



**NATIONAL ASSEMBLY PROGRAMME COMMITTEE**

Chairperson:  
Speaker

Committee Secretary:  
A Mbanga x 3218

**DRAFT MINUTES OF PROCEEDINGS**

Thursday, 27 June 2019, E249 at 08:30

Present:

T R Modise (Speaker)

Bongo, B T	Mente, N V
Boroto, M G	Mkhaliphi, H O
Dikgale, M C	Mulder, Dr C P
Dlakude, D E (Deputy Chief Whip of the Majority Party)	Ngwezi, X
Dyantyi, Q R	Ntombela, M L D
Frolick, C T	Ntshayisa, L M
Julius, J W W	Pilane-Majake, Dr M C C (Programme Whip)
Koornhof, Dr G W (Parliamentary Counsellor to the President)	Singh, N
Kwankwa, N L S	Steenhuisen, J H (Chief Whip of the Opposition)
Hendricks, M G E	Swart, S N
Lesoma, R M M	Tsenoli, S L (Deputy Speaker)
Majodina, P C P (Chief Whip of the Majority Party)	Wessels, W W
Mazzone, N W A	

Staff in attendance:

Ms N P Tyawa (Acting Secretary to Parliament), Mr M Xaso (Secretary to the National Assembly), Dr T Ganyaza-Twalo (Committees), Mr N Bell and Adv C R van der Merwe (Constitutional and Legal Services Office).

## **1. Opening remarks**

The Speaker opened the meeting and welcomed all present.

## **2. Apologies**

It was reported that Mr Julius would be joining the meeting later.

## **3. Consideration of draft agenda**

The draft agenda was adopted as proposed.

## **4. Consideration of minutes of meeting of 13 June 2019**

On the proposal of Ms Mazzone, seconded by the Chief Whip of the Majority Party, the minutes of 13 June were adopted.

## **5. Matters arising**

Ms Mazzone asked if there was feedback on the matter of the leather-bound copies of the Constitution that were reported missing during the Members' induction session. Mr Xaso reported that the matter was investigated and that a report had been submitted to the Speaker for consideration. The security personnel had been asked to scrutinise video footage from that day but they had found no evidence of theft of the copies of the Constitution. Mr Xaso also appealed to Members to provide any other information that could be of assistance in the matter. In response to the Chief Whip of the Opposition, he said that there were 105 copies that were still available as there had been a misunderstanding in terms of where some of the boxes were located at the time. As soon as the investigation was concluded, those copies would be made available for those Members who did not receive them.

Based on the report from Mr Xaso, Ms Dikgale suggested that the minutes should accordingly be corrected as they gave the impression that Members had stolen copies of the Constitution. The Speaker explained that the minutes were reflecting what had been reported by some Members in the previous meeting and were thus correct. Mr Dyantyi, however, contented that the minutes should have rather stated that the assertions made were purely allegations as the report given indicates that there was no evidence of stealing. He said that, based on the feedback from Mr Xaso, that perception should be corrected as it was covered in the media. The Speaker indicated that the Parliamentary Communications Services had taken note of that.

## **6. Report by Committee Section**

Dr Ganyaza-Twalo advised that the names of members to serve in the various committees from political parties would soon be published in the Announcements, Tablings and Committee Reports in order for them to meet in the following week. The Chief Whip of the Opposition requested that the schedule of committees should be made available as soon as possible so that Members are able to see when their respective committees were meeting. Mr Frolick clarified that the schedule for election of all chairpersons would commence the following Tuesday morning. In the afternoon, committees would be interacting with the relevant departments and entities on the Annual Performance Plans and Strategic Plans. He added that committees who were scheduled for budget votes in the week of 9 – 12 July were allowed to meet up until late in the afternoon, should they wish to do so. The necessary logistical arrangements would be put in place.

#### **7(a) Report by Bills Office**

Mr Bell indicated that he suspected that the Appropriation Bill, which was on the Order Paper for revival that afternoon, would be technically amended based on the Cabinet changes as was the case in 2014 and 2009. The Chief Whip of the Opposition indicated that a legal opinion would have to be sought as he was of the view that the Bill would be revived from the stage it had reached in the Fifth Parliament. Mr Bell further suggested that the Cabinet portfolios that had been altered would have to be carried over to the Votes in the Appropriation Bill. Mr Xaso clarified that the Bill would be revived that afternoon without amendments, but that correspondence from the Minister of Finance had been received the previous day advising on proposed amendments. He further indicated that the correspondence would still have to be considered and legal advice would first have to be sought. Mr Swart asked if it would be procedurally correct for Parliament to embark on the budget vote process prior to amendments to the Appropriation Bill. It was **AGREED** that legal advice would be sought on the matter.

#### **7(b) Report on Constitutional Court deadlines**

Adv Van der Merwe presented a report on legislation with Constitutional Court judgments setting out actions and deadlines, as per attached annexure:

Mr Swart expressed concern that there was a reliance on departments to remedy defects although the order had been made against Parliament, and considering that in certain circumstances the order related to Committee Bills. He said that more needed to be done to ensure that deadlines were met and indicated that departments tended to wait until the last minute to remedy the defects. The Deputy Speaker proposed that there should be a timeline wherein defects needed to be remedied and that timeline should be processed through the Office of Leader of Government Business. He said

that it should only be in exceptional circumstances that Parliament is not able to meet the deadline and stated that such situations should not be allowed to continue.

