

WESTERN CAPE PROVINCIAL PARLIAMENT



STANDING RULES

March 2019

STANDING RULES

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WESTERN CAPE PROVINCIAL PARLIAMENT



Definitions



Definitions

In these rules, unless the context indicates otherwise—

“ad-hoc committee” means a committee appointed in accordance with rule 119;

“Announcements, Tablings and Committee Reports” or **“ATC”** means the document entitled Announcements, Tablings and Committee Reports, which lists announcements, matters tabled and committee reports;

“Chamber” means the venue in which the proceedings of the House take place;

“Chief Whip” means a member of a political party represented in the Provincial Parliament designated by that political party in accordance with rule 79 to lead the whippers of that party;

“committee” means a committee consisting of members and established in accordance with these rules or legislation;

“Code of Conduct Act” means the Members of the Western Cape Provincial Parliament Code of Conduct Act, 2002 (Act 3 of 2002);

“Conduct Committee” means the committee established by rule 103;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“in camera” means a committee meeting that any person or group of persons, ordinarily comprising at least the public and the media, is not allowed to observe and attend;

“Leader of Government Business” means the Provincial Minister appointed by the Premier as Leader of Government Business;

“Mandating Procedures Act” means the Mandating Procedures of Provinces Act, 2008 (Act 52 of 2008);

“member” means a member of the Provincial Parliament, including a member of the Provincial Cabinet;

“member in charge”—

- (a) in relation to a Bill introduced by a Provincial Minister or an ordinary member, means that Minister or member;
- (b) in relation to a Bill introduced or to be introduced by a committee, means the chairperson of the committee or another member authorised by the committee to deal with the Bill or the particular stage of the Bill;
- (c) in relation to other business of the House, means the member in charge of a matter on the Order Paper as provided for in rules 55 and 68;

“money Bill” means a Bill as defined in section 120(1) of the Constitution;

“motion” means—

- (a) A proposal made by a member in the form of a draft resolution that the House do something, order something to be done or express an opinion concerning some matter; or
- (b) A proposal made by a member that the House discuss a subject presented by the member for that purpose;

“MTBPS” means the Medium-Term Budget Policy Statement;

“NCOP” means the National Council of Provinces;

“NCOP Bill” means a Bill referred by the NCOP to the Provincial Parliament for attention;

“NCOP matter” means a Bill, paper or other matter referred by the NCOP to the Provincial Parliament for attention;

“NCOP paper” means a paper, other than a Bill, referred by the NCOP to the Provincial Parliament for attention;

“official opposition” means the largest opposition party in the Provincial Parliament;

“order of the day” means an item of business under consideration on a specific day on which the House sits;

“Order Paper” means the document that sets out the agenda of the House;

“ordinary member” means a member other than the Speaker or the Deputy Speaker, or a member of the Provincial Cabinet;

“organised local government” means the relevant provincial organisation contemplated in section 2(1)(b) of the Organised Local Government Act, 1997 (Act 52 of 1997);

“permanent delegate” means a permanent delegate of the Province to the NCOP as contemplated in section 61(2) of the Constitution;

“Petitions Act” means the Western Cape Petitions Act, 2006 (Act 3 of 2006);

“point of order” means a matter related to the procedure, practice or operation of the House, or a complaint of unparliamentary conduct or behaviour on the part of another member, which a member is entitled to raise during the sitting of the House or committee meeting when seeking guidance and/or a ruling on the matter from the presiding officer;

“Powers, Privileges and Immunities Act” means the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act 4 of 2004);

“precincts of the Provincial Parliament” means the precincts of the Provincial Parliament as contemplated in section 2 of the Powers, Privileges and Immunities Act;

“Premier” means the Premier of the Province;

“presiding officer” or **“chair”** means the member presiding at a meeting of the House or a committee, as the case may be;

“Province” means the Province of the Western Cape;

“Provincial Cabinet” or **“Cabinet”** means the Provincial Cabinet contemplated in section 42 of the Constitution of the Western Cape;

“provincial Constitution” means the Constitution of the Western Cape, 1997;

“Provincial Minister” or **“Minister”** means a Provincial Minister contemplated in section 42 of the Constitution of the Western Cape;

“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act 1 of 1999);

“question of privilege” means a matter relating to the powers, privileges and immunities of the Provincial Parliament or its members, as set out in the provincial Constitution and the Powers, Privileges and Immunities Act;

“Question Paper” means the document listing questions for oral or written reply and interpellations in accordance with Chapter 14;

“recess” means a period determined by the Programming Authority or by resolution of the House during which there are no plenary sittings of the House and committee meetings;

“resolution” means a decision taken by the House or a committee, as the case may be;

“Secretary” means the Secretary to the Provincial Parliament;

“Serjeant-at-Arms” means an official of the Provincial Parliament responsible for the mace and for security in the Provincial Parliament;

“session” has the meaning assigned to it in rule 16;

“sitting” means a plenary meeting of the House;

“sitting day” means a day on which the House sits;

“special delegate” means a special delegate of the Province to the NCOP, as contemplated in section 61(4) of the Constitution;

“standing committee” means a committee established in accordance with rule 110;

“substantive motion” means a proposal for separate consideration by the House, including a motion relating to any allegation against a member in accordance with rule 59(2), or against a holder of an office in accordance with rule 62(1);

“tabling” means the official presentation of the document or paper in the House, or, if not presented in the House, the publication in the ATC of the document or paper after it has been officially submitted to the Speaker;

“term” means the period for which the Provincial Parliament is elected in terms of section 108(1) of the Constitution and section 17(1) of the provincial Constitution;

“whip” means a member of a political party represented in the Provincial Parliament designated by that political party in accordance with rule 79 to oversee and guide the conduct of its members in relation to the rules and the decorum and business of the House or a committee;

“working day” means any day of the week, except—

- (a) Saturday and Sunday;
- (b) days falling within a recess; and
- (c) public holidays;

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 1

Supplementation, Suspension, Application and
Non-Diminution or Non-Limitation of Rules

Chapter 1

SUPPLEMENTATION, SUSPENSION, APPLICATION AND NON-DIMINUTION OR NON-LIMITATION AND APPLICATION OF RULES

Supplementation

1. (1) The Speaker may give a ruling or make a rule in respect of any eventuality for which these rules do not provide.
- (2) A rule made by the Speaker—
 - (a) must be published in the ATC;
 - (b) remains in force until the House has decided on it based on a recommendation of the Rules Committee.
- (3) If a rule is made by the Speaker when the House is not in session, the Rules Committee must consider the rule within five working days after the next sitting day of the House.

Suspension

2. (1) Any provision of these rules may be suspended by resolution of the House.
- (2) The suspension is limited in its operation to the particular purpose for which it was approved.

Application

3. Except where it is clearly inappropriate, a rule applying to members in any proceedings of the House or a committee, apply also to a non-member who has been authorised to take part in those proceedings.

Non-diminution or non-limitation of rules

4. No convention or rule of practice limits or prohibits any provision of these rules.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 2

Public access

Chapter 2

PUBLIC ACCESS

Admittance of the public

5. (1) Subject to rules 7 and 72, meetings of the Provincial Parliament and of its committees and their subcommittees are held in public.
- (2) The Speaker may take reasonable steps to regulate public access to the precincts of the Provincial Parliament, to the Chamber or to a committee room.
- (3) Such steps may include but are not necessarily limited to the—
 - (a) setting aside of places for the public in the Chamber or a committee room and the refusal of further entry where all such places are occupied;
 - (b) designation of entrances and routes by which the public may obtain access to or leave the Chamber or a committee room;
 - (c) identification or searching of a member of the public who wishes to obtain or has obtained access to the precincts of the Provincial Parliament or to the Chamber or a committee room;
 - (d) determination of the number of members of the public who may be admitted to the precincts of the Provincial Parliament or to the Chamber or a committee room on any one day or on a particular day or at or on a particular time or occasion.

Conduct of members of the public

6. Members of the public attending a sitting of the House or a committee meeting may not create or take part in any disturbance of the proceedings of the House or committee and must obey the directions of the presiding officer.

Withdrawal of the public

7. The presiding officer may, whenever he or she thinks it reasonable and justifiable in an open and democratic society to do so, order members of the public to withdraw from the Chamber or a committee meeting.

[See section 28(2) of the provincial Constitution.]

Removal of member of the public

8. The Serjeant-at-Arms must remove any member of the public—
 - (a) who, without due permission, is present in a part of the Chamber set aside for members only; or
 - (b) who, having been admitted to any other part of the Chamber or of the precincts of the Provincial Parliament, disrupts the proceedings, misconducts himself or herself or does not withdraw when duly ordered to do so.

Invitation to non-member

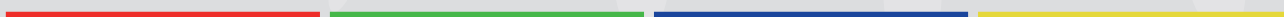
9. The Speaker, after consulting the Rules Committee, may invite a person who is not a member to—
 - (a) address the House; or
 - (b) attend a meeting of the House and state his or her views on a matter before the House.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 3

Proceedings in connection with
commencement of the
Provincial Parliament's
term and first session of each year



Chapter 3

PROCEEDINGS IN CONNECTION WITH COMMENCEMENT OF THE PROVINCIAL PARLIAMENT'S TERM AND FIRST SESSION OF EACH YEAR

Convening notice read

10. At the commencement of proceedings at the first sitting of this House after its election, the Secretary or an officer designated by the Secretary must read the notice convening the Provincial Parliament.

[See section 19(3) of the provincial Constitution.]

Oath or affirmation by members

11. When the convening notice has been read, members must be sworn in or make an affirmation in accordance with section 16 of the provincial Constitution.

Election of the Premier

12. At its first sitting, after members have been sworn in or made an affirmation, the House must elect one of its members as the Premier.

[See section 38(1) and (2) of the provincial Constitution.]

Election of the Speaker and Deputy Speaker

13. After the election of the Premier at its first sitting, the House must elect one of its members as the Speaker and may elect another member as Deputy Speaker with due regard to rule 23.

[See section 20 of the provincial Constitution.]

State of the Province Address

14. (1) At the beginning of term of a new Provincial Parliament, the Speaker must inform the House of the time at which the Premier will deliver the Premier's State of the Province Address.
- (2) At the first sitting of the House each year, the Premier must deliver a State of the Province Address.

State of the Province Address on Order Paper

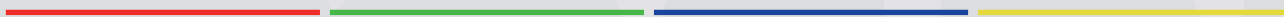
15. The Secretary must place the Premier's State of the Province Address on the Order Paper for discussion.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 4

Sittings of the Provincial Parliament



Chapter 4

SITTINGS OF THE PROVINCIAL PARLIAMENT

Session and recess

16. (1) A session of the House is the period or, according to the circumstances, any of the periods in a calendar year, during which the House may sit.
- (2) The first session of the House after its election begins with the sitting convened under section 19(3) of the provincial Constitution.
- (3) An extraordinary sitting to which the House is summoned by the Premier under section 19(5) of the provincial Constitution, if it occurs during a recess, is deemed to fall within the preceding session or to commence the ensuing session, according to the circumstances, unless the Speaker determines otherwise.

Working and sitting days

17. The House may sit on any working day for the consideration of business.

Hours of sittings

18. The hours of sittings on working days are Mondays to Thursdays from 14:15 to adjournment and Fridays from 10:00 to adjournment, or such later time as the Speaker determines.

Reading of prayers

19. Prayers must be read at the commencement of business on every sitting day.

Sequence of proceedings

20. (1) Except on days programmed for interpellations and questions, and unless altered by resolution of the House, the business on each sitting day of this House must, where applicable, follow the following sequence of events—
 - (a) opportunity for prayers;
 - (b) announcements from the chair;
 - (c) motions;
 - (d) orders of the day and notices of motion on the Order Paper.
- (2) Notwithstanding any rule, the House may by resolution give precedence to any matter on any sitting day or arrange the orders of the day.

