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PARLIAMENT
OF THE
REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
 TABLINGS AND
 COMMITTEE REPORTS**

MONDAY, 13 MAY 2024

TABLE OF CONTENTS

ANNOUNCEMENTS

National Assembly

1. Referral to Committees of papers tabled 2

COMMITTEE REPORTS

National Assembly and National Council of Provinces

1. Ethics and Members' Interests 3

National Assembly

1. Finance 11
 2. Finance 25

National Council of Provinces

1. Cooperative Governance and Traditional Affairs, Water and Sanitation and Human Settlements 30

ANNOUNCEMENTS

National Assembly

The Acting Speaker

1. Referral to Committees of papers tabled

- (1) The following paper is referred to the **Portfolio Committee on Communications and Digital Technologies** for consideration and report:
 - (a) Corporate Plan of Sentech for 2024/25 – 2026/2027.
 - (2) The following paper is referred to the **Portfolio Committee on Cooperative Governance and Traditional Affairs** for consideration and report:
 - (a) Annual Performance Plan of the National House of Traditional and Khoi-San Leaders for 2024/25.
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COMMITTEE REPORTS

National Assembly and National Council of Provinces

REPORT OF THE JOINT COMMITTEE ON ETHICS AND MEMBERS' INTERESTS ON THE WORK UNDERTAKEN DURING THE 6TH PARLIAMENT

(9 NOVEMBER 2019 – 18 MARCH 2024)

LEGACY OVERVIEW

First Meeting: The inaugural meeting of the Joint Committee on Ethics and Members' Interests, ("the Joint Committee") took place on 9 November 2019.

Focus/ Functions of the Joint Committee: The work of the Joint Committee is set out in Joint Rule 124 and includes the functions contained in the Code of Ethical Conduct and Disclosure of Members' Interests ("the Code"). The Joint Committee acts proactively in the process of the annual disclosure of members' financial and registrable interests and then acts reactively when there is an allegation of breach of the Code against a Member of Parliament. Even though the work of the Joint Committee is confidential, and meetings are "closed", the aim of the Joint Committee is always aimed at promoting transparency and openness so that members of the public may hold the Members of Parliament accountable to act in the interests of the public and not their individual interests.

Key Challenge: The Joint Committee being comprised of members of the National Assembly and the National Council of Provinces, faces a constant challenge of meeting dates and times, which clashes with Portfolio and Select Committees. This results in meetings not being able to quorate. Meetings were scheduled on a Monday to ensure that a quorum was reached and to ensure that members did not have clashes with other meetings. However, because a Monday is a constituency day, it resulted in members of the Committee having to attend to constituency duties on certain Monday's and thereby not being available to meet.

Process of Committee work: The Joint Committee does not meet as frequently as portfolio or select committees. The meeting dates of the Joint Committee is determined by the nature of the complaints lodged with the Office of the Registrar of Members' Interests. On the basis that the Joint Committee must adhere to principles of natural justice in the processing of complaints, committee meetings are convened four to five weeks apart.

Recommendation: That meetings of the Joint Committee should take priority over Portfolio and Select committee meetings when there are scheduling clashes. This is needed because the Joint Committee does not meet that often and it must comply with the provisions of the Code. Extensive training for Members of Parliament on the Code must be undertaken as a new Code was adopted in April and May 2024 by the Houses, which will be in operation from the start of the term of the 7th Parliament.

INTRODUCTION

*“Ethics is to know the difference between what you
have the right to do and what is right to do.”* Potter Stewart

The above excerpt by Potter Stewart crystalizes the fine line between that which one may think is right and that which is right. For this reason, “*Ethics* is the discipline that examines one’s moral standards or the moral standards of society. It asks how these standards apply to our lives and whether these standards are reasonable or unreasonable.” [*Manuel Velasquez: Business Ethics, Concepts and Cases, 6th Edition*]

In the context of the Parliament of the Republic of South Africa, Members of Parliament (“Members”) are required to uphold ethical standards. These standards are contained in the Code of Ethical Conduct and Disclosure of Members’ Interests (“the Code”).

In terms of Item 4 of the Code, the Standards of Ethical Conduct are as follows:

“4.1 Members must:

- 4.1.1 abide by the principles, rules and obligations of this Code;
- 4.1.2 by virtue of the oath or affirmation of allegiance taken by all elected Members, uphold the law;
- 4.1.3 act on all occasions in accordance with the public trust placed in them;
- 4.1.4 discharge their obligations, in terms of the Constitution, to Parliament and the public at large, by placing the public interests above their own interests;
- 4.1.5 maintain public confidence and trust in the integrity of Parliament and thereby engender the respect and confidence that society needs to have in Parliament as a representative institution; and
- 4.1.6 in the performance of their duties and responsibilities, be committed to the eradication of all forms of discrimination.

The Code also directs that financial and business interests of a Member may not present a conflict of interest to the Members’ position as a holder of public office. The Joint Committee is therefore, the proverbial “*watch-dog*” for Members’ Ethics and Members’ Interests. This report sets out the work of the Joint Committee over the term of the 6th Parliament, that is, from November 2019 to March 2024.

