

**RULES OF THE NORTHERN CAPE PROVINCIAL
LEGISLATURE**

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CHAPTER I INTERPRETATION, APPLICATION, INTERIM RULING AND SUSPENSION OF RULES

Definitions

1. In these Rules, unless the context otherwise indicates -

“**approved policy**” means a Legislature policy approved in terms of relevant legislation;

“**ATC**” means the document titled Announcements, Tablings and Committee Reports which is a formal notification to a member and other stakeholders of matters to be discussed in the House;

“**Cabinet**” means the President, Deputy President and Ministers;

“**certify**” means scrutiny and correction of a Bill in respect of its constitutionality, conflict with existing legislation, legal technical correctness, drafting convention and style and “**certificate**” and “**certification**” has a corresponding meaning;

“**Chairperson**” means a person elected by members of a specific committee to preside over meeting procedure;

“**Chairperson of Committees**” means the Chairperson of Committees elected in terms of rule 34;

“**Chief Whip**” means the most senior party whip of the majority party in the Legislature designated as its chief administrative officer;

“**Code**” means the Code of Ethics and Conduct in Annexure 3;

“**committee**” means a standing, portfolio or ad hoc committee consisting of members appointed for the business and proceedings of the Legislature;

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

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

“**draft Bill**” means a Bill in a developmental stage, not yet ready for publication as a Bill, but intended for eventual introduction in the House;

“**employee**” means an employee as envisaged in section 10(5) of the Northern Cape Legislature Service Act, 2011 (Act 2 of 2011);

“**grave disorder**” means a state of uncontrollable unruliness;

“**House**” means Northern Cape Legislature;

“**journals**” means the minutes of proceedings of the Legislature as referred to in rule 248;

“Leader of Government Business” means the MEC nominated by the Premier for the arrangement of government business in the House;

“Leader of the Opposition” means the person recognized as the leader of the largest opposition party in the Legislature as contemplated in rule 37 as well as section 116(2)(d) of the Constitution;

“Legislature” means the Northern Cape Legislature as contemplated in section 104 of the Constitution;

“MEC” means a member of the Executive Council as contemplated in section 132 of the Constitution;

“member” means a member of the Legislature, the Premier and an MEC;

“money Bill” means a provincial Bill which appropriates money or imposes taxes, levies or duties and to which sections 77 and 228 of the Constitution applies;

“motion” means a request to the House to take a decision;

“NCOP” means the National Council of Provinces referred to in sections 60 to 70 of the Constitution;

“Northern Cape Payment of Members of the Provincial Legislature Act” means the Northern Cape Payment of Members of the Provincial Legislature Act, 1994 (Act 5 of 1994);

“official language” means Afrikaans, English, isiNdebele, Sepedi, Sesotho, Setswana siSwati, Tshivenda, isiXhosa, Xitsonga and isiZulu;

“order” means a directive of the House or the presiding officer;

“official opposition” means the largest opposition party in the Legislature;

“Order Paper” means the agenda of the House;

“organ of state” means - vigilant, always for our people

(a) a state department or administration in the national, provincial or local sphere of government; or

(b) any other functionary or institution -

(i) exercising a power on performing a function in terms of the Constitution or a provincial constitution; or

(ii) exercising a public power or performing a public function in terms of any legislation,

but does not include a court or judicial officer;

“**party leader**” means a member in writing so appointed by the relevant political party;

“**party whip**” means a member so appointed by a political party, represented in the Legislature;

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

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

“**precincts**” means the area of land and every building or part of a building under the Legislature’s control, including –

(a) the chambers in which the proceedings of the House are conducted and the galleries and lobbies of the chambers;

(b) every part of the buildings in which the chambers are situated, and every forecourt, yard, garden, enclosure or open space appurtenant thereto;

(c) committee rooms and other meeting places provided or used primarily for Parliament’s purposes; and

(d) every other building or part of a building provided or used in connection with the proceedings of the Legislature, while so used;