Interruption, suspension and adjournment

21. (1) The proceedings of the House may be interrupted or suspended, and, subject to subrule (2), the House may be adjourned by the presiding officer.
- (2) At the end of a session the adjournment for a recess must be announced by the Speaker after consultation with the Programming Authority.
- (3) The presiding officer, after consultation with the Programming Authority, may adjourn the House until a later working day than the following sitting day, but not for longer than 30 days; provided that during the adjournment the Speaker may accelerate or postpone the date for the resumption of business.
- (4) When proceedings of the House are suspended during a sitting any unfinished business is carried over to the time the sitting resumes.
- (5) When the House is adjourned any unfinished business needs to be rescheduled on the Order Paper.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 5

Presiding officers and members



Chapter 5

PRESIDING OFFICERS AND MEMBERS

Part 1: Presiding officers

The Speaker

22. (1) Whenever it is necessary to elect a Speaker or a Deputy Speaker, the Secretary must inform the House accordingly.
- (2) The time for the election of a Speaker in terms of section 20(1) and (2), read with Schedule 2 of the provincial Constitution, must be announced by the Secretary.

The Deputy Speaker

23. The election of a Deputy Speaker in terms of section 20(3)(a), read with Schedule 2 of the provincial Constitution, takes place at a time announced by the Secretary, and with the Speaker presiding over the proceedings.

[See section 111(2) of the Constitution.]

Temporary presiding officers

24. During the second session of the House after its election and thereafter during the second session of every calendar year, the House must by resolution appoint no fewer than four members to act as temporary presiding officers to preside over sittings of the House whenever the Speaker or Deputy Speaker is not available, and must fill a vacancy among temporary presiding officers whenever it arises.

Relief of the presiding officer

25. (1) The Deputy Speaker or a temporary presiding officer must preside over the House sitting whenever requested to do so by the Speaker during a sitting of the House.
- (2) Whenever the Speaker is absent, a temporary presiding officer must preside over the House sitting when so requested by the Deputy Speaker during a sitting of the House.

Absence of the Speaker

26. Whenever the Speaker is absent or otherwise unable to perform the functions of the office of the Speaker, or whenever that office is vacant—
 - (a) the Deputy Speaker; or

- (b) if there is no Deputy Speaker, a temporary presiding officer designated by resolution of the House,

acts as presiding officer.

Absence of all presiding officers

- 27. Whenever the House is informed that the Speaker, the Deputy Speaker and all temporary presiding officers are absent from a sitting of the House, the House must forthwith elect one of its members to act as presiding officer for that day only, the question being put by the Secretary.

Part 2: Members

Oath or affirmation by a member filling a vacancy

- 28. (1) A new member who fills a vacancy in the Provincial Parliament and has to take the oath or make an affirmation in accordance with section 16 of the provincial Constitution must do so—
 - (a) on the first day that that member is present in the House during a sitting, by being introduced and conducted to the table for that purpose by one or more members; or
 - (b) before the first day that that member is present in the House during a sitting, by taking the oath or affirmation before the Speaker.
- (2) In circumstances where a member has taken the oath or affirmation in accordance with subrule (1)(b) of this rule, that fact must be announced in the ATC by the Speaker at the first opportunity.

Leave of absence

- 29. (1) A member who wishes to absent himself or herself from sittings of the House or any committee of which he or she is a member for fifteen or more consecutive working days, all inclusive, on which the House or committee sits, must request and obtain the leave of the House or a committee authorised to grant such leave.
- (2) The request for leave of absence as contemplated in rule 29(1) must be submitted to the Speaker before the fifteenth consecutive day, and must state the length and reasons for the absence.
- (3) The Speaker must refer the request for leave of absence to be dealt with either by the House or the designated committee, as the case may be.
- (4) The granting of leave by the House must be moved by the party to which the member desiring the leave belongs, or in the case of parties represented by one member, by the Leader of Government Business or a member designated by the Leader of Government Business.
- (5) If leave is granted by a committee, a report by the committee to that effect must be presented to the House.

Absence without leave: loss of membership

30. A member who, without leave granted by the House or committee, is absent in the circumstances provided for in rule 29, loses that member's membership of the Provincial Parliament when the House resolves to confirm the loss of membership.

[See section 15(3)(c) of the provincial Constitution.]

Parental and family-related leave

31. The House must determine policy providing for exceptions to rule 29 in respect of absence for parental and other family-related purposes.

The Leader of Opposition

32. The Leader of the Opposition is the leader of the largest opposition party in the Provincial Parliament.

[See section 24 of the provincial Constitution.]

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 6

Quorum and decisions



Chapter 6

QUORUM AND DECISIONS

Part 1: Quorum

Quorum requirements

33. (1) The presence of at least one third of members is necessary to constitute a meeting of the House.
- (2) Subject to rule 36, the presence of a majority of members is necessary before a vote may be taken on a Bill or an amendment to a Bill.

[See section 21(1) of the provincial Constitution.]

Absence of quorum at start of meeting

34. (1) If there is no quorum at the time appointed for the meeting of the House, the Speaker must take the chair as soon as a quorum is present.
- (2) If a quorum is still not present half an hour after the time appointed for the meeting, the Speaker must take the chair and adjourn the House.

Absence of quorum during meeting

35. If the attention of the presiding officer is called to the absence of a quorum and if after an interval of three minutes, during which time the bells must be rung, there is still no quorum, the presiding officer may suspend the proceedings or adjourn the House or postpone the decision of the question.

Adjournment owing to absence of quorum

36. (1) 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.
- (2) A member calling the attention of the presiding officer to the absence of a quorum must be held to be present, whether present or not, when the members are counted.

Part 2: Decisions

Votes required for decision

37. (1) Except where these rules provide otherwise, all questions before the House are decided by a majority of the votes cast.

- (2) The presiding officer has a deliberative vote only when a question must be decided with a supporting vote of at least two thirds.
- (3) The presiding officer has, and must cast, a deciding vote whenever there is an equal number of votes on each side of a question.
- (4) In accordance with the provincial Constitution—
 - (a) a supporting vote of a majority of members is necessary to adopt a—
 - (i) resolution to dissolve the Provincial Parliament [section 18(1) of the provincial Constitution];
 - (ii) resolution to remove the Speaker or another presiding officer from office [section 20(4) of the provincial Constitution];
 - (iii) motion of no confidence in the Provincial Cabinet excluding the Premier [section 51(1) of the provincial Constitution]; and
 - (iv) motion of no confidence in the Premier [section 51(2) of the provincial Constitution];
 - (b) a supporting vote of at least 60% of members is necessary to adopt a resolution approving a nominee for appointment as Commissioner for the Environment [section 75(2)(b) of the provincial Constitution];
 - (c) a supporting vote of at least two thirds of members is necessary to adopt—
 - (i) a Bill providing for provincial symbols [section 6(2) of the provincial Constitution];
 - (ii) a resolution requesting the national Parliament to change the name of the province [section 9(4)(c) of the provincial Constitution];
 - (iii) a Bill to replace, amend or repeal the provincial Constitution [section 10(1) of the provincial Constitution];
 - (iv) a resolution to remove the Premier from office [section 40(3) of the provincial Constitution]; and
 - (v) a resolution to remove the Commissioner for the Environment from office [section 77(1)(c) of the provincial Constitution].
- (5) A supporting vote of a majority of members is necessary in accordance with—
 - (a) subsection (8)(b)(ii) of section 196 of the Constitution, for the adoption of a resolution approving a nominee for appointment as public service commissioner for the province; and
 - (b) subsection (11)(c) of section 196 of the Constitution, for the adoption of a resolution calling for the removal from office of the public service commissioner for the province.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 7

Order in meetings and
rules of debates

Chapter 7

ORDER IN MEETINGS AND RULES OF DEBATE

Part 1: Order in meetings

Conduct of members

38. A member must bow to the chair in passing to or from that member's seat and may not pass between the chair and the member who is speaking, or between the chair and the table, or stand in any of the passages or gangways.

No conversing aloud

39. A member may not converse aloud during debate.

No interruption

40. A member may not interrupt another member who is speaking, except to call attention to a point of order or a question of privilege.

Order at adjournment

41. When the House adjourns, members must rise and remain in their places until the presiding officer has left the Chamber.

Maintenance of order

42. Order must be maintained by the presiding officer.

Precedence of presiding officer

43. Whenever the presiding officer rises during a debate, any member then speaking or offering to speak must resume his or her seat, and the presiding officer must be heard without interruption.

Irrelevance or repetition

44. When a member persists in irrelevance or repetition of arguments, the presiding officer may call attention to the conduct of the member and may then direct the member to stop speaking.

Member ordered to withdraw

45. If the presiding officer is of the opinion that a member is deliberately contravening a provision of these rules, or that a member is in contempt of or is disregarding the authority of the chair, or that a member's conduct is grossly disorderly, the presiding officer may order the member to withdraw immediately from the precincts of the Provincial Parliament for the remainder of that day.

Naming and suspension of a member

46. (1) If a presiding officer is of the opinion that a member's misconduct is of so serious a nature that an order to withdraw from the Chamber for the remainder of the day's sitting is inadequate, the presiding officer may name the member.
- (2) If a member has been named in the House, a motion "That ... (the member's name) be suspended from the service of the House" must be moved forthwith by the Leader of Government Business or a whip, whereupon the Speaker must put the question without amendment or debate.

Effect of order of suspension

47. A member who has been suspended in accordance with rule 46 must, without unreasonable delay, leave the precincts of the Provincial Parliament, 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 Provincial Parliament or any of its committees.

Period of suspension

48. The suspension of a member—
- (a) on the first occasion in a calendar year, continues for the first two days on which the House sits after the day of the suspension;
- (b) on the second occasion in the same year, continues for the first four days on which the House sits after the day of the suspension;
- (c) on any subsequent occasion in the same year, continues for the first six days on which the House sits after the day of the suspension.

Expression of regret

49. (1) A member who has been suspended in accordance with rule 46 may submit to the Speaker a written expression of regret and, if the Speaker approves of the expression of regret, the Speaker must lay it before the House, whereupon the discharge of the order of suspension may be moved forthwith, the question being put without amendment or debate.
- (2) An expression of regret laid before the House in accordance with subrule (1) must be recorded in the minutes of proceedings.
- (3) The discharge of an order of suspension under this rule will not reduce the duration of subsequent suspension as provided for in rule 47.

Grave disorder

50. In the event of grave disorder at a meeting, the presiding officer may adjourn the meeting or may suspend the proceedings for a period to be stated by the presiding officer.

Part 2: Rules of debate

Member to address the chair

51. Every member who wants to speak must rise in that member's place addressing the chair.

Right to speak

52. A member may speak—
- (a) to the question before the House;
 - (b) to any amendments proposed to a question;
 - (c) to a question or an amendment proposed or to be proposed by that member;
 - (d) to a point of order or a question of privilege; or
 - (e) upon being granted the opportunity at the discretion of the presiding officer, to address the presiding officer briefly on the point of order that has been raised.

Member called to speak

53. (1) In a debate the presiding officer must call on members to speak in accordance with a list of members who are to speak and in accordance with the times allocated in that list for speeches by those members.
- (2) When a member rises to speak, he or she must be acknowledged by the presiding officer, and if two or more members rise at the same time, the member who is so acknowledged is entitled to speak.

Number of times member may speak to same question

54. Unless otherwise provided in these rules, no member may speak more than once to a question, except with the prior permission of the presiding officer.

Time limits for speeches

55. Unless otherwise provided for in the rules, members are restricted, in regard to the length of time they may speak on any matter on the Order Paper, to the times allocated to them in the list contemplated in rule 52; and if times have not been so allocated—
- (a) the Premier, the Leader of the Opposition and the member in charge of a matter on the Order Paper, are not restricted in regard to the length of time they may speak; and
 - (b) members other than those mentioned in subrule (a) may not speak for longer than thirty minutes at a time on any matter on the Order Paper.

