financial year an Annual Report on the activities of the department, audited financial statements and the Auditor-General's report. The PFMA further requires the members of the executive council responsible for departments to table in a provincial Legislature annual reports and audited financial statements. In terms of section 133(3) of the Constitution, members of the executive council are required to provide the Legislature with full and regular reports concerning matters for which they are accountable.

⁷ See the Public Finance Management Act 1 of 1999 as Amended.

⁸ See section 40 of the Public Finance Management Act 1 of 1999 as Amended.

⁹ See section 65(1) of the Public Finance management Act 1 of 1999 as Amended.

1.2.1 OBLIGATIONS IN TERMS OF THE PFMA

In terms of the PFMA the following obligations must be fulfilled by the members of the Executive Council:

- Must consider monthly reports submitted to them by the accounting officer in terms of sections 39(2)(b) and 40(4)(c) of the PFMA ;
- Must exercise the Executive's ownership control powers over the public entity to ensure compliance with the relevant legislation and policies;
- Must make any directive to the accounting officer in writing;
- The Member of the Executive Council as the political heads of their portfolio administration are accountable to the Legislature;
- Public officials are answerable to the Legislature in that they must provide information on which the Members of the Executive are constitutionally and politically held accountable;
- Members of the Executive Council must ensure administrative accountability by their officials;
- Must submit to the Speaker of the Legislature, the annual and quarterly reports in the format as prescribed by the Speaker, and financial statements, audit reports of the financial statements in the format as provided by Treasury Regulations;
- All the Reports must be accompanied by an explanatory memo from the Member of the Executive Council;
- If the executive fails to submit the Annual Report within six months after the end of the financial year to which they relate, s/he must table a written explanation in the Legislature giving reasons for the failure to table.
- Must in terms of the Ministerial Code disclose by submitting to the Premier all their registrable interests.

1.2.2 REQUIREMENTS FOR COMPLIANCE

To meet the requirements for compliance, the Executive Council must perform the following:

- Members of the Executive Council must submit the annual reports to the Speaker in line with the format as provided by the Treasury Regulations;
- Annual Reports must be submitted between 1st April and 30th September, which is a six month period after the end of a financial year; and
- Where a Member of the Executive Council is unable to submit the Report during the stipulated period, written explanation must be directed to the Speaker;

1.3 SUBORDINATE LEGISLATION

In terms of Section 140, the Constitution makes provision for proclamations, regulations and other instruments of subordinate legislation. It also provides for provincial legislation to specify the manner in which these instruments must be tabled and approved by the provincial legislature. Whereas the Standing Rules of the Gauteng Legislature do not define subordinate legislation, they do however; make provision for the methodology on how subordinate legislation can be scrutinized.

Subordinate legislation does not exist on its own, but derives its existence from the principal act, which in this regard is a provincial bill (act). It is, therefore, a provincial

bill that grants power to adopt subordinate legislation. In essence, the Executive Council is vested with the power to draft the regulations. The Executive Council is expected to make subordinate legislation that is consistent with the tenets and spirit of the Constitution. In terms of the Standing Rules, the Legislature must establish a Committee that deals with the scrutiny of subordinate legislation. It is through the functioning of this committee that the Legislature can hold the Executive Council accountable on any matter pertaining to the scrutiny of subordinate legislation.

1.3.1 OBLIGATIONS IN TERMS OF SUBORDINATE LEGISLATION

The process regarding subordinate legislation is derived from the Standing Rules of the Gauteng Legislature. In terms of the Standing Rules, a Committee responsible for the scrutiny of subordinate legislation must be established. When this committee reviews provincial bills that grant the power to adopt subordinate legislation to the provincial executive or another body, it must ensure that the grant of power does not give the executive or another body the power to make policy and that its subordinate legislation complies with the Constitution. When the committee scrutinizes any subordinate legislation, the following criteria must be observed:

- That the subordinate legislation is authorized by the enabling act and complies with any condition set out in the enabling act;
- That it affirms the values and principles enshrined in the Bill of Rights;
- Determine whether it makes the rights of a person unduly dependent on administrative discretion;
- Ensure that the rule of law is not infringed on by the subordinate legislation;
- Ensure that the jurisdiction of the courts is not directly or indirectly excluded;
- Ensure that the subordinate legislation is consistent with the rule of natural justice;
- Ensure that its drafting is not defective in any way or for any other reason requires elucidation as to its form or purport;
- Contains matter more appropriate for enactment by the legislature;
- Makes some unusual or unexpected use of the powers conferred by the enabling Act;
- Imposes a fine, imprisonment or other penalty without express authority having been provided for this in the enabling Act; and
- Imposes a tax, levy or duty or requires spending by the province without express authority having been provided for this in the enabling Act.

1.3.2 REQUIREMENTS FOR COMPLIANCE

The Executive Council is expected to meet the following requirements:

- The Executive Council must draft the subordinate legislation and ensure that the subordinate legislation complies with the Constitution and is in conformity with the Bill of Rights;
- The Executive Council must not interfere with the work of the committee responsible for the scrutiny of subordinate legislation;
- The rule of law is not infringed on by the subordinate legislation;
- That the jurisdiction of the courts is not directly or indirectly excluded;
- That the subordinate legislation is consistent with the rule of natural justice; and
- That its drafting is not defective.

1.4 STANDING RULES OF THE GAUTENG LEGISLATURE

In terms of the Constitution, legislatures can determine and control their proceedings and procedures by establishing their own rules and orders. In line with the PFMA, the Standing Rules of the Gauteng Legislature requires every member of the executive council to submit to the Legislature annual reports, financial statements and audited reports. This submission must occur within six months of the end of the financial year.

The Standing Rules also compel members of the Executive Council to ensure that replies are given to all questions put to them by the House, any member of the Legislature, any permanent delegate or any committee. The Rules further provide that where the Legislature or any of its committees brings a matter to the attention of the Executive Council, the Executive Council must, within the time stipulated by the Standing Rules, submit a response if such is required. With regard to questions, the Standing Rules also provide the timeframe within which a response must be given.

1.4.1 OBLIGATIONS IN TERMS OF THE STANDING RULES

In terms of the Standing Rules of the Gauteng Legislature, the Executive Council is obliged to:

- submit annual reports with audited financial statements;
- submit any other report requested by the House or a committee of the Legislature;
- give replies to every question that is put to him or her regarding the functions of a provincial state organ or agency for which he or she is responsible;
- provide and submit a response within the stipulated time-frame for every matter that is brought to it by the Legislature or any of its committees; and
- appear before a committee when required to do so and to produce any documents it requires.

1.4.2 REQUIREMENTS FOR COMPLIANCE

To meet the requirements of the Standing Rules, a Member of the Executive Council must:

- submit reports within the time frames stipulated in the Standing Rules;
- use the format that is provided when submitting reports to the Legislature;
- submit reports containing information that is to the best of their knowledge correct and accurate;
- inform the House of any errors and incorrect information that is identified in the report before it is adopted;
- submit reports with specific indicators concerning measures that were taken by his or her department or agency for which he or she is responsible, to promote gender and the achievement of socio-economic rights;
- approve the introduction of a government bill before the Leader of Government Business informs and submits copy of the proposed bill to the Speaker with;
- prepare a memorandum that accompanies every bill that is introduced to the Legislature;
- introduce a money bill if he or she is responsible for financial matters on behalf of the provincial government; and
- complies with a summons by a committee to appear before it.

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2. FUNCTIONS OF THE EXECUTIVE COUNCIL

The preamble of the Constitution states that the purpose of the Constitution is to establish a society that is based on democratic values, social justice and fundamental human rights. It also includes the laying of a foundation for a democratic and open society in which government is based on the will of the people and where every citizen is equally protected by law. In order for these democratic values to be realized, the Constitution further puts an obligation on the state, to respect, protect, promote and to fulfill the rights in the Bill of Rights. In fulfilling these rights, the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of these rights. The Executive Council, as the implementing arm of government, is therefore crucial in fulfilling this task.

In terms of the Constitution, the Executive Council of a province consists of the Premier and members of the Executive Council. The members of the Executive Council are collectively and individually responsible for all the functions that the Premier assigns to them. The members of the executive council are also accountable, both collectively and individually, to the legislature for the exercise of their powers and the performance of their functions. In terms of the Constitution, the members of the Executive Council must provide the Legislature with full and regular reports concerning all matters for which they are accountable.

The functions of the Executive Council include among other things to initiate and to implement relevant provincial legislation and national legislation within the functional areas that are listed in schedule 4 or 5 of the Constitution. The Executive Council is also expected to initiate subordinate legislation and to develop and implement provincial policies. In fulfilling and executing the above-mentioned obligations, the Executive Council relies on its administration, which must be governed by democratic values and principles. In fulfilling the mandate given to the Executive Council, public administration is under obligation to promote and maintain a high standard of professionalism; to promote efficiency, economic and effective use of resources; to promote fair, impartial and equitable provision of service; to respond to people's needs and encourage public participation in policy-making; to be transparent by providing the public with timely, accessible and accurate information; to be accountable and be development orientated; and to be broadly representative with personnel and management practices based on ability, objectivity and fairness.

The obligation of the Executive Council to account both individually and collectively to the Legislature is underscored by Section 133 of the Constitution. In terms of the Constitution, the Members of the Executive Council are responsible for the functions of the Executive assigned to them by the Premier and are accountable collectively and individually to the legislature for the performance of their functions. To accomplish the above-mentioned responsibilities, the Executive Council must provide the Legislature with full and regular reports on matters that fall under their control. The different functions performed by the Executive Council, which account for and occur at different intervals; also require the reports to be submitted at different intervals.

¹⁰ See the preamble of the Constitution.

¹¹ See section 26(2) and 27(2) of the Constitution of the Republic of South Africa Act 108 of 1996.

