



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

Guide to
**TABLING OF PAPERS
IN PARLIAMENT**

CONTENTS

SUBJECT	PAGE
1. Tabling of papers	6
2. Why papers must be tabled in Parliament	7
3. Procedure for tabling papers	8
4. Referral of papers tabled to committees	9
5. Number of copies to be provided	10
6. Kinds of papers tabled	11
a) Background information to Executive Statements	11
b) International Agreements	11
c) White and Green Papers	12
d) Strategic Plans and Annual Performance Plans	12
e) Annual Reports	13
f) Rules and Regulations	15
g) Confidential Documents	16
h) Other statutory provisions	16

SUBJECT	PAGE
7. Consequences of failure to table a paper	17
8. Documents printed by Government Printing Works	17
9. Placing of papers in Members' boxes	17
10. Publication of contents of papers before tabling	17
11. Papers not tabled	18
12. General Remarks	18

TABLING OF PAPERS IN PARLIAMENT

1. TABLING OF PAPERS

Tabling means the presentation of a paper to Parliament as a means of reporting to Parliament for the paper to be officially before Parliament for its consideration. The term tabling comes from the early days of Parliament when Ministers would physically lay papers on the table of the House. The papers would be recorded in the minutes of the House and they would then be officially before Parliament for its consideration. With the development of parliamentary procedures, this was changed and papers had to be submitted to the office Clerk of the Papers.

Papers are tabled in Parliament as required by the Constitution, statutes, at Government's initiative and as required by the Rules of Parliament. Papers to be tabled are not physically laid upon the Table of the House, but are handed in at the office of Clerk of the Papers to record them as tabled in Parliament.

The tabling of papers in Parliament is the authority of the Presiding Officers. The office of Clerk of the Papers is responsible for the coordination and administration of the tabling process.

The office of Clerk of the Papers prepares a suitable entry for publication in the *Announcements, Tablings and Committee Reports*, which is an annexure to the minutes of the Houses. Papers so handed to the office of Clerk of the Papers are deemed to have been presented to the House on the day on which they are recorded in the *Announcements, Tablings and Committee Reports*.

Certain papers are laid upon the table physically by Ministers, eg taxation proposals and papers connected with Appropriation Bills, which are handed in at the table of a House by the Minister either during or at the conclusion of his/her budget speech.

Papers can also be laid upon the table physically if a Minister deems it desirable to do so, eg when at the same time he/she wishes to make a statement in a House. The Secretary to Parliament must be notified in advance of the Minister's intention, so that he/she may inform the Presiding Officer concerned accordingly.

In Parliament the term 'papers' refers to documents used in its processes such as Order Paper, Question Paper, reports from Government departments, Green Paper, White Paper, and any other paper used in Parliament. For example, an Order Paper is an agenda of a House indicating what the House has to consider on a specific day.

2. WHY PAPERS MUST BE TABLED IN PARLIAMENT

Papers are tabled in Parliament -

- (a) to give effect to the constitutional requirement that members of the Cabinet must provide Parliament with full and regular reports concerning matters under their control (Section 92(3) (b) of the Constitution of the Republic of South Africa, 1996);
- (b) to enable the National Assembly, according to its constitutional powers of section 55(2), to maintain oversight of the exercise of national executive authority, including the implementation of legislation, and any organ of state;
- (c) to give effect to statutory requirements that papers be tabled. For instance, the South African Law Commission Act, 1973, provides that the Commission shall submit a report on its activities to the Minister and that this report shall in terms of section 7(3) be tabled in Parliament; and
- (d) to implement the National Assembly and National Council of Provinces Rules of Parliament that require the Presiding Officers, subject to the respective Rules, to table and refer certain instruments without delay (National Assembly Rule 302 and National Council of Provinces Rule 101).

Concerning the oversight function of the National Assembly, the Public Finance Management Act, 1999, provides that state departments, public entities, constitutional bodies etc. must submit financial statements to the Auditor-General, whose audit report together with the financial statements and the annual report must be tabled in the National Assembly. Further, when Acts are passed by Parliament the President and Ministers are in certain instances authorised in terms of such Acts to make regulations and rules regarding certain matters stipulated in those Acts. In terms of section 17 of the Interpretation Act, 1957, a list of Proclamations and Government Notices under which such rules and regulations were published in the *Government Gazette*, must be tabled in Parliament.