Reference to a member by name

56. No member may refer to any other member by his or her first name or names only.

Member not to read speech

57. A member must refrain as far as possible from reading the member's speech, but may refresh his or her memory by referring to notes.

Offensive language

58. No member may use offensive or unbecoming language.

Reflections upon members of the House

- 59 (1) No member may—
- (a) impute improper motives on;
 - (b) reflect on the integrity or dignity of; or
 - (c) verbally abuse,
- another member.
- (2) A member who wishes to bring any improper or unethical conduct on the part of another member to the attention of the House, may do so only by way of a substantive motion comprising of a clearly formulated and properly substantiated allegation.

Reflections upon decisions

60. No member may reflect upon any decision of the House taken less than six months previously, except for the purpose of moving that the decision be amended or rescinded.

Reflections upon statutes

61. No member may reflect upon a statute passed by the House less than six months previously, except for the purpose of moving for its amendment or repeal.

Reflections on holders of an office

62. (1) No member may reflect on the honour or competence of the holder of an office whose removal from such office is dependent on a decision of the House, except on a substantive motion.
- (2) This rule does not apply to the Premier.

Reflections on courts, judicial officers and court proceedings

63. (1) No member may suggest what conclusions a court should come to.
- (2) No member may defame or reflect on the honour or competence of presiding officers of courts.
- (3) No member may intimidate or bring improper influence to bear on witnesses in matters under judicial consideration.

Rule of anticipation

64. (1) No member may anticipate the discussion of a matter appearing on the Order Paper.
- (2) In determining whether a discussion is out of order on the ground of anticipation, the presiding officer must have regard to the probability that the matter anticipated will be discussed in the House within a reasonable time.

Explanations

65. (1) An explanation during debate is allowed with the prior consent of the presiding officer, only when a material part of a member's speech has been misquoted or misunderstood, but the member may not be permitted to introduce any new matter, and no debate is allowed upon such explanation.
- (2) A member may, with the prior consent of the presiding officer, also explain matters of a personal nature, but such matters may not be debated, and the member must confine himself

or herself strictly to the vindication of the member's own conduct and may not speak for longer than three minutes.

- (3) The presiding officer may request a member to provide the presiding officer with the text of the explanation prior to making a decision on whether to grant an opportunity for an explanation.
- (4) An explanation may not—
 - (a) contain offensive language;
 - (b) court controversy;
 - (c) debate the matter; or
 - (d) contain charges or attacks on another member.

Points of order

66. (1) When a point of order is raised during a sitting, the member who is speaking must stop speaking and resume that member's seat.
- (2) After the point of order has been stated, the presiding officer must immediately give the presiding officer's ruling or indicate that the presiding officer will do so at a later stage.
- (3) A point of order—
 - (a) must relate to the procedure, practice or operation of the House, or a complaint of unparliamentary conduct or behaviour on the part of another member, which a member is entitled to raise during the sitting of the House or committee meeting when seeking guidance and/or a ruling on the matter from the presiding officer;
 - (b) must be pertinent to the current proceedings of the House;
 - (c) may not be raised on a point of order;
 - (d) may not be considered if the presiding officer has already ruled on the matter in the same sitting.
- (4) A member may not disrupt proceedings by raising points of order that do not comply with subrule (3).
- (5) A member who is aggrieved, may not challenge a ruling in the House. That member should follow the process of writing to the Speaker who must then convene a Rules Committee within reasonable time, to address the principle of the ruling. This should apply only to substantive matters.

Acting for absent member

67. A member may take charge of a motion or an order of the day in the absence of the member in charge, provided that the member has been authorised to do so by the absent member.

When reply allowed

68. The member in charge of a matter on the Order Paper may reply to the debate on the matter.

Seconder

69. No motion or amendment requires a seconder.

Debate closed

70. A reply to a debate closes the debate.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 8

Committees



Chapter 8

COMMITTEES

Part 1: Introduction

Introduction

71. (1) The Provincial Parliament has the following committees—
- (a) Rules Committee;
 - (b) Public Accounts Committee;
 - (c) Conduct Committee;
 - (d) standing committees on provincial executive matters;
 - (e) Budget Committee;
 - (f) Petitions Committee;
 - (g) Disciplinary Committee;
 - (h) ad-hoc committees;
 - (i) Programming Authority; and
 - (j) Parliamentary Oversight Committee.
- (2) A committee may establish subcommittees of its members and may utilise the services of experts.
- (3) These rules apply to all committees, including committees established in terms of legislation.

Public access and involvement

72. (1) Meetings of committees are open to the public (including representatives of the media), except where the relevant committee resolves otherwise and the exclusion of the public in the particular case is reasonable and justifiable within the meaning of section 28(2) of the provincial Constitution.
- (2) The chairperson of a committee may at any time close the meeting for a decision by the committee whether a matter should be considered in camera.
- (3) Any person or group of persons, ordinarily comprising at least the public and the media, must withdraw from a committee meeting considered to be in camera, on being requested by the chairperson to do so in terms of a resolution of the committee.
- (4) The Provincial Parliament must facilitate public involvement in the processes of its committees.

Refusal to disclose information

73. Any person, appearing before a committee, who claims that any information to be placed before the

committee cannot be disclosed must inform the committee of—

- (a) the law in terms of which it is claimed the information cannot be disclosed; and
- (b) the circumstances making the law applicable to the matter at hand; whereupon the committee may, in camera, consider the information; whereupon, further, the committee may—
 - i) resolve to uphold the claimant's claim;
 - ii) resolve to direct the claimant to fully disclose the information;
 - iii) resolve to direct the claimant to partially disclose the information;
 - iv) make any other competent resolution.

[See section 115 of the Constitution.]

Publication of proceedings

74. The proceedings of or the evidence taken by or the report of a committee, while its proceedings were conducted in camera, or a summary of such proceedings, evidence or report, may not be published or divulged before the report has been printed on the authority of the Speaker or by order of the House, provided that evidence which such a committee has resolved may not be made public, may not be published or divulged.

Appearance before committees

75. Any person or institution may submit a request to a committee to appear before it.

Order in committee meetings and rules of debate

76. (1) Order must be maintained by the chairperson.
- (2) Rules 39, 40, 42, 44, 50, 56, 58, 59(1), 63, 64, 66 and 67 apply to committee meetings with the changes required by the context.

Part 2: Rules applicable to committees generally

Application of this part

77. The provisions of this part apply to all committees established by or in terms of these rules or any law except in so far as any of these provisions are inconsistent with—
- (a) another provision of these rules applicable to a specific committee; or
 - (b) a resolution of the House.

Composition of committees

78. (1) A committee consists of the number of members determined by the Rules Committee in each particular case, which number of members may not be fewer than five or more than twenty, unless otherwise provided in these rules or the House directs otherwise in a particular case.

- (2) The Rules Committee must determine the number of members of the respective political parties entitled to serve on a committee.

Allocation of whips

79. The Rules Committee must determine the number of whips allocated to each political party as well as which political parties will be entitled to have a Chief Whip and a Deputy Chief Whip. This determination must be made with reference to the proportion in which each political party is represented in the House and cognisant of the Remuneration of Public Office Bearers Act, 1998 (Act 20 of 1998).

Appointment of members

80. (1) The members of committees must be appointed by the Speaker, according to nominations by the respective political parties.
- (2) Alternate members must be appointed by the Speaker according to nominations by the respective political parties for one or more members of a committee.
- (3) The names of members appointed to committees and the names of alternate members appointed to committees must be published in the ATC as soon as possible.

Representation of minority parties

81. (1) A minority party that does not have enough members in the House to be reasonably represented on all committees, must state to the Speaker on which committees that party wants to be represented.
- (2) A minority party that is not represented on a particular committee may attend and speak at any meeting of that committee but may not vote.

Chairpersons

82. (1) A committee must elect a chairperson from its membership.
- (2) The names of members appointed as chairpersons must be published in the ATC as soon as possible.
- (3) In the absence of the chairperson from a meeting the committee must elect one of its members to be acting chairperson at that meeting.
- (4) The chairperson of a committee—
 - (a) presides over meetings;
 - (b) determines the agenda of each meeting;
 - (c) performs the functions and exercises the power the committee, House and legislation assign to the chairperson;
 - (d) may act in a manner on behalf of and in the best interest of the committee when it is not practical to arrange a meeting of the committee to discuss that matter, if that matter concerns—

- (i) a request to give evidence or make oral representations to committees;
 - (ii) any other request to the committee; and
 - (iii) decisions for the committee to perform in terms of its functions or exercise its powers; and
- (e) reports to the committee on decisions taken in accordance with subrule 4(d).

Chairperson's decisive vote

83. A chairperson has, in addition to that chairperson's vote as a member, a decisive vote whenever there is an equal number of votes on each side of a question.

Quorum

84. (1) Save when a question is being decided, business at a meeting of a committee may be proceeded with if at least one third of the members of the committee are present.
- (2) A committee may decide a question only if a majority of the members on the committee is present.
- (3) If a committee has to decide a question and a quorum is not present, the chairperson may either suspend business until a quorum is present or adjourn the meeting.

First meeting

85. The first meeting of a committee, if not convened in some other manner, must be convened by the Secretary within five working days after the names of the members appointed to serve on the committee were published in the ATC.

Meetings during sittings of the House

86. A committee may meet during a sitting of the House only with the permission of the Speaker.

Meetings when the House is adjourned

87. (1) A committee may meet when the House is in session but adjourned.
- (2) A committee may meet when the House is adjourned for a recess only with the permission of the Speaker.

Information against a member

88. If any information reflecting on the conduct of a member comes before a committee, the committee may not proceed upon such information, but the chairperson must report it to the Speaker without delay.

Committee report

89. (1) A committee must report to the House on any matter referred to it and on any other matter within its mandate on which it has taken a decision, except decisions concerning its internal procedures.
- (2) A committee must report to the House annually on its activities with regard to its goals and objectives as set out in its annual programme.
- (3) A committee must report to the House within thirty days on any study visit it has undertaken.
- (4) A committee chairperson or duly authorised member of the committee may request the Speaker for an opportunity to explain the report.
- (5) A committee may request in its report that the report be considered in the House.
- (6) A committee must report to the House within a reasonable time on any oversight visit it has undertaken.

Minority views

90. It is not competent for a committee to present a minority report, but any minority view must, at the request of the members constituting the minority, be reflected in the committee's report.

General powers

91. In performing its functions, a committee may, subject to the Constitution, legislation and other rules of the House—
- (a) exercise any power assigned to it by the Constitution, legislation, other rules or resolutions of the House;
 - (b) determine its own internal procedures in accordance with its annual programme;
 - (c) conduct public hearings;
 - (d) summon any person to appear before it and produce documents;
 - (e) receive representations (including petitions);
 - (f) hear oral evidence;
 - (g) establish subcommittees;
 - (h) confer with other committees; and
 - (i) meet, when circumstances require, in the Province at a place or places beyond the seat of the Provincial Parliament.

Matters referred to committees

92. A matter is referred to a committee by the Speaker, resolution of the House and in accordance with the rules.

Decisions

93. (1) Decisions are taken by majority vote.

- (2) When a committee takes any decision on public access and involvement, the committee must record the reasons for the decision.

Matters pertaining to local government

94. (1) Where a matter before a committee affects the interests of municipalities in the Province, the Secretary, on behalf of the committee, must invite organised local government to send representatives to attend meetings of the committee and to make representations.
- (2) The representatives of organised local government may take part in the deliberations of the committee at the discretion of the committee but may not vote.

Informing the executive

95. When a committee requests an official of the provincial government to attend a meeting or produce documents for the committee, the responsible Provincial Minister must be informed.