“**predominant languages**” means the four predominant official languages in the Northern Cape province, namely, Afrikaans, English, seTswana and isiXhosa;

“**Premier**” means the Premier of the province elected in terms of section 128 of the Constitution including an acting Premier;

“**President**” means the President of the Republic elected in terms of section 86 of the Constitution;

“**presiding officer**” means the member occupying the chair and whom is in control of the proceedings of the House;

“**programme**” means an official Legislature document which for a specific period reflects the business of the Legislature as aligned with that of Parliament;

“**Programme Committee**” means a committee with the responsibility to, on a weekly basis, determine the programme of the Legislature;

“**Provincial Gazette**” means the official *Gazette* of the province;

“**publish**” means publish in the *Provincial Gazette* and “**publication**” has a corresponding meaning;

“**quorum**” means the minimum number of members that constitutes a valid formal meeting;

“**recess**”, means a period determined as a recess by the Programme Committee, or by a resolution of the House, during which the business of the Legislature is interrupted, often referred to as a constituency or leave period;

“**resolution**” means a decision taken by the House;

“**Rules**” means these Standing Rules of the Legislature and any Appendix or Annexure thereto;

“**Secretary**” means the Secretary to the Legislature or any person acting in that capacity;

“**serjeant-at-arms**” means an employee of the Legislature responsible for order and security during a sitting of the House;

“**session**” means a period which commences when the Legislature first meets after a general election or recess and ends when the Legislature thereafter goes on recess or is dissolved;

“**sitting**” means a period during which the House is sitting continuously without adjournment and it includes any period during which the House is in committee;

“**sitting day**” means a day on which the Legislature is sitting;

“**Speaker**” means the Speaker of the Legislature elected in terms of section 111 of the Constitution;

“**special sitting**” means a sitting called by the Speaker to discuss and debate a specific matter;

“**substitute**” means one or more members appointed to represent another member in a committee as referred to in rule 41 and “**alternate**” has a similar meaning;

“**Table**” means the place in the House reserved for the procedural officials of the House;

“**tabling**”, means the placing of a document on the Table;

“**term**”, means the period of 5 years for which the Legislature is elected in terms of section 108(1) of the Constitution;

“**Whip of the official opposition**” means a member designated by the largest opposition party who also represents all minority party whips in the Legislature as its chief administrative officer;

“**working day**” means any day of the week except -

(a) Saturday and Sunday;

(b) a public holiday in terms of the Public Holidays Act, 1994 (Act 36 of 1994);

and

(c) a Monday following a public holiday which falls on a Sunday.

Interim ruling

2. (1) The Speaker may give a ruling or make an interim rule in respect of any eventuality for which these Rules do not provide.
- (2) A ruling or interim rule made by the Speaker remains in force until a meeting of the Rules Committee or the House has decided thereon.
- (3) The Secretary must place such a ruling or interim rule on the agenda of the Rules Committee or Order Paper for decision.

Suspension of rule

3. (1) Any provision of these Rules relating to the proceedings or business at a meeting of the House or of a committee may be suspended by resolution of at least half of the members plus one.
- (2) The suspension of any provision of these Rules is limited in its operation to the particular purpose for which such suspension has been approved.
- (3) A motion under subrule (1) may be moved without notice.

Application of Rules

4. These Rules govern the proceedings of the Legislature and must be complied with by -
 - (a) all members and the parties they represent;
 - (b) the permanent delegates to the NCOP in so far as they participate in the business of the Legislature;
 - (c) the Secretary and employees in the course and scope of their employment;
 - (d) any consultant to or contractor for the Legislature acting in the course of fulfilment of his or her contractual obligations;
 - (e) the public, including the media whilst present on the precincts; and
 - (f) any committee of the Legislature.

Supremacy of Constitution

5. The Constitution is the supreme law of the country and must at all times be upheld.

CHAPTER II

Part 1

Proceedings in connection with first sitting after a general election

First sitting

6. After an election, the first sitting of the Legislature must in terms of section 110(1) of the Constitution take place at a time and on a date determined by the Chief Justice, but not more than 14 days after the election result had been declared.