Tabling of written instruments has the effect of making such written instruments public documents, which is in accordance with the mandate of both National Assembly and National Council of Provinces to represent the people and provinces respectively, among others, by providing a national forum for public consideration of issues (Section 42(3) and (4) of the Constitution, 1996)

From the above it is clear that the primary object of tabling any paper in Parliament is to account to Parliament. The tabling of such papers is accordingly an important link in the process of ensuring accountability and openness of government.

3. PROCEDURE FOR TABLING PAPERS

Papers can be tabled on any day when Parliament is in session. Since papers are not physically laid upon the Table of the House, one copy of the paper to be tabled must be deposited at the office of Clerk of the Papers before 12:00 noon on a day when there is an afternoon session. On a day when there is a morning session, such papers must be deposited not later than 09:00 am.

A paper is tabled on the day on which it is recorded in the *Announcements, Tablings and Committee Reports*. The ATC is as such a record to indicate that a paper presented to Parliament has been tabled.

When presenting papers for tabling one copy of the paper must be accompanied by a covering letter identifying the Minister tabling the paper(s) and giving details of the paper(s) being tabled. The letter to Parliament is addressed to the Presiding Officers requesting the tabling of the paper in Parliament.

It should be noted that when papers are delivered to the office of Clerk of the Papers for tabling, the departmental officials must have obtained approval for tabling of such paper from the Minister and the Director-General. As such, the letter sent to Parliament for tabling of a paper must be signed and dated.

What is of importance to note here is that a paper tabled becomes a public document and upon its tabling it would be distributed also to members of the public, the media and other interested parties. For this reason, it is important to ensure that the tabling of a paper was approved before it is submitted to Parliament.

Please note that the presentation of a paper to a committee of Parliament, where a paper is required to be tabled, does not constitute tabling. For a paper to be regarded as tabled, it must have been submitted to the office of Clerk of the Papers and recorded in the *Announcements, Tablings and Committee Report*.

Upon receiving a request for tabling, the office of Clerk of the Papers immediately refers the papers to the Presiding Officers for their referral to appropriate committees.

A paper tabled will appear in the *Announcements, Tablings and Committee Reports* as follows:

TABLINGS

National Assembly and National Council of Provinces

1. The Minister of Science and Technology

Report and Financial Statements of the Council for Scientific and Industrial Research (CSIR) for 2009-2010, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2009-2010 [RP 194-2010].

Papers are not tabled during parliamentary leave periods, but on any day when Parliament is in session or constituency days. When papers have to be tabled and the required tabling period falls during leave periods, such papers should be tabled at the commencement of the next session of Parliament.

It is recommended that if papers are to be laid upon the table immediately after recess, they should be handed in during the week preceding the first sitting day of Parliament so that the necessary entries may appear in the *Announcements, Tablings and Committee Reports* of the first sitting day.

4. REFERRAL OF PAPERS TABLED TO COMMITTEES

All papers are, in terms of the Rules of Parliament, referred to committees when tabled. The referral of a paper to a committee means the placing of the paper before the committee for its consideration. In some cases the paper may be referred to more than one committee due to the nature of that paper. A paper is either referred to a committee for its consideration and report or for information depending on the nature of the paper tabled.

The referral of a paper tabled to a committee will be recorded in the *Announcements, Tablings and Committee Reports*. The referral will be accompanied by a note stating whether the paper is referred for information or for consideration and report by the committee.

Where a paper tabled requires the approval of Parliament, the paper will be referred to a committee for consideration and report. After the committee has considered the paper, it will report on its decision and the report will be printed in the *Announcements, Tablings and Committee Reports*. The report of the committee will then be placed on the *Order Paper* for consideration by a House. The adoption of the committees' reports by the Houses is the approval of such paper by Parliament.

Departments should liaise with the committee chairperson and secretary to ensure that a paper requiring Parliament's approval is programmed for, considered and that the committee reports on it.

As explained, the adoption of the report of the committee by the House is the approval of the request contained in the paper that was tabled. Where the paper was tabled in both Houses in the case requiring approval by Parliament, the approval by Parliament is obtained when both the National Assembly and the National Council of Provinces have adopted reports from their respective committees.

The resolution of Parliament will be formally communicated to the Executive attaching the reports of the committees and the minutes of both Houses.

