

# GAUTENG

LEGISLATURE

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# STANDING RULES

## *Version 5 – Revision 3*

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

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

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

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

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

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

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

**Revision 1:** Amendment of Rule 3 (definition Clause) by the following:

All the words defined bolded and arranged in alphabetical order,

and

### **Insertion of the following definitions:**

“ad-hoc Committee, Business period, Committee of Inquiry, “Leader of Government Business, Mandating Procedures of Provinces Act, Speaker, tabling, the Chamber, the Constitution, the House, the language of record, a majority of members of the Legislature, a matter of privilege, the Petitions Act, the Powers, Privileges and Immunities Act, the Presiding Officers, the Public Finance Management Act, Unauthorized documents, Working day, Year

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

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

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

**Revision 2:** Amendment of Rule 177 (1) Chief Whip to replace Leader of Government Business.

Amendment of Rule 175(2) to include the Deputy Speaker.

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

**Delete Rules :** 143(e) ;180, 181, 182, 183 and 184 - as adopted by the House on 07 August 2012.

**The following amendments were made to the Standing Rules, Version 5:  
Revision 3**

**Revision 3:** Amendments of Rule 166, 169 and 199 amongst others to take into account the outcome of the Constitutional Court decision on Oriani-Ambrosini Case and Speaker of the National Assembly.

**Insertion:** sub-rule 5

**Substitution:** Rule 169 with Rule 169(1)(2)(3 a-c) and Rule (4)

**Substitution:** Rule 199(1-7) with Rule 199(1) and 2(a-m)

## **Foreword**

**Dear Honorable Members**

**The House has adopted version 5 revision 3 of the Standing Rules of the Gauteng Provincial Legislature (GPL) on the 27<sup>th</sup> September 2013. The revision is in accordance with the GPL's practice since 1994 and this version represents the ongoing work to improve our internal arrangements in terms of Section 116 of the Constitution of the Republic of South Africa, 1996 for execution of our mandate.**

**The improvements made in the House Rules are meant to provide for a number of additional GPL mechanisms for executing its legislative mandate. These mechanisms include the following; the Ministerial Accountability Manual; the Committee Inquiries process, recommendations from the PEBA Efficacy studies as well as rulings of the Speaker on numerous House matters. we also took into account the outcome of court decision that affected our Standing Rules. All of these mechanisms have now been provided for in the House Rules and thus marking a new era of executing our mandate.**

**The Rules are a reflection of our commitment to the values and principles of a democratic decision making as enshrined in the Constitution of the Republic of South Africa, 1996. At a practical level the revised Standing Rules are intended to guide our processes and procedures as we carry out our mandate as elected representatives of our Province. I therefore call upon you to make use of these rules in advancing the values of our constitutional democracy.**

**Lindiwe Maseko**

**Speaker: Gauteng Provincial Legislature**

# Gauteng Provincial Legislature Standing Rules

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## CHAPTER I INTRODUCTION

### *Part 1.*

#### **Purpose of Rules**

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

#### **Publication of the Rules**

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

### *Part 2.*

#### **Definitions**

3. In these Rules,
  - (a) **"Ad hoc Committee"** means a committee appointed through a resolution of the Legislature to carry out a particular assignment for a specific period;
  - (b) **"Adjourning the House or a meeting of a committee"** means closing the meeting; any unfinished business needs to be rescheduled by inclusion on the next Order Paper or agenda;
  - (c) **"Announcements, Tablings and Committee Reports (ATC)"** means the document listing announcements, items of business tabled and committee reports under discussion on a specific working day of the Legislature;



- (d) **"Business of the House"** means any matter of the Legislature business that the House may consider;
- (e) **"Business period"** means the period designated for business of the Legislature in terms of the Gauteng Provincial Legislative programme;
- (f) **"Chairperson of Committees"** means the person who chairs the Committee of Chairpersons;
- (g) **"Committee of Inquiry"** means a committee of the Gauteng Provincial Legislature established in terms of the Gauteng Provincial Legislature Committee Inquiries Act 8 of 2008 to conduct an inquiry.
- (h) **"Chamber"** means the venue in which the proceedings of the Legislature take place, including the public, VIP and media gallery;
- (i) **"Constitution"** means the Constitution of the Republic of South Africa, 1996;
- (j) **"Government business"** means any matter of business for which a Member of the Executive Council is responsible;
- (k) **"House"** means the Legislature meeting in plenary;
- (l) **"Language of record"** means English;
- (m) **"Languages of the Legislature"** means Afrikaans, English, Sepedi and isiZulu;
- (n) **"Leader of Government Business"** means the person appointed by the Premier in terms of Rule 28, (LGB);
- (o) **"Legislature"** means the Gauteng Provincial Legislature;
- (p) **"Majority of the members of the Legislature"** means fifty percent plus one of the members of the Legislature;
- (q) **"Mandating Procedures of Provinces Act"** means the Mandating Procedure of Provinces Act, No 52 of 2008;
- (r) **"Matter of privilege"** means any matter that falls under privilege as set out in Rule 262 of these Rules;
- (s) **"Member"** means a Member of the Legislature including Members of the Executive Council (MEC);

- (t) **"Motion"** means a proposal for a resolution of the House;
- (u) **"NCOP"** means the National Council of Provinces;
- (v) **"Order of the day"** means a matter of business under consideration on a specific day that the Legislature meets;
- (w) **"Order Paper"** means the document that describes the business of the Legislature and includes the agenda for the day;
- (x) **"Permanent delegate"** means a permanent delegate to the National Council of Provinces envisaged in section 60(2)(b) of the Constitution;
- (y) **"Petitions Act"** means the Gauteng Petitions Act, 5 of 2002;
- (z) **"Precincts of the Legislature"** are those areas that are occupied by the House and its Committees;
- (aa) **"Powers, Privileges and Immunities Act"** means the Gauteng Powers, Privileges and Immunities of and Provincial Legislatures, Act 2 of 1995 as amended;
- (bb) **"Premier"** means the Premier of Gauteng Province;
- (cc) **"Presiding Officers"** means the Speaker, Deputy Speaker, Chairperson of Committees and Deputy Chairperson of Committees;
- (dd) **"Public Finance Management Act"** means the Public Finance Management Act, 1 of 1999 as amended;
- (ee) **"Question Paper"** means the weekly document listing questions put by Members to the Executive Council, other Members in charge and the Speaker for oral or written reply that have not yet been answered;
- (ff) **"Resolution"** means a decision taken by the House;
- (gg) **"Recess"** means a period determined by the Programming Committee or by resolution of the House during which there are no plenary meetings of the Legislature;
- (hh) **"Sergeant-at-Arms"** means the official of the Legislature responsible for the mace and for security of the House;
- (ii) **"Secretary"** means the person appointed in terms of the Legislative Services Act, No 6 of 1999 as amended;
- (jj) **"Session"** means the period between the opening and closing sitting of the Legislature in each year;

- (kk) **"Sitting"** means a plenary meeting of the Legislature;
- (ll) **"Speaker"** means the person appointed in terms of Rule 11.
- (mm) **"Speaking List"** means the house document indicating the names of Members who will speak in the House, in their order and time allocated as per the order paper.
- (nn) **"Special delegate"** means a special delegate to the National Council of Provinces envisaged in section 60(2)(a) of the Constitution;
- (oo) **"Suspension of proceedings"** means interrupting a meeting; unfinished business is carried over to the time the meeting resumes;
- (pp) **"Tabling"** means documents published either on the ATC or placed on the Table in the Chamber during plenary for this purpose.
- (qq) **"Term"** means the period between the first sitting of the Legislature after an election and the last sitting of the Legislature before the next election;
- (rr) **"Unauthorised document"** any document that is not prescribed in the order paper of a particular sitting and has not been authorised by the Presiding Officer.
- (ss) **"Working day"** means any day of the week except:
  - (i) Saturday and Sunday; or*
  - (ii) A public holiday in terms of the Public Holidays Act, 1994 (Act 36 of 1994); and if such a holiday falls on a Sunday, also the Monday;*
- (tt) **"Year"** means a period of twelve months starting from the 1st of January - ending 31<sup>st</sup> December.

### ***Part 3.***

#### **Authority and application of rules**

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

- (f) members of the public.

### **Changing rules**

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

### **Interpretation of rules**

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

### **Suspension of rules**

- 7. (1) During a meeting of the House a member may introduce a motion to suspend one or more Rules for the duration of all or part of the meeting.
- (2) A motion under this Rule may be introduced without notice and must indicate the reason for the proposed suspension.
- (3) Despite sub-rule (1), a motion to suspend the following Rules must be placed on the Order Paper five days before it is introduced and decided upon by a majority of two thirds of the members present:
  - (a) This Rule;
  - (b) The Rule providing for a member of the Executive Council to answer questions, Rule 46(2).
- (4) The suspension of any provision of the Rules must be limited in its operation to the particular purpose and the particular meeting for which the suspension has been approved.

## CHAPTER 2

### CEREMONIES AND SPECIAL SITTINGS

#### *Part 1: Ceremonies*

#### **Ceremonies**

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

#### *Part 2: First sitting after an election*

#### **House must sit within 14 days**

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

#### **Members take oath or affirmation**

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

#### **Election of Speaker and Deputy Speaker**

- 11.** After all Members have taken an oath or affirmation, the House must elect one of its Members as the Speaker and another as Deputy Speaker in accordance with the procedure set out in section 111 and Part A of Schedule 3 of the Constitution.

## **Election of the Premier**

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

## **Premier's address**

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

### ***Part 3: First sitting each year***

## **First sitting each year**

- 14.** At the first sitting of the Legislature each year, the Premier must deliver an address on the State of the Province.

## **Discussion of the Premier's address**

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

### ***Part 4: Extraordinary and other special sittings***

## **Extraordinary sittings**

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

## **Special sittings**

- 17.** (1) The Speaker may designate any sitting to be a special sitting to consider any business that is not on the programme of the Legislature.
- (2) The Speaker may also designate a sitting to be a special sitting to hear an address by a visitor.
- (3) The only business that may be conducted at that special sitting will be the business for which it has been designated.
- (4) The Speaker may in consultation with the Leader of Government Business invite the following to address the House-
- (a) the Head of National or Provincial Legislature;
  - (b) the Head of National or Provincial Government;
  - (c) the Head of Local Government;
  - (d) the Head of organised local government association;
  - (e) the Head of Institution Supporting Democracy;
  - (f) a Judge-President; and
  - (g) any other person who has performed outstanding service to society.

## **CHAPTER 3**

### **OFFICE BEARERS, MEMBERS AND NCOP DELEGATES**

#### ***Part 1: Office Bearers***

#### **Speaker**

- 18.** (1) As head of the Legislature, the Speaker safeguards the independence of the Legislature and maintains the authority of the Legislature.
- (2) The Speaker is the spokesperson for the Legislature in its relations with the other arms of government, and with outside institutions and persons. In representing the Legislature, the Speaker is responsible to the Legislature and its members.
- (3) The Speaker must ensure that these Rules are observed.
- (4) As presiding officer, the Speaker presides over the House and ensures that meetings are conducted in an orderly manner and according to the Constitution and these Rules.
- (5) The Speaker must protect freedom of speech and debate in the House and its Committees.
- (6) The Speaker is responsible for the management of the Legislature in accordance with Rule 67(2).
- (7) The Speaker must discharge his or her responsibilities in an impartial way.

## **Deputy Speaker**

- 19.** The Deputy Speaker –
- (1) assists the Speaker in the performance of his or her functions;
  - (2) acts as Speaker when the Speaker is absent or unable to perform his or her functions; and
  - (3) acts when the position of Speaker is vacant.
- 20.**
- (1) Whenever the position of Speaker or Deputy Speaker becomes vacant, the House must elect a Speaker or Deputy Speaker from among the Members of the Legislature in accordance with the procedure set out in section 111 and Part A of Schedule 3 of the Constitution.
  - (2) In the case of the Speaker, the Secretary must determine the time of the election and in the case of the Deputy Speaker the Speaker must determine the time of the election.
  - (3) A judge designated by the Chief Justice must preside over the election of a Speaker.
  - (4) The Speaker must preside over the election of a Deputy Speaker.
  - (5) After being elected, the Member may make a short statement expressing his or her sense of the honor conferred.

## **Chairperson of Committees**

- 21.** The Chairperson of Committees –
- (1) refers to the Chairperson of the Committee of Chairpersons .
  - (2) represents the Committee of Chairpersons on the Programming Committee;
  - (3) implements policy with regard to the coordination of the work of Committees and the scheduling of committee meetings;
  - (4) is a presiding officer and presides over the House whenever necessary;
  - (5) acts as Deputy Speaker when requested to do so by the Speaker in terms of Rule 24(1).

## **Deputy Chairperson of Committees**

- 22.** The Deputy Chairperson of Committees –
- (1) assist the Chairperson of Committees in the performance of his or her functions; and
  - (2) is elected as a presiding officer for the duration of the House.



## **Election of Chairperson of Committees and the Deputy Chairperson of Committees**

**23.** At the first sitting after the election or whenever the position of Chairperson of Committees or the Deputy Chairperson of Committees becomes vacant, the House must elect a Member to the position of Chairperson of Committees or the Deputy Chairperson of Committees.

