

*Standing Rules  
of the  
KwaZulu-Natal  
Legislature*



# STANDING RULES OF THE KWAZULU-NATAL LEGISLATURE

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## CHAPTER 1

### APPLICATION, SUPPLEMENTING AND SUSPENSION OF RULES

#### 1. Definitions

In these Rules, unless the context indicates otherwise —

**“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;

**“Chamber”** means the room in which the proceedings of the Legislature take place, excluding those areas where members of the public and the media may listen to proceedings;

**“Chief Whip”** means the chief whip of the ruling party;

**“Constitution”** means the Constitution of the Republic of South Africa, 1996;

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

**“Executive Council”** means the Executive Council of the Province of KwaZulu-Natal, constituted in terms of section 132 of the Constitution;

**“government business”** means any item of business for which a member of the Executive Council is responsible;

**“House”** means the Legislature meeting in plenary;

**“Interpellation”** means a question containing not more than two subdivisions put to the Premier or an MEC, and upon whose reply a brief debate is permitted;

**“Leader of Government Business”** means the person appointed by the Premier in terms of Rule 20;

**“Leader of the Opposition”** means the member envisaged in terms of section 116(2)(d) of the Constitution;

“**Legislature**” means the Provincial Legislature of KwaZulu-Natal;

“**MEC**” means a member of the Executive Council;

“**Member**” means a member of the Legislature and includes a member of the Executive Council;

“**minority party**” means a party with less than ten percent representation in the Legislature, and “**minority parties**” has a corresponding meaning;

“**Monarch**” means the Monarch of KwaZulu-Natal as defined in the KwaZulu-Natal Traditional Leadership and Governance Act, 2005 (Act No. 5 of 2005);

“**money Bill**” means a Bill referred to in section 120(1) of the Constitution;

“**motion**” means a proposal for a resolution of the House;

“**Order Paper**” means the document that describes the business of the Legislature and includes the agenda for the day;

“**Parliamentary Counsellor**” means a Parliamentary Counsellor referred to in Standing Rules 23 and 24;

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

“**person in charge**” —

- (a) with reference to a Bill introduced by an MEC or a Member, means that MEC or Member;
- (b) with reference to a Bill introduced by a committee, means the chairperson or any other member of the committee designated by the committee; and
- (c) with reference to a money Bill, means the MEC for Finance;

“**Petitions Act**” means the KwaZulu-Natal Petitions Act, 2003 (Act No. 4 of 2003);

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

Immunities of Parliament and Provincial Legislatures Act, 2004 (Act No. 4 of 2004);

“**Premier**” means the Premier of KwaZulu-Natal;

“**Province**” means the province of KwaZulu-Natal;

“**Provincial Gazette**” means the provincial Government Gazette;

“**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

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

“**Registrar**” means the Registrar of Members’ Interests appointed under Item 9(1) of Part 2 of the Code of Conduct under Schedule 1;

“**resolution**” means a decision taken by the House;

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

“**Serjeant-at-Arms**” means the official of the Legislature responsible for the mace and for security in the Legislature;

“**session**” means the legislative year, commencing on the day of the official opening of the Legislature and concluding on the last day before the next official opening;

“**sitting**” means a plenary meeting of the Legislature;

“**sitting day**” means a day on which the Legislature sits;

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

“**tabling**” in relation to a document, means the placing of a document on the Table of the Legislature;

“**term**” in relation to the Legislature, means the period for which the Legislature is elected in terms of section 108 (1) of the Constitution; and

“**whip**” means a whip appointed to a party, with each party represented in the Legislature being entitled to one whip for every eight members or the greater part thereof: Provided that minority parties not entitled to a whip are collectively entitled to one whip.

**2. Unforeseen eventualities**

- (1) The Speaker may give a ruling or frame a Rule in respect of any eventuality for which these Rules do not provide.
- (2) A Rule framed by the Speaker remains in force until a meeting of the Rules Committee has decided thereon.

**3. Suspension**

- (1) Any provision of these Rules relating to the business or proceedings at a meeting of the House or of a committee of the Legislature may be suspended by resolution of the House.
- (2) The suspension of any provision is limited in its operation to the particular purpose for which such suspension has been approved.

**4. Amendment of Rules**

A Rule may be amended, revoked or added by a resolution of the House.

**5. Non-diminution or non-limitation of Rules**

No convention or rule of practice limits or inhibits any provision of these Rules.

## CHAPTER 2

### PROCEEDINGS IN CONNECTION WITH COMMENCEMENT OF TERM OR SESSION

#### **6. Convening notice read, and oath or affirmation by Members**

- (1) At the commencement of the proceedings of the Legislature on the first day of its first session the Secretary, or an officer of the Legislature nominated by him or her, must read the notice convening the legislature under section 110(1) of the Constitution.
- (2) After the convening notice 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 as envisaged by section 107, read with Schedule 2, of the Constitution.

#### **7. Election of Premier of the Province**

At its first sitting the House must elect one of its Members as the Premier of the Province as envisaged by section 128 of the Constitution.

#### **8. Election of Speaker and Deputy Speaker**

At its first sitting, after the election of the Premier, the House must proceed to the election of one of its Members to be the Speaker of the House and another to be the Deputy Speaker of the House as envisaged by section 111 of the Constitution.

#### **9. Opening of the Legislature at commencement of term or session**

The Speaker must inform the House of the date and time at which –

- (a) the Monarch may address the Legislature; and
- (b) the Premier will open the Legislature at commencement of a term or session of the Legislature and deliver his or her State of the Province Address.

**10. Suspension of proceedings**

The proceedings must be suspended until the Premier has delivered his or her State of the Province Address.

**11. State of the Province Address placed on Order Paper**

When the Premier has delivered his or her State of the Province Address, the Secretary to the Legislature must place it on the Order Paper of the House for discussion.

## CHAPTER 3

### PRESIDING OFFICERS, OTHER OFFICES AND MEMBERS

#### *Part 1: Presiding Officers*

#### **12. Election of Speaker and Deputy Speaker in the case of vacancy**

- (1) Whenever the position of Speaker or Deputy Speaker is 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) The election must take place as soon as possible. In the case of the Speaker, the Secretary must determine the time of the election. In the case of the Deputy Speaker, the Speaker must determine the time of the election.
- (3) The Member elected must, from his or her place, express his or her sense of the honour conferred upon him or her.

#### **13. Role and functions of Speaker**

- (1) The Speaker –
  - (a) is responsible for the political management of the Legislature;
  - (b) must, as the political head of the Legislature, safeguard the independence of the Legislature as a separate arm of government and maintain the integrity of the Legislature. The Speaker is the spokesperson for the Legislature in its relations with the other arms of government, and with external institutions and persons. In representing the Legislature, the Speaker is responsible to the Legislature and all its Members;
  - (c) must ensure that the Standing Rules are observed;
  - (d) must, as the chief Presiding Officer, preside over the House and ensure that meetings of the House are

conducted in an orderly manner and in accordance with the Constitution and these Standing Rules;

- (e) must protect freedom of speech and debate in the House and its committees and ensure the facilitation of public involvement and participation in the legislative and other processes of the Legislature;
  - (f) is the treasurer of the Legislature and is accountable to the Legislature for the management and performance of the Legislature;
  - (g) must monitor and oversee the parliamentary process and procedures and ensure that the Legislature complies with its constitutional obligations, including but not limited to, the carrying out of its oversight function over the provincial executive organs of state; and
  - (h) is the chairperson of the Rules Committee and the Programme Committee.
- (2) The Speaker must discharge his or her responsibilities in an impartial manner.

#### **14. Role and functions of Deputy Speaker**

The Deputy Speaker must –

- (a) assist the Speaker in the performance of his or her functions;
- (b) preside over the House whenever necessary;
- (c) act as Speaker when the Speaker is absent or unable to perform his or her functions and when the position of the Speaker is vacant;
- (d) chair the Disciplinary Committee; and
- (e) perform such functions and tasks as may be assigned to him or her by the Speaker or by resolution of the House.

#### **15. Election of Chairperson of Committees and Deputy Chairperson of Committees**

As soon as possible after an election or whenever the position of Chairperson of Committees or Deputy Chairperson of Committees

is vacant, the House must elect a Member as Chairperson of Committees and another Member as Deputy Chairperson of Committees, for the duration of the Legislature.

## **16. Role and function of Chairperson of Committees**

The Chairperson of Committees-

- (a) is the chairperson of the Committee of Chairpersons established under Rule 162;
- (b) must -
  - (i) co-ordinate the activities of committees and the scheduling of committee meetings;
  - (ii) ensure that –
    - (aa) business plans for all portfolio and standing committees are adopted and implemented;
    - (bb) budgets are compiled for all committees; and
    - (cc) NCOP business is dealt with speedily and according to time frames;
  - (iii) provide guidance and advice to chairpersons of portfolio and standing committees pertaining to the Rules and to procedures and functions;
  - (iv) facilitate capacity-building of chairpersons and committee members;
  - (v) ensure that committees -
    - (aa) function effectively; and
    - (bb) are provided with effective infrastructural and administrative support systems;
  - (vi) monitor and report on the performance of the parliamentary liaison officers; and
  - (vii) preside over the House in the absence of the Speaker and the Deputy Speaker and over meetings of the House in Committee.

## **17. Role and function of Deputy Chairperson of Committees**

The Deputy Chairperson of Committees must –

- (a) assist the Chairperson of Committees in the performance of his or her functions;
- (b) preside over the House whenever necessary;
- (c) act as the Chairperson of Committees when he or she is absent or unable to perform his or her functions and when the position of the Chairperson of Committees is vacant; and
- (d) perform such functions and tasks as may be assigned to him or her by resolution of the House.

## **18. Absence of Speaker or Deputy Speaker**

- (1) The Deputy Speaker must act as Speaker when the Speaker is absent or unable to perform his or her functions and when the position of Speaker is vacant.
- (2) The Speaker may during a sitting request the Deputy Speaker, the Chairperson of Committees or the Deputy Chairperson of Committees to act as Presiding Officer of the House.
- (3) The Chairperson of Committees, and in his or her absence, the Deputy Chairperson of Committees, must act as Presiding Officer of the House if both the Speaker and Deputy Speaker are absent or unable to perform their functions.

## **19. Absence of all Presiding Officers of the House**

If the Speaker, the Deputy Speaker, the Chairperson of Committees and the Deputy Chairperson of Committees are all absent at the same time, the House must elect one of its Members to act as Presiding Officer for the time during which all other presiding officers are absent. The Secretary must supervise the election and put the question.

## ***Part 2: Other Offices***

### **20. Appointment of Leader of Government Business**

As soon as possible after an election or whenever the position of Leader of Government Business is vacant, the Premier should appoint a member of the Executive Council as Leader of Government Business and inform the Speaker of the appointment in writing. The Speaker will notify the House of the appointment of the Leader of Government Business upon receipt of the appointment in writing from the Premier.

### **21. Role of Leader of Government Business**

The Leader of Government Business is responsible for the management of government business in the Legislature.

### **22. Leader of the Opposition**

The leader of the largest opposition party in the Legislature must be recognised as the Leader of the Opposition as envisaged by section 116(2)(d) of the Constitution.

### **23. Parliamentary Counsellors to the Monarch**

As soon as possible after an election or whenever the positions are vacant, the House must elect two Members as Parliamentary Counsellors to the Monarch.

### **24. Role and function of Parliamentary Counsellors**

- (1) The Parliamentary Counsellors must do all that is necessary, appropriate and expedient to facilitate communication, liaison and relations between the Monarch and the Legislature on matters concerning, or having a bearing on the Monarch.
- (2) The Parliamentary Counsellors must, for the purpose contemplated in sub-rule (1) –
  - (a) provide an official and appropriate channel of communication between the Monarch and the Legislature;

- (b) interact regularly with the Monarch on behalf of the Speaker and keep the Speaker apprised of such interaction;
- (c) ensure that all necessary and applicable protocols with respect to the Legislature are observed at any occasion, meeting or official function where the Monarch is present; and
- (d) perform any other function required for, or incidental to, ensuring efficient, appropriate and expedient liaison between the Monarch and the Legislature.

### ***Part 3: Members***

#### **25. Oath or affirmation in case of vacancy**

- (1) A Member who fills a vacancy in the Legislature must, before he or she begins to perform his or her functions, swear or affirm faithfulness to the Republic and obedience to the Constitution, as envisaged by section 107 and Schedule 2 of the Constitution.
- (2) A Member who fills a vacancy –
  - (a) must, on the first day that he or she is present in the House during a sitting, be introduced and conducted to the Table by two Members, and he or she must take the oath or make the affirmation before the Presiding Officer; or
  - (b) may, if the House is not sitting, take the oath or make the affirmation before the Presiding Officer.
- (3) The Presiding Officer must table the name of, and introduce, a Member who took the oath or made the affirmation before him or her under sub-Rule (2)(b) on the next sitting day.

#### **26. Attendance at sittings**

- (1) The whips, and in the case of a minority party not entitled to a whip, the whip appointed to those minority parties collectively, must ensure that Members of their respective parties, or of the

minority parties collectively, as the case may be, attend sittings, except under circumstances when a party is exercising its right to boycott proceedings.

- (2) A Member is entitled to a maximum of three consecutive sitting days' leave, without prior approval of the Speaker, but the member cannot exceed a maximum of five unapproved sitting days' leave per session.
- (3)
  - (a) Except in circumstances beyond their control, a Member requiring being absent for a period in excess of five sitting days' leave must obtain the prior written approval of the Speaker.
  - (b) Before submitting a request for approval as contemplated in paragraph (a), the senior whip of the party to which the Member belongs, or, in the case of a minority party not entitled to a whip, the whip appointed to such minority parties collectively, must recommend approval of the leave in writing.
  - (c) The written approval referred to under paragraph (a) -
    - (i) may not be unreasonably withheld by the Speaker; and
    - (ii) must be tabled by the Speaker in the House on the next sitting day.
- (4) Every Member attending a sitting day of the House must sign an attendance register as provided by the Speaker.
- (5) The Speaker must refer a contravention of sub-rules (2) and (3)(a) to the Disciplinary Committee for investigation and report.
- (6) A Member may lose membership of the Legislature, as contemplated under section 106(3)(b) of the Constitution, if he or she is found guilty of contravening sub-rules (2) and (3)(a).

## **27. Attendance at committee meetings**

- (1) The whips, and in the case of a minority party not entitled to a whip, the whip appointed to those minority parties collectively,

must ensure that Members of their respective parties, or of the minority parties collectively, as the case may be, attend committee meetings, except under circumstances when a party is exercising its right to boycott proceedings.

- (2) Except in circumstances beyond their control, every Member must –
  - (a) attend the meetings of all committees of which he or she is a full member;
  - (b) if unable to attend a meeting of a committee of which he or she is a full member –
    - (i) tender a written apology to the secretary of the committee prior to the meeting; and
    - (ii) arrange for an alternate, where applicable, to attend the meeting in his or her place and advise the secretary of the committee accordingly.
- (3) The secretary of the committee in question must, within forty-eight hours of the closure of a meeting of a committee, notify the Head of Committees of the names of those members of the committee who did not attend the meeting and whether or not they had complied with sub-rule (2)(b)(i) and (ii).
- (4) The Head of Committees must inform the Speaker of a contravention of sub-rule (2)(b)(i) and (ii), for referral to the Disciplinary Committee for investigation and report.
- (5) A Member may lose membership of the Legislature, as contemplated under section 106(3)(b) of the Constitution, if the Member has been found guilty of contravening sub-rule (2)(b)(i) and (ii) on at least three occasions within a session and has been absent without good reason on all of those occasions.

## **CHAPTER 4**

### **PUBLIC ACCESS AND PARTICIPATION**

#### *Part 1: General*

#### **28. Public participation in the legislative and other processes**

- (1) The Legislature must facilitate public involvement in the legislative and other processes of the Legislature and its committees as contemplated under section 118(1)(a) of the Constitution.
- (2) In order to facilitate public access to and involvement in the Legislature as contemplated in section 118 of the Constitution, the Secretary must –
  - (a) make available to the media on a regular basis the calendar of the Legislature for the following week and a list of Bills before the Legislature and its committees, for publication; and
  - (b) ensure publication of notices and information advising the public of the convening of public hearings on Bills.

#### **29. Proceedings conducted in public**

Subject to the Constitution and these Rules, proceedings of the House and committees are open to the public, including the media.

#### **30. Public access to sittings, committee meetings and the precincts**

- (1) The Speaker exercises control and authority over the precincts of the Legislature.
- (2) The Speaker must –
  - (a) set aside places for the public in the Chamber and in committee rooms; and
  - (b) determine the entrances and routes through which the public can obtain access to these places.

- (3) The Speaker may take reasonable measures –
  - (a) to regulate public access, including access of the media, to the precincts, the Chamber and committee rooms;
  - (b) to prevent and control misconduct of the public in the Chamber and committee rooms; and
  - (c) to provide for the searching of any person, including that person's vehicle or other property in that person's possession, and, where appropriate, the refusal of entry to, or the removal of, any person.
- (4) The Serjeant-at-Arms or a member of the South African Police Services responsible for security of the Legislature may search or cause to be searched any member of the public seeking access to the Precincts, the Chamber or committee rooms.
- (5) The only persons allowed onto the precincts while in possession of a firearm, which must be a standard issue service weapon, are –
  - (a) a member of the South African Police Services responsible for security of the Legislature and that of the Premier or MEC's; and
  - (b) a person specifically authorised in writing by the Speaker.
- (6) The Speaker may withdraw an authorisation under sub-rule (5)(b), or the House may, by way of resolution, rescind the authorisation.
- (7) The Speaker, after consultation with the Chief Whip, the Chief Whip of the Official Opposition, representatives of other Parties in the Legislature, and the Leader of Government Business, may invite a person who is not a Member of the House to –
  - (a) address the House or the Members of the House; or
  - (b) to attend a meeting of the House.
- (8) Any person so invited is subject to and must comply with these Rules insofar as their conduct is concerned, for the duration of their address and attendance.

