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JOINT RULES OF PARLIAMENT

(As approved by the Joint Rules Committee)

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JOINT RULES OF PARLIAMENT

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CHAPTER 1

INTERPRETATION AND APPLICATION

Interpretation

1. (1) In the Joint Rules, unless the context indicates otherwise-

"Assembly" means the National Assembly;

"ATC" means the document entitled "Announcements, Tablings and Committee Reports";

"classification", with reference to a Bill, means the classification of a Bill in terms of joint rule 160(6) or the reclassification of a Bill in terms of joint rule 163, and **"classify"** and **"classified"** have a corresponding meaning;

"constitution amendment Bill" means a Bill to which section 74 of the Constitution applies;

"Council" means the National Council of Provinces;

"document" means any written instrument, and includes any electronic or other device in or on which information, including visual material, is recorded, stored or kept;

"JTM" means the Joint Tagging Mechanism established by joint rule 151;

"member", with reference to —

- (a) the Assembly, means a member of the Assembly; and
- (b) the Council, means a permanent or special delegate to the Council, and **"permanent member"** and **"special member"** have a corresponding meaning;

"mixed section 75/76 Bill" means a Bill that contains provisions to which section 75 of the Constitution applies and provisions to which section 76 applies;

"money Bill" means a Bill that appropriates money or imposes taxes, levies or duties and to which section 77 of the Constitution applies;

"person in charge", with reference to a Bill, means the person in charge of the Bill in terms of the Assembly or Council rules, as the case may be;

"recess", with reference to -

- (a) a House, means a period determined as a recess by the Programme Committee of the House, or by resolution of the House, during which the business of the House is interrupted; or
- (b) both Houses, means a period determined as a recess by the Joint Programme Committee, or by resolutions adopted in the Houses, during which the business of both Houses is interrupted;

"remitted Bill" means a Bill which the President, on account of reservations about its constitutionality, has in terms of section 79 of the Constitution referred back to the Assembly for reconsideration;

"Secretary" means the Secretary to Parliament;

"section 75 Bill" means a Bill to which the procedure prescribed in section 75 of the Constitution applies, and includes a money Bill;

"section 76 Bill" means a Bill to which the procedure prescribed in section 76 of the Constitution applies;

"section 76(1) Bill" means a section 76 Bill introduced in the Assembly;

"section 76(2) Bill" means a section 76 Bill introduced in the Council;

"working day" means any day of the week except —

- (a) Saturday and Sunday; and
- (b) a public holiday in terms of the Public Holidays Act, 1994 (Act 36 of 1994), and, if such a public holiday falls on a Sunday, also the Monday.

(2) A reference in the Joint Rules to the Speaker or Chairperson of the Council must be read as a reference also to the Deputy Speaker or the permanent Deputy Chairperson of the Council, as the case may be, if —

- (a) the Speaker or the Chairperson is absent;
- (b) there is a vacancy in the office of the Speaker or the Chairperson; or
- (c) the Speaker or the Chairperson is not available to perform a function or exercise a power conferred on the Speaker or Chairperson in terms of the Joint Rules.

Unforeseen matters

2. (1) The Speaker and the Chairperson of the Council, acting jointly, may give a ruling or make a rule in respect of any matter for which the Joint Rules do not provide.

(2) A rule made by the Speaker and the Chairperson of the Council, acting jointly, remains in force until a meeting of the Joint Rules Committee has decided on it.

Suspension

3. (1) The Assembly and the Council, by resolution in each House, may dispose with or suspend a provision of the Joint Rules for a specific period or purpose.

(2) The suspension of any provision is limited in its operation to the particular purpose for which the suspension has been approved.

Non-diminution or non-limitation of Rules

4. No convention or rule of practice limits or inhibits any provision of the Joint Rules.

Application of joint Rules to non-members

5. When a Cabinet member who is not a member of the Assembly or the Council, participates in the proceedings of the joint business of the Houses, the Joint Rules, unless clearly inappropriate, apply to that Cabinet member as they apply to a member of the Assembly or the Council.

Public participation

6. (1) Members of the public may participate in the joint business of the Houses by

- (a) attending joint sittings of the Houses or meetings of joint committees;
- (b) responding to public or specific invitations—
 - (i) to comment in writing on Bills or other matters before a joint committee; or
 - (ii) to give evidence or to make representations or recommendations before joint committees on such Bills or other matters, either in person or through a representative.

(2) Public participation in terms of subrule (1) is subject to, and must be exercised in accordance with, the applicable provisions of the Joint Rules.

CHAPTER 2

JOINT SITTINGS OF THE HOUSES

Calling of joint sittings

7. (1) The President may call a joint sitting of the Houses when it is necessary for —
- (a) the President to deliver the annual or a special address to Parliament; or
 - (b) a purpose mentioned in section 42 (5) or 203 of the Constitution.
- (2) The Speaker and the Chairperson of the Council, acting jointly, may call a joint sitting of the Houses when necessary.

Venue

8. Joint sittings are held in the Chamber of the Assembly.

Day and time

9. The date and time of a joint sitting must be made known to the members of the Assembly and the Council -
- (a) by placing it on the Order Papers of the Houses;
 - (b) by way of an announcement by the officer presiding at a sitting of a House; or
 - (c) by giving notice to the members in a way determined by the Speaker and the Chairperson of the Council for their respective Houses.

Presiding officer

10. Either the Speaker or the Chairperson of the Council, by arrangement between them, presides at a joint sitting.

Relief of presiding officer

11. An Assembly or Council member must take the Chair whenever requested to do so by the Speaker or the Chairperson of the Council while presiding at a joint sitting.

Discipline

12. When the Houses sit jointly -
- (a) the Assembly Rules on discipline remain applicable to an Assembly member; and
 - (b) the Council Rules on discipline remain applicable to a Council member.

Procedure

13. (1) An Assembly or Council member, other than the officer presiding at a joint sitting, may not speak at the sitting -

- (a) unless invited to do so by the presiding officer; or
- (b) without having obtained the permission of the Speaker and the Chairperson of the Council before the meeting.

(2) No vote or decision may be taken by or in a joint sitting.

Public access

14. (1) Joint sittings are open to the public, including the media.

(2) The Assembly Rules concerning access of the public to the Chamber of the Assembly apply to a joint sitting, except that the Speaker must consult the Chairperson of the Council when exercising the powers assigned to the Speaker in those rules.

CHAPTER 3

JOINT COMMITTEE SYSTEM

1: Introduction Part

Joint committees

- 15.** (1) The Assembly and the Council have the following joint committees:
- (a) Committees established by or in terms of the Joint Rules:
- (i) the Joint Rules Committee established by joint rule 53;
 - (ii) the Joint Programme Committee established by joint rule 90;
 - (iii) the Constitutional Review Committee established by joint rule 97;
 - (iv) the Mediation Committee established by section 78 of the Constitution and referred to in joint rule 104;
 - (v) the Joint Committee on Ethics and Members' Interests established by joint rule 121;
 - (vi) the Joint Monitoring Committee on Improvement of Quality of Life and Status of Women established by joint rule 128;
 - (vi)A the Joint Monitoring Committee on Improvement of Quality of Life and Status of Children, Youth and Disabled Persons established by joint rule 132A.
 - (vii) the Joint Monitoring Committee on Reconstruction and Development established by joint rule 133;
 - (viii) any joint committees that may be established in terms of joint rule 111 to consider and report on Bills; and
 - (ix) any *ad hoc* joint committees that may be established in terms of joint rule 138.
- [Subrule (1)(a)(vi)A inserted as consequential amendment, 17 Nov 1999 (NA and NCOP)]*
- (b) Committees established in terms of legislation:
- (i) The Joint Standing Committee on Intelligence mentioned in joint rule 120; and
 - (ii) the Joint Committee on Oversight of Security Matters established by joint rule 117.
- (2) Other joint committees may be established to deal with any other matters affecting both Houses but only in terms of joint rule 142.

(3) If a proposal to establish a joint committee is contained in draft legislation before a portfolio committee, a select committee or a joint committee referred to in joint rule 111, that committee must first refer the proposal to the Joint Rules Committee for a report and recommendation before that committee considers the proposal.

Subcommittees

16. (1) A joint committee —

- (a) has such subcommittees as are established by the Joint Rules; and
- (b) may appoint a subcommittee only when —
 - (i) there is provision for such appointment in the Joint Rules; or
 - (ii) authorised by the Joint Rules Committee or by resolutions adopted in the Assembly and the Council.

(2) Subrule (1) does not prevent a joint committee from assigning a task to one or more of its members for a purely internal or administrative purpose.

(3) If a proposal to establish a joint subcommittee is contained in draft legislation before a portfolio committee, a select committee or a joint committee referred to in joint rule 111, that committee must first refer the proposal to the Joint Rules Committee for a report and recommendation before that committee considers the proposal.

Application of Rules to committees and subcommittees established in terms of legislation

17. The Joint Rules also apply to a joint committee or joint subcommittee established in terms of legislation, and in such application the committee or subcommittee must be regarded as having been established in terms of these Rules.

Part 2: Rules applicable to joint committees generally

Application of this Part

18. The provisions of this Part apply to all joint committees established by or in terms of the Joint Rules except in so far as any of these provisions is inconsistent with —

- (a) another provision of the Joint Rules applicable in a specific case; or
- (b) a resolution adopted in both Houses.

Composition

19. (1) Except where the Joint Rules or decisions of the Joint Rules Committee prescribe otherwise, the composition of a joint committee shall be such that—

- (a) parties are entitled to be represented in the Assembly component of joint committees in substantially the same proportion as the proportion in which they are represented in the Assembly; and
- (b) provinces are entitled to equal representation in the Council component of joint committees.

[Introductory words to Subrule (1) substituted, 22 Sept 1999 (NA) and 14 Oct 1999 (NCOP)]

(2) Subrule (1)(a) only applies if the number of members in the Assembly component of the joint committee allows for all parties to be represented.

Appointment procedures

20. (1) Except where the Joint Rules provide for the appointment of the members of a joint committee in a specific case —

- (a) the Speaker appoints the members of the Assembly component of a joint committee after consulting —
 - (i) the Chief Whip of the majority party in the Assembly, when a member representing the majority party is appointed; or
 - (ii) the most senior whip of a minority party in the Assembly, when a member representing that particular party is appointed; and
- (b) the Chairperson of the Council appoints the members of the Council component of a joint committee after consulting the head of a provincial delegation, when a member representing that delegation is appointed.

(2) The names of the members appointed must be announced in the ATC without delay.

Alternates

21. (1) Alternates may be appointed for one or more specific members of a joint committee in accordance with the same procedure prescribed for committee members in terms of joint rule 20.
- (2) An alternate acts as a member when the member for which the alternate was appointed —
- (a) is absent; or
 - (b) has vacated office, until the vacancy is filled.

Term of office

22. (1) Members of a joint committee and alternates for members are appointed until the Assembly's term expires or the Assembly is dissolved, whichever occurs first.
- (2) A member of a joint committee ceases to be a member and an alternate for a member ceases to be an alternate —
- (a) if a whip of the party to which that member or alternate belongs —
 - (i) in the case of an Assembly member, gives notice to the Speaker, in writing, that the member or alternate is to be replaced or withdrawn; or
 - (ii) in the case of a Council member representing a party in a committee, gives notice to the Chairperson of the Council, in writing, that the member or alternate is to be replaced or withdrawn; or
 - (b) if a whip of the provincial delegation to which that member or alternate belongs, in the case of a Council member representing a province in a committee, gives notice to the Chairperson of the Council, in writing, that the member or alternate is to be replaced or withdrawn.

Chairpersons

23. (1) If a joint committee has co-chairpersons, the co-chairpersons must co-chair meetings of the committee except when one of them takes the chair by agreement between them. If a committee has a single chairperson, that person must chair meetings of the committee.
- (2) The co-chairpersons or the chairperson of a joint committee, as the case may be -
- (a) may act in any matter 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 by a person to give evidence or make oral representations to the committee;
 - (ii) any other request to the committee; and
 - (iii) the initiation of any steps or decisions necessary for the committee to perform its functions or exercise its powers; and
- (b) perform the functions, tasks and duties and exercise the powers that the committee, resolutions adopted by both the Assembly and the Council or legislation may assign to the co-chairpersons.

(3) The co-chairpersons or chairperson of a joint committee must report to the committee on any steps taken in terms of subrule (2).

(4) (a) If a joint committee has a single chairperson, the chairperson, in the event of an equality of votes on any question before the committee, must exercise a casting vote in addition to the chairperson's vote as a member.

(b) If a joint committee consists of House components and decides questions before it by way of agreement between the majorities in the respective components, the co-chairperson of the committee appointed from a component, in the event of an equality of votes on any question before the component, must exercise a casting vote in addition to that person's vote as a member.

(5) The co-chairpersons or the chairperson of a joint committee, as the case may be, perform the functions set out in subrules (1) and (2) subject to the other provisions of the Joint Rules and the directions of the committee.

Acting chairpersons

24. (1) If a joint committee has co-chairpersons and one of the co-chairpersons is absent or unable to perform the functions of co-chairperson, the relevant component of the committee may elect another of its members as acting co-chairperson to perform the functions and exercise the powers of that co-chairperson.

(2) If a joint committee has a single chairperson and that chairperson is absent or unable to perform the functions of the chairperson, the deputy chairperson acts as chairperson to perform the functions and exercise the powers of the chairperson.

First meetings

25. (1) The Secretary must call a meeting of a joint committee within five working days after the names of the committee members have been announced in the ATC.

(2) If both or either of the Houses are in recess the Secretary must notify the members of the committee, the Chief Whip of the majority party and the most senior whip of each of the other parties in the Assembly and the Chief Whip of, and the delegation whips in, the Council, of the time and place of the meeting at least 14 days before the meeting.

Meetings

26. (1) Joint committees meet whenever necessary and as determined in accordance with the Joint Rules and the decisions, directives and guidelines of the Joint Programme Committee.

(2) A meeting of a joint committee may be called in terms of subrule (1) by -
 (a) the chairperson or co-chairpersons of the joint committee; or
 (b) the Joint Rules Committee.

(3) If one of the co-chairpersons of a joint committee is not available, the other co-chairperson may call a meeting of the committee.

Matters relating to quorum and decisions

27. (1) A joint committee may proceed with business irrespective of the number of members present.

(2) When a joint committee has to decide a question and the number of members present is insufficient for a decision to be taken, the member or members presiding may either suspend business until a sufficient number of members is present, or adjourn the meeting.

(3) If a joint committee consists of House components and decides questions before it by way of agreement between the majorities in the respective components subrule (2) applies also to such a component when the number of members in that component who are present at the meeting, is insufficient for a decision to be taken by the component.

Co-option when members and alternates not available

28. If a member of a joint committee and that member's alternate are both absent from a meeting of the committee, the chairperson or co-chairpersons may co-opt any other Assembly or Council member, as may be appropriate, to act as a member of the committee until that committee member or the alternate member is no longer absent.

Interruption suspension or adjournment

29. The member or members presiding at a meeting of a joint committee may interrupt or suspend the proceedings or adjourn the meeting, and may change the date for the resumption of business.

Charges against members

30. If any information charging an Assembly or Council member comes before a joint committee, the committee may not proceed upon that information, but must report it without delay to the Speaker or the Chairperson of the Council, as may be appropriate.

Reporting to Houses

31. (1) A joint committee must report to both Houses on a matter referred to the committee-

- (a) when the Houses are to decide the matter in terms of -
 - (i) the Joint Rules;
 - (ii) the respective House Rules;
 - (iii) a resolution adopted in both Houses; or
 - (iv) legislation;
- (b) if the committee has taken a decision on the matter, whether or not the Houses are to decide the matter as contemplated in paragraph (a); or
- (c) if the committee is unable to decide a matter referred to it for a report.

(2) A joint committee must report to both Houses on —

- (a) all other decisions taken by it, except those decisions concerning its internal business; and
- (b) its activities at least once per year.