## **Absence of Speaker or Deputy Speaker**

- 24.** (1) The Speaker must request the Chairperson of Committees to act as Deputy Speaker when the Deputy Speaker is absent or unable to perform his or her functions and when the position of Deputy Speaker is vacant.
- (2) The Chairperson of Committees must act as Speaker and the Deputy Chairperson of Committees must act as Deputy Speaker –
- (a) if the Speaker and Deputy Speaker are both absent or unable to perform their functions; or
- (b) if the positions of Speaker and Deputy Speaker are both vacant.
- (3) 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 a Member to act as Speaker for the time during which all presiding officers are absent.

## **Chief Whip**

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

## **Deputy Chief Whip**

- 26.** The Deputy Chief Whip –
- (1) assists the Chief Whip in the performance of his or her functions.

## **Relief of presiding officers during sittings**

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

## **Appointment of Leader of Government Business**

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

## **Leader of Government Business**

- 29.** Responsibilities of the Leader of Government Business is responsible for:
- (1) The management of government business in the Legislature; and
  - (2) Liaison between the Legislature and the Executive Council.

## ***Part 2: Members***

### **Members' oath/affirmation in case of vacancy**

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

### **Conduct of Members**

- 31.** When attending to the business of the Legislature, every Member must –
- (1) behave in a way that demonstrates respect for the Legislature and other Members; and
  - (2) dress appropriately.

### **Members' privileges**

- 32.** (1) There must be freedom of speech and debate in the House and its Committees.
- (2) Members enjoy privileges and immunities specified in section 117(1) of the Constitution and any national legislation, which are necessary to fulfill their duties.

### **Members' right of access to documents**

- 33.** (1) Every Member has the right to examine any document tabled in the Legislature including any of its Committees and to receive a copy of that document upon submitting a request to the Secretary.
- (2) A Member may not reveal the content of any document that has been deemed confidential and withheld from the public under Rule 54(4) & (5) .

### **Members' attendance**

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

### **Acting for absent member**

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

### ***Part 3: Delegates to the National Council of Provinces***

#### **Nomination and appointment of permanent delegates**

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

### **Appointment of special delegates**

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

### **Regulation of the House business when the House is not in sitting during business period**

- 38.** (1) Any resolution that has been tabled by the Speaker, specifically in terms of this rule, through the ATC, on any subject matter shall be deemed to have been adopted by the House, unless, at least four members have submitted a written objection to the Secretary by 12h00 of the following day.
- (2) If at least four Members have submitted an objection in terms of sub-rule (1)above, then the matter shall be decided by the House.
- (3) The Speaker may, in consultation with the leaders of political parties, settle certain matters including but not limited to the adoption of the final mandate.
- (4) Any new Member of the Legislature must, during this period, take oath/affirmation before the Speaker.
- (5) Any such matter settled in terms of this Rule, must be ratified by the House at the first available opportunity.
- (6) All decisions taken in accordance with this Rule shall have full effect of the House resolution.
- (7) The Speaker must, at the next sitting, announce information on the resolution adopted in terms of this Rule.

### **Concurrence for appointment of special delegates**

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

### **Proof of appointment as special delegates**

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

### **Termination of appointment as special delegate**

- 41.** (1) The appointment of a Member as a special delegate may be terminated at any time by a resolution of the House.
- (2) If the House is not in session, a Member's appointment as a special delegate may be terminated by a resolution that is proposed by the Speaker and adopted following the procedure set out in Rule 37.

### **Permanent delegates' rights and duties in the Legislature**

- 42.** (1) As set out in section 113 of the Constitution, the province's permanent delegates may attend and speak in the House and its Committees, but may not vote.
- (2) If a permanent delegate wishes to speak in the House or any of its Committees, arrangements must be made with the Speaker who must consult the Programming Committee.
- (3) The Legislature may require a permanent delegate to attend and report to the Legislature or any of its Committees.
- (4) Permanent delegates may put questions for written reply to any Member of the Executive Council subject to Rule 138.

### **Recalling permanent delegates**

- 43.** The Speaker must submit a written notice informing the Chairperson of the NCOP that a permanent delegate has been recalled if –
- (1) the party to which that delegate belongs submits a written notice signed by its leader or whip, stating that the delegate has ceased to be a Member of the party and is therefore recalled by the party; or
  - (2) the House adopts a resolution that it has lost confidence in the permanent delegate.

### **Delegate in the Mediation Committee**

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

## **CHAPTER 4**

### **THE EXECUTIVE COUNCIL**

#### **Appointment of the Executive Council**

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

#### **Duties of Executive Council**

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

#### **Part 1: Annual Reports**

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

## **Part 2: Quarterly Reports**

- 48.** (1) A Member of the Executive Council must submit a Quarterly report, in a format as prescribed by the Legislature, financial reports in a format as provided by Treasury regulations, for which he/she is responsible within one calendar month after the end of each quarter.
- (2) Where a Member of the Executive Council is unable to submit a Quarterly report within the specified period, as prescribed in sub-rule 1, he/she must submit a written explanation to the Speaker setting out the reasons why the report was not tabled. The written explanation must be submitted within 5 days of expiry of the period set out in Rule 48(1).
- (3) In the event of erroneous information being submitted to the Legislature in a quarterly report, the Member of the Executive Council responsible must submit an erratum within the time specified by the Legislature or a committee thereof.
- (4) Notwithstanding sub-rule 3 where a Member of the Executive Council discovers an error or incorrect information relating to a matter before the House or a committee, he/she must inform the House or a Committee hereof prior to adoption of a report on the matter.

## **Interference with the Committee Processes**

- 49.** Members of the Executive Council must not interfere with committee processes.

## **Matters affecting the Executive Council**

- 50.** (1) When the Legislature or any of its Committees brings a matter to the attention of a Member of the Executive Council, it must indicate –
- (a) whether or not it requires a response from a Member of the Executive Council; and
  - (b) if it requires a response, the period within which a response must be given.
- (2) The Secretary must send any resolution affecting a Member of the Executive Council to the Premier or the appropriate Member.

## **Vacancy in Premiership**

- 51.** (1) When a Premier resigns or when the Premier's office is vacant for other reasons, the outgoing Premier or another party leader must inform the Speaker of the vacancy.
- (2) At the first opportunity after the Speaker is informed of the vacancy in the Premier's office, he or she must –
- (a) inform the House;

- (b) inform the Chief Justice; and
  - (c) request the Chief Justice to set a date and time for the election of a Premier and to designate a judge to preside over the election.
- (3) At the time and date set by the Chief Justice, the Legislature must elect one of its members as Premier in accordance with section 128 and Part A of Schedule 3 of the Constitution.

## **CHAPTER 5**

### **PUBLIC PARTICIPATION**

#### ***Part 1: General***

##### **Public involvement**

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

##### **Public access**

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

##### **Regulating public access**

- 54.** (1) The Legislature must take reasonable measures to regulate public access.
- (2) The regulation of the public's access to the precincts of the Legislature, subject to the Constitution and these Rules, is the responsibility of the Speaker.
- (3) In the interest of security or to prevent any disruption of proceedings, the Legislature may provide for the searching of any person and refuse entry to or remove any person.



- (4) A committee may exclude the public, including the media, from a meeting in terms of section 118(2) of the Constitution only when it is reasonable and justifiable to do so in an open and democratic society.
- (5) Circumstances in which it is reasonable and justifiable to exclude the public from a committee meeting may, but will not necessarily, occur when the committee is considering a matter that –
  - (a) should be discussed behind closed doors to avoid prejudicing any person unfairly; or
  - (b) is confidential in terms of legislation.

## **Conduct of members of the public**

- 55.** (1) When in the precincts of the Legislature, Members of the public must conduct themselves in an orderly manner.
- (2) Members of the public attending a plenary meeting of the Legislature or a committee meeting may not disrupt proceedings and must observe the directive of the Member presiding over the House or chairing the committee meeting.
- (3) The member presiding over the House or chairing a committee meeting may order a Member of the public to leave from a meeting and leave the precincts of the Legislature when he or she disrupts proceedings or is involved in any misconduct.
- (4) The Sergeant-at-Arms may remove Members of the public from the precincts of the Legislature if they –
- (a) do not leave a meeting or the precincts of the Legislature on the instruction of the member presiding over the House or chairing a committee meeting;
  - (b) have entered any part of the precincts which has been set aside for Members only;
  - (c) interrupt proceedings or are involved in misconduct; or
  - (d) are a threat to the security of the Legislature.

## **Public participation in Committee meeting**

- 57.** (1) Any Member of the public and any institution or organisation may ask to appear before or may make a written submission to a committee with regard to a particular matter.
- (2) Rule 147 regulates this process.

## **Assistance for public participation**

- 58.** In order to provide effective opportunities for public participation, the Secretary may assist a person to -
- (1) formulate a written submission to a committee;
  - (2) appear before a committee; or
  - (3) present a submission to a committee.

## **Meeting outside the ordinary precinct**

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

## ***Part 2: Petitions***

### **Right to petition**

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

### **Submission of petitions**

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

### **Assistance for petitions**

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

### **Consideration of petitions**

- 63.** (1) The Petitions Committee must consider all petitions that are properly submitted in terms of the Petitions Act.
- (2) The committee may use all the powers given to it by the Act to deal with a petition.
- (3) The Secretary must inform the petitioner and other Members of the public concerned of the decision of the committee and of any action taken by the committee.

### **Reports of Petitions and Public Participation Committee**

- 64.** (1) The Petitions Committee must –
- (a) submit an annual report to the House in terms of Rule 164; and
- (b) report to the House on a quarterly basis on the petitions submitted to it during the past three months.
- (2) The quarterly report must –

- (a) set out the activities of the committee and the time it has taken to respond to the petitions received; and
  - (b) include an assessment of the effectiveness of the petitions process and procedures.
- (3) The Chair of the committee is the Member in charge of a report and must present it to the House.

### ***Part 3: Promotion of Human Rights***

- 65(1)** All reports as prescribed herein, submitted by a Member of the Executive Council must have specific indicators concerning measures taken by his/her department or entity under his/her responsibility in promoting;
- (a) Gender equality;
  - (b) Youth development;
  - (c) Rights of people with disabilities; and
  - (d) Any other rights enshrined in the Bill of Rights.
- 65(2)** The Legislature highlights the importance of enabling women, youth and people with disabilities to participate in deliberations on matters relating to women, youth and people with disabilities thus encouraging inclusiveness through –
- a) Ensuring that the legislature, through its committees, pays attention to issues relating to gender, youth and people with disabilities when it conducts oversight;
  - b) Ensuring that the concerns of women, youth and people with disabilities are adequately taken into account in the public participation programme of the Legislature; and
  - c) Ensuring that the Executive pays attention to issues relating to gender, youth and people with disabilities.
- 65(3)** Committees must report quarterly to the House on the role they played in Promoting matters of Gender, Youth and People with Disabilities.

### ***Part 4: Resolutions of the House***

#### **Resolutions affecting Executive Council**

- 66.** (1) The Speaker must communicate to the Leader of the Government Business, the relevant Member of the Executive Council, Head of Department and Chairperson of the Portfolio Committee –
- (a) a resolution of the House affecting the Executive Council, a Member of the Executive Council, or Provincial Department; and
  - (b) a recommendation of a Portfolio Committee in a committee report

- affecting the Executive Council, a Member of the Executive Council, or Provincial Department, and adopted by the House.
- (2) A Member of the Executive Council who receives communication in terms of sub-rule 66(1) must, within 30 days of receipt, report in writing to the Speaker-
    - (a) the steps undertaken to implement the resolution; and
    - (b) the planning to implement the resolution or recommendation.
  - (3) If the resolution has not been implemented within 30 days, the relevant MEC must report in writing to the Speaker -
    - (a) the reasons for not implementing the resolution;
    - (b) the corrective steps undertaken to implement the resolution ; and
    - (c) the planning to implement the resolution.
  - (4) Members of the Executive Council must provide an account of their departments' performance against resolutions of the House in their annual and quarterly reporting.

## **CHAPTER 6**

### **LEGISLATURES' EXECUTIVE AUTHORITY**

#### **Executive Authority**

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

#### ***Part 1: Duties of the Executive Authority***

#### **Preparation of strategic, annual performance plans and budget**

- 68.** The Executive Authority must –
  - (1) oversee the preparation of the Legislature's strategic plan, annual performance plan, budget and adjustments budgets in accordance with this Chapter; and
  - (2) table the strategic plan and annual performance plan in the House.

#### **Submission of drafts of strategic plan, annual performance plan and budget**

- 69.** The Executive Authority must –

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

### **Submission of reports to oversight mechanism**

- 70.** (1) The Executive Authority must table the quarterly and mid-year reports in the Legislature in line with the Financial Management of the Gauteng Provincial Legislature Act.
- (2) The Legislature must refer the reports to the oversight mechanism promptly.
- (3) The Legislature must submit any other report(s) in compliance with the oversight mechanism.