### **31. Public access to records and documents**

- (1) In furtherance of the constitutional right of access to information, but subject to sub-rule (2), all records of, and documents officially before, or emanating from, the House or a committee or subcommittee, are open to the public, including the media, and may be accessed in accordance with the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), except where access is refused on grounds permitted under that Act.
- (2) Where the grounds for refusal of access provided for in the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) are applicable, the following records and documents, or that part or those parts thereof as may be affected, may not be published, and their contents may not be disclosed –
  - (a) the record of proceedings of, or evidence taken by or placed before, a committee or subcommittee, including any report or summary of such proceedings or evidence, while the public were excluded from a meeting in terms of Rule 34;
  - (b) any record or document placed before or presented to, and declared by, the House or a committee or subcommittee as a confidential document; or
  - (c) any document –
    - (i) submitted or to be submitted to members of a committee or subcommittee as a confidential document by order of the chairperson of the committee or subcommittee; or
    - (ii) after its submission to members is declared a confidential document by the chairperson.
- (3) For the purposes of sub-rule (1) a record or document is officially before the House, a committee or subcommittee when –
  - (a) the Presiding Officer, or a Chairperson of a Committee in the case of committees and subcommittees, places the record or document, or permits the record or document to be placed before the House, committee or subcommittee, as the case may be;

- (b) a person appearing before the House, committee or subcommittee as a witness or to make representations, presents the record or document to House, committee or subcommittee, as the case may be.
- (4) A Member who contravenes sub-rule (2) is guilty of contempt of the Legislature.

### **32. Public participation in committees**

- (1) Any person or institution or organisation, including organised local government or a local government authority, may submit a request to appear before, or may make a written submission to, a committee with regard to a matter relevant to the category of affairs assigned to the committee that –
  - (a) falls within the legislative competence of the Legislature; or
  - (b) is relevant to the exercise of oversight by that committee over the provincial executive authority.
- (2) The Secretary must, on request, assist any person, institution or organisation contemplated in sub-rule (1) to –
  - (a) formulate a written submission to a committee;
  - (b) appear before a committee; or
  - (c) present a submission to a committee.
- (3) The committee referred to in sub-rule (1) may –
  - (a) forward the submissions received by or made to it on matters contemplated in sub-rule (1) to the Premier or the relevant MEC, as the case may be, for a response and appropriate action; or
  - (b) take any other action it may consider appropriate or necessary in the circumstances.

### **33. Persons appearing before committees**

Any person, including a legal representative, appearing before a committee or subcommittee must observe the directions and conform to the procedures determined by the chairperson of the committee or convenor of the subcommittee.

### **34. Exclusion of the public from committee meetings**

- (1) Members of the public, including the media, may be excluded from meetings of committees and subcommittees when –
  - (a) legislation, these Rules or resolutions of the House provide for the committee or subcommittee to meet in closed session; or
  - (b) the committee or subcommittee is considering a matter which is of such a nature that its confidential treatment is reasonable and justifiable in an open and democratic society.
- (2) A decision in terms of sub-rule (1) to exclude the public must be taken by the committee or subcommittee concerned, provided that the chairperson of the committee or convenor of the subcommittee may at any time –
  - (a) before the start of the meeting rule that the meeting must take place in closed session, but the committee or subcommittee may at any time after the start of the meeting open the meeting; or
  - (b) close the meeting for a decision by the committee or subcommittee whether the matter should be considered in closed session.

### **35. Withdrawal of members of the public from committee meetings**

The chairperson of a committee or convenor of a subcommittee may –

- (a) order a member of the public to withdraw from the meeting –
  - (i) when the public is excluded from a meeting in terms of Rule 34; or
  - (ii) when necessary to give effect to the measures taken under Rule 30(3), or
- (b) order a person referred to in Rule 33 to withdraw from the meeting if that person does not comply with a ruling of the chairperson or convenor.

**36. Withdrawal of other persons from committee meetings**

When the public is excluded from a meeting of a committee or subcommittee in terms of Rule 34, the chairperson or convener may order a staff member or a public servant to withdraw from the meeting.

**37. Removal of persons**

When instructed by the Presiding Officer or the chairperson of a committee or convener of a subcommittee, the Serjeant-at-Arms must remove, or arrange for the removal of, any person who –

- (a) without permission, is present in that part of the Chamber or a committee room designated for Members only;
- (b) misconducts himself or herself, or disrupts the proceedings of the House, committee or subcommittee, as the case may be, or causes a nuisance;
- (c) is visibly under the influence, or in possession, of alcohol, drugs or any other banned substance; or
- (d) does not withdraw when ordered to withdraw under Rule 35 or 36.

***Part 2: Petitions***

**38. Right to petition**

Any person has the right to petition the Legislature for appropriate relief as envisaged in the Petitions Act.

**39. Procedure**

The right to petition must be exercised in accordance with and in the manner and form prescribed in the Petitions Act.

**40. Consideration of petitions**

Petitions that meet the requirements of the Petitions Act must be considered and dealt with in the manner prescribed in that Act.

## **CHAPTER 5**

### **SITTINGS OF THE LEGISLATURE**

#### **41. Sitting days and hours of sitting**

- (1) The working days of the Legislature are weekdays, from Monday to Friday, except public holidays in terms of the Public Holidays Act, 1994 (Act No.36 of 1994).
- (2) The business of the House may be considered on these working days.
- (3) The hours of sitting on these days are from 09:00 to 16:00 or such earlier or later time as the Speaker may determine.

#### **42. Quorum**

- (1) At least one third of all the Members of the Legislature must be present to constitute a plenary meeting of the Legislature.
- (2) Except where the Constitution provides otherwise-
  - (a) a majority of the Members of the Legislature must be present before a vote may be taken on a Bill or an amendment to a Bill;
  - (b) at least one third of the Members must be present before a vote may be taken on any other question before the legislature; and
  - (c) all questions are decided by a majority of the votes cast.

#### **43. Opportunity for prayer or meditation**

At the commencement of the business of the Legislature on every sitting day, the Presiding Officer must either –

- (a) read the prayer in Schedule 2; or
- (b) afford Members an opportunity for silent prayer or meditation.

#### **44. Sequence of proceedings**

- (1) The business on each sitting day of the House, must, where applicable, follow the following sequence of events –

- (a) opportunity for silent prayer or meditation, or reading of the prayer in Schedule 2;
  - (b) obituaries and ceremonial matters;
  - (c) announcements from the Speaker;
  - (d) announcements or reports by the Premier;
  - (e) tabling of reports or papers;
  - (f) formal motions and notices by the Chief Whip;
  - (g) notices of bills or motions;
  - (h) questions and interpellations;
  - (i) orders of the day and notices of motion on the Order Paper, which must be dealt with in sequence.
- (2) At each sitting, the House must conduct its business in the order shown on the Order Paper unless -
- (a) the House decides otherwise;
  - (b) the Presiding Officer decides otherwise, after consultation with the whips; or
  - (c) the Rules allow otherwise.

#### **45. Interruption, suspension or adjournment of proceedings**

- (1) Only the Presiding Officer may interrupt, suspend or adjourn the proceedings of the House or a Committee of the Whole House.
- (2) The Presiding Officer may, after consultation with the Leader of Government Business and the Whips' Forum, adjourn the House until a later working day of the Legislature than the following sitting day: Provided that during such adjournment the Speaker may accelerate or postpone the date for the resumption of business.

## CHAPTER 6

# ORDER IN MEETINGS OF THE HOUSE AND RULES OF DEBATE

### *Part 1: Order in meetings*

#### **46. Freedom of speech and debate**

- (1) In accordance with section 117(1)(a) of the Constitution there is freedom of speech and debate in the Legislature and any of its committees, subject only to the restrictions placed on such freedom in terms of or under the Constitution, including but not limited to the restrictions listed in section 16(2), any other law or these Rules.
- (2) In accordance with section 117(1)(b) of the Constitution and subject to these Rules, a Member of the Legislature is not liable to any civil or criminal proceedings, arrest, imprisonment or damages by reason of anything which he or she has said, produced or submitted to the Legislature or any of its committees, or by reason of anything which may have been revealed as a result of what he or she has said, produced or submitted to the Legislature or any of its committees.

#### **47. Conduct of Members**

- (1) A Member must bow to the Presiding Officer in passing to or from his or her seat.
- (2) A Member may not pass between the Presiding Officer and the Member who is speaking, or between the Presiding Officer and the Table, or stand in any of the passages or gangways.
- (3) A Member may not use electronic equipment that disturbs proceedings of the House.

#### **48. Members not to converse aloud**

Members may not converse aloud during a sitting or proceedings of the House.

**49. Member not to be interrupted**

A Member may not interrupt another Member whilst speaking, except to call attention to –

- (a) a point of order;
- (b) a question of privilege;
- (c) the presence of a non-Member; or
- (d) to ask whether the Member who has the floor will accept a question relevant to the debate.

**50. Order at adjournment**

When a meeting adjourns, Members must rise and remain in their places until the Presiding Officer has left the Chamber, except in exceptional circumstances.

**51. Precedence of Presiding Officer**

Whenever the Presiding Officer intervenes during a debate, any Member then speaking or offering to speak must resume his or her seat, and the Presiding Officer must be heard without interruption.

**52. Irrelevance or repetition**

The Presiding Officer, after having called attention to the conduct of a Member who persists in irrelevance or repetition of arguments, may direct the Member to discontinue his or her speech.

**53. Member ordered to withdraw**

If the Presiding Officer is of the opinion that a Member is deliberately contravening a provision of these Rules, or that a Member is in contempt of or is disregarding the authority of the Presiding Officer, or that a Member's conduct is grossly disorderly, he or she may order the Member to withdraw immediately from the Chamber for the remainder of the day's sitting.

#### **54. Naming or suspension of Member**

- (1) If a Presiding Officer is of the opinion that a contravention committed by a Member is of so serious a nature that an order to withdraw from the Chamber for the remainder of the day's sitting is inadequate, the Presiding Officer, may —
  - (a) if he or she is the Speaker —
    - (i) suspend the Member and refer the matter to the Disciplinary Committee for consideration under Rule 160, if the contravention threatens the disruption of the proceedings of the House; or
    - (ii) where the contravention does not threaten the disruption of the proceedings of the House, refer the matter to the Disciplinary Committee for consideration under Rule 160; and
  - (b) if he or she is not the Speaker, name the Member, whereupon the Speaker, after consultation with the Presiding Officer, may -
    - (i) suspend the Member and refer the matter to the Disciplinary Committee for consideration under Rule 160, if the contravention threatens the disruption of the proceedings of the House; or
    - (ii) where the contravention does not threaten the disruption of the proceedings of the House, refer the matter to the Disciplinary Committee for consideration under Rule 160.
- (2) The action taken against a Member under sub-rule (1) must be announced in the House.

#### **55. Member to withdraw from precincts**

- (1) A Member ordered to withdraw from the Chamber in terms of Rule 53 or suspended or named in terms of Rule 54 must, subject to sub-rule (2), forthwith withdraw from the precincts of the Legislature.

- (2) A Member who has been named in terms of Rule 54(1)(b) may not return to the precincts of the Legislature before the action taken against him or her by the Speaker has been announced.

**56. Period of suspension**

The suspension of a Member may continue –

- (a) on the first occasion during a session, for a period of up to 5 working days of the Legislature: Provided that if the matter is referred to the Disciplinary Committee in terms of Rule 54(1)(a) or (b), the period may be up to 10 working days of the Legislature;
- (b) on the second occasion during a session, for a period up to 10 working days of the Legislature; and
- (c) on any subsequent occasion during a session, for such period as the Speaker may determine, but not exceeding 30 workings days of the Legislature.

**57. Expression of regret**

- (1) A Member who has been suspended or named may submit to the Speaker a written expression of regret, and if the Speaker approves such expression of regret, he or she may discharge the suspension or permit the Member to take his or her seat, and the Speaker must inform the House accordingly.
- (2) An expression of regret approved by the Speaker must be recorded in the Minutes of Proceedings.

**58. Grave disorder**

In the event of grave disorder at a meeting, the Presiding Officer may adjourn the meeting, or may suspend the proceedings for a period to be stated by him or her.

**59. Member to withdraw while his or her conduct is debated**

Whenever a charge is made against a Member, he or she must, after having been heard from his or her place, withdraw from the Chamber while such charge is being debated.

## ***Part 2: Rules of debate***

### **60. Member to address Presiding Officer**

A Member must address the Presiding Officer when speaking and must stand while doing so, unless unable to do so.

### **61. Calling of Members**

A Member is called in a debate by the Presiding Officer in accordance with an agreed list of Members who are to speak in the debate and the times allocated for speeches by Members of different parties.

### **62. Time limits for speeches**

Unless otherwise provided in these Rules, Members are restricted, in regard to the length of time they may speak, to the times allocated to them in the list contemplated in Rule 61.

### **63. Reference to Member by name**

A Member may not refer to any other Member by his or her first name or names only. The term “Honourable” must be used followed by the Member’s surname or portfolio.

### **64. Offensive, unparliamentary or unbecoming language**

A Member may not use offensive, unparliamentary or unbecoming language.

### **65. Reflections upon judges**

A Member may not adversely reflect upon the competence or honour of a judge, except upon a substantive motion in the House.

### **66. Matters sub judice**

A Member may not 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.

## **67. Rule of anticipation**

- (1) Except in the case of a matter of urgent public importance, a Member may not anticipate the discussion of a matter appearing on the parliamentary programme of that sitting.
- (2) In determining whether a discussion is out of order on the ground of anticipation, the Presiding Officer must consider the probability that the matter anticipated will be discussed in the House during that sitting.

## **68. Explanations**

- (1) An explanation during debate is allowed only when a material part of a Member's speech has been misquoted or misunderstood, but such Member may not introduce any new matter, and no debate is allowed upon such explanation.
- (2) A Member may, with the prior consent of the Presiding Officer, also explain matters of a personal nature, but such matters may not be debated, and the Member must confine himself or herself strictly to the vindication of his or her own conduct.
- (3) An explanation under sub-rule (1) and (2) may not exceed three minutes.

## **69. Points of order**

- (1) When a point of order is raised, the Member called to order must resume his or her seat, and after the point of order has been stated to the Presiding Officer by the Member raising it, the Presiding Officer must give his or her ruling or decision thereon immediately or must indicate when a ruling or decision will be made.
- (2) A Member raising a point of order must refer to the Rule under which the point of order is raised.
- (3) A point of order may not be raised on a point of order.

## **70. Acting for absent Member**

- (1) Subject to sub-rule (2), a Member may take charge of a motion or an order of the day in the absence of the Member in charge,

provided he or she has been authorised to do so by the absent Member.

- (2) A Member may not take charge of a motion or an order of the day on behalf of an MEC.

**71. Right of Members to speak**

A Member may speak —

- (a) when called upon to do so by the Presiding Officer; or
- (b) to raise a point of order.

**72. Reply to a debate**

The Member in charge of an item on the Order Paper may reply to the debate on the matter.

**73. Debate closed**

A reply to a debate closes the debate.

## CHAPTER 7

### DECISION OF QUESTIONS IN THE HOUSE

#### 74. Decision of questions

- (1) Except where the Constitution provides otherwise -
  - (a) a majority of the Members of the Legislature must be present before a vote may be taken on a Bill or an amendment to a Bill;
  - (b) at least one third of the Members must be present before a vote may be taken on any other question before the Legislature; and
  - (c) all questions before the Legislature are decided by a majority of the votes cast.
- (2) The Presiding Officer has no deliberative vote, but -
  - (a) must cast a deciding vote when there is an equal number of votes on each side of a question; and
  - (b) may cast a deliberative vote when a question must be decided with a supporting vote of at least two thirds of the Members.

#### 75. Absence of quorum

If the attention of the Presiding Officer is called to the absence of the prescribed quorum when a question is put for decision and if after an interval of five minutes, during which time the bells must be rung, there is still no quorum, the Presiding Officer must either suspend the proceedings or postpone the decision of the question.

#### 76. Decision of question postponed

When the debate on a question has been concluded in the House, the Presiding Officer may postpone the decision of the question until the next sitting day or another time agreed to by the Chief Whip, after consultation with the whips.

**77. Postponed question put without further debate**

At the time for the decision of a postponed question, the Presiding Officer must put the question without further debate.

**78. Question put again**

If the Presiding Officer has put a question and it is not heard or understood, he or she must put it again.

**79. Question fully put**

- (1) No Member, except a Member who is permitted to make a declaration of vote, may speak to any question after it has been fully put by the Presiding Officer.
- (2) A question is deemed to have been fully put when the voices of both the “Ayes” and the “Noes” have been given thereon.