Convening notice

7. At the commencement of proceedings of the Legislature, on the first sitting day after an election, the Secretary must read the notice convening the Legislature.

Oath or affirmation

8. (1) Before a member assumes his or her functions in the Legislature, he or she must swear or affirm faithfulness to the Republic and obedience to the Constitution in accordance with Schedule 2, item 4 of the Constitution.
- (2) Before an MEC assumes his or her responsibilities he or she must swear or affirm faithfulness to the Republic and obedience to the Constitution in accordance with Schedule 2, item 5 of the Constitution.
- (3) An elected member or MEC who does not adhere, may in terms of section 107 and 135 of the Constitution, respectively, not begin to perform their functions.

Election of Speaker and Deputy Speaker

9. (1) At the first sitting after its election, or when necessary to fill a vacancy, the Legislature must elect a Speaker and a Deputy Speaker from among its members.
- (2) A judge designated by the President of the Constitutional Court must preside over the election of a Speaker who must in turn preside over the election of a Deputy Speaker.
- (3) The procedure set out in Schedule 3 of the Constitution applies to the election of the Speaker and Deputy Speaker.
- (4) The Legislature may remove the Speaker or Deputy Speaker from office by resolution. A majority of the members must be present when the resolution is adopted.
- (5) When it is necessary to elect a Speaker or Deputy Speaker, the Secretary must inform the House accordingly, whereupon the House must forthwith or

at a time announced by the Secretary, proceed with the election in terms of section 111 of the Constitution.

Election of Premier

10. (1) At the first sitting after its election, or when necessary to fill a vacancy, the House elects a woman or a man from among its members as Premier of the province.
- (2) When a vacancy has arisen in the office of the Premier, the Leader of Government Business or a member nominated by the Leader of Government Business, informs the Speaker accordingly, whereupon the Legislature elects one of its members as Premier in accordance with the provisions of section 128 and relevant Schedules to the Constitution.
- (3) A judge designated by the Chief Justice presides over the election of the Premier. The procedure set out in Part A of Schedule 3 of the Constitution applies to the election of the Premier.
- (4) The election to fill the vacancy in the office of Premier must be held at a time and on a date determined by the Chief Justice, but not later than thirty (30) days after the vacancy occurred.

Designation of acting Premier

11. (1) In the event of the designation of an acting Premier as contemplated in section 131 of the Constitution, the acting Premier must swear or affirm in accordance with Schedule 2 of the Constitution.
- (2) The designation of an acting Premier must be published on the ATC.

Freedom of speech and debate

12. A member has subject to these Rules and in terms of section 117 of the Constitution freedom of speech in the Legislature and its committees.

Inaugural address

13. (1) The Speaker informs the House of the date and place at which the Premier shall be inaugurated and address the Legislature.
- (2) After the Premier has delivered his or her inaugural address, the Premier announces the Executive Council.
- (3) When the Premier has delivered his or her inaugural address, the Secretary publishes the names of the Executive Council on the ATC.

Annual address

14. (1) The Speaker must inform members of the time and date on which the Legislature will reconvene after recess.

- (2) The Premier, at the first sitting of the Legislature every year, delivers the annual address to the Legislature at a time and date agreed upon with the Speaker.
- (3) When the Premier has delivered the annual address, the Secretary publishes it on the ATC and places it on the Order Paper for discussion.

Working days and hours of sitting

15. (1) Monday, Tuesday, Wednesday, Thursday and Friday excluding public holidays, are working days for members.
- (2) The business of the House may be considered and disposed of on these days, and the hours of sitting on these days are as follows:
 - (i) Tuesday to Thursday from 2.15 pm, or such other time as the Speaker may determine, until adjournment; or
 - (ii) Monday and Friday from 10.00 am or such other time as the Speaker may determine, until adjournment.
- (3) The Premier may as contemplated in section 110(2) of the Constitution at any time, summon the Legislature to an extraordinary sitting to conduct special business.

