

# WESTERN CAPE PROVINCIAL PARLIAMENT



## STANDING RULES

February 2014

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# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 1

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Supplementation, Suspension,  
Non-diminution or Non-limitation  
and Application of Rules

## Chapter 1

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### SUPPLEMENTATION, SUSPENSION, 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 remains in force until the Rules Committee has decided on it.
- (3) If a Rule is made by the Speaker when the House is not in session, the Rules Committee must decide on the Rule within 3 working days after the next ensuing 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 of the House in any proceedings, apply also to a non-member who takes part in those proceedings under due authority.

#### Non-diminution or non-limitation of Rules

4. No convention or rule of practice shall limit or prohibit any provision of these Rules.

# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 2

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Public Access



## Chapter 2

### PUBLIC ACCESS

#### Admittance of public

5. (1) Subject to rules 7 and 70, 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 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 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 public

6. Members of the public attending a meeting of the Provincial Parliament or a committee meeting may not disrupt the proceedings and must adhere to the directions of the presiding officer.

#### Withdrawal of 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.  
[See sec. 28(2) of the Constitution of the Western Cape]

#### Removal of member of 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 of the House to -
  - (a) address the House or the Members of 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

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Proceedings in Connection with  
Commencement of Session

## Chapter 3

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### PROCEEDINGS IN CONNECTION WITH COMMENCEMENT OF SESSION

#### 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 him or her must read the notice convening the Provincial Parliament.  
[See sec. 19(3) of the Constitution of the Western Cape]

#### 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 Constitution of the Western Cape.

#### Election of 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 of the Province.  
[See sec. 38(1) and (2) of the Constitution of the Western Cape]

#### Election of Speaker and Deputy Speaker

13. After the election of the Premier of the Province at its first sitting, the House must elect one of its Members as the Speaker of the House, and may elect another Member as Deputy Speaker with due regard to Rule 23.  
[See sec. 20 of the Constitution of the Western Cape]

#### State of the Province Address

14. The Speaker must inform the House of the time at which the Premier will deliver his or her 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

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Sittings of Provincial Parliament

## Chapter 4

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### SITTINGS OF PROVINCIAL PARLIAMENT

#### Session and recess

16. (1) In these Rules 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 meet for sittings.
- (2) The first session of the House after its election begins with the sitting convened under section 19(3) of the Constitution of the Western Cape.
- (3) An extraordinary sitting to which the House is summoned by the Premier under section 19(5) of the Constitution of the Western Cape, 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. (1) Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, except days falling within a recess and except public holidays, are working days.
- (2) 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 as follows:
- Mondays to Thursdays: from 14:15,**  
or such later time as the Speaker determines, to adjournment;
- Fridays: from 10:00,**  
or such later time as the Speaker determines, to adjournment.

#### Reading of prayers

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

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## Sequence of proceedings

20. 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 shall, 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, which shall be dealt with in sequence.

## 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.



# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 5

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Presiding Officers and Members



## Chapter 5

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### PRESIDING OFFICERS AND MEMBERS

#### *Part 1: Presiding officers*

#### 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 Constitution of the Western Cape, must be announced by the Secretary.

#### Deputy Speaker

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

[See sec. 111(2) of the national Constitution]

#### Temporary Chairpersons

24. During the first session of the House after its election and thereafter during the first session of every calendar year, the House must by resolution appoint no fewer than four Members to act as temporary Chairpersons and must fill a vacancy amongst temporary Chairpersons whenever it arises.

#### Relief of Speaker

25. The Deputy Speaker or a temporary Chairperson must take the Chair whenever requested to do so by the Speaker during a sitting of the House.

#### Absence of Speaker

26. Whenever the Speaker is absent or otherwise unable to perform the functions of the office of Speaker, or whenever that office is vacant -
  - (a) the Deputy Speaker; or
  - (b) if there is no Deputy Speaker, a temporary Chairperson designated by resolution of the House, acts as Speaker.

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## Absence of all presiding officers

27. Whenever the House is informed that all the elected presiding officers are unavoidably absent, the House must forthwith elect one of its Members to act as Speaker for that day only, the question being put by the Secretary.

## Part 2: Members

### Oath or affirmation

28. On occasions other than the first sitting of the House after its election, new Members who have to be sworn in or make an affirmation must be introduced and conducted to the Table for that purpose by one or more Members.

[Item 1 (2) of Schedule 1 to the Constitution of the Western Cape]

### Leave of absence

29. (1) A Member who wishes to absent himself or herself from sittings of the House or of any committee of which he or she is a member, for 15 or more consecutive working days on which the House or committee sits, must, before so absenting himself or herself, obtain the leave of the House or of a committee authorised to grant such leave.
- (2) The granting of leave by the House must be moved by the chief whip of the party to which the Member desiring the leave belongs or by the Leader of Government Business.
- (3) If leave is granted by a committee, a report by the committee to that effect must be presented to the House and be published in the Minutes of Proceedings.

### Absence without leave: loss of membership

30. A Member who, without leave granted by the House or an authorised committee, absents himself or herself as contemplated in Rule 29(1), loses his or her membership of the Provincial Parliament.

[See sec. 15 (3)(c) of the Constitution of the Western Cape]

### Leader of Opposition

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

[See sec. 24 of the Constitution of the Western Cape]



# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 6

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Quorum and Decisions

## Chapter 6

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### QUORUM AND DECISIONS

#### *Part 1: Quorum*

##### Quorum requirements

32. (1) The presence of at least one third of the Members of the House is necessary to constitute a meeting of the House.
- (2) Subject to Rule 36, the presence of a majority of the Members is necessary before a vote may be taken on a bill or an amendment to a bill.
- [See sec. 21(1) of the Constitution of the Western Cape]

##### Absence of quorum at start of meeting

33. (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

34. If the attention of the presiding officer is called to the absence of a quorum and if after an interval of 3 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

35. (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

36. (1) Except where the rules provide otherwise, all questions before the House are decided by a majority of the votes cast.
- (2) The presiding Member has a deliberative vote only when a question must be decided with a supporting vote of at least two thirds of the Members of the House.
- (3) The presiding Member has, and must cast, a decisive vote whenever there is an equal number of votes on each side of a question.