1. THE JOINT COMMITTEE:

The Joint Rules of Parliament, in Chapter 3, Part 11, establishes the Joint Committee on Ethics and Members’ Interests. Joint Rule 122 (1) provides that the Joint Committee consist of 14 National Assembly members and 9 Council members. The Joint Committee consists of 23 members. Two Co-Chairpersons, one from the National Assembly (NA) and one from the National Council of Provinces (NCOP), chair the

Committee. During the term of the 6th Parliament, the following Co-Chairpersons held this position:

Mr. Bekizwe Simon Nkosi, MP (NA): November 2019 to March 2024
 Ms. Moji Lydia Moshodi MP (NCOP): November 2019 to March 2024

The Joint Committee receives administrative support from the Registrar of Members' Interests and the staff assigned to support the Joint Committee. The appointment of this staff is provided for in item 11.2 of the Code. The position of Registrar of Members' Interests has been vacant since 2016. During the term of the 6th Parliament the Joint Committee was supported by an Acting Registrar of Members' Interests, namely, Adv Anthea Gordon (Acting): 1 October 2018 – to date.

2. THE FUNCTIONS OF THE JOINT COMMITTEE

Joint Rule 124 provides for the functions of the committee. In terms of Joint Rule 124

“(1) the committee must-

- (a) implement the Code;
- (b) develop standards of ethical conduct;
- (c) serve as an advisory and consultative body (to Members and generally);
- (d) regularly review the Code and make recommendations for its amendment to both Houses;
- (e) perform other functions reasonably assigned to the Joint Committee.

In terms of Joint Rule 124 (2), the Committee must report on the effectiveness of the Code to both Houses. Broadly, the Committee seeks to guide and advise Members rather than being punitive in its approach. Rehabilitation of members remains a critical task.

3. THE COMMENCEMENT OF THE 6TH PARLIAMENT

(Training on ethics) During 2019 the Ethics Institute together with the Acting Registrar of Members' Interests conducted training for Committee Members on the broad concept of ethics and on the provisions of the Code.

4. DISCLOSURE OF MEMBERS' INTERESTS

In terms of item 9.2.2 of the Code, the first disclosure by Members must be done within 60 days of the opening of Parliament. The first disclosure occurs by automatic

operation of the Code under the administration of the Registrar of Members' Interests. Thereafter, disclosure of Members' Interests takes place annually at a time determined by the Joint Committee. This function of the Joint Committee requires the Committee to act proactively to ensure that the disclosure of Members' Interests happens timeously within the guidelines of the Code.

The obligation upon a Member to disclose her or his financial interests ensures that the Parliament of the RSA can uphold the constitutional imperative of openness and transparency. In this way, members of the public can hold their public representatives accountable. During the 6th Parliament, the first disclosure of Members' Interests took place during September 2019. Annually thereafter disclosures took place as follows:

Date determined by the Committee annually:

2020: November 2020 _ Done via email due to hard lock restrictions during Covid

2021: November 2021 _ Done via email because Covid restrictions were not completely lifted.

2022: November 2022 _ New E-disclosure system was introduced.

2023: September 2023 _ E-disclosure process continued.

With the introduction of the new e-disclosure system during 2022, the Acting Registrar engaged in extensive virtual training with Members of Parliament.

Every disclosure period over the term of the 6th Parliament saw several Members submitting their disclosures after the due date. In terms of the Code a disclosure made after the due date is considered an alleged breach of the Code. The Registrar of Members' Interests is required to write to each of the late submitters and request of them to reply to an allegation of a breach of the Code. The Joint Committee considers each member's reason for her or his late disclosure on a case-by-case basis and at the same time must ensure consistency in the approach adopted by the Joint Committee. The Joint Committee under the 6th Parliament has taken a no tolerance approach toward members who do not meet the deadline. Generally, the Joint Committee considers explanations such as, grave or terminal illness and bereavement as valid reasons for submitting a disclosure after the due date. However, once again this is not a blanket approach but considered on a case-by-case basis. The number of late submitters per year, was as follows:

2019: 16 late submissions

2020: 8 late submissions

2021: 4 late submissions

2022: 4 late submissions

2023: 11 late submissions.

5. BREACH OF THE CODE

The Office of the Registrar of Member's Interests received 41 (forty-one) complaints of alleged breaches of the Code over the term of the 6th Parliament. Of the 41 complaints, the Joint Committee has finalised 35 (thirty-five) complaints. Six (6) matters were not completed. Of the 6 (six) matters, 3 (three) relate to current members of Parliament and 3 (three) relate to persons who are no longer members of Parliament. Essentially therefore, there are only 3 (three) active complaints before the Joint Committee.

The 41 complaints cover a wide range of matters such as -

- Violation of the standards of ethical conduct
- Not declaring gifts, hospitality, consultancies and directorships.
- Allegations of accepting bribe money or soliciting bribes.
- Acting in a racially discriminatory manner toward another.
- Derogatory language used on social media platforms such as WhatsApp group chats and facebook.

The 41 (forty-one) complaints do not include alleged breaches of the Code in respect of late disclosure of Members' Interests where members failed to meet the annual disclosure deadline. The late disclosures were tabled by the Acting Registrar in the Joint Committee and processed as alleged breaches of the Code. In total the late submissions amount to 43 (forty-three) cases of additional breaches of the Code as reported by the Committee to the Houses year-on-year. In total therefore, the Joint Committee dealt with 84 (eighty-four) complaints over the term of the 6th Parliament. During the 5th Parliament, the Joint Committee dealt with 36 (thirty-six) complaints. The 6th Parliament therefore saw a 133% increase in the volume of complaints from the 5th to the 6th Parliament.

6. REPORT OF THE STATE CAPTURE

During the term of the 5th Parliament, the then President of the Republic of South Africa constituted a Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State. This Commission became known as the "Zondo" Commission. The Report (various parts and volumes) indicated that certain members of Parliament may be implicated in corruption. The Joint Committee dealt with the cases of members of Parliament who were referred to the Joint Committee by the Presiding Officers and complaints laid by members of the public. Some of the matters took place many years ago and therefore the Joint Committee had to deal with matters of breaches of the Code that were not committed during the term of the 6th Parliament.

