

Guidelines for processing of Executive Undertakings in the NCOP

Background

On 19 May 2009, the National Council of Provinces adopted the oversight model. The main objective of the model is to enhance Parliament's oversight function in line with its constitutional obligations and strategic direction. One of the recommendations contained in the model, includes the establishment of the Government Assurances Committee.

In identifying mechanisms for Parliament to effect its oversight role, a gap was identified which necessitated that consideration be given to the establishment of a Government Assurance Committee.

The committee should have some powers governing the work and function of committees of Parliament. Its main purpose and mandate will be to consider and deal with broader, transversal and cross-cutting issues.

It will furthermore pursue all assurances, undertakings and commitments given by Executive on the floor of the House and the extent to which these assurances etc have been fulfilled

Legislative Framework

1. Section 92 (2) of the Constitution of the Republic of South Africa, 1996 (the Constitution) provides that members of the Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and performance of their functions.
2. Section 9(3) of the Constitution provides that members of the Cabinet must act in accordance with the Constitution and provide Parliament with full and regular reports concerning matters under their control.
3. Rule 101 (1) (b) of the NCOP Rules provides that except where rules provides otherwise, the Chairperson of the Council must refer to an appropriate committee all reports and other written instruments tabled in the Council by a member of the national or a provincial executive or in terms of legislation.

Definition of an executive undertaking

4. An Executive Undertaking is amongst other things an undertaking, a commitment, a promise and assurance made by the member of the executive **during the sitting of the National Council of Provinces.**

A standard list of expressions as outlined in **Annexure 'A'** will constitute an executive undertaking, but the list is not exhaustive. Apart from these standard expressions, other remarks or expressions may be treated as

assurances on the basis of the context in which such remarks or expressions were made.

Categories of Executive Undertakings

5. A. There are executive undertakings which require a member of the executive to submit figures, numbers, and amounts to the Council e.g. *The department will provide the number of person arrested for the non-compliance to the law regulating termination of pregnancy.*
- B. There are executive undertakings which will require a member of executive to submit information relating to the budget, plans and timeframes e.g. *The department will improve the professional capacity of national and local government institution responsible for water and sanitation.*

Referral of the executive undertakings

6. A. After an executive undertaking has been identified in terms of **paragraph 5. A** of Guidelines on Executive Undertakings (the Guidelines), the Chairperson of the Council must refer it in terms of Rule 101 (1) (b) of the NCOP Rules to the Select Committee on Petitions and Executive Undertakings for consideration and report.
- B. After an executive undertaking has been identified in terms **paragraph 5. B** of the Guidelines, the Chairperson of the Council must write a letter to the member of the executive reminding him or her about the provision of the information as promised.
- C. Once the information in terms of **paragraph 6. B** has been received by the Office of the Chairperson, it should be forwarded to the member of the Council that has requested the information and to the Select Committee on Petitions and Executive Undertakings for information.

Functions of the Committee

7. A. Once the Committee has received an executive undertaking it may –
 - I. Refer the executive undertaking to the relevant member of the executive for further action.
 - II. Attach time- frames within which a member of the executive should report on the executive undertaking to the Committee.
 - III. Scrutinise the executive undertaking from time to time to determine the extent to which the executive undertakings has been implemented.

- IV. Comment on delays in implementation and the adequacy of the actions taken.
 - V. Develop and keep a register of each executive undertaking in order to keep track thereof.
- B. The Committee must in terms of Rule 102 of the NCOP Rules submit a progress report to the Council on an executive undertaking referred to it.

ANNEXURE A

STANDARD LIST OF EXPRESSIONS THAT CONSTITUTE EXECUTIVE UNDERTAKINGS

1. The matter is under consideration.
2. I shall look into it.
3. Enquiries are being made.
4. I shall inform the Honourable Member.
5. This is primarily the concern of the department but I shall look into it.
6. I shall write to the affected department.
7. I assure the House all suggestions by Honourable Member will be carefully considered.
8. I shall study the conditions on the spot during my tour.
9. I shall consider the matter.
10. I will suggest to the department.
11. We will put the matter in the shape of a resolution.
12. I shall see what can be done about it.
13. I will look into the matter before I can say something.
14. The suggestion will be taken into consideration.
15. The matter is still under examination and if anything is required to be done, it will certainly be done.
16. The matter will be taken up with the Department of -----
17. I have no information, but I am prepared to look into the matter.
18. Efforts are being made to collect the necessary data.
19. The suggestion will be borne in mind while framing the rules.
20. If the Honourable Member so desires, I can issue further instructions.
21. Copy of the report, when finalised, will be placed in the Parliament.
22. I shall supply it to the Honourable Member.
23. I think it can be done.
24. We shall have to find that out.
25. I will draw the attention of the department who I hope will take adequate steps in this direction.
26. It is a suggestion for action which will be considered.
27. All the points raised by various members will be considered and the results will be communicated to each member.
28. Information is being collected and will be laid on the Table of the House.
29. I am reviewing the position.
30. Direction by the Presiding Officer involving action on the part of Ministers.
31. All specific points on which information is asked for and promised.