¹² See section 195 of the Constitution of the Republic of South Africa Act 108 of 1996.

¹³ See section 133 of the Constitution

The reports that the Executive Council must submit to the legislature are:

- Quarterly Reports and Annual Reports;
- Reports of Agencies falling under certain departments;
- Auditor-General's Report;
- Reports carrying House resolutions;
- Reports from chapter 9 institutions; and
- Reports on the resolutions of the House.

The Constitution imposes the following obligations to the Premier and Members of his or her Executive Council:

- To prepare and to initiate provincial legislation (provincial bills);
- To implement the provincial legislation (provincial bills);
- To implement national legislation with the functional areas of concurrent national and provincial legislative competence;
- To develop and implement provincial policy;
- To coordinate the functions of the provincial administration and its departments; and
- To perform any other function assigned to the provincial executive in terms of the Constitution.

2.1. OBLIGATIONS OF THE EXECUTIVE COUNCIL

In terms of the Public Administration, the following obligations are imposed on members of the Executive Council:

- to ensure that the administration under his or her control reflect the values and principles of social justice and human rights;
- to provide leadership to his or her administration with regard to providing relevant reports to the Legislature;
- to foster policies that will promote transparency and accountability of the public administration; and
- to ensure that Accounting Officers within public administration provide requisite leadership for reports required by the Legislature.

2.1.2 REQUIREMENTS FOR COMPLIANCE

- Each provincial organ of state must prepare reports as required by the Legislature;
- Must submit reports within the required period of time;
- Must submit reports that contain information that is accurate;
- Must provide members of the public with timeous and relevant service; and
- Where certain information is required, the administration must provide any members of the public with necessary assistance.

¹⁴ See section 125(2) of the constitution

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3. THE LEGISLATURE'S FRAMEWORK ON THE OVERSIGHT FUNCTION

In terms of the Constitution, the mandate of the Legislature is threefold namely: i) to make provincial laws; ii) to ensure that all provincial organs of state remain accountable to it and; iii) to maintain oversight over the functions of the Executive Council. Law-making, among other things, entails considering, passing, amending or rejecting any bill before it. This mandate also includes monitoring the implementation of the provincial legislation that has been passed. After a law or bill has been passed, the executive is expected to execute it in terms of the implementation process.

When the Executive Council implements a government policy or legislation, the administration as an extension of the Executive Council becomes responsible for such implementation. In terms of Section 114(2) of the Constitution, mandates the legislature to maintain oversight of the exercise of provincial Executive Council in the province, including the implementation of legislation. The purpose of oversight is to fulfil the constitutional responsibility of ensuring that the Executive Council is held accountable both individually and collectively. Oversight function includes the scrutiny of the reports from departments, receiving petitions from any interested persons, conducting public hearings and ensuring that provincial departments provide the legislature with full and regular reports.

According to the Standing Rules, conducting oversight entails holding hearings, visit projects and facilities to assess service delivery, inviting members of the public to make submissions on the work of the department and to consult the Public Accounts Committee on matters relating to financial statements of a department. The Standing Rules further compel a relevant member of the Executive Council to come and explain to the committee wherein the head of department fails to give an adequate explanation on how the department deals with difficult issues .

The oversight function of the legislature deals with a number of areas including reports from committees, public hearings and petitions. When a committee conducts community visits with regard to services that a government department is expected to deliver, a report in this regard is compiled. When the committee scrutinizes the report, sometimes gaps may be identified. In a case where certain gaps exist, the committee may solicit the information from the department. It will therefore be the committee's prerogative whether to request a Member of the Executive Council or a Head of Department to come and answer to their questions. When a committee requests a Member of the Executive Council to come and provide answers and he or she fails to appear without a valid reason, the committee reserves the right to summons such a member of the Executive Council to a committee inquiry.

With regard to public hearings, sometimes there are issues of public interest which require direct intervention by the Executive Council. In that regard the relevant committee of the legislature may request the relevant Member of the Executive Council to be present whenever such issues are discussed. Whereas there is no legal imperative that compels the Executive Council to attend public hearings, it is expected that in the spirit of Batho Pele and in pursuit of the democratic values such as transparency and accountability, that the Executive Council should honour such invitation.



3.1 LAW-MAKING AND PROVINCIAL BILLS PROCESS

The legislative process in the context of the Legislature focuses on law-making for provincial bills and subordinate legislation. Due to the number of bills that the Legislature normally processes and passes in a year as opposed to other forms of legislation such as subordinate legislation, focus will be on the legislative process for bills. The legislative process of the Legislature is articulated in the Standing Rules of the Gauteng Legislature, which provide for a bill to be introduced either by a Member of the Executive Council, a member of the Legislature other than a Member of the Executive Council or a committee of the Legislature. Although any person falling in any of the three categories can introduce a bill, oftentimes it is a Member of the Executive Council that introduces a bill.

The Executive, through the Leader of Government Business, must present the draft bill to the Speaker. Before the submission to the Speaker, the Executive Council as a collective must first give its approval of the draft bill. Another role of the Executive is to translate the draft bill into the four official languages of the province namely Afrikaans, English, Northern Sotho, and Zulu. The Premier as part of the executive, through the State Law Advisors, must ensure that the proposed bill is certified before it can be submitted to the Legislature. Such submission must be in both electronic and hard copies.

The introduction of a bill is either done by a Member of the Executive Council or by a Member of the Provincial Legislature or a Chairperson of a Committee. Only a Member of the Executive Council who is responsible for financial matters may introduce a Money Bill in the legislature. Any bill other than a Money bill can be introduced either by a speech in the House or by submission to the Speaker for distribution to all Members of the Provincial Legislature.

The committee reserves the right to determine when public hearings are held on the bill. The Executive may be invited to form part of the hearings. After the House has deliberated and adopted the bill, the Speaker certifies four copies of the bill as a true version adopted by the House and the bill is sent to the Premier for assent and promulgation in the government gazette. After assent, two copies of the Act are returned to the Speaker. One copy remains with the Premier and one copy is submitted to the Constitutional Court for enrolment.

3.1.1 DUTIES IN TERMS OF THE BILL

In terms of the Constitution the following obligations are imposed on the Executive Council:

- The proposed bill must be submitted to the Legislature, within five days after the Executive Council has approved it;
- The proposed bill must be translated into the four official languages of the Province;
- As a functionary of the Executive Council, the State Law Advisor must certify the bill and submit it to the Legislature in both electronic and hard copies;

¹⁵ See section 114 of the Constitution of the Republic of South Africa Act 108 of 1996.

¹⁶ See Rule 223(2) under the chapter on conducting oversight.



- A member of the Executive Council responsible for the bill must introduce it to the Legislature with a Memorandum in terms of Rule 193 of the Standing Rules of the Legislature; and
- The Premier, as the Head of the Executive Council, must assent to the bill.

3.1.2 REQUIREMENTS FOR COMPLIANCE

- It is the duty of the Executive Council to submit the proposed bill to the Legislature, within five days after the Executive Council has approved it;
- The proposed bill must be translated into four official languages of the Province;
- The State Law Advisor must certify the bill and submit it to the Legislature in both electronic and hard copies;
- In terms of Rule 193 of the Standing Rules of the Legislature, a Member of the Executive Council responsible for the bill must introduce it to the Legislature with a Memorandum; and
- The Premier as the Head of the Executive Council must assent to the bill.

4. REPORTS AND THE REPORTING PROCESS

In terms of the Constitution, a provincial legislature or any of its committees may require any person or provincial institution to report to it. This reporting can either be in the form of an inquiry wherein any person may be summoned to appear before the legislature or any of its committees. Another form of reporting is through the report process wherein reports are submitted to the Legislature for information and or for consideration. These reports are mainly used as information tools by the Legislature as part of conducting oversight on the work of the Executive Council. Although the Standing Rules do not provide a prescribed procedure for dealing with external reports, the Speaker of the Legislature is vested with the power to refer matters to standing committees for consideration .

The Speaker is also vested with the power to determine the standing committee that must deal with a particular report. Insofar as the Standing Rules are concerned, the reports assume the following process:

- Reports from state organs accompanied by a letter from the head of a particular state organ are submitted to the legislature;
- The letter mentioned above mentions the name of the report and the relevant statutory provisions pursuant to which the report is submitted for tabling;
- Every report that is submitted to the Legislature is tabled on the ATC for distribution to all members for their consideration;
- The Speaker refers reports that require consideration to the relevant Committee(s). Reports such as annual reports and the Auditor-General Reports are examples of reports that are referred for consideration and reporting;
- Soon after a report has been referred, it is then placed on the Order Paper, which gives an indication of the business currently within the processes of the Legislature;

¹⁷ See section 115(b) of the Constitution of the Republic of South Africa Act 108 of 1996.

¹⁸ See the Standing Rules of the Gauteng Provincial Legislature.

- A committee may, during the consideration of reports, hold public hearings on issues raised in the report;
- After the committee has concluded its work it produces a report with recommendations that must be considered in the House;
- The report from the committee must be tabled on an ATC and appear on the Order Paper at least two working days before the day on which it will be considered by the House, to allow all members to read the outcome of the committee deliberations prior to the sitting of the House;
- The Chairperson of the relevant committee presents the report in the House or in the absence of the Chairperson a person designated by the Chairperson;
- After the debate on the report has been completed, the Chairperson of the committee then moves for the adoption of the committee report;
- The Presiding Officer then puts a question to determine the decision of the House by asking the House for a 'yes' or 'no' to the report; and
- The adopted report becomes the resolution of the House, which should be implemented by the Executive Council.