7. LITIGATION

The term of the 6th Parliament saw the work of the Joint Committee being challenged in a court of law. The Joint Committee (Parliament of the RSA) successfully opposed two urgent matters before the High Court in 2023 and 2024. The two Members attempted to interdict the implementation of the sanction and attempted to review the finding by the Joint Committee as adopted by the House(s). Currently, there are three matters before the High Court that must still be determined.

8. REVIEW OF THE CODE

The Joint Committee is required to review the Code regularly as contemplated in the Joint Rule 124(1)(d). The Joint Committee reviewed the Code which was in existence since 2014 (that is, for the past 10 years). The Joint Committee recommended that a new reworked Code be adopted by the Houses. It is anticipated that the new Code will be in operation for the start of the 7th Parliament in 2024. The new Code was adopted by the National Council of Provinces on 25 April 2024 and by the National Assembly on 09 May 2024.

9. SOME KEY CHALLENGES

The Joint Committee is constantly challenged in respect of what day of the week to meet. Mondays have proved beneficial but not the most optimal. Fridays, which are scheduled for joint committees is problematic because other committees, House sittings and workshops are also scheduled on a Friday.

10. MEMBERSHIP OF THE JOINT COMMITTEE OVER THE TERM OF THE 6TH PARLIAMENT

African National Congress (ANC)

1. Nkosi, Bekizwe (Co-Chairperson)
2. Moshodi, Lydia (Co-Chairperson)
3. Pilane-Majake Makgathatso Charlotte Chana
4. Capa, Ndumiso
5. Landsman, Eric
6. Mahlangu, Dikeledi
7. Shabalala, Nomvuzo
8. Masiko, Fikile
9. Moela, Desmond
10. Ngwenya, Winnie
11. Rayi, Mandla

12. Siwela, Violet
13. James, Tyoto

Democratic Alliance (DA)

14. Breytenbach, Glynnis
15. Cachalia, Ghaleb
16. Labuschagne, Cathy
17. Lotriet, Annelie
18. Smit, CF Beyers

Economic Freedom Fighters (EFF)

19. Mokause, Mmabatho
20. Shivambu, Floyd
21. Malema, Julius

Inkatha Freedom Party (IFP)

22. Van der Merwe, Liezel
23. Mfayela, Simo

Membership changes during the 6th Parliament:

Hon Mfayela replaced by Mr Ngwezi
 Hon Pilane- Majake replaced by Hon Lesoma
 Hon NF Shabalala replaced by Hon Manganye
 Hon Landsman replaced by Hon Dodovu
 Hon Ngwezi replaced by Hon Bebee
 Hon Lotriet replaced by Hon Gondwe
 Hon Bebee replaced by Hon Hadebe
 Hon James replaced by Hon Mashele
 Hon Cachalia replaced by Hon Masango

The final composition of the Joint Committee

African National Congress (ANC)

1. Nkosi, Bekizwe (Co-Chairperson)
2. Moshodi, Lydia (Co-Chairperson)
3. Lesoma, Regina Mpontseng
4. Capa, Ndumiso
5. Dodovu, Thamsanqa
6. Mahlangu, Dikeledi
7. Manganye, Jane

8. Masiko, Fikile
9. Moela, Desmond
10. Ngwenya, Winnie
11. Rayi, Mandla
12. Siwela, Violet (deceased)
13. Mashele, Timothy

Democratic Alliance (DA)

14. Breytenbach, Glynnis
15. Masango, Bridgit
16. Labuschagne, Cathy
17. Gondwe, Mimmi
18. Smit, CF Beyers

Economic Freedom Fighters (EFF)

19. Mokause, Mmabatho
20. Shivambu, Floyd
21. Malema, Julius

Inkatha Freedom Party (IFP)

22. Van der Merwe, Liezel
23. Hadebe, Nhlanhla

HON. BEKIZWE SIMON NKOSI, MP

HON. MOJI LYDIA MOSHODI, MP

CO-CHAIRPERSONS OF THE JOINT COMMITTEE ON ETHICS AND MEMBERS' INTERESTS

National Assembly

1. Report of the Standing Committee on Finance on the Public Procurement Bill [B18D - 2023] (National Assembly- section 76), dated 13 May 2024

The Standing Committee on Finance (SCOF), having considered the Public Procurement Bill [B18D - 2023] (National Assembly- section 76) referred to it, agrees to the amendments [B18C-2023] and adopts the Bill as amended, as follows:

1. INTRODUCTION

1.1. The Public Procurement Bill (PPB) was tabled in Parliament by the Minister of Finance on 30 June 2023. PPB is an ordinary (section 76 of the Constitution) Bill dealing with public procurement and affects provinces.

2. PROCESS

2.1. SCOF report on the Bill was adopted on 04 December 2023.

2.2. The Select Committee on Finance adopted the amended Bill and Committee report on 08 May 2024 and the Bill was subsequently referred to SCOF to consider the amendments to the Bill.

2.3. SCOF was briefed on the technical amendments to the Bill on 10 May 2024 and agreed to the amendments on 13 May 2024.

3. AMENDMENTS TO THE PPB

- 3.1. The amendments to the Public Procurement Bill (B 18B—2023) reflect significant changes to definitions and provisions of the Bill, with several clauses rejected and replaced with new clauses, as shown in the C-list and the D Version of the Bill.
- 3.2. Clause 1: Removal of“(1)” in line 17. Omission of the definition of “acceptable bid” (lines 18-19). Omission of the definition of “B-BBEE status level of contributor” (lines 29-32). Removal of text after “institution” in line 34-35. Replacement of the definition of “bid committee” (lines 37-39). Replacement of the definition of “confidential information” (lines 45-56). Addition of definition for “geographical area” after line 11 on page 6. Amendment of definition of “military veteran” (lines 24-25 on page 6). Replacement of the definition of “procurement” (lines 3-7 on page 7). Addition of “official” before “website” in line 40 on page 7. Replacement of “standard bid document” with “strategic procurement” (line 50 on page 7). Omission of subclause (2) (lines 4-5 on page 8).