- 
- (4) In accordance with the Constitution of the Western Cape -
- (a) a supporting vote of a majority of the members of this House is necessary to adopt a –
    - (i) resolution to dissolve the Provincial Parliament [sec.18 (1)];
    - (ii) resolution to remove the Speaker or another presiding officer from office [sec. 20 (4)];
    - (iii) motion of no confidence in the Provincial Cabinet excluding the Premier [sec. 51 (1)]; and
    - (iv) motion of no confidence in the Premier [sec. 51 (2)];
  - (b) a supporting vote of at least 60 % of the Members of the House is necessary to adopt a resolution approving a nominee for appointment as Commissioner for the Environment [sec. 75(2)(b)];
  - (c) a supporting vote of at least two thirds of the Members of the House is necessary to adopt –
    - (i) a bill providing for provincial symbols [sec. 6 (2)];
    - (ii) a resolution requesting the national Parliament to change the name of the Province [sec. 9 (4)(c)];
    - (iii) a bill to replace, amend or repeal the Constitution of the Western Cape [sec. 10 (1)];
    - (iv) a resolution to remove the Premier from office [sec. 40(3)]; and
    - (v) a resolution to remove the Commissioner for the Environment from office [sec. 77 (1)(c)].
- (5) A supporting vote of a majority of the Members of the House is necessary in accordance with -
- (a) subsection (8)(b)(ii) of section 196 of the national 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 that section, 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

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Order in Meetings and

Rules of Debate



## Chapter 7

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### ORDER IN MEETINGS AND RULES OF DEBATE

#### *Part 1: Order in meetings*

#### **Conduct of Members**

37. A Member must bow to the Chair in passing to or from his or her seat and may not pass between the Chair and the Member who is speaking, nor between the Chair and the Table, nor stand in any of the passages or gangways.

#### **No conversing aloud**

38. A Member may not converse aloud during debate.

#### **No interruption**

39. 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**

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

#### **Maintenance of order**

41. Order must be maintained by the presiding officer.

#### **Precedence of presiding officer**

42. 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**

43. The presiding officer, after having called attention to the conduct of a Member who persists in irrelevance or repetition of arguments, may direct the Member to discontinue his or her speech.

#### **Member ordered to withdraw**

44. 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, he or she may order the Member to withdraw immediately from the Chamber for the remainder of the day's sitting.

## Naming and suspension of Member

45. (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 suspensio

46. A Member who has been suspended under rule 45 must 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

47. The suspension of a Member –
- (a) on the first occasion in a calendar year, continues for the first 2 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 4 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 6 days on which the House sits after the day of the suspension.

## Expression of regret

48. (1) A Member who has been suspended in terms of rule 45 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.
- An expression of regret laid before the House in terms of subrule (1) must be recorded in the Minutes of Proceedings.

## Grave disorder

49. 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 him or her.

## Member to address Chair

50. Every Member who wants to speak must rise in his place addressing the Chair.

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## Right to speak

51. 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 himself;  
or
  - (d) to a point of order or a question of privilege.

## Member called to speak

52. (1) In a debate the presiding officer must call a Member in accordance with a list of Members who are to speak in the debate and the times allocated for speeches by Members of different parties.
- (2) When a Member rises to speak, he or she must be called by the presiding officer, and if two or more Members rise at the same time, the Member who is so called is entitled to speak.

## Number of times Member may speak to same question

53. 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

54. Unless otherwise provided in the Rules, Members are restricted, in regard to the length of time they may speak on the business before the House, to the times allocated to them in the list contemplated in Rule 52, and if or in so far as times have not been so allocated -
- (a) the Premier, the Leader of the Opposition and the Member in charge of the business before the House, are not be restricted in regard to the length of time they may speak; and
  - (b) Members other than those mentioned in paragraph (a) may not speak for longer than 30 minutes at a time on any business before the House.

## Reference to Member by name

55. No Member may refer to any other Member by his or her first name or names only.

## Member not to read speech

56. A Member must refrain as far as possible from reading his or her speech, but may refresh his or her memory by referring to notes.

## Offensive language

57. No Member may use offensive or unbecoming language.

## Reflections upon decisions

58. No Member may reflect upon any decision of the House taken less than 6 months previously, except for the purpose of moving that the decision be amended or rescinded.

## Reflections upon statutes

59. No Member may reflect upon a statute passed by the House less than 6 months previously, except for the purpose of moving for its amendment or repeal.

## Reflections upon judges and others

60. No Member may reflect upon the honour or competence -
- (a) of a judge of a superior court; or
  - (b) of the holder of an office (other than the Premier) whose removal from such office is dependent upon a decision of the House, except upon a substantive motion, alleging facts which, if true, would in the opinion of the Speaker *prima facie* warrant such a decision.

## Matters *sub judice*

61. No Member may refer to any matter on which a judicial decision is pending.

## Rule of anticipation

62. (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

63. (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 his or her own conduct and may not speak for longer than 3 minutes.
- (3) The presiding officer may request a member to provide him/her 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

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### **Points of order**

64. When a point of order is raised, the Member called to order must resume his or her seat, and after the point of order has been stated to the presiding officer by the Member raising it, the presiding officer may give his or her ruling or decision either forthwith or subsequently.

### **Acting for absent Member**

65. A Member may take charge of a motion or an order of the day in the absence of the Member in charge, provided he or she has been authorised to do so by the absent Member.

### **When reply allowed**

66. A reply is allowed to the Member introducing a subject for discussion or to the Member in charge of an order of the day.

### **Secunder**

67. No motion or amendment requires a seconder.

### **Debate closed**

68. A reply to a debate closes the debate.

# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 8

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Committees

## Chapter 8

### COMMITTEES

#### *Part 1: Introduction*

#### Introduction

69. (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) Petitions Committee;
  - (f) Budget Committee;
  - (g) Disciplinary Committee;
  - (h) *Ad hoc* committees.
- (2) A committee may establish sub-committees of its members and outside experts.
- (3) These Rules apply to committees established in terms of legislation.

#### Public access and involvement

70. (1) Meetings of committees of the House are open to members of 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 Constitution of the Western Cape.
- (2) All persons other than Members of the House must withdraw on being requested by the chairperson to do so in terms of a resolution of the committee.
  - (3) Persons attending a committee must observe the directions and conform to the rules laid down by the chairperson.
  - (4) The Provincial Parliament must facilitate public involvement in the processes of its committees as required by the Constitution.

#### Publication of proceedings

71. The proceedings of or the evidence taken by or the report of a committee of the House, while its proceedings were conducted in private, 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

72. Counsel, attorneys and other persons appearing before a committee must observe the directions and conform to the rules laid down by the chairperson.

## Part 2: Rules applicable to committees generally

### Application of this part

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

### Number of committees

74. A committee consists of the number of members determined by the Rules Committee in each particular case, but which may not be fewer than 5 or more than 20, unless otherwise provided in these Rules or the House directs otherwise in a particular case.

### Appointment of members

75. (1) The members of a committee must be appointed by the Rules Committee -
- (a) in the case of an ad hoc committee, within 5 working days after the appointment of the committee; and
  - (b) in the case of a standing committee, for the duration of the House, subject to the provisions of this Rule.
- (2) An alternate member may be appointed for one or more members of a committee.
- (3) When the House is not in session the Speaker, after consultation with the whips of each party affected, may appoint members to, and fill vacancies in, any committee.
- (4) The names of Members appointed to a committee must be published in the *Announcements, Tablings and Committee Reports* as soon as possible.