Part 3: Committees of the House

3.1 Rules Committee

Composition

96. The Rules Committee consists of the Speaker and Deputy Speaker and such other members nominated by parties in accordance with a formula determined by resolution of the House.

Chairperson

97. The Speaker is the chairperson of the Rules Committee.

Powers and functions

98. The Rules Committee is charged with and makes recommendations to the House on—
- (a) the making of rules concerning the business of the House and its committees;
 - (b) the internal arrangements, proceedings and procedures of the House and its committees; and
 - (c) any other matter referred to the Rules Committee by the Speaker or by resolution of the House.

[See section 116 of the Constitution.]

3.2 Public Accounts Committee

Composition

99. The Public Accounts Committee is composed in accordance with rule 78.

Chairperson

100. The chairperson is elected in accordance with rule 82.

Powers and functions

101. (1) The Public Accounts Committee—

(a) must examine—

- (i) the financial statements of provincial departments and provincial public entities;
- (ii) any audit reports issued on the statements referred to in subparagraph (i);
- (iii) any reports issued by the Auditor-General on the affairs of any provincial department or provincial public entity; and
- (iv) any other financial statements or reports referred to it 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 as stated in paragraph (a); and

(d) must perform any other functions assigned to it by legislation, these rules or resolutions of the House.

(2) The Speaker must refer the financial statements and reports mentioned in subparagraphs (i), (ii) and (iii) of paragraph (a) of subrule (1) to the Public Accounts Committee when such financial statements and reports are submitted to the Provincial Parliament irrespective of whether such financial statements and reports are also referred to another committee.

(3) When the Public Accounts Committee examines the financial statements and reports of a provincial department or provincial public entity, it must take into account the previous statements of and reports on the provincial department or provincial public entity and report on the degree to which shortcomings have been rectified.

Relationship to other committees

102. (1) If the Public Accounts Committee is of the view 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 Public Accounts Committee and another relevant committee or by a joint meeting of both committees. The Public Accounts Committee must advise the Speaker whether a joint meeting or separate meetings are appropriate.

(2) If matters arise in the examination of statements or reports that the Public Accounts Committee is of the view 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.

3.3 Conduct Committee

Establishment

103. There is a Conduct Committee as contemplated in section 1 of the Code of Conduct Act.

Composition

104. The Conduct Committee is composed in accordance with rule 78.

Chairperson

105. The chairperson is elected in accordance with rule 82.

Powers and functions

106. The Conduct Committee must carry out the functions assigned to it by the Code of Conduct Act.

3.4 Standing committees on provincial executive matters

Composition

107. Standing committees are composed in accordance with rule 78.

Chairperson

108. The chairperson of a standing committee is elected in accordance with rule 82.

Duration

109. A standing committee continues for the duration of the House from which its members are appointed.

Establishment

110. (1) There are standing committees on Western Cape Government affairs, each in respect of Bills and other matters relating to a category of such affairs assigned to it by the Speaker and known by the name determined for it by the Speaker.
- (2) A standing committee must in accordance with these rules or its other terms of reference consider or deal with Bills or other matters that are referred to it by the Speaker or by resolution of the House.
- (3) Any question as to which standing committee is to deal with such referral must be decided by the Speaker.
- (4) A sum of money must be provided to standing committees for the expenditure in respect of each financial year from Provincial Parliament's budget.

Powers and functions

111. (1) A standing committee—
 - (a) considers Bills and other matters, including annual reports submitted in terms of the Public Finance Management Act, referred to them by the Speaker or by resolution of the House;

- (b) maintains oversight over the relevant provincial department and provincial public entity and of the way in which that department and public entity perform their responsibilities including implementation of legislation;
 - (c) reports regularly to the House on the relevant department and public entity;
 - (d) performs any other functions assigned to it by the House;
 - (e) by public notice or in some other manner it deems suitable, calls for comments and representations from interested parties on the Bill or other matter before it; and
 - (f) arranges public meetings of the committee or members of the committee with interested parties for the submission and discussion of comments and representations on the Bill or other matter before the standing committee.
- (2) A standing committee may—
- (a) examine and report on the expenditure, administration or policies of provincial government departments and associated provincial public entities falling within a category of provincial government affairs assigned to the standing committee by the Speaker or under these rules;
 - (b) consult and liaise with the department or entity concerned; and
 - (c) subject to subrule (3), call upon—
 - (i) the department or entity concerned to submit to the standing committee regularly or when required, a report; or
 - (ii) the responsible Provincial Minister or any official of the department or entity concerned to appear before the committee and address it and answer questions on a stated aspect of the expenditure, administration or policy of that department or entity.
- (3) The exercise by a particular standing committee of the powers conferred by subrule (2)(c) is subject to the prohibitions, restrictions or conditions, if any, laid down by the Speaker, after consultation with the Rules Committee, in the case of—
- (a) that standing committee generally or with reference to a particular department or entity;
 - (b) a particular report, or reports of a particular nature, required by that standing committee from a particular department or entity; or
 - (c) particular officials, or officials in general, of a particular department or entity, with a view to ensure that the powers are exercised with due regard to section 23(4)(c) of the provincial Constitution.
- (4) Every standing committee may—
- (a) take evidence and call for papers;
 - (b) receive and consider petitions, representations or submissions from interested parties on a Bill or other matter before the committee.
- (5) The standing committee whose assignment is or includes social welfare matters must monitor the socio-economic conditions of the residents of the Western Cape and make recommendations to the House concerning the improvement of those conditions as provided for in section 23(4)(d) of the provincial Constitution.

3.5 Budget Committee

Composition

112. The Budget Committee is composed in accordance with rule 78.

Chairperson

113. The chairperson is elected in accordance with rule 82.

Powers and functions

114. The Budget Committee must—

- (a) consider and make recommendations to the House on budget allocations in the annual MTBPS as well as the main budget, the budget review and the relevant Bills with a view to improving spending effectiveness and efficiency;
- (b) review and assess overall provincial expenditure and non-financial reports quarterly for spending efficiency and effectiveness;
- (c) engage the provincial government on spending patterns;
- (d) performs such other tasks assigned to it by resolution of the House; and
- (e) ensure public involvement in all budgetary processes.

3.6 Petitions Committee

Composition

115. The Petitions Committee is composed in accordance with rule 78.

Chairperson

116. The chairperson is elected in accordance with rule 82.

Powers and functions

117. The Petitions Committee must carry out the functions assigned to it by the Petitions Act, and the regulations made under that Act.

3.7 Disciplinary Committee

Composition and functions

118. (1) There is a Disciplinary Committee established in terms of section 12(2) of the Powers, Privileges and Immunities Act.

- (2) The House may, from time to time and as required, determine the composition of the Disciplinary Committee to deal with particular matters.
- (3) In determining the composition of the Disciplinary Committee, the House must be informed by the objectives of impartiality as stated in subrule (17) and by section 116 of the Constitution.
- (4) The Disciplinary Committee deals with all enquiries contemplated in section 12(1) of the Powers, Privileges and Immunities Act as referred to it by resolution of the House.
- (5) In addition to any relevant powers referred to in rule 91, the Disciplinary Committee has the powers contemplated in sections 12 and 25 of the Powers, Privileges and Immunities Act.
- (6) When the House has referred a matter to the Disciplinary Committee for enquiry, the Disciplinary Committee must, on the basis of the information contained in the relevant resolution of the House, formulate a charge against the member concerned. The charge must specify all relevant allegations against the member.
- (7) The chairperson of the Disciplinary Committee must ensure that, at least five working days before the day on which the Disciplinary Committee is to begin the enquiry, a copy of the charge is delivered to the member concerned together with a notice specifying—
 - (a) the date, time and venue of the enquiry; and
 - (b) that the member is entitled to make submissions to the Disciplinary Committee either orally at the enquiry or in writing.
- (8) The member concerned has the right to attend the enquiry and to state the member's case. If the member has received the notice referred to in subrule (6), but fails to attend without just cause, the Disciplinary Committee may proceed in the absence of the member.
- (9) The Disciplinary Committee must, after consultation with the Speaker, designate a person to act as initiator in the case against the member.
- (10) The person designated as initiator—
 - (a) must be qualified to perform the task of initiator;
 - (b) may be a member;
 - (c) may not be a member of the Disciplinary Committee.
- (11) The member concerned may be assisted by another member or, with the permission of the Disciplinary Committee by a legal professional at the member's own expense. The Disciplinary Committee may give permission for representation by a legal professional only if it is satisfied that the seriousness of the allegations against the member warrants that the member has legal representation.
- (12) At the enquiry—
 - (a) the chairperson must put the charge to the member, and request the member to plead. The member may give a plea explanation. If the member refuses to plead, the chairperson enters a plea of not guilty;
 - (b) the initiator must present evidence to the Disciplinary Committee;
 - (c) the initiator and the member may call witnesses. The member may also give evidence. The witnesses may be questioned by the initiator, the member (or, where applicable, any person assisting the member), the chairperson and, with the chairperson's permission, the other members of the Disciplinary Committee.

- (13) After the evidence has been presented and all the witnesses have been called—
 - (a) the initiator and the member (or person assisting the member) may address the Disciplinary Committee on the evidence; and
 - (b) the Disciplinary Committee must consider whether or not the member is guilty of the charges levelled against the member.
- (14) If the Disciplinary Committee finds the member guilty, the Disciplinary Committee must give the member an opportunity to present mitigating factors and to make oral or written representations to the Disciplinary Committee with regard to the penalty. The initiator may also address the Disciplinary Committee and may propose a penalty to be recommended by the Disciplinary Committee to the House.
- (15) The Disciplinary Committee must report to the House on its findings and recommendations, including the Disciplinary Committee's recommendations concerning the imposition of one or more of the penalties set out in section 12(5) of the Powers, Privileges and Immunities Act.
- (16) The Disciplinary Committee must, as soon as practicable after reaching a decision on the penalty, inform the member in writing of its findings and the penalty to be recommended, and must give the member reasonable opportunity to make submissions in response. The Disciplinary Committee must take the submissions into account in preparing its report to the House.
- (17) A member of the Disciplinary Committee must withdraw from the proceedings of the Disciplinary Committee if—
 - (a) the member is the person who raised the complaint resulting in the enquiry;
 - (b) the member has, before the matter is considered by the Disciplinary Committee, expressed a firm view on the subject of the enquiry; or
 - (c) the member has an interest that can reasonably be seen to affect the member's impartiality on the matter.

3.8 Ad-hoc committees

Establishment

- 119. (1) An ad-hoc committee is established—
 - (a) by resolution of the House; or
 - (b) by the Speaker, after consultation with the whips, in circumstances where the House is adjourned for more than fourteen days.
- (2) Any decision by the Speaker for the establishment of an ad-hoc committee must be tabled at the first sitting day thereafter for ratification by the House.
- (3) An ad-hoc committee—
 - (a) is appointed to carry out a particular assignment specified in the resolution appointing it or in the Speaker's decision in terms of which it is established;
 - (b) continues until it has completed, or has been discharged from, its assignment;
 - (c) with the permission of the Speaker, may conduct its business while the House is in recess, and in such event report in an ensuing session; and

- (d) has, in addition to any relevant powers referred to in rule 91, the powers necessary for the carrying out of its assignment and—
 - (i) specified in the resolution appointing it or in the Speaker's decision in terms of which it is established;
 - (ii) in the case of urgency, conferred upon it by the Rules Committee or by the Speaker.

Composition

120. (1) The House resolution establishing an ad-hoc committee must either specify the number of members to be appointed or the names of the members who are appointed.
- (2) The Speaker appoints the members of an ad-hoc committee if—
- (a) the resolution of the House establishing the ad-hoc committee does not specify the names of the members; or
 - (b) the Speaker established the ad-hoc committee.
- (3) When appointing members of an ad-hoc committee the Speaker must consult all political parties represented in the House.
- (4) The names of the members appointed must be published in the ATC without delay.