### **Tabling and consideration of annual report**

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

## **CHAPTER 7**

### **MEETINGS**

#### ***Part 1: General***

### **Working days**

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

### **Quorum requirements**

- 73.** (1) At least one third of all the Members of the Legislature must be present to constitute a plenary meeting of the Legislature.
- (2) A majority of the Members of the Legislature must be present when a vote is taken on a Bill or an amendment to a Bill.
- (3) At least two thirds of all the Members of the Legislature must be present when a vote is taken on a constitution for the province or an amendment to a constitution for the Province.
- (4) At least two thirds of all Members must be present when a vote is taken on any matter other than those covered in sub-rules (2) and (3).

### **Absence of a quorum**

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

### **Order at the beginning of a meeting**

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

## **Prayer and meditation at the beginning of meeting**

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

## **Suspension and adjournment of proceedings**

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

## **Order at adjournment**

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

## ***Part 2: Arrangement of business***

### **Business of the House and Order Paper**

- 79.** (1) The Programming Committee, after consultation with the Leader of Government Business, must arrange all business of the House in accordance with these Rules.
- (2) The Leader of Government Business must agree to any arrangement of government business.
- (3) As far as possible all business of the House must be arranged in a manner that receives support from all parties.
- (4) The Speaker must ensure that all business of the House is placed on the Order Paper.
- (5) At each meeting, the House conducts its business in the order shown on the Order Paper unless –
- (a) the House decides otherwise in terms of Rule 110;
  - (b) the Presiding Officer decides otherwise after consultation with the whips; or
  - (c) the Rules allow otherwise.



## **Speeches and open time in debates**

- 80.** (1) For each debate, the Whips must compile a speaking list of the Members who are to speak in the debate, the order in which they are to speak, and the amount of time each Member has for his or her speech.
- (2) In compiling the speaking list, the whips must ensure that all parties represented in the Legislature have an opportunity to participate in the proceedings in a manner consistent with democracy.
- (3) The Premier, the Leader of the Official Opposition and the Speaker shall not be restricted with regard to the length of time they may speak.
- (4) Members other than those referred to in sub-rule (3) may not speak for longer than 30 minutes at a time to a question provided that the time does not exceed the parties' allocated time.
- (5) At the end of each speech according to the speaking list any Member including Members who have already spoken in the debate may indicate to the Presiding Officer that he or she wishes to ask a question or make a remark directly related to the speech.
- (6) For each debate, the whips must determine the amount of time available for open debate after all the speeches according to the speaking list.
- (7) A Member who wishes to speak during open time must indicate his or her wish to the Presiding Officer.
- (8) The Presiding Officer must use his or her discretion to call on members to speak during open time.
- (9) Members who have already spoken according to the speaking list may not speak during this time.

## **Debates on matters of urgent public importance**

- 81.** (1) Despite Rule 128, the Speaker may allow a matter of urgent public importance to be debated in the House in accordance with Rules 128 and 129.
- (2) Despite Rule 79, at the beginning of a meeting before any business of the House, the Presiding Officer may give one or more Members of the Executive Council the opportunity to make a statement in accordance with Rule 82.

## **Statement by members of the Executive Council**

- 82.** (1) A Member of the Executive Council who wishes to make a statement in the House with regard to a matter falling under his or her responsibility must give written notice to the Speaker at least two hours before the beginning of the meeting.

- (2) A Member of the Executive Council may make up to two statements per meeting and may speak for up to five minutes per statement.

### **Speaker's debates**

83. (1) The Speaker may from time to time, but limited to an average of once a month, identify topics of provincial interest for debate in the House.
- (2) The debate is conducted in accordance with the normal rules of a debate and speaking times will be determined in consultation with the whips of all the parties represented in the House.

## ***Part 3: Rules of debate***

### **Freedom of speech**

84. In accordance with section 117 of the Constitution, Members must be allowed to speak and debate freely in the Legislature.

### **Statements by Members**

85. (1) A Member, other than the Premier or a Member of the Executive Council may be recognized by the Presiding Officer to make a statement on any matter for not more than two minutes.
- (2) The number of Members entitled to make a statement, shall be restricted to 5 members per sitting.
- (3) The Speaker may at his/her own discretion extend the number of Members who wish to make a statement.
- (4) Members of various parties must be recognized in accordance with the proportional representation in the House.

### **Precedence of Presiding Officer**

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

### **Members called to speak**

87. (1) A Member may speak in a debate only when called by the Presiding Officer.
- (2) A Member who wishes to speak in a debate but is not on the speaking list must indicate his or her wish to the Presiding Officer by rising in his or her seat.

## **Conduct of members speaking**

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

## **Conduct of members during debate**

- 89.** In the course of a debate Members may not -
- (1) walk between the Presiding Officer and a member who is speaking;
  - (2) walk in front of the Table;
  - (3) use electronic equipment that disturbs proceedings;
  - (4) have conversations among themselves; and
  - (5) distribute any unauthorised document in the House

## **Member may not speak twice to a matter**

- 90.**
- (1) Except when required or allowed by these Rules, no member may speak more than once to a matter.
  - (2) A Member may request permission to speak to a matter a second time in order to –
    - (a) clarify any misquotation or misunderstanding of any material part of his or her original speech;
    - (b) ask a question or make a remark in terms of Rule 80; and
    - (c) place an interruption in terms of Rule 92.

## **Content of debate**

- 91.**
- (1) Members may not –
    - (a) discredit the House by using disrespectful words;
    - (b) refer to proceedings in committee meetings that were closed to the public until those proceedings are reported to the House;
    - (c) refer to any other Member by that Member's first name or names only;
    - (d) comment upon the merits of any matter pending before the courts in a way that could interfere with the administration of justice or infringe upon the independence of the courts;
    - (e) comment upon matters that are irrelevant to the matter under discussion;
    - (f) use offensive language;
    - (g) repeat arguments; or
    - (h) anticipate the discussion of a matter appearing on the Order Paper.
  - (2) When a Member persists in irrelevance or repetition of arguments the Presiding Officer must call attention to the conduct of the Member and may then direct the Member to stop his or her speech.

- (3) In determining whether a Member is out of order on the ground of anticipating the discussion of a matter appearing on the Order Paper, the Presiding Officer must take into account whether the matter is likely to be discussed in the House within a reasonable time.

### **Interruptions**

- 92.** Members may interrupt a Member who is speaking in a debate only to –
- (1) raise a point of order;
  - (2) raise a matter of privilege; or
  - (3) call attention to the presence of an unauthorised person.

### **Points of order**

- 93.**
- (1) A Member may raise a point of order to call the attention of the Presiding Officer to a breach of order.
  - (2) When a point of order is raised during a debate, the Member who is speaking must stop speaking and resume his or her seat.
  - (3) After the point of order has been stated, the Presiding Officer must immediately make a decision or indicate when a decision will be made.

### **Personal explanations**

- 94.**
- (1) A Member may request the Presiding Officer's permission to explain matters of a personal nature raised in the House.
  - (2) The Member must confine the explanation strictly to the personal matter and may speak for up to three minutes.
  - (3) The explanation may not be debated.

### **Reply to a debate**

- 95.**
- (1) The Member in charge of an item on the Order Paper may reply to the debate on the matter.
  - (2) A reply to a debate closes the debate.

## ***Part 4: Order in meetings***

### **Applicability of Rules**

- 96.** The Rules in this part apply to order in the House and, when applicable, to order in committee meetings.

## **Maintaining order**

- 97.** The Member presiding over the House or chairing a committee meeting must maintain order in meetings.

## **Respect for Presiding Officer**

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

## **Member ordered to withdraw**

- 99.** (1) The Member presiding over the House or chairing a committee meeting may order a member to withdraw immediately from a meeting for the remainder of that meeting or a shorter period if he or she is of the opinion that –
- (a) the Member is deliberately contravening a provision of the Rules;
  - (b) the Member is in contempt of or disregarding the authority of the Member presiding over the House or chairing the committee meeting; or
  - (c) the Member's conduct is grossly disorderly.
- (2) An order to withdraw must be recorded in the Minutes of Proceedings.

## **Serious contravention and suspension of member**

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

## **Member ordered to withdraw and suspension**

- 101.** (1) A Member ordered to withdraw, under Rule 100 may remain within the precinct of the Legislature.
- (2) A Member whose matter has been referred to the Privileges and Ethics Committee to conduct an inquiry and to make recommendations may remain within the precincts of the Legislature unless the House pronounces itself on the matter.
- (3) A Member who is suspended in terms of Rule 100(1)(a) and (b) shall forthwith withdraw from the precincts of the Legislature for the duration of his suspension.
- (4) The suspension of a Member shall be in writing and forthwith be tabled through the ATC and announced in the next sitting of the House.

## **Period of suspension**

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

## **Effect of order of suspension**

- 103.** (1) A Member who has been suspended under Rule 100 must leave the precincts of the Legislature, and may not, during the period of suspension, without written permission of the Speaker –
- (a) enter the precincts for whatever purpose;
  - (b) participate in any activity of the Legislature or any of its Committees.
- (2) A Member who has been suspended by the House shall also have his / her parliamentary rights and privileges suspended which include but not limited to:
- (a) the right to debate in the House;
  - (b) the rights to speak on his / her official capacity as a Member of the Legislature or any of its Committees;
  - (c) the right to pose questions including written questions;
  - (d) the right to have his / her speeches or parts thereof read on his behalf in the House or any of its Committees.

## **Penalties for contempt**

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

## **Expression of regret**

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

## **Grave disorder**

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

## ***Part 5: Decisions and voting***

### **Quorum requirement for voting**

- 107.** (1) When a decision is taken the quorum requirements of Rule 73 of this Chapter apply.
- (2) When the number of Members present is below that required for the vote, the bells must be rung for three minutes. If there is still no quorum after three minutes have passed, the Presiding Officer may suspend proceedings or adjourn the House and postpone the decision of the question.

## **Decisions postponed**

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

## **Question put**

- 109.** (1) The question to be decided must be put by the Presiding Officer and, if it is not heard or understood, the Presiding Officer must put it again.
- (2) No Member, except a Member permitted to make a declaration of vote under Rule 110 of this Chapter, may speak to a question after the Presiding officer has put it.

## **Declaration of vote**

- 110.** (1) After a question has been put but before it has been decided, the Presiding Officer may allow one Member of each political party to state on behalf of that party the reasons why the party is in favour or against the question.
- (2) If the question is one on which a free vote has been granted by any party or a roll-call is to take place in terms of Rule 113, the Speaker may allow individual Members to declare the reasons for their intended vote.
- (3) The statement must be included in the Minutes of Proceedings.
- (4) A declaration of vote may not exceed three minutes.

## **Voting**

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



- (i) a decision to adopt or amend a provincial constitution under section 142 of the Constitution; and
- (ii) a decision to remove the Premier under section 130(3) of the Constitution.

### **Presiding Officer's vote**

- 112.** In accordance with section 112(2) of the Constitution, the Presiding Officer may not vote but –
- (1) must cast a deciding vote when there is an equal number of votes on each side of a question; and
  - (2) may cast a deliberative vote when a question must be decided with a supporting vote of at least two thirds of the Members of the Legislature.

### **Demand for roll-call**

- 113.** (1) A Member may demand a roll-call either when a question is put in terms of Rule 109 or after Members have decided on a question by calling "Yes" or "No" and the Presiding Officer has indicated the result of the vote.
- (2) The Presiding Officer must ascertain whether at least four Members support the demand for a roll-call.
  - (3) If four or more Members do support the demand for a roll-call, it must take place and may not be debated.

### **Roll-call: Bells rung**

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

### **Roll-call: Procedure after doors are locked**

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

### **Roll-call: Minority of fewer than five members**

- 116.** (1) When, after the doors have been locked and the question has been put, the Presiding Officer suspects that fewer than five Members are voting with the minority on the question, he or she may ask the voting minority to stand.
- (2) If fewer than five Members stand and the Members who supported the demand for a roll-call do not object, the Presiding Officer may immediately declare the decision on the question.
- (3) If five or more Members stand, the Secretary must proceed with the roll-call.

### **Points of order during roll-call**

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

### **Roll-call: Confusion or error**

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

### **Recording of individual vote**

- 119.** (1) After Members have decided on a question by calling "Yes" or "No" and the Presiding Officer has indicated the result of the vote, any Member may, instead of demanding a roll-call, inform the Presiding Officer that he

- or she or the party to which the Member belongs wishes their vote to be formally recorded in the Minutes of Proceedings.
- (2) The Presiding Officer may order a roll-call if four or more Members request their individual vote to be recorded.

### **Order in which amendments to questions are put**

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

## **CHAPTER 8**

### **MOTIONS AND URGENT DEBATES**

#### ***Part 1: Motions***

### **Nature of motions**

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

## **Form of a motion**

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

## **Admissibility of a motion**

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

## **Motions without notice**

- 124.** (1) Every motion requires notice except a motion:
- (a) proposing an amendment to a motion under Rule 127;
  - (b) raising a point of order on a matter of privilege;
  - (c) postponing, discharging or giving precedence to an item on the Order Paper;
  - (d) by a Member in charge proposing a resolution on the report of a Committee immediately after the conclusion of the debate on the report;
  - (e) appointing special delegates to the NCOP under Rule 37;
  - (f) for which another Rule states that notice is not required; and
  - (g) accepted unanimously by of all the Members present as a motion for which notification is not required.
- (2) To introduce a motion without notice, a Member must read the motion out loud in the House and deliver a signed copy to the Secretary.
- (3) A motion without notice must be considered by the House immediately.