**80. Declaration of vote**

- (1) The Presiding Officer may at any time after a postponed question has been fully put permit one Member of each political party to state on behalf of his or her party, in a speech not exceeding three minutes, the reasons why the party is in favour of or against the question.
- (2) In the case of an Appropriation Bill, the Presiding Officer may after the question on the entire Bill has been put, permit one Member of each political party to state on behalf of his or her party, in a speech not exceeding eight minutes, the reasons why the party is in favour of or against the Bill, or any part thereof.

**81. Recording of opposition**

- (1) Whenever a question is put by the Presiding Officer, any Member may, instead of demanding a division, inform the Presiding Officer that he or she wishes his or her opposition or that of the party to which he or she belongs to be formally recorded in the Minutes of Proceedings.
- (2) The Presiding Officer may order that a division take place in the event four or more Members wishing to record their individual opposition.

## **82. Demand for division**

- (1) After a question has been put, or subject to sub-rule (2) in the case of an Appropriation Bill, only after the question on the entire Bill has been put, and the Presiding Officer has indicated whether in his or her opinion the “Ayes” or the “Noes” have it, any Member may demand a division, whereupon a division must, subject to Rule 83, take place without debate.
- (2) In the case of an Appropriation Bill if a party wishes to call a division on one or more votes of the Bill, and not the Bill in its entirety, it must provide one days’ prior written notice of such intention to the Speaker, who may allow for such division or series of divisions to be called in a manner he or she deems appropriate.

## **83. Fewer than four Members supporting demand for division**

- (1) Whenever a division is demanded, the Presiding Officer must, before ordering the division bells to be rung, satisfy himself or herself that at least four Members support the demand for the division.
- (2) If fewer than four Members rise in support thereof, the Presiding Officer must forthwith declare the decision on the question.

## **84. Division bells rung and doors locked**

- (1) If at least four Members support the demand for a division, the division bells must be rung for three minutes and the doors must be locked and remain locked until the question has been put and the decision announced by the Presiding Officer.
- (2) If further divisions are required to dispose of the question and such divisions follow immediately upon the first division, the division bells must be rung for 15 seconds and the doors must be locked and remain locked until the question has been put and the decision announced by the Presiding Officer.
- (3) When the doors have been locked, no Member may enter or leave the Chamber until the result of the division has been declared.

**85. Procedure after doors locked**

- (1) The Presiding Officer must again put the question when the doors have been locked.
- (2) Thereupon the Presiding Officer must indicate the manner in which the “Ayes” and the “Noes” must be separated and he or she must appoint tellers from the whips, assisted by parliamentary staff, for each side.
- (3) The Presiding Officer must declare afresh whether in his or her opinion the “Ayes” or the “Noes” have it, in which case a further division may take place only if such fresh declaration is challenged.

**86. Members present must vote**

- (1) Every Member present in the Chamber when the question is put with the doors locked must vote.
- (2) A declared abstention is a vote.

**87. Points of order during division**

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

**88. Result to be declared**

The tellers must sign the division lists and hand them to the Presiding Officer, who must declare the result of the division.

**89. Confusion or error concerning division**

In the event of confusion or error concerning a division, another division must take place, unless the Presiding Officer and tellers can resolve the matter.

**90. Correction of Minutes**

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

## CHAPTER 8

### MOTIONS

#### 91. Nature of motions

- (1) A Member who wishes the House to adopt a resolution, either with or without debate, must introduce a motion.
- (2) The Member may request the Presiding Officer to put the motion to the vote for adoption as a resolution of the House.

#### 92. Same motion Rule

- (1) A motion which is the same in substance as a motion already debated, approved or rejected by the House during the same sitting may not be proposed for debate.
- (2) The resolution or vote on such previous motion may be amended or rescinded, as the case may be.

#### 93. Motions without notice

Every motion requires notice, except a motion —

- (a) by way of amendment to a motion permitted in terms of these Rules;
- (b) raising a point of order or a question of privilege;
- (c) for the postponement or discharge of, or giving precedence to, an order of the day;
- (d) referring a Bill to a committee;
- (e) by the Member in charge, proposing a motion on the report of a committee immediately after the debate on the report has been concluded;
- (f) specially excepted by these Rules; or
- (g) in regard to which notice is dispensed with by the unanimous concurrence of all the Members present.

#### **94. Notice of motion**

- (1) A notice of motion may not exceed 100 words, except in exceptional circumstances and with the approval of the Presiding Officer.
- (2) When giving notice of a motion a Member must —
  - (a) read it aloud and deliver at the Table a signed copy of the notice; or
  - (b) deliver to the Secretary a signed copy of the notice on any working day of the Legislature,  
for placing on the Order Paper.
- (3) If the Secretary ascertains from a reading of Hansard that the motion read in the House does not correspond with the copy provided to the Secretary under sub-rule (2), the motion falls away and may not be debated.
- (4) Except with the unanimous concurrence of all the Members present, a motion may not be moved on the day on which notice thereof is given.
- (5) A Member other than the Chief Whip, acting in that capacity, may not give notice of more than one motion on any given sitting day.

#### **95. Speaker may amend notices**

A notice of motion which offends against the practice or infringes these Rules may be amended or otherwise be dealt with as the Speaker may decide.

#### **96. Questions of privilege**

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

#### **97. Withdrawal of motion**

- (1) Where a debate on a motion has not commenced, the Member who gave notice of the motion may withdraw the motion.
- (2) Where a debate on a motion has commenced, the Member who gave notice of the motion may only withdraw the motion after the conclusion of his or her reply to the debate.

## CHAPTER 9

### DISCUSSION OF MATTERS OF PUBLIC IMPORTANCE

#### 98. Matter of public importance

- (1) A Member may request the Speaker to place a matter of public importance on the Order Paper for discussion.
- (2) The Member must make the request to the Speaker before the adjournment of the House on the previous sitting day.
- (3) Such a discussion may not exceed the time allocated for it by the Speaker.
- (4)
  - (a) Questions of privilege may not be discussed under this Rule.
  - (b) Matters already discussed by the House during the same session may not be discussed under this Rule.

#### 99. Matter of urgent public importance

- (1) A Member may on any sitting day request the Speaker in writing to allow a matter of urgent public importance to be discussed by the House.
- (2) The request must be made to the Speaker before 08:00 on days on which the House sits or at least one hour prior to a later time appointed for a sitting.
- (3) If the Speaker grants the request, the Presiding Officer must announce it in the House, and debate on the matter must stand over until the time appointed by the Presiding Officer.
- (4) Such a discussion may not exceed the time allocated for it by the Speaker.
- (5) (a) Questions of privilege may not be discussed under this Rule.

- (b) Matters already discussed by the House during the same session may not be discussed under this Rule.
- (6) The Rule of anticipation does not apply during such a debate.
- (7) Not more than one matter may be discussed on the same day under this Rule.

## CHAPTER 10

### STATEMENTS AND REPORTS BY THE PREMIER AND MEC's

#### 100. Executive statements

- (1) The Premier or an MEC may make a factual or policy statement relating to government policy, any executive action or other similar matter of which the Legislature should be informed.
- (2) The time allotted to the Premier or an MEC making an executive statement in terms of sub-rule (1) may not exceed 20 minutes, except with the consent of the Presiding Officer.
- (3) Whenever possible, a copy of an executive statement must be delivered to the leader of each party, or that leader's representative, at or before the time the statement is made in the Legislature.
- (4) After any executive statement has been made, the Premier or MEC concerned must, if applicable, table a compendium of background information.
- (5) Following any executive statement, and at a time arranged by the Chief Whip, after consultation with the whips, a Member or Members of each of the parties may comment on the executive statement for not more than three minutes per party, commencing with the official opposition and followed by other parties in the order of the size of their membership in the Legislature.
- (6) The Premier or an MEC who has made an executive statement in terms of sub-rule (1) may, after all parties have made their comments in terms of sub-rule (5), respond to the comments : Provided that such response may not exceed five minutes.

#### 101. Reports by the Executive

- (1) The Premier and MEC's must, at least twice annually, table a report in the House on their departmental activities.

- (2) A debate on a report tabled by the Premier or an MEC may not commence before at least one working day has elapsed –
  - (a) since the report was tabled; or
  - (b) if the Premier or an MEC has addressed the House on the report, since the address was delivered.

## CHAPTER 11

### QUESTIONS AND INTERPELLATIONS

#### *Part 1: General*

#### **102. Notice and placing of questions**

- (1) A Member may put questions for oral or written reply to the Premier, in his or her capacity as the executive authority of a provincial department or departments, or to an MEC relating to –
  - (a) public affairs with which the Premier or the MEC is officially connected;
  - (b) any matter of administration for which the Premier or MEC is responsible; or
  - (c) proceedings in the Legislature.
- (2) A Member must give notice of each question by delivering to the Secretary, for placement on the Question Paper, a signed copy of the question.
- (3) The Secretary must immediately forward a question received under sub-rule (2) to the relevant MEC or to the Premier, as the case may be.
- (4) The Secretary must –
  - (a) place the questions on the Question Paper in the order in which they are received; and
  - (b) maintain, on a weekly basis, a record of all replies to questions received by him or her.
- (5) Notwithstanding the provisions of Rule 105(6) and 111(5), the Speaker may –
  - (a) on the written request of the person to whom a question is addressed for oral or written reply, allow a reasonable extension of time for reply, if –

- (i) the question requires a lengthy reply, relates to a matter of a complex nature or requires extensive research; and
  - (ii) the person is unable to reply within the required time period; and
- (b) direct that the question stand over to the next Question day following the day on which the person is directed by the Speaker to furnish a reply to the Secretary.
- (6) No question may in terms of this chapter be addressed to any person other than the Premier or an MEC.
- (7) If a notice of a question offends against the practice or these Rules, the Speaker may either amend the question or return it to the Member who submitted it.
- (8) A Member may give notice or take charge of a question on behalf of an absent Member if the Member has been authorised to do so by the absent Member.

### **103. List of questions**

The Secretary must maintain a list of questions and answers and distribute the list to every Member on a weekly basis: Provided that once a reply to a question has been received and forwarded to Members, the question and answer must be removed from the list and not forwarded to Members again.

### **104. Content of questions**

Questions may not –

- (a) contain offensive language;
- (b) express a point of view;
- (c) contravene a rule of law;
- (d) seek only legal opinion;
- (e) ask for excessive documentation;
- (f) be based on hypotheses, arguments or deduction;

- (g) request comment on 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 words;
- (i) anticipate discussion of a matter appearing on the Order Paper;
- (j) refer to proceedings in committee meetings that were closed to the public until those proceedings are reported to the House; or
- (k) compromise the security of a Member.

### ***Part 2: Questions for oral reply***

#### **105. Notice and form of questions**

- (1) A Member who requires an oral reply to a question must write the words “for oral reply” on the copy of the notice of the question delivered to the Secretary in terms of Rule 102(2).
- (2) A question for oral reply may not contain more than five subdivisions.
- (3) If the Speaker is of the opinion that a question deals with a matter of a statistical nature, the Speaker may direct that the question be placed on the Question Paper for written reply.
- (4) Questions for oral reply are limited to two questions per Member per question day.
- (5) A question that is submitted for oral reply must be placed on the Question Paper for reply 9 working days prior to the Question day on which it is to be replied to or at any time earlier if the reply has been received by the Secretary.
- (6) The person to whom a question is addressed must furnish the Secretary with a copy of the oral reply to be given to a question on or before the day set down for oral reply, irrespective of whether the oral reply is given in the House on that day.
- (7) The Secretary must, on the day on which an oral reply is given in the House, furnish the Member who put the question with the copy referred to in sub-rule (6).

- (8) Questions that cannot be placed on the Question Paper for oral reply because of quotas may, at the instance of the Member who put the questions, either be placed on the Order Paper as questions for oral reply at the next Question day or for written reply.
- (9) The Speaker may permit two follow-up questions directly related to the original question for oral reply, and in accordance with the Rules, and must give preference to the Member who put the question.

#### **106. Questions to the Premier or MEC's**

- (1) If the Premier or an MEC is absent on a day when questions relating to his or her government portfolio are to be answered and those questions are not answered by another MEC, the Speaker may, if requested to do so by the Member in whose name a question to the Premier or that MEC stands, and after consultation with the Leader of Government Business, direct that questions to the Premier or that MEC be placed on the Question Paper for the first question session following that day.
- (2) Questions to the Premier or an MEC in terms of this Rule may not be scheduled for a day on which the Premier is scheduled to answer questions in the Legislature in terms of Rule 107.
- (3) The number of questions to the Premier or an MEC is limited to ten questions per question day in respect of any one provincial government department.

#### **107. Questions to Premier on matters of provincial importance**

- (1) Questions to the Premier in terms of this Rule must be –
  - (a) scheduled for a Question day at least three times per annum in accordance with the annual programme of the Legislature; and
  - (b) limited to matters of provincial importance.
- (2) Questions to the Premier must be submitted to the Secretary before 12:00 on the Monday, 16 days before the Question day on which they are to be answered.

- (3) The Secretary must submit the questions to the Speaker for approval.
- (4) The number of questions to the Premier under this Rule is limited to six questions per Question day.

**108. Times allotted and time limits**

- (1) The time allotted for questions is a maximum of one hour.
- (2) The reply to a question is limited to five minutes but if the Presiding Officer is of the opinion that the matter is of sufficient importance an additional two minutes may be allowed.
- (3) In respect of each question, two supplementary questions may be asked.
- (4) The Member in whose name a question stands or who takes charge of a question in terms of Rule 102(6) must be given the first opportunity to ask a supplementary question.
- (5) A supplementary question may not consist of more than one question.
- (6) The reply to a supplementary question is limited to two minutes.

**109. Unanswered questions**

- (1) Replies to questions for oral reply which have not been reached at the end of the time allotted on a Question day must be submitted in writing to the Secretary at the end of the question period for inclusion in Hansard.
- (2) If a reply to such a question is not received by the Secretary by 12:00 on the day following the Question day concerned -
  - (a) the question must be regarded as standing over; and
  - (b) in the case of a question that has stood over in terms of paragraph (a) or Rule 110(1) from a previous Question day, the Question Paper must be endorsed to the effect that the question has not been replied to.

- (3) Sub-rule (1) does not apply where questions to the Premier or an MEC -
  - (a) are put on the Question Paper for the following Question day in terms of a directive by the Speaker under Rule 106(1); or
  - (b) stand over in terms of a directive by the Speaker under Rule 102(5).

#### **110. Questions standing over**

- (1) A question for oral reply must stand over if the person to whom it is addressed -
  - (a) so requests, either in the House when the question comes up for reply, or by notice in writing to the Secretary before the start of question time on the day for which it is on the Question Paper; or
  - (b) is not present in the Legislature when the question comes up for reply and the question is not replied to by someone else on his or her behalf.
- (2) Subject to a directive by the Speaker under Rule 106(1), a question that stands over in terms of sub-rule (1) or Rule 109(2) must be –
  - (a) placed on the Question Paper for reply on the next Question day; and
  - (b) published at the end of the Question Paper.
- (3) Subject to a directive from the Speaker under Rule 102(5) –
  - (a) a question for oral reply may not stand over more than once; and
  - (b) if a question standing over is not answered, either orally or in terms of Rule 109(1), the Question Paper must be endorsed to the effect that the question has not been replied to.

- (4) A failure to answer a question standing over either orally or in terms of Rule 109(1) constitutes contempt as contemplated under Rule 245(2).
- (5) The restrictions imposed by Rules 105(4), 106(2) and 107(4) do not apply to questions standing over in terms of Rule 109(2)(a) or sub-rule (1).

### ***Part 3: Questions for written reply***

#### **111. Form and placing of questions**

- (1) A Member must give fourteen days' notice of a question for written reply before the question may be placed on the Question Paper, by submitting a legible copy of the question to the Secretary.
- (2) A question for written reply may not contain more than 15 subdivisions.
- (3) Questions for written reply are limited to three questions per Member per week.
- (4) The restriction imposed by sub-rule (3) does not apply to questions referred to in Rule 105(8).
- (5) The Premier or the MEC, as the case may be, must submit his or her written reply to the question to the Secretary within fourteen days of receipt of the question.
- (6) The Secretary must, immediately upon receipt of the reply, forward a copy to the Member who submitted the question.
- (7) The Secretary must place a question for written reply in respect of which no reply has been received under sub-rule (5) on the Order Paper for oral reply.
- (8) Rules 109 and 110 relating to questions for oral reply, apply with the necessary changes, to questions for written reply placed on the Question Paper for oral reply in terms of sub-rule (7).

## ***Part 4: Interpellations***

### **112. Notice**

- (1) Except with the prior consent of the Speaker -
  - (a) a Member wishing to make an Interpellation must briefly set out the matter to be debated in writing and submit it to the Chief Whip; and
  - (b) the Chief Whip, after consultation with the other whips, must -
    - (i) consider whether the Interpellation is to be placed on the Question Paper for debate; and
    - (ii) if so decided, give the Secretary and the Premier or relevant MEC, as the case may be, seven days' notice by delivering a copy of the Interpellation to him or her.
- (2) A Member may place an Interpellation on the Question Paper, or take charge of an Interpellation, on behalf of an absent Member, provided he or she has been authorised to do so by the absent Member.

### **113. Interpellation on a matter of urgent public importance**

The Speaker may, in consultation with the Chief Whip, who must have consulted with the whips, consent to waive the notice period under Rule 112(1)(b)(ii) in respect of an Interpellation on a matter of urgent public importance.