(3) A report of a joint committee -

- (a) must be submitted to a House by the co-chairperson of the committee who is a member of that House, or by another member of the committee who is a member of that House and designated by the committee; and
- (b) may request that that co-chairperson, or another member of the committee who is a member of the relevant House and designated by the committee, introduces or explains the report in the House.

(4) A joint committee may not submit a minority report except where provided for in these Rules.

(5) If a joint committee reports on a matter other than a matter mentioned in subrule (1) (a) and is of the view that its report, or a specific matter mentioned in the report, should be considered by the Houses, it may make a request to that effect in the report.

General powers

32. (1) For the purposes of performing its functions a joint committee may, subject to the Constitution, legislation, the other provisions of the Joint Rules and resolutions of the Houses —

- (a) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;
- (b) receive petitions, representations or submissions from interested persons or institutions;
- (c) conduct public hearings;
- (d) permit oral evidence, including evidence on petitions, representations and submissions;
- (e) determine its own procedure;
- (f) meet at a venue determined by it, which may be a venue beyond the seat of Parliament;
- (g) meet on any day and at any time, including-
 - (i) on a day which is not a working day;
 - (ii) on a day on which a House or both Houses are not sitting;
 - (iii) at a time when a House or both Houses are sitting; or
 - (iv) during a recess of a House or both Houses; and
- (h) exercise any other powers assigned to it by the Constitution, legislation, the other provisions of the Joint Rules or resolutions adopted in both Houses.

(2) No joint committee may —

- (a) initiate legislation for introduction in a House; or

- (b) consider legislation in the legislative process except when expressly empowered to do so.

Conferring powers

33. (1) A joint committee may confer with any other joint committee or with a committee of either House.

(2) Joint committees must confer —

- (a) if a resolution adopted in both Houses instructs them to confer; or
- (b) during a recess of both or any of the Houses, if the Speaker and the Chairperson of the Council, acting jointly and with the concurrence of the Chief Whip of the majority party in the Assembly and the Chief Whip of the Council, instruct them to confer.

(3) When joint committees meet to confer the respective *chairpersons* or co-chairpersons of the committees co-chair the meeting except when one of them takes the Chair by agreement between them.

Part 3: Rules applicable to joint subcommittees generally

Application of this Part

34. The provisions of this Part apply to all joint subcommittees established by or in terms of the Joint Rules except in so far as any of these provisions is inconsistent with —

- (a) another provision of the Joint Rules applicable in a specific case; or
- (b) a resolution adopted in both Houses.

General rules

35. (1) A joint subcommittee established by or in terms of the Joint Rules —

- (a) is accountable to its parent committee;
- (b) must carry out its task and responsibilities within a policy framework determined by its parent committee and in accordance with the Joint Rules and any directives, guidelines or regulations issued by the parent committee;
- (c) may consult any joint committee or subcommittee, or any House committee or subcommittee;
- (d) may determine its own procedure, subject to the Joint Rules, any directives of the parent committee or resolutions adopted in both Houses; and
- (e) may only make recommendations to its parent committee; and
- (f) must report to the its parent committee regularly or when requested by the parent committee.

(2) The parent committee of a joint subcommittee —

- (a) must appoint the members of the subcommittee from among its members;
- (b) may, if appropriate, determine a period within which the subcommittee must complete its task;
- (c) must determine the extent, nature and form of the subcommittee's reports to the committee, and time limit for the submission of a report;
- (d) may delegate any of its powers to the subcommittee necessary for the subcommittee to perform its task; and
- (e) may instruct the subcommittee to perform any of its functions.

Alternates

36. (1) A parent committee may appoint alternates from among its members for one or more specific members of a joint subcommittee.

(2) An alternate acts as a member when the member for which the alternate was appointed —

- (a) is absent; or
- (b) has vacated office, until the vacancy is filled.

Term of office

37. (1) The members of a joint subcommittee established by a provision of the Joint Rules and any alternates for those members, are appointed until the Assembly's term expires or the Assembly is dissolved, whichever occurs first.

(2) A joint subcommittee established by a joint committee in terms of a provision of the Joint Rules ceases to exist —

- (a) when it has completed the task for which it was established; or
- (b) if it is dissolved by the parent committee earlier.

(3) A member of a joint subcommittee ceases to be a member and an alternate for a member ceases to be an alternate if that member ceases to be a member of the parent committee.

Chairpersons

38. (1) If a joint subcommittee has co-chairpersons, the co-chairpersons must co-chair meetings of the subcommittee except when one of them takes the chair by agreement

between them. If a subcommittee has a single chairperson, that person must chair meetings of the subcommittee.

(2) The co-chairpersons or the chairperson of a joint subcommittee, as the case may be -

- (a) may act in any matter on behalf of and in the best interest of the subcommittee when it is not practical to arrange a meeting of the subcommittee to discuss that matter, if that matter concerns —
 - (i) a request by a person to give evidence or make oral representations to the subcommittee;
 - (ii) any other request to the subcommittee; and
 - (iii) the initiation of any steps or decisions necessary for the subcommittee to perform its functions or exercise its powers; and
- (b) performs the functions, tasks and duties and exercises the powers that the parent committee, a resolution adopted in both Houses or legislation may assign to the co-chairpersons.

(3) The co-chairpersons or chairperson of a joint subcommittee must report to the committee on any steps taken in terms of subrule (2).

(4) The co-chairpersons or the chairperson of a joint subcommittee, as the case may be, perform the functions set out in subrules (1) and (2) subject to the other provisions of the Joint Rules and the directions of the parent committee.

Acting chairpersons

39. (1) If a joint subcommittee has co-chairpersons and one of the co-chairpersons is absent or unable to perform the functions of co-chairperson, the relevant component of the subcommittee may elect another of its members as acting co-chairperson to perform the functions and exercise the powers of that co-chairperson.

(2) If a joint subcommittee has a single chairperson and that chairperson is absent or unable to perform the functions of the chairperson, the deputy chairperson acts as chairperson to perform the functions and exercise the powers of the chairperson.

Meetings

40. (1) Joint subcommittees meet whenever necessary and as determined in accordance with the Joint Rules and the decisions, directives and guidelines of the Programme Committee.

- (2) A meeting of a joint subcommittee may be called in terms of subrule (1) by -
- (a) the co-chairpersons of the subcommittee;
 - (b) the parent committee; or
 - (c) the co-chairpersons of the parent joint committee.

Matters relating to quorum

41. A joint subcommittee may proceed with business irrespective of the number of members present.

Decisions

42. (1) A question before a joint subcommittee consisting of House components, is decided by consensus between the two components and within each component.

(2) If consensus cannot be reached all views in the joint subcommittee on the question must be reported to the parent committee.

General powers of joint subcommittees

43. A joint subcommittee has the powers listed in rule 32 only when assigned to it in terms of the Joint Rules or a resolution adopted in both Houses.

Part 4: Rules applicable to both joint committees and joint subcommittees generally

Application of this Part

44. The provisions of this Part apply to all joint committees and joint subcommittees established by or in terms of the Joint Rules except in so far as any of these provisions is inconsistent with —

- (a) another provision of the Joint Rules applicable in a specific case; or
- (b) a resolution adopted in both Houses.

Unusual meetings of committees and subcommittees

45. (1) A joint committee or subcommittee may sit on a day which is not a working day, or at a venue beyond the seat of Parliament, or during a recess of both or any of the Houses, or at a time when both or any of the Houses is sitting, but only with the permission of the Chief Whip of the majority party in the Assembly and the Chief Whip of the majority party in the Council.

(2) If a joint committee or subcommittee applies to the Chief Whips to sit on a day which is not a working day, or at a venue beyond the seat of Parliament, the Chief Whips may give their permission in terms of subrule (1) only after having consulted the Speaker and the Chairperson of the Council.

Persons appearing before joint committees and subcommittees

46. Any person, including counsel and attorneys, appearing before a joint committee or subcommittee must observe the directions and conform to the procedures determined by the chairperson or co-chairpersons of the joint committee or subcommittee.

Admission of the public

47. (1) Meetings of joint committees and subcommittees are open to the public, including the media, and the member or members presiding may not exclude the public, including the media, from the meeting, except when —

- (a) legislation, the Joint Rules or resolutions adopted in both Houses provide for the committee or subcommittee to meet in closed session; or
- (b) the committee or subcommittee is considering a matter which is —
 - (i) of a private nature that is prejudicial to a particular person;
 - (ii) protected under parliamentary privilege, or for any other reason privileged in terms of the law;
 - (iii) confidential in terms of legislation; or
 - (iv) of such a nature that its confidential treatment is for any other reason reasonable and justifiable in an open and democratic society.

(2) A decision in terms of subrule (1) to exclude the public must be taken by the joint committee or subcommittee concerned, provided that the chairperson of the committee or subcommittee may at any time —

- (a) before the start of the meeting rule that the meeting must take place in closed session, but the committee or subcommittee may at any time after the start of the meeting open the meeting; or
- (b) close the meeting for a decision by the committee or subcommittee whether the matter should be considered in closed session.

(3) The Speaker and the Chairperson of the Council, acting jointly, must —

- (a) set aside places for the public in the committee rooms; and
- (b) determine the entrances and routes through which the public can obtain access to these places.

(4) The Speaker and the Chairperson, acting jointly, may take reasonable measures -

- (a) to regulate public access, including access of the media, to the joint committees and subcommittees;
- (b) to prevent and control misconduct of the public in committee rooms; and
- (c) to provide for the searching of any person, including that person's vehicle or other property in that person's possession, and, where appropriate, the refusal of entry to, or the removal of, any person.

Participation of Assembly and Council members

48. (1) Any Assembly or Council member who is not a member of the joint committee or subcommittee may be present at a meeting of a joint committee or subcommittee.

(2) A member mentioned in subrule (1) who is present at a meeting of a joint committee or subcommittee —

- (a) may speak on a matter before a joint committee or subcommittee subject to any reasonable restrictions the chairperson or co-chairpersons may impose; and
- (b) may not vote except when the vote is cast as an alternate or as a co-opted member.

Exclusion of members of public from meetings

49. The member or members presiding at a meeting of a joint committee or subcommittee may —

- (a) order a member of the public to leave the meeting —
 - (i) when the public is excluded from a meeting in terms of joint rule 47 (1); or
 - (ii) when necessary to give effect to the measures taken under joint rule 47 (3);
 or
- (b) order a person referred to in joint rule 46 to leave the meeting if that person does not comply with a ruling of the presiding member or members.

Exclusion of other persons from meetings

50. When the public is excluded from a meeting of a joint committee or subcommittee in terms of rule 47 (1), the member or members presiding may order a staff member, a member or official of the executive or an Assembly or Council member who is not a member of the committee or subcommittee, also to leave the meeting.

Removal of persons

51. When instructed by the member or members presiding, the Serjeant-at-Arms of the Assembly or the Usher of the Council must remove or arrange for the removal of any person

- (a) who, without permission, is present in that part of a committee room designated for members of the joint committee or subcommittee only; or
- (b) who disrupts the proceedings of a joint committee or subcommittee, causes a nuisance or does not leave when ordered to leave under joint rule 49 or 50.

Publication of proceedings, evidence, reports, etc.

52. (1) All documents officially before, or emanating from, a joint committee or subcommittee are open to the public, including the media, but the following documents may not be published, and their contents may not be disclosed, except with the permission of the committee, or the parent committee in the case of a subcommittee, or by order of the Speaker and the Chairperson of the Council, acting jointly, or by resolutions adopted in both Houses:

- (a) The proceedings of, or evidence taken by or placed before, the committee or subcommittee while the public were excluded from a meeting in terms of joint rule 47 (1).
- (b) Any report on or summary of such proceedings or evidence.
- (c) Any document placed before, or presented to, the committee or subcommittee as a confidential document and declared by it as a confidential document.
- (d) Any document —
 - (i) submitted or to be submitted to members of the committee or subcommittee as a confidential document by order of the chairperson or co-chairpersons of the committee or subcommittee; or
 - (ii) after its submission to members declared by the chairperson or co-chairpersons as a confidential document.

(2) The permission, order or resolution authorising the publication, or the disclosure of the contents, of documents mentioned in subrule (1) may provide that specific parts of, or names mentioned in, the document may not be published or disclosed.

(3) For the purposes of subrule (1) a document is officially before a joint committee or subcommittee when -

- (a) the presiding member or members place the document or permit the document to be placed before the committee or subcommittee; or
- (b) a person appearing before the committee or subcommittee as a witness or to make representations, presents the document to the committee or subcommittee.

(4) Subrule (1)(c) and (d) applies only to documents that —

- (a) contain private information that is prejudicial to a particular person;
- (b) are protected under parliamentary privilege, or for any other reason are privileged in terms of the law;
- (c) are confidential in terms of legislation;
- (d) are subject to a media embargo, until the embargo expires; or
- (e) are of such a nature that their confidential treatment is for any other reason reasonable and justifiable in an open and democratic society.

Part 5: Joint Rules Committee

Establishment

53. There is a Joint Rules Committee.

Composition

54. The Joint Rules Committee consists of the Rules Committee of the Assembly and the Rules Committee of the Council sitting together.

Chairpersons

55. (1) The Speaker and the Chairperson of the Council are the co-chairpersons of the Joint Rules Committee.

(2) If a co-chairperson is not available joint rule 1 (2) applies.

Functions and powers

56. (1) The Joint Rules Committee may -

- (a) develop, formulate and adopt policy concerning the joint business of the Houses in respect of -
 - (i) the management, administration and functioning of Parliament;
 - (ii) the financial management and policy of Parliament, including the sources of funding, the budget, income and expenditure of Parliament;

- (iii) the provision of facilities and other support for Assembly and Council members;
 - (b) make recommendations to the Houses concerning Parliament's annual budget;
 - (c) monitor and oversee the implementation of policy on all matters referred to in paragraph (a)
 - (d) lay down guidelines, issue directives and formulate regulations regarding any aspect of policy referred to in this rule;
- [Subrule (1)(d) amended by insertion of words "of policy": 16 Nov 1999 (NA), 18 Nov 1999 (NCOP)]*
- (e) prescribe the style in which draft legislation must be drafted, including the form and format of Bills and amendments to Bills;
 - (f) apart from the subcommittees mentioned in joint rule 63 (1) (a) to (i), appoint any other subcommittees to assist it with the performance of any of its functions or the exercise of any of its powers;
 - (g) in terms of section 45 of the Constitution make joint rules and orders concerning the joint business of the Houses, including joint rules and orders -
 - (i) to determine procedures to facilitate the legislative process, including setting a time limit for completing any step in the process; and
 - (ii) to regulate its own business and that of any other joint committee or any joint subcommittee;
 - (h) deal with all matters relating to the funding of political parties, including the making of recommendations to the President for the enactment of regulations for the purposes of section 10 of the Public Funding of Represented Political Parties Act, 1997 (Act 103 of 1997); and
 - (i) perform any other functions assigned to it by legislation, the other provisions of the Joint Rules or resolutions adopted in the Assembly and the Council.

(2) The Joint Rules Committee may deal with a matter falling within its functions and powers -

- (a) on its own initiative; or
- (b) when referred to it for consideration and report by -
 - (i) the Assembly or the Council, or both;
 - (ii) the Speaker or the Chairperson of the Council, or both; or
 - (iii) the Assembly Rules Committee or the Council Rules Committee.

Decisions

57. (1) A question before the Joint Rules Committee is decided when there is agreement on the question between -

- (a) the majority of the members of the Assembly component; and

- (b) the majority of the members of the Council component.

(2) If the Joint Rules Committee reports to the Houses in terms of joint rule 31 on a decision taken by the Committee on any question within its powers and the one House accepts the decision and the other House rejects the decision, the question must be reconsidered by the Committee.

(3) On reconsideration, the question is decided by the Joint Rules Committee when it is supported by the majority of the votes cast jointly provided that the votes are weighted in such a way that the Assembly and Council components have an equal number of votes.

(4) A decision in terms of subrule (3) on a matter other than a matter mentioned in joint rule 58, is binding on both Houses.

New joint rules and amendments to the Joint Rules

58. If the Joint Rules Committee amends the Joint Rules, or makes a new joint rule, in terms of section 45 of the Constitution and either the Assembly or the Council, or both, reject the amendment or new rule, the Committee must reconsider the amendment or new rule and either —

- (a) withdraw the amendment or new rule; or
- (b) rephrase it in a way acceptable to both Houses.