5. NUMBER OF COPIES TO BE PROVIDED

60 hard copies and 1 electronic copy are required of all papers that are to be tabled. Copies are distributed to members of committees, staff, the press gallery and interested parties. However, when tabling international agreements and rules and regulations 3 copies should be delivered to the Clerk of the Papers and the departments must ensure that enough copies for members of the committee of each House dealing with that particular portfolio are also delivered.

DELIVERY OF BULK SUPPLY OF PAPERS TO BE TABLED

The bulk supply of the papers to be tabled must be delivered to the Papers Store of Parliament. The Store is situated at the foot of the ramp that connects the basement parking area of 120 Plein Street building with the parliamentary basement parking.

It is important for departments to note that papers should be delivered to the Papers Store on the day that they are to be tabled. The reason for this is that papers to be tabled are not publicised until they have been tabled. The departments must also ensure that when papers are delivered to the Papers Store, the letter for requesting tabling is also immediately delivered to the office of Clerk of the Papers. Papers not delivered to the Paper Stores cannot be tabled as this would be tantamount to misleading Parliament.

Papers, which are distributed by the Government Printer on behalf of the departments, are supplied by the Papers Office to members of Parliament and press gallery immediately after a House has commenced its proceedings on the day they are tabled. The department must inform the Government Printing Works of the day the paper is to be tabled to ensure that the Government Printing Works release the paper to Parliament.

Often public entities deliver their papers directly to Parliament without informing their departments. Departments are requested to ensure that their public entities deliver the papers directly to the departments and not to Parliament, especially when approval for tabling has not been received by the Clerk of Papers Office. The problem experienced with this is that these papers remain in our Paper Stores for long periods, in some cases for months, before the department approves tabling.

ELECTRONIC VERSION OF PAPERS TABLED

A paper tabled must also be made available to Parliament electronically. The electronic version of the paper tabled should be delivered together with the letter for approval and the one copy of the paper in a cd (compact disc) format.

This is required to ensure that Parliament is able to meet its legislative and constitutional obligations by making papers in its possession available to the public and also to members when they require such electronic versions of papers. The electronic version of paper is also required by Parliament to reproduce the paper in Braille for blind and partially sighted Members of Parliament.

6. KINDS OF PAPERS TABLED

NB: There are various kinds of papers that have to be tabled in Parliament and these can be found in legislation. The list below is not intended to be exhaustive and departments are advised to check legislation relevant to their administration.

(a) Background Information to Executive Statements

The Rules of Parliament allow a Cabinet member to make a factual statement relating to government policy, any executive action or other similar matter of which Parliament should be informed. In terms of Rule 106(4) of the National Assembly, after an executive statement has been made, the Cabinet member concerned must, if applicable, table a compendium of background information. Rule 240A(4) of the National Council of Provinces, similarly, provides that after any executive statement has been made, the executive member concerned may, if applicable, table background information.

(b) International Agreements

Section 231(2) of the Constitution, 1996, requires that before an international agreement can bind the Republic, it should first be approved by resolution in both Houses. However, in terms of section 231(3) certain international agreements bind the Republic without the approval thereof by both Houses, but such agreements still have to be tabled. Please indicate clearly when tabling an international agreement whether it is tabled in terms of section 231(2) or 231(3).

International agreements form part of our law and are binding on the country. Therefore it is important that the State Law Advisers give their opinion as to whether it is an agreement in terms of section 231(2) or 231(3) of the Constitution, 1996, and whether the agreement is consistent with the domestic law of our country. An opinion of the State Law Adviser (International Law) Department of Foreign Affairs is also required as to whether the agreement is consistent with the international obligations of the Republic and with international law. This information should form part of the documents presented for tabling.

An explanatory memorandum must accompany the tabling of an international agreement that has to be approved by Parliament. The explanatory memorandum must -

- (i) briefly set out the history, objective and implications of the agreement;
- (ii) include a legal opinion by the State Law Adviser as to whether the agreement is consistent with the domestic law of the Republic, including the Constitution, with the international obligations of the Republic and with international law in general;
- (iii) state whether the agreement has self-executing provisions that will become law in the Republic in terms of section 231(4) of the Constitution upon the approval of the agreement by Parliament;
- (iv) give account of the projected financial and other costs of the agreement for the state; and contain all information needed by Parliament in order to take an informed decision.