4.1 REQUIREMENTS FOR COMPLIANCE

The following requirements are expected from the Executive Council in terms of compliance:

- Member of the Executive Council must submit the annual report, financial statements and audit report on the Department as required by section 40(1)(d) of the Public Finance Management Act within five (5) months of the end of the financial year;
- Member of the Executive Council must submit to the Legislature findings of any disciplinary board which heard a case against an accounting officer or accounting authority;
- Member of the Executive Council must submit any other report requested by the House or a committee of the Legislature;
- Member of the Executive Council must implement the resolution of the House; and
- Member of the Executive Council must ensure that a reply is given to every question put to him or her by the House.

5. QUESTIONS PROCESS

In terms of the Standing Rules, the Legislature must scrutinise and oversee the work of the Executive Council. Questions form part of the ways in which effective oversight over the Executive Council is done. There are two types of Questions that are posed by the Legislature as part of oversight over the Executive Council. These are Questions for Oral Reply and Questions for Written Reply.

In terms of the Standing Rules, any Member of the Legislature may put questions for oral reply to any Member of the Executive Council. The questions must relate to public affairs and/or any administrative matter that the Member of the Executive Council is responsible for. It must be noted that a reply to a Question for Oral Reply is an obligation imposed by the Standing Rules and that a Member of the Executive Council cannot choose not to reply to the questions that are directed to him or her. The following must be noted:



- the reply must be given to the sitting of the House, during the time that is allocated unless a Presiding Officer decides otherwise;
- Where a Member of the Executive Council is unavailable to reply to an oral question, the Member of the Executive Council may choose to request another Member of the Executive Council to reply to the question on their behalf.
- The delegating of another Member of the Executive Council to reply to an oral question must be made in writing to the Speaker.
- according to the Standing Rules, the normal time allocated for such business in a sitting of a House is sixty minutes unless the Presiding Officer decides otherwise;
- the reply to Questions for Oral Reply normally follows the order that is suggested in the Order Paper unless the Presiding Officer decides otherwise;
- previous questions that were not replied to are normally prioritised over the new ones, unless the Presiding Officer decides otherwise;
- In terms of the Standing Rules, a Member of the Legislature may put questions for written reply to any of the Members of the Executive Council; and
- The only time when a Member of the Executive Council may decline to respond to written questions is when a reply will be too costly or would require inappropriate use of provincial resources.

5.1. REQUIREMENTS FOR COMPLIANCE

When responding to Written Questions, the Standing Rules require a Member of the Executive Council to comply with the following:

- to respond to Written Questions within ten working days after the Questions' first appearance on the Question Paper;
- the relevant Member of the Executive Council must provide the Legislature with an explanation for his/her failure to reply wherein the Written Questions were not responded to within the stipulated time frame;
- in addition to providing an explanation for failure to reply, a Member of the Executive Council must provide the Legislature with a written reply to the question on the Table; and
- if the Written Reply needs to provide statistics and figures, the reply should as far as possible reflect the correct and accurate figures and statistics.

6. PUBLIC PARTICIPATION (HEARINGS) PROCESS

The Constitution makes provision for the involvement of the public in the business of the Legislature and its committees. Although access to the Legislature and its committees may be regulated, the Constitution further encourages the Legislature to conduct its business in an open manner. Public involvement often takes the form of public hearings, site visits and conducting of inquiries. During the public involvement process, the relevant Member of the Executive Council may be expected to be in attendance.

6.1 REQUIREMENTS FOR COMPLIANCE

- The Executive Council must provide the public with the current state of affairs where such information is required by the public; and
- In performing its functions, the Executive Council must consider contributions that are made by members of the public.

7. PETITIONS PROCESS

In terms of section 17 of the Constitution, everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions. To promote this right, the Legislature through its Rules has established a petition's process wherein members of the public can make their submissions. Petitions are submitted in terms of the requirements as prescribed by the Petitions Act. Petitions are tools that members of the public can use to bring to attention issues of public interest that pertain to the functions of the Executive Council wherein it bears an obligation to perform.

The Constitution allows everyone to petition the Legislature on any matter that pertains to his or her rights. Most of the petitions relate to matters that fall within the functions of the Executive Council and in that regard the latter will be obliged to respond to the content of the petition.

The committee responsible for petitions must raise any petition with the relevant Member of the Executive Council and within reasonable period expects a response. In this regard, the Member of the Executive Council is under obligation to formulate a response within the given reasonable time.

7.1 REQUIREMENTS FOR COMPLIANCE

- The Member of the Executive Council must respond to the petition diligently and without delay; and
- The Member of the Executive Council must respond to the request within reasonable time.

8. COMMITTEE INQUIRIES PROCESS

The Standing Rules make provision for committee inquiries. This process enables any committee of the legislature to summons any person to appear before it, to submit to it any records and to answer to any questions that the committee may ask.

Given the complexities involved in the process of committee inquiries, the Gauteng Legislature has embarked on a process of developing a framework on committee inquiries that will be used by all legislature committees.

Two handwritten signatures in black ink are located in the bottom right corner of the page. The first signature is a stylized, cursive 'AB' or similar. The second signature is a more complex, flowing cursive script.

8.1. DUTIES IN TERMS OF COMMITTEE INQUIRIES PROCESS

As and when the framework has been completed and duly adopted, the duties in terms of the committee inquiries will then be incorporated as an annexure to the manual.

8.2. REQUIREMENTS FOR COMPLIANCE

The requirements for compliance will also be derived from the completed framework.

9. LEGISLATURE RESOLUTIONS TRACKING PROCESS

The Legislature performs and fulfils its functions through its committees. The Standing Rules of the Legislature provide for the establishment of various committees namely ad-hoc committees, combined committees, portfolio committees and standing committees. Ad-hoc committees are those committees that are established to deal with a specific matter within a specified period of time. They usually dissolve after the matter has been completed and finalized.

Combined committees are those committees that the Standing Rules allow the Speaker to establish for a specific purpose. In this regard the Speaker must appoint one of the Chairpersons to be the chair of the combined committee. Portfolio committees on the other hand are committees that deal specifically with provincial executive matters. These committees are tasked with maintaining oversight of the exercise of the Executive Council.

In maintaining oversight over the Executive Council, the portfolio committees assess the work of the Executive Council by considering the reports, doing community visits, and conducting hearings etc. The committees complete their work by compiling reports with recommendations that are tabled in the House for adoption as the House resolutions. In terms of the Standing Rules, standing committees are those committees that facilitate accountability, transparency and public involvement. Whereas they are not directly linked to provincial departments like portfolio committees are, they operate within the Legislature to influence the work of the Executive Council. These are committees such as Rules Committee, Committee on Public Accounts, Programming Committee, etc.

One of the ways in which portfolio committees monitor the Executive Council's compliance with the resolutions of the House is through the scrutiny of the reports such as the Annual Reports and the Auditor-General Reports. One such committee that deals with compliance with financial regulations and resource management is the Public Accounts Committee.

Every committee report on an Annual Report that gets tabled in the House has a corresponding Public Accounts Committee report. In this report, the Executive can be required to respond to the committee's concerns within a specified period of time. Failure to do so is tantamount to contempt of the Legislature. Providing answers to the committee's request is one of the ways in which compliance with the resolutions is tracked.

9.1 REQUIREMENTS FOR COMPLIANCE

The Executive Council must:

- provide the required information in the Annual reports;
- provide the information that is required by the Public Accounts Committee;
- provide the Office Bearers with the necessary information pertaining to any resolution of the House;
- endeavour to receive an unqualified report from the Office of the Auditor-General; and
- produce an annual report that includes a section on gender and socio-economic rights.

10. THE CODE OF CONDUCT

The Gauteng Legislature has Standing Rules, which incorporate a Code of Conduct for Members of the Legislature. As provided for in the Standing Rules, the Legislature has an independent Integrity Commissioner who works closely with Privileges and Ethics Committee. The Integrity Commissioner's main duties include:

- investigating any reported matter that alleges a violation of the Code by a Member of the Legislature;
- providing advice and counsel to Members of the Legislature; and
- to publish the Register of Members' Interests on a yearly basis.

The Standing Rules of the Gauteng Legislature provide that a breach of the rules is a breach of the Code of Conduct, which constitutes contempt. The Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act also provides that any Member of a provincial Legislature who willfully fails or refuses to obey any rule, order or resolution of the House commits an act of contempt. When a Member of the Legislature is charged with contempt, it is the Ethics and Privileges Committee that must deliberate on the matter and thereafter make a recommendation that will be tabled in the House.

10.1 REQUIREMENTS FOR COMPLIANCE

- The Code of Conduct is applicable to the Executive Council as well as all Members of the Legislature;
- The Code of Conduct requires the Executive Council to perform their duties with honesty, integrity and regard to common good;
- The Executive Council is expected to adhere to principles of selflessness, integrity, accountability, openness, honesty and leadership.

11. CONTEMPT OF THE LEGISLATURE

The Legislature through its Standing Rules has put in place a mechanism that deals with any breach of the Rules. All matters relating to contempt are referred to the Ethics and Privileges Committee, which after investigating the matter makes recommendation to the House.

The committee often makes recommendations to the House wherein a Member of the

Two handwritten signatures in black ink, one appearing to be 'G. N.' and the other 'A. B.', located at the bottom right of the page.

Legislature including Members of the Executive Council is guilty of contempt in any of the following areas:

- If s/he fails to attend the Legislature or any of its committees when summonsed to do so;
- If s/he fails to report to the Legislature or any of its committees when required to do so;
- If s/he gives evidence to a committee knowing it to be false;
- If s/he punishes someone for giving evidence to the Legislature or one of its committees;
- If s/he gives someone an inducement not to give evidence to the Legislature or one of its committees;
- If when speaking in the House or any of its committees s/he makes comments that are extremely injurious to another member;
- If s/he fails to obey any ruling, order or resolution of the House; and
- If s/he deliberately or recklessly misleads the Legislature regarding any material fact on the issue.

¹⁸ See section 13 of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004.