Minority party participation

59. A political party represented in the Council that is not represented in the Council Rules Committee may designate one of its Council members to attend, and to speak in, the Joint Rules Committee, but that member may not vote.

Local government participation

60. The Joint Rules Committee must invite the representatives of organised local government in the Council to designate one of them to attend, and to speak in, the Committee, but that representative may not vote.

Control and management of joint administration

61. (1) Subject to the decisions of the Joint Rules Committee or resolutions adopted in both Houses, the Speaker and the Chairperson of the Council, acting jointly, are responsible for —

- (a) the implementation of policy determined by the Joint Rules Committee; and

(b) —

[Subrule (1)(b) deleted : 16 Nov 1999 (NA), 18 Nov 1999 (NCOP)]

(2) The Speaker and the Chairperson of the Council, acting jointly and with the concurrence of the Joint Rules Committee, may appoint task teams to assist them in executing their responsibility mentioned in subrule (1).

Policy matters requiring decision during recess

62. (1) If during a recess a matter of policy arises that requires a Joint Rules Committee decision but cannot await finalisation when the session resumes, the Speaker and the Chairperson of the Council may convene a meeting of those of the following office-bearers that are available to decide on the matter:

(a) From the Assembly:

- (i) the Speaker;
- (ii) the Deputy Speaker;
- (iii) the Chief Whip of the majority party in the Assembly;
- (iv) the Deputy Chief Whip of the majority party in the Assembly;
- (v) the Chairperson of Committees in the Assembly;
- (vi) the Deputy Chairperson of Committees in the Assembly;
- (vii) the chairperson of the relevant Subcommittee of the Assembly Rules Committee under whose jurisdiction the matter in question falls;
- (viii) the most senior whip of each of the other parties in the Assembly; and
- (ix) a committee chairperson designated by the Committee of Chairpersons in the Assembly; and

(b) from the Council:

- (i) the Chairperson of the Council;
- (ii) the permanent Deputy Chairperson of the Council;
- (iii) the Chief Whip of the Council;
- (iv) the Chairperson of Committees in the Council;
- (v) the Deputy Chairperson of Committees in the Council;
- (vi) the chairperson of the relevant Subcommittee of the Council Rules Committee under whose jurisdiction the matter in question falls;
- (vii) each delegation whip; and
- (ix) a committee chairperson designated by the Committee of Chairpersons in the Council.

(2) Joint rule 21 applies to the office-bearers referred to in paragraphs (a) and (b) of subrule (1).

(3) (a) A majority of the members listed in subrule (1) (a) and a majority of the members listed in subrule (1) (b) constitute a quorum.

(b) The matter before a meeting convened in terms of subrule (1), is decided when there is agreement on the question among —

- (i) the majority of the members in the Assembly component who are present; and
- (ii) the majority of the members in the Council component who are present.

(4) Decisions taken in terms of this rule must be published in the ATC within three days.

Subcommittees

63. (1) The Joint Rules Committee has the following subcommittees:

- (a) The Joint Subcommittee on the Parliamentary Budget;
- (b) the Joint Subcommittee on Review of the Joint Rules
- (c) the Joint Subcommittee on Support for Members;
- (d) the Joint Subcommittee on Internal Arrangements;
- (e) the Joint Subcommittee on International Relations;
- (f) the Joint Subcommittee on the Funding of Political Parties;
- (g) the Joint Subcommittee on Delegated Legislation;
- (h) the Joint Subcommittee on Powers and Privileges of Parliament; and
- (i) any other subcommittees appointed in terms of joint rule 56(1)(f).

Notes: 1. NCOP Subcommittee proposes the combination of —

- ***the Joint Subcommittee on the Parliamentary Budget and the Joint Subcommittee on Support for Members; and***
- ***the Joint Subcommittee on Review of Joint Rules and Joint Subcommittee on Powers and Privileges of Parliament.***

2. The Joint Subcommittee considered the matter and supports the NCOP's recommendation with the exception of the IFP in the Assembly. The IFP is not against the clustering of subcommittees but does not support combining the Subcommittees on the Budget and Support for Members.

(2) When the Joint Rules Committee appoints members of a subcommittee, the Committee —

- (a) is not restricted to the members of the Committee; and

(b) may appoint any Assembly or Council member.

(3) A subcommittee of the Joint Rules Committee may not issue directives relating to any aspect of the control and management of the joint administration of Parliament.

[Subrule (3) added : 16 Nov 1999 (NA), 18 Nov 1999 (NCOP)]

Joint Subcommittee on the Parliamentary Budget

Composition

64. (1) The Joint Subcommittee on the Parliamentary Budget consists of Assembly and Council members as set out in subrules (2) and (3).

(2) The Assembly component consists of the members of the Assembly Subcommittee on the National Assembly Budget.

(3) The Council component consists of the members of the Council Subcommittee on the Council Budget and Support for Members.

Chairpersons

65. The chairperson of the Assembly Subcommittee and the chairperson of the Council Subcommittee are the co-chairpersons of the Joint Subcommittee.

Functions and powers

66. The Subcommittee may -

- (a) make recommendations to the Joint Rules Committee on the development, formulation and adoption of policy regarding -
 - (i) the financial management of Parliament;
 - (ii) the sources of funding, resources, income and expenditure of Parliament; and
 - (iii) the preparation of Parliament's annual budget;

[NCOP Subcommittee proposes addition of the following subparagraph (iv) if its proposal for the combination of this Subcommittee and the Subcommittee on Support for Members is accepted:

(iv) the provision of facilities and other support for Assembly and Council members;]

- (b) monitor and oversee the implementation of policy on the matters referred to in paragraph (a) and make recommendations in this regard to the Joint Rules

- Committee; and
- (c) perform any other function and exercise any other power assigned to it by the Joint Rules Committee.

Joint Subcommittee on Review of the Joint Rules

Composition

67. The Joint Subcommittee on Review of the Joint Rules consists of Assembly and Council members as set out in subrules (2) and (3).

(2) The Assembly component consists of the members of the Assembly Subcommittee on Review of the National Assembly Rules.

(3) The Council component consists of the members of the Council Subcommittee on Review of the Council Rules and Parliamentary Privileges.

Chairpersons

68. The chairperson of the Assembly Subcommittee and the chairperson of the Council Subcommittee are the co-chairpersons of the Joint Subcommittee.

Functions and powers

69. The Subcommittee may —

- (a) make recommendations to the Joint Rules Committee regarding —
- (i) the proceedings, procedures, rules, orders and practices of Parliament; and
 - (ii) the development, formulation and adoption of policy on a matter mentioned in subparagraph (i); and

[NCOP Subcommittee proposes addition of the following subparagraphs if its proposal for the combination of this Subcommittee and the Subcommittee on Powers and Privileges is accepted::

- (aA) must review existing legislation, the common law and practice relating to parliamentary powers and privileges;***
- (aB) may make recommendations to the Joint Rules Committee to transform the existing law and practice on parliamentary powers and privileges;]***
- (b) perform any other function and exercise any other power assigned to it by the Joint Rules Committee.

Joint Subcommittee on Support for Members

[NCOP Subcommittee proposes that this Subcommittee be combined with the Subcommittee on the Parliamentary Budget.]

Composition

70. (1) The Joint Subcommittee on Support for Members consists of Assembly and Council members as set out in subrules (2) and (3).

(2) The Assembly component consists of —

- (a) the Deputy Speaker; and
- (b) the other members of the Assembly Subcommittee on Support for Assembly Members.

(3) The Council component consists of —

- (a) the permanent Deputy Chairperson of the Council; and
- (b) the members of the Council Subcommittee on the Council Budget and Support for Members.

Chairpersons

71. The Chairperson of the Assembly Subcommittee and the Chairperson of the Council Subcommittee are the co-chairpersons of the Joint Subcommittee.

[Joint Rule amended: NA – 16/3/2000, NCOP – 14/3/2000]

Functions and powers

72. (1) The Subcommittee may —

- (a) make recommendations to the Joint Rules Committee on the development, formulation and adoption of policy regarding the provision of facilities, including training for members, and other support for Assembly and Council members;
- (b) monitor and oversee the implementation of policy on the matters referred to in paragraph (a) and make recommendations in this regard to the Joint Rules Committee; and
- (c) perform any other function and exercise any other power assigned to it by the Joint Rules Committee.

(2) The Subcommittee must consult the Joint Subcommittee on the Parliamentary Budget on any of its recommendations that has financial implications for Parliament.

(3) If the Joint Subcommittee on the Parliamentary Budget disagrees with the recommendation, the two Subcommittees must report the disagreement to the Joint Rules Committee.

Joint Subcommittee on Internal Arrangements

Composition

73. (1) The Joint Subcommittee on Internal Arrangements consists of Assembly and Council members as set out in subrules (2) and (3).

(2) The Assembly component consists of —

- (a) the Deputy Speaker; and
- (b) the other members of the Assembly Subcommittee on Internal Arrangements.

(3) The Council component consists of -

- (a) the permanent Deputy Chairperson of the Council; and
- (b) the other members of the Council Subcommittee on Internal Arrangements.

Chairpersons

74. The Deputy Speaker and the permanent Deputy Chairperson of the Council are the co-chairpersons of the Subcommittee.

Functions and powers

75. The Subcommittee may -

- (a) make recommendations to the Joint Rules Committee on the development, formulation and adoption of policy regarding the administration and management and functioning of Parliament, including —
 - (i) staff;
 - (ii) infrastructure;
 - (iii) household services and catering;
 - (iv) human resource development and training;
 - (v) information systems and the library; and
 - (vi) public relations and public education;
- (b) monitor and oversee the implementation of policy on the matters referred to in paragraph (a) and make recommendations in this regard to the Joint Rules Committee; and
- (c) perform any other function and exercise any other power assigned to it by the Joint Rules Committee.

Joint Subcommittee on International Relations

Composition

76. (1) The Joint Subcommittee on International Relations consists of Assembly and Council members as set out in subrules (2), (3) and (4).

(2) From the Assembly:

- (a) the Speaker and the Deputy Speaker;
- (b) one member of each of the parties in the Assembly and designated by the party concerned;
- (c) one member of the portfolio committee on foreign affairs designated by that committee;
- (d) the Chairperson of Committees in the Assembly; and
- (e) three chairpersons of Assembly committees designated by the Assembly Committee of Chairpersons.

(3) From the Council:

- (a) the Chairperson and the permanent Deputy Chairperson of the Council; and
- (b) the other members of the Council Subcommittee on International Relations.

(4) From either the Assembly or the Council:

- (a) one member to represent the Inter-Parliamentary Union (IPU);
- (b) one member to represent the Commonwealth Parliamentary Association (CPA);
- (c) one member to represent the African, Caribbean and Pacific Group of Countries - European Union (ACP-EU); and
- (d) one member to represent the Southern African Developing Countries Parliamentary Forum.

Chairpersons

77. (1) The Speaker and the Chairperson of the Council are the co-chairpersons of the Subcommittee.

(2) If a co-chairperson is not available joint rule 1 (2) applies.

Functions and powers

78. The Subcommittee may —

- (a) make recommendations to the Joint Rules Committee on the development, formulation and adoption of policy regarding Parliament's international relations, including —
 - (i) relations with other Parliaments and international organisations;
 - (ii) membership of international parliamentary organisations;
 - (iii) visits abroad by parliamentary groups; and
 - (iv) the hosting and receiving of delegations from abroad;
- (b) monitor and oversee the implementation of policy on the matters referred to in paragraph (a) and make recommendations in this regard to the Joint Rules Committee; and
- (c) perform any other function or exercise any other power assigned to it by the Joint Rules Committee.

Decisions

79. (1) A question before the Subcommittee is decided by consensus among the members of the Subcommittee.

- (2) If consensus cannot be reached, all views in the Subcommittee on the question must be reported to the Joint Rules Committee.

Joint Subcommittee on the Funding of Represented Political Parties

Composition

80. (1) The Joint Subcommittee on the Funding of Represented Political Parties consists of members of both Houses appointed in such a way that —
- (a) the party that holds the largest number of seats in the Assembly, has ten members;
 - (b) the party that holds the second largest number of such seats, has three members;
 - (c) the party that holds the third largest number of such seats, has two members; and
 - (d) the other parties that hold seats in the Assembly, have one member each.
- (2) The Speaker and the Chairperson of the Council, acting jointly, appoint the members of the Subcommittee on the advice of —
- (a) the Chief Whips of the majority party in the Assembly and in the Council, when a member to represent the majority party must be appointed; or
 - (b) the most senior whips of a minority party in the Assembly and the Council, when a member to represent that party must be appointed.

Chairperson and deputy chairperson

81. The Subcommittee must elect one of its members from the one House as its chairperson and another of its members from the other House as its deputy chairperson.

Functions and powers

82. The Subcommittee may —

- (a) make recommendations to the Joint Rules Committee concerning the enactment of regulations referred to in section 10 of the Public Funding of Represented Political Parties Act, 1997 (Act 103 of 1997); and
- (b) perform any other function, task or duty and exercise any other power assigned to it by the Joint Rules Committee.

Decisions

83. (1) A question before the Subcommittee is decided by consensus among the members of the Subcommittee.

- (2) If consensus cannot be reached all views in the Subcommittee on the question must be reported to the Joint Rules Committee.

Joint Subcommittee on Delegated Legislation

Composition

84. (1) The Joint Subcommittee on Delegated Legislation consists of Assembly and Council members as set out in subrules (2) and (3).

(2) The Assembly component consists of the members of the Assembly Subcommittee on Delegated Legislation.

(3) The Council component consists of the members of the Council Subcommittee on Delegated Legislation.

Chairpersons

85. The chairperson of the Assembly Subcommittee and the chairperson of the Council Subcommittee are the co-chairpersons of the Joint Subcommittee.

Functions and powers

86. The Subcommittee —

- (a) must investigate and make recommendations to the Joint Rules Committee on possible mechanisms that could be used by legislators to maintain oversight of the exercise of legislative powers delegated to the executive; and
- (b) must perform any other function and may exercise any other power assigned to it by the Joint Rules Committee.

Note: 1. Section 101 (4) of the Constitution provides for national legislation to determine procedures for subordinate legislation to be tabled in and approved by Parliament.

2. In addition section 146 of the Constitution gives the NCOP a role in determining overrides with regard to subordinate legislation.

Joint Subcommittee on Powers and Privileges of Parliament

Composition

87. (1) The Joint Subcommittee on Powers and Privileges of Parliament consists of Assembly and Council members as set out in subrules (2) and (3) .

(2) The Assembly component consists of —

- (a) the Speaker; and
- (b) the other members of the Assembly Subcommittee on Powers and Privileges of Parliament.

(3) The Council component consists of —

- (a) the permanent Deputy Chairperson of the Council; and
- (b) the members of the Council Subcommittee on Review of the Council Rules and Parliamentary Privileges.

Chairpersons

88. The Joint Rules Committee must appoint one of the members in the Assembly component and one of the members in the Council component of the Subcommittee as co-chairpersons of the Subcommittee.

Functions and powers

89. The Subcommittee —

- (a) must review existing legislation, the common law and practice relating to parliamentary powers and privileges;

- (b) may make recommendations to the Joint Rules Committee to transform the existing law and practice on parliamentary powers and privileges; and
- (c) must perform any other function and may exercise any other power assigned to it by the Joint Rules Committee.

Part 6: Joint Programme Committee

Establishment

90. There is a Joint Programme Committee.

Composition

91. (1) The Joint Programme Committee consists of the Leader of Government Business in Parliament and Assembly and Council members as set out in subrules (2) and (3).

(2) The Assembly component consists of -

- (a) the Speaker;
- (b) the Deputy Speaker;
- (c) the Chairperson of Committees in the Assembly;
- (d) the Deputy Chairperson of Committees in the Assembly;
- (e) the Chief Whip of the majority party in the Assembly;
- (f) the Deputy Chief Whip of the majority party;
- (g) the whip of the majority party responsible for programming;
- (h) another two whips of the majority party designated by that party;
- (i) one whip and two additional representatives of the largest minority party in the Assembly, designated by that party;
- (j) one whip and one additional representative of the second largest minority party in the Assembly, designated by that party; and
- (k) one whip of each of the other minority parties in the Assembly, designated by the party concerned.