## **Giving notice of a motion**

- 125.** (1) A Member who wishes to introduce a motion must:
- (a) submit a signed copy of the motion to the Secretary for placing on the Order Paper, or
  - (b) give oral notice of the motion in the House during the period set aside for "Notices of a motion".
- (2) A Member who wishes to introduce a motion may:

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

### **Motions considered by the House**

- 126.**
- (1) Substantive motions must be selected by the Programming Committee before it is considered by the House, unless the Rules provide otherwise.
  - (2) The Programming Committee must consider the selection of the motion for consideration by the House at its first meeting after the motion was placed on the Order Paper.
  - (3) After the Programming Committee has selected a motion, the House must consider such a motion at a sitting designated by the Programming Committee.
  - (4) Only with the consent of the Speaker, a Member may withdraw a motion that has been selected by the Programming Committee.

### **Amended motions**

- 127.**
- (1) A Member may propose amendments to a motion, subject to the Rules.
  - (2) A Member may move amendments without notice only:
    - (a) when it is a motion raising a matter of privilege;
    - (b) to substitute the name of a Member mentioned in a motion with the name of another member, or
    - (c) with the approval of the Presiding Officer.

## ***Part 2: Debates on matters of urgent public importance***

### **Request for debate on a matter of urgent public importance**

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

### **Debate on a matter of urgent public importance**

- 129.** (1) The Speaker must decide when a debate on a matter of urgent public importance will start and the time allocated for it after consultation with the Leader of Government Business.
- (2) A Member who made the request that a particular matter of public importance should be debated, speaks first and the Premier or the relevant Member of the Executive Council must be allocated time in the debate.
- (3) If ten minutes before the allocated time for the debate expires when a Member other than the member who made the request is speaking, the Presiding Officer must interrupt that Member to ascertain from the Member who made the request whether he/she wishes to reply.
- (4) If the Member who made the request wishes to reply, the remainder of the time may be allocated to him/her.
- (5) The rule of anticipation, Rule 91(1) (h) and (3) does not apply during the debate on a matter of urgent public importance.

## **CHAPTER 9**

### **ORAL AND WRITTEN QUESTIONS**

#### **Questions to Members of the Executive Council**

- 130.** A Member may put questions for oral or written reply to an MEC relating to –
- (1) public affairs relating to the MEC's department; or
  - (2) any matter of administration for which the MEC is responsible.

#### **Questions by permanent delegates**

- 131.** Permanent delegates may put questions for written reply to the Premier and any other MEC in accordance with Rule 42(4) and 138.

#### **Form and content of questions**

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

#### **Admissibility of questions**

- 133.** A question is not admissible if it –
- (1) does not comply with Rule 132; or
  - (2) seeks information that has been provided in response to a similar question in the previous six months.

## **Placing questions on the Question Paper**

- 134.** (1) A Member who wishes to ask a question must deliver a signed copy of the question to the Secretary for placing on the Question Paper.
- (2) (a) A Member may seek the support of other Members to ask a question.  
The names and parties of the supporting Members must be recorded on the Question Paper.
- (b) A Member who wishes to ask a question with the support of one or more other Members must ensure that these Members add their signatures to the question before it is delivered to the Secretary.
- (3) A Member may deliver a question to the Secretary on behalf of an absent Member, if he or she has been authorised in writing.
- (4) Except when a question is asked under Rule 139 or when the Speaker has given his or her consent, each question must be placed on the Question Paper before it can be replied to.

## **Scheduling questions**

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

## **Withdrawing of questions**

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

## **Questions for oral reply**

- 137.** (1) Questions for oral reply must be answered at Question Time.
- (2) Question Time is a period of at least 60 minutes each week (normally on Tuesdays) during which questions placed on the question paper may be put to and answered by MECs except the Premier.



- (3) Questions for oral reply must be dealt with in the order in which they appear on the Question Paper.
- (4) Questions standing over from the previous Question Time must be dealt with before new questions.

### **Restrictions on questions for oral reply**

- 138.**
- (1) A question for oral reply may contain up to five subdivisions.
  - (2) If the Presiding Officer is of the opinion that a question for oral reply deals with matters of a statistical nature, the Speaker may decide that the question be placed on the Question Paper for written reply.
  - (3) A Member may ask up to two questions for oral reply at any Question Time.
  - (4) A maximum of four questions for oral reply relating to a particular department may be put to MECs at any Question Time.
  - (5) Members may only read questions during Question Time.
  - (6) After the MEC has replied to a question, the member who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply.
  - (7) At the discretion of the Presiding Officer, any Member may ask an additional supplementary question or make an additional remark related to the original question or reply. The total time for supplementary questions may not exceed ten minutes per question.

### **Urgent questions**

- 139.**
- (1) A Member who wishes to ask an urgent question for oral reply must submit a signed copy of the question to the Speaker at least two hours before the sitting of the Legislature.
  - (2) The Rules regarding the form, content and admissibility of questions also apply to urgent questions in terms of Rule 132.
  - (3) If the Speaker decides that the question should be answered urgently, he or she must –
    - (a) inform the Leader of Government Business; and
    - (b) call upon the member to ask the question after Question Time.
  - (4) The Speaker may allow an urgent question if it –
    - (a) requires an urgent response from the Executive Council; and
    - (b) does not concern a matter of privilege.

### **Restrictions on questions for written reply**

- 140.**
- (1) A question for written reply may contain up to ten subdivisions.
  - (2) A Member may ask up to three questions for written reply in a week.
  - (3) A permanent delegate to the National Council of Provinces may ask one question for written reply in a week.

## Written Replies

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

## Premier's Question Time

- 142.** (1) Premier's Question Time is a period of up to 45 minutes every second week immediately preceding Question Time during which questions selected under sub-rule (3) may be put to and answered by the Premier.
- (2) There will be no Premier's Question Time during the weeks when the Premier's opening address and the vote on the budget of the Officer of the Premier are discussed in the House.
- (3) (a) Despite Rules 134 and 135, a Member who wishes to put a question for oral reply to the Premier must deliver a signed request to the Secretary within ten working days but not less than five working days before the Premier's Question Time.
- (b) Ten Members will be selected on a random basis for each Premier's Question Time, to put a question for oral reply to the Premier.
- (c) The first question during any Premier's Question Time must be asked by a member of a party other than the Premier's party.
- (4) Not more than two Members of the same party may ask a question during any given Premier's Question Time.
- (5) A Member who wishes to put a question without notice for oral reply to the Premier must deliver a signed request to the Secretary by no later than 12:00 noon, two working days before the Premier's Question Time.
- (6) A member may ask only one question for oral reply at any Premier's Question Time.
- (7) Members may only read their question during Premier's Question Time.

- (8) After the Premier has replied to a question, the Member who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply.
- (9) At the discretion of the Presiding Officer, any Member may ask an additional supplementary question or make an additional remark related to the original question or reply.

## **CHAPTER 10**

### **COMMITTEES**

#### ***Part 1: General***

#### **Committees of the Legislature**

- 143.** (1) The Legislature has the following Committees –
- (a) Rules Committee;
  - (b) Committee of Chairpersons;
  - (c) Programming Committee;
  - (d) Privileges and Ethics Committee;
  - (e) Committee on Public Accounts;
  - (f) Petitions Committee;
  - (g) Committee of Oversight of the Legislature and the Premier's Office;
  - (h) Committee for the Scrutiny of Subordinate Legislation;
  - (i) Portfolio Committees on provincial executive matters;
  - (j) Committee of Inquiry;
  - (k) Combined Committees established under Rule 150; and
  - (l) *ad hoc* Committees.
- (2) Other Committees may be established only by the Rules Committee or a resolution of the House.
- (3) A Committee may establish a subcommittee. A subcommittee of a Committee may –
- (a) consist of members of the Committee only; or
  - (b) be an *ad hoc* technical Committee and may consist of Members of the Committee and outside experts.
- (4) An *ad hoc* technical Committee may be established to deal with a specific matter that requires expert knowledge. It dissolves when it has reported on that matter, unless the committee decides to disestablish it earlier.
- (5) Experts from outside the Legislature may not vote on an *ad hoc* technical committee.
- (6) A subcommittee is accountable to its parent committee.

## **Public involvement**

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

## **Composition of Committees**

- 145.** (1) The Rules Committee must determine the number of members of a committee.
- (2) Parties are entitled to be represented on Committees in the same proportion as the proportion in which they are represented in the Legislature, except where –
- (a) these Rules or the House prescribe the composition of a committee; or
- (b) the number of Committee Members does not allow for all parties to be represented.
- (3) The Legislature and parties represented in the Legislature should, as far as possible, ensure that women are represented on all Committees.
- (4) Parties that are not represented on a Committee may participate in Committee proceedings.
- (5) The Speaker must allocate each party a number of votes in Committee proceedings in proportion to its representation in the Legislature.

## **Appointment of committee members**

- 146.** (1) The Speaker must appoint the Members of the Rules Committee in accordance with Rule 171 as soon as possible after the election of the Legislature.
- (2) Subject to sub rule (3), the Rules Committee must appoint the Members of a committee after consulting the whip of each party in the case of –
- (a) an *ad hoc* committee, within five working days after the establishment of the committee; and
- (b) any other committee, as soon as possible after the Legislature meets after an election or after a vacancy has occurred.
- (3) When the House is in recess the Speaker may, after consultation with the whip of each party affected, appoint Members to, and fill a vacancy in, any committee.
- (4) Alternate Members may be appointed for each Member of a committee. An alternate act as a Member when the Member for whom the alternate was appointed is absent or has vacated office.
- (5) The names of the Members and any alternate Members appointed to a committee must be published as soon as possible in the Announcement, Tabling and Committee Reports.

## **Committee chairpersons**

**147.** The committee chairpersons must be appointed by the Speaker.

## **Committee chairperson**

- 148.** (1) A committee chairperson –
- (a) presides at meetings of the committee;
  - (b) represents the committee on the Committee of Chairpersons;
  - (c) determines the agenda of each meeting of the committee in consultation with the deputy chairperson if there is a deputy chairperson;
  - (d) performs the functions, tasks and duties and exercises the powers that the committee, resolutions of the House and legislation may assign to the chairperson;
  - (e) if there is an equal number of votes on each side of a question before the committee, must cast a deciding vote; and
  - (f) may act in any matter on behalf of and in the best interest of the committee when it is not practical to arrange a committee meeting to discuss the matter, if the matter concerns –
    - (i) a request by a person to give evidence or make an oral representation to the committee;
    - (ii) any other request to the committee; or
    - (iii) decisions or the initiation of any steps necessary for the committee to perform its functions or exercise its powers.
- (2) A committee may set aside any decisions taken by its chairperson in terms of sub-rule (1) (f).

## **Absence of chairperson**

**149.** In the absence of a chairperson, the deputy chairperson must act on behalf of the chairperson. In the absence of both the chairperson and the deputy chairperson, the committee must elect one of its members to act on behalf of the chairperson.

## **Combined Committees**

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

## **Duration of Committees**

- 151.** (1) A committee continues to exist until the Legislature is dissolved or its term expires unless the Speaker, or the House resolves that the committee should be dissolved.
- (2) Despite sub-rule (1), and *ad hoc* committee and a combined committee formed by the Speaker under Rule 150 continues to exist only until it has completed its business.

## **Powers of Committees**

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

## **Matters referred to Committees**

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

## **Meetings of committees**

- 154.** (1) The Secretary must convene the first meeting of a Committee within five working days after the names of the Members appointed to the Committee have been published in the Announcements, Tablings and Committee Reports.

- (2) Committees may meet on any day as determined by the programming committee and, with the consent of the Speaker, on other days.
- (3) A Committee may meet during a plenary meeting of the Legislature or during recess only with the consent of the Speaker.
- (4) With the consent of the Speaker a Committee may meet at a venue outside the precincts of the Legislature.

## ***Part 2. Proceedings of Committees***

### **Quorum**

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

### **Decisions**

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

### **Order in committee meetings**

- 157.** (1) The right to speak of the member chairing the committee takes precedence over the right of other members to speak.
- (2) Committee members must be allowed to speak and debate freely in committee meetings but they may not –
    - (a) discredit the Legislature by using disrespectful words;
    - (b) use offensive language; or

- (c) comment upon the merits of any matter pending before the courts in a way that would interfere with the administration of justice or infringe upon the independence of the courts.

### **Suspension and adjournment of proceedings**

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

### **Joint meetings of Committees**

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

### **Committees and local government**

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

### **Appearance before Committees**

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



considering an appeal, the Speaker may refer the issue to the Petitions Committee for advice.

### **Information against a Member**

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

### **Informing the Executive**

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

## ***Part 3. Committee Reports***

### **Annual report to the House**

- 164.** (1) A committee must report at least once a year to the House on its activities. Rule 166 does not apply to this report.
- (2) A committee's annual report should include an assessment of the way in which the committee has fulfilled –
- (a) the goals identified in its annual programme; and
  - (b) its law-making; public participation and oversight responsibilities.