Annexure A: Glossary of Terms

Doctrine	Code of beliefs; body teachings
Answerability	Obligation to explain your actions to somebody
Accountability	The state of being accountable; liability to be called onto render an account; accountableness
Responsibility	Responsible to somebody else or to others, or responsible for something
Governance	Deals with the process and systems by which an organization or society operates
Compliance	The act of adhering to, and demonstrating adherence to, a standard or regulation
Transparency	Implies openness, communication, and accountability
Ethics	The study of the concepts involved impractical reasoning e.g. good / bad, right / wrong, duty ' obligation, freedom , virtue, rationality & choice
Morality	Refers to the concept of human ethics; matters of good and evil; concerns interpersonal relationship where one individual's actions affects others
Integrity	Steadfast adherence to a strict moral or ethical code
Values	Enduring beliefs that influence choices made form available means and ends. Public service values include democratic values (accountability; rule of law), ethical values (e.g. duty, integrity), professional values (e.g. service, efficiency), and people values (e.g. caring, tolerance).



INDEX OF AMENDMENTS TO THE STANDING RULES

Index of amendments to the standing rules..... 134-135

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INDEX OF AMENDMENTS TO THE STANDING RULES

The following amendments were made to the Standing Rules, Version 5:

Revision 1: Insertion of Rules 17(4), 107(2) (g), 156(2) and 247. Amendments to Rules 70(4) & (5), 89(2), 116(3), 117, 121(2), 123(2), 124(7), 125(1), 128(8), 150, 201(5), 211(3) and 264(1) & (2) – adopted by the House on the 24 June 2005.

Revision 2: Insertion of Rules 90, 127(5), 129(1) (e). Amendments to Rules 46(1), 70(3), 87(1), 88(1) (a) & (b), 89(1) & (2), 129(1) (e), 163(1) & (2) (a), (b) & (c), 164(1) (a) & (b), 164(2) (a), (b) & (c), 165(1) & (2), 166(1) & (3), 167(1), (2) & (3), - adopted by the House on the 16 May 2006.

Revision 3: Amendments to Rules 58(2), 60(1), 61(1), 129(1) (g), 147(2), 171, the heading in Rule 171, & 172, 186(4) (b), 222(1) (c) and 258(2) – adopted by the House on the 6 March 2007.

Revision 4: Amendments to the Code of Conduct & Ethics - adopted by the House on the 12 August 2008.

Revision 5: Amendment of Rule 3 (definition Clause) by the following:

All the words defined bolded and arranged in alphabetical order, And Insertion of the following definitions: “Ad-hoc Committee, Business period, Committee of Inquiry, “Leader of Government Business, Mandating Procedures of Provinces Act, Speaker tabling, the Chamber, the Constitution, the House, the language of record, a majority of Members of the Legislature, a matter of privilege, the Petitions Act, the Powers, Privileges and Immunities Act, the Presiding Officers, the Public Finance Management Act, Unauthorized documents,

Working day, Year

Insertion of Rules: 8(1) (a), (b), (c), (d), (2) (a) & (b), 38(3), 46(1) & (2), 48(1), (2), (3) & (4), 49, 54(1) & (2), 59(1) & (2), 65(1), (2), (3), (4); 66(1), (2), (3), (4) & (5); 67(1) & (2), 69, 70, 71, 74(1), (2), (3), 75(1) & (2), 76(1) & (2), 92(5) 103(1) (a), 104(3) & (4), 105, 106(1) & (2); 109 (3) & (4); 110(1) (g); 121 (1); 127 (4); 128 (4); 129(k), 138(1); 141 (2) (3) (4); 144(1) & (2); 150 (4) & (5); 152 (3) (c) & (d); 164(1) (c); 166; 170(4) & (5), 172(3) (c) & (d), 173(1) & (2), 174; 175; 186(1) (c); 203(1), (2) (3) & (4); 204(1), (2), (3), (4), (5) & (6), 205(1) & (2), 212 (2); 213 (3); 222(1) (f); 240; 244(1), 245 (4); 248(i),(j),(k)&(l), 249(f); 253; 255; 257;265; 266; 269; 278; 293; 294; 295; 296;

Amendment of Rules: 16, 17, 50(1), 88(1) (a) & (b), 112(1) & (3); 128 (3); 145(4), 163(1) (a) & (b); 164; 217 (3); 208(3), 217(1), 221(1) (j), 224 (2) (a); 226; 236 (2); 245; 261; 262; 264(3) (b);

Delete Rules: 235(3), (6) & (7); 236 (3), (4) & (5); 237(1) & (2); 250; 258

Revision 6: Amendment of Rule 177 (1) Chief Whip to replace Leader of Government Business. Amendment of Rule 175(2) to include the Deputy Speaker.

Insertion: Rule 65(a), 65(2), 65(3) and 65(b) clause to regulate mainstreaming of Gender, Youth and People with disability across all GPL Committees.

Delete Rules: 143(e); 180, 181, 182, 183 and 184 - as adopted by the House on 7-August 2012

Revision 7: Amendments of Rule 166, 169 and 199 amongst others to take into account the outcome of the Constitutional Court decision on Oriani-Ambrosini Case and Speaker of the National Assembly. Insertion: Sub-Rule 5, Substitution: Rule 169 with Rule 169(1) (2) (3 a-c) and Rule (4) Substitution: Rule 199(1-7) with Rule 199(1) and 2(a-m)

Revision 8: Amendments by inserting words to Rule 6(4), Insert a new Rule to be Rule 11(2), Insert Rule 12, Rule 14(2), Rule 17(5), Delete Rule 20(1), Rule 20(2), Rule 20 (3), Rule 20 (4), Rule 20(5), Delete Rule 21(4), Rule 22(2), Rule 23, Rule 32(1) and (2) and Insert a new Rule 32, Insert a new Rule 34(3), Delete Rule 38(1) and (2) and Insert Rule 38(4), Insert words to Rule 40, insert words to Rule 42(1) and (2), Rule 43, insert Rule 48(5), insert Rule 63(4), insert words to Rule 70(1), delete Rule 73(4), Insert Rule 80(9), Delete Rule 83, Insert Rule 84(1) and Insert words to Rule 84(2), Insert words to Rule 87(2), Insert words to Rule 93(1), Rule 95, Rule 123(2), insert Rule 137(5), Rule 138(8), Rule 139(5), Rule 141(3), Rule 146(6), Rule 148(1)(g), Rule 149, Rule 170(4), Rule 235(1)(o) and (p), Insert words to Rule 245(3), Delete Rule 247(3), Rule 292(1) and (2) and the Revision of the code of conduct for Members.\

Revision 9: Amendments by inserting words to Rules 33(2) words of a, Delete Rule 45(5), Add Rules 48(1)(c) add Rule 63(c), add Rules 81(5) add Rules 83(3), add Rules 95(3) (a) and (b): Rule 128(2)insert "may not" insert Rules 131(5) and insert Rules286(3)

NOTES:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.


Motion submitted in terms of Rule 117 (2) (b) read with Rule 121 (1) (a):

With regard to the plight of cancer patients in Gauteng who have not received urgent treatment to save their lives, the following motion is submitted in terms of Rule 117 (2) (b) and read with Rule 121 (1) (a) concerning the censure of a body or person:

Noting:

1. The MEC for Health and Wellness is responsible for the department that provides treatment for cancer patients;
2. The long waiting list for cancer patients requiring radiation treatment;
3. The medical guidelines which specify radiotherapy should be done within 60 days of surgery or chemotherapy, and no later than 90 days, to destroy remaining malignant cancer cells;
4. The failure to spend the R250 million budgeted to cut the cancer treatment backlog in the 2023/24 financial year;
5. The terrible suffering and extra risk of death of hundreds of cancer patients denied speedy radiation treatment;
6. The court case brought by Section27, Cancer Alliance and the Treatment Action Campaign, to force the department to effectively spend the R784 million budget to cut the cancer treatment backlog;
7. The announcement by Premier Panyaza Lesufi in his State of the Province address on 15 August 2024 to "promptly designate an impartial group headed by cancer specialists to serve as a mediator between the department of health and interest groups".

And Believing:



1. That mediation would only be necessary because of the inexcusable failure to spend the cancer treatment budget in fruitful cooperation with cancer interest groups;
2. That the MEC carries responsibility in this regard;
3. That the MEC has the opportunity to reply on the above matters in the House.

Therefore:

This House censures Health and Wellness MEC Nomantu Nkomo-Ralehoko for her failure to work with cancer interest groups to ensure speedy treatment to save the lives of cancer patients.

Proposer: Jack Bloom

Seconder: Madeleine Hicklin

[For voting]



Motion in terms of Rule 117 (2) (b) concerning the censure of a body or person:

Noting:

1. The long waiting list for cancer patients requiring radiation treatment;
2. The medical guidelines which specify radiotherapy should be done within 60 days of surgery or chemotherapy, and no later than 90 days, to destroy remaining malignant cancer cells;
3. The failure to effectively spend the R250 million budgeted to cut the cancer treatment backlog last year;
4. The terrible suffering and extra risk of death of hundreds of cancer patients denied speedy radiation treatment;
5. The court case brought by Section27, Cancer Alliance and the Treatment Action Campaign, to force the department to effectively spend the R784 million budget to cut the cancer treatment backlog;
6. The announcement by Premier Panyaza Lesufi to "promptly designate an impartial group headed by cancer specialists to serve as a mediator between the department of health and interest groups".


And Believing:

That mediation is only necessary because of the inexcusable failure to spend the cancer treatment budget in fruitful cooperation with cancer interest groups.

Therefore:

This House censures Health and Wellness MEC Nomantu Nkomo-Ralehoko for her failure to work with cancer interest groups to ensure speedy treatment to save the lives of cancer patients.