(3) The Council's component consists of -

- (a) the Chairperson of the Council;
- (b) the Deputy Chairpersons of the Council;
- (c) the Chairperson of Committees in the Council;
- (d) two representatives from each provincial delegation of which one must be the delegation whip and the other a special member;
- (e) the Chief Whip of the Council; and

(f) the most senior whip of each party represented in the Council.

(4) A whip referred to in subrule (2)(e) to (j) or (3)(d) to (f) who is unable to attend a meeting of the Committee may designate another whip to attend the meeting.

Chairpersons

92. (1) The Speaker and the Chairperson of the Council are the co-chairpersons of the Committee.

(2) If a co-chairperson is not available joint rule 1(2) applies.

Functions and powers

93. The Joint Programme Committee -

- (a) must prepare and, if necessary, from time to time adjust the annual programme of Parliament, including the legislative programme;
- (b) must monitor and oversee the implementation of Parliament's annual legislative programme and may set deadlines for the introduction of Bills;
- (c) must implement the Joint Rules regarding the scheduling or programming of the business of Parliament, and the functioning of the joint committees, joint subcommittees and other joint structures;
- (d) may take decisions and issue directives and guidelines to prioritise any joint business of the Houses;
- (e) may set time limits for completing any steps in the legislative process or extend any such time limits;
- (f) may take such steps as are necessary for the fast tracking of a Bill, including those steps provided for in joint rules 214 and 216; and
- (g) must perform any other function or may exercise any other power as may be assigned to it by resolutions adopted in the Assembly and in the Council.

Decisions

94. A question before the Joint Programme Committee is decided when there is agreement on the question between -

- (a) the majority of the members in the Assembly component; and
- (b) the majority of the provinces represented in the Council component.

Reporting to Houses

95. Joint rule 31 does not apply to the Joint Programme Committee.

Subcommittees

96. (1) The Committee must appoint a subcommittee from amongst its members for the ongoing work of the Committee, including for the exercise of the powers conferred on it by joint rules 214 and 216.

(2) The Joint Programme Committee may appoint a subcommittee from among its members to perform any of its functions or exercise any of its powers as it may assign to the subcommittee.

(3) A subcommittee may only make recommendations to the Committee, except the subcommittee envisaged in subrule (1) which may take decisions within its mandate.

Part 7: Constitutional Review Committee

Establishment

97. There is a Constitutional Review Committee which must review the Constitution at least annually.

Composition

98. (1) The Joint Committee consists of 45 Assembly members and 24 Council members.

(2) (a) The Speaker must appoint the Assembly members of the Committee on the advice of the parties concerned.

(b) The Chairperson of the Council must appoint the Council members of the Committee on the advice of the provinces or parties concerned.

[Joint Rule 98 substituted : 15 Sept and 17 Nov 1999 (NA), 21 Sept 1999 (NCOP)]

Alternates

99. If alternates are appointed for members of the Constitutional Review Committee in terms of joint rule 21, the appointment must be in accordance with the composition requirements set out in joint rule 98.

Participation of local government

100. The Constitutional Review Committee must invite the representatives of organised local government in the Council to designate one of them to attend, and to speak in, the Committee, but that representative may not vote.

Chairperson and deputy chairperson

101. The Constitutional Review Committee must elect one of its members from the one House as its chairperson and one of its members from the other House as its deputy chairperson.

Functions and powers

102. (1) The Constitutional Review Committee must review the Constitution annually and report on the review to the Assembly and the Council.

- (2) For the purposes of subrule (1) the Committee must annually -
- (a) before the first day of May, by notice in the public media, invite the public to submit to the Committee, within 30 days, written representations on any constitutional matter;
 - (b) after the closing date for representations in terms of paragraph (a), identify those constitutional matters that it intends to review, taking into account any representations received in response to the invitation and any submissions made in terms of paragraph (c); and

[Joint Rule 102 (b): "subrule (3)" amended to read "paragraph (c) – technical amendment"]

- (c) at the start of the third term of a year, or in accordance with a time frame determined by resolutions adopted in the Assembly and in the Council, consider all representations concerning matters identified by the Committee in terms of paragraph (b) and received by the Committee in response to the invitation from —
 - (i) the public;
 - (ii) any Assembly and Council committees and members, and joint committees; and
 - (iii) any organs of state.

Decisions

103. A question before the Constitutional Review Committee is decided when there is agreement on the question among the majority of its members.

Part 8: Mediation Committee

Composition

104. (1) The Mediation Committee established by section 78 of the Constitution consists in terms of that section of -

- (a) nine members of the Assembly elected in accordance with a procedure prescribed by the Assembly rules in substantially the same proportion that parties are represented in the Assembly; and
- (b) one Council member from each province designated by the provincial delegation to the Council.

(2) A political party represented in the Assembly or the Council which is not represented in the Mediation Committee may designate one of its members in either the Assembly or the Council to attend, and to speak in the Committee, but that member may not vote.

Alternates

105. If alternates are appointed for members of the Mediation Committee in terms of joint rule 21, the appointment must be in accordance with the composition requirements set out in joint rule 104 (1) (a) and (b).

Chairpersons

106. A member of the Assembly component of the Mediation Committee elected by that component and a member of the Council component elected by that component are the co-chairpersons of the Committee.

Functions and powers

107. (1) The Mediation Committee must consider Bills referred to it in terms of joint rule 177, 186 or 212 (2) with a view to finding agreement between the two components of the Committee on a version of the Bill.

- (2) When the Committee considers a Bill it may —
 - (a) require any person to appear before it to give explanations or to produce a document concerning the Bill;
 - (b) consult any Assembly portfolio committee, any Council select committee or any joint committee; and
 - (c) conduct its proceedings in any way it considers appropriate.

Meetings

108. (1) The Mediation Committee must meet promptly whenever a Bill is referred to it in terms of the Joint Rules.

- (2) A meeting of the Committee must be called by the co-chairpersons.

(3) If one of the co-chairpersons is not available the other co-chairperson must call the meeting.

(4) If both co-chairpersons are not available or for any reason omit to call the meeting, the speaker and the Chairperson of the Council, acting jointly, must call the meeting.

(5) Joint rule 31 does not apply to the Mediation Committee.

Decisions

109. (1) A question before the Mediation Committee is decided in accordance with section 78(2) of the Constitution when there is agreement on the question between —

- (a) at least five members in the Assembly component of the Committee; and
- (b) at least five members in the Council component of the Committee.

(2) Each of the co-chairpersons has a vote as a member but has no casting vote.

Meetings to be held in closed session

110. In order to facilitate negotiation and mediation, meetings of the Mediation Committee, despite joint rules 47 and 48, are closed to non-members of the Committee, including the public and the media, except with the permission of the Committee.

Part 9: Joint committees on Bills

Note: As drafted these Rules provide for referral of section 74, 75 and 76 Bills to a joint committee, although section 45 of the Constitution only applies to sections 74 and 75 Bills. We have added section 76 Bills, but have provided in rule 171 for the removal of such a Bill from the joint committee if there is no consensus. This rule would therefore not undermine the mediation process or the two-thirds NA majority requirement.

Establishment

111. A joint committee to consider a Bill may be established —

- (a) by a resolution adopted in both Houses, but if the Council is not sitting the Chairperson of the Council may decide on its behalf provided that the Chairperson's decision is ratified at the next sitting of the Council; or

- (b) by a decision of the Speaker and the Chairperson of the Council, acting jointly, if the Houses are in recess.

Composition

112. A joint committee on a Bill consists of an Assembly portfolio committee and the corresponding Council select committee.

Chairpersons

113. A joint committee on a Bill is co-chaired by the chairperson of the Assembly portfolio committee and the chairperson of the Council select committee.

Functions and powers

114. A joint committee on a Bill must consider the Bill referred to it, in accordance with Part 3 and other relevant provisions of Chapter 4 of the Joint Rules.

Decisions

- 115.** A question before a joint committee is decided when there is agreement on the question between -
- (a) the Assembly component, by a vote taken in terms of the Assembly rules applicable to portfolio committees; and
 - (b) the Council component, by a vote taken in terms of the Council rules applicable to select committees.

Participation of local government

116. A joint committee must invite the representatives of organised local government in the Council to designate one of them to attend, and to speak in, the committee, but that representative may not vote.

Part 10: Committees on security services

Joint Committee on Oversight of Security Matters

117. (1) There is a Joint Committee on Oversight of Security Matters consisting of Assembly and Council members as set out in subrules (2) and (3).

(2) The members of the Committee in the Assembly component must be appointed in such a way that -

- (a) the majority party in the Assembly has 13 members;
- (b) the largest minority party in the Assembly has three members;
- (c) the second largest minority party in the Assembly has two members; and
- (d) each of the other parties in the Assembly has one member.

(3) The Council component consists of the members of the select committee responsible for security matters.

Chairperson and deputy chairperson

118. The Joint Committee must elect one of its members from the one House as the chairperson and another of its members from the other House as the deputy chairperson of the Committee.

Functions

119. (1) The Joint Committee has oversight of the South African National Defence Force and the South African Police Service to give effect to the principles of transparency and accountability as envisaged in section 199(8) of the Constitution, and for that purpose the Committee must meet at least once a year to do an annual review of the security service concerned, including a review of —

- (a) the budget, functioning, organisation, armaments, policy, morale and state of preparedness of the South African National Defence Force; and
- (b) the budget, functioning, organisation, policy and morale of the South African Police Service.

(2) The Committee —

- (a) must report to both Houses before the end of May every year on its annual review; and
- (b) may at any time report to the Assembly and the Council on any other matter relating to parliamentary oversight of the security services concerned.

Note: 1. Draft rules 117 to 119 are proposed to give effect to the requirements of section 199(8) of the Constitution that multi-party parliamentary committees must have oversight of the security services in a manner determined by national legislation or the rules and orders of Parliament.

2. The main function of the Joint Committee on Security Matters will be to do an annual overview of the SA National Defence Force and the SA Police Service.

3. In addition to the Joint Committee, the relevant Portfolio Committee of the Assembly and Select Committee of the Council will have their usual oversight powers, to be exercised throughout the year on a continuous basis.

4. The intelligence Services are dealt with separately in rule 120.

5. Rules 117 to 119 will have to stand over until section 228 of the 1993 Constitution is repealed. Until such repeal the Joint Standing Committee on Defence established by that section must perform the oversight function concerning the South African National Defence Force.

Joint Standing Committee on Intelligence

120. The Joint Standing Committee on Intelligence established by the Intelligence Services Control Act, 1994 (Act 40 of 1994), must perform the oversight function concerning the intelligence services as required by section 199(8) of the Constitution.

Joint Standing Committee on Defence

120A. There is a Joint Standing Committee on Defence as required by section 228(3) of the Constitution of 1993.

[Joint Rule 120A added : 22 Sept 1999 (NA), 14 Oct 1999 (NCOP)]

Membership

120B. The total membership of the joint standing committee of Parliament on Defence, which is contemplated in section 228(3) of the Constitution, 1993, read with item 24(1) of

Schedule 6 to the Constitution, is equal to the number obtained by dividing by 10 the total number of seats held in the National Assembly by all parties holding more than 10 such seats, any fraction obtained being disregarded.

Chairperson

120C. The Joint Standing Committee on Defence must elect one of its members as chairperson.

[Joint Rules 120B and C added as 120A and B, and renumbered after new 120A added : 25 Aug 1999 (NA), 2 Sept 1999 (NCOP)]

Part 11: Joint Committee on Ethics and Members' Interests

Establishment

121. There is a Joint Committee on Ethics and Members' Interests.

Composition

122. (1) The Joint Committee consists of 18 Assembly members and 9 Council members.

[Joint Rule 122(1) amended: 14 Nov 2002 – NA & NCOP]

(2) (a) The Speaker must appoint the Assembly members of the Committee on the advice of the parties concerned.

(b) The Chairperson of the Council must appoint the Council members of the Committee on the advice of the provinces or parties concerned.

[Joint Rule 122 substituted : 15 Sept and 17 Nov 1999 (NA), 21 Sept 1999 (NCOP)]

Chairperson and deputy chairperson

123. (1) The Joint Committee on Ethics and Members' Interests must elect one of its members from the one House as its chairperson and one of its members from the other House as its deputy chairperson.

(2) The chairperson and deputy chairperson are not entitled to remuneration.

Functions

124. (1) The Joint Committee on Ethics and Members' Interests must —
(a) implement the Code of Conduct for Assembly and permanent Council members set out in the Schedule;

- (b) develop standards of ethical conduct for Assembly and Council members;
- (c) serve as an advisory and consultative body, both generally and to members, concerning the implementation and interpretation of the Code;
- (d) regularly review the Code and make recommendations for its amendment; and
- (e) perform the other functions and exercise the other powers reasonably assigned to the Committee in the Code and in terms of resolutions adopted in both Houses.

(2) The Committee must report to both Houses at least annually on the operation and effectiveness of the Code.

Public access

125. Meetings of the Joint Committee on Ethics and Members' Interests must be held in closed session when the Committee considers a matter affecting a specific Assembly or Council member and the Committee regards that matter to be confidential.

Decisions

126. A question before the Joint Committee on Ethics and Members' Interests is decided when there is agreement on the question among the majority of the members present, provided at least half of its members are present.

Confidentiality

127. (1) Each member and alternate member of the Joint Committee on Ethics and Members' Interests must swear or affirm, before either the Speaker or the Chairperson of the Council, depending on the House of which that person is a member, to comply with the requirements of confidentiality set out in the Code.

(2) The Registrar appointed in terms of the Code and each member of the staff assigned for the work of the Committee must swear or affirm, before either the Speaker or the Chairperson of the Council, to comply with the requirements of confidentiality set out in the Code.

**Part 12: Joint Monitoring Committee on Improvement of Quality
of Life and Status of Women**

Establishment

128. There is a Joint Monitoring Committee on Improvement of Quality of Life and Status of Women.

Composition

129. (1) The Joint Committee consists of 17 Assembly members and 9 Council members.

(2) (a) The Speaker must appoint the Assembly members of the Committee on the advice of the parties concerned.

(b) The Chairperson of the Council must appoint the Council members of the Committee on the advice of the provinces or parties concerned.

[Joint Rule 129 substituted : 15 Sept 1999 and 17 Nov 1999 (NA), 21 Sept 1999 (NCOP);

Joint Rule 129(2) deleted and Subrule (3) renumbered: 17 Nov 1999 (NA and NCOP)]

Chairperson and deputy chairperson

130. The Joint Committee must elect one of its members from the one House as its chairperson and another of its members from the other House as its deputy chairperson.

Functions

131. The Joint Committee -

- (a) must monitor and evaluate progress with regard to the improvement in the quality of life and status of women in South Africa, with specific reference to the Government's commitments —
 - (i) to the Beijing platform of action; and
 - (ii) with regard to the implementation of the Convention on the Elimination of Discrimination against Women; and
 - (iii) to any other applicable international instruments;
- (b) may make recommendations to both or either of the Houses, or any joint or House committee, on any matter arising from paragraph (a) or (b).

Decisions

132. A question before the Joint Committee is decided when there is agreement among the majority of the members.

***Part 12A: Joint Monitoring Committee on Improvement of Quality
of Life and Status of Children, Youth and Disabled Persons***

Establishment

132A. There is a Joint Monitoring Committee on Improvement of Quality of Life and Status of Children, Youth and Disabled Persons.

Composition

132B. (1) The Joint Committee consists of 17 Assembly members and 9 Council members.

(2) (a) The Speaker must appoint the Assembly members of the Committee on the advice of the parties concerned.

(b) The Chairperson of the Council must appoint the Council members of the Committee on the advice of the provinces or the parties concerned.

Chairperson and deputy chairperson

132C. The Joint Committee must elect one of its members from the one House as its chairperson and another of its members from the other House as its deputy chairperson.