Interruption, suspension or adjournment of proceedings

16. The proceedings of the House or a committee may only be interrupted, suspended or adjourned by the presiding officer.

Prayer or meditation

17. At the commencement of Legislature business at every sitting day, the presiding officer must either -
 - (a) afford members an opportunity for silent prayer or meditation;
or
 - (b) say a prayer in one of the four predominant languages in the province.

National anthem

18. The national anthem must precede the delivery of the annual address by the Premier and also the last sitting of the year, or be sung as the presiding officer directs.

Communication with President

19. (1) The President may communicate with the Legislature –
 - (a) by addressing the House; or

- (b) by message.
- (2) The Premier must –
- (a) present any message received from the President for the Legislature by reading it out in the House, or by printing it on the ATC; and
- (b) if the message must be considered by the House, interrupt the business of the House and request the presiding officer to give precedence to the message or request its placement on the Order Paper.

Part 2
Public access to House

Admission of public

20. (1) The power to admit the public to a House sitting or a committee meeting, vests in the presiding officer or the Chairperson, respectively.
- (2) The Legislature must as contemplated in section 118(1)(a) of the Constitution –
- (a) facilitate public involvement in the legislative and other processes of the Legislature and its committees; and
- (b) conduct its business in an open manner and hold its sittings and those of its committees in public, but reasonable measures may be taken –
- (i) to regulate public access, including access of the media to the Legislature and its committees; and
- (ii) to provide for the searching of any person and where appropriate, the refusal of entry or the removal of any person.

Exclusion of public from House sitting (in camera)

21. The presiding officer may as contemplated in section 118(2) of the Constitution, when it is reasonable and justifiable to do so in an open and democratic society, exclude any person of the public from a sitting of the House.

Serjeant-at-arms to remove person

22. (1) The serjeant-at-arms must remove, or cause to be removed, any person of the public from any part of the House which has been designated for members only.
- (2) The serjeant-at-arms must, as contemplated in section 11 of the PPI Act, upon the instruction of the presiding officer, remove any person who, having been admitted into any other part of the Chamber, conducts him or herself in an

unacceptable manner or does not withdraw when members of the public are excluded.

Visitors address

23. (1) A visitor who is the head or representative of an international, national, or Provincial government or is the head of a national or provincial Legislature may subject to a decision of the Rules Committee, address the House.
- (2) The content of the address by the visitor must be placed on the ATC and may be placed on the Order Paper for debate by the House.
- (3) The Speaker may in accordance with these Rules, declare a sitting to be a special sitting to hear the address.
- (4) A special sitting may only dispose of a single order, namely, the visitor's address.

Part 3 ***Absence of member***

Leave of absence

24. (1) A member who wishes to absent him or herself from a sitting of the House, or of any committee, forum or event on behalf of the House of which he or she is a member, for 7 or more consecutive working days must, before so absents him or herself, obtain written permission of the House, the Rules Committee or the Speaker, whichever is more practicable in the circumstance.
- (2) If leave of absence is granted by the Rules Committee or the Speaker, the Speaker must inform the House in the first next sitting.
- (3) General apologies must be in writing, contain a proper explanation and be delivered to the Chief Whip, Whip of the official opposition, the relevant committee Chairperson and the Speaker at least 2 hours before the commencement of a sitting, meeting or other scheduled Legislature business and must be accepted or rejected by the House, committee or relevant structure.
- (4) The presiding officer or the relevant Chairperson may refer a matter of frequent absenteeism of a member to the Committee on Ethics and Conduct.

Loss of membership

25. (1) A member loses membership of the Legislature if he or she:
 - (a) Ceases to be eligible as contemplated in section 106(1) of the Constitution;

- (b) is absent from the House without permission as referred to in rule 24(1) for seven events as contemplated in that rule; or
 - (c) ceases to be a member of the party that nominated him or her as a member.
- (2) A member must be afforded an opportunity to be heard (*audi alteram partem* rule) before a final decision about loss of membership is taken.