### **114. Time allocated**

- (1) The time allocated for Interpellations is at the discretion of the Speaker, but may not be more than thirty minutes.
- (2) An Interpellation must appear first on the Question Paper.

### **115. Procedure**

- (1) An Interpellation debate may not exceed fifteen minutes.

- (2) The Premier or MEC responsible, as the case may be, must reply to the Interpellation in a speech not exceeding three minutes.
- (3) The interpellant must respond to the reply in a speech not exceeding three minutes.
- (4) The Interpellant is entitled to an additional reply not exceeding one minute, at the close of the debate but prior to the reply of the Premier or the MEC, as the case may be.
- (5)
  - (a) Subject to paragraph (b), in the remainder of the allotted fifteen minutes, the Premier or the MEC and other Members may speak for up to two minutes at a time.
  - (b) In addition to his or her reply, the Premier or the MEC may only speak on one further occasion during the debate.

## CHAPTER 12

### COMMITTEE OF THE WHOLE HOUSE

**116. Speaker leaves chair without question put**

When the House has agreed to a motion setting up a Committee of the Whole House, or whenever an order of the day has been read for the House to go into or resume in Committee, the Speaker must leave the chair without the question being put.

**117. Procedure in Committee of the Whole House**

Except where otherwise provided, the rules of procedure that apply when the Speaker is in the chair, apply in a Committee of the Whole House.

**118. Interim reports**

A Committee of the Whole House may from time to time direct the Chairperson to report a resolution or resolutions or to make a special report to the House.

**119. Final report**

When a Committee of the Whole House has concluded the consideration of all matters referred to it, the Chairperson must report on those matters to the House, including any amendments to a Bill recommended by the Committee.

## **CHAPTER 13**

### **COMMITTEES**

#### ***Part 1: Introduction***

#### **120. Working days and hours**

- (1) The working days of the Legislature are weekdays, from Monday to Friday, except public holidays in terms of the Public Holidays Act, 1994 (Act No. 36 of 1994).
- (2) Subject to Rule 121 –
  - (a) committee work may be conducted on the working days of the Legislature; and
  - (b) the working hours on those days are from 09:00 to 16:00, or such earlier or later time as a committee may determine.

#### **121. Unusual meetings of committees and subcommittees**

A committee or subcommittee may not sit on a day which is not a working day, or at a venue beyond the seat of the Legislature, or during a recess of the Legislature, or at a time when the Legislature is sitting, except with the permission of the Speaker.

#### **122. List of committees**

- (1) The Legislature has the following committees –
  - (a) Management Committees consisting of -
    - (i) the Rules Committee established by Rule 148;
    - (ii) the Programme Committee established by Rule 152;
    - (iii) the Committee of Chairpersons established by Rule 162; and
    - (iv) the Whips' Forum established by Rule 166;
  - (b) Portfolio and Standing Committees consisting of –

- (i) the Portfolio Committees that must be established in terms of Rule 172;
  - (ii) the Standing Committee on Public Accounts established by Rule 176;
  - (iii) the Standing Committee on Private Member's Legislative Proposals and Petitions established by Rule 179;
  - (iv) the Disciplinary Committee established by Rule 156;
  - (v) the Standing Committee on Quality of Life and Status of Women, Children, Youth and Disabled Persons established by Rule 181; and
- (c) ad hoc committees that may be established in terms of Rule 183.
- (2) Other committees may be established but only by —
- (a) resolution of the House; or
  - (b) the Rules Committee.

### **123. Subcommittees**

- (1) A committee —
- (a) has such subcommittees as are established by these Rules; and
  - (b) may appoint a subcommittee when required to carry out a specific task or function.
- (2) Sub-rule (1) does not prevent a committee from assigning a task to one or more of its members for a purely internal or administrative purpose.

### ***Part 2: Rules applicable to committees generally***

### **124. Application of this Part**

The provisions of this Part apply to all committees established by or in terms of these Rules except in so far as any of these provisions is inconsistent with —

- (a) another provision of these Rules applicable in a specific case; or
- (b) a resolution of the House.

### **125. Composition**

- (1) All committees consist of 10 members.
- (2) Except where these Rules prescribe the composition of a committee, parties are entitled to be represented in all committees in substantially the same proportion as the proportion in which they are represented in the Legislature: Provided that the proportional representation of minority parties will be determined by their collective representation in the Legislature, and provided further that no minority party may appoint more than one member from that party as either a full or an alternate member on a committee.
- (3) Any dispute that arises between minority parties with regard to their proportional representation on committees must be referred to the Speaker for resolution.

### **126. Appointment procedures**

- (1) Unless these Rules provide otherwise, the parties appoint the full and alternate members of a committee and advise the Speaker accordingly.
- (2) The names of the members and the alternates appointed must be published in the Announcements, Tabling and Committee Reports (ATC) without delay.

### **127. Alternates**

- (1) A party may appoint three alternate members for each committee: Provided that minority parties are collectively entitled to three alternates for each committee.
- (2) An alternate acts as a member when the member for which the alternate was appointed —
  - (a) is absent; or
  - (b) has vacated office, until the vacancy is filled.

## **128. Substitutes**

- (1) If a member or an alternate member of any Standing or Portfolio Committee envisaged in Rule 122(1)(b)(i), (ii), (iii) and (v), is temporarily unavailable, then the relevant member's Party may appoint a substitute for the absent member or alternate member for the duration of the relevant Committee meeting, provided that –
  - (a) the appointment of the substitute is done in writing by the Leader or the Whip of the relevant Party, to the Speaker and the Chairperson of the Committee concerned; and
  - (b) a substitute may only replace a full member if there is no alternate member of that member's Party available.
- (2) The substitute appointed in terms of sub-rule (1) above is entitled to be paid for his/her attendance at the committee meeting in the place of the absent member, or alternate member in the case of minority parties.

## **129. Term of office**

- (1) Members of a committee and alternates for members are appointed until the term of the Legislature expires or the Legislature is dissolved, whichever occurs first.
- (2) A member of a committee ceases to be a member and an alternate for a member ceases to be an alternate if a whip of the party to which that member or alternate belongs, or in the case of minority parties not entitled to a whip, the whip appointed to those minority parties collectively, gives notice to the Speaker, in writing, that the member or alternate is to be replaced or withdrawn.

## **130. Chairpersons**

- (1) Subject to Rule 131 below, whenever the position of chairperson of a Committee is vacant, a new chairperson must be elected either by :
  - (a) resolution of the House; or
  - (b) decision of the Committee in terms of Rule 135.

- (2) Chairpersons may be replaced by a resolution of the House or decision of a Committee, provided that if a chairperson was appointed by resolution of the House then that Chairperson may only be replaced by resolution of the House.
- (3) If a chairperson of a Committee is appointed by a resolution of the House, that chairperson is deemed to have become a full member of that Committee upon appointment.
- (4) If a member of a minority party is appointed as a chairperson of a committee, necessitating the reappointment of the full and alternate members of minority parties, then minority parties must do so in terms of Rule 126 above.
- (5) The chairperson of a committee, subject to the other provisions of these Rules and the directions of the committee —
  - (a) presides at meetings of the committee;
  - (b) may act in any matter on behalf of and in the best interest of the committee when it is not practical to arrange a meeting of the committee to discuss that matter, if that matter concerns —
    - (i) a request by a person to give evidence or make oral representations to the committee;
    - (ii) any other request to the committee; and
    - (iii) the initiation of any steps or decisions necessary for the committee to perform its functions or exercise its powers; and
  - (c) performs the functions, tasks and duties and exercises the powers that the committee, resolutions of the House and legislation may assign to the chairperson;
- (6) The chairperson must report to the committee on any steps taken in terms of sub-rule (5)(b).

### **131. Acting chairpersons**

- (1) Except where these Rules provide otherwise, the committee may elect another of its members as acting chairperson, if the chairperson of a committee is absent or unable to perform the functions of chairperson or where a vacancy exists.

- (2) An acting chairperson performs the functions and may exercise the powers of the chairperson.

### **132. First meetings**

The first meeting of a committee must be convened by the Secretary within three weeks of the appointment of the committee members.

### **133. Meetings**

- (1) Committees meet as determined in accordance with these Rules and the decisions, directives and guidelines of the Programme Committee.
- (2) A meeting of a committee may be called —
  - (a) by the chairperson of the committee;
  - (b) by resolution of the House; or
  - (c) at the directive of the Speaker if he or she deems it necessary.

### **134. Quorum**

- (1) A majority of the members of a committee constitutes a quorum.
- (2) A committee may decide a question only if a quorum is present.
- (3) When a committee has to decide a question and a quorum is not present, the chairperson may either suspend business until a quorum is present, or adjourn the meeting.

### **135. Decisions**

- (1) All questions before a committee are decided by a majority of the votes cast.
- (2) All votes are cast per member.
- (3) The member presiding at a meeting of the committee has in addition to his or her vote as a member of the committee, a deciding vote whenever there is an equal number of votes on either side of a question.

### **136. Interruption, suspension or adjournment**

The chairperson of a committee may, with the consent of the committee, interrupt, suspend or adjourn the meeting, and may change the date for the resumption of business.

### **137. General powers**

For the purposes of performing its functions a committee may, subject to the Constitution, legislation, the other provisions of these Rules and resolutions of the House —

- (a) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;
- (b) initiate and introduce legislation;
- (c) consider Bills referred to it;
- (d) approve or reject Bills and amend bills other than money Bills, referred to it;
- (e) receive petitions, representations or submissions from interested persons or institutions;
- (f) conduct public hearings;
- (g) permit oral evidence on petitions, representations, submissions and any other matter before the committee;
- (h) investigate and report on matters referred to it or on its own initiative;
- (i) determine its own procedure;
- (j) subject to Rule 121, meet at a venue determined by it, which may be a venue beyond the seat of the Legislature;
- (k) establish subcommittees; and
- (l) exercise any other powers assigned to it by the Constitution, legislation, the other provisions of these Rules or resolutions of the House.

### **138. Reporting**

- (1) A committee must report to the House –

- (a) on a matter referred to the committee —
    - (i) when the House is to decide the matter in terms of these Rules, a resolution of the House or legislation;
    - (ii) if the committee has taken a decision on the matter, whether or not the House is to decide the matter as contemplated in sub-paragraph (i); or
    - (iii) if the committee is unable to decide a matter referred to it for a report;
  - (b) where these Rules so require; and
  - (c) at least annually on its activities.
- (2) Every report of a committee must reflect the agreement reached in the committee. In the absence of unanimous agreement, the report must reflect the decision of the committee and dissenting views or votes. Dissenting views or votes must be contained in a minority report that must accompany the committee report. The dissenting views or vote of a minority party that does not have a full member on a committee, can be included in the minority report of that committee.
- (3) A committee may report to the House on any matter referred to it other than a matter mentioned in sub-rule (1)(a)(i), (ii) or (iii), or on its own initiative.
- (4) A report of a committee must be submitted to the House by the chairperson or another member of the committee designated by the committee.
- (5) A committee may request that the chairperson or another member of the committee designated by the committee introduce or explain the report in the House.
- (6) If a committee reports on a matter other than a matter mentioned in sub-rule (1)(a) and is of the view that its report, or a specific matter mentioned in the report, should be considered by the House, it may make a request to that effect in the report.

### ***Part 3: Rules applicable to subcommittees generally***

#### **139. Application of this Part**

The provisions of this Part apply to all subcommittees established by or in terms of these Rules except in so far as any of these provisions is inconsistent with -

- (a) another provision of these Rules applicable in a specific case;  
or
- (b) a resolution of the House.

#### **140. General rules**

- (1) A subcommittee established by or in terms of these Rules -
  - (a) is accountable to its parent committee;
  - (b) must carry out its tasks and responsibilities within a policy framework determined by its parent committee and in accordance with these Rules and any directives, guidelines or regulations issued by the parent committee;
  - (c) may consult any committee or subcommittee of the Legislature;
  - (d) may determine its own procedure, subject to these Rules, any directives of the parent committee or resolutions of the House;
  - (e) may only make recommendations to its parent committee;  
and
  - (f) must report to its parent committee regularly or when requested by the parent committee.
- (2) The parent committee of a subcommittee -
  - (a) must appoint the members of the subcommittee from members of the Legislature but, except where these Rules provide otherwise, the members of the subcommittee need not be members of the parent committee;
  - (b) may, if appropriate, determine a period within which the subcommittee must complete its task;

- (c) must determine the extent, nature and form of the subcommittee's reports to the committee, and time limits for the submission of a report;
- (d) may delegate any of its powers to the subcommittee necessary for the subcommittee to perform its task; and
- (e) may instruct the subcommittee to perform any of its functions.

#### **141. Term of office**

- (1) The members of a subcommittee established by a provision of these Rules are appointed until the task of the subcommittee has been completed, or the Legislature's term expires or the Legislature is dissolved, whichever occurs first.
- (2) A subcommittee established by a committee in terms of a provision of these Rules ceases to exist -
  - (a) when it has completed the task for which it was established; or
  - (b) if it is dissolved by the parent committee earlier.
- (3) A member of a subcommittee ceases to be a member if a whip of the party to which that member belongs, or in the case of minority parties not entitled to a whip, the whip appointed to such parties collectively, gives notice to the Speaker, in writing, that the member is to be replaced or withdrawn.

#### **142. Convenor**

- (1) The parent committee of a subcommittee must designate a member of the subcommittee as the convenor of the subcommittee.
- (2) The convenor of a subcommittee, subject to the other provisions of these Rules and the directions of the parent committee -
  - (a) presides at meetings of the subcommittee;
  - (b) may act in any matter on behalf of and in the best interest of the subcommittee when it is not practical to arrange a meeting of the subcommittee to discuss that matter, if that matter concerns -

- (i) a request by a person to give evidence or make oral representations to the subcommittee;
  - (ii) any other request to the subcommittee; and
  - (iii) the initiation of any steps or decisions necessary for the subcommittee to perform its functions or exercise its powers; and
- (c) performs the functions, tasks and duties and exercises the powers that the parent committee and resolutions of the House may assign to the convenor.

#### **143. Meetings**

- (1) Subcommittees meet whenever necessary and as determined in accordance with these Rules and the decisions, directives and guidelines of the parent committee.
- (2) A meeting of a subcommittee may be called in terms of sub-rule (1) by -
  - (a) the convenor of the subcommittee;
  - (b) the parent committee; or
  - (c) the chairperson of the parent committee.

#### **144. Matters relating to quorum**

A subcommittee may proceed with business irrespective of the number of members present.

#### **145. Decisions**

A question before a subcommittee is decided by a majority of the votes cast.

#### **146. General powers**

A subcommittee has the powers listed in Rule 137 only when assigned to it in terms of these Rules or by a resolution of the House or by the parent committee.

**Part 4: Rules applicable to both committees and  
subcommittees generally**

**147. Attendance of meetings by other members**

A Member of the Legislature who is not a member or alternate member of a committee, or a member of a subcommittee, may attend and participate in a meeting of the committee or subcommittee, but may not vote.

**Part 5: Rules Committee**

**148. Establishment**

There is a Rules Committee.

**149. Composition**

- (1) The Rules Committee consists of -
  - (a) the Speaker;
  - (b) the Deputy Speaker;
  - (c) the Chairperson of Committees;
  - (d) the Chief Whip;
  - (e) six whips of parties in order that the overall party representation on the Rules Committee is in substantially the same proportion as the proportion in which they are represented in the Legislature;
  - (f) the Leader of Government Business, *ex officio*; and
  - (g) the Deputy Chairperson of Committees, *ex officio*.
- (2) Rule 127 does not apply to this Committee.

**150. Chairperson**

- (1) The Speaker is the chairperson of the Rules Committee.
- (2) If the Speaker is not available the Deputy Speaker performs the functions of the Speaker.

## 151. Functions and powers

- (1) The Rules Committee -
  - (a) must develop, formulate and adopt policy concerning the exclusive business of the Legislature in respect of -
    - (i) the management, administration and functioning of the Legislature;
    - (ii) the financial management and policy of the Legislature, including the sources of funding, the budget, income and expenditure of the Legislature;
    - (iii) the proceedings, procedures, Rules, orders and practices concerning the business of the Legislature;  
or
    - (iv) the provision of facilities and other support for Members of the Legislature;
  - (b) must make recommendations to the Legislature concerning the annual budget of the Legislature;
  - (c) must monitor and oversee the implementation of policy on all matters referred to in paragraph (a);
  - (d) may lay down guidelines, issue directives, and formulate regulations regarding any aspect referred to in this Rule;
  - (e) may appoint committees or subcommittees to assist it with the performance of any of its functions or the exercise of any of its powers;
  - (f) may recommend to the House rules and orders concerning the business of the Legislature; and
  - (g) must perform any other functions assigned to it by legislation, the other provisions of these Rules or resolutions of the House.
- (2) The Committee may deal with a matter falling within its functions and powers-
  - (a) on its own initiative; or
  - (b) when referred to it for consideration and report by -
    - (i) the House; or
    - (ii) the Speaker.

## ***Part 6: Programme Committee***

### **152. Establishment**

There is a Programme Committee.

### **153. Composition**

- (1) The Programme Committee consists of -
  - (a) the Speaker;
  - (b) the Deputy Speaker;
  - (c) the Chairperson of Committees;
  - (d) the Chief Whip;
  - (e) six whips of parties in order that the overall party representation on the Programme Committee is in substantially the same proportion as the proportion in which they are represented in the Legislature;
  - (f) the Leader of Government Business, *ex officio*; and
  - (g) the Deputy Chairperson of Committees, *ex officio*.
- (2) Rule 127 does not apply to this Committee.