Some comparison of amended definitions and new or added definitions.

- 3.3. “Bid Committee”: Old Definition: “Persons appointed to perform functions within the bid committee system.” New Definition: “Persons appointed by the accounting officer or accounting authority to a committee to perform functions within the bid committee system.” This amendment clarifies who appoints members to the bid committee, specifying either the accounting officer or accounting authority within the procuring institution.
- 3.4. “Confidential Information”: Old Definition: “Any information that must or may be refused under the Promotion of Access to Information Act, 2000.” New Definition: “Any information which, on a request under the Promotion of Access to Information Act, 2000, must or may be refused in terms of that Act.” This change specifies that the

classification of information as confidential is determined based on the provisions of the Promotion of Access to Information Act, 2000.

- 3.5. “Geographical Area”: New Definition: “The geographical area of a municipality or province.” This addition provides a clear definition of what constitutes a geographical area within the context of the bill.
- 3.6. “Military Veteran”: Old Definition refers to the broad definition of military veteran in the Military Veterans Act, 2011. New Definition: “Any South African citizen who rendered military service to non-statutory military organizations involved in South Africa’s Liberation War (1960-1994).” The amendment limits the scope and eligibility criteria for military veterans.
- 3.7. “Procurement”: Old Definition dealt with goods and services together with infrastructure and capital assets. New Definition: deals with goods and services, not linked to the construction, repair or maintenance of infrastructure or capital assets, separately.
- 3.8. Official Website: New: “The website officially designated by the procuring institution.” This addition clarifies that the term 'website' refers to the specific and official online platform designated by the procuring institution for relevant information.
- 3.9. “Strategic Procurement”: New: “A comprehensive procurement approach aligning with a procuring institution's strategies and objectives to enhance cost-effectiveness.” This new definition emphasizes the strategic alignment of procurement activities with organizational goals.

Other amendments

- 3.10. Clause 2: Amendment to line 30 on page 8: Old: Various functions, including promoting innovation, sustainable development, and environmental rights. New: Promote

innovation, sustainable development, and environmental rights as outlined in section 24 of the Constitution. This change specifies the focus of promoting innovation and sustainable development within the context of constitutional environmental rights.

- 3.11. Clause 3: Amendment to line 39 on page 8: Old: Subclause (2) (entirely replaced).
New: Section 1, Chapter 4, and regulations under section 64 (including section 24(1)(d)) that apply to Chapter 4, are applicable to Parliament and provincial legislatures. This amendment clarifies the application of specified regulations to Parliament and provincial legislatures as outlined in Chapter 4 of the bill.
- 3.12. Clause 4: Amendments on page 9: Line 9: Addition of “other” after “and”. Line 10: Insertion of a new subclause (3) defining the duties and powers of the Head of the Public Procurement Office. These changes expand the responsibilities of the Head of the Public Procurement Office in performing duties and exercising powers on behalf of the office.
- 3.13. Clause 5: Amendments on page 9: Line 14: Replacement of “promote and implement” with “develop, and support the implementation of”. Line 21: Replacement of “develop and” with “develop, and support the implementation of”. Lines 32-33: Replacement of paragraph (a) to specify issuing binding instructions for effective implementation of the Act by procuring institutions. After Line 33: Addition of new paragraph (b) allowing issuance of non-binding circulars for municipalities and municipal entities. Line 35: Replacement of “or” with “and” for clarification. After Line 43: Insertion of a new subsection (4) defining the binding nature of circulars issued to municipalities and municipal entities. These amendments focus on the development and support of implementation strategies for effective procurement practices among various entities, specifying binding instructions and non-binding circulars accordingly.
- 3.14. Clause 6: Amendment after line 52 on page 9: Addition of a new provision to enforce effective management and transparency in procurement functions of procuring institutions,

excluding municipalities and municipal entities. Amendment in line 54 on page 9: Addition of clarification that the provisions apply to institutions excluding municipalities or municipal entities. Amendment in lines 5-7 on page 10: Replacement of paragraph (a) to specify issuing non-binding circulars to municipalities and municipal entities and issuing binding provincial instructions to other procuring institutions via notice in the Provincial Gazette. Addition after line 16 on page 10: Insertion of new subsections (4) and (5) specifying the binding nature of circulars issued to municipalities and municipal entities and defining the duties and powers of the head of a provincial treasury. These changes outline the enforcement and management responsibilities related to procurement functions across different types of institutions, along with the issuance of instructions and circulars to ensure effective implementation of the Act.

3.15. Clause 8: Amendment in lines 26-27 on page 10: Replacement of paragraph (b) to emphasize the development and implementation of an effective and efficient procurement system and policy as per section 24. Amendment in line 33 on page 10: Replacement of paragraph (e) to highlight compliance with measures aimed at preventing abuse of the procurement system as outlined in section 26. Replacement of subclause (2) in lines 34-35 on page 10: Substitution of subclause (2) to allow procuring institutions, as prescribed, to correct any action or omission made under the Act based on an error of law or fact or fraud. These amendments strengthen the focus on developing and implementing effective procurement systems and policies while ensuring compliance with measures aimed at preventing abuse within the procurement framework.

