



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA



MAKING YOUR FUTURE
WORK BETTER

**Adapting the Rules to the Modern
Parliamentary Practice: The consequences
of amending the Rules of the National Council of Provinces**



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- 1) Business unusual - a need for change
- 2) The move away from traditional business practices
- 3) Amended and New NCOP Rules



Business Unusual

- Covid-19 pandemic forced the change from the traditional way of conducting Parliamentary business to reliance on technology.
- Virtual and hybrid meetings and sittings became a global phenomenon.

Examples:

- while the Namibian Parliament opted to meet virtually, Norway chose to reduce Committee workload;
- in Armenia the business continued as usual;
- Bulgaria opted to suspend all business until the end of the State of Emergency.
- Kenya, Botswana, and Uganda chose the virtual and hybrid routes.



Business Unusual

- Technology became the centerpiece of parliamentary operations.
- Like others, the NCOP chose to go the virtual and hybrid routes (Zoom and MS Teams).
- Rules were fashioned to suit the new circumstances and align them with current practices.



Substantive Amendments to the Rules

- **Rule 11** (Functions of the permanent Deputy Chairperson)
- **Rule 15** (Functions of the Chief Whip of the Council)
- **Rule 16** (Acting Chief Whip)
- **Rule 17 & 18** (The Whippery & Composition)
- **Rule 19** (Appointment of Provincial Whips)
- **Rule 20** (The Provincial Whips)
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- **Rule 22** (Programming Whip)
- **Rule 23** (Functions of Programming Whip)
- **Rule 24** (Committee Whip)
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Substantive Amendments the Rules

- **Rule 27** (Functions of House Chairperson Committees)
- **Rule 28** (Functions of House Chairperson Members Support and International Relations)
- **Rule 31** (Leave of absence)
- **Rule 69** (Points of order)
- **Rule 93** (Motions without notice)
- **Rule 94** (Notice of motion)
- **Rule 100** (Ministerial Briefings)
- **Rule 103** (Virtual and hybrid sittings and meetings)
- **Rule 119** (Tabling of Strategic and Annual Performance Plans by Departments)



Substantive Amendments the Rules

- **Rule 150** (Election of Chairperson of a Committee)
- **Rule 151** (Acting Chairperson)
- **Rule 217** (Lapsing and resumption of proceedings)
- **Rule 220** (Withdrawal of a Bill)
- **Rules 224, 225 and 226** (Oral Questions to President, Deputy President and Ministers respectively)



Functions of Deputy Chairperson - Rule 11

The Permanent Deputy Chairperson has, among others, the following functions:

- convene the three spheres through Sectoral Parliament programmes, with the focus of catalysing priorities emanating from the Constitution and other legislative and policy instruments;
- facilitate executive compliance with respect to recommendations set out in Sectoral Parliaments and executive commitments made during Sectoral Parliaments;
- track and monitor progress on the implementation of the resolutions in respect of Sectoral Parliaments and Ministerial Briefings;



Functions of the Chief Whip - Rule 15

The Chief Whip of the Council is responsible for:

- co-ordination of the business of the House;
- ensuring quorum in the House and that members attend and participate in programmes and business of the Council;
- coordination of the Speakers List;
- overseeing the effective functioning of the Whippery; and
- performing any other function that the Chairperson of the Council or the House may, from time to time, assign to him or her.



Appointment of Acting Chief Whip - Rule 16

This rule makes it possible for the appointment of an acting Chief Whip:

- whenever the Chief Whip is absent, he or she (the incumbent **Chief Whip**) may designate any member of the Whippers to fulfil his or her function until his or her return or
- whenever the Chief Whip is unable to perform his or her functions, the **Chairperson** may appoint an Acting Chief Whip.

NB The rule may also have to make provision for the election of the Chief Whip whenever there is a vacancy in the Office of the Chief.



The Whippery - Rule 18

The Whippery is composed of:

- the Chief Whip of the Council;
 - the Programming Whip; and
 - the Provincial Whips.
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- A political party represented in the Council that does not have a Provincial Whip is entitled to be represented by a party representative.
 - A political party represented in the Council that does not have a Provincial Whip and has seven or more members is entitled to be represented by a Party Whip.



Provincial Whip - Rule 19

- A provincial legislature is authorised to designate one of the permanent delegates in its delegation as a Provincial Whip.
- In the absence of the Premier, the Provincial Whip performs the functions of the head of delegation.



Functions of the Provincial Whips

- Rule 20

A Provincial Whip is responsible for:

- co-ordination of the business of the provincial delegation;
- assisting the Chief Whip in performance of his or her functions;
- ensuring a link between the NCOP and provincial legislatures;
- coordination of the participation of the provincial delegation in the NCOP processes and proceedings;
- facilitation of the briefing of the provincial legislature on legislation; or any other matter that is before the Council; and
- performing any other function that the Chairperson, the Chief Whip or the Council may assign to him or her.



