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2 July 2014

## **SELECT COMMITTEE ON PETITIONS AND EXECUTIVE UNDERTAKINGS: EXPLORING THE EXECUTIVE UNDERTAKINGS MANDATE OF THE COMMITTEE**

### **1. Introduction**

At the beginning of the Fifth Parliament a political decision was taken to adapt the mandate of the former Select Committee on Petitions and Private Members' Legislative Proposals to include executive undertakings and for that reason the Select Committee on Petitions and Private Members' Legislative Proposals became known as the Select Committee on Petitions and Executive Undertakings (Committee). This new and distinct mandate of the Committee (much like its mandate to consider and process petitions) is closely related to Parliament's oversight role which involves scrutinising, overseeing and holding the executive and other organs of state accountable.<sup>1</sup> That being said, it is also important to point out that what the mandate of the Committee in relation to executive undertakings entails in the Fifth Parliament have yet to be articulated at a political level. As a consequence until such a time that the meaning of what constitutes executive undertakings is defined and fixed, it remains to be seen what exactly constitutes executive undertakings in the context of our Parliamentary democracy.

It is against this background, that this paper seeks to do the following:

- Provide clarity on what, broadly speaking, constitutes executive undertakings;
- Outline what the mandate of the Committee in relation to executive undertakings is likely to entail by drawing upon the functions of similar committees in foreign two selected Parliaments; and
- Make recommendations in relation to executive undertakings referred to the Committee.

### **2. Executive undertakings**

Broadly speaking, executive undertakings are those assurances, commitments, resolutions, pledges or promises that are given or made by the Ministers or any organ of state from time to time in Parliament (the House). Executive undertakings may be made or given by Ministers or organs of state during question hour, statements, speeches, presentation or tabling of reports and debates, during discussions on Bills, resolutions, motions or any other proceedings of the House.<sup>2</sup> Take for instance, where a Minister in the course of responding

<sup>1</sup>Parliament of RSA. Oversight and Accountability Model: Asserting Parliament's Oversight Role in Enhancing Democracy. Available from [www.parliament.gov.za](http://www.parliament.gov.za). [Accessed 26 June 2014].

<sup>2</sup> Rajya Sabha Practice and Procedures Series (2005), page 1. Committee on Government Assurances. Available from <http://rajyasabha.nic.in>. [Accessed 30 June 2014].



to a question or discussions or reporting on a matter in the Parliament gives an undertaking which involves further action on the part of his or her ministry – such an undertaking by the Minister constitutes an executive undertaking.<sup>3</sup>

### 3. Mandate of the Committee in relation to executive undertakings

The Parliaments of countries such as India, Pakistan, Ghana and Zambia have established committees with the distinct mandate of overseeing and implementing executive undertakings. The terminology adopted in the stated countries to describe executive undertakings is government assurances and it is for this reason that these committees are referred to as committees on government assurances. For purposes of this paper only the functions and procedure of the Government Assurances Committees of the Parliaments of India and Zambia will be discussed for the simple reason that both Parliaments (in particular the Indian Parliament) have well established and developed systems of overseeing and implementing executive undertakings.

#### India

The Indian Parliament is lauded for having one of the most well developed systems of scrutinising and implementing executive undertakings in the world. In fact, the idea of establishing a Parliamentary committee with the distinct mandate of overseeing the fulfilment or implementation of government assurances originated in India. The Indian Parliament constituted the first Committee on Government Assurances in 1953. However, as early as 1949 the Indian Government had begun extracting executive undertakings from Parliamentary proceedings.<sup>4</sup>

Similar to South Africa, the Indian legislature is a bicameral body with two Houses of Parliament, namely, the House of the People (Lok Sabha) and the Council of States (Rajya Sabha).<sup>5</sup> The Rajya Sabha is the NCOP equivalent and it therefore makes sense to limit discussions in this part of the paper to only the mandate and functions of the Committee on Government Assurances of the Rajya Sabha despite there being also a Committee on Government Assurances in the Lok Sabha.

The Committee on Government Assurances in the Rajya Sabha is established in terms of Rule 212A of the Rules of Procedure and Conduct of Business of the Rayja Sabha. The functions of the Committee on Government Assurances are the following:

- To scrutinise government assurances given by Ministers on the floor of the House;
- To report back to the House on the extent to which such assurances have been fully or satisfactorily implemented; and

<sup>3</sup> Ibid.