### **154. Chairperson**

- (1) The Speaker is the chairperson of the Programme Committee.
- (2) If the Speaker is not available the Deputy Speaker presides at a meeting of the Committee.

### **155. Functions and powers**

The Programme Committee -

- (a) must prepare and, if necessary, from time to time, adjust the annual programme of the Legislature;
- (b) must monitor and oversee the implementation of the annual programme of the Legislature, including the legislative programme;

- (c) must implement the Rules regarding the scheduling or programming of the business of the Legislature, and the functioning of Legislature committees and subcommittees; and
- (d) may take decisions and issue directives and guidelines to prioritise or postpone any business of the Legislature, excluding business on the Order Paper.

### ***Part 7: Disciplinary Committee***

#### **156. Establishment**

There is a Disciplinary Committee.

#### **157. Composition**

- (1) The Disciplinary Committee consists of -
  - (a) the Deputy Speaker;
  - (b) the Chairperson of Committees;
  - (c) the Chief Whip;
  - (d) seven whips of parties in order that the overall party representation on the Disciplinary Committee is in substantially the same proportion as the proportion in which they are represented in the Legislature; and
  - (e) the Deputy Chairperson of Committees, *ex officio*.
- (2) Rule 127 does not apply to this Committee.

#### **158. Chairperson**

- (1) The Deputy Speaker is the chairperson of the Disciplinary Committee.
- (2) If the Deputy Speaker is not available, a member of the Committee designated by the Speaker performs the functions of the Deputy Speaker as chairperson of the Committee.

#### **159. Meetings**

The Deputy Speaker convenes a meeting of the Disciplinary Committee.

## 160. Functions and powers

- (1) The Disciplinary Committee must –
  - (a) in relation to the Code of Conduct in Schedule 1 –
    - (i) implement the Code;
    - (ii) develop standards of ethical conduct for Members;
    - (iii) serve as an advisory and consultative body, both generally and to Members, concerning the implementation and interpretation of the Code;
    - (iv) regularly review the Code and make recommendations for its amendment;
    - (v) perform the other functions and exercise the other powers reasonably assigned to the Committee in the Code and in terms of resolutions adopted in the House; and
    - (vi) report to the House annually on the operation and effectiveness of the Code;
  - (b) carry out those investigations relating to the Code of Conduct as set out in Item 20 of the Code;
  - (c) at the Speaker's request, or on referral by the Speaker in terms of Rule 244(1)(b), and within 7 days of such request or referral, or as soon as possible thereafter, investigate any alleged infringement or conduct by a Member of the Legislature that -
    - (i) involves a breach of the powers, privileges or immunities conferred on the Legislature or its Members by the Constitution or by the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004;
    - (ii) constitutes contempt under the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 or under these Rules;

- (iii) involves a breach of the Code of Conduct contained in Schedule 1; or
    - (iv) any conduct that brings the Legislature into disrepute, and
  - (d) on completion of an investigation, table a report on its findings in the House, including its recommendations for appropriate disciplinary action, as contemplated under section 12(5) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004.
- (2) Every member of the Disciplinary Committee must swear or affirm, before the Speaker, to comply with the requirements of confidentiality set out in the Code of Conduct in Schedule 1.
  - (3) Meetings of the Disciplinary Committee which affect a specific Member and which the Committee regards as confidential, or which concerns a registrable interest recorded in the confidential part of the Register, must be held in closed session.
  - (4) A member of the Committee who –
    - (a) has made a complaint of any alleged infringement or conduct referred to in sub-rule (1)(b) or (c); or
    - (b) is the subject of an investigation or enquiry referred to in sub-rule (1)(b) or (c), must recuse himself or herself from the deliberations by the Committee concerning such inquiry or investigation.
  - (5) When conducting an investigation, the Committee must adhere to the rules of natural justice.
  - (6) An alleged offender has a right to legal assistance during the investigation, at his or her own expense.

#### **161. Decision of the House**

- (1) The House must -
  - (a) consider the report concerning the findings and recommendations of the Committee referred to in Rule 160(1)(d);

- (b) make a finding on the matter or refer the matter back to the Committee for re-consideration within a given period of time and, after consideration of the Committee's amended or further report, if any, make a finding; and
  - (c) where the House finds a Member guilty of contempt, impose an appropriate penalty or penalties, as contemplated under section 12(5) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004.
- (2) The House may instead of, or in addition to, the penalty referred to in sub-rule (1)(c) refer the matter to the National Director of Public Prosecutions as contemplated under section 12(6) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004.
- (3) The Speaker must implement the decision of the House promptly.

### ***Part 8: Committee of Chairpersons***

#### **162. Establishment**

There is a Committee of Chairpersons.

#### **163. Composition**

- (1) The Committee of Chairpersons consists of -
- (a) the Chairperson of Committees;
  - (b) the Deputy Chairperson of Committees; and
  - (c) the chairperson of every Standing and Portfolio Committee referred to in Rule 122(1)(b).
- (2) The Committee may co-opt the chairperson of an *ad hoc* committee as a member of the Committee.
- (3) Rule 127 does not apply to this Committee.

#### **164. Chairperson**

- (1) The Chairperson of Committees presides at meetings of the Committee of Chairpersons.
- (2) If the Chairperson of Committees is not available the Deputy Chairperson of Committees presides at a meeting of the Committee.

#### **165. Functions and powers**

- (1) The Committee of Chairpersons must -
  - (a) prepare guidelines to enable chairpersons of committees to effectively fulfil their role;
  - (b) conduct ongoing assessment of the performance of chairpersons of committees and of committees, and training in areas of underperformance; and
  - (c) discuss the co-ordination, supervision and monitoring of the activities and functioning of the various *ad hoc*, Portfolio and Standing Committees by the Chairperson of Committees.
- (2) The Committee of Chairpersons may make recommendations to the Rules Committee or the Programme Committee regarding any matter affecting the scheduling or functioning of any committee or subcommittee of the Legislature or other forum of the Legislature.

### ***Part 9: Whips' Forum***

#### **166. Establishment**

There is a Whips' Forum.

#### **167. Composition**

- (1) The Whips' Forum consists of -
  - (a) the Chief Whip; and
  - (b) all the other whips of the Legislature.
- (2) Rule 127 does not apply to this Committee.

## **168. Chairperson**

- (1) The Chief Whip is the chairperson of the Whips' Forum.
- (2) If the Chief Whip is not available the Deputy Chief Whip of the ruling party performs the functions of the Chief Whip.

## **169. Meetings**

- (1) The Chief Whip may call a meeting of the Forum on his or her own initiative or upon request by another member of the Forum, but must call a meeting if the Speaker so requests.
- (2) The Forum meets in closed session unless it decides otherwise.

## **170. Functions and powers**

The Whips' Forum acts as a forum -

- (a) for the discussion and co-ordination of matters for which the whips are responsible; and
- (b) which the Speaker may consult when appropriate.

## **171. Role of the Chief Whip**

The Chief Whip –

- (a) must, after consultation with the other whips, arrange the business of the Legislature on the Order Paper, subject to the Rules and the directives of the Programme Committee and, after consultation with the Leader of Government Business when any government business is prioritised;
- (b) is responsible for political consultation and liaison among the parties in the Legislature;
- (c) must ensure the effective development and implementation of the legislative programme;
- (d) is responsible for liaison with the Executive, through the Leader of Government Business;
- (e) must arrange the number and order of Members who wish to speak in debate, and, in consultation with other whips, arrange

for the approximate time span of each debate and divide the total time available among the respective parties: Provided that all parties represented in the Legislature must have an opportunity to participate in proceedings in a manner consistent with democracy;

- (f) is responsible for the overall co-ordination of all whippy activities;
- (g) must establish and maintain good working relations with the other whips of other parties on the basis of mutual trust; and
- (h) must, in consultation with the Speaker and after consultation with the other whips, allocate seating places to Members in the Chamber.

### ***Part 10: Portfolio Committees***

#### **172. Establishment**

The House may by resolution -

- (a) establish or disestablish a range of Portfolio Committees;
- (b) assign a portfolio, or part thereof, of government affairs to each committee; and
- (c) determine a name for each committee.

#### **173. Functions**

(1) A Portfolio Committee -

- (a) must deal with Bills and other matters falling within its portfolio as are referred to it in terms of the Constitution, legislation, these Rules or by resolution of the House;
- (b) must maintain oversight of -
  - (i) the exercise of provincial executive authority falling within its portfolio, including the implementation of legislation;
  - (ii) any provincial executive organ of state falling within its portfolio; and

- (iii) any other body or institution in respect of which oversight was assigned to it;
  - (c) may monitor, investigate, enquire into and make recommendations concerning any such provincial executive organ of state or other body or institution, including the legislative programme, budget, rationalisation, restructuring, functioning, organisation, structure, staff and policies of such executive organ of state, institution or other body;
  - (d) may consult and liaise with any executive organ of state, institution or other body within the national, provincial or local sphere of government; and
  - (e) must perform any other functions, tasks or duties assigned to it in terms of the Constitution, legislation, these Rules or resolutions of the House, including functions, tasks and duties concerning the oversight or supervision of any provincial executive organ of state, other body or institution.
- (2) A Portfolio Committee must consider Bills and amendments to Bills referred to it in accordance with Chapter 14 of these Rules.

#### **174. Conducting oversight**

- (1) In maintaining oversight as contemplated under Rule 173(1)(b), a Portfolio Committee –
  - (a) in relation to a department or provincial organ of state falling within its portfolio -
    - (i) must review the departmental vote submitted to the Legislature in terms of section 27 of the Public Finance Management Act, 1999;
    - (ii) must review the annual report submitted to the Legislature in terms of section 65 of the Public Finance Management Act, 1999;
    - (iii) must consider quarterly reports from the department; and
    - (iv) may –

- (aa) hold hearings at which the MEC or Head of Department or Head of the provincial organ of state is asked to explain matters in any report that are of concern to the committee;
  - (bb) visit projects and facilities and assess service delivery;
  - (cc) invite members of the public to make submissions on the work of the department or provincial organ of state; and
  - (dd) consult with the Standing Committee on Public Accounts on matters relating to the financial statements of the department or organ of state;
- (b) must deal with issues referred to it by the Standing Committee on Private Members' Legislative Proposals and Petitions; and
  - (c) may deal with any other matter that concerns the effective functioning of the provincial government and other provincial organs of state.
- (2) Every Portfolio Committee must report to the House –
- (a) following its review of the relevant department's annual report, and any hearings and oversight visits related to the review, on the department's activities and the committee's assessment of them;
  - (b) on any oversight visits undertaken; and
  - (c) annually on all the steps taken to facilitate public participation when conducting oversight.
- (3) Oversight reports must include an assessment of the degree to which the strategic objectives of the relevant department are being met and any recommendations the Committee may wish to make.
- (4) A Portfolio Committee's annual report to the Legislature must include a report on the way that it has fulfilled its oversight responsibility.

## **175. Subcommittees**

A Portfolio Committee may appoint a subcommittee, but only from amongst its members.

### ***Part 11: Standing Committee on Public Accounts***

## **176. Establishment**

There is a Standing Committee on Public Accounts.

## **177. Functions and powers**

- (1) The Standing Committee on Public Accounts -
  - (a) must consider -
    - (i) the financial statements of all provincial executive organs of state when those statements are submitted to the Legislature;
    - (ii) any audit reports issued on those statements;
    - (iii) any reports issued by the Auditor-General on the affairs of any executive organ of state or other public body; and
    - (iv) any other financial statements or reports referred to the Committee in terms of these Rules;
  - (b) may report on any of those financial statements or reports to the Legislature;
  - (c) may initiate any investigation in its area of competence; and
  - (d) must perform any other functions, tasks or duties assigned to it in terms of the Constitution, legislation, these Rules or resolutions of the House, including functions, tasks and duties concerning the parliamentary financial oversight or supervision of provincial executive organs of state or other public bodies.
- (2) The Speaker must refer the financial statements and reports mentioned in sub-rule (1)(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 any provincial executive organ of state, it must take into account the previous statements of, and reports on, the organ of state, and report on the degree to which shortcomings have been rectified.

#### **178. Notice to Portfolio Committee**

When a matter falling within a Portfolio Committee's competence is to be considered by the Standing Committee on Public Accounts, the chairperson of the Committee, after consultation with the chairperson of the Portfolio Committee, must give notice to the Portfolio Committee when that matter will be considered by the Committee.

### ***Part 12: Standing Committee on Private Members' Legislative Proposals and Petitions***

#### **179. Establishment**

There is a Standing Committee on Private Members' Legislative Proposals and Petitions.

#### **180. Functions and powers**

The Standing Committee on Private Members' Legislative Proposals and Petitions must consider and make recommendations to the House on -

- (a) all legislative proposals made by Members of the Legislature intending to introduce Bills and referred to the Committee in terms of Part 2 of Chapter 14 of these Rules; and
- (b) all petitions referred to the Committee by the Speaker in terms of the Petitions Act, as contemplated in Part 2 of Chapter 4 of these Rules.

**Part 13: Standing Committee on Quality of Life and Status of  
Women, Children, Youth and Disabled Persons**

**181. Establishment**

There is a Standing Committee on Quality of Life and Status of Women, Children, Youth and Disabled Persons.

**182. Functions and powers**

The Standing Committee on Quality of Life and Status of Women, Children, Youth and Disabled Persons –

- (a) must monitor and evaluate progress with regard to the improvement in the quality of life and status of women, children, youth and disabled persons in the Province, with regard to the implementation of international instruments and applicable legislation;
- (b) may consider legislation emanating provincially or from the National Council of Provinces, with particular regard to its impact on women, children, youth and disabled persons in the province;
- (c) may make recommendations to the House or a relevant committee, on any matter arising from paragraph (a) or (b); and
- (d) may consider any other matter it may deem necessary.

**Part 14: Ad hoc committees**

**183. Establishment**

- (1) An *ad hoc* committee may be established by resolution of the House.
- (2) An *ad hoc* committee may only be established for the performance of a specific task.
- (3) The resolution of the House establishing an *ad hoc* committee must -

- (a) specify the task assigned to the committee; and
  - (b) set time frames for -
    - (i) the completion of any steps in performing the task;  
and
    - (ii) the completion of the task.
- (4) An *ad hoc* committee has those of the powers listed in Rule 137 only as are specified in the resolution or decision establishing the committee.
- (5) An *ad hoc* committee ceases to exist -
- (a) when it has completed the task for which it was established and has submitted its report to the House;
  - (b) if it is dissolved by the House earlier; or
  - (c) if it has not completed its task by the date set for the completion of the task.

## **CHAPTER 14**

### **PROVINCIAL BILLS**

#### ***Part 1: Introduction***

#### **184. Introduction of Bills in the Legislature**

Any Bill falling within the legislative powers of the Legislature as envisaged in section 104(1) of the Constitution, may be introduced in the Legislature in terms of section 119 of the Constitution.

#### **185. Initiation of legislation by Committee or Member**

A Committee or a Member may initiate legislation in terms of these Rules.

#### **186. Initiation of legislation by provincial executive**

- (1) The Premier or an MEC may prepare and initiate provincial legislation.
- (2) Such provincial legislation may be introduced in the House by the Premier or MEC concerned in terms of section 119 of the Constitution, but only the MEC for Finance may introduce a money Bill.

#### ***Part 2: Steps prior to introduction***

#### ***Bills initiated by Members of the Legislature in individual capacity***

#### **187. Submission of legislative proposals to Speaker**

- (1) A Member of the Legislature intending to introduce a Bill in the House in an individual capacity (other than as an MEC) must, for the purpose of obtaining the permission of the House to proceed with the proposal, as contemplated under Rule 189(3)(a), submit to the Speaker a memorandum which -
  - (a) sets out particulars of the proposed legislation;
  - (b) explains the objects of the proposed legislation; and

- (c) states whether the proposed legislation will have financial implications for the Province and, if so, whether those implications may be a determining factor when the proposed legislation is considered.
- (2) The Speaker must table the Member's memorandum in the House.

### **188. Referral of proposals to Committee**

- (1) The Speaker must refer the Member's memorandum to the Standing Committee on Private Members' Legislative Proposals and Petitions.
- (2) The Committee must-
  - (a) consult the Portfolio Committee within whose portfolio the proposal falls;
  - (b) consider the provincial legislative competency in respect of the subject matter of the legislative proposal; and
  - (c) decide on the constitutionality of the legislative proposal.
- (3) If the Committee, after consultation with the relevant Portfolio Committee, is of the view that the Member's proposal warrants further investigation but that it may have financial implications for the Province that may be significant enough to affect its desirability, the Committee must request the appropriate Portfolio Committee to report on the financial implications of the proposal.
- (4) After considering the Member's memorandum and the Portfolio Committee's report, if there is such a report, the Committee must recommend that permission either be -
  - (a) given to the Member to proceed with the proposed legislation; or
  - (b) refused.
- (5) If the Committee recommends that the proposed legislation be proceeded with, it may -
  - (a) express itself on the desirability of the principle of the proposal;

- (b) recommend that the House approve the Member's proposal in principle; or
- (c) recommend that permission be given subject to conditions.