3.9 Programming Authority

Composition and functions

121. (1) The Programming Authority consists of members nominated by parties in accordance with a formula determined by the Rules Committee.
- (2) The Programming Authority must—
- (a) prepare, and if necessary, adjust the annual programme of the Provincial Parliament; and
 - (b) arrange all business on the Order Paper in accordance with the provisions of these rules and, in the absence of such provision, in whatever order it thinks fit.

3.10 Parliamentary Oversight Committee

Composition

122. (1) An oversight mechanism, to be known as the Parliamentary Oversight Committee, is established in terms of section 4 of the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act 10 of 2009).
- (2) The Parliamentary Oversight Committee is composed in accordance with rule 78.
- (3) Neither the Speaker nor the Deputy Speaker may be a member of the Parliamentary Oversight Committee.

Chairperson

123. The chairperson of the Parliamentary Oversight Committee is elected in accordance with rule 82.

Powers and functions

124. (1) The Parliamentary Oversight Committee has the powers and functions assigned to it in the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act 10 of 2009).
- (2) No member of the Parliamentary Oversight Committee may attend a deliberation on a matter in which that member has a material interest.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 9

Decision of questions

Chapter 9

DECISIONS OF QUESTIONS

Decision of question postponed

125. When the debate on a question has been concluded in the House, the presiding officer may postpone the decision of the question.

Day determined for decisions

126. Whenever it is expedient to do so, a day may be determined by the Programming Authority for the decision of questions by the House.

Postponed question put without further debate

127. A question to be decided after the debate on it has been concluded must be put without further debate.

Question put again

128. If the presiding officer has put a question and it is not heard or understood, the presiding officer must put it again.

Question fully put

129. (1) No member, except a member who is permitted to make a declaration of vote, may speak to a question after it has been fully put by the presiding officer.
- (2) A question is fully put when the voices of both the “Ayes” and the “Noes” have been given on it.

Declaration of vote

130. (1) After a question has been fully put, the presiding officer may permit one member of each political party to state on behalf of that member’s party, in a speech not exceeding three minutes, the reasons why the party is in favour of or against the question.
- (2) A member addressing the chair in accordance with subrule (1), may read out aloud a written formulation of his or her party’s viewpoint, and deliver a signed copy at the table for inclusion in the minutes of proceedings.

Recording of opposition

131. (1) Whenever a question is put by the presiding officer, any member, instead of demanding a division, may inform the presiding officer that the member wishes that the member’s

opposition or the opposition of the member's party be formally recorded in the minutes of proceedings.

- (2) The presiding officer may order that a division take place in the event of four or more members wishing to record their individual opposition.

Demand for division

132. After a question has been put and the presiding officer has indicated whether in the presiding officer's opinion the "Ayes" or the "Noes" have it, any member may demand a division, whereupon a division must, subject to rule 133, take place without debate.

Fewer than four members supporting demand for division

133. (1) Whenever a division is demanded, the presiding officer, before ordering the division bells to be rung, must be satisfied that at least four members support the demand for the division.
- (2) If fewer than four members rise in support of a division, the presiding officer must forthwith declare the decision on the question.

Division bells rung and doors locked

134. (1) If the required number of members support the demand for a division, the division bells must be rung and the doors locked as soon after the lapse of three minutes as the presiding officer may direct; but if further divisions are required to dispose of the question and such divisions follow immediately upon the first, the division bells must again be rung and the doors locked as soon after the lapse of fifteen seconds as the presiding officer may direct.
- (2) When the doors have been locked, no member may enter or leave the Chamber until the result of the division has been declared.

Procedure after doors locked

135. (1) Subject to subrule (3), the presiding officer must again put the question when the doors have been locked.
- (2) Thereupon the presiding officer must indicate on which side of the chair the "Ayes" and the "Noes" must take their seats and the presiding officer must appoint tellers for each side.
- (3) After the lapse of the periods prescribed by rule 134 the presiding officer may again put the question and may declare afresh whether in the presiding officer's opinion the "Ayes" or the "Noes" have it, in which case a division must take place only if such fresh declaration is challenged.

Minority fewer than five members

136. When, on a division taking place, fewer than five members appear on one side, the presiding officer must forthwith declare the decision on the question.

Member demanding division to vote with minority

137. A member demanding a division may not leave the Chamber until the result of the division has been declared and must vote with those who, in the opinion of the presiding officer, are in the minority.

Members present must vote

138. (1) Except as provided for in subrule (2), every member present in the Chamber, when a question is put with the doors locked, must participate in or abstain from the vote.
- (2) Section 112(2) of the Constitution applies in respect of the officer presiding over the vote.

Points of order during division

139. While a division is in progress, members may speak only to a point of order arising out of or during the division.

Result declared

140. The tellers must sign the division lists and hand them to the presiding officer, who must declare the result of the division.

Confusion or error

141. In the event of confusion or error during the process of a division, another division must take place, unless the numbers can be corrected otherwise.

Correction of minutes

142. If the numbers have been inaccurately reported or an error occurred in the names on the division lists, the presiding officer must order the minutes of proceedings to be corrected.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 10

Discussion on matters of
public importance

Chapter 10

DISCUSSION ON MATTERS OF PUBLIC IMPORTANCE

Matter of public importance

143. (1) An ordinary member may request the Speaker in writing to place a matter of public importance on the Order Paper for discussion in the House.
- (2) The member must make the request to the Speaker before the adjournment of the House on the previous sitting day.
- (3) The discussion may not exceed the time allocated for it by the Speaker after consultation with the Programming Authority.
- (4) If fifteen minutes before the expiration of the allocated time a member other than the responsible member of the Provincial Cabinet is speaking, the presiding officer must interrupt the member and ascertain from the member of the Cabinet whether or not that member wishes to reply.
- (5) Questions of privilege may not be discussed under this rule, and the same matter may not be discussed under this rule more than once during any period of three months.

Matter of urgent public importance

144. (1) An ordinary member may request the Speaker in writing on any sitting day or as envisaged in subrule (3) to allow a matter of urgent public importance to be discussed in the House.
- (2) A request on a sitting day must be made to the Speaker at least one and a half hours before the time appointed for the sitting.
- (3) If the request is made while the House is adjourned during a session, and the Speaker is of the opinion that the request should be granted and that the discussion of the matter should not be delayed until the date for the resumption of business, the Speaker may accelerate that date under rule 21(3).
- (4) If the Speaker grants the request, the presiding officer must announce it in the House, and debate on the matter then stands over until the time appointed by the presiding officer.
- (5) The discussion may not exceed the time allocated for it by the Speaker after consultation with the Programming Authority.

- (6) If fifteen minutes before the expiration of the allocated time a member other than the responsible member of the Provincial Cabinet is speaking, the presiding officer must interrupt the member and ascertain from the member of the Cabinet whether or not that member wants to reply.
- (7) Under this rule—
 - (a) questions of privilege may not be discussed;
 - (b) the same matter may not be discussed more than once during any period of three months;
 - (c) the rule of anticipation does not apply; and
 - (d) not more than one matter may be discussed on the same day.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 11

Statements by members,
the executive and
Speaker's debates

Chapter 11

STATEMENTS BY MEMBERS, THE EXECUTIVE AND SPEAKER'S DEBATES

Part 1: Statements by members

145. (1) An ordinary member may be recognised by the presiding officer to make a statement on any matter for not more than two minutes.
- (2) Members of each party are entitled to make a number of statements in substantially the same proportion in which their parties are represented in the House, provided that each party must have the right to make at least one statement.
- (3) If a member, for whatever reason, during the sequence of proceedings, fails to utilise the opportunity to make a statement, the party forfeits that opportunity.
- (4) Members of the various parties must be recognised in the following order:
- (a) a member of the majority party; and
 - (b) a member of each of the other parties in the order of the size of their membership in the House, provided that a member of the majority party must be recognised each time after a member of another party has made a statement or has been given the opportunity to do so.
- (5) The process in subrule (4) must continue until statements by members are exhausted or the time allotted for statements by members has expired, whichever occurs first.
- (6) At the conclusion of statements by members, one Minister present may be given an opportunity to respond, for not more than five minutes, to any statement or statements.
- (7) The rules of debate apply to members' statements and ministerial responses.

Part 2: Executive statements

146. (1) A member of the Provincial Cabinet may request the Speaker to make a factual statement relating to government policy, any executive action or other similar matter of which the House should be informed.
- (2) The time allotted to a member of the Provincial Cabinet for such a statement is determined

by the Speaker after consultation with the Programming Authority, but may not exceed ten minutes, except with the consent of the House.

- (3) Unless the Speaker determines otherwise, a copy of an executive statement must be made available to members at least twenty-four hours before the statement is made in the House.
- (4) Following any executive statement, a member or members of each of the parties may comment on the executive statement for not more than three minutes per party, commencing with the official opposition and followed by other parties in the order of the size of their membership in the House.

Part 3: Speaker's debates

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

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 12

Motions

Chapter 12

MOTIONS

Part 1: Motions

Nature of motions

148. A member may propose a subject for discussion, or move a draft resolution for approval as a resolution of the House.

Same question rule

149. (1) Subject to rules 143(5) and 144(7)(b), no matter may be proposed for discussion in the House which is the same in substance as a matter that has been discussed in the House during the preceding period of six months.
- (2) (a) No draft resolution may be moved in the House which is the same in substance as a draft resolution which was approved or rejected by the House during the preceding six months.
- (b) The order, resolution or vote on such previous draft resolution may be amended or rescinded.

Motions without notice

150. Every motion requires notice, except a motion—
- (a) by way of amendment to a draft resolution permitted in accordance with these rules;
 - (b) raising a point of order or a question of privilege;
 - (c) for the postponement or discharge of, or giving precedence to, an order of the day, interpellations or questions;
 - (d) referring a Bill to a committee;
 - (e) for which another rule states that notice is not required; or
 - (f) in regard to which notice is dispensed with by the unanimous concurrence of all the members present.

Notice of motion

151. (1) When giving notice of a motion a member must—
- (a) read it aloud and deliver at the table a signed copy of the notice; or
 - (b) deliver to the Secretary a signed copy of the notice on any working day of the House, for placing on the Order Paper.
- (2) Written notices of motion delivered to the Secretary after 12:00 on any working day may be placed on the Order Paper of the second sitting day thereafter and not earlier, unless in a particular case the Speaker determines otherwise.

- (3) Except with the unanimous concurrence of all the members present, no motion may be moved on the day on which notice thereof is given.
- (4)
 - (a) When the House is in recess, a member who intends to move a motion during the next ensuing session after the recess must submit a notice thereof, written and signed to the Secretary so as to reach the Secretary not later than five days before the day for which it is to be set down.
 - (b) A motion referred to in paragraph (a) must be treated as if notice of motion had been given in accordance with subrule (1), and must be set down by the Secretary on the Order Paper for a day determined by the Programming Authority.
 - (c) If the motion is set down for the first day of the next ensuing session, the Secretary must send a copy of the Order Paper to every member, by ordinary post, at least fourteen days before the day for which the motion is set down.

Acting for an absent member

- 152. A member may give notice of a motion on behalf of an absent member, provided that the member has been authorised to do so by the absent member.

The Speaker may amend notices

- 153. A notice of a motion that offends against the practice or these rules may be amended or otherwise dealt with as the Speaker may decide.

Questions of privilege

- 154. An urgent motion directly concerning the privileges of the House takes precedence over other motions and orders of the day.

Withdrawal of motion

- 155. A member who has moved a motion may move without notice that it be withdrawn.