Departments must ensure that the correct title of the agreement is clearly written. It is also important to ensure that the copy of the original or signed agreement/convention is tabled and not a copy downloaded from the Internet. This is to avoid inconsistencies that may arise between the original or signed document and an Internet document that may have been edited.

(c) White and Green Papers

White or a Green Paper should also be tabled in Parliament. The White Paper informs Parliament of the policy of the department. Though there is no specific legislation requiring the tabling of green or white papers, it is important to table them to ensure that Parliament is informed of government policies.

(d) Strategic Plans

In terms of section 10(c) of the Money Bills Amendment Procedure and Related Matters Act, 2009 (Act No 9 of 2009), strategic plans must be tabled in Parliament after the adoption of the fiscal framework.

It is important to ensure that strategic plans are tabled within the period stipulated because they provide information for the budget review process of the parliamentary committees.

The focus of Strategic Plans must be on issues that are strategically important, linked to and flowing from various plans developed within institutions to fulfil their mandates, especially Performance Agreements between the President and Ministers and Service Delivery Agreements entered into in terms of the broad strategic outcomes. Operational issues such as an institution's finances, supply chain management, information systems or human resources can be considered strategic priorities if they have to be addressed to facilitate improved performance. The Public Service Commission in its report *"Evaluation of Departments' Annual Reports as an Accountability Mechanism"* clearly states that the emphasis on measurable objectives, *which should be part of the contents of the strategic plan*, is to create a clear contract between Parliament and the relevant Minister regarding specific deliverables for which the Minister can be held accountable.

This explains the importance of strategic plans and it is necessary for departments to table them on time to ensure that Parliament is provided with information required for its processes.

Source: National Treasury

(ii) Annual Performance Plans

The Annual Performance Plan details the specific performance targets that the institutions will aim to achieve in the budget year and the next two years of the MTEF (Medium Term Expenditure Framework) in pursuit of strategic outcomes oriented goals and objectives set out in its Strategic Plan. It presents the institution's programme performance indicators together with targets.

Source: National Treasury

(e) Annual Reports

Annual reports play an important role in the processes of the oversight function of Parliament and it is therefore important that they are tabled on time. Annual reports are an important mechanism by which departments account to Parliament on their activities.

PERIOD WHEN ANNUAL REPORTS MUST BE TABLED

Section 40(1)(d) Public Finance Management Act, 1999, requires the annual report, financial statements and the Auditor-General's report to be submitted to the treasury or executive authority within five months of the end of the financial year.

It is important to note that the annual report, financial statements and the Auditor-General's report should be tabled within this period.

Section 65(1) of the Public Finance Management Act, 1999 provides that the executive authority responsible for a department or public entity must table in the National Assembly - the annual report and financial statements and the audit report of those statements, within one month after the accounting officer for the department or the public entity received the audit report and the findings of the disciplinary board.

If the executive authority fails to table the annual report and financial statements of the department or public entity, and the audit report on those statements, within six months after the end of the financial year to which those statements relates, the executive authority must table a written explanation setting out the reasons why they were not tabled.

If the department fails to table the annual report within that period, it must ensure that written explanation is tabled before or immediately after the end of the stipulated period. This is to ensure that Parliament is informed on time to reschedule its processes such as committee deliberations on the paper.

The written explanation should inform the Legislature why the annual report is late. That is, it should provide the reasons why the report could not be tabled within the required time. Departments should note that the explanation to Parliament is not by the accounting officer but by the executive authority.

Certain Acts do stipulate when a report should be tabled in Parliament. For example, section 42(5) of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003), provides that an amendment to the pricing structure for the provision of municipal services be tabled on or before 15 March in any year.

However, section 3(3) of the Public Finance Management Act, 1999 states that in the event of any inconsistency between it and any other legislation, the Public Finance Management Act prevails.

The departments must ensure that those public entities falling under their function also table their annual reports. In terms of section 55(3) of the Public Finance Management Act, 1999 public entities must report to Parliament on their activities and financial affairs. The entity must transmit its report to the Minister accountable for that entity or within whose portfolio it falls. The Minister must then table the report and financial statements in Parliament.

Regulation 18.4 of the Treasury Regulations requires the departments to include in the annual reports, among others, a list of trading and/or public entities controlled by or reporting to the department.