The Speaker suggested that there should be a determination on whether a piece of legislation should not be directed straight to the legislature for it to remedy a defect once deemed unconstitutional, instead of sending it to a department which may want to rework the Bill, thus delaying the process. The Chief Whip of the Opposition added that it could assist if the Programme Committee was apprised of such judgments on a weekly basis in order to provide direction as early as possible. He proposed that, in preparation for the next term, there should be a session that would consider a more stringent approach on how legislation should be processed once introduced until its finalisation in a proper manner in order to avoid it being rushed through the system, taking into consideration the National Council of Provinces (NCOP). Such an exercise could also allow Parliament to meet the expectations of the Executive in a realistic manner. The Speaker said that she agreed with the sentiments raised and indicated that she had suggested in a particular meeting that the first meeting when a bill is introduced was crucial at committee level in assessing whether such legislation was constitutional or not. She said that legal services should therefore be in place and also involved right at the start of the process, instead of Parliament getting involved at the tail end once a defect had been identified.

Ms Mente suggested that the Speaker, as part of Executive Authority, was in a position to ensure that legal services had the requisite capacity. Dr Mulder suggested that while acknowledging that once legislation has been introduced it is now in the control of Parliament, a member of the Executive should also be consulted when addressing the problem of constitutional defect as the legislation would in most cases have originated from the Executive. He said that the danger was that Parliament could end up implementing what the Executive did not have in mind. The Speaker explained that during deliberations the Executive would be afforded the space to engage but that the amendments to correct the defect would be the responsibility of the institution. The Chief Whip of the Opposition, however, argued that the reflection on the unconstitutionality of legislation would not be on the Executive as their job was to table legislation but that Parliament should scrutinise it. The relevant committee should thereafter approach the member of the Executive on how the defect should be fixed. Mr Swart expressed concern that the Constitutional Court would increasingly read-in provisions in legislation if the deadlines were not adhered to. He argued that such could be interpreted as taking over the role of Parliament if there were continued delays. The Deputy Speaker advised that the views expressed by the Committee should be communicated to the Leader of Government Business in order for him to

understand the concerns as well as what gave rise to the deliberations so that the matter could be proactively prevented from happening.

Mr Singh asked whether the appointment of members to the Commission for Gender Equality had been confirmed. Mr Xaso advised that the matter was before the Office of the Presidency and the Ministry of Women, Youth and Persons with Disabilities.

## **8. Consideration of draft Parliamentary programme**

The Deputy Chief Whip of the Majority Party presented the draft programme for the First Term and highlighted the following:

Committees and Mini-Plenaries on Budget Votes were scheduled on 2 – 5 and 9 – 17 July, respectively. The debates on Vote 2: Parliament and Vote 1: The Presidency were provisionally scheduled for 16 and 17 July, respectively, with the reply by the President to his budget vote debate scheduled for 18 July. Consideration of the Votes and Schedule to the Appropriation Bill as well as consideration of the Bill was provisionally scheduled for 23 July.

The Deputy Chief Whip of the Majority Party advised that the Joint Programme Committee would meet on 3 July, immediately after the Chief Whips' Forum. The Deputy Chief Whip of the Majority Party also advised that the Minister of Trade and Industry had requested that Mini-plenaries on Vote 25: Economic Development and Vote 34: Trade and Industry be scheduled as one debate. The Chief Whip of the Opposition, supported by Mr Singh, said that they welcomed the merger of the two votes given their similarities provided that it would not be setting a precedent. The Deputy Chief Whip of the Majority Party also announced that the global time for the budget vote debates would be 130 minutes which would be divided as follows:

ANC – 33, DA – 13, EFF – 7; IFP and FF Plus 5 minutes each and Other Parties 3 minutes each.

Members of the Executive were allocated 40 minutes. It was also **AGREED** that smaller parties would be allowed to transfer one minute among themselves, if a party would not be available to participate in a debate on budget vote.

The Chief Whip of the Opposition requested that there should be a date for questions to the Deputy President, in terms of Assembly Rule 139(1). He said that such a date needed to be communicated as soon as possible and indicated that he acknowledged that the President and the Ministers would soon be presenting their budget votes and would therefore be sufficiently accountable to Parliament. The Deputy Chief Whip of the Majority Party explained that they were awaiting confirmation of a date from the Office of the Leader of Government Business.

Mr Swart asked whether it would be possible for committees to consider any amendments on the budget votes scheduled in line with the provisions of the Money Bills Amendment Procedures and Related Matters Act, due to time constraints. The Chief Whip of the Opposition cautioned that there should also be consideration for public consultation and how that would be facilitated.

Mr Xaso indicated that consultations with the NCOP on a date for the Joint Rules Committee in order to set up joint structures were taking place. Copies of the Order Paper for that afternoon's sitting had also been circulated to members in the meeting.

#### **9. Announcements**

There were no announcements.

#### **10. Closure**

The meeting adjourned at 09:22.