### **Reports on study visits**

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

## **Content of report**

- 166.** (1) Every report of a committee must reflect the agreement reached in the committee.  
In the absence of agreement, the report must reflect the decision of the committee and dissenting views.
- (2) When there is substantial disagreement on policy issues, a minority report must accompany the committee report.
- (3) Every committee report must also –
- (a) indicate, giving reasons, whether or not the matter concerned affects local government. If the matter does affect local government, the report must set out the measure the committee adopted to ensure that the views of local government were considered in its deliberations.
  - (b) Explain the implications of the matter under consideration for promoting the rights in the Bill of Rights and particularly, gender, equity and socioeconomic rights.
- (4) a minority report must as contemplated in Rule 166(2) must –
- (a) identify clearly the policy issues on which there is substantial disagreement and the reasons for the disagreement;
  - (b) set out the view of the minority on the policy issues; and
  - (c) set out the alternative approach that the minority proposes.
- (5) Every Committee report must give an account of the implementation and tracking of House resolutions.

## **Report of Committee on a Bill**

- 167.** (1) When a committee has considered a Bill it must write a report on the Bill in which it indicates whether it –
- (a) supports the Bill as introduced without amendments;
  - (b) supports the Bill with amendments; or
  - (c) does not support the Bill.
- (2) A Committee report on a Bill must –
- (a) summarise the Committee process including the number of meetings at which the Bill was discussed, the participation of the Executive Council and the Provincial Government, the participation of the public.
  - (b) deal in separate sections with the policy and detail of the Bill;
  - (c) provide an explanation of the position of the Committee on the Bill;
  - (d) unless there is a minority report, indicate differing views in the Committee, identifying clearly issues on which there is disagreement and the reasons for that disagreement;
  - (e) explain in general terms any amendments that the Committee has made to the Bill;
  - (f) indicate whether or not the Committee is satisfied that the Bill is

- (g) constitutional;
  - (g) indicate the degree to which the Bill fulfils the province's obligation to promote and fulfil the rights in the Bill of Rights and, particularly, gender equity and socio-economic rights; and
  - (h) if the Bill includes a grant of power to the Executive or another Body to adopt subordinate legislation, be accompanied by the report of the Committee for Scrutiny of Subordinate Legislation.
- (3) When a committee accepts a Bill with amendments, its report must include –
- (a) the Bill as amended;
  - (b) a schedule indicating the ways in which the Bill has been amended.
  - (c) an indication of any public involvement during the consideration of a matter before a committee; and if there was no public involvement, furnish reasons thereof; and
  - (d) an indication of recommendations for resolution of the House.

### **Member in charge**

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

### **Reports on focused intervention studies**

**169.** (1) A committee must table to the House a focused intervention study report or Oversight Visit report within (30) thirty days of having undertaken such a study or visit.

(2) The report as contemplated in Rule 169(1) above must be presented to the House in the manner, timeframe and format as prescribed by the Presiding Officers.

(3) The minimum content of the report on study visit as contemplated in Rule 169(1) must include inter alia the following:

(a) A background to the study or visit, with respect to the nature as well as reasons for undertaking thereof;

(b) The objectives of the study or visit, and

(c) Committee findings and recommendations.

(4) The manner, timeframe and format as contemplated in Rule 169(2) shall be subject to annual review by the Presiding Officers, or any other instances as stipulated by the Speaker.

## **Publication of Proceedings, Evidence, Reports, etc.**

- 170.** (1) All documents and recordings officially before or emanating from a committee or subcommittee are open to the public.
- (2) Subject to Rule 170(1), the following may not be disclosed or published without the permission of the Speaker:
- (a) the proceedings of, or evidence taken by or placed before the committee or sub-committee meeting, from which the public was excluded;
  - (b) any report on or summary of such proceedings or evidence of a closed session of a committee or subcommittee; and
  - (c) any document or recording placed before, or presented to or submitted to and accepted by the committee or subcommittee as a confidential document or recording.
- (3) The permission authorising the publication or the disclosure of the contents of documents and recordings referred to in this rule may provide that specific parts of or names mentioned in the document or recording may not be published or disclosed.

## ***Part 4: Committees of the House***

### **STANDING COMMITTEES**

#### **Rules Committee**

#### **Composition of Rules Committee**

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

#### **Functions of Rules Committee**

- 172.** The Rules Committee may make recommendations to the House concerning the Rules of the Legislature and determines the membership of Committees of the Legislature.

## **Committee of Chairpersons**

### **Composition of Committee of Chairpersons**

- 173.** The Committee of Chairpersons consists of –
- (1) The Chairperson of Committees appointed under Rule 21;
  - (2) The Deputy Chairperson of Committees appointed under Rule 22(1); and
  - (3) the chairpersons of all Committees of the Legislature except *ad hoc* Committees and sub-committees.

### **Functions of Committee of Chairpersons**

- 174.** The Committee of Chairpersons –
- (1) must coordinate the work of the Committees of the Legislature;
  - (2) considers the annual programme of Committees; and
  - (3) may make recommendations to the Rules Committee and the Programming Committee regarding any matter affecting the scheduling or functioning of any committee.

## **Programming Committee**

### **Composition of Programming Committee**

- 175.**
- (1) The Programming Committee consists of the Speaker, Deputy Speaker, the Chairperson of Committees, the Chief Whip and a whip designated by each party. Other whips may attend as observers. An alternate Member may also be appointed for each party.
  - (2) The Speaker chairs the Programming Committee. In the absence of the Speaker and the Deputy Speaker the committee may appoint one of its Members to chair the meeting for the day.
  - (3) The Speaker convenes meetings of the Programming Committee and must issue a notice of meeting at least seven days before a meeting.

### **Functions of Programming Committee**

- 176.** The Programming Committee –
- (1) must prepare and if necessary, from time to time adjust the annual programme of the Legislature;
  - (2) must monitor and oversee the implementation of the Legislature's annual programme;
  - (3) must implement the Rules regarding the scheduling or programming of the business of the House, and the functioning of Committees;

- (4) take decisions and issue directives and guidelines to prioritise or postpone any business, but when the Committee prioritises or postpones any government business, it must act with the agreement of the Leader of Government Business;
- (5) must ensure that Committee reports are properly debated in the House;
- (6) must ensure that matters of concern to the province that must be discussed nationally are brought to the attention of the NCOP;
- (7) must ensure that the programme of the Legislature is submitted to the NCOP in time for it to be taken into account in the NCOP's annual planning process; and
- (8) must ensure that the province's permanent delegates to the NCOP are aware of the Legislature's programme and negotiate on behalf of the Legislature in planning processes in the NCOP.

### **Privileges and Ethics Committee**

#### **Composition of the Privileges and Ethics Committee**

- 177.** (1) The Privileges and Ethics Committee consists of the Deputy Speaker, the Chief Whip and a Member of each party represented in the Legislature.
- (2) The Speaker must appoint Members of the Committee in consultation with the whip of each party.
- (3) The Deputy Speaker is the Chairperson of the Committee. In the absence of the Deputy Speaker, the Committee may appoint one of its members to chair the meeting for the day.
- (4) If any Member of the committee is unable to attend a meeting, the committee may allow a senior member of the relevant party to attend a meeting of the committee as a substitute.

#### **Functions**

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

## **Proceedings of Privileges and Ethics Committee**

**179.** The Privileges and Ethics Committee, must conduct hearings according to the procedures in Chapter 14.

## **Committee on Public Accounts**

### **Composition**

**180.** The Committee on Public Accounts is composed in accordance with Rules 145 and 146.

### **Functions**

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

### **Relationship to other Committees**

- 182.** (1) If the committee is of the opinion that a report or financial statement raises issues relating to the policy of a particular department, the committee must inform the Speaker and the report or statement must either be considered by both the Committee on Public Accounts and the relevant committee or by a joint meeting of both Committees.

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

## **Petitions Committee**

### **Composition**

**183.** The Petitions Committee is composed in accordance with Rule 145 and 146.

### **Functions**

**184.** The committee carries out the functions assigned to it by the Petitions Act 5 of 2002.

## **Committee on Oversight of the Legislature and the Premier's Office (OCPOL)**

### **Composition**

**185.** OCPOL is composed in accordance with Rules 145 and 146.

### **Functions**

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



## **Committee for the Scrutiny of Subordinate Legislation (CSSL)**

### **Composition**

**187.** CSSL is composed in accordance with Rule 145 and 146.

### **Functions (CSSL)**

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

## **PORTFOLIO COMMITTEES**

### **Functions**

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

### ***Ad hoc* Committees**

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

## **PART 5: COMMITTEE INQUIRIES**

### **Committee of Inquiry**

#### **Initiation and Composition of an Inquiry**

- 191** (1) A committee inquiry must be initiated by a standing or portfolio committee of the legislature established in terms of the Standing Rules in consultation with the Speaker.
- (2) Members of a committee that initiates an inquiry are automatically Members of the committee of inquiry.
- (3) A chairperson of a committee shall preside over an inquiry, unless the Speaker decides otherwise.
- (4) The chairperson or acting chairperson of the committee, or in the absence of both, any Member of the committee specially designated by the chairperson or acting chairperson for that purpose must administer an oath or affirmation.
- (5) A committee inquiry meeting is conducted in accordance with section 8 of the Gauteng Provincial Legislature Committee Inquiries Act of 2009.
- (6) A Member may be recused from the proceedings of a committee of inquiry if such a Member has conflict of interest in the matter before that committee.

#### **Reports of a Committee of Inquiry.**

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

#### **Matters excluded from a committee of inquiry.**

- 193.** A committee of inquiry may not be conducted on the following:
- (1) Any matter that is *sub-judice*; and
  - (2) Any matter that is regulated by the Code of Conduct and Ethics of GPL.

## **CHAPTER 11**

### **LAW-MAKING**

#### ***Part 1: General***

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

#### **Types of Bills**

**195.** A Bill may be introduced as –

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

#### **Memorandum on Bill**

**196.** A memorandum accompanying every Bill must be drafted in simple, clear and non-technical language and must include –

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

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

### **Government Bills**

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

### **Committee Bills**

- 198.** (1) A committee may introduce a Bill other than a money Bill in the Legislature.
- (2) When a Bill is introduced, it must be accompanied by a report as outlined in Rule 166.

### **Member's Bills**

- 199.** (1) A member may introduce a Bill in the Legislature as envisaged in Section 119 of the Constitution;
- (2) A legislative proposal must be drafted by a member intending initiating legislation. Such a proposal must be in the form of a memorandum and outline, amongst others the following:
- (a) objects of the legislation including the reasons for initiating;
  - (b) particulars of the proposed legislation;
  - (c) implications of the proposed legislation on existing law;
  - (d) Financial implications;
  - (e) implications for Local Government;
  - (f) involvement of relevant stake-holders;
  - (g) implications for the Executive Council;
  - (h) Consultation undertaken if any;
  - (i) that the legislative proposal is within the competence of the province as envisaged in the Constitution;
  - (j) The legislative proposal must be submitted to the Speaker;
  - (k) The Speaker must instruct the Secretary to draft the Bill, if the memorandum was submitted without the draft Bill.
  - (l) The Secretary must also translate into the official languages of the Province and publish the draft Bill in the government gazette and notices in the newspapers for general information and public comments.

(m) The Secretary must issue a certificate to the Member to confirm that the draft Bill conforms to the drafting standards and conventions, and thereafter the draft Bill must follow the procedure contemplated in Chapter 11 for ordinary Bill.

### **Publication of Bills**

- 200.** (1) Every Bill other than a money Bill to be introduced under part 5, together with its memorandum and the notice described in sub-rule (4), must be published in the *Provincial Gazette* at least 14 days before it is introduced in the House.
- (2) Despite sub-rule (1), a Bill or amendment to a Bill concerning a constitution for the province must be published at least two months before it is introduced.
- (3) The Bill must be published as it is to be introduced.
- (4) The notice to introduce the Bill must—
- (a) be drafted in consultation with the chairperson of the relevant committee;
  - (b) comply with any general guidelines issued by the Petitions Committee;
  - (c) invite the public to submit comments and representations to the relevant committee before a closing date mentioned in the notice, but, the closing date must be at least fifteen working days after the date of the publication of the Bill;
  - (d) must also be published in at least two newspapers circulating throughout the province; and
  - (e) may include details of the time and place of any public hearings to be held by the committee.
- (5) Copies of the Bill and other information published with the Bill must be delivered to each Member.

### **Urgent Bills**

- 201.** (1) A Bill that has not been published as prescribed in Rule 205 may be introduced if –
- (a) the Premier has declared it an urgent measure; and
  - (b) the Speaker has agreed that it should be introduced without publication.
- (2) If a Bill has not been published before its introduction, the Secretary immediately upon its introduction, must publish –
- (a) the Bill together with the memorandum referred to in Rule 201 in the *Provincial Gazette*; and
  - (b) notices of the Bill as required by Rule 200(4).

- (3) Copies of the Bill and other information published with the Bill must be sent to each Member.
- (4) A Bill concerning constitution for the province, a committee Bill and a Member's Bill may not be treated as an urgent measure.