**189. Consideration of legislative proposal by House**

- (1) The Standing Committee on Private Members' Legislative Proposals and Petitions must table in the House the Member's memorandum and the Committee's recommendation, including any views of a Portfolio Committee on the financial or other implications of the proposal.
- (2) The Speaker must place the Committee's report together with the Member's proposal on the Order Paper for a decision.
- (3) The House may -
  - (a) give permission that the proposal be proceeded with;
  - (b) refer the proposal back to the Committee or the Portfolio Committee concerned for a further report; or
  - (c) refuse permission.
- (4) If the House gives permission that the proposal be proceeded with, it may, if it so chooses -
  - (a) express itself on the desirability of the proposal; or
  - (b) subject its permission to conditions.

**190. Preparation of Bill**

- (1) If the House gives permission that the proposal be proceeded with, the Member concerned must prepare a draft Bill and a memorandum setting out the objects of the Bill, in a form and style that complies with any prescribed requirements.
- (2) The Member may request the assistance of a staff member of the Legislature in fulfilling his or her obligations under sub-rule (1).

## ***Bills initiated by a Committee***

### **191. Submission of legislative proposals to Speaker**

- (1) A Committee of the Legislature intending to introduce a Bill in the House must, for the purpose of obtaining the permission of the House to proceed with the proposal, as contemplated under sub-rule (3)(a), table in the House a memorandum which -
  - (a) sets out particulars of the proposed legislation;
  - (b) explains the objects of the proposed legislation; and
  - (c) states whether the proposed legislation will have financial implications for the province and, if so, gives an account of those implications.
- (2) The Speaker must place the proposal on the Order Paper for decision.
- (3) The House may -
  - (a) give permission that the proposal be proceeded with;
  - (b) refer the proposal back to the Committee for reconsideration; or
  - (c) refuse permission.
- (4) If the House gives permission that the proposal be proceeded with, it may, if it so chooses -
  - (a) express itself on the desirability of the proposal; or
  - (b) subject its permission to conditions.

### **192. Preparation of draft Bill**

- (1) If the House gives permission that the proposal be proceeded with, the Committee may prepare a Bill, and an explanatory memorandum setting out the objects of the Bill.
- (2) Before introducing the Bill in accordance with Rule 193, the Committee must facilitate public involvement in the Bill and ensure that interested parties and stakeholders are consulted or have an opportunity to make submissions on the Bill.

- (3) Before introducing the Bill, the Committee must prepare a report as referred to in Rule 138(2).
- (4) The report referred to in sub-rule (3) must accompany the Bill when introduced.

### ***Part 3: Introduction of Bills and first and second readings***

#### ***Introduction of Bills***

#### **193. Introduction of Bills in the House**

- (1) Subject to Rule 208(1), the Premier, an MEC, a Member or a Committee may introduce a Bill, other than a money Bill to which the special procedure referred to in Rule 208(2) applies, by submitting to the Speaker –
  - (a) the Bill, as certified by a State Law Advisor attached to the Office of the Premier or, in the case of a Bill introduced by a Committee or a Member other than an MEC, as certified by a legal advisor of the Legislature, as contemplated in paragraph (d), in English, isiZulu and Afrikaans;
  - (b) the explanatory memorandum referred to in sub-rule (2);
  - (c) a certificate from the Provincial Treasury commenting on the financial implications of the Bill for the Province; and
  - (d) a certificate from the State Law Advisor attached to the Office of the Premier or, in the case of a Bill introduced by a Committee or a Member other than an MEC, a certificate from a legal advisor of the Legislature, stating that the Bill has been legally edited and found to be in accordance with the law.
- (2) The explanatory memorandum referred to in sub-rule (1)(b) must –
  - (a) explain the objects of, and policy underlying, the Bill;
  - (b) give a clause- by- clause explanation of the content of the Bill;
  - (c) give an account of the financial implications of the Bill for the Province;

- (d) contain a list of all persons and institutions that have been consulted in preparing the Bill;
  - (e) be drafted in simple and clear language in English, isiZulu and Afrikaans; and
  - (f) include any other information considered necessary by the Member in charge of the Bill to enable Members to understand the Bill.
- (3) A Bill introduced by an MEC or the Premier must contain on its cover page a reference to that MEC or the Premier as the person introducing the Bill.
  - (4) A Bill introduced by a Member of the Legislature or Committee with the permission of the House in terms of Rule 189(3)(a) or 191(3)(a) must -
    - (a) be accompanied by a statement to that effect; and
    - (b) contain on its cover page a reference to the name of the Member or the Committee as the Member or Committee introducing the Bill.
  - (5) Bills initiated by a Member or a Committee may not be introduced when the Legislature is in recess.

#### **194. Publication of Bills**

- (1) The Secretary must, on introduction of a Bill as contemplated under Rule 193, publish in the Provincial Gazette –
  - (a) the Bill, as introduced, in English, isiZulu and Afrikaans;
  - (b) the explanatory memorandum submitted together with the Bill; and
  - (c) a notice inviting interested persons and institutions to submit written representations on the Bill to the Secretary within a specified period, but the closing date must be at least 15 working days from the date of publication in the Provincial Gazette.
- (2) The Secretary must, on expiry of the date referred to in sub-rule (1)(c) -

- (a) forward all representations received to the Committee to which the Bill is referred under Rule 196(5) or 197(1); or
- (b) where no representations were received, advise the Committee accordingly.

### ***First and Second Reading procedures***

#### **195. Applicability of First and Second Reading procedures**

All Bills introduced in the House have a First Reading and a Second Reading after their introduction.

#### **196. Procedure when Legislature not in recess**

- (1) If the Legislature is not in recess when a Bill is introduced in the House -
  - (a) the person in charge of the Bill must -
    - (i) submit to the Secretary a notice of First Reading of the Bill; and
    - (ii) indicate in the notice whether he or she wishes to give an introductory speech; and
  - (b) the Speaker must table the Bill and the explanatory memorandum in the House.
- (2) (a) Once notice has been given in terms of sub-rule (1)(a)(i), the Bill must be placed on the Order Paper for the First Reading.
  - (b) No amendment to a Bill is allowed on the First Reading of the Bill.
- (3) (a) If the person in charge of a Bill has indicated in terms of sub-rule (1)(a)(ii) that he or she wishes to give an introductory speech -
  - (i) that person may, at the First Reading, in a speech not exceeding 15 minutes, explain the background to the Bill and the reasons for and the objects of the provisions of the Bill; and

- (ii) one Member of each party in the Legislature may make a statement on the Bill on behalf of the party in a speech not exceeding three minutes.
- (b) Once the speeches have been made the Bill is regarded as having been read a first time.
- (4) If the person in charge of a Bill has not indicated in terms of sub-rule (1)(a)(ii) that he or she wishes to give an introductory speech, the Bill as tabled is regarded as having been read a first time.
- (5) When a Bill has been read a first time the Speaker must refer the Bill and its annexures -
  - (a) to the Portfolio Committee under which the subject of the Bill falls; or
  - (b) by resolution of the House to any other Committee of the Legislature.
- (6) The Committee to which the Bill is referred must deal with the Bill in accordance with Rule 198.
- (7) Sub-rule (5) does not apply to a Bill initiated and introduced by a Committee of the Legislature. Instead, the Bill must be placed directly on the Order Paper for the Second Reading.

#### **197. Procedure during recess**

- (1) If the Legislature is in recess when a Bill is introduced in the Legislature, the Speaker must refer the Bill and its annexures to the Portfolio, Standing or *Ad Hoc* Committee within whose portfolio the subject of the Bill falls.
- (2) A Bill referred to a Committee in terms of sub-rule (1) is regarded as having been read a first time.
- (3) The Bill, together with its annexures, must be submitted to the members of the Committee at least 14 days before the date appointed for a meeting of the Committee, unless the House is due to meet during that period.

- (4) If the Bill is referred to a Committee of the Legislature, the Committee must deal with the Bill in accordance with Rule 198.

#### **198. Process in Committee**

- (1) The Committee to which the Bill is referred must –
  - (a) taking into account the provisions of section 118(1)(a) of the Constitution, determine the manner in which it will facilitate public involvement in the legislative process concerning the Bill; and
  - (b) arrange its business in such a manner that interested persons and institutions have an opportunity to comment on the Bill.
- (2) For purposes of sub-rule (1), the Committee may by way of invitations, press statements, advertisements, public hearings, or in any other manner, invite comments on the Bill.
- (3) The Committee -
  - (a) must inquire into the subject of the Bill and report on it to the House;
  - (b) if it is a Bill amending provisions of existing legislation, may seek the permission of the House to inquire into amending other provisions of that legislation;
  - (c) may, or if ordered by the Speaker must, consult any other committee that has a direct interest in the substance of the Bill;
  - (d) may consult the Member in charge of the Bill;
  - (e) may recommend approval or rejection of the Bill or present with its report an amended Bill or a redraft of the Bill; and
  - (f) must report to the House in accordance with Rule 200.

#### **199. Referral of Bills to Provincial House of Traditional Leaders**

If a Bill –

- (a) affecting traditional leaders, traditional councils or communities, as defined in the KwaZulu-Natal Traditional Leadership and Governance Act, 2005 (Act No. 5 of 2005); or
- (b) pertaining to Zulu custom or tradition,  
has been introduced in the Legislature, the Committee to which the Bill is referred, must refer the Bill to the Provincial House of Traditional Leaders for advice, proposals or recommendations within 30 days, as contemplated under section 34 of the KwaZulu-Natal Traditional Leadership and Governance Act, 2005 (Act No. 5 of 2005).

## **200. Committee's report**

- (1) The Committee to which a Bill is referred must table in the House -
  - (a) its report;
  - (b) the Bill that has been agreed on by it, or, if it has not agreed on a Bill, the Bill as referred to it; and
  - (c) the explanatory memorandum which was introduced with the Bill or, if the memorandum has been amended by the committee, the amended memorandum.
- (2) In its report the Committee -
  - (a) must state whether it recommends approval of the Bill with or without amendments, a redraft of the Bill, or rejection of the Bill;
  - (b) must specify each amendment if an amended Bill (other than a redraft of the Bill) was agreed on by it, and each amendment that was considered and, for a reason other than its being out of order, was rejected by it;
  - (c) must specify each amendment rejected by the committee if a redrafted Bill was agreed on by it;
  - (d) may specify such details or information about its enquiry and any representations or evidence received or taken by

it, as it may consider necessary for the purposes of the debate on the Bill;

- (e) may report on any matter arising from its deliberations on the Bill but which is not necessarily related to the Bill; and
- (f) may recommend to the House that any matter contained in the report be placed on the Order Paper for separate consideration either before or after the House considers the Bill.

### **201. Explanation of report**

The chairperson or other member of the Committee who tables the report in the House on behalf of the Committee, may, if the Committee has so recommended in its report, address the House in order to explain the report.

### **202. Second Reading**

- (1) (a) The debate on the Second Reading of a Bill must be conducted on the subject of the Bill.
  - (b) The debate on the Second Reading of a Bill that amends legislation must be conducted on the subject of the proposed amendments.
- (2) A motion may not be moved during the debate.
- (3) The House passes a Bill if it approves the Second Reading of the Bill in accordance with section 112(1)(a) and (c) of the Constitution.
- (4) The House rejects a Bill if it rejects the Second Reading of the Bill or, subject to Rule 214, fails to approve the Second Reading with the appropriate majority.

### **203. Amendments proposed by Members before decision of Second Reading**

- (1) (a) After a Bill has been placed on the Order Paper for the Second Reading but before the House decides on the Second Reading, a Member may place amendments to clauses of the Bill on the Order Paper.

- (b) A Bill that has been rejected by the Committee which considered it may not be amended under this Rule.
- (2) Amendments delivered to the Secretary after 12:00 on any working day may be placed on the Order Paper for the next sitting day thereafter and not earlier, unless the Speaker determines otherwise in a particular case.
- (3) (a) The following amendments are out of order and may not be proposed under this Rule -
  - (i) amendments that affect the principle of the Bill and in respect of which the House has not given any instruction; and
  - (ii) amendments that are out of order for any other reason.
- (b) The Speaker's ruling on whether an amendment is out of order or in order is final.
- (4) No amendment which has the same effect as an amendment previously rejected in the Committee may be placed on the Order Paper, except when it is a Bill of which an MEC or the Premier is in charge and that MEC or the Premier places such an amendment on the Order Paper.
- (5) If an amendment has been placed on the Order Paper and the debate on the Second Reading has been concluded, the Speaker may either -
  - (a) recommit the Bill for reconsideration to the Committee which considered the Bill or, if it is a Bill introduced by a Committee, to that Committee, together with the amendment; or
  - (b) put the amendment for decision by the House and then the Second Reading of the Bill as a whole, including any approved amendment.
- (6) A Committee to which a Bill is recommitted must deal with the Bill in terms of Rule 204.
- (7) A Bill may not be recommitted to a Committee more than once in terms of this Rule.

#### **204. Referral of amendments proposed in the House to a Committee**

- (1) If a Bill is recommitted in terms of Rule 203(5) to a Committee, the Committee -
  - (a) may consider only those clauses of the Bill in respect of which amendments have been placed on the Order Paper and any consequential amendments that have to be effected;
  - (b) must mention in its report each amendment agreed to by the Committee;
  - (c) must specify in the report each amendment placed on the Order Paper by the person in charge of the Bill but rejected by the Committee; and
  - (d) must table its report together with the Bill in the House.
- (2) Sub-rule (1) (c) applies only if the person in charge of the Bill is an MEC or the Premier.

#### **205. Consideration of committee report**

- (1) The report of the Committee to which a Bill has been recommitted or referred must be placed on the Order Paper for consideration of -
  - (a) the amendments agreed to by the Committee; and
  - (b) any amendment specified in the report in terms of Rule 204(1)(c) and which is moved in the House, which motion may be moved without notice.
- (2) Before the House decides on the Second Reading of the Bill, the Speaker must put the amendment or amendments to the vote.

#### **206. Consequences of approval or rejection of Second Reading**

A Bill, including a money Bill, lapses if the House rejects the Second Reading of the Bill.

#### ***Part 4: Specific rules applicable to money Bills***

##### **207. Contents of money Bills**

- (1) In terms of section 120(1) of the Constitution, a Bill is a money Bill if it –
  - (a) appropriates money;
  - (b) imposes provincial taxes, levies, duties or surcharges;
  - (c) abolishes or reduces, or grants exemption from, any provincial taxes, levies, duties or surcharges; or
  - (d) authorises direct charges against a Provincial Revenue Fund.
- (2) In terms of section 120(2) of the Constitution, a money Bill may not deal with any other matter except –
  - (a) a subordinate matter incidental to the appropriation of money;
  - (b) the imposition, abolition or reduction of provincial taxes, levies, duties or surcharges;
  - (c) the granting of exemption from provincial taxes, levies, duties or surcharges; or
  - (d) the authorisation of direct charges against a Provincial Revenue Fund.
- (3) A money Bill that is inconsistent with section 120(2) of the Constitution may not be introduced in the House.

##### **208. Introduction of money Bills**

- (1) Only the MEC for Finance may introduce a money Bill.
- (2) A money Bill appropriating money as contemplated under section 120(1)(a) of the Constitution, must be introduced following the special procedure referred to in Rule 209(2). All other money Bills must be introduced following the ordinary procedure referred to in Rule 193.

- (3) In terms of section 27(2) of the Public Finance Management Act, 1999, the MEC for Finance must table the provincial annual budget for a financial year in the Legislature not later than two weeks after the tabling of the national annual budget, unless the national Minister of Finance has approved an extension of time for the tabling of the provincial budget.
- (4) In terms of section 31(1) of the Public Finance Management Act, 1999, the MEC for Finance may table a provincial adjustments budget in the Legislature, and in terms of section 31(3) of the Public Finance Management Act, 1999, the national Minister of Finance may determine the time when an adjustments budget may be tabled in the Legislature.

#### **209. Procedure applicable to money Bills**

- (1) If the ordinary procedure is followed, the Bill must in all respects be dealt with in the House as if it were an ordinary Bill, subject to any legislation envisaged in section 120 (2) of the Constitution.
- (2) If the special procedure is followed, Parts 2 and 3 of this Chapter do not apply and the Bill must be dealt with in the House in accordance with Rule 210 to 213.

#### **210. Special introductory procedure**

- (1) The MEC for Finance must deliver an introductory speech in the House on the appointed day.
- (2) After having delivered the introductory speech, the MEC must introduce the Bill by tabling the Bill and any accompanying schedule and papers, in English, isiZulu and Afrikaans, in the House.

#### **211. First Reading**

After introduction of the Bill in terms of Rule 210, the Bill is regarded as having been read a first time.

## **212. Referral of Bill to Committee**

- (1) On the day on which the Bill is introduced, the Speaker must refer the Bill, and any accompanying schedule and papers and the MEC's introductory speech to the Portfolio Committee on Finance for consideration and report.
- (2) The period for the consideration of a Bill and any schedule and papers so referred is limited to a period determined by the Speaker, after consultation with the Leader of Government Business.
- (3) The report of the Committee must be presented to the House for consideration on or before the first sitting day following the expiration of the period allowed for the consideration of the Bill, schedule and papers.