Part 2: Amendments to motions

Amendments to be in writing and signed

- 156. An amendment must be submitted in writing and in one of the official languages of the Province and must be signed by the proposer and, if moved during debate, must be delivered to the table.

Amendment to earlier part

- 157. No amendment may be moved to the earlier part of a question after an amendment to a later part has been decided.

Order in which amendments put

- 158. Subject to these rules, the presiding officer must decide the order in which amendments to a question may be put.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 13

Legislative proces

Chapter 13

LEGISLATIVE PROCESS

Part 1: Introduction and general provisions

Legislative power of the Provincial Parliament

159. (1) In terms of section 9(1) of the provincial Constitution, the legislative authority of the Western Cape is vested in the Provincial Parliament.
- (2) In terms of section 29 of the provincial Constitution, a Bill may be introduced by a Provincial Minister or a committee or member of the Provincial Parliament.

Plain language

160. All Bills introduced in the Provincial Parliament must be in plain language and must contain as little technical language as possible.

Same Bill not introduced more than once

161. When a Bill has been passed or rejected during a calendar year, no Bill of the same substance may be introduced during the same year within three months after the first Bill was passed or rejected.

Withdrawal of a Bill

162. The member in charge of a Bill may withdraw the Bill at any time before the House starts voting on a motion for the adoption of—
- (a) the Bill; or
 - (b) in the case of a money Bill, the principle of the Bill.

Stages of Bills

163. (1) Every Bill, other than a money Bill, goes through the following three stages:
- Stage 1: Introduction;
 - Stage 2: Detail consideration in committee; and
 - Stage 3: Consideration and finalisation by the House.
- (2) A money Bill goes through the following four stages:
- Stage 1: Introduction;

Stage 2: Detail consideration in committee

Stage 3: Consideration of principle by the House; and

Stage 4: Finalisation by the House.

- (3) Unless otherwise provided in these rules, not more than one stage of a Bill may be taken on the same sitting day if objection to a further stage is made by three or more members.

Rejection of a Bill

164. If the House rejects a motion for the adoption of a Bill or, in the case of a money Bill, the adoption of the principle of the Bill, it rejects the Bill.

Passing of a Bill

165. The House passes a Bill by agreeing to a motion for its adoption.

Discrepancies in versions of a Bill

166. If any discrepancy in meaning is found between the versions of a Bill in the different official languages of the Province after the Bill has been passed by the House but before it is presented to the Premier for the Premier's assent, the Speaker must report such discrepancy to this House. If the House agrees to an amendment, it is deemed to have passed the Bill as amended.

Bill presented to the Premier

167. Two fair copies of a Bill passed by the House must be certified by the Secretary and be forwarded to the Premier for the Premier's assent.

Bill referred back by the Premier

168. (1) A Bill forwarded for the Premier's assent but referred back to the House by the Premier for reconsideration on the grounds of the Premier's reservations about the Bill's constitutionality, and the communication setting out those reservations, must be laid upon the table of the House by the Speaker, to be dealt with by the House on a future date, unless the House on motion without notice resolves otherwise.
- (2) When the House has amended a Bill referred to in subrule (1) in order to accommodate the Premier's reservations about its constitutionality, it is deemed to have passed the Bill as amended.
- (3) Two fair copies of the Bill as amended must be certified by the Secretary and be forwarded to the Premier for the Premier's assent.

Part 2: Bills other than money Bills

Publication before introduction

169. (1) The member introducing a Bill to replace, amend or repeal the Constitution of the Western Cape must lay upon the table with the Bill or, as the circumstances may require, submit to the Speaker with the Bill—
- (a) copies of the relevant items in the Provincial Gazette and in all newspapers in which particulars of the Bill were published for comment, as prescribed by paragraph (a) of subsection (2) of section 10 of the Constitution of the Western Cape;
 - (b) a list of the municipalities in the Western Cape to which those particulars were submitted in accordance with subrule (2) for their views, as prescribed by paragraph (b) of subsection (2) of section 10 of the provincial Constitution; and
 - (c) any written comments received from the public and from municipalities on those particulars, as envisaged in subsection (3) of section 10 of the provincial Constitution.
- (2) The relevant particulars may be sent by registered post to or may be delivered by hand to the office of the municipal manager of each municipality concerned.
- (3) The memorandum on the objects of a Bill affecting the status, institutions, powers or functions of local government that accompanies the Bill upon its introduction in the House must contain details of the manner in which draft legislation embodied in the Bill was published and disseminated in order to comply with section 52(4) of the provincial Constitution.
- (4) Where any draft Bill or its particulars were published for public comment before its introduction in this House, although the publication was not prescribed by a law referred to in this rule, details of the publication must be embodied in the memorandum on the objects of the Bill accompanying it upon its introduction in the House.

Introduction

170. (1) The member in charge of a Bill may introduce it—
- (a) by laying it upon the table during a sitting of the House; or
 - (b) by submitting it to the Speaker when the House is adjourned, whether during a session or for a recess,
- together with a memorandum setting out the objects of the Bill.
- (2) Before tabling a Bill during a sitting of the House, the member in charge may deliver an introductory speech.
- (3) The memorandum on the objects of a Bill must be in plain and non-technical language, and must include—

- (a) a statement to the effect that the member in charge of the Bill is satisfied that all the provisions of the Bill fall within the legislative competence of the Province;
- (b) a statement setting out the principles and objects of the Bill, including an explanation of the existing legal position and the expected impact of the Bill;
- (c) a list of all persons and bodies that have been consulted on the Bill before its introduction;
- (d) an account of any steps taken to involve the public in the development of the Bill;
- (e) an assessment of the financial implications of the Bill for the state;
- (f) a statement indicating the institution that will be responsible to carry the costs of implementing the legislation concerned;
- (g) a clause-by-clause summary of the contents of the Bill;
- (h) if the Bill makes provision for subordinate legislation—
 - (i) the reason why the matters concerned should be left to subordinate legislation; and
 - (ii) a statement on the degree of parliamentary control of the subordinate legislation concerned; and
- (i) any other information that the member in charge of the Bill considers necessary to enable members to understand the Bill.

Distribution after introduction

171. (1) The Secretary must supply to each member a copy of every Bill after its introduction, together with a copy of the memorandum on its objects.
- (2) In the case of a Bill introduced during an adjournment, the copies for the members of the standing committee to which the Bill has been referred must be forwarded to them without delay.

Publication after introduction

172. (1) The Secretary must cause a Bill to be published in the *Provincial Gazette* as soon as possible after its introduction.
- (2) The notice under which a Bill is so published must indicate that any interested party may submit to the standing committee to which the Bill has been referred—
- (a) comments on the Bill in writing, for the attention of that committee; or
 - (b) an application for that committee's leave to address it on the Bill.
- (3) (a) Subject to paragraph (b), the standing committee to which a Bill has been referred may not deal with the Bill until at least twenty-one days have passed after its publication in the *Provincial Gazette*.

- (b) Paragraph (a) does not apply to a Bill that has been declared by the Premier to be an urgent measure.

Referral to committee after introduction

173. The Speaker must refer a Bill after its introduction together with the memorandum on its objects, for consideration and report—
- (a) to the standing committee under which the subject of the Bill falls; or
 - (b) if the House so resolves, to another committee indicated in the resolution.

Bill affecting interests of municipalities

174. Where a Bill referred to a committee after introduction affects the interests of municipalities in this Province, the committee must invite organised local government to send representatives to attend meetings of the committee and take part, without the right to vote, in its deliberations on the Bill.

Functions and powers of committee

175. (1) The standing committee to which a Bill is referred after its introduction must enquire into and report on the subject of the Bill.
- (2) If the Bill makes provision for subordinate legislation, the committee must consider whether—
- (a) it is appropriate to delegate the Provincial Parliament's legislative power with respect to the matters concerned;
 - (b) whether the legislation should be published in draft form for comment; and
 - (c) whether the Bill should make provision for parliamentary control of the legislation concerned and, if so, to what extent.
- (3) The committee may decide on approval of the Bill or rejection of the Bill or present with its report an amended Bill.
- (4) Where a Bill is referred to an ad-hoc committee, that committee has the powers of a standing committee.

Report of committee

176. (1) The committee to which a Bill has been referred after its introduction must present with its report to the House—
- (a) a Bill as agreed to;
 - (b) an amended Bill as agreed to; or
 - (c) if it has not agreed on a Bill, the Bill referred to it.

- (2) The Bill reported to the House must be accompanied by—
 - (a) the memorandum on its objects referred to the committee, or that memorandum as altered or extended by the committee, or a memorandum drafted by the committee, as the circumstances may require; and
 - (b) if an amended Bill is presented, a list of all amendments agreed to by the committee.

Report of committee considered

177. If required by the committee, the report of the committee to which a Bill has been referred must be placed on the Order Paper for consideration.

Bill placed on Order Paper for consideration

178. The Bill presented to the House with the report of a committee must be placed on the Order Paper for consideration of the Bill.

Debate on a Bill

179. (1) The debate on a Bill in the House must be conducted on the objects and principles of the Bill.
- (2) The debate on an amendment Bill must be confined to the objects and principles of the proposed amendments.
- (3) The debate on a Bill may not commence before two days have elapsed after the tabling of the committee's report.

Amendments placed on Order Paper

180. (1) A member may, after a Bill has been placed on the Order Paper for consideration but before a decision has been taken on the Bill, place proposed amendments to the

Bill on the Order Paper.

- (2) Proposed amendments delivered to the Secretary after 12:00 on any working day may be placed on the Order Paper of the second sitting day thereafter and not earlier, unless in a particular case the Speaker determines otherwise.
- (3) No proposed amendment that affects the principle of the Bill and in respect of which the House has not given an instruction or that is out of order for any other reason may be placed on the Order Paper, and the Speaker's ruling on whether a proposed amendment is out of order is final.
- (4) No proposed amendment that has the same effect as an amendment previously rejected by the committee that considered the Bill may be placed on the Order Paper, except by

the member in charge of the Bill or by a member whose party is not represented on that committee.

- (5) If a proposed amendment has been placed on the Order Paper in terms of this rule, the Speaker may either—
 - (a) recommit the Bill to the committee, or
 - (b) put the amendment, without debate, for decision by the House.
- (6) A Bill may not be recommitted more than once in accordance with this rule.

Recommitted Bills

181. If a Bill is recommitted to a committee in accordance with rule 180(5), the committee—
 - (a) may consider only those clauses of the Bill in respect of which amendments have been placed on the Order Paper and any consequential amendments;
 - (b) must mention in its report each amendment agreed to by the committee;
 - (c) must specify in the report each amendment placed on the Order Paper by the member in charge of the Bill that was rejected by the committee; and
 - (d) must table its report together with the Bill in the House.

Consideration of committee's report on recommitted Bill

182. (1) The report of the committee to which a Bill has been recommitted must be placed on the Order Paper for consideration of the amendments agreed to by the committee.
- (2) Before the House decides on the Bill, the presiding officer must put the amendment or amendments to the vote.

Part 3: Money Bills

Nature and contents

183. (1) A Bill is a money Bill if it—
 - (a) appropriates money;
 - (b) imposes provincial taxes, levies, duties or surcharges;
 - (c) abolishes or reduces, or grants exemptions from, any provincial taxes, levies, duties or surcharges; or
 - (d) authorises direct charges against a Provincial Revenue Fund.

- (2) A money Bill may not deal with any other matter except—
- (a) a subordinate matter incidental to the appropriation of money;
 - (b) the imposition, abolition or reduction of provincial taxes, levies, duties or surcharges;
 - (c) the granting of exemption from provincial taxes, levies, duties or surcharges; or
 - (d) the authorisation of direct charges against a Provincial Revenue Fund.

[See section 120 of the Constitution.]

- (3) Only the Provincial Minister responsible for financial matters may introduce a money Bill in the House.

[See section 29 of the provincial Constitution.]