***Part 3: Introduction of Bills and consideration by the committee***

**Member in charge**

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

**Introduction of Bills**

- 203.** (1) A Bill is introduced when a Member submits the Bill and its memorandum to the Speaker for consideration by the Legislature. .
- (2) (a) When a Bill is introduced the Member in charge may deliver an introductory speech.
- (b) If the Member in charge wishes to make a speech, provision must be made on the Order Paper for a speech within ten working days of the introduction of the Bill.
- (c) If the Legislature is in recess when the Bill is introduced, the Member in charge must be given an opportunity to make a speech within ten working days of the first meeting of the Legislature after recess.
- (3) As soon as a Bill has been introduced –
- (a) it must be placed on the Order Paper;
  - (b) the Secretary must notify every Member of the introduction of the Bill;
  - (c) unless it is a Bill initiated by a committee, the Speaker must refer the Bill to the relevant committee; and
  - (d) a translation into any of the languages of the Legislature must be made available to any Member on request.
- (4) The House may resolve to refer the Bill to another committee including an *ad hoc* committee.
- (5) If the Legislature is in recess when a Bill is introduced, the Speaker may refer the Bill to another committee including an *ad hoc* committee at the request of the Member in charge.

- (6) A Bill initiated by a committee may be referred to another committee when it is introduced. If it is not referred to a committee it must be considered by the House.
- (7) This Rule does not apply to a money Bill introduced according to the special procedure set out in Part 5.

### **Consideration by the committee**

- 204.** (1) When a Bill has been referred to a committee, the committee must consider the principle and detail of the Bill and prepare a report for the House in terms of Rule 167.
- (2) A committee may not start to consider a Bill that has been declared an urgent measure before at least two working days have elapsed after the introduction of the Bill, and it may not hold public hearings or hear evidence on an urgent Bill before at least five working days have elapsed after the introduction of the Bill.

### **Committee report on Order Paper**

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

## ***Part 4: Consideration of Ordinary Bills by the House***

### **Application of this part**

- 206.** The Rules in this part do not apply to those money Bills that follow this process set out in Part 5.

### **Consideration of Ordinary Bill by the House**

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

## **Order of proceedings**

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

- (1) Consideration of parts of the committee report referred to in Rule 213.
- (2) Consideration of the principle of the Bill.
- (3) Consideration of the detail of each clause.
- (4) Decision on the detail of each clause.
- (5) Decision on the Bill.

## **Consideration of committee report**

**209.** When the House considers the committee report it considers only the summary of the committee process as required by Rule 167(2)(a).

## **Consideration of the principle**

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

## **Conclusion of consideration of principle**

- 211.**
- (1) No decision may be taken at the conclusion of the consideration of the principle of a Bill except a decision on a motion to postpone the consideration of the detail of the Bill.
  - (2) Only the Member in charge of a Bill may introduce a motion requesting the postponement of the consideration of the detail of a Bill.

## **Consideration of detail**

- 212.**
- (1) When the House has concluded its debate on the principle of a Bill or when the time allotted for debate has expired, the House must proceed immediately to the consideration of the detail of the Bill unless a motion to postpone consideration of the detail of the Bill has been accepted.
  - (2) During the consideration of the detail of a Bill –
    - (a) only the details of the Bill may be discussed; and
    - (b) each clause of the Bill and any amendments proposed to them will be open for consideration.

## **Consideration of detail: sequence in which clauses are considered**

**213.** The clauses of a Bill must be considered in the order in which the presiding officer puts them.



### **Consideration of detail: closure and extension of debate**

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

### **Consideration of detail: amendments**

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

### **Consideration of detail: decisions on clauses**

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

## **Consideration of detail: conclusion**

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

## **Adoption of Bill**

- 218.** (1) A majority of the Members of the Legislature must be present before a decision may be taken on a Bill.
- (2) The motion for the adoption of a Bill must be determined without debate.
- (3) When the consideration of the detail of the Bill is concluded, the motion for the adoption of a Bill must be put but if amendments which did not appear on the Order Paper have been accepted in terms of Rule 219, the motion for the adoption of the Bill may not be put until the Secretary has printed the amended sections of the Bill and delivered copies to every Member.
- (4) The Member in charge must place the Bill as amended on the Order Paper for adoption after the amended sections of the Bill have been printed and a copy has been delivered to every Member.
- (5) The Legislature passes a Bill by agreeing to the motion for its adoption.

## ***Part 5: Consideration of money Bills by the House***

### **Application**

**219.** The Rules in this part apply to money Bills as defined in section 120 and of the Constitution.

### **Introduction**

- 220.** (1) Only the Member of the Executive Council who is responsible for financial matters may introduce a money Bill in the Legislature.
- (2) The Member of the Executive Council may introduce a money Bill by following either the ordinary procedure set out in Rule 208 or the special procedure set out in this part.
- (3) If the money Bill is a Bill appropriating money for the ordinary services of the government or imposing taxes, levies or duties for this purpose, the special procedure must be followed.

### **Procedure for money Bills**

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

### **Special introductory procedure**

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

### **Procedure after introduction**

- 223.** As soon as the money Bill has been introduced –
- (1) the Secretary must deliver to every Member a copy of the Bill together with any papers that were submitted with it;
- (2) the Speaker must refer the Bill, the introductory speech and any papers submitted with the Bill to the relevant committee for consideration; and
- (3) the Bill must be placed on the Order Paper.

### **Consideration by the Committee**

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

## **Consideration of a bill in the House**

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

## **Order of special proceedings for money Bills**

- 226.** Consideration by the House takes place in the following order:
- (1) Consideration of the principle of the Bill.
  - (2) Decision on the principle of the Bill
  - (3) Consideration of the votes in the schedule.
  - (4) Consideration of the votes in respect of which supplementary amounts are requested.
  - (5) Decision on the separate votes in the schedule.
  - (6) Decision on the schedule.
  - (7) Decision on the Bill by roll-call.

## **Adoption of money Bill**

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

## ***Part 6: Rules applicable to all Bills***

### **Distribution of adopted Bill**

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

### **Certification of Bill by Speaker**

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

### **Assent to Bill**

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

### **Resumption of proceedings on a Bill**

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

### **Same Bill not introduced twice**

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

### **Withdrawal of a Bill**

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

## **CHAPTER 12**

### **OVERSIGHT**

#### ***Part 1: General***

#### **Constitutional mandate**

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

#### **Oversight procedures in the Legislature**

- 235.** (1) The following procedures contribute to effective oversight of the Executive by the Legislature:
- (a) Questions posed to Members of the Executive Council.
  - (b) Motion and debates in the House and Committees.
  - (c) Statements by Members of the Executive Council.
  - (d) The public petitions process regulated in the Petitions Act and Part 2 of Chapter 5.
  - (e) The scrutiny of subordinate legislation.
  - (f) The budget process.
  - (g) Scrutiny of the reports of departments and other provincial organs of state.
  - (h) Scrutiny of the reports of the institutions established by Chapter 9 of the Constitution, especially the reports of the Auditor-General.
  - (i) Scrutiny of the reports of the Financial and Fiscal Commission;
  - (j) Consultation with the Committee on the Scrutiny of Subordinate Legislation on matters relating to grants of power to the Executive or other bodies to adopt subordinate legislation.
  - (k) Quarterly reports.
  - (l) Annual reports.
  - (m) Focused intervention studies.
  - (n) Committee Inquiries.
- (2) The Legislature must facilitate the participation of the public in its oversight processes.

- (3) In addition to the procedures listed in sub-rule (1), portfolio Committees and other relevant Committees must fulfill the oversight role described in Rule 240.
- (4) To ensure that the oversight work of the Committees is properly considered by the Legislature, the Programming Committee must allow time for the debate in the House of oversight reports.

## ***Part 2: Oversight by Committees***

### **Oversight by portfolio Committees**

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

## **Conducting oversight**

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

## ***Part 3: Subordinate legislation***

### **Bills referred to the Committee for the Scrutiny of Subordinate Legislation**

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

### **Publication, tabling and referral of subordinate legislation**

- 239.** The (MEC) responsible for making subordinate legislation must table such legislation, once adopted, be published in the Government Gazette.



## **Powers in relation to grants of authority to adopt subordinate legislation**

- 240.** (1) If the Committee for the Scrutiny of Subordinate Legislation (CSSL) considers that a grant of power to adopt subordinate legislation does not meet the requirements of Rule 242(2), the committee must consult with the committee responsible for the Bill and make recommendations for correcting the problem.
- (2) The Report of the Committee for the Scrutiny of Subordinate Legislation CSSL on a Bill together with the relevant portfolio committee report must be tabled in the House.

## **Subordinate legislation must be referred to the Legislature**

- 241.** (1) All subordinate legislation made in terms of a national or provincial Act must be submitted to the Legislature by the person who made it.
- (2) The Speaker must refer all subordinate legislation to the Committee for the Scrutiny of Subordinate Legislation (CSSL).
- (3) When the Committee reviews subordinate legislation, it must ensure that the legislation –
- (a) is constitutional does not interfere with the jurisdiction of the courts or infringe rights or the rule of law;
  - (b) is authorised by the Act under which it was made.
- (4) The Member of the Executive Council responsible for making subordinate legislation must publish such legislation, in the Government Gazette within fourteen days of adoption by the Legislature.
- (5) In fulfilling its functions under sub-rule (3) the committee must consider that the subordinate legislation before it:
- (a) is authorised by the terms of the enabling Act and complies with any condition set out in the Act;
  - (b) is in conformity with the Bill of Rights; and does not:
    - (i) have retrospective effect without express authority having been provided for in the enabling legislation;
    - (ii) impose a tax, levy or duty or requires spending by the province without express authority having been provided for this in the enabling Act;
    - (iii) impose a fine, imprisonment or other penalty without express authority having been provided for this in the enabling Act;
    - (iv) tend directly or indirectly to exclude the jurisdiction of the courts;
    - (v) appear for any reason to infringe the rule of law;
    - (vi) make the rights of the person unduly dependent on administrative discretion or is not consistent with the rules of natural justice;

- (vii) contain matter more appropriate for enactment by the Legislature; and
- (viii) is not defective in its drafting or requires explanation as to its form or purport.

### **Powers in relation to subordinate legislation**

- 242.** (1) If the Committee for Scrutiny of Subordinate Legislation (CSSL) considers that a subordinate legislation submitted to it under Rule 245(1) fails to meet the standards set out in Rule 245(3) (4), it must request the relevant Member of the Executive Council or head of the relevant organ of state to amend the subordinate legislation.

### **Invalidation of subordinate legislation**

- 243.** (1) The Legislature may invalidate any of the provisions of subordinate legislation reported in terms of Rule 245 (3) (4).
- (2) The Legislature may permit or allow time for the responsible person empowered to make the subordinate legislation to correct the defect in such legislation.
- (3) Subject to sub-rule (2), the invalidity of subordinate legislation take effect from the date of invalidation..

## **CHAPTER 13**

### **CONSTITUTIONAL MATTERS AND MATTERS FROM THE NCOP**

#### ***Part 1: General***

### **Co-operative government**

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

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

### **Particulars of a constitutional amendment**

- 245.** (1) When particulars of a proposed amendment to the national Constitution are submitted to the Legislature for its views in terms of Section 74(5) (b) of the Constitution, the:
- (a) particulars must be placed on the Order Paper;
  - (b) Secretary must send a copy of the particulars of the amendment to every Member; and
  - (c) Speaker must refer the particulars to the relevant Committee.
- (2) The Committee must report to the House within a time specified by the Speaker.  
The report must comply with Rule 166 and must include any comments that the Committee recommends that the Legislature should make on the proposed constitutional amendment.
- (3) If the House resolves to comment on the proposal, the Speaker must send the agreed comments to the national Minister responsible for constitutional matters.
- (4) When particulars of a proposed constitutional amendment that does not require NCOP approval is referred to the Legislature, the Committee to which the particulars are referred under sub-rule (1) (c) must, in its report to the House:
- (a) indicate whether or not the House should take a formal position on the matter; and
  - (b) recommend whether the House should appoint a special delegate to participate in the public debate in the NCOP under Section 74(5)(c) of the Constitution or whether a permanent delegate should be briefed on the matter to participate in the debate.

### **Constitutional amendment that must be approved by the Legislature**

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

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

#### **Informal referral of matters from Parliament**

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

#### **Formal referral of Section 74 or 76 Bill**

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

#### **Formal referral of other matters**

- 249.** (1) When the NCOP formally refers a matter other than a Bill to the Speaker; the Speaker must refer the matter to:
- (a) the relevant Committee or an *Ad Hoc* Committee; and
  - (b) if appropriate, the relevant Member of the Executive Council with a request that he/she submit the views of the Executive Council on the matter to the Committee.

- (2) The Secretary must ensure that all Members are informed of the referral and make copies of the Bill or other matter available on request to any member.

### **Requirements for negotiation mandates**

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

### **Requirements for final mandates**

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

## **Referral of Section 75 Bill**

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

## **Consideration by Committee**

- 253.** (1) A Committee to which a Bill has been referred under Rule 252(1) may consider the Bill immediately. A Committee may not consider any other NCOP matter until the Programming Committee has prioritized it, but the Committee may make recommendations concerning the prioritization of the matter to the Programming Committee.
- (2) After the Programming Committee has prioritized the NCOP matter, the Committee to which it has been referred must deal with it in accordance with its prioritization, but a Committee may decide that it does require hearings on a matter that the Programming Committee classified as ordinary or unimportant.
- (3) (a) Whenever a Committee considers a matter on which the provincial delegation will be expected to vote in the NCOP, the Committee must inform the relevant Member of the Executive Council and give him/her an opportunity to present the views of the Executive Council on the matter to the Committee.
- (b) If the Member of the Executive Council does not respond to the invitation and the Committee believes that it cannot conclude the matter without hearing the views of the Executive Council, the Committee must send a formal request to the Member of the Executive Council to attend a meeting of the Committee.
- (4) Any Member may table an amendment to the Bill or a comment on another matter for consideration by the Committee.