### Representation of minority parties

76. (1) The leader in the House of 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 his or her party wants to be represented.
- (2) The leader in the House of a minority party that is not represented on a particular committee, or another member of that party authorised in that behalf by the leader, may attend and speak at any meeting of the committee concerned, but may not vote.

### Chairperson

77. (1) Unless a chairperson and a deputy chairperson have been appointed previously, every committee must, before it commences any other business, elect from among its members a chairperson and a deputy chairperson.
- (2) In the absence of the chairperson and the deputy chairperson from a meeting the committee must elect one of its members to be acting chairperson at that meeting.
- (3) 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 him/her; and
- (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;
  - (iii) decisions for the committee to perform in terms of its functions or exercise its powers; and
  - (iv) must report to the committee on decisions taken in terms of subrule 3(d).

### Presiding Member's decisive vote

78. The Member presiding at a meeting of a select committee has, in addition to his or her vote as a member, a decisive vote whenever there is an equal number of votes on each side of a question.

### Quorum

79. (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 when a quorum is not present, the chairperson may either suspend business until a quorum is present or adjourn the committee till a next meeting is convened, in which instance a quorum required to decide the relevant question is a majority of the members of the committee.

### First meeting

80. The first meeting of a committee, if not convened in some other manner, must be convened by the Secretary within 5 working days of the House after the names of the members appointed to serve on the committee were published in the *Announcements, Tablings and Committee Reports*.

### Sittings during sittings of the House

81. A committee may sit during the sittings of the House.

### Sittings when House adjourned

82. (1) A committee may sit when the House is in session but adjourned.
- (2) Except in the case of an *ad hoc* committee authorised to do so under Rule 114(3) (c), a committee may not sit when the House is adjourned for a recess.

## Sittings beyond seat of Provincial Parliament

83. (1) If the Speaker is satisfied that it is necessary for a committee to sit in the province at a place or places beyond the seat of the Provincial Parliament, he or she may authorise the committee to do so.
- (2) Particulars of the authorisation must be published in the Minutes of Proceedings.

## Information against Member

84. If any information reflecting on the conduct of a Member of the House comes before a select committee, the committee may not proceed upon such information, but must report it to the House without delay.

## Committee report

85. (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 30 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 report

86. It shall not be competent for a select 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

87. In performing its functions, a committee may, subject to the Constitution, legislation and other Rules or resolutions 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; and
  - (h) confer with other committees.

## Matters referred to committees

88. A matter is referred to a committee by the Speaker, resolution of the House and in terms of the Rules.

## Decisions

89. Decisions are taken by majority vote.

## Committees on local government

90. (1) Where a matter before a committee affects the interests of municipalities in this province, the Secretary, on behalf of the committee, must invite the organisation recognised in terms of section 2(1)(b) of the Organised Local Government Act, 1997, as the provincial organisation representing municipalities in this province 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.

## Appearance before committees

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

## Informing the Executive

92. When a committee requests an official of the Provincial Government to attend a meeting or produce documents for the committee the responsible Member of the Executive Council must be informed.

## **Part 3: Committees of the House**

### **3.1 Rules Committee**

#### **Composition**

93. 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**

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

#### **Powers and functions**

95. Apart from its functions with regard to the Rules of the House, the Rules Committee is charged with the internal arrangements of the House and other matters referred to it by the Speaker or by resolution of the House.

## 3.2 Public Accounts Committee

### Composition

96. The Public Accounts Committee is composed in accordance with Rule 74.

### Chairperson

97. The chairperson is appointed in terms of Rule 77.

### Powers and functions

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

### Relationship to other committees

99. (1) If the committee thinks that a report or financial statement raises issues relating to the policy of a particular department, the committee must inform the Speaker and the report or statement must either be considered by both the committee on Public Accounts and the relevant committee or by a joint meeting of both committees. The committee on Public Accounts 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 committee thinks 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

100. There is a Conduct Committee as contemplated in section 1 of the Members' of the Western Cape Provincial Parliament Code of Conduct Act, 2002.

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### 3.4 Standing Committee on provincial Executive matters

#### Composition

101. Standing committees are composed in accordance with Rule 74.

#### Chairperson

102. The Chairperson of a standing committee is appointed in terms of Rule 77.

#### Duration

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

#### Establishment

- 104.
- (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 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

105. A standing committee –
- (1) 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;
  - (2) maintains oversight over the members of the provincial Executive and his/her Department of the way in which they perform their responsibilities including implementation of legislation;
  - (3) reports regularly to the House on the relevant department; and
  - (4) performs any other functions assigned to it by the legislature.

#### Referral of matters to other committees

- 106.
- (1) A standing committee to which a bill or other matter has been referred for consideration and report, may -
    - (a) publish the bill in a manner it deems suitable, provided the bill or its substance has not been published previously in the relevant manner;
    - (b) by public notice or in some other manner it deems suitable, call for comments and representations from interested parties on the bill or other matter before it; or

- (c) arrange 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 committee.
- (2) A standing committee may -
- (a) examine and report on the expenditure, administration or policies of provincial government departments and associated public bodies falling within a category of provincial government affairs assigned to the committee by the Speaker or under these Rules;
  - (b) consult and liaise with the department or body concerned; or
  - (c) subject to subrule (3), call upon -
    - (i) the department or body concerned to submit to the committee, on a regular basis or when required, a report; or
    - (ii) the responsible Minister or any official of the department or body 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 body.
- (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 committee generally or with reference to a particular department or body; or
  - (b) a particular report, or reports of a particular nature, required by that committee from a particular department or body; or
  - (c) particular official, or officials in general, of a particular department or body, with a view to ensure that the powers are exercised with due regard to the necessity envisaged in section 23(4)(c) of the Constitution of the Western Cape.
- (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.
- [See section 23(4)(d) of the Constitution of the Western Cape]

### **3.5 Budget Committee**

#### **Composition**

107. The Budget Committee is composed in accordance with Rule 74.

#### **Chairperson**

108. The Chairperson is appointed in terms of Rule 77.

#### **Powers and functions**

109. The Budget Committee must -

- (1) 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;
- (2) review and assess overall provincial expenditure and non-financial reports on a quarterly basis for spending efficiency and effectiveness;
- (3) engage the provincial government on spending patterns;
- (4) performs such other tasks assigned to it by resolution of the House; and
- (5) ensure public involvement in all budgetary processes

### **3.6 Petitions Committee**

#### **Composition**

110. The committee is composed in accordance with Rule 74.

#### **Chairperson**

111. The Chairperson is appointed in terms of Rule 77.

#### **Powers and functions**

112. The Committee must carry out the functions assigned to it by legislation, the Speaker or by resolution of the House.