3.16. Clause 9: Amendment in line 40 on page 10: Replacement of “or other officer,” with “, an official,”.

- 3.17. Clause 11: Amendment in line 28 on page 11: Addition of “, in writing,” after “interest,”. This specifies that disclosures related to conflicts of interest must be made in writing.
- 3.18. Clause 12: Amendment in lines 42-43 on page 11: Replacement of paragraph (b) to specify actions that impede the responsibilities of specified individuals or entities within the procurement framework.
- 3.19. Clause 14: Amendments on page 12: Addition in line 16: Insertion of “, in writing or verbally,” after “directed”. Addition in line 18: Insertion of “or is contrary to the provisions of this Act” after “this Act”. Replacement in line 26: Substitution of “his or her supervisor” with “the line manager of the person”. Replacement in line 27: Substitution of “prescribed” with “determined”. Replacement in line 31: Substitution of “supervisor” with “line manager was informed of the allegation in terms of subsection (2)(c) but”. Omission in line 34: Removal of “his or her”. These amendments clarify procedures related to communication and reporting within the procurement context.
- 3.20. Clause 15: Amendments on page 12-13: Replacement in line 44: Substitution of “intended debarment” with “intended issuing of a debarment order”. Replacement in lines 45-46: Substitution of paragraph (b) to specify inviting affected persons to provide reasons within 10 days why a debarment order should not be issued. Replacement in line 55: Substitution of “committed any” with “has been convicted of an”. Replacement in lines 11-12 on page 13: Insertion of new subparagraphs (ii) and (iii) specifying involvement of the Public Procurement Office and relevant provincial treasury, if applicable, in certain processes. These changes refine and specify the procedures and criteria related to debarment orders and associated processes.
- 3.21. Clauses 16 to 20 have been rejected and substituted with new clauses.

- 3.21.1. New Clause 16: This clause outlines the development and implementation of a procurement policy by procuring institutions, aligning with preferences and protections as per Section 217(2) and (3) of the Constitution. It specifies categories of preference and protections for disadvantaged persons or categories, in accordance with the objectives of the Act and related regulations. The policy must address bid set-asides, pre-qualification criteria, and reporting procedures if certain procurement methods are not feasible.
- 3.21.2. New Clause 17 (Set-asides for Preferential Procurement): This clause mandates procuring institutions to set aside bids for specific categories of persons, such as black individuals, women, persons with disabilities, and others, subject to prescribed thresholds and conditions. The Minister is tasked with prescribing targets for set-asides and consulting relevant ministers for input on these targets. If no set-aside targets are prescribed, procuring institutions are not prohibited from setting aside bids for eligible categories.
- 3.21.3. New Clause 18 (Prequalification Criteria for Preferential Procurement): This clause requires procuring institutions to apply prequalification criteria to promote preferences in contract allocation. Criteria include bidder preferences based on black economic empowerment and subcontracting to small enterprises owned by disadvantaged groups.
- 3.21.4. New Clause 19 (Subcontracting as Condition of Bid): This clause mandates procuring institutions to subcontract contracts above a certain threshold to advance disadvantaged groups, such as small enterprises owned by black individuals, women, and others. Bidders failing to meet subcontracting criteria stipulated in bid documents are disqualified.

- 3.21.5. New Clause 20: This clause details the responsibilities of the Minister in responding to requests for waivers related to preferential procurement designations. The responsible Minister must monitor and publish reports on the impact of designations and review their appropriateness after a specified period.
- 3.22. Clause 21 was rejected, indicating that this specific clause will not be included in the final version of the Bill.
- 3.23. Clause 25: Amendment in lines 28-37 on page 17: Replacement of subsection (1) to specify that the Minister must prescribe a framework for procuring institutions to develop and implement their procurement systems. The framework includes provisions for strategic procurement, types of procurement methods, procedure requirements, and bid evaluation criteria. Amendment in line 2 on page 18: Omission of paragraph (i).
- 3.24. Clause 27: Amendments: Addition after line 33 on page 18: Insertion of a new provision (d) to verify that a bidder is not listed as an affected person in the debarment register. Addition after line 47 on page 18: Insertion of a new subsection (2) stating that any contract provision contrary to the provisions of the Act is null and void.
- 3.25. Clause 28 has been rejected.
- 3.26. Clause 29: Addition after line 7 on page 19: Insertion of a new subsection (2) requiring procuring institutions to ensure that members of bid committees possess relevant knowledge, skills, and technical expertise for effective committee processes.
- 3.27. Clause 30: Amendment in line 29 on page 19: Replacement of paragraph (c) to include requirements and procedures for procurement methods prescribed under Section 24(1). Amendment in line 31 on page 19: Substitution of 'a' with 'an electronic'.
- 3.28. Clause 31: Amendment in line 41 on page 19: Omission of ', by instruction,'.

Addition after line 46 on page 19: Insertion of new provisions under paragraph (c) for the Public Procurement Office to ensure alignment with national e-strategy and publish related notices in the Gazette.

- 3.29. Clause 33: Amendment in lines 23-24 on page 20: Replacement of 'required under section 56(7)(aA)' with 'in the register maintained in terms of 56(14)'. Addition after line 24 on page 20: Insertion of new information requirements regarding bids awarded to immediate family members or related persons of individuals automatically excluded from bidding under Section 13, as well as details on bid cancellations.
- 3.30. Clause 34: Amendment in lines 42-43 on page 20: Replacement of 'National Treasury website' with 'website of the National Treasury'.
- 3.31. Clause 36: Amendment in lines 25-26 on page 21: Replacement of 'or a provincial treasury' with ', a provincial treasury or a procuring institution'. Amendment in lines 28-29 on page 21: Replacement of 'or the relevant provincial treasury' with ', the relevant provincial treasury or the relevant procuring institution'. Amendment in line 33 on page 21: Replacement of 'or a provincial treasury' with ', a provincial treasury or a procuring institution'.
- 3.32. Clause 42: Amendment in line 13 on page 23: Replacement of “him or her” with “that member”. Amendment in lines 17-18 on page 23: Replacement of “him or her from performing his or her” with “the performing of”.
- 3.33. Clause 43: Amendment in line 44 on page 23: Replacement of “his or her responsibilities” with “responsibilities of the member”.
- 3.34. Clause 46: Amendment in lines 13-14 on page 24: Replacement of “45(a) may not use his or her position or any information by virtue of his or her work” with: “43(a) may not use the work of that member or person”.