Part 4 **Quorum requirement**

Quorum requirement in House

26. Except where the Constitution provides otherwise -
- (a) a majority of the members must be present before a vote may be taken on a Bill or an amendment to a Bill;
 - (b) at least one third of the members must be present before a vote may be taken on any other question before the House; and
 - (c) all questions before the House are decided by a majority of the votes cast.

Absence of quorum

27. (1) If there is no quorum when a sitting is due to begin, the presiding officer may not enter the Chamber and the bells must be rung for 3 minutes at 10 minute intervals, for a total of 30 minutes or until a quorum is present, whichever occurs first.
- (2) If there is no quorum at the expiration of 30 minutes after the time determined for the sitting, the presiding officer must take the Chair and adjourn the House.
- (3) If during the course of proceedings the attention of the presiding officer is drawn to the absence of a quorum, and if after an interval of 3 minutes, during which time the bells must be rung to alert that there is still no quorum, the presiding officer may suspend the proceedings or adjourn the House or postpone the decision of the question.

Adjournment owing to absence of quorum

28. (1) When the House is adjourned as a result of the absence of a quorum, the time of such adjournment, as well as the names of the members present, must be recorded in the Minutes of Proceedings.
- (2) Any member who alerts the presiding officer of the absence of a quorum must be deemed to be present, whether present or not, when the members are counted.

Vote of presiding officer

29. The presiding officer of the House has no deliberative vote at a meeting, but -
- (a) must cast a deciding vote when there is an equal number of votes on each side of a question; and
 - (b) may cast a deliberative vote when a question must be decided with a supporting vote of at least two thirds of the members.

Part 5 Presiding Officer

Speaker

30. (1) The Speaker is the presiding officer of the House.
- (2) The Speaker may at any time request the Deputy Speaker, the Chairperson of Committees or the Deputy Chairperson of Committees to preside during a sitting of the House.

Absence of Speaker

31. (1) When the Speaker is absent from office and unable to perform the functions of the office of Speaker, or when that office is vacant, the Deputy Speaker must perform the function of Speaker.
- (2) When both the Speaker and the Deputy Speaker are absent or unable to perform the functions of Speaker, or when both offices are vacant, the Chairperson of Committees or, in his or her absence, the Deputy Chairperson of Committees must perform the function of Speaker.

Continued absence of Speaker and Deputy Speaker

32. When the House has been informed of the likelihood of the continued absence of both the Speaker and the Deputy Speaker for longer than 7 consecutive working days, the House may appoint a member to be Deputy Chairperson of Committees, while the Chairperson of Committees acts as Speaker and the Deputy Chairperson of Committees acts as Chairperson of Committees, until the Speaker resumes the Chair or until the House decides otherwise.

Absence of all presiding officers

33. (1) When the House has been informed that all the presiding officers as contemplated in rule 32 are unavoidably absent or unable to perform the duties of that office, the House must forthwith elect one of its members to act as Speaker for that day only.
- (2) The Secretary must preside over an election as in subrule (1).

Chairperson of Committees

34. At its second sitting after an election or soon thereafter, or when the office of the Chairperson of Committees is vacant, the House must, by resolution, elect one of its members as Chairperson of Committees.

Deputy Chairperson of Committees

35. At its second sitting after an election or soon thereafter, or when the office of the Deputy Chairperson of Committees is vacant, the House must, by resolution elect one of its members as Deputy Chairperson of Committees.

Leader of Government Business

36. (1) The Premier must nominate a member to the office of Leader of Government Business before the second sitting of the House after an election.
- (2) When the office of the Leader of Government Business is vacant the Premier nominates a member to that office within 7 working days of occurrence of the vacancy.
- (3) At its second sitting after an election or soon thereafter, or when the office of Leader of Government Business is vacant, the House must by resolution, confirm the Premier's nomination of a member to the office of Leader of Government Business.