## **213. Second Reading**

- (1) After consideration of the Committee report by the House, the Speaker must –
  - (a) place the Bill on the Order Paper for the Second Reading; and
  - (b) refer the Bill to the Committee of the Whole House for debate on the separate votes and the schedule or schedules to the Bill.
- (2) After the debate has been concluded and the Chairperson has reported to the House, the question must be put on –
  - (a) the programme within a vote or, where a vote comprises more than one programme, on all the programmes within that vote combined, and thereafter on the vote itself;
  - (b) the schedule or schedules; and
  - (c) the Bill itself,  
in that order.

## ***Part 5: General***

### **214. Second vote on Bills rejected through absence of Members**

- (1) Should a Bill that requires a special majority in the House fail to obtain the required majority when the Bill is put to the vote, the Speaker may, within seven working days after the vote was taken, put the Bill to the vote again, but only if the Chief Whip and the most senior whip of one or more parties which, together with the ruling party, command at least the required majority in the House -
  - (a) request such a second vote; and
  - (b) persuade the Speaker that the Bill failed to obtain the required majority because of the absence of party members.
- (2) The Bill is considered as having been rejected if it again fails to obtain the required majority.

### **215. Same Bill may not be introduced more than once**

When a Bill has been passed or rejected during a session, a Bill of the same substance may not be introduced in the House in that session except by leave of the House or where otherwise provided in these Rules.

### **216. Withdrawal of Bill**

The person in charge of a Bill introduced in the House may withdraw the Bill at any time before the Second Reading of the Bill is decided.

### **217. Discrepancies in versions of Bill**

- (1) If any discrepancy in meaning is found between the versions of any Bill in the different official languages after such Bill has been passed by the House, but before it is presented to the Premier for assent, the Speaker must report such discrepancy to the House.

- (2) If the House agrees to an amendment referred to in sub-rule (1), the House must be regarded as having agreed to the Second Reading of the Bill as amended.

### **218. Correction of typographical or clerical errors**

If any minor typographical or clerical error which does not affect the meaning or intention of the Bill is discovered after the Bill has been adopted but before it has been presented to the Premier for assent, the Speaker may approve of the correction of such error and report the amendment effected to the House on the next sitting day.

### **219. Certification of Bill by Speaker**

When a Bill has been adopted by the House, the Speaker must certify at least two eligible copies of it as being correct and must forward the copies to the Premier for assent.

### **220. Assent to Bill**

- (1) As required by section 121 of the Constitution –
  - (a) the Premier must either assent to and sign a Bill passed by the Legislature; or
  - (b) if the Premier has reservations about the constitutionality of the Bill, refer it back to the Legislature for reconsideration.
- (2) If the Premier has no reservations about the constitutionality of the Bill, the Premier must assent to and sign the Bill within 14 days of receiving it.
- (3) If the Premier has reservations about the constitutionality of the Bill, the Premier must refer the Bill back to the Legislature for reconsideration within 14 days of receiving it.
- (4) If, after reconsideration the Bill fully accommodates the Premier's reservations, the Premier must assent to and sign the Bill within 14 days of receiving it and if not, the Premier must either –

- (a) assent to and sign the Bill within 14 days of receiving it;  
or
  - (b) refer the Bill to the Constitutional Court for a decision on its constitutionality.
- (5) If the Constitutional Court decides that the Bill is constitutional, the Premier must assent to and sign the Bill within 14 days of that decision.

**CHAPTER 15**  
**THE NATIONAL COUNCIL OF PROVINCES**

***Part 1: Delegates***

**221. Appointment of Permanent Delegates**

The House must, by way of resolution, appoint its permanent delegates in accordance with the Determination of Delegates (National Council of Provinces) Act, 1998 (Act No. 69 of 1998).

**222. Appointment of Special Delegates**

- (1) If the House is sitting, the House must, by way of resolution, and with the concurrence of the Premier and the leaders of the parties entitled to special delegates, designate special delegates as required from time to time, from among the Members of the Legislature.
- (2) If the House is not sitting -
  - (a) the Speaker, with the concurrence of the Premier and the leaders of the parties entitled to special delegates, may designate special delegates, as required from time to time, from among the Members; and
  - (b) the names of the special delegates and the period or purpose of their designation must be published in the minutes of the House on its first Sitting day after the designation.
- (3) The designation of special delegates must indicate the period or purpose of the designation.
- (4) The designation of a special delegate may be terminated -
  - (a) if the House is sitting, by resolution of the House and with the concurrence of the Premier and the leaders of the parties entitled to special delegates; or
  - (b) if the House is not sitting, by the Speaker, with the concurrence of the Premier and the leaders of the parties entitled to special delegates.

### **223. Permanent Delegates' rights and duties in the House**

In accordance with section 113 of the Constitution -

- (1) the Province's permanent delegates to the National Council of Provinces may attend and may speak in the House and its committees, but may not vote; and
- (2) the House may require a permanent delegate to attend the House or a committee.

### **224. Designated Head of Delegation**

When the Premier is not available, he or she must designate a delegate to head the delegation on his or her behalf.

### **225. Proof of appointment or designation**

- (1) The Speaker must certify the appointment of a permanent delegate, or the designation of a special delegate.
- (2) The Premier must certify the designation of the delegate to head the delegation under Rule 224.
- (3) The certificate contemplated under sub-rules (1) and (2) must be forwarded to the Secretary to National Parliament, in writing, which may include electronically transmitted print, and must indicate -
  - (a) the date from which the appointment as a permanent delegate takes effect;
  - (b) the period or purpose for which the designation as a special member is made; or
  - (c) the period for, or the circumstances in which, the member of the delegation is designated to head the delegation on the Premier's behalf.

## ***Part 2: National Constitutional Matters***

### **226. Section 74(5)(b) submission**

- (1) When particulars of a proposed amendment to the Constitution are submitted to the Legislature for its views in terms of section 74(5)(b) of the Constitution –

- (a) the Secretary must send a copy of the particulars of the amendment to every Member; and
  - (b) the Speaker must refer the particulars to the relevant Committee or *ad hoc* Committee for a report within a time specified by the Speaker.
- (2) The report referred to in sub-rule (1)(b) must include any comments that the relevant Committee recommends that the Legislature should make on the proposed constitutional amendment.
- (3) The Speaker must send the comments to the national Minister responsible for constitutional matters.

## **227. Section 74(8) approval**

- (1) If a Bill amending the Constitution, or any part thereof, requires the approval of the Legislature in terms of section 74(8) of the Constitution -
- (a) the Bill must be placed on the Order Paper;
  - (b) the Secretary must send a copy of the Bill to every Member; and
  - (c) the Speaker must refer it to the relevant Committee or an *ad hoc* committee.
- (2) The Legislature must deal with the Bill in accordance with the following procedure –

### **Process in Committee**

- (a) The Committee to which the Bill is referred must –
- (i) taking into account the provisions of section 118(1)(a) of the Constitution, determine the manner in which it will facilitate public involvement in the legislative process concerning the Bill; and
  - (ii) arrange its business in such a manner that interested persons and institutions have an opportunity to comment on the Bill.

- (b) For purposes of sub-rule (1), the Committee may by way of invitations, press statements, advertisements, public hearings, or in any other manner, invite comments on the Bill.

### **Committee Report**

- (c) The Committee to which a Bill is referred must table in the House -
  - (i) its report; and
  - (ii) the Bill as referred to it.
- (d) In its report the Committee must state whether it recommends approval of the Bill or otherwise.

### **Explanation of Report**

- (e) The chairperson or other member of the Committee who tables the report in the House on behalf of the Committee, may, if the Committee has so recommended in its report, address the House in order to explain the report.

### **Debate on Bill**

- (f) The Bill must be placed on the Order Paper for debate.

### **Vote on Bill**

- (g) The House must vote in accordance with section 112(a) and (c) of the Constitution on the approval or otherwise of the Bill.

**Part 3: NCOP bills for consideration in relevant Committee or  
ad hoc Committee**

**228. Referral of a section 74(1)(b), (2)(b) or (3)(b) or a section 76 Bill**

- (1) When a Bill contemplated in sections 74(1)(b), (2)(b) or (3)(b) or section 76 of the Constitution is referred to the Speaker by the National Council of Provinces, the Speaker must, upon receipt thereof, refer the Bill and any accompanying papers to the relevant Committee or *ad hoc* Committee, which Committee or *ad hoc* Committee is deemed to be the designated Committee as envisaged in the Mandating Procedures of Provinces Act, 2008, (Act No. 52 of 2008).
- (2) The Secretary must immediately deliver a copy of the Bill to every Member.

**229. Negotiating mandate**

- (1) A Committee to which the Bill is referred under Rule 228(1) may request a briefing by video conferencing, interactive video conferencing or otherwise, from the relevant department, the permanent or alternatively a special delegate.
- (2) The Committee must –
  - (a) consider the Bill;
  - (b) taking into account the provisions of section 118(1)(a) of the Constitution, determine the manner in which it will facilitate public involvement in the legislative process concerning the Bill, and arrange its business in such a manner that interested persons and institutions have an opportunity to comment on the Bill;
  - (c) for purposes of sub-rule (2)(b), the Committee may by way of invitations, press statements, advertisements, public hearings, or in any other manner, invite comments on the Bill;
  - (d) give the relevant MEC or the Premier, if applicable, an opportunity to present his or her views on the matter to

the Committee, and, if necessary, request the MEC or Premier to attend a meeting of the Committee for that purpose; and

- (e) thereafter, taking into account the views of the MEC or the Premier, if any, and that of members of the public or other stakeholders obtained through the consultative process referred to in paragraph (b) –
  - (i) consider whether to support, reject, or propose amendments to, the Bill; and
  - (ii) confer authority on the provincial delegation to the National Council of Provinces, of parameters for negotiation when the relevant National Council of Provinces Select Committee considers a Bill after tabling and before consideration of final mandates, as a negotiating mandate, and may include proposed amendments to the Bill.
- (3) The negotiating mandate referred to in sub-rule (2)(e)(ii) above must follow the format prescribed in schedule 1 of the Mandating Procedures of Provinces Act, 2008, and must–
  - (a) set out the Province's position on the matter;
  - (b) provide guidance to the delegation on the position that it should take; and
  - (c) may include, but is not limited to –
    - (i) supporting or rejecting the Bill, conditionally or otherwise;
    - (ii) abstaining from voting on the Bill; or
    - (iii) proposing amendments to the Bill.

### **230. Final mandate**

- (1) Before consideration of final mandates by the National Council of Provinces a Committee to which the Bill is referred under Rule 228(1) –
  - (a) may request a briefing from the permanent or alternatively a special delegate on the outcome of the meeting of

the National Council of Provinces Select Committee to consider the provincial negotiating mandates; and

- (b) must -
  - (i) consider the report referred to in paragraph (a), if any;
  - (ii) consider the Bill, or the Bill as amended by the National Council of Provinces Select Committee, as the case may be, with the view to supporting or rejecting the Bill or to recommend that the provincial delegation abstain from voting on the Bill;
  - (iii) report to the House accordingly; and
  - (iv) in its report, recommend to the House to confer authority on the provincial delegation to the National Council of Provinces to cast a vote or to abstain from voting when the relevant National Council of Provinces Select Committee considers a Bill prior to voting thereon in a National Council of Provinces plenary.
- (2) The House must confer authority on the provincial delegation to the National Council of Provinces to cast a vote or to abstain from voting when the relevant National Council of Provinces, Select Committee considers a Bill prior to voting thereon in an National Council of Provinces plenary, as its final mandate.
- (3) The final mandate referred to in sub-rule (2) must follow the format prescribed in Schedule 2 of the Mandating Procedures of Provinces Act, 2008, (Act No. 52 of 2008).

### **231. Voting mandate**

- (1) If no matter arises from the deliberations of the National Council of Provinces, Select Committee when considering final mandates which may necessitate consideration by a provincial legislature, the provincial delegation to the National Council of Provinces must table its final mandate in the National Council of Provinces plenary as the voting mandate of the Province.

- (2) If a matter arises from the deliberations of the National Council of Provinces Select Committee when considering final mandates which may necessitate consideration by a provincial legislature, then the Committee to which the Bill was referred under Rule 228(1) –
  - (a) may request a briefing from the permanent or alternatively a special delegate on the outcome of the meeting of the National Council of Provinces Select Committee to consider the provincial final mandates; and
  - (b) must -
    - (i) consider the report referred to in paragraph (a), if any;
    - (ii) consider the Bill, or the Bill as amended by the National Council of Provinces Select Committee, as the case may be, with the view to supporting or rejecting the Bill or to recommend that the provincial delegation abstain from voting on the Bill;
    - (iii) report to the House accordingly; and
    - (iv) in its report, recommend to the House to confer authority on the provincial delegation to the National Council of Provinces to cast a vote on the Bill or to abstain from voting.
- (3) In circumstances referred to in sub-rule (2), the House must confer authority on the provincial delegation to the National Council of Provinces, to cast a vote on the Bill or to abstain from voting.
- (4) The mandate referred to in sub-rule (3) must follow the format prescribed in Schedule 2 of the Mandating Procedures of Provinces Act, 2008, (Act No. 52 of 2008).

## **CHAPTER 16**

### **ADMINISTRATIVE MATTERS**

#### ***Part 1: Office of the Secretary and Records of the Legislature***

#### **232. Record of rulings of Presiding Officer**

The Secretary must –

- (a) maintain a register of rulings by the Presiding Officer on –
  - (i) any language deemed by the Presiding Officer to be offensive, unparliamentary or unbecoming;
  - (ii) any point of order; and
  - (iii) any other ruling, recorded alphabetically and containing a verbatim transcript of the ruling;
- (b) update the record referred to in paragraph (a); and
- (c) ensure that a copy of the updated register is made available to the library of the Legislature.

#### **233. Minutes of Proceedings**

The Minutes of Proceedings must be noted by the Secretary, and must, after having been perused by the Speaker, be printed and supplied to Members.

#### **234. Journals of Legislature**

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

#### **235. Custody of papers**

The Secretary has custody of all records and other papers of the Legislature, and he or she may neither remove nor permit any such records or other papers or copies thereof to be removed beyond the precincts of the House without the permission of the Speaker.

## **236. Resolutions affecting Executive Government**

Resolutions of the House affecting the Executive Government must be communicated to the Premier by the Secretary.

## **237. Role of the Secretary**

- (1) The Secretary –
  - (a) is deemed to be the accounting officer of the Legislature, as contemplated in section 36 of the Public Finance Management Act, 1999 in respect of the head of a government department;
  - (b) has all the duties and responsibilities of an accounting officer as set forth in sections 38 to 43 of the Public Finance Management Act, 1999, including but not limited to -
    - (i) the general responsibilities of an accounting officer in terms of section 38 of the Public Finance Management Act, 1999, to -
      - (aa) ensure that the Legislature has and maintains effective, efficient and transparent systems of financial and risk management and internal control;
      - (bb) prevent unauthorized, irregular and fruitless and wasteful expenditure and to report such expenditure to the provincial treasury;
      - (cc) take effective and appropriate disciplinary steps against any staff member who commits an act which undermines the financial management and internal control system of the Legislature; and
      - (dd) not commit the Legislature to any liability for which money has not been appropriated;
    - (ii) the responsibilities relating to budgetary control as provided for in section 39 of the Public Finance Management Act, 1999, to -

- (aa) ensure that expenditure is in accordance with the vote of the Legislature and the main divisions within the vote;
  - (bb) take effective steps to prevent unauthorized expenditure or any overspending; and
  - (cc) report to the Provincial Treasury any impending overspending;
- (iii) the reporting responsibilities as provided for in section 40 of the Public Finance Management Act, 1999, to -
- (aa) keep full and proper records of the financial affairs of the Legislature;
  - (bb) prepare financial statements for each financial year;
  - (cc) submit the financial statements to the Auditor-General and the Provincial Treasury within two months after the financial year end;
  - (dd) submit within five months after the financial year end to the Provincial Treasury and the Speaker the annual report, the audited financial statements and the Auditor-General's report on those statements; and
  - (ee) submit to the Provincial Treasury the annual revenue and expenditure report referred to in section 40(4)(a) of the Public Finance Management Act, 1999 and the monthly expenditure reports and projection of expenditure for the remainder of the year, as referred to in section 40(4)(b), (c) and (d) of the Public Finance Management Act, 1999;
- (iv) the responsibility as provided for in section 41 of the Public Finance Management Act, 1999 to submit to the Provincial Treasury or the Auditor-General such information or documents as may be prescribed or required;

- (v) the responsibilities as provided for in section 42 of the Public Finance Management Act, 1999 when transferring assets and liabilities, to draw up and sign an inventory, to file the inventory with the Provincial Treasury and the Auditor-General and to provide substantiating records; and
  - (vi) the responsibilities as provided for in section 43 of the Public Finance Management Act, 1999 when applying virement between main divisions within the vote to –
    - (aa) remain within the required eight percent of the amount appropriated under the main division;
    - (bb) comply with the requirements listed in section 43(4) of the Public Finance Management Act, 1999; and
    - (cc) submit the report referred to in section 43(3) of the Public Finance Management Act, 1999 to the provincial treasury and to the Speaker within the required seven day period;
  - (c) commits an act of financial misconduct as contemplated under section 81 of the Public Finance Management Act, 1999, read with the necessary changes, if he or she wilfully or negligently fails to comply with a requirement of sub-rule (1)(b) above and may be liable for disciplinary action in terms of the applicable conditions of employment.
- (2) The Secretary is responsible for the effective management and administration of the internal operations and all matters pertaining to the business of the Legislature, including but not limited to -
- (a) the preparation and implementation of the strategic plan of the Legislature;
  - (b) the establishment, co-ordination and management of an operational plan for the Legislature;

- (c) the effective utilization of financial and human resources, the maintenance of discipline, promotion of sound labour relations and practices and the proper use and care of property belonging to the Legislature;
  - (d) the establishment of relations and co-operation between the administrative and secretarial components of the Legislature and those of the National Parliament and other Provincial Legislatures; and
  - (e) the provision of financial and administrative support and assistance required by Members.
- (3) The Secretary has any other powers and must perform any other duties and functions as may be –
- (a) delegated or assigned to him or her by the Speaker; or
  - (b) prescribed by these Rules or any other applicable law.
- (4) The Secretary must report to the Speaker and to the Rules Committee.