- 3.35. Clause 47: Amendment in lines 17-18 on page 24: Replacement of subclause (1) with:
“(1) The Chairperson must constitute a panel for an application envisaged in section 47 or 48 regarding— (a) a national department envisaged in section 3(1)(a), a constitutional institution referred to in section 3(1)(b), or a national public entity envisaged in section 3(1)(d), at the national sphere of government; or (b) a provincial department envisaged in section 3(1)(a), a municipality or municipal entity referred to in section 3(1)(c), or a provincial public entity envisaged in section 3(1)(d), in the relevant province.”
- 3.36. Clause 48: Addition after line 41 on page 24: Insertion of new provisions to further regulate the functioning of panels, including their functioning in the national or provincial sphere of government to facilitate ease of access for the applicant.
- 3.37. Clause 52: Amendment in lines 38-43 on page 25: Replacement of subparagraphs (iii) and (iv) with: “(iii) without just cause, fail to answer fully and satisfactorily to the best knowledge of the person all questions lawfully put to the person; or (iv) fail to produce any object or information, including but not limited to any working papers, statements, correspondence, books, or other documents in possession or custody or under control of the person, which the person has been required to produce.”
- 3.38. Clause 53: Addition after line 14 on page 26: Insertion of new provisions to specify the timeframe for making an order in terms of subsection (1) within 30 days after the submission of the application for review, with a possible extension of up to 30 days upon request by the Chairperson of the Tribunal.
- 3.39. Clause 55: Amendment in line 42 on page 26: Omission of “or review process”.
Amendment in line 48 on page 26: Replacement of “(xi)” with “(xii)”.
- 3.40. Clause 56: Amendment in line 55 on page 26: Replacement of “61” with “60, if it has reasonable cause to suspect that non-compliance has occurred”.

- 3.41. Clause 57: Amendment in line 26 on page 28: Omission of “and”. Amendment in line 28 on page 28: Replacement of “investigation.” with “investigation; and”. Addition after line 28 on page 28: Insertion of: “(viii) take photographs and videos of equipment and documents.”
- 3.42. Clause 59: Amendment in line 44 on page 29: Insertion after “regulations”:
 “and a decision by notice in the Gazette”. Amendment in lines 48-49 on page 29: Replacement of “him or her” with “the Director-General”. Amendment in line 54 on page 29: Addition after “section 20”: “, except a decision by notice in the Gazette”. Amendment in line 59 on page 29: Replacement of “him or her” with “the Director-General”. Amendment in line 1 on page 30: Replacement of “he or she” with “the Director-General”. Replacement of subclauses (4) and (5) in lines 8-17 on page 30:
 With the following new subclauses: “(4) The Head of the Public Procurement Office may, except the issuance of instructions— (a) delegate to an official of the Public Procurement Office any power conferred on the Head Public Procurement Office by this Act; (b) authorise an official of the Public Procurement Office to perform any duty imposed on the Head of the Public Procurement Office by this Act; (c) delegate to a provincial treasury any power conferred on the Head of the Public Procurement Office by this Act; or (d) authorise a provincial treasury to perform any duty imposed on the Head of the Public Procurement Office by this Act. (5) The Head of a provincial treasury may, except the issuance of instructions— (a) delegate to any of its officials any power conferred on the Head of the provincial treasury by this Act; or (b) authorise any of its officials to perform any duty imposed on the Head of the provincial treasury by this Act.”
- 3.43. New Clause 61: Insertion of a new clause after clause 60: Financial misconduct (1) An accounting officer or accounting authority of a procuring institution commits financial misconduct if that officer or authority fails to take reasonable steps to implement this Act

or the procurement system of the procuring institution in accordance with this Act. (2) A charge of financial misconduct, referred to in subsection (1), must be investigated, heard, and disposed of in terms of the statutory or other conditions of appointment or employment applicable to that accounting officer or authority.

- 3.44. Clause 61: Replacement of paragraphs (b) to (d) in lines 36-44 on page 30: With the following paragraphs: (b) interferes with or exerts undue influence on any official of a procuring institution or member of the Tribunal in the performance of a duty or in the exercise of a power under this Act; (c) without authorization opens a sealed bid, whether submitted electronically or otherwise, or discloses their contents prior to the official public opening of the bid; (d) conspires to commit extortion or a corrupt, fraudulent, collusive, or coercive or obstructive act related to procurement under this Act. Amendment in line 54 on page 30: Replacement of “excuse” with “explanation”. Omission of subclause (3) in lines 4-7 on page 31.
- 3.45. Clause 62: Omission of “or” in line 19 on page 31. Replacement of “declared.” with “declared; or” in line 20 on page 31. Addition after line 20 on page 31: Insertion of: “(e) it is uneconomical to comply with any provision of this Act. (2) If a request for an exemption is made in terms of subsection (1), the Minister must make a decision within 30 days after receipt of all the relevant documents.”
- 3.46. Clause 63: Replacement of “impossible, impractical or uneconomical” with “uneconomical” in line 27 on page 31. Addition after line 30 on page 31: Insertion of: “(2) The Public Procurement Office must, with or without conditions, authorise a departure from a provision of an instruction, issued in terms of section 5(2) if it is impossible or uneconomical to comply with the instruction. (3) If a request for a departure is made in terms of subsection (1) or (2), the Public Procurement Office must make a

decision within 30 days after receipt of all the relevant documents.” Replacement of “(1) and (2)” with “(1) to (4)” in line 33 on page 31.