Proposer: Jack Bloom



**GAUTENG PROVINCIAL LEGISLATURE
PROGRAMMING COMMITTEE
MEETING
MINUTES**

Friday ,25 October 2024

1. OPENING AND WELCOME AT 09:00

MPLS PRESENT., Hon N M Mhlakaza-Manamela, Hon. L.E Makhubela, Hon M Koma; Hon. N K Mogobe, Hon. A M T Kunene, Hon. N. De Jager, Hon. L J Evans, Hon. AA Allies; Hon. D K Adams; Hon V. Ramokgopa; Hon. N Dilebo. Hon. C Chabalala

SUPPORTING STAFF IN ATTENDANCE: Mr L Mwale, Mr T Makamba , Mr T Makondo, Mr R Chiloane , Adv M Madikane, Ms T Muofhe, Ms E Baloyi, Mrs G Mogoe, Ms D Mokgatitswe, Mr S Ncube, Ms S Roopram, Mr K Khota, Ms G Hlatswayo, Mr J Mazibuko, Ms M du Plessis, Mr P Mmakola, Mr S Mnisi, Ms E Manabela, Mr T Bodibe, Ms O Monnanyane, Ms M Molobi, Mr S Nqwala, Ms Nozi Khumalo

2. APOLOGIES :

- Hon. A W M K Mosupyoe – Meeting with the Deputy President

3. CONFIRMATION OF THE AGENDA

DECISION: Member Hon. N. De Jager moved for the adoption of the amended agenda with Motions being brought before the Term Programmes, seconded by Member C Chabalala.

4. **CONFIRMATION OF MINUTES DATED 26 August 2024.**

DECISION: Member L Makhubela moved for the adoption of the minutes of the 26th August 2024, seconded by Member M Koma.

5. **MOTIONS**

5.1 Motion On Oversight by MPL's – The meeting resolved that this motion would be tabled at the hips Forum prior to being tabled to the Programming Committee.

5.2 Motion on the Censure of a Person or Body – The meeting resolved that the Motion in its current form seeks to censure the MEC of Health and Wellness without there being any process followed by the House in establishing guilt or a contravention. Essentially, the implementation of the Motion in its current form would not be in keeping with the audi alteram partem Rule, which is the right of reply. The meeting further resolved that even though the Motion was not selected for consideration , an Ad-hoc Committee constituted by Members of various political parties, together with officials with expertise in the subject matter can be established.

DECISION: Member T. Kunene moved for the adoption, seconded by Member R. Ngobeni

6. **THE GAUTENG PROVINCIAL LEGISLATURE'S PROGRAMME OF SITTINGS**

6.1 **Proposed Amendments to the Provincial Programme – 2nd Term of 2024.**

Mr R Chiloane presented the 2nd Term programme amendments as follows:



- 6.1.1. The Sitting of the 5th November 2024 will also include the tabling of the FFC Report on the Division of Revenue.
- 6. 1.2 The Medium Term Budget Policy Statement and Adjustment Budget will also be included for the Sitting of the 26th November 2024.
- 6.1.3 There is also a request to utilise the Wednesday the 13th November to deal with Member Training on policies that affect all political parties.
- 6.1.4 The Petitions Committee also requested to table the Petitions Bill report, the date will be communicated once the committee has concluded its work.
- 6.1.5 The FIS reports have not been scheduled, however same will be included in the programme as they become available.

6.2 Proposed Provincial Programme – 1st Term of 2025.

Mr R Chiloane presented the 1st Term programme as follows:

- 6.2.1 The NCOP Programme of Sittings has not been published as yet, therefore the Gauteng Programme has been drafted in order to assist Members with their planning.
- 6.2.2 The 13- 24 January 2025 has been scheduled for constituency work, this will also include the school readiness programme.
- 6.2.3 The 3-7 February 2025 has been reserved for oversight by all the clusters.
- 6.2.4 The second week of February commence with committee business as per the various clusters.
- 6.2.5 The State of the Province Address is programmed for the 24 February 2025, with the debate and Reply being scheduled for the 27th February 2025
- 6.2.6 The next Sitting will be on the 4th March 2025, constituted of the Premier's Question Time as well as Questions to the Executive.

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The consideration of the Gauteng Provincial Adjustment Appropriation Bill will also be on the same Sitting.

- 6.2.7 The next Sitting on the 6th March 2025 will focus on the Introduction of the Gauteng Provincial Appropriation Bill 25/26 FY. The next Sitting will be the 20th March 2025 and this will focus on the consideration of the third quarterly reports from various committees.
- 6.2.8 The last Sitting is scheduled for the 25th March 2025 and this will focus on Questions to the Executive.
- 6.2.9 The Chairperson's Review has been proposed for the 27-28 March 2025.

DECISION: Member L Makhubela moved for the adoption of the Amended Second Term Programme 2024 and the First Term Programme 2025, Seconded Member R Ngobeni

7. DATE OF NEXT MEETING AND ADJOURNMENT

DECISION: The next Programming Committee meeting will be announced.

ADJOURNMENT: 10:30

CHAIRPERSON: Hon. D Adams

DATE:

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GAUTENG
LEGISLATURE

Your View Our Vision

FA5

OFFICE OF THE SPEAKER

Enquiries: Sifiso Mnisi
Tel No: +27 11 498 5801
Mobile No: +27 603041598
Email Address: smnisi@gpl.gov.za

22 March 2025

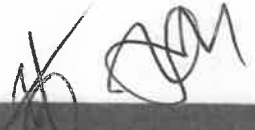
Dear Hon, Mike Moriarty, Senior Whip

SUBJECT: MOTION SUBMITTED IN TERMS OF RULE 117(2)(b)

The above captioned subject matter refers.

I have noted the letter from Hon Nel addressed to my office dated 30th October 2024 and the Motion as resubmitted on Thursday 20th March 2025. In which you raised a concern with regard to a Motion submitted in terms of Rule 117(2) (b). Having considered the facts before me and the application of the Standing Rules, I am of the opinion that this Motion in its current form, does not provide me or the House with an opportunity to engage with the facts thereof and thus arrive at substantive reasons for allowing or disallowing its consideration.

This Motion in its current form seeks to censure the MEC of Health and Wellness without there being any process followed by the House in establishing guilt or a contravention and thus warrant a Motion for Censure. Essentially, the implementation of the Motion in its current form would not be in keeping with the *audi alteram partem* Rule, which is the right of reply. It is my considered view that no person should be judged without a fair hearing/process in which each party is given the opportunity to respond to the evidence against them.


AWM


Scheduling a motion for a debate and resolution by the House would not provide the MEC an opportunity to respond to the issues and the proposed sanction of censure. The rules of natural justice require that a person who is suspected of any misconduct or to have contravened or violated any rule should be given an opportunity to be heard.



The issue of MEC's failure to work with cancer interest groups just appear to be raised in the later part of the motion as it recommends a sanction without providing any detailed information of what the MEC was duty bound to do, which she did not do as alleged.

Furthermore, I also noted that the Programming Committee had also recommended that this matter would be best dealt with by the establishment of an Ad-Hoc Committee to focus particularly on this Motion. However, this remains a recommendation, and you are in no way compelled to take that route should you not desire.

Kind regards


HON. M Mosupye
Speaker to the Legislature

23/03/2025

From: Michael Moriarty
To: Morakane Mosupye
Cc: tsmsimanga@gmail.com; Ruhan Robinson; Nico De Jager; Kingsol Chabalala; Mpumelelo Madikane; Ralph Chiloane; Linda Mwale; proceedings@gpl.gov.za; Ledile Malumane
Subject: FW: LETTER TO DA -MOTION
Date: Tuesday, 25 March 2025 22:13:38
Attachments: image001.png
Letter to the DA-MOTION signed.pdf

Dear Madam Speaker

I am in receipt of your letter dated 22 March 2025.

I reply on behalf of the Democratic Alliance caucus.

Your letter is confusing. On one hand you say, *"I am of the opinion that this motion in its current form does not provide me or the House with an opportunity to engage with the facts thereof and thus arrive at substantive reasons for allowing or disallowing its consideration"*. On the other hand, you are effectively arguing a case to disallow. But you have not provided any conclusion on your part.

In the absence of a conclusion to disallow, we put it to you that the automatic alternative is to rule the motion admissible, or to use your terminology, allow its consideration.

Our observation is that this is in fact political manoeuvre. This is exposed by your reference to an ad hoc committee. This is, no doubt, a forum where serious matters such as the subject of this motion can be squashed outside of the view of the public. It is not whether the MEC is at risk of her rights being prejudiced. The express view of her party, the ANC, and the party's allies is that she should be protected. So, if the matter was to be put to the vote, then the motion would be defeated. The real need, namely to avoid public debate, is thus very clear.

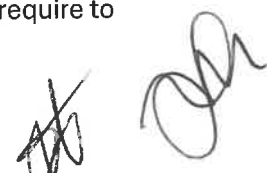
This is a slippery slope. If this motion is to be re-routed to a committee, then where does it stop? All motions, specifically those emanating from the DA, will be subjected to the same process of burial. We remind you that your role is to ensure democratic oversight, not to facilitate the domination of a majority party or coalition.

Your role in terms of rule 119 is specifically limited to determine whether:

- a. The motion did not comply with the rules, or
- b. Is the same as a matter discussed and resolved during the past 6 months, or
- c. Is the same as a draft resolution that was approved or rejected in the past 6 months.

Rule 119 does not give you the power to rule inadmissibility on the grounds of audi alterem partem. In any event, the MEC will have the opportunity to be heard in the debate.

You seem to be of the view that a decision to censure or not will require more facts. Well, there will be more than sufficient time for members to research the facts they require to reach a decision to vote for or against a motion to censure.



On Thursday we received an agenda for tomorrow's Programming Committee. We note that the motion appears on the agenda as item 7.3. We also note that admissibility, in terms of rule 119 is not the prerogative of the Programming Committee. It is the prerogative of the Speaker.