Functions

132D. The Joint Committee—

- (a) must monitor and evaluate progress with regard to the improvement in the quality of life and status of children, youth and disabled persons in South Africa, with special reference to the Government's commitments in respect of any applicable international instruments and to duties and responsibilities in respect of any applicable legislation; and
- (b) may make recommendations to both or either of the Houses, or any joint or House committee on any matter arising from paragraph (a).

Decisions

132E. A question before the Joint Committee is decided when there is agreement among the majority of the members.

[Part 12A and Joint Rules 132A to E added : 17 Nov 1999 (NA and NCOP)]

Part 13: Joint Monitoring Committee on Reconstruction and Development

Establishment

133. There is a Joint Monitoring Committee on Reconstruction and Development.

Composition

134. (1) The Joint Committee consists of Assembly and Council members appointed in such a way that —

- (a) in the Assembly component —
 - (i) the majority party in the Assembly has eleven members;
 - (ii) the largest minority party in the Assembly has three members;
 - (iii) the other minority parties in the Assembly have one member each; and
- (b) in the Council component —
 - (i) the provinces have one member each; and
 - (ii) each party in the Council that does not have the majority of seats in at least one provincial legislature, has one member each.

(2) Members for the Committee must be selected from among members of those Assembly portfolio and Council select committees involved in matters directly relevant to the reconstruction and development programme.

(3) The Speaker and the Chairperson of the Council, acting jointly, appoint the members of the Committee on the advice of —

- (a) the Chief Whips of the majority party in the Assembly and the Council, when a member representing the majority party is appointed; or
- (b) the most senior whips of a minority party in the Assembly and the Council, when a member representing that minority party is appointed.

Chairperson and deputy chairperson

135. The Joint Committee must elect one of its members from the one House as its chairperson and another of its members from the other House as its deputy chairperson.

Function

136. The Joint Committee —

- (a) must monitor and evaluate the implementation of the reconstruction and development programme; and

- (b) may make recommendations to either or both Houses, or any joint or House committee, on a matter concerning the reconstruction and development programme.

Decisions

137. A question before the Joint Committee is decided when there is agreement between —
- (a) the majority of the Assembly component; and
 - (b) the majority of the Council component.

Part 14: Ad Hoc Joint Committees

Establishment

138. (1) An ad hoc joint committee may be established for the performance of any specific task —

- (a) by resolution adopted in both Houses; or
- (b) if both or any of the Houses are in recess, by decision of the Speaker and the Chairperson of the Council, acting jointly after consulting the Chief Whip of the majority party in the Assembly and the Chief Whip of the majority party in the Council.

(2) The resolution or decision establishing an *ad hoc* committee must include time frames for —

- (a) the completion of any steps in performing the task for which the committee was established; and
- (b) the completion of the task:

(3) An *ad hoc* joint committee has those of the powers listed in joint rule 32 only as are specified in the resolution or decision.

(4) Any decision by the Speaker and the Chairperson of the Council to appoint an ad hoc committee in terms of subrule (1) (b) must —

- (a) be tabled in the Houses for ratification by the Houses; and
- (b) be tabled in a House on its first sitting day after the decision was taken.

(5) An *ad hoc* joint committee ceases to exist —

- (a) when it has completed the task for which it was established;
- (b) when the date for completion of the task has expired; or
- (c) if it is dissolved by the Houses earlier.

Composition

139. (1) The resolutions establishing an *ad hoc* joint committee must specify either the names of the committee members or the number of committee members from each House.

(2) If the resolutions specify only the number of committee members from each House -

- (a) the Speaker must appoint the Assembly members who are to serve on the committee; and
- (b) the Chairperson of the Council must appoint the Council members who are to serve on the committee.

Chairpersons

140. A member of the Assembly component of an *ad hoc* committee elected by that component and a member of the Council component elected by that component are the co-chairpersons of the committee.

Decisions

141. Except when the resolutions establishing an *ad hoc* joint committee provide otherwise, a question before the *ad hoc* committee is decided when there is agreement on the question between -

- (a) the Assembly component, by a vote taken in terms of the Assembly rules applicable to portfolio committees; and
- (b) the Council component, by a vote taken in terms of the Council rules applicable to select committees.

Part 15: Joint committees appointed by Assembly and Council resolution

Establishment

142. The Assembly and the Council may by resolutions adopted in the Assembly and the Council establish any joint committee.

Composition

143. (1) The resolutions establishing the joint committee must specify either the names of the committee members or the number of committee members from each House.

(2) If the resolutions specify only the number of committee members

from each House —

- (a) the Speaker must appoint the Assembly members who are to serve on the committee; and
- (b) the Chairperson of the Council must appoint the Council members who are to serve on the committee.

Functions and powers

144. (1) The resolutions establishing a joint committee in terms of this Part must specify the functions of the committee.

(2) Such a joint committee has those of the powers listed in joint rule 32 only as are specified in the resolutions.

Chairpersons

145. A member of the Assembly component of a joint committee elected by that component and a member of the Council component elected by that component are the co-chairpersons of the committee.

Decisions

146. Except when the resolutions establishing a joint committee provide otherwise, a question before the committee is decided when there is agreement on the question between —

- (a) the Assembly component, by a vote taken in terms of the Assembly rules applicable to portfolio committees; and
- (b) the Council component, by a vote taken in terms of the Council rules applicable to select committees.

Part 16: Conferring by House committees

Conferring powers of House committees.

147. (1) A committee of a House may confer with the corresponding committee of the other House.

- (2) Conferring must take place -
 - (a) if the Assembly and the Council, by resolution adopted in each House, decide that it is necessary; or
 - (b) if, during a recess of both or any of the Houses, the Speaker and the Chairperson of the Council, acting jointly, so decide.

Chairpersons

148. When House committees meet to confer the chairpersons of the respective committees co-chair the meeting except when one of them takes the chair by agreement between them.

Part 17: Leader of Government Business in Parliament

Establishment

149. There is a Leader of Government Business in Parliament who must be a Cabinet member designated by the President.

Role

- 150.** The Leader of Government Business in Parliament is responsible for -
- (a) the affairs of the national executive in Parliament;
 - (b) the programming of parliamentary business initiated by the national executive, within the time allocated for that purpose;
 - (c) arranging the attendance of Cabinet members, as appropriate, in respect of parliamentary business generally; and
 - (d) performing any other function provided for by the Joint Rules or a resolution of the Assembly or the Council or resolutions adopted in both Houses.

Part 18: Joint Tagging Mechanism

Establishment

- 151.** There is a Joint Tagging Mechanism consisting of -
- (a) the Speaker and the Deputy Speaker; and
 - (b) the Chairperson and the permanent Deputy Chairperson of the Council.

Functions

- 152.** The JTM serves, for purposes of parliamentary proceedings —
- (a) as a decision-making structure to make final rulings in accordance with —
 - (i) joint rule 160 on the classification of all Bills introduced in the Assembly or the Council; and
 - (ii) joint rule 191 on whether a mixed section 75/76 Bill may be proceeded with or is out of order; and
 - (b) as a consultative structure for Assembly members and committees, Council members and committees, provincial delegations to the Council and joint committees

to ensure that amendments to Bills do not render the Bill constitutionally or procedurally out of order in terms of joint rule 161.

Operating procedure

153. (1) Whenever the JTM must rule on the classification of a Bill or on a question whether a Bill or an amendment to a Bill is constitutionally or procedurally in order in terms of joint rule 161, the *Bill*, and a legal opinion on its classification or on the relevant question, must be submitted to the members of the JTM.

(2) The JTM decides the classification of a Bill or the question concerned by consensus. Consensus is reached when all available members of the JTM agree, provided that at least one from each House agrees.

(3) If there is no consensus the JTM must obtain a second legal opinion preferably from a constitutional expert approved by the JTM.

(4) When a matter is re-submitted to the members of the JTM they must without delay take a final decision on the matter, but are not bound by any legal advice.

(5) If the JTM is unable to reach consensus on the matter, the matter must be reported to the Assembly and the Council.

(6) If the Houses cannot resolve the matter through any other mechanisms at their disposal, a House may by resolution declare a dispute and apply to the Constitutional Court to resolve the dispute.

Submission of views to JTM

154. (1) Assembly and Council members and committees and provincial legislatures may submit their views on the classification of a Bill to the JTM in writing within the period stated in the ATC which may not be less than three working days.

(2) The JTM may not classify a Bill before the expiry of the period stated in the ATC.

JTM to be available at short notice

155. The JTM must be available at short notice, also during a recess of both or either of the Houses.

Time limits

156. The Joint Programme Committee may —

- (a) set a time limit for the JTM to make a final ruling on a Bill referred to it; or
- (b) extend any time limit set under paragraph (a).

Notification of classifications and findings

157. The JTM's classification of and, when appropriate, its findings on a Bill must without delay be -

- (a) tabled in the Assembly and the Council; and
- (b) conveyed to any Assembly committee, Council committee or joint committee to which the Bill may have been referred.

Binding force of JTM'S classifications and findings

158. For the purposes of all parliamentary proceedings the JTM's classification of and findings on a Bill are final and binding on both Houses.

Note: Presiding officers to give guidance whether rules on chairing and calling of JTM meetings are necessary.

CHAPTER 4

JOINT LEGISLATIVE PROCESS

*Part 1: Steps prior to introduction of Bills***Submission of draft Bills as approved by Cabinet to Speaker and Chairperson of Council**

159. (1) A Cabinet member or Deputy Minister who intends introducing a Bill in the Assembly or who initiates the introduction of a Bill in the Council, must as soon as possible after the Bill has been approved by Cabinet, submit to the Speaker and the Chairperson of the Council -

- (a) the draft of the proposed Bill as approved by Cabinet, whether or not the draft has been legally or technically formalised as a proper draft Bill; and
- (b) a memorandum explaining the objects of the proposed legislation.

Note: It is highly desirable that portfolio and select committees be informed of the content of proposed legislation well before the introduction of the legislation in order to assist them in planning and developing views on the legislation.

(2) The Speaker must refer the draft of the proposed Bill and the memorandum to the responsible portfolio committee and the Chairperson of the Council must refer the draft of the proposed Bill and the memorandum to the responsible select committee and the provincial legislatures in order -

- (a) to assist the committee and legislatures in planning their work; and
- (b) to enable the committee members and legislatures to acquaint themselves with and to develop their positions with regard to the proposed legislation.

(3) The Leader of Government Business in Parliament must liaise with Cabinet members to facilitate the implementation of this rule.

(4) This rule does not apply to -

- (a) a money Bill in respect of which the responsible Minister follows the special introductory procedure set out in Assembly rule 288; or
- (b) any other Bills in respect of which premature disclosure of their contents may result in prejudice to the state or the general public.

Part 2: Classification of Bills

Referral of Bills to JTM

160. (1) When a Bill is introduced it must without delay be referred to the JTM for classification in terms of this rule.

(2) When a Bill introduced as a constitution amendment Bill is referred to the JTM, it must make a finding on whether-

- (a) the Bill is in fact a constitution amendment Bill;
- (b) the Bill is in terms of section 74 of the Constitution required to be passed by both Houses or only by the Assembly;
- (c) the Bill or any of its provisions is in terms of section 74 required to be passed by the Assembly with a supporting vote of at least two thirds or with a supporting vote of at least 75 per cent of the members;
- (d) the Bill or any of its provisions is in terms of section 74 (8) required to be approved by any province or provinces before it is passed by the Council; and
- (e) the Bill is constitutionally and procedurally in order.

(3) When a Bill introduced as a section 75 Bill is referred to the JTM, it must make a finding on whether the Bill -

- (a) is in fact a section 75 Bill;
- (b) includes any provisions to which the procedure prescribed in section 76 of the Constitution applies; and
- (c) is constitutionally and procedurally in order.

(4) When a Bill introduced as a section 76 Bill is referred to the JTM, it must make a finding on whether the Bill —

- (a) is in fact a section 76 Bill and if so, which of subsections (3), (4) or (5) of that section applies to the Bill;
- (b) includes any provisions to which the procedure prescribed in section 75 applies; and
- (c) is constitutionally and procedurally in order.

(5) When a Bill introduced as a mixed section 75/76 Bill is referred to the JTM, it must make a finding on whether the Bill -

- (a) is in fact a mixed section 75/76 Bill; and
- (b) is constitutionally and procedurally in order.

(6) Once it has made its findings, the JTM must classify the Bill as-

- (a) a constitution amendment Bill;
- (b) a section 75 Bill; or
- (c) a money Bill;
- (d) a section 76 Bill;
- (e) a mixed section 75/76 Bill; or
- (f) a Bill that is constitutionally or procedurally out of order.

When Bills are out of order

161. (1) A Bill is constitutionally out of order if it is in breach of —

- (a) section 73 (2) or (4) of the Constitution, in that it was incorrectly introduced by an unauthorised person or committee;
- (b) section 73 (3), in that the Bill was incorrectly introduced in the wrong House;
- (c) section 74 (4), in that it contains both constitutional amendments and other provisions unconnected with those constitutional amendments;
- (d) section 74 (5), in that the procedure prescribed in that section as a precondition for the introduction of the Bill has not been complied with; or
- (e) section 77 (1), in that it is a money Bill that also deals with matters which are not subordinate and incidental to the appropriation of money or the imposition of taxes, levies or duties.

(2) A Bill is procedurally out of order if-

- (a) the procedure prescribed in either the Assembly or Council rules as a precondition for the introduction of a Bill in the particular House has not been complied with;
- (b) it is in breach of joint rule 172 in that it is a constitution amendment Bill that contains both constitutional amendments that may be passed by the Assembly alone and constitutional amendments that are required to be passed also by the Council;
- (c) it is in breach of joint rule 193 in that it is a mixed section 75/76 Bill that was introduced in the Council; or
- (d) it is in breach of joint rule 93 (b) in that a deadline set for the introduction of the Bill was not met and late introduction was not authorised

(3) Except as provided for in subrule (1) the JTM may not make a finding on the constitutional validity of the contents of a Bill.

Consequence of classification of Bill as constitutionally or procedurally out of order .

162. (1) If the JTM classifies a Bill as constitutionally or procedurally out of order the Bill may not be proceeded with.

- (2) Subrule (1) does not prevent a Bill-
- (a) from being corrected and re-introduced, if it was found to be defective because of its contents; or
 - (b) from being re-introduced in accordance with the correct procedure, if it was found to be defective on a procedural point.

Reclassification of Bills

163. (1) The JTM may change the classification -

- (a) of a mixed section 75/76 Bill to section 75 and section 76 Bills, if the Bill is split in terms of joint rule 194 (2)(a)(i), 196 (2)(a) or 200 (2) into separate section 75 and section 76 Bills;
- (b) of a mixed section 75/76 Bill to either a section 75 or a section 76 Bill, if the Bill is amended in terms of joint rule 194 (2)(a)(ii) to become a section 75 or a section 76 Bill; or
- (c) of a section 75 or a section 76 Bill to a mixed section 75/76 Bill, or a section 75 Bill to a section 76 Bill, or a section 76 to a section 75 Bill, but only if -
 - (i) the Bill was introduced in the Assembly; and
 - (ii) the Bill is amended before Second Reading of the Bill in the Assembly to become a mixed section 75/76 Bill, a section 76 Bill or a section 75 Bill, as the case may be.

(2) If the JTM reclassifies a Bill as a mixed section 75/76 Bill it must take a decision on the Bill as required by joint rule 191 (1)(a).

JTM may rule amendments constitutionally or procedurally out of order

164. (1) At any time before a House decides on an amendment to a Bill, the JTM may —

- (a) rule the amendment constitutionally or procedurally out of order in terms of joint rule 161, whether or not the amendment has been referred to the JTM; and
- (b) prescribe an *ad hoc* procedure with regard to the Bill to meet any procedural complications arising from its ruling in terms of paragraph (a).

(2) An amendment ruled out of order by the JTM may not be proceeded with.

(3) The JTM must without delay report to both Houses on any decision taken in terms of subrule (1).