- 3.47. Clause 64: Insertion after “Minister” in line 36 on page 31: Addition of: “, by notice in the Gazette” Omission of item (aa) in lines 41-43 on page 31. Omission of subparagraph (vi) in line 50 on page 31. Addition after line 28 on page 32: Insertion of: “(vi) regarding contracting methods for any category of procurement; and”. Replacement of subclause (2) in lines 31-32 on page 32: With the following: “(2) The Minister, before complying with subsection (3), must consult— (a) the relevant Minister on a draft regulation affecting the portfolio of that Minister; and (b) organised local government on a draft regulation affecting municipalities or municipal entities.”
- 3.48. New Clause 65: Insertion of a new clause after clause 65: In writing requirement “Any request, decision, approval, authorisation, determination, direction or notification or report in terms of this Act must be in writing.”
- 3.49. Clause 66: Addition after “the commencement of” in line 13 on page 33: Insertion of: “the applicable provision or provisions of”.
- 3.50. New Clause 68: Insertion of a new clause after line 18 on page 33: Review of Act “68. The Minister must— (a) within 24 months after this Act is first published as an Act in the Gazette, review the implementation of this Act and the need for amendments to this Act; (b) consult stakeholders, including Nedlac, during the review; and (c) within 27 months after this Act is first published as an Act in the Gazette, make public a report on the review and submit it to Parliament.”
- 3.51. Clause 68: Replacement of “2023” with “2024” in line 21 on page 33.
- 3.52. The provided new schedule outlines a comprehensive set of amendments and repeals to existing legislation, all related to the implementation and alignment with the Public Procurement Bill.

- 3.53. Preamble Amendments: Insertion of "and local" after "provincial" in the first paragraph. Insertion of ", or categories of persons" after "the advancement of persons" in the second paragraph. Omission of "within a framework prescribed by national legislation" from the second paragraph. Insertion of additional text after the second paragraph to align with constitutional requirements. Insertion of text recognizing the importance of economic transformation and black economic empowerment after the sixth paragraph.
- 3.54. Arrangement of Sections Amendments: Replacement of the section heading to "PROCUREMENT INTEGRITY AND DEBARMENT". Replacement of text to include "framework, procurement policies and application of provisions". Omission of "Other preference measures". Omission of "Establishment of procurement functions". Insertion of a new section titled "Financial misconduct". Insertion of a new section titled "In writing requirement". Insertion of a new section titled "Review of Act".

4. CONCLUSION

- 4.1. The Committee agrees with the amendments made [B18C-2023].
- 4.2. The Committee adopts the Bill as amended [B18D-2023].

The Democratic Alliance (DA) reserve their position.

Report to be considered.

2. Report of the Standing Committee on Finance on the Pension Funds Amendment Bill [B3D-2024] (National Assembly- section 75), dated 13 May 2024

The Standing Committee on Finance (SCOF), having considered the Pension Funds Amendment Bill [B3D - 2024] (National Assembly- section 75) referred to it, reports the Bill with amendments [B3D – 2024]:

1. INTRODUCTION AND BACKGROUND

1.1. The Pension Funds Amendment Bill (PFAB) was tabled in Parliament by the Minister of Finance on 30 January 2024. PFAB is an ordinary (section 75 of the Constitution)

2. PROCESS

2.1. SCOF's report on the Bill was adopted on 22 March 2024.

2.2. The Select Committee on Finance adopted the amended Bill and Committee report in May 2024. The amended Bill was subsequently referred to SCOF to consider the proposed technical amendments to the Bill.

2.3. The SCOF was briefed on the proposed technical amendments to the Bill on 10 May 2024.

3. PROPOSED TECHNICAL AMENDMENTS TO THE PFAB

3.1. These detailed proposed technical amendments aim to refine the language, clarify definitions, and ensure consistency across provisions within the Bill. Each proposed change addresses specific sections and provisions to enhance the overall effectiveness and coherence of the legislative text.

- 3.2. Clause 1 Amendments: After line 10 on page 2, the definition of "beneficiary fund" will be substituted to clarify its reference. The revised definition specifies that a beneficiary fund means a fund referred to in paragraph (c) or (d) of the definition of 'pension fund organisation'. In line 35 on page 3, replace "the" with "a". In line 38 on page 3, replace "or (c)" with ", (c) or (d)". In line 50 on page 3, after "reserve," insert "as the case may be,".
- 3.3. Clause 3 Amendment: In line 21 on page 4, replace "principal Act" with "Pension Funds Act, 1956,".
- 3.4. Clause 6 Amendments: In line 10 on page 6, after "retirement", substitute "or" with a comma. In line 16 on page 6, replace "(bb)" with "(ii)". In line 33 on page 7, after "(aA)", omit "(i)". In line 41 on page 7, replace "(ii)" with "(aB)". In line 41 on page 7, replace "subparagraph (i)" with "paragraph (aA)". In line 42 on page 7, after "divorce", insert: or until a court order is issued. In line 46 on page 7, replace "order," with "order: Provided that a fund may pay the maintenance to a fund contemplated in paragraph (d) of the definition of 'pension fund organisation' in section 1." In line 60 on page 7, after "(iB);", insert "and". In line 3 on page 8, before "interest", insert "pension". In line 6 on page 8, after "fund", insert "or funds". In line 7 on page 8, replace subparagraph (bb) with the following: (bb) the fund or funds referred to in item (aa) in which the pension interest referred to in the court order is transferred. In line 35 on page 8, replace "after" with "of". In line 45 on page 8, omit "the" before "deduction".
- 3.5. Clause 7 Amendment: In line 22 on page 9, after "reserve,", insert "as the case may be,".
- 3.6. Clause 9 Amendments: In line 21 on page 10, omit: (i) a loan or guarantee has been furnished by an employer; or. In line 29 on page 10, replace "(ii)(BB)" with "(ii)(bb)(BB)". In line 36 on page 10, replace "fund" with "pension fund concerned".