### **3.7 Disciplinary Committee**

#### **Composition and functions**

113. (1) There is a standing committee called the Disciplinary Committee, consisting of –
- (a) the Deputy Speaker;
  - (b) the two most senior whips of the majority party; and
  - (c) the most senior whip of each political party represented in the House.
- (2) The Disciplinary Committee deals with all enquiries contemplated in section 12(1) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act 4 of 2004) [in this rule called "the Act"], referred to it by resolution of the House.
- (3) In addition to any relevant powers referred to in rule 87, the Disciplinary Committee specifically has the powers as contemplated in sections 12 and 25 of the Act.
- (4) When the House has referred a matter to the Disciplinary Committee for enquiry, the 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.
- (5) The Chairperson of the committee must ensure that, at least five working days before the day on which the 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 submission to the committee, either orally at the enquiry or in writing.
- (6) The Member has the right to attend the enquiry and to state his or her case. If the Member has received the notice referred to in subrule (5), but fails to attend without just cause, the committee may proceed in the absence of the Member.
- (7) The committee must, after consultation with the Speaker, designate a person to act as initiator in the case against the Member.
- (8) The person designated as initiator-
- (a) must be qualified to perform the task of initiator;
  - (b) may be a Member of the House;
  - (c) may not be a member of the committee.
- (9) The Member may be assisted by another Member of the House or, with the permission of the committee by an advocate or an attorney at the Member's own expense. The committee may give such permission only if it is satisfied that the seriousness of the allegations against the Member warrants the Member to have legal representation.
- (10) At the enquiry:
- (a) the Chairperson must put the charge to the Member, and request the Member to plead. The Member may also give a plea explanation. If the Member refuses to plead, the Chairperson enters a plea of not guilty.
  - (b) the initiator must present the evidence to the 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, the person assisting the Member), the Chairperson and, with the Chairperson's permission, the other members of the committee.
- (11) After all 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 committee on the evidence; and
  - (b) the committee must consider whether or not the Member should be found guilty.
- (12) If the committee finds the Member guilty, the committee must give the Member the opportunity to present mitigating factors and to make oral or written representations to the committee with regard to the penalty. The initiator may also address the committee and may propose a penalty to be recommended by the committee to the House.
- (13) The committee must recommend to the House the imposition of one or more of the penalties set out in section 12(5) of the Act.
- (14) The committee must, as soon as practicable after reaching a decision on the penalty, inform the Member in writing of its findings and the proposed penalty, and must give the Member reasonable opportunity to make submissions in response. The Committee must take the submissions into account in preparing its report to the House.
- (15) A member of the committee must withdraw from the proceedings of the committee on an enquiry if – the member is the person who raised the complaint resulting in the enquiry;
- (a) the member has before the matter is considered by the committee expressed a firm view on the subject of the enquiry; or
  - (b) the member has any vested interest that could be seen to affect the member's impartiality on the matter.



### 3.8 Ad hoc Committees

#### Establishment

- 114.** (1) An *ad hoc* committee is established by resolution of the House or by the Speaker during the adjournment of the House for more than 14 days after consultation with the Whips of the parties represented in the House.
- (2) Any decision taken by the Speaker for the establishment of such a 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 Rule establishing it or in another Rule;
  - (b) continues until it has completed, or has been discharged from, its assignment;
  - (c) with the permission of the Speaker, may conduct its business also while the House is in recess, and in such event report in an ensuing session; and
  - (d) has the powers necessary for the carrying out of its assignment and -
    - (i) specified in the resolution appointing it or in the Rule establishing it or in another Rule; or
    - (ii) conferred upon it by the Rules Committee or, in case of urgency, by the Speaker.

#### Composition

- 115.** (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 committee Members; or
  - (b) the Speaker established the *ad hoc* committee.
- (3) When appointing members of an *ad hoc* committee the Speaker must consult the Whips of the parties to be represented on the committee.
- (4) The names of the Members appointed must be published in the *Announcements, Tablings and Committee Reports* without delay.

### 3.9 Programming Authority

#### Composition and functions

- 116.** (1) The Programming Authority consists of the Chief Whips, one of which acts as Chairperson and 1 whip of each of the remaining political parties represented in the House.
- (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) If the whips of at least 2 political parties other than the majority party request the Programming Authority in writing to give precedence to a motion that has been on the Order Paper for more than 20 sitting days, the Programming Authority must give effect to the request not later than 5 sitting days after the date of the request.

### **3.10 Committee on Local Government Oversight**

#### **Composition**

117. The Committee on Local Government Oversight consists of a number of members of the standing committee maintaining oversight over the Provincial Treasury and the standing committee maintaining oversight over the provincial department responsible for local government.

#### **Chairperson**

118. The Chairperson is appointed in terms of Rule 77.

#### **Powers and functions**

119. (1) The committee—
- (a) must evaluate the performance of municipalities and municipal entities in the province through the review of—
    - (i) the annual reports submitted to the Provincial Parliament in terms of section 132(1) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);
    - (ii) the oversight reports adopted by the respective municipal councils on those annual reports;
    - (iii) any reports issued by the Auditor-General on the affairs of any municipality in the province;
    - (iv) the consolidated statements on the state of municipalities' budgets referred to in section 71(7) of the Local Government: Municipal Finance Management Act, 2003; and
    - (v) any other report or statement concerning the affairs of a municipality referred to the committee by the House;
  - (b) may report on any of those reports or statements to the House; and
  - (c) must perform any other functions assigned to it by legislation, these Rules or resolutions of the House.

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- (2) When the committee considers the report or statement on a municipality, it must take into account the previous reports and statements on that municipality and, where applicable—
- (a) report on any existing, emerging or impending financial or service delivery problems in the municipality;
  - (b) make recommendations on action by the municipality to avert or resolve such problems;
  - (c) make recommendations on steps to be taken by the Provincial Parliament or the Provincial Government to support the municipality and to assist it in averting or resolving such problems; and
  - (d) the degree to which shortcomings that have been identified previously have been rectified.
- (3) The Secretary must send a copy of each report of the committee to—
- (a) the municipality or municipalities concerned;
  - (b) the Provincial Minister responsible for local government; and
  - (c) the Provincial Minister responsible for finance.

### Rules applicable to committees

- 120.** The Rules applicable to standing committees also apply to this committee in so far as they are consistent with these Rules.

# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 9

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Decision of Questions

## Chapter 9

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### DECISION OF QUESTIONS

#### Decision of question postponed

121. 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

122. Whenever it is expedient to do so, a day may be determined by the Programming Authority, after consultation with interested parties in the House, for the decision of questions by the House.