Leader of Opposition

37. (1) At the second sitting after an election or soon thereafter, the Speaker must, upon being informed in writing by the most senior office bearer of the political party that has secured the second largest number of votes in the election for the Legislature, announce the person designated by that party to be Leader of the Opposition.
- (2) If a vacancy occurs in the office of the Leader of the Opposition, the most senior office bearer of the political party that has secured the second largest number of votes in the election for the Legislature must advise the Speaker in writing of the person designated by the party to be the Leader of the Opposition.
- (3) All benefits due to the Leader of the Opposition shall only accrue from the date on which the Speaker receives the written advice of his or her status.

Role of whippers

- 37A (1) The whippers contribute to the smooth running of the Legislature.
- (2) Whippers represent their respective party's interests, ensure discipline of their members and the effective functioning of their parties in the Legislature.

Responsibilities of Chief Whip

37B The Chief Whip is responsible to:

- (a) Ensure attendance in the House in liaison with the party whips;
- (b) arrange Legislature business on the Order Paper subject to the directives of the Programme Committee;
- (c) political consultation amongst parties in the Legislature;
- (d) overall coordination and management of all whippery activities; and
- (e) approve a name list of speakers as envisaged in rule 120.

Responsibilities of Whip of the official opposition

37C The Whip of the official opposition coordinates the activities of whips of minority parties represented in the Legislature.

Responsibilities of party whips

- 37D
- (1) Party whips are responsible for political management of their parties within the Legislature.
 - (2) Party whips play a role in soliciting and communicating the views of political parties in the Legislature.

CHAPTER III COMMITTEES

Part I General rules applicable

Application

38. The provisions of this Part apply to all committees established by or in terms of these Rules except in so far as any of these provisions are clearly inconsistent with -

- (a) other provisions of these Rules applicable in a specific case; or
- (b) a resolution of the Legislature.

Composition

- 39.
- (1) Participation in the proceedings of committees by minority parties represented in the Legislature must be in a manner consistent with democracy.
 - (2) Parties are entitled to be represented in committees in substantially the same proportion as the proportion in which they are represented in the

Legislature, except where these Rules prescribe the composition of a specific committee.

- (3) Subject to these Rules, decisions of the Rules Committee, and where practicably possible, each party is entitled to at least one representative in a committee.

Appointment procedure

40. (1) Parties must within five (5) days of the adoption of these Rules, appoint their members to committees and every party leader must advise the Speaker accordingly.
- (2) The names of members so appointed must be published on the ATC without delay.