Acting Provincial Whip - Rule 21

- If the Provincial Whip is absent, the ***Provincial Whip*** may appoint a permanent delegate from among the delegates of the province concerned, to act as Provincial Whip.
- Whenever the Provincial Whip is unable to perform the functions of the Provincial Whip, the ***Chief Whip*** may designate a delegate from the delegation concerned, to perform the functions of the Provincial Whip until the Provincial Whip returns or a Provincial Whip is designated.
- An acting Provincial Whip has the responsibilities, powers and functions of the Provincial Whip.



Programming Whip - Rules 22 and 23

- The Council must elect from among its permanent delegates a Programming Whip of the Council.
- A delegate elected under this rule holds office until that person's term as a permanent delegate expires, he or she resigns as the Programming Whip, or is removed from office in terms of rule 21.

The Programming Whip is required to:

- ensure the preparation of the parliamentary programme in consultation with the Chief Whip and Presiding Officers;
- ensure proper programming of plenaries, meetings of committees and other activities of the Council; and
- brief the Whippery and Programme Committee on the Programme of the Council.



Committee Whips - Rules 24 and 25

In order to maintain discipline in the carrying out of Committee business the Chief Whip may, from time to time, designate a member of the Whippery to assume the responsibility of a Committee Whip to:

- enforce discipline in the attendance of meetings of select committees;
and
- ensure that select committees conduct their business without disruption.



House Chairperson - Rule 27

The **House Chairperson: Committees** is required to

- ensure the compilation of the programme by the Select Committees that are in compliance with their strategic plans;
- provide reports to the Programme Committee meeting regarding legislation and committee activities;
- monitor the support provided to committees;
- facilitate the drafting of committee budgets;
- track the processing of legislation by committees;
- co-ordinate the strategic and business plans and programme of Select Committees activities;



House Chairpersons - Rule 27

- convene and chair the Committee of Chairpersons of Committees to exchange information and perspectives;
- consider and approve Committees' request for travel for purposes of oversight; and
- perform any functions which the Chairperson of the Council or the Council may, from time to time, delegate to him or her.



House Chairpersons – Rule 28

The House Chairperson: Members' Support and International Relations shall -

- continuously monitor and report on the implementation of the policies relating to Members' Facilities;
- ensure the review of the benefits for Members;
- monitor and report on the needs of members with disabilities;
- convene and chair the Joint Committee on Members Interests;
- facilitate the participation of Delegates in international fora;
- ensure the tabling of reports of delegations in the House; and
- perform any function that the Chairperson of the Council may, from time to time, assign to the House Chairperson Members' Support and International Relations.



Loss of membership/Leave of Absence – Rule 31

- Leave of absence is dealt with within the meaning of section 62(4)(e) of the Constitution that deals with the loss of membership
- A delegate loses membership if he or she is absent for 15 consecutive days.
- Leave of absence must be applied for from the Council.
- The application must state the reasons for, as well as the period of, absence.
- If the application is refused, the applicant must be provided with the reasons for such refusal.



Points of Order - Rule 69

- A delegate may raise a point of order at any time during the proceedings of the House by stating that he or she is rising on a point of order.
- The point of order must be confined only to a matter of parliamentary procedure or practice, or a matter relating to unparliamentary conduct, as defined, and must be raised immediately when the alleged breach of order occurs.
- The delegate raising the point of order must refer to the exact rule, or at least the principle or subject matter, on which the point of order is based.



Point of Order - Rule 69

- If the delegate does not do so, the presiding officer may require him or her to do so, and if he or she fails or does not adequately do so, the presiding officer may summarily rule that it does not amount to a point of order or that the matter is out of order.
- The Presiding Officer may, at his or her discretion, allow delegates to address the Presiding Officer briefly on a point of order that has been raised.
- The Presiding Officer must give a ruling, and may give his or her ruling or decision on the point of order immediately, or defer the decision to the earliest opportunity thereafter by way of a considered ruling.
- No point of order may be raised in response to a ruling in terms of sub-rule (5).



Point of Order - Rule 69

- No other delegate may raise another point of order before the Presiding Officer has ruled on the first point of order.
- No delegate may raise a point of order again or a similar point of order, if the presiding officer has ruled that it is not a point of order or that the matter is out of order.
- Delegates may not disrupt proceedings by raising points of order that do not comply with this rule.
- When a point of order is raised during a debate, the delegate called to order must resume his or her seat, and after the point of order has been stated to the Presiding Officer, the delegate raising the point of order must likewise immediately resume his or her seat when he or she has concluded his or her submission or if the Presiding Officer asks him or her to do so.



Points of Order - Rule 69

- The Presiding Officer's ruling on a point of order is final and binding, and may not be challenged or questioned in the House.
- A delegate who is aggrieved by a Presiding Officer's ruling on a point of order may subsequently in writing to the Chairperson of the Council request that the principle or subject matter of the ruling be referred to the Rules Committee.
- The Rules Committee may deal with the referral in terms of paragraph (a) as it deems fit, provided that it confines itself to the principle underlying, or subject matter of, the ruling concerned, and may not in any manner consider the specific ruling, which is final and binding.