The Premier's recommendation

184. (1) (a) If an amendment to a money Bill seeks to increase expenditure or to alter the destination of expenditure or will have the effect of increasing taxation or seeks to extend the incidence of a tax, the amendment may not be put unless the Provincial Minister responsible for financial matters has moved it or the Premier has recommended it.
- (b) Paragraph (a) is subject to the provisions of the Act of the Provincial Parliament envisaged in section 30(2) of the provincial Constitution.
- (2) If increased expenditure or taxation is incidentally involved in a clause or in an amendment to a clause of a Bill, other than a money Bill, the clause or amendment may not be put unless a Provincial Minister has moved it or the Premier has recommended it.
- (3) The recommendation of the Premier under this rule may be communicated by written message through the Speaker or verbally by the Premier or by another member of the Provincial Cabinet and must be entered in the minutes of proceedings.

Introduction of a money Bill

185. (1) The member in charge of a money Bill must deliver that member's introductory speech in the House.
- (2) After the introductory speech, the member in charge must introduce the Bill and lay papers, if any, upon the table.
- (3) Thereupon the Speaker must order the Bill to be read a first time, without questions put.

Distribution of a money Bill

186. When a money Bill has been introduced, the Secretary must deliver to each member a printed copy of the Bill, together with copies of the papers laid upon the table, in the official languages of the Province.

Bill placed on Order Paper

187. (1) After introduction a money Bill must be placed on the Order Paper for consideration of the principle of the Bill.
- (2) The House may consider a money Bill only after the report of the committee to which the Bill was referred, as provided in rule 188(3), has been presented to the House.

Referral to committee(s)

188. (1) On the day on which a money Bill is introduced, the Speaker must refer the Bill, the introductory speech and the papers laid upon the table by the member in charge of the Bill to the appropriate committee or committees for consideration, including briefing by officials of the Western Cape Government or other persons.
- (2) The period for the deliberations on a Bill and papers so referred commences on a day determined by the Speaker after consultation with the Programming Authority and is limited to a period of five consecutive working days of the House, unless so extended by the Speaker due to circumstances beyond the control of the committee and upon motivation by the chairperson of the committee.
- (3) The report(s) of the committee(s) must be presented to the House on or before the third sitting day after the end of the period allowed for the deliberations.

Consideration of schedule to an appropriation Bill

189. When the principle of an appropriation Bill that has a schedule has been approved, the votes in the schedule must be debated.

Supplementary estimates in an appropriation Bill

190. When the debate on the votes in the schedule to an appropriation Bill has been concluded, those votes, in respect of which supplementary amounts are to be requested, must be placed on the Order Paper for debate.

Approval of votes and schedule

191. The House must first decide on the separate votes in the schedule and supplementary amounts, if any, to an appropriation Bill, and thereafter on the schedule.

Finalisation of a money Bill

192. (1) When the schedule to an appropriation Bill has been approved, the Bill must be placed on the Order Paper for finalisation.
- (2) When the principle of a money Bill that has no schedule has been approved, the Bill must be placed on the Order Paper for finalisation.

Part 4: Consolidation Bills

Proceedings on consolidation Bills

193. (1) A Bill that purports to consolidate existing law may not contain provisions amending the law.
- (2) A consolidation Bill must be accompanied by a certificate signed by the law adviser who drafted the Bill, stating that the Bill consolidates existing law without amending existing law.

Referral to committee

194. (1) The committee to which a consolidation Bill was referred may submit an amended Bill, but may only consider amendments that seek to express existing law more clearly or that brings the Bill into conformity with existing law, and discussions must be confined strictly to the necessity for such amendments.
- (2) A period of not less than five working days must lapse between the introduction and the detailed consideration of the Bill.
- (3) When the Bill has been considered in detail, the remaining stages of the Bill may be taken forthwith.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 14

Interpellations and questions

Chapter 14

INTERPELLATIONS AND QUESTIONS

Part 1: General

Publication of Question Paper

195. (1) A Question Paper may be published weekly on any working day of the House.
- (2) When the House is in recess, a Question Paper may be published once a month or as the need arises.
- (3) A Question Paper containing questions for written reply may be published on every second and fourth Friday, and must set out the dates by which the questions have to be responded to.

Admissibility of questions and interpellations

196. (1) A member or a permanent delegate to the NCOP may put a question or interpellation to any member of the Provincial Cabinet concerning any matter falling within the area of responsibility of that member of the Provincial Cabinet.
- (2) A question or interpellation must be—
 - (a) in one of the official languages of the Province;
 - (b) brief, clearly worded, and address specific points.
- (3) A question or interpellation may not—
 - (a) be hypothetical;
 - (b) contain offensive language;
 - (c) express a point of view;
 - (d) ask for an opinion;
 - (e) be in breach of the law or these rules; or
 - (f) anticipate the discussion of a matter appearing on the Order Paper.
- (4) A question or interpellation that offends against the practice or these rules may, after consultation with the member, be amended or otherwise dealt with as the Speaker may direct.
- (5) A member may place a question or interpellation on the Question Paper or take charge of a question or interpellation on behalf of an absent member if that member has been authorised to do so by the absent member.

Part 2: Interpellations

Form and placing

197. (1) An interpellation consists of a question containing not more than two subdivisions.
- (2) An interpellation received for placement on the Question Paper may be placed on the Question Paper for reply after the expiry of at least eight working days.
- (3) The Speaker may, after consultation with the Programming Authority, consent to an interpellation on a matter of urgent public importance being taken at shorter notice in substitution of another interpellation.

Procedure

198. After the presiding officer has put the interpellation from the chair—
 - (a) the responsible member of the Provincial Cabinet must reply to the interpellation in a speech not exceeding four minutes; after which
 - (b) the interpellant must respond to the reply in a speech not exceeding three minutes; after which
 - (c) other parties may speak on the interpellation in turn for up to two minutes each, for no longer than six minutes; after which
 - (d) the interpellant may speak on the interpellation for no more than a further three minutes; after which
 - (e) the responsible member of the Provincial Cabinet may speak on the interpellation for no more than a further four minutes.

Precedence

199. Interpellations have precedence on Thursdays.

Number of interpellation debates

200. The number of interpellation debates on the same day is limited to three interpellation debates of twenty minutes each.

Part 3: Questions

Placing and arrangement

201. (1) The Secretary must place the questions on the Question Paper in the order in which they are submitted.
- (2) Questions for oral reply must be dealt with in the following order—

- (a) questions to the Premier standing over from previous question days;
 - (b) new questions to the Premier;
 - (c) questions to Provincial Ministers standing over from previous question days; and
 - (d) new questions to Provincial Ministers.
- (3) Questions for oral reply received for placement on the Question Paper must be placed on the Question Paper after the expiry of eight working days.
- (4) A question may be withdrawn by the member who submitted it at any time before it is answered by a member of the Provincial Cabinet.

Part 4: Questions for oral reply

Form of questions

202. (1) (a) A member who wants an oral reply to a question must distinguish it in writing to that effect.
- (b) If the Speaker is of the opinion that a question deals with matters of a statistical nature, the Speaker may direct that the question be placed on the Question Paper for written reply.
- (2) Questions for oral reply are limited to two questions per member per question day.
- (3) A question for oral reply may not contain more than five subdivisions.
- (4) Not more than four questions for oral reply may be put to a member of the Provincial Cabinet in respect of any one department of the provincial government on any particular question day.
- (5) The restrictions imposed by subrules (1)(b), (2), (3) and (4) do not apply to questions for written reply placed on the Question Paper for oral reply in accordance with rule 206.

Times allotted

203. (1) (a) Questions for oral reply must be taken immediately after interpellations on Thursdays.
- (b) Any unused portions of the times allotted for interpellations must be used for replies to questions, irrespective of the actual number of interpellations appearing on the Order Paper for that sitting.
- (c) Four supplementary questions may be allowed per question.
- (d) A supplementary question must relate to the original question or to the reply.

- (2) The time allotted for questions is sixty minutes.
- (3) Replies to questions for oral reply that have not been dealt with on expiration of the time allotted must be handed to the Secretary for inclusion in Hansard.

Part 5: Questions to the Premier without notice

Form of questions

204. (1) Questions may be put without prior notice to the Premier on the first Thursday of a session and on every second Thursday thereafter, except the Thursday of the week during which the Premier's vote in the schedule to an appropriation Bill or the Premier's opening address is discussed.
- (2) Twenty minutes must be allowed for questions and replies under this rule, but if proceedings relating to a question are in progress when that time expires, the Speaker may allow them to be concluded.
 - (3) A member may put a question under this rule on a particular Thursday only if that member's name appears on the Order Paper for that purpose.
 - (4) A member who wants to put a question on a particular Thursday must personally, in writing and under that member's signature, submit the member's name and the name of the political party represented by the member to the Secretary not earlier than the fifth working day of the House before that Thursday and not later than 12:00 on the Friday preceding the Thursday set down for that purpose.
 - (5) Subject to subrule (6), the Secretary must cause the names so submitted to be selected at random in a manner approved by the Secretary as being impartial, and must place not more than seven names so selected (or such number as may be determined by the Speaker from time to time) in the order selected on the Order Paper.
 - (6) If more than two names of members who represent the same political party are selected as provided above, only the first two selected may be included in the names placed on the Order Paper.
 - (7) If the name which, according to the selection, is to appear first on the Order Paper is that of a member belonging to the same political party as the Premier, that name must be interchanged on the Order Paper with the first succeeding name of a member who does not belong to that party.

- (8) The presiding officer must call the members in the order in which their names appear on the Order Paper.
- (9) A member called may put one question in a concise form and, immediately after a reply thereto, two supplementary questions, which questions must relate to the member's original question or to the reply.
- (10) A question put by a member under this rule is not to be included in the number of questions allowed for that member under any other rule.

Part 6: Questions for written reply

Form of questions

205. (1) A question for written reply may not contain more than fifteen subdivisions.
- (2) Questions for written reply are limited to three questions per member in respect of any working week when the House is sitting, and to one question per member in respect of any working week when the House is not sitting.

Written question not replied to

206. If the responsible member of the Provincial Cabinet has not furnished a reply to a question—
- (a) within ten working days after the day for which the question was set down for written reply; or
 - (b) when the House is adjourned during a session, within thirteen working days after the question was first placed on the Question Paper, the Secretary, at the request of the member in whose name the question stands—
 - (i) must place the question on the Question Paper for oral reply; or
 - (ii) when the House is adjourned during a session, must place the question on the Question Paper as a question not yet replied to.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 15

Miscellaneous

Chapter 15

MISCELLANEOUS

Broadcasting of proceedings

207. (1) The Speaker, after consultation with the Rules Committee, must determine a policy including conditions that must be complied with by any person who is authorised by the House to broadcast, televise or otherwise transmit by electronic means the proceedings of the House or a committee.
- (2) The mentioned policy above must include conditions aimed at protecting the integrity and decorum of the House and committees and the dignity of members.

Responses of members of the public

208. (1) When the Secretary receives a written request from a member of the public to have a response recorded in terms of section 25 of the Powers, Privileges and Immunities Act on a statement or remark made by a member in the House or in a committee, the Secretary must forward the request to the Speaker.
- (2) The Speaker must refer the request to the Disciplinary Committee for consideration.
- (3) In considering the request, the Disciplinary Committee—
- (a) may ask the person who made the request to provide further information or particulars, either in writing or orally at a meeting of the Disciplinary Committee; and
 - (b) may not inquire into the truth or merits of the statement or remark concerned or of the response.
- (4) The Disciplinary Committee must approve the request unless the Disciplinary Committee is of the view that—
- (a) the matter is frivolous;
 - (b) the person making the request has no reason to feel aggrieved by the statement or remark; or
 - (c) the response is offensive or unbecoming.
- (5) If the Disciplinary Committee is of the view that the response is too long for publication, it may afford the person making the request the opportunity to shorten the response. If the person fails to do so within the time specified by the Disciplinary Committee, the Disciplinary Committee must refuse the request.
- (6) If the Disciplinary Committee approves the request, the response must be published in the ATC.