In lines 43 to 44 on page 10, omit: (aa) any loan granted by the employer to such member at his request; or. In line 54 on page 10, replace "fund" with "pension fund concerned". In line 56 on page 10, replace "fund" with "pension fund concerned". After line 55 on page 11, insert the following: (4) The pension fund concerned may not permit a member to take a savings withdrawal benefit where there is a maintenance order or a written notification from the maintenance investigating officer against the pension fund concerned in place, unless it is satisfied that the withdrawal will not result in there being insufficient remaining value to comply with the order or the written notification.

3.7. Clause 10 Amendments: In line 20 on page 12, after "until", insert: finalisation of the divorce or until. In line 22 on page 12, replace "(3)" with "(4)". In line 50 on page 12, replace "(e)" with "(e)(ii)". In line 14 on page 13, replace "(f)(ii)" with "(f)(ii)(aa)". In line 15 on page 13, replace "(f)(iii)" with "(f)(ii)(bb)". In line 34 on page 13, replace "fund" with "pension fund concerned". In line 35 on page 13, replace "fund" with "pension fund concerned". In line 35 on page 13, replace "the court order" with "deduction".

3.8. Clause 11 Amendment: In line 28 on page 14, after "reserve,", insert "as the case may be,".

3.9. Clause 14 Amendments: In line 24 on page 15, after "Act", insert: and the Tax Administration Act, 2011 (Act No. 28 of 2011). In line 16 on page 16, replace "allow" with "permit". In line 18 on page 16, after "maintenance", insert "investigating". In line 20 on page 16, after "order", insert "or the written notification". In lines 21 to 26 on page 16, omit: (5) The designated retirement fund may, subject to a court order authorising the suspension of a savings withdrawal, suspend a savings withdrawal benefit where it is aware that proceedings relating to a maintenance order against the

designated retirement fund are pending, and the withdrawal may result in there being insufficient remaining value to comply with the pending order, if granted.

- 3.10. Clause 15 Amendments: In line 42 on page 16, after "A", insert "designated retirement". In line 44 on page 16, before "fund", insert "designated retirement". In line 45 on page 16, after "spouse,", insert "with proof". In line 46 on page 16, after "Act;", insert "or". In line 50 on page 16, after "until", insert: finalisation of the divorce or until. In line 49 on page 17, replace "the court order" with "deduction".
- 3.11. Clause 16 Amendments: In line 12 on page 18, replace "and/or" with "or". In line 23 on page 18, omit "below". In line 26 on page 18, after "fund,", insert: or the date on which the member's employment with a participating employer in a designated retirement fund is terminated.
- 3.12. Clause 18 Amendment: In line 21 on page 19, replace "member or beneficiary" with "Authority".
- 3.13. Clause 20 Amendment: In line 50 on page 19, after "apply", insert "with".
- 3.14. Clause 21 Amendment: In line 24 on page 20, after "reserve,", insert "as the case may be,".
- 3.15. Clause 23 Amendments: In line 24 on page 21, omit: (i) a loan or guarantee has been furnished by an employer; or. In line 10 on page 22, after "rules", insert "of the Fund". In line 38 on page 22, replace "fund" with "Fund". After line 38 on page 22, insert the following: (5) The Fund may not permit a member to take a savings withdrawal benefit where there is a maintenance order or a written notification from the maintenance investigating officer against the Fund in place, unless it is satisfied that the withdrawal will not result in there being insufficient remaining value to comply with the order or the written notification. In line 42 on page 22, replace "fund" with "Fund". In line 50 on page 22, after "rules", insert "of the Fund".

3.16. Clause 24 Amendments: In line 11 on page 23, after "until", insert: finalisation of the divorce or until. In line 56 on page 23, replace "(f)(ii)" with "(f)(ii)(aa)". In line 57 on page 23, replace "(f)(iii)" with "(f)(ii)(bb)". In line 12 on page 24, replace "the court order" with "deduction".

4. CONCLUSION

4.1. The Committee agrees with the amendments proposed, as reflected in the C list of the Bill [B3C – 2024].

4.2. The Committee reports the Bill with amendments [B3D-2024].

The Economic Freedom Fighters (EFF) reserve their position.

Report to be considered.

National Council of Provinces

[The following report, replaces the Report of the Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlement, which was published on page 4 of the Announcements, Tablings and Committee Reports, dated 10 May 2024]

1. Report of the Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlement on consideration of the South African National Water Resources Infrastructure SOC Limited Bill (B24B-2023) [sec7] dated: 10 May 2024

The Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlement (the Select Committee), having deliberated on and considered the subject of the South African National Water Resources Infrastructure SOC Limited Bill [B24B –2023] (sec 75), referred on 28 March 2024 and classified by the Joint Tagging Mechanism (JTM) as a section 75 Bill, reports that it has agreed to the Bill without amendments.

Report to be considered.