Part 3: Consideration of Bills by Joint Committees

Application

165. The provisions of this Part apply to Bills —

- (a) introduced in the Assembly that are referred before Second Reading of the Bill in the Assembly to a joint committee established in terms of joint rule 111;
- (b) introduced in the Council that are referred before the Council decides on the Bill to such a joint committee; or
- (c) recommitted to such a joint committee in terms of the Assembly or Council rules to consider amendments proposed in the House concerned.

Referral to joint committee

166. A Bill must be referred to a joint committee—

- (a) if the Assembly and the Council, by resolutions adopted in the Assembly and the Council, so decide, but if the Council is not sitting the Chairperson of the Council may decide on its behalf provided the Chairperson's decision is ratified at the next sitting of the Council; or
- (b) if, during a recess of both or one of the Houses, the Speaker and the Chairperson of the Council, acting jointly, so decide.

Process in committee

167. (1) If the Bill has been published for public comment in terms of the Assembly or Council rules, the joint committee to which the Bill is referred may arrange its business in such a manner that interested persons and institutions have an opportunity to comment on the Bill.

(2) If a Bill has not been published for public comment, and the committee considers public comment on the Bill to be necessary, it may by way of invitations, press statements, advertisements or in any other manner, invite the public to comment on the Bill.

(3) The committee -

- (a) must enquire into the subject of the Bill and report on it to both the Assembly and the Council;
- (b) if it is a Bill amending provisions of an Act, may seek the permission of the Houses to inquire into amending other provisions of that Act;
- (c) may consult the member in charge of the Bill;

- (d) may consult any other joint committee or any Assembly or Council committee that has a direct interest in the substance of the Bill;
- (e) may consult the JTM on whether any amendments to the Bill proposed in the committee —
 - (i) may affect the classification of the Bill; or
 - (ii) may render the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
- (f) may not propose an amendment that —
 - (i) changes the classification of the Bill except as provided for in subrule (4) and joint rule 163; or
 - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
- (g) may recommend approval or rejection of the Bill or present with its report an amended Bill or a redraft of the Bill; and
- (h) must report to both Houses in accordance with joint rule 168.
 - (4) The committee may propose an amendment that changes the classification of a section 75 or section 76 Bill to a mixed 75/76 Bill only if the JTM is of the view that the Bill as amended is unlikely to lead to unmanageable procedural complications.

Note: Subrule (4) must be suspended until the proposed procedure for mixed Bills is implemented.

Joint committee's report

- 168.** (1) The joint committee to which a Bill is referred must table in both Houses —
- (a) its report;
 - (b) the Bill that has been agreed on by it, or if it has not agreed on a Bill, the Bill as referred to it; and
 - (c) the supporting memorandum which was introduced with the Bill or, if the memorandum has been amended by the committee, the amended memorandum.
- (2) The joint committee to which a Bill is referred may report to the Houses only after the JTM has classified the Bill and has made its findings on the Bill.
- (3) In its report the committee-
- (a) must state the JTM'S classification of and findings on the Bill;
 - (b) must state whether it recommends approval of the Bill with or without amendments, a redraft of the Bill, or rejection of the Bill;

- (c) must specify each amendment if an amended Bill (other than a redraft of the Bill) was agreed on by it, and each amendment which was considered and, for a reason other than its being out of order, was rejected by it;
- (d) must specify each amendment rejected by the committee if a redrafted Bill was agreed on by it;
- (e) must, if it is not a unanimous report-
 - (i) specify in which respects there was not consensus; and
 - (ii) in addition to the majority report, express any views of a minority in the committee;
- (f) may specify such details or information about its enquiry and any representations or evidence received or taken by it, as it may consider necessary for the purposes of the debate on the Bill in the Assembly and the Council ;
- (g) may report on any matter arising from its deliberations on the Bill but which is not necessarily related to the Bill; and
- (h) may recommend to the Assembly or the Council that any matter contained in the report be placed on the Order Paper of the Assembly or the Council for separate consideration either before or after the House considers the Bill.

Explanation of report

169. A co-chairperson or other member of the committee who tables the report in the Assembly or the Council on behalf of the committee, may, if the committee has so recommended in its report, address the Assembly or the Council in order to explain the report.

Referral of amendments proposed in a House to joint committee

170. (1) If a Bill is recommitted to a joint committee in terms of the Assembly or Council rules to consider amendments placed on a House's Order Paper by members, 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) may consult the JTM on whether any of the amendments-
 - (i) affects the JTM'S classification of the Bill; or
 - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of joint rule 161;
- (c) must mention in its report each amendment agreed on by the committee;
- (d) 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;

- (e) may not agree on any amendment that —
 - (i) changes the classification of the Bill except as provided for in subrule (3) and joint rule 163; or
 - (ii) renders the Bill constitutionally or procedurally out of order within the meaning of joint rule 161; and
- (f) must table its report together with the Bill in both the Assembly and the Council.

(2) Subrule (1)(d) applies only if the person in charge of the Bill is a Cabinet member or Deputy Minister.

(3) The committee may agree on an amendment that changes the classification of a section 75 or section 76 Bill to a mixed 75/76 Bill only if the JTM is of the view that the Bill as amended is unlikely to lead to unmanageable procedural complications.

Note: Subrule (3) must be suspended until the proposed procedure for mixed Bills is implemented.

Absence of consensus or report

171. (1) If a joint committee fails to reach consensus or if it is unable to report on a Bill or on any amendment referred to it in terms of joint rule 170 —

- (a) the joint committee must report to the Houses that it cannot reach consensus; or
- (c) the chairpersons of the committee must inform the Speaker and the Chairperson of the Council that the committee was unable to reach consensus.

(2) The Bill is then dealt with in terms of the rules of the respective Houses.

Part 4: Joint Business, Constitution Amendment Bills

Contents of constitution amendment Bills

172. Constitutional amendments that may be passed by the Assembly alone may not be contained in a Bill that contains constitutional amendments that are required to be passed also by the Council.

Process if Assembly approves Second Reading

173. If the Assembly approves the Second Reading of a constitution amendment Bill, the Secretary must without delay submit the Bill -

- (a) to the President for assent, if the Bill is not in terms of section 74 of the Constitution required to be passed by the Council; or

- (b) to the Chairperson of the Council to deal with the Bill in terms of the Council rules, if the Bill is in terms of section 74 required to be passed also by the Council.

Constitutional amendments affecting specific provinces

174. (1) A constitution amendment Bill referred to in section 74 (8) of the Constitution may not be passed by the Council unless the Bill, or the affected part of it, has been approved by the provincial legislature or legislatures of the province or provinces concerned.

(2) If the whole Bill requires the approval of a specific provincial legislature or legislatures and that legislature or any or all of those legislatures refuse to grant such approval, the Bill lapses.

(3) If only a part of the Bill requires the approval of a specific provincial legislature or legislatures and that legislature or any or all of those legislatures refuse to grant such approval, that part of the Bill lapses, but the rest of the Bill may be proceeded with subject to amendments needed to remove the affected part of the Bill.

(4) If a Bill referred to in subrule (3) has already been passed by the Assembly, the Bill must be referred back to the Assembly for reconsideration and amendment in terms of the Assembly rules.

Process if Council passes Bill

175. If the Council passes a constitution amendment Bill, the Secretary must without delay submit the Bill —

- (a) to the President for assent if the Council has passed the Assembly's version of the Bill; or
- (b) to the Speaker if the Council has amended the Bill.

Assembly must consider Council amendments

176. (1) If the Council amends a constitution amendment Bill the Assembly must consider the amendments in terms of its own rules and either reject or pass the amended Bill.

(2) If the Assembly passes the amended Bill the Secretary must without delay submit the Bill to the President for assent.

Referral to Mediation Committee in event of disagreement between Houses

177. (1) A constitution amendment Bill must be referred to the Mediation Committee if -

- (a) the Council rejects the Bill as passed by the Assembly;
or
- (b) the Council has amended the Bill and the Assembly rejects the Council's amended version.

(2) A Bill must be referred to the Mediation Committee within seven working days after the Council or the Assembly has rejected the Bill in terms of subrule (1).

(3) The Secretary must within the period mentioned in subrule (2) provide the members the Mediation Committee with -

- (a) a copy of the rejected Bill;
- (b) a copy of each version of the Bill that was tabled or considered in either of the Houses;
- (c) copies of the documents that accompanied the Bill when it was introduced; and
- (d) copies of all committee reports on the Bill.

(3) A Bill is regarded as having been referred to the Mediation Committee -

- (a) on the day the Secretary distributes copies of the Bill to the members, if both Houses are in session; or
- (b) seven days after the Secretary has distributed or sent copies of the Bill to the members, if both or any of the Houses are in recess.

Notice to Houses of mediation result

178. Once the Mediation Committee has agreed on a version of a Bill referred to it, or if it is unable to agree on any version within 30 days of the Bill's referral to it, the Committee must notify the Speaker and the Chairperson of the Council of the result of its efforts.

Process if mediation successful

179. (1) If the Mediation Committee agrees on the Bill as passed by the Assembly, the Secretary must submit that version to the Chairperson of the Council for reconsideration by the Council.

(2) If the Mediation Committee agrees on the Bill as amended by the Council, the Secretary must submit that version to the Speaker for reconsideration by the Assembly.

(3) If the Mediation Committee agrees on another version of the Bill, the Secretary must submit that version to both the Speaker and the Chairperson of the Council for consideration by the Houses.

(4) If a version of the Bill mentioned in subrule (1), (2) or (3) is passed by the Council, the Assembly or both Houses, as the case may be, the Secretary must without delay submit that version to the President for assent.

Consequence of unsuccessful mediation

180. A constitution amendment Bill lapses if —

- (a) the Mediation Committee is unable to agree within 30 days of the Bill's referral to it;
- (b) the Council rejects the version of the Bill submitted to it in terms of joint rule 179 (1);
- (c) the Assembly rejects the version of the Bill submitted to it in terms of joint rule 179 (2); or
- (d) either of or both the Houses reject the version of the Bill submitted to them in terms of joint rule 179 (3).

Part 5: Joint Business, Section 75 Bills

Process if Assembly approves Second Reading

181. If the Assembly approves the Second Reading of a section 75 Bill, the Secretary must without delay submit the Bill to the Chairperson of the Council to deal with the Bill in terms of the Council rules.

Process if Council passes Bill without proposing amendments

182. If the Council passes a section 75 Bill without proposing any amendments the Secretary must without delay submit the Bill to the President for assent.

Process if Council rejects Bill or proposes amendments

183. (1) If the Council rejects a section 75 Bill or passes it subject to amendments, the Secretary must without delay submit the Bill and any amendment proposals of the Council to the Speaker.

(2) The Assembly must reconsider the Bill in terms of its own rules, taking into account any amendments proposed by the Council, and may -

- (a) pass the Bill again, either with or without amendments; or
- (b) decide not to proceed with the Bill.

(3) If the Mediation Committee agrees on another version of the Bill, the Secretary must submit that version to both the Speaker and the Chairperson of the Council for consideration by the Houses.

(4) If a version of the Bill mentioned in subrule (1), (2). or (3) is passed by the Council, the Assembly or both Houses, as the case may be, the Secretary must without delay submit that version to the President for assent.

Consequence of unsuccessful mediation on section 76 (1) Bills

- 189.** The Assembly must deal with a section 76 (1) Bill in terms of its own rules if —
- (a) the Mediation Committee is unable to agree within 30 days of the Bill's referral to it;
 - (b) the Council rejects the version of the Bill submitted to it in terms of joint rule 188 (1);
 - (c) the Assembly rejects the version of the Bill submitted to it in terms of joint rule 188 (2); or .
 - (d) any of or both the Houses reject the version of the Bill submitted to them in terms of joint rule 188 (3).

Consequence of unsuccessful mediation on section 76 (2) Bills

- 190.** A section 76 (2) Bill lapses if —
- (a) the Mediation Committee is unable to agree within 30 days of the Bill's referral to it;
 - (b) the Council rejects the version of the Bill submitted to it in terms of joint rule 188 (1);
 - (c) the Assembly rejects the version of the Bill submitted to it in terms of joint rule 188 (2); or
 - (d) either of or both the Houses reject the version of the Bill submitted to them in terms of joint rule 188 (3).

Part 7: Procedure for mixed section 75/76 Bills

Note: *The procedure for mixed section 75/76 Bills suggested below, is based on the following premises:*

- (1) *A procedure can be provided only for mixed Bills introduced in -the Assembly*
Mixed Bills introduced in the Council are unconstitutional in that they contain section 75 provisions which cannot be introduced in the Council.

- (2) *Mixed Bills bound to lead to procedural confusion should be identified and disallowed at an early stage in the Assembly proceedings. A "screening" process for this purpose is essential.*
- (3) *Procedural confusion can only occur -*
- (a) *in the event of disagreement between the Houses; in other words when mediation, special NA majorities, etc., come into play; or*
 - (b) *when the two voting procedures in the Council lead to different results (see par. 7 below).*
- (4) *Proper consultation between the Houses throughout the process (through conferring committees and joint committees) may minimise the likelihood of disputes between the Houses.*
- (5) *The screening process should also apply to amendments.*
- (6) *The Assembly and the Council should be able to convert mixed Bills into pure section 75 or section 76 Bills when a disagreement or a likelihood of a disagreement between the Houses arises.*
- (7) *When a mixed Bill is referred to the Council, the Council should decide the Bill by a vote of provinces as well as by a vote of individual delegates.*
- (8) *If this is done there is no need for the Council to distinguish between section 75 and section 76 provisions in the Bill.*
- (9) *Provinces can give their mandates on the Bill as a whole.*
- (10) *If procedural complications arise because of a disagreement between the Houses or when the two - voting procedures in the Council lead to different results, the mixed Bill should be split into separate section 75 and section 76 Bills and be dealt with accordingly.*
- (11) *Each Bill should be considered and decided separately the Council and then proceeded with in terms of the relevant rules applicable to section 75 and section 76 Bills respectively.*

(12) *If a procedure for mixed section 75/76 Bills is politically acceptable, it would be advisable to refer the rules contained in this Part to the Constitutional Court for a ruling on their constitutionality. If the Court rules against this procedure, a constitutional amendment to authorise rules for such a procedure should be considered.*

Note: *The Joint Rules Committee approved Part 7 but decided that implementation should be held in abeyance pending legal clarity on its validity.*

Mixed section 75/76 Bills introduced in Assembly

191. (1)(a) If a Bill introduced in the Assembly is classified or reclassified by the JTM as a mixed section 75/76 Bill, the JTM must decide whether the Bill may be proceeded with or ruled out of order.

(b) In reaching its decision the JTM may require the appropriate Assembly portfolio and Council select committees to confer on the matter for advice.

(2) A mixed section 75/76 Bill must be ruled out of order unless —

- (a) the Bill is of such a nature that a dispute between the Houses is unlikely to arise;
- (b) the Bill is drafted in such a way that it would be possible to isolate the provisions in the Bill to which section 75 and section 76, respectively, apply should it become necessary during the proceedings —
 - (i) to split the Bill into two separate section 75 and section 76 Bills; or
 - (ii) to amend the Bill in order that it becomes either a section 75 or a section 76 Bill; or
- (c) the Bill is for any other reason unlikely to lead to unmanageable procedural complications.

(3) If the JTM cannot agree whether the Bill should be proceeded with, or ruled out of order, the Bill must be regarded as being out of order.

Consequence of decision

192. (1) A Bill ruled out of order may not be proceeded with in its format as a mixed section 75/76 Bill, but may be split into separate section 75 and section 76 Bills and reintroduced in the Assembly in terms of the Assembly rules.

(2) If a Bill is not ruled out of order, it must be proceeded with in terms of the applicable Assembly rules, subject to joint rule 194.

Mixed section 75/76 Bills introduced in the Council

193. If a Bill introduced in the Council is classified by the JTM as a mixed section 75/76 Bill, the Bill may not be proceeded with, but that part of it that falls within section 76 (3) of the Constitution may be separated and reintroduced as a separate section 76 Bill in the Council in terms of the Council rules.