## **Plenary consideration and resolution on mandate**

- 254.** (1) The House must deal with a report on an NCOP matter from a Committee taking into account the prioritization of the matter in terms of Rule 256(b).
- (2) The chairperson or another Member of the Committee designated by the

chairperson that considered the matter is the Member in charge.

## **Part 4: Raising issues in the NCOP**

### **Legislative proposals**

- 255.** (1) If a Committee identifies a matter that should be dealt with in the national legislation, it must draft a memorandum proposing the introduction of the legislation in the NCOP. The proposal should comply with the requirements in the NCOP Rules for the initiation of a Bill by the Provincial Legislature.
- (2) A proposal for the introduction of legislation must concern a matter that would be dealt with under section 76(2) of the Constitution.
- (3) The Committee must submit the proposal to the House with a recommendation as to who should introduce the proposal in the NCOP. The Committee may recommend that:
- (a) the province's permanent delegate who usually deals with such matters in the NCOP should introduce the proposal in the NCOP; or
  - (b) a special delegate should submit the proposal to the NCOP.
- (4) A Committee's report on a legislative proposal must indicate:
- (a) if it is possible, the law on the matter in other provinces;
  - (b) what steps the Committee has taken to consult other provincial legislatures on the matter;
  - (c) the outcome of any consultations;
  - (d) the implications of the matter under consideration for promoting the rights in the Bill of Rights and, particularly, gender equity and socioeconomic rights;
  - (e) differing views in the Committee, identifying clearly issues on which there is disagreement and the reasons for that disagreement; and
  - (f) whether or not the Committee is satisfied that the proposal is constitutional.
- (5) If the House supports the Committee proposal or an amended proposal, the Speaker must forward it to the relevant NCOP delegate to introduce in the NCOP on behalf of the Provincial Legislature.

### **Questions from Committees**

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

## **Matters of public importance affecting the Province**

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

## **Motions on behalf of the Legislature**

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

## **Report from permanent delegate**

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

## **NCOP Programme and Provincial Week**

**260.** A report on the programme of the NCOP provincial week must be tabled in the ATC for information.



**CHAPTER 14**  
**ETHICS, PRIVILEGE AND CONTEMPT**  
*Part 1: Privilege and contempt*

**Ethics**

- 261.** (1) The Rules in this chapter are to guide the Legislature in conducting its business in a way that ensures that it is a free institution, able to fulfil its role of representing the public.
- (2) To do this the Legislature and all its Members must act in an ethical way and protect the powers, privileges and immunities of the Legislature. **Privileges**
- 262.** (1) The privileges of Members of the Legislature and its permanent delegates include:
- (a) the privilege of freedom of speech in the Legislature and its Committees conferred by Section 117(1)(a) of the Constitution;
  - (b) immunity from liability for civil or criminal proceedings, arrest, imprisonment or damages to the extent conferred by Section 117(1)(b) of the Constitution; and
  - (c) any other privileges or immunities of the Legislature and its Members as conferred by the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act 4 of 2004.
- (2) The privileges of the Legislature include the powers conferred by sections 115 and 116 of the Constitution.

**Contempt of the Legislature**

- 263.** (1) A breach of privilege is contempt of the Legislature.
- (2) Contempt of the Legislature is conduct which potentially or actually interferes improperly with the ability of the Legislature, its Committees or any of its Members to perform their functions.
- (3) Contempt includes, but is not limited to:
- (a) failing to attend the Legislature or one of its Committees when summoned to do so;
  - (b) failing to report to the Legislature or one of its Committees when required to do so;
  - (c) giving evidence to a Committee knowing it to be false;
  - (d) punishing someone for giving evidence to the Legislature or one of its Committees;
  - (e) induce someone not to give evidence to the Legislature or one of its Committees;

- (f) comments by a Member speaking in the House or a Committee that are extremely injurious to another Member of the Legislature;
- (g) a breach of the Rules (a breach of the Code of Conduct is a breach of the Rules);
- (h) failing to obey any ruling, order or resolution of the Legislature; and
- (i) intentionally, recklessly or deliberately misleading the Legislature regarding material facts on an issue.

### **Raising a breach of privilege or contempt**

- 264.** (1) A Member may raise a matter relating to contempt, including a breach of privilege:
- (a) in the House or a Committee meeting under Rule 80(5) or
  - (b) in writing with the Speaker.
- (2) The matter must be raised as soon as possible after it has occurred and, before the next plenary meeting of the Legislature.
- (3) If the matter raised in writing with the Speaker concerns another Member, the Member who raises a matter must provide the other Member with a copy of the document submitted to the Speaker as soon as possible.

### **Formulation of the allegation**

- 265.** An allegation of contempt must be formulated as precisely as possible, providing but not limited to the:
- (1) name of the person alleging the contempt;
  - (2) name of the person against whom the contempt is leveled;
  - (3) nature of the contempt;
  - (4) specific rule upon which the allegation is based; and
  - (5) contact details of the person alleging the contempt.

### **Consideration by the Speaker**

- 266.** (1) When a Member informs the Speaker of a matter under Rule 268(1), the Speaker must determine whether contempt is involved.
- (2) In determining whether contempt is involved the Speaker must take into account the importance of the matter.
- (3) If the matter is technical or trivial and does not warrant the further attention of the Legislature, the matter is not a matter of contempt.

## **Speaker's decision**

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

## ***Part 2: Proceedings of the Privileges and Ethics Committee***

### **Member making an allegation not to serve on inquiry**

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

### **Memorandum by the Secretary**

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

## **Rights of an alleged offender**

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

## **Legal Representation**

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

## **Written submissions**

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

## **Evidence**

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

## **Admissibility of evidence**

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

## **Oath or Affirmation**

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

### ***Oath***

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

### ***Affirmation***

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

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

## **Recess**

**276.** The Committee may sit when the House is in recess.

## **Report of the Privileges and Ethics Committee**

- 277.** (1) When the Committee has completed its investigation; it must table a report on its findings for consideration by the House.
- (2) If the Committee finds that the Member concerned has committed a breach of privilege or contempt, the report must recommend an appropriate sanction as authorised by section 12 of the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act 4 of 2004.
- (3) If the Committee considers it necessary and not prejudicial to the rights of any party to the matter, it may append submitted evidence to its report.
- (4) Rule 166 does not apply to a report of the Privileges and Ethics Committee but dissenting views of Members of the Committee must be appended to the report.

## **Decision by the House**

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

## ***Part 3: Code of Conduct, Integrity Commissioner and Disclosure of Registrable Interests***

### **Code of Conduct and Ethics for members**

**279.** The Code of Conduct and Ethics for members attached as Annexure A, is part of these Standing Rule.

### **Integrity Commissioner**

- 280** (1) The Integrity Commissioner is responsible for the implementation of the Code of Conduct and Ethics.
- (2) The Integrity Commissioner initiates, receives, investigates, adjudicate and recommend over the matters of breach of code of conduct referred to him/her.

- (3) The Integrity Commissioner's main function is to ensure that Members conduct conforms to the standards set out in the Code of Conduct.
- (4) The Integrity Commissioner must act independently and be impartial.

### **Functions of the Integrity Commissioner**

#### **281.** The Integrity Commissioner:

- (1) may of his /her own accord investigate any alleged violation of the Code of Conduct and Ethics:
- (2) The Integrity Commissioner must:
  - (a) report any alleged violation with the relevant facts and any conclusions  
he / she may have reached to the Privileges and Ethics Committee;
  - (b) open and keep records;
  - (c) record in the Register;
  - (d) amend any entries ....
  - (e) submit an annual report on his /her work to the Privileges and Ethic Committee; and
  - (f) perform any other related duties.

### **Appointment and remuneration of the Integrity Commissioner**

- #### **282.**
- (1) The Integrity Commissioner must be a person of integrity and honesty, and must have knowledge of law, public policy, politics and socioeconomic issues.
  - (2) The Speaker must call for nominations of persons from members of the public to fill the position of Integrity Commissioner.
  - (3) The Speaker, after consultation with the leaders of parties represented in the Legislature, must elect an Integrity Commissioner.
  - (4) The Speaker must appoint the Integrity Commissioner if the appointment of the selected Integrity Commissioner is supported by a vote of two-thirds of the Members.
  - (5) After consultation with the Secretary, the Speaker must determine the remuneration and conditions of service of the Integrity Commissioner.

### **Term of office and removal of Integrity Commissioner**

- #### **283.**
- (1) The Integrity Commissioner shall be appointed for a period of five years.
  - (2) The Integrity Commissioner may not remain in office for more than ten years.
  - (3) The tenure of the Integrity Commissioner ends if he/she:
    - (a) resigns;
    - (b) becomes unfit and improper to perform functions of the office; or
    - (c) is guilty of misconduct.

- (4) The Speaker, after following appropriate procedures and with the supporting vote of two-thirds of the members of the Legislature, may remove the Integrity Commissioner from office for inability to perform the functions of the office or for misconduct.

### **Advice to members**

- 284.**
- (1) A Member may approach the Integrity Commissioner to obtain personal advice if he/she suspects that he or she may have committed a violation of the Code or is uncertain how he or she should act in relation to a matter covered by the Code.
  - (2) All sessions of advice between the Integrity Commissioner and the Member are confidential.
  - (3) Despite subrule (2), if during an advice session the Integrity Commissioner learns that a Member has committed a violation of the Code and the Member does not correct the violation within a time stipulated by the Commissioner, the Commissioner must report the breach to the Privileges and Ethics Committee.
  - (4) Every three months, the Integrity Commissioner must report to the Privileges and Ethics Committee the number of times he/she has had advice sessions over the preceding three months.

### **Register of Members' Interests**

- 285.**
- (1) The register of Members' interests is to ensure open government in which Members do not place themselves in positions that conflict with their responsibilities as public representatives.
  - (2) Members must disclose to the Integrity Commissioner the registrable interests set out in Part 3 of the Annexure 1 to the Rules.
  - (3) The register of Members' interests is divided into a public part and a confidential part.
  - (4) The Integrity Commissioner must record all details of registrable interests in the public part of the register of Members' interests except those interests which the Code stipulates must be recorded in the confidential section.
  - (5) When any doubt exists as to whether any financial interests must be disclosed, the Member concerned may seek advice from the Integrity Commissioner.
  - (6) Only the Committee, the Integrity Commissioner and his or her staff may have access to the confidential part of the register of Members' interests.

## **Public Access to the Register of Members' Interests and confidentiality**

- 286.** (1) Members of the public have access to the public part of the register on working days, at times prescribed by the Speaker.
- (2) The Integrity Commissioner must publish the public section of the register in April of each year in a manner prescribed by the Speaker.
- (3) The Committee, the Integrity Commissioner and support staff may not disclose information that is in the confidential section of the register to anyone, unless directed to do so by a Court.
- (4) A Member who contravenes sub-rule (3) is in contempt of the Legislature, is ineligible to be a member of the Privileges and Ethics Committee and may be charged with contempt of the Legislature.
- (5) A staff member who contravenes sub-rule (3) is guilty of serious misconduct and must be disciplined by the Secretary.

## **Submission of a complaint**

- 287.** (1) A Member, or official of the government or state organ, or a member of the public who reasonably believes that a member of the Legislature has violated the Code of Conduct and Ethics may make a submission to the Integrity Commissioner.
- (2) All complaints must be recorded in writing.
- (3) The Integrity Commissioner shall assist any person wishing to report a breach of code of conduct and who needs assistance.
- (4) The Integrity Commissioner shall register all submissions received.

## **Initiating an Investigation**

- 288.** (1) Any person lodging a complaint with the Integrity Commissioner must prepare an affidavit that he/she believes has reasonable grounds:
- (a) a breach of the Code of Conduct has been committed;
- (b) there is substantial evidence to initiate an investigation by the Integrity Commissioner.
- (2) Should the Integrity Commissioner find that the requirements of sub-rule (1) above have not been met, he/she may reject the complaint and advise the complainant accordingly.



## **Investigation and report**

- 289.** (1) The Integrity Commissioner shall commence an investigation into a matter of complaint after registration of the submission.
- (2) The Member implicated in the violation shall make himself/herself accessible to the Integrity Commissioner for the purpose of the investigation.
- (3) The Integrity Commissioner shall produce a report of his/her findings, detailing both the merits and demerits of the case brought forth once the investigation has been finalized.
- (4) The Integrity Commissioner shall produce a report that includes detailed recommendations for action in the matter and that report shall be submitted to the Privileges and Ethics Committee for consideration.
- (5) The Integrity Commissioner shall have the power to request documentation from a Member, an official of the legislature, government or provincial state organ or a member of the public in order to further his/her investigation.
- (6) The Integrity Commissioner may recommend to the Privileges and Ethics Committee to subpoena witnesses required in order to further his/her investigation.
- 290.** If the Integrity Commissioner considers it necessary and not prejudicial to the rights of any party to the matter, he/she may append submitted evidence to his/her report to the Committee.
- 291.** (1) Should the complainant and or the respondent be a member of Privileges and Ethics Committee, he/she must recuse him/herself from the Committee when considering the report of the Integrity Commissioner.
- (3) When the Committee has completed its consideration of the report, it must table a Committee report on its findings for consideration by the House.