Motions without Notice - Rule 93

Notice of a motion must be given, except when –

- an amendment to a draft resolution is proposed in terms of these Rules;
- a motion arises out of a question of privilege;
- the postponement or discharge of, or giving precedence to, an order of the day is proposed;
- the referral of a Bill to a committee is proposed;
- the delegate in charge proposes a draft resolution on the report of a committee immediately after the debate on the report has been concluded; or
- all the heads of delegation or Provincial Whips present unanimously agree that the motion be dispensed with without notice.



Motions without Notice - Rule 93

Motions without Notice

- must be consistent with the Constitution, the law and these rules;
- must deal with substantive matters which fall within competence of the Council;
- must consist of a clear proposed resolution;
- may not be the same in substance as a draft resolution that has been approved or rejected by the House during the same session;
- may not propose to issue an instruction to the executive;
- must observe the principles of co-operative government in accordance with Chapter 3 of the Constitution;



Motions without Notice - Rule 93

Motions without Notice

- may not take longer than one and a half minutes to read out; and
- if objected to or after expiry of time limit, may not be proceeded with and becomes a notice of a motion to be printed in full in the Order Paper, unless otherwise directed by the presiding officer.
- If a proposed motion is preceded by another motion of the same substance that has already been approved or rejected by the House on the same day, the proposed motion falls away and may not be read out and moved.



Notices of Motion / Motion with Notice - Rule 94

A notice of motion in the form of a draft resolution must —

- be submitted in writing;
- deal with a subject within the competence of the Council;
- be concise;
- refer to a single substantive matter;
- may not take longer than 90 seconds to read out;
- if it exceeds the time limit, not be proceeded with and be printed in full in the Order Paper; and
- comply with these Rules and relevant guidelines, if any, approved by the Rules Committee.



Ministerial Briefings - Rule 100

- The Chairperson may from time to time, after consultation with other Presiding Officers and the Chief Whip and in accordance with the NCOP Programme, schedule a ministerial briefing sessions by members of the national executive, provincial executive and organized local government to brief delegates on matters affecting the three spheres of government.
- The rules of debate apply to Ministerial Briefings.



Rules of Virtual and Hybrid Sittings - Rule 103

These Rules apply to virtual or hybrid -

- meetings of committees;
- sittings of the House;
- briefings of provincial legislatures by Permanent Delegates on bills or any matter affecting provinces;
- consideration of mandates on all matters or any matter affecting provinces; and
- facilitation of public involvement



Rules of Virtual and Hybrid Sittings - Rule 103

- The quorum requirements for Committee meetings or Sittings of the House shall be those as determined by the Constitution and the Rules Council.
- Delegates may cast their votes either electronically or by voice.
- Delegates have the same powers, privileges and immunities which they ordinarily enjoy in Committees and House proceedings.



The Budget Process - Rule 119

- Once tabled, the Chairperson must refer strategic plans, annual performance plans and any relevant documentation related to the budget to relevant Select Committee/s for the assessment of the policy performance of the departments and their entities
- Each committee must prepare a Policy Assessment and recommendations (PAR) Report.



The Budget Process - Rule 119

- The Policy Assessment and Recommendations (PAR) Report must be tabled as part of the policy debates of the budget votes of a department and its entities.
- Each Minister must respond to the Policy Assessment and Recommendations (PAR) Report of a committee during a policy debate or within six months after the tabling and or adoption of a policy assessment and recommendations (PAR) report.



Acting Chairperson (Committees) & Lapsing of Bills - Rules 151 & 217

Acting chairperson

- If the chairperson is not available or is unable to perform the functions of the chairperson, the remaining members of the committee must elect another of its members to act as chairperson.

Lapsing and resumption of proceedings on Bills and any business before the Council

- All Bills which have not yet been passed by the Council, and any business before the Council when it rises on the last sitting day in any term lapses, but may be reinstated on the Order Paper during the next ensuing session by resolution of the Council.



Acting Chairperson (Committees) & Lapsing of Bills - Rules 151 & 217

- The proceedings on the Bill shall resume at the stage at which the Bill was when it lapsed.
- The approval or rejection of a draft resolution for the resumption of proceedings on a Bill does not prohibit the introduction of a Bill of the same substance during the same or an ensuing session or during an ensuing recess.



Withdrawal of a bill - Rule 220

- The person in charge of a Bill may withdraw the Bill at any time before the Bill has been disposed of in the Council.
- A member of Cabinet may, with the permission of the Chairperson of the Council, withdraw a Bill at any time before the Bill has been disposed of in the Council.
- A member of Cabinet may, with the permission of the Chairperson of the Council, withdraw a Bill remitted to the Council in terms of joint rule 205 (1) or 206 (2)(b).



Questions to President and Deputy President

Rules 224 & 225

- Questions to the President must be scheduled at least once every six months
- Questions to the Deputy President must be scheduled at least once every quarter
- The number of questions to the President and Deputy President is limited to six questions per question session.

Order of the questions

- Questions standing over from previous question days
- New questions



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