<sup>4</sup> Rajya Sabha Practice and Procedures Series (2005), page 2. Committee on Government Assurances. Available from <http://rajyasabha.nic.in> . [Accessed 30 June 2014].

<sup>5</sup> Indian Parliament: Our Parliament. Available from <http://parliamentofindia.nic.in> . [Accessed 30 June 2014].



- Where such assurances have been implemented, to report back to the House on whether such implementation took place within the minimum time or there was an ordinate delay in the implementation of the assurances.<sup>6</sup>

The said Rules permit the Committee on Government Assurances to determine its own procedure. The Committee on Government Assurances works with the officials of the Secretariat of the Rajya Sabha to scrutinise the daily proceedings of the House to extract and compile assurances from the proceedings. The stated officials extract these assurances on the basis of standard expressions constituting assurances like “The matter is under consideration”; “I shall look into it”; “I shall consider it”; and “Information is being collected and will be laid on the Table of the House”.<sup>7</sup>

The powers of the Committee on Government Assurances include the following:

- Setting time limits for the implementation of assurances (the Committee more often than not prescribes a time limit of three months for the implementation of assurance by government);
- Granting extensions of time for the implementation of assurances;
- Undertaking spot visits aimed at ascertaining the veracity of facts relating to the implementation of assurances;
- On specific requests from ministries, dropping particular assurances from its list of pending assurances on the furnishing of satisfactory reasons for doing so; and
- After examination and consideration of the action taken to implement assurances, forming its own conclusions and making its own recommendations.<sup>8</sup>

It is important to point out that the work of the Committee on Government Assurances is aided by the Ministry of Parliamentary Affairs. The Ministry of Parliamentary Affairs has the overall task of managing the day to day Parliamentary work of government in Parliament and one of its functions in this regard is to ensure the implementation of assurances given by Ministers in Parliament.<sup>9</sup> As such, the list of assurances extracted and compiled by the officials from the Secretariat of the Rajya Sabha is cross checked against statements tabled in the House from time to time by the Ministry of Parliamentary Affairs showing action taken by the government in implementing assurances.<sup>10</sup>

As regards, record keeping, the Committee on Government Assurances ensures that all the assurances extracted and compiled are numbered and that all relevant information relating to assurances (such as the assurance number, source and date of assurance, subject matter of

<sup>6</sup> Rajya Sabha Practice and Procedures Series (2005), page 3. Committee on Government Assurances. Available from <http://rajyasabha.nic.in> . [Accessed 30 June 2014].

<sup>7</sup> Rajya Sabha Practice and Procedures Series (2005), page 4. Committee on Government Assurances. Available from <http://rajyasabha.nic.in> . [Accessed 30 June 2014].

<sup>8</sup> Rajya Sabha Practice and Procedures Series (2005), page 4 - 6. Committee on Government Assurances. Available from <http://rajyasabha.nic.in> . [Accessed 30 June 2014].

<sup>9</sup> Ministry of Parliamentary Affairs: Government of India. Available from [www.mpa.nic.in](http://www.mpa.nic.in) . [Accessed 30 June 2014].

<sup>10</sup> Rajya Sabha Practice and Procedures Series (2005), page 5. Committee on Government Assurances. Available from <http://rajyasabha.nic.in> . [Accessed 30 June 2014].



assurance, extent of assurance etc..) is stored on an accessible client server based database.<sup>11</sup> Included in this information, are the reports of the Committee on Government Assurances which are presented to House by its Chairperson or a Member of the Committee. The reports of the Committee on Government Assurances detail (amongst others) specific cases of assurances given or made; analysis of cases where the government has taken long in the implementation of assurances; requests for extensions; and assurances which have recommended for dropping.<sup>12</sup>

## Zambia

The Zambian legislature, in contrast to South Africa, is a unicameral body and consequently the National Assembly of Zambia's Parliament is the only legislative body in the country. Also, unlike South Africa which classifies its Parliamentary committees into either portfolio or select committees Parliamentary committees, the Zambian legislature or Parliament classifies its committees into three distinct categories, namely, housekeeping, general purpose and portfolio committees. The Committee on Government Assurances of the Zambian Parliament (along with the Public Accounts Committee and Committee on Delegated Legislation) is classified as a general purpose committee.