Assembly amendments to mixed section 75/76 Bills

194. (1) An Assembly committee to which a mixed section 75/76 Bill may have been referred in terms of the Assembly rules may confer with the corresponding Council select committee before it agrees to any amendments proposed in it or referred to it.

(2) If the committees have conferred but cannot agree on amendments proposed in or submitted to the Assembly committee, or if the Bill has been referred to a joint committee in terms of joint rule 166 or 170 and the joint committee cannot agree on amendments proposed in or referred to the joint committee, the Assembly may —

- (a) instruct an Assembly committee -
 - (i) to split the Bill into separate section 75 and section 76 Bills; or
 - (ii) to amend the Bill in such a way that it may be reclassified as either a section 75 or a section 76 Bill;
- (b) rule the Bill out of order in its format as a mixed 75/76 Bill, in which case joint rule 192 (1) applies; or
- (c) proceed with the Bill in its format as a mixed section 75/76 Bill.

(3) The Assembly committee —

- (a) must consult the person in charge of the Bill when carrying out an instruction in terms of subrule (2)(a); and
- (b) may request the responsible Cabinet member or Deputy Minister to make a state law adviser and any departmental officials available to assist the committee in carrying out the instruction, if the Bill was initiated by the national executive.

(4) A split or amended Bill in terms of subrule (2)(a)(i) or (ii) must, after reclassification by the JTM, be proceeded with in terms of the applicable Assembly rules for section 75 or section 76 Bills.

Referral to Council

195. If the Assembly approves the Second Reading of a mixed section 75/76 Bill the Secretary must without delay submit the Bill to the Chairperson of the Council to deal with the Bill in terms of the Council rules.

Council amendments to mixed section 75/76 Bills

196. (1) A Council committee to which a mixed section 75/76 Bill may have been referred in terms of the Council rules may first confer with the appropriate Assembly committee before it agrees to any amendments proposed in it or referred to it.

(2) If the committees have conferred but cannot agree on amendments proposed in or to the Council committee, or if the Bill has been referred to a joint committee in terms of joint rule 166 or 170 and the joint committee cannot agree on amendments proposed in or referred to the joint committee, the Council may -

- (a) instruct a Council committee to split the Bill into separate section 75 and section 76 Bills; or
- (b) proceed with the Bill in its format as a mixed section 75/76 Bill.

(3) The Council committee -

- (a) must consult the person in charge of the Bill when carrying out an instruction in terms of subrule (2)(a); and
- (b) may request the responsible Cabinet member or Deputy Minister to make available a state law adviser and any departmental officials to assist the committee in carrying out the instruction, if the Bill was initiated by the national executive.

(4) A split Bill in terms of subrule (2)(a), must after reclassification by the JTM be proceeded with in terms of the applicable Council rules for section 75 or section 76 Bills depending on its classification, provided that if the Bill is passed by the Council without amendments other than those technical adjustments necessary to effect the split, the Bill must nevertheless be referred to the Assembly as if it were a Bill amended by the Council.

Voting procedures in Council on mixed section 75/76 Bills

197. (1) If the Council proceeds with the Bill in its format as a mixed section 75/76 Bill, the Bill as a whole must be decided by the votes of provinces and by the votes of individual members in accordance with the procedures set out in the Council rules.

(2) The vote by provinces must be taken first.

(3) Any amendment proposals to the Bill must be decided by the Council in accordance with the same procedure as set out in subrules (1) and (2).

Process if Council passes mixed section 75/76 Bill

198. If the Council passes a mixed section 75/76 Bill both by a vote of provinces and by a vote of individual delegates, the Secretary must without delay submit the Bill —

- (a) to the President for assent if the Council has passed the Bill without amendments; or
- (b) to the Speaker if the Council has passed an amended Bill or proposed amendments to the Bill.

Assembly must consider Council amendments

199. (1) If the Council amends a mixed section 75/76 Bill, the Assembly must consider the amended Bill or amendment proposals in terms of its own rules, and either pass the Bill or reject the Council's amendment Bill or amendment proposals.

(2) If the Assembly passes the Council's amended Bill the Secretary must without delay submit the Bill to the President for assent.

Process if Houses disagree

200. (1) A mixed section 75/76 Bill must be referred to the appropriate Assembly portfolio committee if —

- (a) the Council rejects the Bill in terms of joint rule 197 (1) either by a vote of Provinces or by a vote of individual members or by both; or
- (b) the Assembly rejects the Council's amended Bill or amendment proposals in terms of joint rule 199 (1).

(2) The committee must split the Bill as previously passed by the Assembly into separate section 75 and section 76 Bills, and for this purpose joint rule 194 (3) is applicable. When splitting the Bill the committee may not introduce amendments other than those technical amendments necessary to effect the split.

(3) After the JTM has classified the split Bills —

- (a) the committee must table the Bills in the Assembly;
- (b) the Assembly must deal with the section 75 Bill in terms of joint rule 183 (2), and
- (c) the section 76 Bill must be referred to the Mediation Committee as if it is a Bill to which joint rule 133(1) applies, provided that the period referred to in joint rule 186 (3) runs from the day on which the Bill was tabled in the Assembly in terms of paragraph (a) of this rule.

(4) Any procedural complications may be referred to the Joint rules Committee for resolution.

Ways of splitting Bills

201. (1) If a mixed section 75/76 Bill is split in terms of these Rules, it may be done in the following ways:

- (a) Amendment Bills: Split the amendment Bill into two separate amend Bills, the one containing all the amendments that must be dealt with in terms of section 75 and the other all amendments that must be dealt with in terms of section 76.
- (b) Substantive Bills:
 - (i) Either split the Bill into two separate sub Bills, the one containing all the clauses that must be dealt with in terms of section 75 and the other all the clauses that must be dealt with in terms of section 76; or
 - (ii) delete either the clauses in the Bill that must be dealt with in terms of section 75 or those that must be dealt with in terms of section 76 and move the deleted clauses to a separate amendment Bill which amends the main Bill by re-inserting the deleted clauses.

(2) If the subrule (1)(b)(ii) procedure is followed a House considering the Bills —

- (a) must consider the two Bills together;
- (b) must first decide the main Bill before it decides the amendment Bill;
- (c) is regarded as having rejected the amendment Bill if it rejects the main Bill; and
- (d) must make consequential adjustments to the amendment Bill if it passes amendments to the main Bill that affect the amendment Bill.

Part 8: Bills referred back by the President

Application

202. The provisions of this Part apply to Bills which the President, on account of reservations about their constitutionality, has in terms of section 79 of the Constitution referred back to the Assembly for reconsideration.

Assembly procedure

Referral to Assembly committee

203. (1) On receipt of a remitted Bill the Speaker must refer the Bill and the President's reservations to an Assembly committee.

- (2) The committee —
- (a) must consider, and confine itself to, the President's reservations;
 - (b) must confer with the corresponding Council committee if —
 - (i) the reservations relate to a procedural matter that involves the Council; or
 - (ii) the Bill concerned is a constitution amendment Bill that was passed also by the Council, or a section 76 or a mixed section 75/76 Bill; and
 - (c) must report to the Assembly on the President's reservations.
- (3) If the committee agrees with the President's reservations, the committee must —
- (a) recommend in its report how any procedural defect can be corrected, if the reservations relate to a procedural matter;
 - (b) present with its report an amended Bill correcting any constitutional defect in the substance of the Bill, if the reservations relate to the substance; or
 - (c) recommend that the Assembly rescind its decision to pass the Bill and reject the Bill, if it regards the Bill as being procedurally or substantively so defective that it cannot be corrected.

Debate and decision

204. (1) The Speaker must place the President's reservations and the committee's report, and, if an amended Bill is presented with the report, also the amended Bill, on the Order Paper for debate and decision.

- (2) The debate in the Assembly must be confined to —

- (a) the President's reservations;
- (b) the matters dealt with in the committee's report; and
- (c) any amendments to the remitted Bill that may be proposed by the committee.

(3) No Assembly member may place any amendments to the Bill on the Order Paper.

(4) The Assembly must consider the Bill in view of the President's reservations and deal with the matter in terms of either joint rule 205, 206 or 208.

(5) The Assembly may refer the matter, including any amended Bill back to the committee for further consideration before it takes its decision.

Procedural defects

205. (1) A remitted Bill which according to the President's reservations is procedurally defective —

- (a) must be returned to the President if the Assembly after having considered the President's reservations -
 - (i) decides not to accommodate the President's reservations; or
 - (ii) agrees with the President's reservations and could, and did, correct the procedural defect without involving the Council; or
- (b) must be referred to the Council if the Assembly —
 - (i) after having considered the President's reservations agrees with the President's reservations; and
 - (ii) could not correct the defect without the Council's involvement, or if only the Council can correct the defect.

(2) Any procedural complications in parliamentary proceedings to correct a procedural defect may be referred to the Joint Rules Committee for resolution.

Substantive defects

206. (1) A remitted Bill which according to the President's reservations is defective because of its substance, must be returned to the President if the Assembly after having considered the President's reservations decides not to accommodate the President's reservations.

(2) If the Assembly accommodates the President's reservations and passes an amended Bill, the amended Bill must be -

- (a) submitted to the President for assent if the amended Bill is —
 - (i) a constitution amendment Bill that in terms of section 74 may be passed by the Assembly alone; or
 - (ii) a section 75 Bill; or
- (b) referred to the Council if the amended Bill is —
 - (i) a constitution amendment Bill that in terms of section 74 is required to be passed also by the Council; or
 - (ii) a section 76 Bill or a mixed section 75/76 Bill.

President's reservations to accompany Bill referred to Council

207. When a remitted Bill or an amended Bill is referred to the Council in terms of joint rule 205 (1)(b) or 206 (2)(b), the President's reservations must accompany the Bill.

Defects that cannot be corrected

208. (1) If a remitted Bill is either procedurally or substantively so defective that it cannot be corrected, the Assembly must consider rejection of the Bill.

(2) If the Assembly rejects a remitted Bill, the Bill may not be proceeded with, but this subrule does not prevent a Bill of similar substance from being re-introduced.

Council procedure

Referral to Council committee

209. (1) On receipt of a remitted Bill or an amended Bill referred to the Council in terms of joint rule 205 (1)(b) or 206 (2)(b), the Chairperson of the Council must refer the President's reservations and the Bill to a Council committee.

- (2) The committee —
 - (a) must consider, and confine itself to, the President's reservations;
 - (b) may confer with the corresponding Assembly committee on any matter concerning the President's reservations; and
 - (c) must report on the President's reservations and, if the Assembly has passed an amended Bill, on the Bill.
- (3) If the committee agrees with the President's reservations, the committee must —

- (a) recommend in its report how any procedural defect in the Council's proceedings can be corrected, if the reservations relate to a procedural matter; or
- (b) report whether it agrees with the amended Bill passed by the Assembly, if the Assembly has passed such a Bill, or recommend rejection of that Bill.

Debate and decision

210. (1) The Chairperson of the Council must place the President's reservations and the committee's report, and, if an amended Bill was passed by the Assembly also the amended Bill, on the Order Paper for debate and decision.

- (2) The debate in the Council must be confined to -
 - (a) the President's reservations;
 - (b) the matters dealt with in the committee's report; and
 - (c) the amended Bill, if there is an amended Bill.

(3) No Council member or committee may propose amendments to the Bill as referred to the Council.

(4) The Council must consider the President's reservations and deal with the matter in terms of either joint rule 211 or 212.

(5) The Council may refer the matter back to the committee for further consideration before it takes its decision.

Procedural defects

211. (1) A remitted Bill which according to the President's reservations is procedurally defective must be returned to the President if the Council -

- (a) decides not to accommodate the President's reservations; or
- (b) agrees with the President's reservations and corrects the procedural defect.

(2) Any procedural complications in parliamentary proceedings to correct a procedural defect may be referred to the Joint Rules Committee for resolution.

Substantive defects

212. (1) If the Council passes a Bill amended by the Assembly to correct a substantive defect, the Bill must be referred to the President for assent.

(2) If the Council rejects the Assembly's amended Bill, the Bill must be referred to the Mediation Committee. If it is a mixed 75/76 Bill, joint rule 200 applies.

(3) An amended Bill referred to the Mediation Committee must be dealt with in terms of the mediation procedure prescribed for -

- (a) constitution amendment Bills, if the Bill is a constitution amendment Bill; or
- (b) section 76(1) Bills, if the Bill is a section 76 Bill.

Part 9: Time limits and fast tracking

Adherence to time limits

213. A time limit set for the completion of any step in the legislative process is compulsory and must be complied with by the person, structure, committee, forum or House to which it applies.

Extensions

214. (1) If it is not possible to meet a time limit set for a particular step in the legislative process, the affected person, structure, committee, forum or House must bring the fact and circumstances of the delay, within a reasonable time before the time limit expires, to the attention of the Joint Programme Committee or its subcommittee and request the Committee or subcommittee to grant an extension or to take such steps as are within the competence of the Committee or the subcommittee.

(2) The Joint Programme Committee or its subcommittee may grant a request or take such other steps as are necessary to ensure that the time limit is met.

Time limits concerning voting on a Bill in a House or committee

215. If a time limit for a decision on a Bill in a committee or a House is not met and no extension was given in terms of joint rule 214, the Bill must be put to the vote in the House without delay.

Fast-tracking

216. (1) (a) Only the person in charge of a Bill or, if it is a Bill initiated by the national executive, the Leader of Government Business in Parliament, may make a request for the fast tracking of a Bill.

(b) The request must be properly motivated.

(2) On receipt of a request in terms of subrule (1) the Joint Programme Committee or its subcommittee may -

- (a) dispense with any joint rule or any Assembly or Council rule that may impede prompt passage of an urgent Bill in the proceedings of Parliament, depending on the degree of urgency;
- (b) shorten any period within which any step in the legislative process relating to the Bill must be completed; or
- (c) make any procedural ruling that may facilitate prompt passage of the Bill.

(3) The subcommittee of the Joint Programme Committee may take a decision in terms of subrule (2) only when the Speaker and the Chairperson of the Council are present at the meeting.

(4) Any decision taken by the Joint Programme Committee or its subcommittee in terms of subrule (2) must be tabled in each House on its first sitting day after the decision was taken, for ratification by the House.

(5) If the one House ratifies a decision mentioned in subrule (4) and the other House refuses to ratify it, the decision must be referred to the Joint Rules Committee for resolution in accordance with the procedure set out in joint rule 57 (2) and (3).

(6) A Bill is an urgent matter -

- (a) if a delay in its passage in the proceedings of Parliament may seriously affect the interests of the state or the general public; or
- (b) if other exceptional circumstances require prompt passage of the Bill.

Part 10: General matters concerning the legislative process

Designation of members to be in charge of Bills in other House

217. (1) A Council member designated by the Assembly member in charge of a Bill introduced in the Assembly, must be regarded as the person in charge of the Bill in the Council proceedings.

(2) An Assembly member designated by the Council member in charge of a Bill introduced in the Council which was not initiated by the national executive, must be regarded as the person in charge of the Bill in the Assembly proceedings.

(3) Subrule (1) does not apply to Bills introduced by a Cabinet member or a Deputy Minister.

Distribution of copies of Bills

218. (1) The Secretary must supply to each Assembly member and permanent member of the Council and also to the Speaker of each provincial legislature a copy of —

- (a) each Bill or amended Bill;
- (b) any documents accompanying a Bill on introduction; and
- (c) any committee report on a Bill.

(2) Documents mentioned in subrule (1) and destined to be tabled in or presented to the Assembly, must be distributed to Assembly and Council members not later than the day they are tabled or presented, unless the Speaker directs that they be distributed earlier.

(3) Documents mentioned in subrule (1) and destined to be tabled in or presented to the Council, must be distributed to Council and Assembly members not later than the day they are tabled or presented, unless the Chairperson of the Council directs that they be distributed earlier.

Announcements concerning progress with Bills

219. (1) The Secretary must update Assembly and Council members on a regular basis concerning the progress with Bills in the legislative process by appropriate announcements in the ATC.