Other bodies not falling directly under any ministry, such as constitutional institutions, are in terms of their enabling Acts required to report to Parliament on their activities. Depending on the enabling Act, the body would either report directly to Parliament or submit the report to the President, who shall cause such report to be tabled in Parliament.

When the enabling Act requires the body to report directly to Parliament, it must send a letter to Parliament requesting tabling of the report. If the enabling Act requires the body to first report to the President or a Minister, the body must request the President or the Minister to table the report in Parliament.

Because the annual report includes the Auditor-General's report, the department must notify the office of the Auditor-General when the report is to be tabled. The Auditor-General's office should be informed at least four days prior to the date of tabling. The Auditor-General has to make media statements on the reports, as it is required by law to make the reports public. It is therefore important to notify the Auditor-General's office on time for them to prepare the media statement on their report that is included in the annual report of the department. Fifteen copies of the report should be delivered to the office of the Auditor-General at 103-107 Plein Street, 14th Floor Parliament Towers.

CONTENTS OF THE ANNUAL REPORT

The report of the Public Service Commission on *"Evaluation of Departments' Annual Reports as an Accountability Mechanism"* states that "The effectiveness of an annual report as an accountability mechanism is totally dependent upon the quality of the information provided. To be effective, reports should conform to specific standards, compelling officials to submit the right selection of information in such a form that sensible deductions can be made."

Sections 40(3) and 55(2) of the Public Finance Management Act provide what information should be included in the annual report. The annual report and financial statements must:

- (i) fairly represent the state of affairs of the department, trading entity or constitutional institution, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned; and include particulars of -
 - (1) any material losses through criminal conduct, and any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure;
 - (2) any criminal or disciplinary steps taken as a result of such losses, unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure;
 - (3) any material losses recovered or written off; and
 - (4) any other matters that may be prescribed.

Regulations 18.2, 18.3 and 18.4 of the Treasury Regulations and Chapter 1, Part III J of the Public Service Regulations, 2001 also give guidelines on the content of annual reports.

Tabling of an annual report without the audit report and financial statements is not in compliance with the PFMA.

(f) Rules and Regulations

In terms of section 17 of the Interpretation Act, 1957 (Act No 33 of 1957) as amended, copies of rules or regulations made by the President or the Minister are not laid upon the Table. Lists of Proclamations and Government Notices under which such rules or regulations have been published in the Gazette during the period covered by such lists, stating in each case -

- (a) the number, date and title of the Proclamation or Government Notice, and
- (b) the number and date of the Gazette in which they were published,

must be laid upon the table within 14 days after the publication of the rules and regulations in the Gazette, or if Parliament is in a leave period, within 14 days after the commencement of its next session.

The Proclamation or Government Notice submitted to Parliament for tabling must be drafted as follows:

Government Notice No 1103 published in Government Gazette No 25250 dated 30 July 2003: Appointments and re-appointments of members to the panel of the Tax Board for the hearing of income tax appeals, made in terms of the Income Tax Act, 1962 (Act No 58 of 1962).

Departments are requested to attach a copy of the *Government Gazette* wherein such Proclamations, Government Notices, General Notices or Regulations were published when tabling.

Departments are advised to ensure that the Proclamation or Government Notice in which the rules and regulations were published is tabled within 14 days of publication as required by the Act to avoid unnecessary consequences that may result. Departments seem to wait until they have published a number of Proclamations and Government Notices before they table them. At times it is two or many months after the publication thereof when Parliament was at all times in session.

Of importance to note with regard to rules and regulation, is that after 1994 a lot of legislation passed by Parliament requires the draft regulations or rules to first be tabled in Parliament prior to publication in the *Government Gazette*. For example, section 92(2) of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000) provides that any regulation made in terms of subsection (1) must, before publication in the Gazette, be submitted to Parliament.

Departments are requested to ensure that where the legislation so requires, the draft regulations or rules must be tabled before publication and not after publication in the *Government Gazette*.

(g) Confidential Documents

It is important for Parliamentary Liaison Officers (PLO's) and Government Officials to know that once a report is tabled in Parliament, it becomes an official record of Parliament and upon its tabling it must be distributed to Members of Parliament. It is therefore the responsibility of departments to ensure that a report tabled in Parliament does not contain confidential information. Parliament bears the onus of upholding the principles of transparency and openness in its operations and in the provision of information.