The functions of the Committee on Government Assurances of the Zambian Parliament include the following:

- Scrutinising the assurances, promises and undertakings given by Ministers from time to time on the floor of the House;
- Determining the extent to which government assurances have been implemented;
- Commenting on delays in the implementation of government assurances and also the adequacy of the action taken in relation to implementation of government assurances; and
- Examining annual reports of all Government ministries and departments to determine if the affairs of the ministries and departments are being managed in accordance with the relevant Acts of Parliament, established regulations, rules and orders.<sup>13</sup>

The Committee on Government Assurances carries out its functions by scrutinising and examining all contributions or statements made by Ministers during parliamentary debates and deliberations and extracting those contributions or statements which amount to assurances. The assurances extracted from parliamentary debates and deliberations are then referred to ministries or departments concerned to determine the extent to which any action has been taken to implement the assurances. Upon receipt of submissions from ministries or departments, the Committee on Government Assurances, then invites the

<sup>11</sup> Rajya Sabha Practice and Procedures Series (2005), page 12. Committee on Government Assurances. Available from <http://rajyasabha.nic.in> . [Accessed 30 June 2014].

<sup>12</sup> Rajya Sabha Practice and Procedures Series (2005), page 6. Committee on Government Assurances. Available from <http://rajyasabha.nic.in> . [Accessed 30 June 2014].

<sup>13</sup> The Zambian Parliament (2006). Committee System. Available from [www.parliament.gov.zm](http://www.parliament.gov.zm). [Accessed 27 June 2014].



relevant ministers or senior officials to appear before it and give updates on the implementation of the assurances.<sup>14</sup>

In light of the mandate and functions of similar committees in the Indian and Zambian Parliaments, it appears the new mandate of the Committee will essentially entail scrutinising and overseeing the implementation of executive undertakings by Ministers and other organs of state in an effort to ensure accountability. As such the mandate and functions of the Committee in this regard are likely to entail:

- Scrutinising and overseeing the implementation of executive undertakings;
- Advising the House on the implementation of executive undertakings made in the House;
- Recording and storing of all executive undertakings made in the House and overseen by the Committee;
- Communicating with relevant organs of state in relation to the progress made in the implementation of executive undertakings;
- Requiring relevant organs of state to appear before or report to it in relation to the progress made in the implementation of executive undertakings; and
- Report backing to the House on the progress made in relation to the implementation of executive undertakings it has scrutinised and overseen.

#### **4. Recommendations**

Given that the new mandate of the Committee is likely to entail scrutinising executive undertakings made by Ministers and other organs of state in the House and overseeing the implementation of these executive undertakings, this paper makes the following recommendations:

- Parliamentary Rules and/or guidelines for overseeing and managing executive undertakings need to be formulated. The Rules and/or guidelines will, amongst other things, define and fix what constitutes executive undertakings, define the standard expressions constituting executive undertakings, set timelines for organs of state to fulfil and implement executive undertakings given in the House, set out the procedure of the Committee and generally assist the Committee and support staff to oversee the implementation of executive undertakings by relevant organs of state.
- An effective system be developed and adopted that will assist the relevant support staff to collate, record and codify executive undertakings made by organs of state during House proceedings and in House resolutions.
- An orientation and training workshop be organised for members of staff and management charged with supporting the Committee to carry out its mandate in this respect.
- The activities of the Committee in relation to the overseeing of executive undertaking be clearly articulated and outlined.

<sup>14</sup> Report of the Committee on Government Assurances for the Fifth Session of the Tenth National Assembly Appointed on 22<sup>nd</sup> September 2011 (2011), Available from [www.parliament.gov.zm](http://www.parliament.gov.zm) . [Accessed 27 June 2014].



- The Committee be required and encouraged to report back regularly on its work with respect to the overseeing and implementation of executive undertakings.
- The Committee undertake study tours to the Indian Parliament which has one of the most well developed systems of overseeing and implementing executive undertakings. It is suggested the Committee combine the study tour to India with a study tour to the Ghanaian or Zambian Parliaments. Because the Ghanaian and Zambians Parliament, much like the South African Parliament, also have committees specifically constituted to scrutinise, monitor and ensure the implementation of executive undertakings, the objective of the study tours would be to acquaint the Committee with best practice around its new mandate and develop its functions with respect to this mandate.



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