(2) At least the following must be announced in the ATC:

- (a) The appearance of a notice in terms of the Assembly or Council rules —
 - (i) that a Bill is to be introduced; or
 - (ii) that the introduction of a Bill will not be proceeded with.
- (b) The publication of the text of a draft Bill or an explanatory summary of a draft Bill for public comment.
- (c) The introduction of a Bill in the Assembly or the Council.
- (d) The introduction of a Bill in the Council on behalf of a Cabinet member or Deputy Minister.
- (e) The referral of a Bill to the JTM for classification.
- (f) The JTM'S classification of and findings on a Bill.
- (g) The referral of a Bill to an Assembly or Council committee or a joint

committee.

- (h) Any instructions concerning the consideration of a Bill issued by -'
 - (i) the Speaker to an Assembly committee;
 - (ii) the Chairperson of the Council to a Council committee; or
 - (iii) the Speaker and the Chairperson, acting jointly, to a joint committee.
- (i) The tabling of a committee report in the Assembly or the Council or in both.
- (j) The referral of a Bill from one House to the other.
- (k) The referral of a Bill to the Mediation Committee.
- (l) The result of mediation in the Mediation Committee.
- (m) The setting or extension of any time limit for the completion of any step in the legislative process concerning a Bill
- (n) Any decisions taken on fast tracking of Bills.
- (o) Bills passed, rejected or withdrawn or which have lapsed or are not or may not be proceeded with.
- (p) The referral of a Bill to the President for assent.
- (q) Bills sent back by the President on account of reservations concerning their constitutionality.
- (r) Any decisions on remitted Bills.
- (s) The names of the members of a joint committee, an Assembly committee or a Council committee, including a subcommittee.

Language requirements for Bills

220. (1) A Bill introduced in either the Assembly or the Council must be in one of the official languages. The Bill in the language in which it is introduced will be the official text for purposes of parliamentary proceedings.

(2) The official text of the Bill must be translated into at least one of the other official languages before the official text is sent to the President for assent.

[NCOP Subcommittee proposes that subrule (2) be replaced as follows:

(2) When a Bill is introduced it must be accompanied by at least one official translation].

- (3) The cover page of a Bill must specify which language version is —
 - (a) the official text; and
 - (b) an official translation.

(4) In parliamentary proceedings only the official text of a Bill is considered, but the Secretary must ensure that all amendments to the official text are reflected in the official translation or translations.

Referral of Bills to President for assent

221. When the official text of the Bill is sent to the President for assent it must be accompanied by the official translation or translations.

Subsequent amendments

222. (1) If an Act passed after the adoption of joint rule 220 is amended, the official text of the amendment Bill amending that Act may be in any of the official languages.

(2) If the official text of the Bill is not in the same language as the signed text of the Act that is being amended, then one of the official translations of the Bill must be in the language of the signed text.

CHAPTER 5

STOPPING OF FUNDS TO PROVINCES

Tabling of motion to approve stopping of funds

223. (1) If the national treasury stops the transfer of funds to a province in terms of section 216 of the Constitution, the Minister of Finance must without delay—

- (a) table a motion in the Assembly seeking parliamentary approval for the stopping of the funds; and
- (b) explain the reasons why funds for the province have been stopped.

(2) Such proceedings take precedence over other business of the Assembly.

(3) No debate is allowed.

Note: *In terms of section 216 of the Constitution the stopping of the transfer of funds to a province is an executive initiative for which parliamentary approval is required. The section requires the parliamentary process to be completed within 30 days. If Parliament is in recess when the funds are stopped it might be a proper case for the President to summon Parliament to an extraordinary sitting in terms of section 42(5) of the Constitution.*

Establishment of ad hoc joint committee

224. (1) The Speaker must refer the motion for a report and recommendation to an *ad hoc* joint committee which, despite joint rule 138, must be established for this purpose by the Speaker and the Chairperson of the Council, acting jointly. The *ad hoc* joint committee must be known as the Joint Ad Hoc Committee on Intervention in Provincial Funding.

[NCOP Subcommittee proposes the insertion of the following subrule:

(1A) *The ad hoc joint committee consists of —*

(a) *a number of Assembly members appointed in such a way that —*

(i) *the number of Assembly members is equal to the number of Council members appointed in terms of paragraph (b);*

(iii) *the parties in the Assembly are represented in substantially the same proportion that they are represented in the Assembly,*

*provided that each party is represented by at least one member;
and*

- (b) *a number of Council members appointed in such a way that —*
- (i) *each province is represented by two members; and*
 - (ii) *each party in the Council that does not have the majority of seats in at least one provincial legislature, is represented by one member.]*

(2) Joint rules 140 and 141 apply to the *ad hoc* joint committee established in terms of subrule (1).

Functions of *ad hoc* joint committee

225. The *ad hoc* joint committee to which the motion is referred must —

- (a) allow the Auditor-General to report to it on the matter as envisaged in section 216(5)(a) of the Constitution, either verbally or in writing;
- (b) investigate the reasons for the stopping of the funds to the province;
- (c) give the province an opportunity to answer any allegations against it, and to state its case, before the committee;
- (d) recommend either approval or rejection of the motion; and
- (e) report to both Houses within five working days.

[NCOP Subcommittee proposes addition of the following subrule:

- (4) *If the two components of the *ad hoc* joint committee cannot agree on either approval or rejection of the motion, each component must report separately to its House.]*

Assembly proceedings

226. (1) The motion and the *ad hoc* joint committee's report and recommendation must be put on the Order Paper on the first sitting day of the Assembly after the committee has submitted its report and recommendation.

(2) Debate and decision of the motion take precedence over other business of the Assembly.

(3) If the Assembly -

- (a) approves the motion, the Secretary must without delay submit the motion to the Chairperson of the Council; or

- (b) rejects the motion, the decision of the national treasury to stop the transfer of funds lapses in terms of section 216 of the Constitution.

Council's proceedings

227. (1) The motion and the *ad hoc* joint committee's report and recommendation must be put on the Order Paper on the first sitting day of the Council after referral of the motion to the Council, provided it takes place within three working days of the Council.

(2) Debate and decision of the motion take precedence over other business of the Council.

(3) The Council must either approve or reject the motion.

Referral to Mediation Committee

228. (1) If the Council rejects the motion, the motion must be referred to the Mediation Committee, which may agree either on approval or rejection of the motion.

(2) If the Mediation Committee is unable to agree within three working days of the motion's referral to it, the motion lapses unless the Assembly again approves it but with a supporting vote of at least two thirds of its members.

Compliance with constitutional time limit

229. The Speaker and the Chairperson of the Council, acting jointly, may take such steps as are necessary to facilitate resolution of a motion within the time limit of 30 days as determined by section 216(3)(b) of the Constitution.

Renewal of parliamentary approval

230. If Parliament approves a decision to stop the transfer of funds to a province that decision may be renewed by Parliament for no more than 120 days at a time, following the process set out in joint rules 223 to 229.

SCHEDULE

CODE OF CONDUCT FOR ASSEMBLY AND PERMANENT COUNCIL MEMBERS

Definitions

1. (1) In this Schedule, unless the context otherwise indicates —

"Committee" means the Joint Committee on Ethics and Members' Interests established by joint rule 121;

"member" means —

- (a) a member of the Assembly; or
- (b) a permanent member of the Council;

"permanent companion" means a person who is publicly acknowledged by a member as that member's permanent companion;

"registrable interests" means financial interests listed in item 7, and, in relation to a member, includes the financial interests of that member's spouse, dependent child and permanent companion;

"Registrar" means the Registrar of Members' Interests appointed in terms of item 3;

"Register" means the Register of Members' Interests opened in terms of item 4(a);

"remuneration" means receipt of benefits in cash or in kind;

"this Code" means the Code of Conduct for Assembly and permanent Council members set out in this Schedule.

(2) Where any doubt exists as to the scope, application or meaning of any aspect of this Code, the good faith of the member concerned must be the guiding principle.

[see Joint Rule 121-127: JC on Ethics & Members Interests]

Part I: Disclosure of registrable interests

Role of Committee

2. The Committee performs the functions mentioned in joint rule 124 in accordance with this Code.

Registrar of Members' Interests

3. (1) The Committee must be served by a senior official on the staff of Parliament appointed by the Speaker and the Chairperson of the Council, acting jointly, after consulting the leaders of parties represented in the Assembly and the Council.

(2) The Registrar must be assisted by staff assigned by the Secretary for the work of the Committee.

Registrar's functions

4. (1) The Registrar must -

- (a) open and keep a register for the purposes of this Code, called the Register of Members' Interests; and
- (b) record in the Register particulars of members' registrable interests;
- (c) amend any entries in the Register when necessary; and
- (d) perform the other duties in connection with the implementation of this Code as required by the Committee.

(2) The Registrar performs the functions of office in accordance with the directions of the Committee.

Register of Members' Interests

5. The Register must —

- (a) have a confidential part and a public part;
- (b) contain the information regarding the members' registrable interests as the Committee may determine; and
- (c) be in a format approved by the Committee.

Disclosure of registrable interests

6. (1) Members must disclose to the Registrar, on the form prescribed for this purpose by the Committee, particulars of all their registrable interests.

(2) The first disclosure must be within 30 days of the opening of Parliament after an election, in the case of an Assembly member, or of a member's appointment as a member, in the case of a permanent Council member. If a member has no registrable interests, a "nil" return must be submitted.

(3) After the first disclosure, members must annually disclose particulars of their registrable interests at a time determined by the Committee.

Kinds of interests to be disclosed

7. The following kinds of financial interests are registrable interests:

- (a) shares and other financial interests in companies and other corporate entities;
- (b) remunerated employment outside Parliament;
- (c) directorships and partnerships;
- (d) consultancies;
- (e) sponsorships;
- (f) gifts and hospitality from a source other than a family member or permanent companion;
- (g) any other benefit of a material nature;
- (h) foreign travel (other than personal visits paid for by the member, business visits unrelated to the member's role as a public representative and official and formal visits paid for by the state or the member's party);
- (i) ownership and other interests in land and property; and
- (j) pensions.

Details of registrable interests to be disclosed

8. The following details of registrable interests must be disclosed:

- (a) Shares and other financial interests in companies and other corporate entities:
 - (i) The number, nature and nominal value of shares of any type in any public or private company;
 - (ii) the name of that company; and
 - (iii) the nature and value of any other financial interests held in a private or public company or any other corporate entity.
- (b) Remunerated employment outside Parliament:
 - (i) The type of employment;
 - (ii) the name, and type of business activity, of the employer; and
 - (iii) the amount of the remuneration received for such employment.

- (c) Directorships and partnerships:
 - (i) The name, and type of business activity, of the corporate entity or partnership; and
 - (ii) the amount of any remuneration received for such directorship or partnership.
- (d) Consultancies:
 - (i) The nature of the consultancy or any retainership of any kind;
 - (ii) the name, and type of business activity, of the client concerned; and
 - (iii) the amount of any remuneration or other benefits received for such consultancy or retainership.
- (e) Sponsorships:
 - (i) The source and description of direct financial sponsorship or assistance from non-party sources; and
 - (ii) the value of the sponsorship or assistance.
- (f) Gifts and hospitality:
 - (i) A description and the value and source of a gift with a value in excess of R350;
 - (ii) a description and the value of gifts from a single source which cumulatively exceed the value of R350 in any calendar year; and
 - (iii) hospitality intended as a gift in kind.
- (f) Benefits:
 - (i) The nature and source of any other benefit of a material nature; and
 - (ii) the value of that benefit.
- (g) Foreign travel:
 - (i) A brief description of the journey abroad; and
 - (ii) particulars of the sponsor.
- (h) Land and property, including land and property outside the Republic:
 - (i) A description and extent of the land or property;
 - (ii) area in which it is situated;
 - (iii) nature of interest.

- (i) Pensions:
 - (i) The source of the pension; and
 - (ii) the value of the pension.

Entries in Register

9. (1) The Registrar must record all details of registrable interests in the public part of the Register, except the following which may be recorded in the confidential part:

- (a) The value of financial interests in an entity other than a private or public company.
- (b) The amount of any remuneration for any employment outside Parliament.
- (c) The amount of any remuneration for any directorship or partnership.
- (d) Details of foreign travel when the nature of the visit requires those details to be confidential.
- (e) Details of private residences.
- (f) The value of any pensions.
- (g) Details of all financial interests of a member's spouse, dependent child or permanent companion to the extent that the member is aware of those financial interests.

(2) Where any doubt exists as to whether any financial interests must be disclosed, the member concerned must act in good faith.

(3) Despite subitem (1) the Committee may on good cause instruct the Registrar to record any details of any of a member's registrable interests in the confidential part of the register.

Confidential part of Register

10. (1) Only a Committee member, the Registrar and staff assigned to the Committee have access to the confidential part of the Register.

(2) No person who has access to the confidential part of the Register may, except when a court so orders, disclose particulars of any entry in the confidential part to anyone other than the member concerned or another person who has such access.

- (3) A Committee member who contravenes subitem (2) -
 - (a) is liable to a reduction of up to 30 days' salary; and
 - (b) becomes ineligible to continue as a Committee member.

(4) The Registrar or a staff member who contravenes subitem (2) is subject to disciplinary action applicable to parliamentary staff, including dismissal.

Public part of Register

11. (1) Any person has access to the public part of the Register on a working day during office hours.

(2) The Registrar must publish the public part of the Register during April of each year in a manner determined by the Committee.

[Note: NCOP Subcommittee is of the view that a clear line of responsibility should be established on the correctness of the particulars in the Register when those particulars are published.]

Part 2: Ethical conduct

Declaration of private interests to parliamentary committees and forums

12. A member must -

- (a) declare any personal or private financial or business interest that that member or any spouse, permanent companion or business partner of that member may have in a matter before a joint committee, committee or other parliamentary forum of which that member is a member; and
- (b) withdraw from the proceedings of that committee or forum when that matter is considered, unless that committee or forum decides that the member's interest is trivial or not relevant.

Declaration of private interests when making representations

13. If a member makes representations as a member to a Cabinet member or any other organ of state with regard to a matter in which that member or any spouse, permanent companion or business partner of that member has a personal or private financial or business interest, that member must declare that interest to that Cabinet member or organ of state.

Lobbying for remuneration

14. No member may lobby for remuneration.

Remunerated employment outside Parliament

15. A member may only engage in remunerated employment when such employment is —
- (a) sanctioned by the political party to which the member belongs; and
 - (b) compatible with that member's function as a public representative.

Part 3: Breaches of the Code

What constitutes a breach

16. A member breaches this Code if the member —
- (a) contravenes or fails to comply with a provision of this Code;
 - (b) when disclosing registrable interests, wilfully provides the Registrar with incorrect or misleading details.

Investigations by Committee

17. (1) The Committee, acting on its own or on a complaint by any person through the office of the Registrar, may investigate any alleged breach by a member of this Code.

(2) The Committee may determine its own procedure when investigating any alleged breach but must at least hear the complainant and the member against whom the complaint is lodged.

(3) If the matter concerns a registrable interest recorded in the confidential part of the Register or which is regarded as confidential by the Committee, the proceedings of the Committee may be held in closed session.

Note: As a Joint Committee, the Committee has all the powers vested in Joint Committees in terms of joint rule 32.

Findings

18. (1) At the conclusion of its investigation, the Committee must make a finding supported by reasons, on the alleged breach of this Code.
- (2) The finding and the reasons for the finding must be made public.
- (3) If the hearing was in closed session a summary of the facts must be disclosed.

19. The Committee must recommend the imposition of one or more of the following penalties where it has found that a member has breached a provision of this Code —

- (a) a reprimand;
- (b) a fine not exceeding the value of 30 days' salary;
- (c) a reduction of salary or allowances for a period not exceeding 15 days; or
- (d) the suspension of privileges or a member's right to a seat in Parliamentary debates or committees for a period not exceeding 15 days.

20. (1) Within 7 days of making a finding, the Committee must report its finding and its recommendation as to penalties, if any, to the appropriate House.

- (2) If the Committee recommends a penalty, the House must either —
- (a) accept or reject the recommendation; or
 - (b) refer the matter back to the Committee for further consideration.

(3) If the House has accepted the Committee's recommendation, the Speaker or the Chairperson of the Council must act on such decision promptly.