#### Postponed question put without further debate

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

#### Question put again

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

#### Question fully put

125. (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

126. (1) After a question has been fully put, the presiding officer may permit one Member of each political party to state on behalf of his or her party, in a speech not exceeding 3 minutes, the reasons why the party is in favour of or against the question.  
 (2) A Member addressing the Chair in terms of 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

127. (1) Whenever a question is put by the presiding officer, any Member, instead of demanding a division, may inform the presiding officer that he or she wishes his or her opposition or that of the party to which he or she belongs to be formally recorded in the Minutes of Proceedings.  
 (2) The presiding officer may order that a division take place in the event of 4 or more Members wishing to record their individual opposition.

## Demand for division

- 128.** After a question has been put and the presiding officer has indicated whether in his or her opinion the "Ayes" or the "Noes" have it, any Member may demand a division, whereupon a division must, subject to Rule 129, take place without debate.

## Fewer than 4 Members supporting demand for division

- 129.** (1) Whenever a division is demanded, the presiding officer, before ordering the division bells to be rung, must satisfy himself or herself that at least 4 Members support the demand for the division.
- (2) If fewer than 4 Members rise in support of a division, the presiding officer must forthwith declare the decision on the question.

## Division bells rung and doors locked

- 130.** (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 3 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 15 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

- 131.** (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 he or she must appoint tellers for each side.
- (3) After the lapse of the periods prescribed by Rule 130 the presiding officer may again put the question and may declare afresh whether in his or her 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 5 Members

- 132.** When, on a division taking place, fewer than 5 Members appear on one side, the presiding officer must forthwith declare the decision on the question.

## Member demanding division to vote with minority

- 133.** 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.

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### Members present must vote

134. Every Member present in the Chamber when the question is put with the doors locked must participate in the vote.

### Points of order during division

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

### Result declared

136. 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

137. 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

138. If the numbers have been inaccurately reported or error occurs 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

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Discussion of Matters of  
Public Importance



## Chapter 10

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### DISCUSSION OF MATTERS OF PUBLIC IMPORTANCE

#### Matter of public importance

- 139.**
- (1) A private 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 15 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 he or she wishes to reply.
  - (5)
    - (a) Questions of privilege may not be discussed under this Rule.
    - (b) The same matter may not be discussed under this Rule more than once during any period of three months.

#### Matter of urgent public importance

- 140.**
- (1) A private 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, he or she may accelerate that date under Rule 18(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 15 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 he or she wants to reply.
  - (7)
    - (a) Questions of privilege may not be discussed under this Rule.
    - (b) The same matter may not be discussed under this Rule more than once during any period of three months.
    - (c) The rule of anticipation does not apply during such a debate.
    - (d) Not more than one matter may be discussed on the same day under this Rule.

# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 11

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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***

- 141.**
- (1) A Member, other than the Premier or a Minister, 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.

#### ***Part 2: Executive statements***

- 142.**
- (1) A Cabinet member 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 Cabinet member for such a statement referred to in subrule (1), is determined by the Speaker in consultation with the Programming Authority, but may not exceed 10 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 24 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 3 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***

- 143.**
- (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 the whips of all the parties represented in the House.

# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 12

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Motions

## Chapter 12

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### MOTIONS

#### *Part 1: Motions*

#### Nature of motions

144. A Member may move a subject for discussion, or a draft resolution for approval as a resolution of the House.

#### Same question rule

145. (1) Subject to Rules 139(5) (b) and 140(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 it during the preceding period of 6 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 it during the preceding period of 6 months.
- (b) The order, resolution or vote on such previous draft resolution may be amended or rescinded.

#### Motions without notice

146. Every motion requires notice, except a motion
- (a) by way of amendment to a draft resolution permitted in terms of 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;
- (d) referring a bill to a committee;
- (e) specially excepted by these Rules; or
- (f) in regard to which notice is dispensed with by the unanimous concurrence of all the Members present.

#### Notice of motion

147. (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.

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- (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, fairly written and signed to the Secretary so as to reach the latter not later than 5 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 terms of 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 absent Member

- 148.** A Member may give notice of a motion on behalf of an absent Member, provided he or she has been authorised to do so by the absent member.

### Lapsing of motions

- 149.** (1) If a Member does not move a motion standing in his or her name on the Order Paper, the motion lapses unless moved by another Member who has been authorised to do so by the absent Member.
- (2) Such a motion may again be moved during the same session.
- (3) All motions and postponed questions on the Order Paper lapse on the adjournment of the House on the last working day of the House at the end of the last session of a calendar year.

### Speaker may amend notices

- 150.** 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

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

### Withdrawal of motion

- 152.** A Member who has moved a motion may move without notice that it be withdrawn.

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## ***Part 2: Amendments to motions***

### **Amendments to be in writing and signed**

- 153.** 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**

- 154.** 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**

- 155.** 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

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Legislative Process



## Chapter 13

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### LEGISLATIVE PROCESS

#### *Part 1: Introduction and general provisions*

#### **Legislative power of Provincial Parliament**

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

#### **Plain language**

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

#### **Member in charge**

158. The Member in charge of a bill introduced or to be introduced by a committee is the Chairperson of the committee or another Member authorised by the committee to deal with the bill or the particular stage of the bill

#### **Same bill not introduced more than once**

159. 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 bill**

160. The Member in charge of a bill may withdraw the bill at any time before the House starts voting on a motion of the adoption of -
- (a) the bill; or
  - (b) in the case of a money bill, the principle of the bill.

#### **Stages of bills**

161. (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 bill

162. 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 bill

163. The House passes a bill by agreeing to a motion for its adoption.

## Discrepancies in versions of bill

164. (1) 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 of the province for his or her assent, the Speaker must report such discrepancy to this House.
- (2) If the House agrees to an amendment, it is deemed to have passed the bill as amended.

## Bill presented to Premier

165. Two fair copies of a bill passed by the House must be certified by the Secretary and be forwarded to the Premier for his or her assent.

## Bill referred back by Premier

166. (1) A bill forwarded for the Premier's assent but referred back to the House by the Premier for reconsideration on the grounds of his or her reservations about its 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 his or her assent.

## *Part 2: Bills other than money bills*

### Publication before introduction

167. (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 *Provincial Gazette* and all newspapers in which particulars of the bill were published for comment, as prescribed by paragraph (a) of subsection (2) of section 10 of that Constitution;
  - (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 that subsection; and
  - (c) any written comments received from the public and from municipalities on those particulars, as envisaged in subsection (3) of that section.
- (2) The relevant particulars may be sent by registered post to, or delivered by hand to or at the office of, the secretary, town clerk, or other chief executive 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 Constitution of the Western Cape.
  - (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

- 168.** (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) 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
    - (iii) any other information that the member in charge of the bill considers necessary to enable members to understand the bill.

## Distribution after introduction

169. (1) The Secretary must supply to each Member of the House 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

170. (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 contain an intimation that any interested party may submit to the secretary of 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 21 days have passed after its publication in the *Provincial Gazette* in terms of this Rule.
- (b) Paragraph (a) does not apply with reference to a bill that has been declared by the Premier to be an urgent measure.