Please confirm that despite the confusing nature of your letter, that you have indeed determined that the motion is admissible. Thank you.

We would prefer that this matter be settled around your table and amicably so. Please provide such an opportunity. In the absence of such an opportunity we will seek legal advice and take further steps as necessary.

Regards,

Mike Moriarty
Chief Whip of the DA in the Gauteng Legislature

From: Mpumelelo Madikane <MMadikane@gpl.gov.za>
Sent: Tuesday, 25 March 2025 10:13
To: Michael Moriarty <mikemo@da.org.za>
Cc: Ralph Chiloane <RChiloane@gpl.gov.za>; Linda Mwale <LMwale@gpl.gov.za>;
Proceedings <Proceedings@gpl.gov.za>; Ledile Malumane <LMalumane@gpl.gov.za>
Subject: LETTER TO DA -MOTION

Dear Hon. Moriarty,

I trust that you are well.

Kindly take note of the attached letter from the Office of the Speaker for your attention.

Regards



Mpumelelo Madikane (Adv)
Senior Procedural Advisor
Gauteng Provincial Legislature

A handwritten signature in black ink, appearing to be "PM" with a flourish underneath.

Mobile: 0660500217

Email: MMadikane@gpl.gov.za

Address: 43 Rissik St, Johannesburg, 2000

Website: www.gpl.gov.za

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a series of loops and a final flourish.A handwritten signature in black ink, consisting of a stylized 'A' followed by a series of loops and a final flourish.

Docex 1 | Tygerberg
PO Box 4040 | Tyger Valley | 7536 | South Africa
Tyger Valley Office Park | Building Number 1 | Cnr Willie van Schoor & Old Oak Roads | Bellville
T: 021 918 9000 | 021 918 9020 (Direct Line) | F: 021 918 9070 (General) | 021 918 9070 (Direct Fax)

E: karin@mindes.co.za | www.mindes.co.za

Our Ref: DEM16/1045/ELZANNE JONKER/ks | Your Ref: | Date: 31 March 2025

THE SPEAKER
GAUTENG PROVINCIAL LEGISLATURE
PER EMAIL: Mmosupyoe@gpl.gov.za

Dear Speaker,

UNLAWFUL DISMISSAL OF MOTION SUBMITTED IN TERMS OF RULE 117 – DEMAND FOR COMPLIANCE WITH STANDING RULES

1. We represent the Democratic Alliance (DA) and its caucus within the Gauteng Legislature.
2. We refer to your recent decision to dismiss the Motion submitted by the DA on 20 March 2025, in terms of Rule 117(2)(b) read with Rule 121(1)(a) of the Standing Rules of the Gauteng Provincial Legislature ("the Standing Rules").
3. We place on record our firm view that your dismissal of the Motion is unlawful, irregular, and in direct contravention of the applicable Standing Rules and the principles of procedural fairness.
4. The Standing Rules, specifically Chapter 8, Part 1, regulates the submission and admissibility of motions. Nowhere in the said Rules is the Speaker empowered to summarily dismiss a motion that satisfies the requirements prescribed therein. Further, Rule 117(2)(b) read with Rule 121(1)(a) provides for the tabling of motions concerning the censure of a person or body, which is precisely the nature of the Motion submitted by the Democratic Alliance, as it relates to the conduct of the MEC for Health and Wellness.
5. Your decision undermines the authority of the Legislature to hold Members of the Executive accountable, as envisaged by the Constitution and reinforced by the Standing Rules. It constitutes an impermissible interference with the legitimate exercise of the rights of Members of the Legislature to submit motions and have them debated in the House.
6. Accordingly, we hereby demand the following:

Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1929 | Registration number 2010/025182/21

Directors: Heinrich Crous BA LLB | Elzanne Jonker BA LLB | Venesen Reddy LLB

Senior Associates: Gerhard Laurens FPSA® BA LLB | Lauren Hermanus LLB

Associates: Marlon Koen LLB | Kyle Pienaar BComm LLB | Shannon Solomon LLB | Thristan Valentyn LLB

Consultants: Louis Meyer BJuris LLB | Jonathan Rubin BComm LLB LLM | Marianne Olivier BComm LLB LLM | Marais Hoon BA LLB
Patrick Stilwell BA LLB | Desiree Hiemstra BA LLB

Vat registration number: 4580257428 | Also at Greenacres, Gqeberha (previously Port Elizabeth)



- 6.1 That within 72 hours of receipt of this letter, you withdraw your decision and declare the Motion submitted on 20 March 2025 to be admissible in terms of the Standing Rules;
- 6.2 That within 48 hours of declaring the Motion admissible, you convene a meeting of the Programming Committee to schedule the Motion for debate in the House.
7. Failing compliance with the above, our client will have no alternative but to approach the High Court for a declaratory order to set aside your decision and to compel you to comply with the Standing Rules.
8. We trust that you will accede to this demand without delay and act in accordance with the Legislature's constitutional obligations and its Rules of Order.

Yours faithfully

MINDE SCHAPIRO & SMITH INC.

per:

Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1929 | Registration number 2010/025182/2

Directors: Heinrich Crous BA LLB | Elzanne Jonker BA LLB | Venesen Reddy LLB

Senior Associates: Gerhard Laurens FPSA® BA LLB | Lauren Hermanus LLB

Associates: Marlon Koen LLB | Kyle Pienaar BComm LLB | Shannon Solomon LLB | Thristan Valentyn LLB

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Patrick Stilwell BA LLB | Desiree Hiemstra BA LLB

Vat registration number: 4580257428 | Also at Greenacres, Gqeberha (previously Port Elizabeth)

MINDE SCHAPIRO & SMITH

03 April 2025

Tyger Valley Office park

Building 1

Cnr Willie van Schoor & Old Oak Roads

Bellville

7536

Per email:

Dear Sir/Madam

RE: UNLAWFUL DISMISSAL OF MOTION SUBMITTED IN TERMS OF RULE 117 – DEMAND FOR COMPLIANCE WITH THE STANDING RULES

1. We hereby confirm that we act for and on behalf of the Gauteng Provincial Legislature ("Our Client").
2. We refer to your letter dated the 31st of March 2025, in terms of which you demanded that the Speaker withdraws her decision to reject the Motion submitted by the Democratic Alliance ("DA") on 20 March 2025. In the same vein, you also demanded that the Speaker declare the same motion to be admissible in terms of the Standing Rules.
3. Your demand is premised on the fact that nowhere in the Standing Rules of the Gauteng Provincial Legislature ("Standing Rules") is the Speaker empowered to summarily dismiss a motion that satisfies the requirements prescribed therein. You further argue that Rule 117(2)(b) read with Rule 121(1)(a) of the Standing Rules provides for the tabling of motions concerning the censure of person or body which is precisely the nature of the Motion submitted by the DA as it relates to the conduct of the MEC for Health and Wellness.



4. It is important to note that the introduction of Motions in the Gauteng Provincial Legislature ("GPL") is governed by the Standing Rules (Version Date 27 November 2018). In terms of Rule 117(1) of the Standing Rules, a member who wishes the House to adopt a resolution with or without debate must introduce a Motion. Rule 117(2)(b) provides that a Motion may amongst other things propose that the House resolves to censure a person or body. In compliance with Rule 117(2)(b), the DA brought a Motion before the House.
5. However, the issue of whether a Motion is admissible or not is governed by Rule 119 of the Standing Rules. Rule 119(2) states that the Speaker decides whether a Motion is admissible or not. The power of deciding whether a Motion is admissible or not has been given to the Speaker by the Rules, but in terms of Rule 119(2), the Speaker must provide reasons for such a decision.
6. The Motion submitted by the DA was rejected by the Speaker as she is entitled to do so by Rule 119(2). However, this issue does not end there. The Speaker must also provide reasons as to why the Motion is being rejected and the Speaker duly provided the reasons as detailed in the letter dated the 22nd of March 2025, which was addressed to the Hon Mike Moriarty. See Attached.
7. The Speaker is cognizant of the fact that this matter does not end with her, just providing the reasons but she must at all times take into account the principle of legality. In this regard, we bring your attention to the case of *Lekota vs Speaker of the National Assembly* 2015 4 SA 133 (WCC), in which the the High Court had to decide whether the Speaker's request that the applicant, a Member of Parliament, withdraws certain statements made in the National Assembly during a budget vote, and to withdraw from the National Assembly after refusing to withdraw the statements, should be set aside upon review.
8. The Court stressed that the Speaker must "perform her functions in accordance with the constitutional principle of legality which requires her to act within the power conferred upon her



by the law, and, in particular the Constitution.¹ The Speaker of the GPL has a responsibility to ensure that every Motion that comes before the House complies with the principle of legality in that it does not violate the rights of others which are protected by the Constitution. This is a restriction that has been placed on her by the law.

9. In the letter of the 22nd of March 2025, which was addressed to the Hon. Mike Moriarty, the Speaker was at pains to explain that the Motion submitted by the DA in its current form seeks to censure the MEC of Health without there being any process followed by the House in establishing the contravention which warrants a censure. Had the Speaker accepted the Motion without the Hon. MEC being given the right to respond to the allegation contained in the Motion, that would have amounted to a clear violation of the MEC's rights as enshrined in the Constitution.
10. The Speaker is of the view that natural justice demands that the affected MEC must be given the right to respond to the allegations against him in a proper forum and the Motion for debate and resolution in the House will not afford the MEC such a opportunity.
11. The Speaker is of the view that once the guilt of the MEC has been established by a proper forum, then the DA is free to bring a Motion before the House. However, the Motion in its current format does not comply with the principle of legality. The Speaker's reasons show that she considered the broad conspectus of prevailing circumstances and weighed them with the pertinent constitutional values and provisions in mind.
12. In the case of *African Transformation Movement v Speaker of the National Assembly and Others* [2023] 3 All SA 58 (WCC),² the court, held that "*making a judgement call requires of a decision-maker to identify the relevant facts and to weigh their effect with reference to whatever objective considerations are applicable to the issue in hand. The weight to be given to any feature of the issue in arriving at a determination is a matter for the decision-maker. If it is apparent that the*

¹ *Lekota v Speaker of the National Assembly* 2015 4 SA 133 (WCC), para 29.