(h) Other statutory provisions

Provisions in respect of the tabling of other papers are contained in various other Acts. For example, in terms of section 18(5)(c) of the Domestic Violence Act the Independent Complaints Directorate must submit a report to Parliament every six months regarding the number and particulars of matters reported to it and setting out the recommendations made in respect of such matters.

Departments must check legislation under their administration to ensure that papers that are required to be tabled are tabled. More importantly, departments must also ensure that the papers are tabled when they are required to be tabled. Where necessary the departments should indicate the section and Act in terms of which the paper is tabled.

Please note that in other legislation the term *table* may not have been used. Other terms may be used such as *submit* or *report to Parliament*. All such terms refer to tabling and the paper must be tabled in Parliament.

7. CONSEQUENCES FOR FAILURE TO TABLE A PAPER

There are various kinds of consequences that may arise due to failure to table a paper in Parliament. It is important to understand that failure to table a paper in Parliament as prescribed is a breach of the Constitution. Please note that failure to table an annual report is not only a non-compliance with the PFMA, but is also a breach of constitutional provisions. Section 92(3)(b) of the Constitution requires members of the Cabinet to provide Parliament with full and regular reports concerning matters under their control.

Failure to table a paper as prescribed results in the frustration of parliamentary processes. For example, failure to table strategic plan and annual report result in Members of Parliament having to discuss and make decisions on a budget Vote without the necessary information. It is important to note that in other cases the requirement to table a paper, such as draft regulations, could be a precondition for the lawfulness of such a regulation. It is therefore very important to adhere to timeframes for tabling as prescribed in legislation and to also ensure that papers are regularly tabled as required.

8. DOCUMENTS PRINTED BY THE GOVERNMENT PRINTING WORKS

Departments must inform the Government Printing Works, 90 Plein Street, Cape Town, Tel (021) 465 7531 / Fax (021) 461 4404, when a paper is to be tabled for them to release the paper to Parliament if it is a paper printed by them.

9. PLACING OF PAPERS IN MEMBERS' BOXES

Departmental officials are not allowed to place papers in members' boxes. If a department wishes to distribute papers among members, the paper must be handed to the Clerk of the Papers and with permission of the Secretary the papers will be placed in members' boxes by the Postal Agency or Service Officers. This also applies to papers that are not to be tabled.

10. PUBLICATION OF CONTENTS OF PAPERS BEFORE TABLING

When Parliament is in session, it is contrary to parliamentary practice to publish, through the press or otherwise, the contents of any paper required to be tabled, before such paper has been laid upon the table.

However, to enable, press, radio and television representatives to prepare their reports, it is practice for departments to make copies of a paper available to such representatives on condition that its contents may not be published before the commencement of the proceedings of a House on the day on which it is to be tabled. The time at which the contents of the paper may be published must be clearly indicated on such paper.

11. PAPERS NOT TABLED

It is advisable that papers which are not tabled or are not required to be tabled be made available to the Office of Clerk of the Papers for the benefit of Members of Parliament as an acknowledgement of their fundamental right of access to information concerning government policy or activity.

12. GENERAL REMARKS

- (i) It is important for Parliamentary Liaison Officers (PLO's) to look at the Announcements, Tablings and Committee Reports (ATC) the following day to ensure that their paper appears in the ATC and that the entry is correctly entered.
- (ii) When tabling a paper, it is important that the information on the letter requesting the tabling reflects the same information on the report to be tabled.
- (iii) Letters requesting permission and/or giving notification of late tabling of Strategic Plans must be addressed and submitted to the Office of Leader of Government Business (LOGB).

Office of the Clerk of Papers:

Llewellynn S M Claassen
Tel: 021 403 2224

(Ms) Yasmine Curnow
Tel: 021 403 8182

Paper Stores:

Mongezi Victor Pama
Tel: 021 403 2078

Deberoux Samuels
Tel: 021 403 2079

Willys C Henn
Tel: 021 403 2079

Enquiries in connection with the tabling of papers must be addressed to the Parliament of the Republic of South Africa, Office of Clerk of the Papers, Rooms V29 & V30, Ground Floor, Old Assembly Wing.
Telephone 021 403-2224 or 021 403-8182, Fax 403 3303,
E-mail: lclaassen@parliament.gov.za / ycurnow@parliament.gov.za

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