Lapsing of business before the House and committees

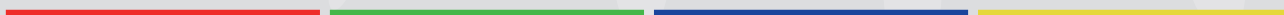
209. (1) All business on the Order Paper, other than Bills and the work of committees, on the last day of an annual session, lapses at the end of that day.
- (2) All business before the House or any committee lapses when the Provincial Parliament's term expires or when the Provincial Parliament is dissolved.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 16

Business connected with the
National Council of Provinces



Chapter 16

BUSINESS CONNECTED WITH THE NATIONAL COUNCIL OF PROVINCES

Appointment of permanent delegates

210. (1) When a permanent delegate to the NCOP is to be appointed, the Speaker must in writing call upon the political party concerned to nominate a person.
- (2) The nomination must be in writing and must be signed by a member and the person nominated.
- (3) The House must by resolution appoint the person so nominated in accordance with section 61(2) of the Constitution or section 2 of the National Council of Provinces (Permanent Delegates Vacancies) Act, 1997 (Act 17 of 1997), as the case may be.

Proof of appointment as permanent delegate

211. The Speaker must—
- (a) certify the appointment of each permanent delegate; and
- (b) provide a copy of the certificate to the chairperson of the NCOP and to the permanent delegate concerned.

Designation of special delegates

212. (1) Special delegates to the NCOP are designated by the parties, which designations must be communicated to the Speaker.
- (2) Parties designating special delegates to the NCOP may terminate designations at any time, which terminations must be communicated to the Speaker.
- (3) The designation of a special delegate must indicate the period or the purpose for which the special delegate is designated.

Proof of designation as a special delegate

213. The Speaker must—
- (a) certify the designation of each special delegate, the date on which the designation takes effect and the period or purpose of the designation; and
- (b) provide a copy of the certificate to the Secretary to Parliament and to the special delegate concerned.

Permanent delegates' rights and duties in the House

214. (1) The Province's permanent delegates to the NCOP may attend and may speak in the House and in any of its committees, but may not vote.

- (2) The House or a committee may require a designated permanent delegate to attend the House or that committee and to report to the House or that committee.
- (3) In respect of legislation to be dealt with in the NCOP in terms of sections 74 and 76 of the Constitution, a permanent delegate appointed by Provincial Parliament must report to the NCOP on the public involvement processes undertaken in the province in terms of that legislation, and must table that report in the Provincial Parliament.

Conferral of authority on the Province's delegation

215. (1) The conferral of authority on the Province's delegation to the NCOP to negotiate or cast votes on behalf of the Province in proceedings of the NCOP or its committees in matters mentioned in the Mandating Procedures Act must be effected in accordance with that Act.
- (2) In respect of an NCOP matter not mentioned in the Mandating Procedures Act, authority to cast votes on behalf of the Province must be conferred by the committee to which that matter is referred.
- (3) (a) In the absence of any specific authority to cast a vote on a particular question relating to proceedings contemplated in subrule (2), the Province's delegation may decide for itself, with the support of a majority of its members, how the vote of the Province on that question is to be cast in the NCOP.
- (b) Particulars of the question referred to in paragraph (a), the decision and the vote cast must be laid on the table of the House by the head of the delegation or reported by the head of the delegation to the Speaker for tabling.

Time limits

216. NCOP matters formally received from the NCOP must be dealt with in accordance with the time frames determined by the NCOP.

Referral of an NCOP matter requiring provincial vote to committee

217. (1) The Speaker must refer every NCOP matter received from the NCOP and on which the delegation of the Province will be expected to vote in the NCOP for recommendation and report—
- (a) to the appropriate standing committee; or
 - (b) if the Speaker is of the opinion that the nature of the matter so requires, to an ad-hoc committee.
- (2) After referring a matter to a committee in accordance with subrule (1), the Speaker must table the matter at the earliest opportunity.
- (3) The committee to which a matter has been referred in accordance with subrule (1) must—
- (a) where appropriate, confer authority on the Province's delegation to the NCOP of the parameters for negotiation when the matter is considered by a committee of the NCOP;
 - (b) in respect of an NCOP matter not mentioned in the Mandating Procedures Act, confer authority on the provincial delegation to cast votes on behalf of the Province in proceedings of the NCOP or its committees;

- (c) in respect of an NCOP matter mentioned in the Mandating Procedures Act, in its report recommend to the House the authority to be conferred by the House in terms of the Mandating Procedures Act on the provincial delegation to cast votes in proceedings of the NCOP or the relevant NCOP committee.
- (4) When a committee considers a matter referred to it in accordance with this rule, the committee must inform the relevant member of the Provincial Cabinet and give that member of the Provincial Cabinet an opportunity to present the views of the Provincial Cabinet on the matter to the committee.

Referral of an NCOP matter not requiring provincial vote to committee

218. (1) When the NCOP formally refers a matter to the Provincial Parliament on which the provincial delegation will not be required to vote in the NCOP, including a section 75 Bill—
- (a) the referral must be noted in the ATC; and
 - (b) the Speaker must refer the matter to the appropriate standing committee or an ad-hoc committee.
- (2) The committee—
- (a) may deal with the matter in the manner it regards as best suited, but need not consider it; and
 - (b) may report to the House on the matter.

Report of committees

219. (1) The report of a committee on any NCOP matter referred to it—
- (a) must be tabled in the House; and
 - (b) may be presented to the House by the chairperson or another member of the committee.
- (2) During an adjournment of the House the report may be handed to the Speaker for tabling at the first opportunity.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 17

Business connected with the
provincial executive

Chapter 17

BUSINESS CONNECTED WITH THE PROVINCIAL EXECUTIVE

Appointment of Provincial Ministers

220. When the Premier appoints members of the Provincial Parliament as Provincial Ministers or dismisses Provincial Ministers, the Premier must inform the Speaker immediately.

Duties of the Provincial Cabinet

221. (1) Every member of the Provincial Cabinet must submit to the Provincial Parliament—
- (a) the annual report, financial statements and audit report of the department or departments for which that member of the Provincial Cabinet is responsible as required by section 65(1)(a) of the Public Finance Management Act;
 - (b) quarterly reports on the performance of the department or departments, and/or provincial public entity for which that member of the Provincial Cabinet is responsible;
 - (c) the findings of any disciplinary board that heard a case of financial misconduct against an accounting officer or accounting authority, as required by section 65(1)(b) of the Public Finance Management Act; and
 - (d) any other report requested by the House or a committee;
- (2) Every member of the Provincial Cabinet must ensure that a reply is given to every question put to that member of the Provincial Cabinet by the House, a member, a permanent delegate to the NCOP or a committee;
- (3) A department must report annually to the standing committee to which it accounts on all subordinate legislation for which that department is responsible.

Vacancy in the premiership

222. (1) Whenever a vacancy has arisen in the office of the Premier, the Speaker must inform the House accordingly.
- (2) The House must elect one of its members as Premier in accordance with the provisions of section 38 of the provincial Constitution.
- (3) The Speaker must inform the House of the time and date fixed for the election of a Premier.
- (4) The designation by the House, in terms of section 41(1) of the Constitution of the Western Cape, of one of its members to act as Premier, must be by resolution.

Provincial Commissioner for the Environment

223. (1) The standing committee whose assignment is or includes environmental affairs in the Province, must, whenever necessary—
- (a) nominate a person for approval and appointment as Commissioner for the Environment in terms of section 75 of the provincial Constitution; or
 - (b) consider, and make a finding on, the grounds for a proposed removal from office of a Commissioner for the Environment in terms of section 77 of the provincial Constitution.
- (2) If a political party represented in the House is not represented on the relevant standing committee charged with a matter under subrule (1), the chairperson of the standing committee must, before proceedings on the matter—
- (a) invite the political party concerned to name one of its members to serve on that standing committee for that purpose; and
 - (b) appoint the member named, if any, as a temporary member of the standing committee for all purposes relating to the relevant matter, including the right to vote in respect of that matter.
- (3) Subrules (1) and (2) apply except where an ad-hoc committee is appointed in a particular case to perform the functions assigned to a committee mentioned in subrule (1) by the provincial Constitution.
- (4) The committee charged with the nomination of a person under paragraph (a) of subrule (1) must by public notice and in any other manner it deems expedient invite members of the public and organisations concerned with environmental matters in the Province, to submit—
- (a) the names of persons who are—
 - (i) qualified in terms of section 75(1) of the provincial Constitution; and
 - (ii) recommended as nominees, for appointment as Commissioner of the Environment; and
 - (b) representations for the nomination of any person so recommended.
- (5) The committee may provide for the submission of names and representations in writing or orally at a public meeting of the committee.

Provincial Commissioner for Children

224. A motion for the recommendation of the House in accordance with section 80 of the provincial Constitution on—
- (a) the appointment of a particular person as Commissioner for Children; or
 - (b) the removal from office of the Commissioner for Children, must be decided without debate; but, before the question is put—

- (i) may, in the case of an appointment on motion without notice; and
 - (ii) must, in the case of a removal,
- be referred for enquiry and report to the standing committee whose assignment includes children's affairs in the Province.

Public service commissioner for the Western Cape

225. The House must appoint an ad-hoc committee to—

- (a) recommend a person for approval by the House as the Premier's nominee for appointment as public service commissioner for the Western Cape, in accordance with subsections (7)(b) and (8)(b) of section 196 of the Constitution; or
- (b) consider, and make a finding on, the grounds for a proposed removal from office of the public service commissioner for the Western Cape, in accordance with subsection (11) of section 196 of the Constitution.

Resolutions affecting the Provincial Cabinet

226. (1) When the House adopts a resolution that affects the Provincial Cabinet—

- (a) the House must, if a response is required, stipulate the period within which the response is to be given; and
 - (b) the Secretary must communicate the resolution to the Premier or the relevant member of the Provincial Cabinet.
- (2) Where a response is required to such a resolution, the Premier or the relevant member of the Provincial Cabinet, as the case may be, must submit a response to the Speaker within the stipulated time.

Advice, recommendation or approval of committee requested by the Provincial Cabinet

227. (1) When the Speaker receives a request from the Premier, a member of the Provincial Cabinet or any other authority of the provincial executive for the advice, recommendation or approval of a committee in terms of any law, the Speaker must refer the request to the relevant committee for consideration and report or to a committee established for the purpose of such consideration and report, as the circumstances may require.
- (2) The Secretary must provide to each member of the committee a copy of the request together with a notification of the referral.
- (3) The committee must adopt a report and submit it to the Speaker.
- (4) The Secretary must provide a copy of the report to the person who made the request, and the Speaker must at the same time or as soon as practicable lay the report on the table.

WESTERN CAPE PROVINCIAL PARLIAMENT



Chapter 18

Office of the Secretary

Chapter 18

OFFICE OF SECRETARY

Minutes of proceedings

228. The minutes of proceedings of the House must be noted by the Secretary in the official languages of the Province, and, after having been perused by the Speaker, must be printed and supplied to members.

Journals of the House

229. The minutes of proceedings of the House, signed by the Secretary, constitute the journals of the House.

Custody of papers

230. The Secretary has custody of all records and other papers of the House.

Access to papers

231. Subject to rule 74 and the Promotion of Access to Information Act, 2000 (Act 2 of 2000), all records and other papers of the Provincial Parliament and its committees, including all papers tabled in the House, are open to the public unless the House or a committee has ordered that the contents of any such record or paper may not be made public.

General duties of the Secretary

232. The Secretary is responsible for the regulation of all matters connected with the business of the House subject to such directions as the Secretary may receive from the Speaker or from the House.