² *African Transformation Movement v Speaker of the National Assembly and Others* [2023] 3 All SA 58 (WCC), para 66.



decision-maker has applied, her mind to the relevant facts and considerations her decision cannot easily be characterized as arbitrary or whimsical. It could be described as irrational only if there were a material disconnection between the decision she made and the matters she took into account in making it."

13. The Court went on to say it is not open to the ATM to maintain that the decisions were unlawful merely because it disagrees with the Speaker's judgement.³
14. In conclusion, it is the Speaker's view that Rule 119(2) gives her the powers to decide whether to admit a motion or not. Furthermore, she is required in terms of the same rule to provide reasons for decision and she duly complied with this requirement as stated in her letter of the 22nd of March 2025.
15. The principle of legality requires the Speaker to take into account the rights of all the affected parties concerned. In this case the MEC of Health needs to be given a right to answer to all the allegations against him in a proper forum. The decision of the Speaker cannot be unlawfully merely because the DA disagrees with her.
16. We trust that the above is in order.

Your sincerely,



MJOBI & ASSOCIATES INC.

³ Ibid para 77.





GAUTENG
LEGISLATURE

Your View Our Vision

OFFICE OF THE SPEAKER

Enquiries: Sifiso Mnisi
Tel No: +27 11 498 5801
Mobile No: +27 603041598
Email Address: smnisi@gpl.gov.za

22 March 2025



Dear Hon, Mike Moriarty, Senior Whip

SUBJECT: MOTION SUBMITTED IN TERMS OF RULE 117(2)(b)

The above captioned subject matter refers.

I have noted the letter from Hon Nel addressed to my office dated 30th October 2024 and the Motion as resubmitted on Thursday 20th March 2025. In which you raised a concern with regard to a Motion submitted in terms of Rule 117(2) (b). Having considered the facts before me and the application of the Standing Rules, I am of the opinion that this Motion in its current form, does not provide me or the House with an opportunity to engage with the facts thereof and thus arrive at substantive reasons for allowing or disallowing its consideration.

This Motion in its current form seeks to censure the MEC of Health and Wellness without there being any process followed by the House in establishing guilt or a contravention and thus warrant a Motion for Censure. Essentially, the implementation of the Motion in its current form would not be in keeping with the *audi alteram partem* Rule, which is the right of reply. It is my considered view that no person should be judged without a fair hearing/process in which each party is given the opportunity to respond to the evidence against them.

AWM


Scheduling a motion for a debate and resolution by the House would not provide the MEC an opportunity to respond to the issues and the proposed sanction of censure. The rules of natural justice require that a person who is suspected of any misconduct or to have contravened or violated any rule should be given an opportunity to be heard.

The issue of MEC's failure to work with cancer interest groups just appear to be raised in the later part of the motion as it recommends a sanction without providing any detailed information of what the MEC was duty bound to do, which she did not do as alleged.

Furthermore, I also noted that the Programming Committee had also recommended that this matter would be best dealt with by the establishment of an Ad-Hoc Committee to focus particularly on this Motion. However, this remains a recommendation, and you are in no way compelled to take that route should you not desire.

Kind regards

HON. M Mosupye

Speaker to the Legislature

23/03/2025



I, Hon. Khume Ramulifho MPL, table the following motion in terms of Rule 121(1)(a) read with rule 117(2):

Noting that:

- i. Covid-19 heavily disrupted the education system,
- ii. The pandemic caused devastating learning losses due to the trimming of the curriculum resulting in long-term impacts on learners.
- iii. The Department of Education applied rotational learning, which is still prevalent amongst certain schools in the province, long after Covid-19.
- iv. The negative impacts can be seen through the average pass rate for Maths, Science, and languages in grades 3, 6 and 9.
- v. Many schools, mostly in townships, had no access to alternative learning during Covid-19, compared to privileged schools with more resources.

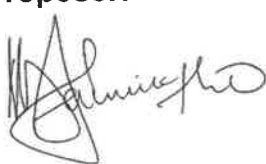
Believing that:

- i. Our educational system still has inequality, and our township schools do not have access to much-needed learning resources.
- ii. Lack of infrastructure, such as a shortage of classrooms, is affecting the delivery of the curriculum amongst the township schools.
- iii. The rotational learning system implemented due to the Covid-19 pandemic has considerably impacted delivering quality education to our learners.
- iv. Every learner has the right to access education in a conducive environment and complete the curriculum within the stipulated timeframe.
- v. There is a need for external moderation of these systemic tests to ensure objectivity and provide credible and relevant benchmark evaluation.

Resolves that the House debates:

- i. The necessity to implement systemic testing starting from 2024 for grades 3, 6 and 9;
- ii. The department to introduce interventions aimed at recovering learning losses caused by the pandemic;
- iii. The provision of resources and support for schools and teachers to implement effective interventions in improving learning outcomes;
- iv. The utilisation of the test results to inform policy, including any changes that may need to be made to the curriculum or teaching methods;
- v. How interventions put in place could be assessed to gauge the impact on how the quality of learning and teaching is improving
- vi. How to ensure that there is no school in the province still pursuing rotational teaching and learning system;

Proposer:



Khume Ramulifho MPL

Seconded:



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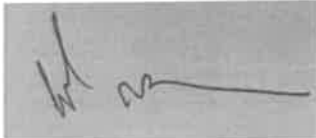
Sergio Dos Santos MPL

[Handwritten signature]

I, Hon. Patrick Atkinson MPL, table the following motion in terms of Rule 121(5) with 117(2):

Noting the serious economic consequences of load shedding over the past year, resulting in job losses to almost 300000 residents in the province, we call upon this house to debate the actions to be taken by the Gauteng Provincial Government (GPG) to mitigate the economic effects of load shedding in Gauteng and to devise a plan to deal with load shedding over the short to medium term.

Proposer:



Patrick Atkinson MPL

Seconder:



Nico De Jager MPL



I Hon. Nico De Jager MPL table the following motion in terms of Rule 121(1)(a) read with Rule 117(2).

Observing Pride month provides us with an opportunity to reflect on both the progress that has been made and the ongoing challenges faced by the Lesbian, Gay, Bisexual, Transgender, Queer/Questioning and Intersex plus LGBTQI+ in advancing and protecting their rights as a people.

Notwithstanding South Africa's strong legal protections, the LGBTQI+ continue to battle myriad of challenges such as persecution, violence and even death because of who they are. In 2021, at least 24 people were reportedly murdered in bias-motivated attacks. Several LGBTQI+ organisations and allies came out in numbers to show concern about the number of LGBTQI+ individuals that were violently assaulted and killed in circumstances that suggested that their sexual orientation or identity was the reason that they were targeted.

Noting:

1. That while South Africa's Constitution is the first in the world to prohibit unfair discrimination on the grounds of sexual orientation and thereby guaranteeing equality for LGBTQI+ persons, more still needs to be done. We recognise that the LGBTQI+ face an ongoing struggle against intolerance, stigma, discrimination, and prejudice in our society.
2. That while strides have been made in the Constitution of South Africa case law and consequential anti-discrimination legislation towards development and protection of the rights of LGBTQIA+ individuals, this is against a backdrop of a long history of marginalisation of individuals based on their sexual orientation.
3. That only 22/54 countries in Africa decriminalised homosexuality. In our country, the LGBTQI+ community are entitled to the equal enjoyment of all rights and freedoms as entrenched in our Constitution. They should therefore be treated with dignity and respect.
4. While they are entitled to be who they are and express themselves in any manner they wish without fear of being ostracised and violated, there remains a disparity between the protection provided by the law and the lived experiences of queer individuals. These rights are often overlooked when the



lives of LGBTQ persons are snuffed out. It is not easy to live openly and freely, particularly in our townships where most of these assaults and deaths occur.

Resolving:

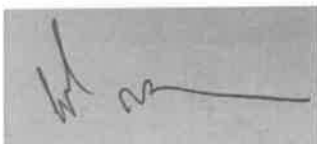
1. The formation of a Multi-Party Committee to deal with a range of issues relating to LGBTQI+. This would include matter such as raising awareness of LGBTQI+ rights, ensuring that training occurs particularly with law enforcement, ensuring that the reporting of such crimes is document as hate crime, etc.
2. Partnering and steering similar governmental committees elsewhere to share best lessons, to speak on continental issues that affect LGBTQI+ while being custodians of advancing and protecting the rights of the LGBTQI+ community.

The urgent motion is proposed by:

Nico de Jager

A black and white photograph of a handwritten signature in dark ink on a light-colored background. The signature is cursive and appears to read 'Nico de Jager'.

Seconded by:

A black and white photograph of a handwritten signature in dark ink on a light-colored background. The signature is cursive and appears to read 'Patrick Atkinson'.

Patrick Atkinson

Two handwritten signatures in dark ink on a light-colored background. The first signature is cursive and appears to read 'Nico de Jager'. The second signature is also cursive and appears to read 'Patrick Atkinson'.