## Referral to committee after introduction

171. 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 in the case of a bill introduced during a sitting, to another committee indicated in the resolution.

## Bill affecting interests of municipalities

172. (1) Where a bill referred to a committee after introduction affects the interests of municipalities in this Province, the Secretary, on behalf of the committee concerned, must invite each organisation that is recognised in terms of [the legislation envisaged in section 163 of the national Constitution as a] section 2(1)(b) of the Organised Local Government Act, 1997, as the provincial organisation representing municipalities in this province, to send representatives [of the different categories of local government referred to in section 155 of that Constitution and represented in the organisation concerned, not exceeding 2 representatives per category], to attend meetings of the committee and take part, without the right to vote, in its deliberations on the bill.
- (2) Until such time as legislation referred to in subrule (1) has taken effect, the invitation required by that subrule must be extended to any organisation that is regarded by the committee concerned as representing municipalities in this province

## Functions and powers of committee

- 173.** (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 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 introduce 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

- 174.** (1) The committee to which a bill has been referred after its introduction must present with its report to the House, a bill agreed to by it.
- (2) The bill reported to the House must be accompanied by 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.

## Report of committee considered

- 175.** 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

- 176.** 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 bill

- 177.** (1) The debate on a bill in the House must be conducted on the objects and principle of the bill.
- (2) The debate on an amending bill must be confined to the objects and principle of the proposed amendments to the principal Act and other relevant amendments.
- (3) The debate on a bill may not commence before 2 days have elapsed after the tabling of the committee's report.

## Amendments placed on Order Paper

- 178.** (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 amendments to the clauses of the bill on the Order Paper.

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- (2) 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 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 an amendment is out of order or not is final.
  - (4) No amendment that has the same effect as an amendment previously rejected in 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 an amendment has been placed on the Order Paper in terms of this Rule, the Speaker may either-
    - (a) recommit the bill, or
    - (b) put the amendment, without debate, for decision by the House.
  - (6) A bill may not be recommitted more than once in terms of this Rule.

## Recommitment of a bill

- 179.** If a bill is recommitted to a committee in terms of Rule 178(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 that have to be effected;
  - (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 person in charge of the bill but rejected by the committee;
  - (d) may not agree on any amendment that renders the bill constitutionally or procedurally out of order; and
  - (e) must table its report together with the bill in the House.

## Consideration of committee's report

- 180.**
- (1) The report of the committee to which a bill has been recommitted or referred must be placed on the Order Paper for consideration of the amendments agreed on by the committee.
  - (2) Before the House decides on the bill, the Speaker must put the amendment or amendments to the vote.

### ***Part 3: Private members' public bills***

- 181.**
- (1) A legislative proposal of which a private Member is in charge, together with a memorandum setting out the objects of the proposal, must be submitted to the Speaker.
  - (2) The Speaker must refer the proposal and the memorandum to the appropriate standing committee.
  - (3) The committee may recommend either that the proposal be not proceeded with or that it be accepted.
  - (4) If the committee recommends that the proposal be accepted, and the Member in charge thereof has complied, to the Speaker's satisfaction, with the requirements regarding the form and style of bills and memorandums on bills, the provisions of these Rules apply to it as if it were a bill introduced while the House was in session.

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## Part 4: Money bills

### Nature, contents and charge

- 182.** (1) A bill that appropriates money or imposes taxes, levies or duties is a money bill.
- (2) A money bill may not deal with any other matter except a subordinate matter incidental to the appropriation of money or the imposition of taxes, levies or duties.
- (3) Only the Provincial Minister responsible for financial matters may introduce a money bill in the House. [see sec. 29 and 30 of the Constitution of the Western Cape]

### Premier's recommendation

- 183.** (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 Constitution of the Western Cape.
- (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 other member of the Provincial Cabinet and must be entered in the Minutes of Proceedings.

### Introduction of money bill

- 184.** (1) The Member in charge of a money bill must deliver his or her 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 question put.

### Distribution of money bill

- 185.** 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

- 186.** (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 it was referred, as provided in Rule 187(3), has been presented to the House.

## Referral to committee(s)

187. (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, including briefing by officials of the Western Cape Provincial Administration 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 5 consecutive working days of the House.
- (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 appropriation bill

188. When the principle of an appropriation bill which has a schedule has been approved, the votes in the schedule must be debated.

## Supplementary estimates in appropriation bill

189. 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

190. 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 money bill

191. (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 which has no schedule has been approved, the bill must be placed on the Order Paper for finalisation.

## *Part 5: Consolidation Bills*

### Proceedings on consolidation bills

192. (1) A bill which 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 it.



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## Referral to committee

- 193.**
- (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 to bring the bill into conformity with existing law, and debate must be confined strictly to the necessity for such amendments.
  - (2) A period of not less than 5 working days of this House must elapse 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

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Interpellations and Questions

## Chapter 14

### INTERPELLATIONS AND QUESTIONS

#### *Part 1: General*

#### **Publication of Question Paper**

- 194.**
- (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**

- 195.**
- (1) A Member or a permanent delegate to the National Council of Provinces may put a question to any member of the Provincial Cabinet concerning any matter falling within the area of responsibility of that Cabinet member.
  - (2) A question must be -
    - (a) in one of the official languages of the province;
    - (c) brief, clearly worded, and address specific points.
  - (3) A question 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) The Speaker decides on the admissibility of questions.

#### *Part 2: Interpellations*

#### **Form and placing**

- 196.**
- (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 8 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

197. After the presiding officer has formally put the interpellation from the Chair-
- (a) the responsible member of the Provincial Cabinet shall reply to the interpellation in a speech not exceeding 3 minutes;
  - (b) the interpellant shall respond to the Cabinet member's reply in a speech not exceeding 3 minutes; and
  - (c) in the remainder of the allotted 15 minutes, the Cabinet member and other Members may speak for up to 2 minutes at a time: provided that the Cabinet member be restricted to 2 such additional turns to speak, including an opportunity to reply to the debate.

## Precedence

198. Interpellations have precedence on Thursdays.

## Number of interpellation debates

199. The number of interpellation debates on one and the same day is limited to 3 of 15 minutes each.

## Interpellations: general

200. (1) A Member may place an interpellation on the Question Paper, or take charge of an interpellation, on behalf of an absent Member, provided he or she has been authorised to do so by the absent Member.
- (2) An interpellation or a question that offends against the practice or these Rules, may be amended or otherwise dealt with as the Speaker may direct.
- (3) No interpellation or question may be addressed to any person other than a member of the Provincial Cabinet.

## *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 Ministers standing over from previous question days; and
  - (d) new questions to Ministers.
- (3) Questions for oral reply received for placement on the Question Paper must be placed on the Question Paper after the expiry of 8 working days.