### ***Part 2: Lapsing of business before the House***

#### **238. Lapsing of business on last sitting day of term or when Legislature is dissolved**

All business before the House or any Committee on the last sitting day of a term of the Legislature or when the Legislature is dissolved, lapses at the end of that day.

### ***Part 3: Witnesses***

#### **239. Summons**

A summons to appear before the House or a Committee to give evidence or produce documents must be issued in accordance with the KwaZulu-Natal Legislature: Witnesses Act, 2007 (Act No. 1 of 2007).

## CHAPTER 17

### PRIVILEGE AND CONTEMPT

#### 240. Privilege

- (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 conferred by the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004.
- (2) The privileges of the Legislature include -
  - (a) the powers conferred by sections 115 and 116 of the Constitution; and
  - (b) any other privileges conferred by the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004.

#### 241. Contempt of the Legislature

- (1) 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.
- (2) Contempt includes, but is not limited to -
  - (a) a breach of any privilege conferred by the Constitution, the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 and these Rules;
  - (b) conduct constituting contempt as contemplated under section 13 of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004;

- (c) failing, without good reason, to attend the Legislature or any of its committees when summonsed to do so;
- (d) failing to attend sittings in contravention of Rule 26(2) and (3)(a);
- (e) failing to attend committee meetings in contravention of Rule 27(2)(b)(i) and (ii);
- (f) failing, without good reason, to report to the Legislature or any of its committees when required to do so;
- (g) deliberately or recklessly misleading the Legislature regarding material facts on an issue;
- (h) a wilful breach of the Rules, including the Code of Conduct;
- (i) giving evidence to a committee knowing it to be false;
- (j) failing to obey any ruling, order or resolution of the Legislature;
- (k) comments by a Member speaking in the Legislature or a committee that are extremely injurious to another Member of the Legislature;
- (l) punishing someone for giving evidence to the Legislature or any of its committees;
- (m) giving someone an inducement not to give evidence to the Legislature or any of its committees;
- (n) publishing or disclosing the contents of documents or records in contravention of Rule 31(2); and
- (o) committing an act mentioned in section 5(1) or (2) of the KwaZulu-Natal Legislature: Witnesses Act, 2007 (Act No. 1 of 2007).

#### **242. 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; or
  - (b) in writing with the Speaker.

- (2) The matter must be raised as soon as possible after it has occurred and, in any event, before the next plenary meeting of the Legislature.
- (3) If a matter raised in writing with the Speaker concerns another Member of the Legislature, the Member who raises the matter must provide the other Member with a copy of the document submitted to the Speaker as soon as possible.
- (4) An allegation of contempt raised in writing with the Speaker must be formulated as precisely as possible and must include –
  - (a) the name of the person alleging the contempt;
  - (b) the name of the person against whom the contempt is levelled;
  - (c) the nature of the alleged contempt;
  - (d) the specific Rule upon which the allegation is based, if applicable; and
  - (e) the contact details of the person alleging the contempt.
- (5) An allegation of contempt raised in a committee meeting must be referred to the Speaker by the chairperson of that committee as soon as possible.

### **243. Consideration by Speaker**

- (1) When a member raises an allegation of contempt as contemplated in Rule 242(1), the Speaker must within 7 days, or as soon as possible thereafter, determine whether the matter is one that relates to or involves contempt.
- (2) In making the determination, the Speaker must take into account the importance of the matter. If the matter is technical or trivial and does not warrant the further attention of the Legislature, the matter is deemed to be a matter that does not relate to or involve contempt.
- (3) If the Speaker determines that the matter is one that relates to or involves contempt, the Speaker must report to the House accordingly at the next sitting day thereafter, and must immediately act in accordance with Rule 244.

## **244. Referral or ruling by Speaker**

- (1) If a matter of contempt concerns a Member of the Legislature, the Speaker must -
  - (a) if it is appropriate, make a ruling;
  - (b) refer the matter to the Disciplinary Committee for investigation and report under Rule 160(1)(c) and (d); or
  - (c) if the allegation would constitute an offence under the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 and the Speaker believes that the Legislature should not deal with the matter, recommend to the House that the matter should be referred to the Directorate of Public Prosecutions.
- (2) If a matter of contempt concerns a person who is not a Member of the Legislature, the Speaker must either -
  - (a) refer the matter to the Directorate of Public Prosecutions for action under the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004; or
  - (b) if the Speaker believes that the matter does not warrant the institution of criminal proceedings, propose to the House that the House deal with the matter.

# SCHEDULE 1

## CODE OF CONDUCT

### ***PREAMBLE -***

We, the Members of the KwaZulu-Natal Legislature –

Noting, that whereas the Constitution of the Republic of South Africa requires that all levels of government promote accountability, responsibility and openness;

Recognising that Members of the Legislature are accountable to the electorate and have a duty to maintain public trust in democratic institutions;

Affirming that Members of the Legislature have an obligation to perform their duties with honesty, integrity and regard to the common good;

Therefore agree, individually and collectively, to abide by the principles, rules and obligations of this Code of Conduct.

### ***Part 1: Ethical Conduct***

#### **1. Principles**

A Member of the Legislature must adhere to the following principles when acting in his or her representative capacity –

(a) Selflessness

A Member must take decisions only in the interests of the public.

(b) Integrity

A Member must ensure at all times that the integrity of the Legislature is maintained.

(c) Accountability

A Member is accountable to the public for his or her decisions and actions.

(d) Openness

A Member must exercise his or her public duties in an open and transparent manner.

(e) Honesty

A Member must act honestly and in the public interest at all times.

(f) Leadership

A Member must promote these principles by leadership and example.

**2. General obligations**

A Member must at all times –

- (a) when acting in his or her representative capacity, not take any decision or decisions in order to gain financial or other material benefit for himself or herself or for his or her family;
- (b) exercise his or her duties and conduct himself or herself with dignity and integrity appropriate to his or her office;
- (c) not place himself or herself under financial or other obligations to outside individuals or organisations that might improperly influence him or her in the performance of his or her duties;
- (d) make choices on merit in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for reward or benefit;
- (e) declare any private interest relating to his or her official duties;
- (f) declare, in the Register of Members' Interests, all interests as required in Part 2 hereof; and
- (g) take steps to resolve any conflict of interest that may arise in a manner that protects the public interest.

**3. Declaration of private interests in committees and forums**

A Member must –

- (a) declare any personal or private financial or business interest that the Member or any spouse, permanent companion or business partner of that Member may have in a matter for consideration or decision before a Committee or other parliamentary forum of which that Member is a member; and

- (b) withdraw from the proceedings of that committee or forum when that matter is considered or decided, unless that committee or forum decides that the Member's interest is trivial or not relevant.

**4. Declaration of private interests when making representations**

If a Member makes representations as a member to an MEC or the Premier or any organ of state with regard to a matter in which that Member or any spouse, permanent companion or business partner of that Member has a personal or private financial or business interest, that Member must declare that interest to that MEC or the Premier or organ of state.

**5. Lobbying for reward**

In the exercise of his or her functions as a public representative, a Member may not lobby for and accept reward in cash or kind.

**6. Remunerated employment outside the Legislature**

A Member may only engage in remunerated employment outside the Legislature when such employment is –

- (a) sanctioned by the political party to which the Member belongs; and
- (b) compatible with that Member's function as a public representative.

**7. Improper exercise of influence**

A Member may not utilise the influence he or 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.

**8. Refrain from using 'insider' information**

A Member may not use information obtained in the course of exercising a public duty to advance a private interest.

## ***Part 2: Disclosure of Registrable Interests***

### **9. Registrar of Members' Interests**

- (1) The Registrar is a senior official on the staff of the Legislature, appointed by the Speaker.
- (2) The Registrar is responsible for the implementation of Part 2: Disclosure of Registrable Interests of the Code of Conduct.
- (3) The Registrar must be assisted by other staff members assigned by the Secretary for the work of the Registrar.
- (4) The Registrar and the staff members referred to in sub-item (3) must swear or affirm before the Speaker to comply with the requirements of confidentiality under the Code.

### **10. Registrar's functions**

The Registrar must –

- (a) open and keep a register for the purposes of Part 2 of the Code of Conduct, called the Register of Members' Interests;
- (b) record in the Register particulars of Members' registrable interests;
- (c) amend any entries in the Register when necessary;
- (d) perform any other duties in connection with the implementation of Part 2 of the Code of Conduct as may be required by the Disciplinary Committee; and
- (e) promptly report any alleged breach of Part 2 of the Code of Conduct by a Member to the Disciplinary Committee.

### **11. Register of Members' Interests**

The Register must –

- (a) have a confidential part and a public part;
- (b) contain the information regarding the Members' registrable interests as required by Part 2 of the Code of Conduct; and
- (c) be in a format approved by the Disciplinary Committee.

## **12. Disclosure of registrable interests**

- (1) Members must disclose to the Registrar, on the form prescribed for this purpose by the Disciplinary Committee, particulars of all their registrable interests.
- (2) The first disclosure must be within 30 days of the opening of the Legislature after an election.
- (3) After the first disclosure, Members must annually disclose particulars of their registrable interests by the 30th of April every year, and also within 30 days of a material change in a Member's registrable interests.
- (4) If a Member has no registrable interests, a "nil" return must be submitted.

## **13. Kinds of interests to be disclosed**

The following kinds of financial interests are registrable interests –

- (a) shares and other financial interests in companies and other corporate entities, including close corporations and business trusts;
- (b) remunerated employment outside the Legislature;
- (c) directorships, membership of close corporations, partnerships and sole proprietorships;
- (d) consultancies and retainerships;
- (e) sponsorships;
- (f) gifts and hospitality from a source other than a family member or permanent companion;
- (g) any other benefit of a material nature or not ordinarily available to a member of the public;
- (h) foreign 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) ownership and other interests in land and immovable property; and
- (j) pensions.

#### **14. Details of registrable interests to be disclosed**

The following details of registrable interests must be disclosed –

- (a) Shares and other financial interests in companies and other corporate entities, including close corporations and business trusts –
  - (i) the number, nature and nominal value of shares of any type in any public or private company;
  - (ii) the name of that company or other corporate entity; and
  - (iii) the nature and value of any other financial interests held in any other corporate entity.
- (b) Remunerated 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.
- (c) Directorships, membership of close corporations, partnerships and sole proprietorships –
  - (i) the name and type of business activity of the company, close corporation partnership or sole proprietorship; and
  - (ii) the amount of remuneration received for such directorship, membership, partnership or sole proprietorship.
- (d) Consultancies and retainerships –
  - (i) the nature of the consultancy or 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 consultancy or retainership.
- (e) Sponsorships –
  - (i) the source and description of direct financial sponsorship or assistance from non-party sources; and
  - (ii) the value of the sponsorship or assistance.

- (f) Gifts and hospitality -
  - (i) a description and the value and source of a gift with a value in excess of R500;
  - (ii) a description and the value of gifts from a single source which cumulatively exceed the value of R500 in any calendar year; and
  - (iii) hospitality intended as a gift in kind.
- (g) Benefits -
  - (i) the nature and source of any other benefit of a material nature or not ordinarily available to a member of the public; and
  - (ii) the value of that benefit.
- (h) Foreign travel –
  - (i) a brief description of the journey abroad; and
  - (ii) particulars of the sponsor.
- (i) Land and immovable property, including land and immovable property outside the Republic –
  - (i) a description and extent of the land or immovable property;
  - (ii) the area in which it is situated;
  - (iii) the nature of the interest; and
  - (iv) the value of the interest.
- (j) Pensions –
  - (i) the source of the pension; and
  - (ii) the value of the pension.

## **15. Entries in Register**

- (1) The Registrar must record all details of registrable interests in the public part of the Register, except the following which must be recorded in the confidential part –

- (a) the value of any shares or other financial interests in any corporate entity, including a company, close corporation, partnership, business trust or sole proprietorship;
  - (b) the amount of any remuneration for any employment outside the Legislature;
  - (c) the amount of any remuneration for any directorship, membership of a close corporation, partnership, sole proprietorship, consultancy or retainership;
  - (d) details of foreign travel when the nature of the visit requires those details to be confidential;
  - (e) the value of any interest in land and immovable property;
  - (f) the value of pensions;
  - (g) details of all financial interests of a Member's spouse, dependent child or permanent companion, to the extent that the member is aware of those financial interests.
- (2) Where any doubt exists as to whether any financial interests must be disclosed, the Member concerned must act in good faith.
- (3) Despite sub-item (1) the Disciplinary Committee may on good cause instruct the Registrar to record any details of any Member's registrable interests in the confidential part of the Register.

## **16. Confidential part of Register**

- (1) Except for purposes of an investigation by the Disciplinary Committee as contemplated in Item 20, only the Registrar and staff assigned to the Registrar have access to the confidential part of the Register. For purposes of an investigation in terms of Item 20, members of the Disciplinary Committee and staff assigned to the Committee have access only to those sections of the confidential part of the Register that are relevant to the enquiry.
- (2) No person who has access to the confidential part of the Register may, except when a court so orders, disclose particulars of any entry in the confidential part to anyone other than the Member concerned or another person who has such access.

- (3) A member of the Disciplinary Committee who contravenes sub-item (2) becomes ineligible to continue as a member of the Committee, in addition to any penalty that may be imposed on the Member by the House in terms of Rule 161(1)(c).
- (4) The Registrar or staff member who contravenes sub-item (2) is subject to disciplinary action applicable to staff of the Legislature, including dismissal.

**17. Access to public part of Register**

- (1) Any person has access to the public part of the Register on a working day during office hours, by appointment with the Registrar.
- (2) The Registrar must keep a record of all persons -
  - (a) who have requested access to the Register; and
  - (b) who have been given access to the public part of the Register.

***Part 3: Breach of the Code***

**18. Conduct constituting breach**

A Member breaches this Code if the Member –

- (a) contravenes or fails to comply with a provision of this Code; or
- (b) when disclosing registrable interests, wilfully provides the Registrar with incorrect or misleading details.

**19. Submission of a complaint**

- (1) Any Member, official of the Provincial Government or organ of state, or a member of the public who reasonably believes that a Member has breached the Code of Conduct may make a written complaint in regard thereto to the Speaker.
- (2) The complaint must –

- (a) state the complainant's name and address;
  - (b) state the name of the Member who is the subject of the complaint;
  - (c) set out the facts relevant to the conduct complained about; and
  - (d) be supported by documentary evidence, if available.
- (3) Where a complaint has been submitted to the Speaker, he or she must immediately refer the complaint to the Disciplinary Committee for investigation as contemplated by Item 20.

## **20. Investigations by Disciplinary Committee**

- (1) The Committee, acting on its own or on receipt of a complaint from the office of the Registrar or the Speaker as contemplated by Item 19 of this Code, or at the request of the Speaker as contemplated under Rule 160, must, investigate any alleged breach of this Code by a Member.
- (2) The Disciplinary Committee may determine its own procedure when investigating any alleged breach, but must at least hear the complainant and the Member against whom the complaint is lodged.
- (3) If the matter concerns a registrable interest recorded in the confidential part of the Register or which is regarded as confidential by the Disciplinary Committee, the proceedings of the Committee must be held in closed session.

## **21. Findings**

- (1) At the conclusion of its investigation, the Disciplinary Committee must make a finding, supported by reasons, on the alleged breach of this Code.
- (2) The finding and the reasons for the finding must be made public.
- (3) If the hearing was in closed session, a summary of the facts must be disclosed.

## **22. Penalties**

The Disciplinary Committee may recommend the imposition of one or more of the penalties provided for in section 12(5) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004, where it has found that a Member has breached a provision of this Code.

## **23. Committee Report**

On completion of its investigation, the Disciplinary Committee must report its finding and its recommendation as to penalties, if any, to the House, as contemplated in Rule 160.

## **SCHEDULE 2**

### **FORM OF PRAYER REFERRED TO IN RULE 43(b)**

#### **PRAYER**

O, Supreme Lord and Heavenly Father,  
who in your infinite mercy and wisdom  
has called rulers and appointed governments  
for the welfare of society and the just government of people,  
we beseech you to bestow your abundant favour  
upon us your servants who you have been pleased to call  
to the performance of such important trust in this our Land.

Let your blessing descend upon us here assembled  
and grant that we may under your guidance  
treat and consider all matters that shall come before us  
in so just and faithful manner  
as to promote your honour and glory  
and so advance the welfare of our people  
who you have called us to serve.

O Supreme God we beg you for your mercy  
and your hand of wisdom to guide us at all times  
in our endeavours and in our debates.  
Assist us and lead us towards the path of guidance.

All this we ask in the name and for the sake of Our Lord.

**AMEN**