## **Statements impairing on the dignity of a Member and the Integrity of the Legislature**

- 292.** (1) In cases where the dignity of Members has been impaired by media statements regarding the subject matter of investigation by the Integrity Commissioner, he/she may recommend that his findings be made public through the media as a redress to the injured member.
- (2) Should allegations made in the media found to have lacked substance and as a result be untrue, such alleging party, if it is a member, may be ordered to retract those media statements and offer public apology to the injured party and the Legislature.

## **Access to information**

- 293.** A member of the public may gain access to information on matters decided upon by the Privileges and Ethics Committee as prescribed by the Constitution, the Promotion of Access to Information Act 2 of 2000 or any other law.

## **CHAPTER 15**

### **MISCELLANEOUS**

#### ***Part 1: Secretary and Records***

### **Duties of Secretary**

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

### **Minutes of Proceedings**

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

### **Journals of the Legislature**

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

### **Order Paper**

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

### **Custody of papers**

- 298.** (1) The Secretary has custody of all records and other papers of the Legislature.  
(2) Records or other papers of the Legislature cannot be removed from the precincts of the Legislature without the permission of the Speaker.

***Part 2: People ordered to give evidence or produce documents***

**Committee meeting for examination of witness**

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

**Witness expenses**

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

## **ANNEXURE 1.**

### **CODE OF CONDUCT AND ETHICS FOR MEMBERS OF THE GAUTENG PROVINCIAL LEGISLATURE**

#### **1. Preamble**

We, the Members of the Gauteng Provincial 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 Provincial 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 and Ethics;

#### **2. Definitions**

In this Code of Conduct and Ethics, unless the context otherwise indicates, the following words or phrases mean –

**“Committee”** means the Privileges and Ethics Committee of the Gauteng Provincial Legislature.

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

**“Family”** means a Member’s spouse *or* permanent companion and dependant children.

**“Government”** means the Provincial Government of the Gauteng Province

**“Integrity Commissioner”** means an Integrity Commissioner appointed in terms of this Code of Conduct and Ethics.

**“Legislature structure”** means anybody or committee established to conduct the business of the Legislature in terms of the laws, Standing Rules, resolutions of the House, or policies that govern the Legislature.

**“Member”** means a Member of the Gauteng Provincial Legislature.

**“Registrable interest”** means financial interests required to be disclosed in terms of 16 herein.

## **PART I – PRINCIPLES**

### **3. Principles**

A Member of the Gauteng Provincial Legislature shall adhere to the following principles when acting in his/her representative capacity:

- (1) **Selflessness**  
A Member shall take decisions only in the interests of the public.
- (2) **Integrity**  
A Member shall ensure at all times that the integrity of the Legislature is maintained.
- (3) **Accountability**  
A Member is accountable to the public for his/her decisions and actions.
- (4) **Openness**  
A Member shall exercise his/her public duties in an open and transparent manner.
- (5) **Honesty**  
A Member shall act honestly and in the public interest at all times.
- (6) **Leadership**  
A Member shall promote these principles by leadership and example.

## **PART II - ETHICAL CONDUCT**

### **4. General obligations**

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

- (1) When acting in his/her public representative capacity, not take any decision or influences in order to gain financial or other material benefit for himself/herself, his/her family or his/her friends.
- (2) Exercise his/her duties and conduct himself/herself with dignity and integrity appropriate for his/her office;
- (3) Not place himself/herself under financial or other obligations to outside individuals or organisations that might improperly influence him/her in the performance of his/her duties;
- (4) Make choices on merit in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for reward or benefit;
- (5) Declare any private interest relating to his/her official duties;
- (6) Declare, in the Members' Register of Interest all the interests as required in Part IV hereof; and
- (7) Take steps to resolve any conflict of interest that may arise in a manner

that protects the public interest.

**5. Declaration of private interests in Committees and Proceedings of the Legislature**

- (1) A Member shall declare any personal or private financial or business interest that his/her family, a spouse, companion or business partner of that Member may have, in a matter before a Standing Committee or adhoc Committee or Legislature structure in which that Member serves.
- (2) A Member shall withdraw from the proceedings of that Committee or Legislature structure when a matter referred to in section 5 (1) is considered, unless that Standing Committee or Legislature structure decides that the Members' interest is immaterial.

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

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

**7. Lobbying for reward**

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

**8. Remunerated employment outside the Legislature**

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

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

**9. Improper exercise of influence**

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

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

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

## **11. Post-tenure employment restrictions**

After tenure, a former Member shall not act in such a manner, which would take improper advantage of his/her previous employment.

### **PART III – THE OFFICE AND FUNCTIONS OF THE INTEGRITY**

#### **COMMISSIONER**

## **12. The Office of the Integrity Commissioner**

### **(1) Appointment, term and remuneration of the Integrity Commissioner**

- (a) The Speaker shall, through the Provincial Secretary, call for nominations of persons from Members of the public to fill the position of Integrity Commissioner.
- (b) The person to occupy the position of Integrity Commissioner shall be a person of integrity and honesty, possess knowledge of law, public policy, politics and socio-economic issues.
- (c) The Speaker, through the Provincial Secretary, and after consultation with the leaders of the parties represented in the Legislature, shall appoint a person to be the Integrity Commissioner.
- (d) The Speaker shall present the appointment of the Integrity Commissioner to the House for adoption by a two-thirds majority. The removal of the Integrity Commissioner due to misconduct or abuse of power, shall be subject to the same procedure.
- (e) The Integrity Commissioner shall be appointed for a five year legislative term.
- (f) The Integrity Commissioner may not remain in office for more than two legislative terms.
- (g) The Integrity Commissioner may at any time terminate his/her tenure if he/she is unable to perform his/her tasks due to incapacity or death.
- (h) The Integrity Commissioner shall be assisted by staff Members, assigned by the Provincial Secretary, for the work of his/her office.
- (i) The Speaker shall, after consultation with the Provincial Secretary, determine the remuneration and conditions of service of the Integrity Commissioner.



(2) **Independence and Impartiality**

The Integrity Commissioner shall act independently and impartially.

(3) **Functions of the Integrity Commissioner**

- (a) The Integrity Commissioner may on his/her own accord investigate any alleged violation of the Code of Conduct and Ethics.
- (b) Should the Integrity Commissioner find evidence of a violation, he/she must report the facts and conclusions to the Committee established in terms of rule 5.4(1) of the Standing Rules.
- (c) The Integrity Commissioner shall:
  - (i) Open and keep a register for the purposes of this Code, called the Register of Members' Interests;
  - (ii) Record in the Register particulars of Member's registrable interests;
  - (iii) Amend any entries in the Register when necessary; and
  - (iv) Perform other duties as specified in this Code.
- (d) The Integrity Commissioner shall submit quarterly and annual reports to the Committee on functions of his/her office throughout the year.

(4) **Advice and Counsel to Members**

- (a) A Member may approach the Integrity Commissioner to obtain personal advice and counsel, if the Member suspects that he/she may have committed a violation or for any other advice which may be relevant to the duties of a Member in his/her capacity as a public representative.
- (b) All sessions of advice and counsel between the Integrity Commissioner and the Member shall be confidential.
- (c) The Integrity Commissioner shall report to the Committee the number of times he has had advice and counselling sessions over a given time period.
- (d) When the Integrity Commissioner during an advice and counselling session realises that a violation has been committed by a Member, the Integrity Commissioner shall reserve the right to keep that matter confidential, provided the violation is amended within the agreed time period.

### **13. Submission of a complaint**

- (1) Any Member, or official of the Provincial Government or state organ, or any Member of the public who reasonably believes that a Member of the Legislature has violated the Code of Conduct and Ethics may make a written complaint in regard thereto to the Integrity Commissioner.
- (2) The Integrity Commissioner shall assist any person wishing to report such a violation and who needs assistance.
- (3) The Integrity Commissioner shall register all complaints received in terms of this section.
- (4) The complaint must be in writing and state the complainant's name and address and also the name of the Member who is the subject of a complaint.
- (5) The complaint must set out facts relevant to the conduct complained about.
- (6) The complainant must submit supporting evidence, if available, together with the complaint.

### **14. Admissibility of complaints**

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

### **15. Investigation and report**

- (1) The Integrity Commissioner shall commence an investigation into the matter after registration of the complaint.
- (2) The Member implicated in the violation shall make himself or herself accessible to the Integrity Commissioner for the purpose of the investigation.
- (3) The Integrity Commissioner shall produce a report that includes detailed recommendations for action in the matter and that report shall be submitted to the Committee for consideration.
- (4) The Integrity Commissioner shall have the power to demand documentation from a Member, or from any person involved in the complaint received in terms of 13 (1) above.

## **PART IV – DISCLOSURE OF REGISTRABLE INTERESTS**

### **16. Disclosure of registrable interests**

- (1) A Member shall disclose to the Integrity Commissioner on the form prescribed for this purpose by the Speaker, particulars of all his/her registrable interests.
- (2) The first disclosure shall be within 60 days of adoption of the Code of Conduct and Ethics.
- (3) Thereafter, the disclosure shall be within 30 days after the opening of Legislature or appointment the Member. If a Member has no registrable interests he/she must indicate this in writing to the Integrity Commissioner.

### **17. Establishment of a Register of Members' Interests**

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

### **18. Confidentiality**

- (1) The Integrity Commissioner must record all details of registrable interests in the public section of the Register of Members' Interest, except the following which must be recorded in the confidential section:
  - (a) The value of the financial interests in a corporate entity other than a private or public company.
  - (b) The amount of any remuneration for any employment outside the Legislature.
  - (c) The amount of any remuneration for any directorship or partnership.
  - (d) Details of foreign travel when the nature of the visit requires those details to be confidential.
  - (e) Details of private residences.
  - (f) The value of any pensions.
  - (g) Details of all financial interests of a Member's spouse or permanent companion, dependent child to the extent that the Member is aware of.
- (2) Where any doubt exists as to whether any financial interests must be disclosed, the Member concerned may seek advice from the Integrity Commissioner.
- (3) Only the Committee, the Integrity Commissioner and his/her staff shall have access to the confidential part of the Register of Members' Interests.

## **19. Disclosure of the Register of Members' Interests**

- (1) Members of the public shall have access to the public part of the Register on working days and at times prescribed by the Speaker.
- (2) The Integrity Commissioner shall publish the public section of the Register in April of each year in a manner prescribed by the Speaker.
- (3) The Committee, the Integrity Commissioner and support staff shall not disclose information that is in the confidential section of the Register to anyone, unless otherwise directed by a Court order.
- (4) A Member who contravenes section 18 (3) is in breach of the Code and shall be ineligible to continue as Member of the Committee.
- (5) A staff member who contravenes section 18 (3) is in breach of the Code and shall be disciplined by the Provincial Secretary or a person delegated by him or her.
- (6) No person shall gain access to the confidential part of the Register, except through a court order.

## **20. Registrable Financial Interests**

Members shall register the following financial interests in the Register of Members' Interests:

- (1) **Shareholdings and financial interests in companies and other corporate entities**
  - (i) The number, nature and nominal value of shares of any type in any public or private company;
  - (ii) The name of that company; and
  - (iii) The nature and value of any other financial interests held in a private or public company or any corporate entity.
- (2) **Ownership of land or property**
  - (i) A description and extent of land or property;
  - (ii) Area in which it is situated;
  - (iii) The nature of the interest;
  - (iv) Properties outside the Republic of South Africa.
- (3) **Pension**
  - (i) The source of the pension; and
  - (ii) The value of the pension.
- (4) **Any other benefit or of material nature**
  - (i) The nature and source of any other benefit of a material nature;
  - (ii) The value of that benefit;
- (5) **Employment outside the Legislature**

- (i) The type of employment;
- (ii) The name, and type of business activity, of the employer; and
- (iii) The amount of remuneration received for such employment.

(6) **Consultancies**

- (i) The nature of the consultancy or any retainership of any kind;
- (ii) The name, and type of business activity, of the client concerned;  
and
- (iii) The amount of any remuneration or other benefits received for such a consultancy or retainership.

(7) **Directorship and partnerships**

- (i) The name and type of business activity, of the corporate entity or partnership;
- (ii) The amount of any remuneration received for such directorship or partnership.

(8) **Sponsorship**

- (i) The source and description of direct financial sponsorship or assistance from non-party sources; and
- (ii) The value of the sponsorship or assistance.

- (9) **Gifts and hospitality received by a Member as a public representative from a source other than a family member or permanent companion**
- (i) A description, value, and source of a gift with a value in excess of R 500.00 and or gifts from a single source which cumulatively exceed the value of R 500.00 in any calendar year; and
  - (ii) Hospitality intended as a gift of any kind.
- (10) **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) A brief description of the journey abroad; and
  - (ii) Particulars of the sponsor.

## **21. Breaches of the Code**

A Member breaches this Code if he/she:-

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

## **22. Penalties**

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

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