## **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 by writing to that effect or by an asterisk.
- (b) If the Speaker is of the opinion that a question deals with matters of a statistical nature, he or she may direct that the question be placed on the Question Paper for written reply.
- (2) Questions for oral reply are limited to 2 questions per Member per question day.
- (3) A question for oral reply may not contain more than 5 subdivisions.
- (4) Not more than 4 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 terms of 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.
- (c) A Member may be allowed to ask four supplementary questions, which must relate to the original question or to the reply.
- (2) The time allotted for questions is 60 minutes.
- (3) Replies to questions for oral reply which have not been reached on the expiration of the time allotted must be handed to the Secretary for inclusion in Hansard.

## **Part 5: Questions to the Premier without notice**

- 204.** (1) Questions may be put without prior notice to the Premier of the province 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 his/her 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 his or her 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 his or her signature submit his or her name and the name of the political party represented by him or her in the House 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) The Secretary must cause the names so submitted to be selected at random in a manner approved by him or her as being impartial, and must place not more than 7 names so selected (or such number as may be determined by the Speaker from time to time), in the order selected but subject to subrule (6), on the Order Paper.

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- (6) If more than two names of Members who represent the same political party in the House 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 Premier's party, 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) The Member called may put one question in a concise form and, immediately after a reply thereto, two supplementary questions, which must relate to his or her 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 him or her 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 15 subdivisions.
  - (2) Questions for written reply are limited per Member to three in respect of any one working week of the House when the House is sitting, and one in every 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 10 working days of the House after the day for which the question is set down for written reply; or
  - (b) when the House is adjourned during a session, within 13 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, must place the question on the Question Paper -
    - (i) for oral reply; or
    - (ii) when the House is adjourned during a session, as a question not yet replied to.



# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 15

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Petitions



## Chapter 15

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### PETITIONS

#### Submission and consideration of petitions

207. The Western Cape Petitions Act, 2006 and Regulations regulate the submission and consideration of petitions.

# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 16

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Witnesses

## Chapter 16

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### WITNESSES

#### Summoning and examination of witnesses

208. The Western Cape Witnesses Act, 2006 regulates the summoning and examination of witnesses by the Provincial Parliament.

# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 17

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Miscellaneous

## Chapter 17

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### MISCELLANEOUS

#### Broadcasting of proceedings

209. (1) The Speaker must determine conditions that have to be complied with by a 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 Speaker must include conditions aimed at protecting the integrity and decorum of the House and committees and the honour of Members.

#### Responses of members of the public

210. (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 of Parliament and Provincial Legislatures Act, 2004, on a statement or remark made by a Member in or before the House or 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 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 committee;
  - (b) may not inquire into the truth or merits of the statement or remark concerned or of the response;
- (4) The committee must approve the request unless the 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
  - (a) the response is offensive or unbecoming.
- (5) If the 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 committee, the committee must refuse the request.
- (6) If the committee approves the request, the response must be published in the *Announcements, Tablings and Committee Reports*.

# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 18

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Business Connected with  
National Council of Provinces

## Chapter 18

### BUSINESS CONNECTED WITH NATIONAL COUNCIL OF PROVINCES

#### Appointment of permanent delegates

211. (1) (a) The permanent delegates in the delegation of this province to the NCOP must be appointed by resolution of the House.
- (b) For the period that ends immediately before the first sitting of the House held after its first election under the national Constitution, the House must appoint the permanent delegates in accordance with item 7 of Schedule 6 to that Constitution.
- (2) A nomination by parties must be in writing, and must be signed by two Members of the House.
- (3) A person who is nominated must indicate acceptance of the nomination by signing the written nomination.

#### Proof of appointment as permanent delegate

212. The Speaker must -
- (a) certify the appointment of each permanent delegate; and
- (b) provide a copy of the certificate to the Secretary to national Parliament and to the permanent delegate concerned.

#### Designation of special delegates

213. (1) The designation of a Member of the House as a special delegate in the delegation of this province to the NCOP must be effected, and may be terminated at any time -
- (a) by way of resolution of the House; or
- (b) under circumstances where, in the opinion of the Speaker, it is not practical or expedient to bring the matter before the House, by the Speaker, after consultation with the Whips of each party represented in the House, in each case with the concurrence of the Premier and of the leaders of the parties entitled to special delegates.
- (2) The designation of a special delegate must indicate the period or the purpose for which he or she is designated.

#### Proof of designation as special delegate

214. 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 national Parliament and to the special delegate concerned.

#### Permanent delegates' rights and duties in House

215. (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 may require a permanent delegate to attend, and to report to the House or any of its committees.

## Conferral of authority

- 216.** (1) The authority of the province's delegation in the NCOP to cast votes on the province's behalf on a bill or other matter in the NCOP must be conferred -
- (a) by resolution of the House; or
  - (b) by the committee to which the relevant bill or matter has been referred under Rule 171 for consideration and report.
- (2) Authority to cast votes -
- (a) may be either general or specific; and
  - (b) may be amended by resolution of the House, or by the committee that conferred the authority or the committee that had considered the bill or other paper before the House conferred the authority.
- (3) (a) In the absence of any specific authority to cast a vote on a particular question, 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, the decision and the vote must be laid on the Table of the House by the head of the delegation or reported by him or her to the Speaker for tabling.

## NCOP bill, NCOP paper

- 217.** In these Rules -
- (a) "NCOP bill" is a bill received from the NCOP for the attention of the House;
  - (b) "NCOP paper" -
    - (i) is a paper (other than a bill) received from the NCOP for the attention of the House; and
    - (ii) includes representations in writing received pursuant to an invitation, in the publication of a draft bill in accordance with the rules and orders of the NCOP, to interested persons and institutions to send representations on the draft bill to their respective provincial legislatures.

## Time limits

- 218.** The House, or a committee or an officer or official of the House, when dealing with an NCOP bill or paper and aware that -
- (a) a time limit envisaged in section 45(1)(a) of the national Constitution applies to the legislative process on the bill in the national Parliament; or
  - (b) a time limit applies to any process in that Parliament on the matter dealt within such other paper, must deal with the bill or paper in such a manner that the relevant time limit can be adhered to.

## Tabling of NCOP bills and papers

- 219.** Every bill or other paper from the NCOP for the attention of the House (NCOP Bill, NCOP paper) which is received -
- (a) when the House is in session, must be laid upon the Table by the Speaker; or
  - (b) when the House is in recess or is in session but adjourned, is deemed to have been so laid upon the Table when it has been referred by the Speaker in accordance with Rule 220 to the appropriate committee or to the committee dealing with NCOP Papers.