I, Hon. Solly Msimanga MPL, table the following motion in terms of Rule 121(1)(a) read with Rule 117(2):

That the House notes:

- i. The African Growth and Opportunity Act (AGOA) is critical in supporting Gauteng's export industries including the minerals and the automotive sector. It is set for reauthorisation in 2025, where South Africa's eligibility will be reviewed. The United States of America, as the world's largest single economy, accounts for 9% of South African exports and 5.4% of all Gauteng exports. Between 2014 and 2019 the Gauteng City Region exported goods and services to the value of R198.2 billion to the United States, which represented 40.3% of all goods and services exported from South Africa to the United Statesⁱ.
- ii. In monetary terms, the automotive sector has been the largest beneficiary of the AGOA policy, with Ford, Nissan, and BMW, three of the largest Original Equipment Manufacturers (OEM), being located in Gauteng. The Gauteng automotive sector accounts for 44% of the industry in South Africa, indicating the province's crucial role in South Africa's AGOA-related exportsⁱⁱ.
- iii. As the economic hub of South Africa, Gauteng needs to be at the forefront of engaging with critical stakeholders in the US Congress to mitigate risks to South Africa's status as a beneficiary under AGOA.
- iv. Deep concern is expressed regarding the foreign policy position of the South African National Government on Russia's invasion of Ukraine. This position has negatively impacted South Africa's relationship with the USA.
- v. Lawmakers in the US Congress have written to the US Secretary of State, Anthony Blinken, to reconsider South Africa's hosting of the 2023 AGOA Forum, stating that "hosting the 2023 AGOA Forum in South Africa would serve as an implicit endorsement of South Africa's damaging support for Russia's invasion of Ukraine and possible violation of US sanctions law". Losing this Summit, which is set to take place in Gauteng, would not only undermine recovery and growth for our provincial economy but further signal a death knell to South Africa's inclusion in AGOA. Removing South Africa from AGOA would have significant negative consequences on our provincial economy, leading to substantial growth and employment losses.
- vi. South Africa's dubious position of non-alignment on the Russian-Ukrainian war has significant implications for Gauteng's trade relations. Trade falls within the concurrent powers of provincial legislatures, as stated in the constitution.

Therefore, that the House resolves:

- i. It is the responsibility of the Gauteng Provincial Government (GPG) to play a critical role in advocacy and lobbying for South Africa's inclusion in AGOA so that the province continues to enjoy the economic benefits it receives from AGOA. The GPG should give high priority to this issue.
- ii. The GPG must engage with representatives of the United States of America in South Africa to discuss issues related to our inclusion in AGOA, including the members of the US Embassy, which would further serve to strengthen our bilateral ties and continued friendship with the USA.
- iii. The GPG must engage with its counterparts at National Government to be adequately appraised on the impact that a loss of membership in AGOA will have on the provincial economy and what the responsible national and provincial departments will be doing to secure our continued eligibility as a member state in AGOA.
- iv. The GPG must take every step in its power to recover and grow the economy of Gauteng and support the export sectors that benefit from our trade relations with our partner the USA.

Proposer:





Solly Msimanga MPL

Seconded:



Nico De Jager MPL

ⁱ 2020 Q4 Trade Intelligence Briefing, Gauteng Growth and Development Agency

<https://exportadmin.ggda.co.za/public/documents/bz6ZIZ527BWRMd7pl1T7M8xd742ifVPVr9mCArDM.pdf>

ⁱⁱ Supplier Park Development Company SOC Ltd trading as AIDC Annual Performance Plan, 2017/18;

https://aidc.co.za/AIDCAPP2017-18/2017_18%20APP.pdf



No.006- 2023: Fourth Session, Sixth Legislature

GAUTENG PROVINCIAL LEGISLATURE PROGRAMMING COMMITTEE MEETING MINUTES

Tuesday, 10 October 2023

1. OPENING AND WELCOME AT 18:00

PRESENT. Hon. L H Mekgwe (Speaker), Hon. L Makhubela (ANC-Chief Whip), Hon. F Nel (DA- Chief Whip), Hon S Nkosi-Malobane (Chair of Chairs) Hon. N Ralehoko -Nkomo (LOGB), Hon. P Malema (ANC), Hon. A De Lange (VF-Plus), and Hon. D K Adams (ACDP- Whip), Hon. B Mncube (ANC), Hon. N. De Jager (DA), Hon, P Makwala (EFF)

IN ATTENDANCE: Mr Peter Skosana (Secretary), Mr T Makamba (Executive Director), Mr T Makondo (Director), Mr R Chiloane (Manager – House Proceedings), Adv M Madikane (SPA - House Proceedings) , Ms J Singh (SPA- House Proceedings), Ms T Muofhe (PA- House Proceedings), Ms E Baloyi, (PA- House Proceedings), Ms G Mann(PA- House Proceedings) , Ms D Mokgatitswe(Proceedings), Mr S Ncube (Manager – NCOP and Legal), Adv Shetaal Roopram (Director), Mr Linda Mwale (Executive Director) Ms Mhloti Masuluke (Executive Director), Mr Fezile Nondonga (LOGB), Ms N Khumalo (LOGB)

2. APOLOGIES :

None

3. CONFIRMATION OF THE AGENDA

DECISION: Member Adams moved for the adoption of the agenda, seconded by Member Malema.

4. CONFIRMATION OF MINUTES DATED 28 March 2023, 02 June 2023 and 05 September 2023.

DECISION: Member Mncube moved for the adoption of the minutes of the 28 March 2023, seconded by Member Makwala.

Member Adams moved for the adoption of the minutes of the 02 June 2023, seconded by Member De Lange.

Member Adams moved for the adoption of the minutes of the 05 September 2023, seconded by Member De Lange.



5. NCOP Matters

5.1 Parliamentary Programme- 4th Term 2023.

Mr S Ncube presented the programme as follows:

- 5.1.1 The fourth term Programme for Parliament is still a draft document at this stage as the Programming Committee of Parliament has not finalised due to the unavailability of the presiding officers, who are attending the Parliamentary Forum
- 5.1.2 The 4th Term Programme has the critical business of the medium term budget policy statement which is a basically a guide in terms of the macroeconomic and fiscal outlook and also guiding provinces in that regard. So the, that, that particular programme of the MTBPS is scheduled to commence on the 24th and 25th of October 2023.
- 5.1.3 The tabling of the MTBPS in Parliament is scheduled for the 1st of November 2023.
- 5.1.4 In terms of the NCOP bills, there are about 11 national bills with provincial implications which will be prioritised for finalisation before the election calendar, including the National Health insurance Bill.
- 5.1.3 The long standing national land transport Amendment Bill is scheduled to be finalised on the 29th of November 2023.

DECISION: Noted.

7. The Gauteng Provincial Legislature's Programme of Sittings

7.1 Proposed Provincial Programme – 4th Term of 2023.

Mr M Madikane presented the 4th Term programme as follows:

- 7.1.1. The Legislature programme is due is commencing 09 October 2023 to 08 December 2023 and a total of 6 settings have been incorporated into the programme.
- 7.1.2. The Chairperson's Review Session is scheduled for the 17th and 18th of October 2023.
- 7.1.2 The first sitting for the fourth term programme will be on the 31st of October 2023 for the Premier's Question Time as well as questions for oral reply to the executive as well as two quarterly performance reports being the CSSL as well as the Petitions Committee.



- 7.1.3 The 1st of December is scheduled a special sitting in order to allow for the premier to give a report on the Nasi iSpani initiative as well as in the issue of the hijacked buildings around the City of Johannesburg.
- 7.1.4 The Sitings on the 4th, 5th and 6th December 2023 are scheduled for the consideration of annual reports as well as the debates.
- 7.1.5 The Chairperson's Review Session is scheduled for 7th- 8th December 2023
- 7.1.6 The constituency period which will run from the 11th to the 15th of December 2023.

DECISION: Member Mncube moved for the adoption of the fourth Term Programme was this was seconded by Member Adams

8. MOTIONS

1. Motion in terms of Rule 121(1)(a) read with rule 117(2): Amended Basic Education by Hon. Khume Ramulifho (DA).
2. Motion for the formalisation of all informal settlements the province in terms of Rule 121(1)(a), read with Rule 117(1), by Hon. Member Phillip Makwala (EFF).
3. Motion for the distribution of free sanitary towels/products within the province in terms of Rule 121(1)(a), read with Rule 117(1), by Hon. Member Beverley Badenhorst (EFF).
4. Motion for initiation of a land audit in Gauteng Province I.t.o. Rule 121(1)(a) read with Rule 117(1), by Hon. Moshe Koma (EFF).
5. Motion on the amendment of indigent policy to allow indigent households in Gauteng to automatically qualify for free basic services if they are recipients of social grants in terms of Rule 121 (1)(a), read with Rule 117 (1), by Hon. Member Moleboheng Masoleng of the (EFF).
6. Motion on the establishment of a Provincial construction, roads and housing company in the province of Gauteng in terms of Rule 121(1)(a), read with Rule 117(1), by Hon. Lindiwe Masilela (EFF).
7. Motion on the removal of all colonial-era, apartheid, and offensive statues at all public places within the province in terms of Rule 121(1)(a), read with Rule 117(1), by Hon. Member Itani Mukwevho (EFF).
8. Motion on Loadshedding in terms of Rule 121(5) with 117(2) by Hon. Patrick Atkinson (DA).



9. Motion in terms of Rule 121(1)(a) read with Rule 117(2) on
LGBTQI Rights by Hon. Nico De Jager (DA).

10. Motion in terms of Rule 121(1)(a) read with Rule 117(2):
The African Growth and Opportunity Act (AGOA) Risk in
Gauteng by Hon. Solly Msimanga (DA).

DECISION: The Programming Committee considered all the motions as reflected in point 8 above and it was resolved that the motions were not correctly formulated as it pertains to the issues that needed to be resolved by the House. Some of the motions had already been overtaken by events, and others sought to deal with issues that were not within the purview of the Legislature and therefore the motions could not be selected for debate in the House.

9. **DATE OF NEXT MEETING AND ADJOURNMENT**

DECISION: The next Programming Committee meeting will be announced.

ADJOURNMENT: 19:38

CHAIRPERSON: HON. L H MEKGWE

DATE: _____