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## Referral to committee

- 220.** (1) The Speaker must refer every NCOP bill and every NCOP paper that has been tabled, or on such referral will be deemed to have been tabled -
- (a) to the appropriate committee for its recommendation and report; or
  - (b) if the Speaker is of the opinion that the bill or paper does not fall clearly or wholly within the assignment of any single committee, to the committee dealing with NCOP papers.
- (2) The committee dealing with NCOP papers may advise the Speaker that the bill or paper referred to it should be dealt with -
- (a) by a different committee indicated by that committee; or
  - (b) by an *ad hoc* committee for that purpose; or
  - (c) in such other manner as that committee may indicate.
- (3) The Speaker must refer the bill or paper in accordance with the advice of the committee dealing with NCOP papers to the relevant standing committee for its recommendation and report.
- (4) An *ad hoc* committee envisaged in subrule (2)(b) may be appointed by the Rules Committee or, in case of urgency, by the Speaker after consultation with the Chief Whips of the parties in the House.

## Section 75 bills

- 221.** In the case of an NCOP bill to which the procedure prescribed in section 75 of the national Constitution (section 75 bill) applies, the standing committee to which it was referred under Rule 220 for its recommendation, must indicate in its report what action, if any, it considers to be necessary or advisable with regard to the bill.

## Sections 74 and 76 bills

- 222.** In the case of an NCOP bill to which the procedure prescribed in section 74 or in section 76 of the national Constitution applies (section 74 bill, section 76 bill), the standing committee to which it was referred under Rule 220 for its recommendation, must,
- (a) in its report recommend the authority that should be conferred on the delegation of the province to cast votes on the bill on behalf of the province in the NCOP; and
  - (b) if required by the Speaker to do so, submit to the Speaker, for certification and dispatch, a conferral by the committee on that delegation of the recommended authority in writing signed by the chairperson of, and the secretary to, the committee.

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## Other NCOP papers

- 223.** (1) An NCOP paper dealing with a constitutional or other matter affecting provinces, as envisaged in section 74 or section 76 of the national Constitution, must be dealt with in accordance with Rule 194 (with necessary adjustments) by the select committee to which it was referred under Rule 220 for its recommendations as if the paper were a section 74 or 76 bill, as the case may be.
- (2) Any other NCOP paper may be considered and dealt with by the standing committee concerned in the manner it regards as best suited to the matters raised in the paper.

## Report of committees

- 224.** The report of the committee dealing with NCOP Papers, or of any standing committee, on any NCOP bill or paper must be laid on the Table in the House and
- (a) may be handed to the Speaker, whether the House is in session or not, for tabling at the first opportunity; or
  - (b) may be presented and tabled by the chairperson or another member of that committee concerned during a sitting of the House.



# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 19

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Business Connected with  
Provincial Executive

## Chapter 19

### BUSINESS CONNECTED WITH PROVINCIAL EXECUTIVE

#### Appointment of Provincial Ministers

- 225.** When the Premier appoints Members of the Provincial Parliament as Ministers or dismisses them, the Premier must inform the Speaker immediately.

#### Duties of Provincial Cabinet

- 226.** (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 he or she is responsible, as required by section 65(1)(a) of the Public Finance Management Act, 1999 (Act 1 of 1999);
  - (b) the findings of a disciplinary board which 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, 1999; and
  - (c) any other report requested by the House or a committee of the House.
- (2) Every member of the Provincial Cabinet must ensure that a reply is given to every question put to him or her by the House, a Member, a permanent delegate to the National Council of Provinces or a committee.

#### Vacancy in Premiership

- 227.** (1) Whenever a vacancy has arisen in the office of 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 Constitution of the Western Cape.
- (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)(c) of the Constitution of the Western Cape, of one of its Members to act as Premier, must be by resolution.

#### Provincial Commissioner for Environment

- 228.** (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 Constitution of the Western Cape; 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 that Constitution.
- (2) If a party represented in the House is not represented on the relevant standing committee charged with a matter under subrule (1), the chairperson of the committee must, before proceedings on the matter begin –
- (a) invite the party concerned to name one of its members for appointment; and
  - (b) appoint the member named, if any, as a temporary member of the committee for all purposes relating to the relevant matter, including the right to vote on questions so relating.

- (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 by a provision of the Constitution mentioned in subrule (1).
- (4) The committee (whether *ad hoc* or standing) 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 institutions 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 Constitution of the Western Cape; 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

- 229.** A motion for the recommendation of the House in accordance with section 80 of the Constitution of the Western Cape 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 is or includes children's affairs in the province.

## Public Service Commissioner for Western Cape

- 230.** 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 the Public Service Commissioner for the Western Cape, in accordance with subsections (7)(b) and (8)(b) of section 196 of the national Constitution; or
  - (b) consider, and make a finding on, the grounds for a proposed removal from office of a public service commissioner for the Western Cape, in accordance with subsection (11) of that section.

## Resolutions affecting Executive Government

- 231.** (1) When the House adopts a resolution that affects the provincial Executive Government -
- (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 Executive, as the case may be, must submit a response to the Speaker within the stipulated time.

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## Consent in respect of land or property of Province

- 232.** The House may not proceed upon any bill, motion or proposal affecting land owned by or property of the Province and of which a member other than a member of the Provincial Cabinet is in charge, unless the Premier of the province has given his or her consent that, as far as the interests of the province are concerned, the House may do therein as it shall think fit.

## Advice, recommendation or approval of committee to Executive

- 233.**
- (1) When the Speaker receives a request from the Premier of the province, a Provincial Minister or any other authority of the Executive Government for the advice, recommendation or approval, in terms of an act of the Provincial Parliament, of a committee mentioned in the request, on or of a matter so mentioned, the Speaker must refer it 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 supply 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, cause it to be printed and submit it the Speaker.
  - (4) The Secretary must then supply a copy of the printed report to the authority that made the request, and the Speaker must at the same time or as soon as practicable lay the report upon the Table.

# WESTERN CAPE PROVINCIAL PARLIAMENT



## Chapter 20

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Office of Secretary



## Chapter 20

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### OFFICE OF SECRETARY

#### Minutes of Proceedings

234. The Minutes of Proceedings 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 House

235. The Minutes of Proceedings, signed by the Secretary, constitute the Journals of the House.

#### Custody of papers

236. The Secretary has custody of all records and other papers of the House, and he or she shall neither remove nor permit to be removed any such records or other papers or copies thereof beyond the precincts of the House without the leave of the Speaker.

#### Access to tabled papers

237. (1) No person other than a Member of the House shall have access to, or be entitled to take extracts from, or make copies of, papers laid upon the Table, without the leave of the Speaker, and subject to any resolution of the House.
- (2) If the House has ordered that the contents of any paper laid upon the Table may not be made public, or if such paper is marked as being confidential, no Member may divulge such contents, under pain of breach of privilege.

#### General duties of Secretary

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