Substitute

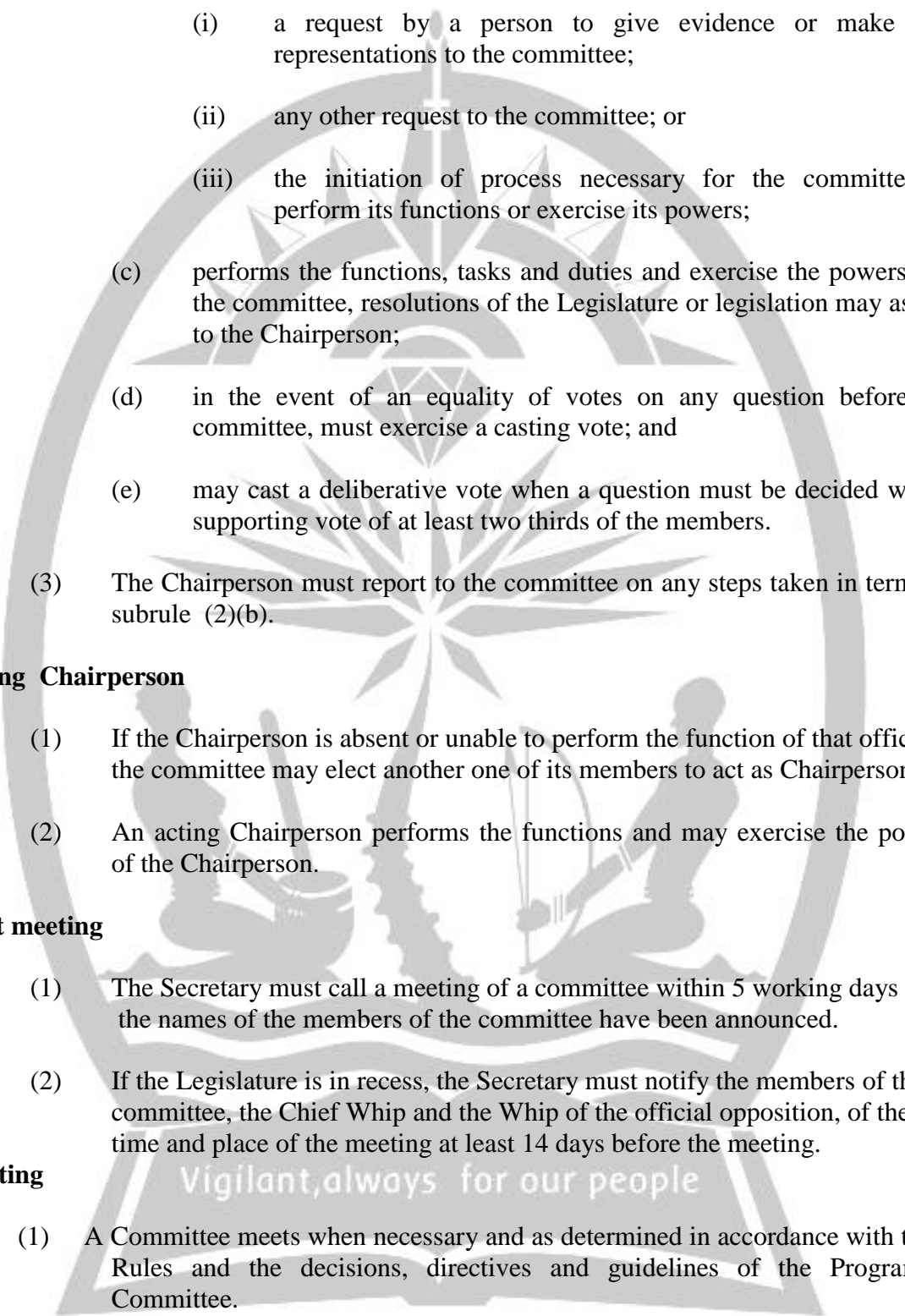
41. (1) A substitute may relieve a member of a committee who is unable to attend a specific meeting.
- (2) A substitute acts as a member of that committee when the member for which the substitute was appointed -
 - (a) is absent; or
 - (b) has vacated office, until the vacancy is filled.
- (3) The names of substitutes must be read out at the commencement of a meeting.

Term of office in committee

42. A member of a committee is appointed until the Legislature's term expires or the Legislature is dissolved or if the Chief Whip or Whip of the official opposition, in writing gives notice to the Speaker, that the member is to be replaced or has withdrawn.

Chairperson

43. (1) A committee must elect one of its members as the Chairperson.
- (2) Notwithstanding anything to the contrary contained in any other law, subject to the direction of the committee, the Chairperson -
 - (a) presides at meetings of the committee;
 - (b) may act in any matter for 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; or
 - (iii) the initiation of process necessary for the committee to perform its functions or exercise its powers;
- (c) performs the functions, tasks and duties and exercise the powers that the committee, resolutions of the Legislature or legislation may assign to the Chairperson;
- (d) in the event of an equality of votes on any question before the committee, must exercise a casting vote; and
- (e) may cast a deliberative vote when a question must be decided with a supporting vote of at least two thirds of the members.
- (3) The Chairperson must report to the committee on any steps taken in terms of subrule (2)(b).

Acting Chairperson

44. (1) If the Chairperson is absent or unable to perform the function of that office, the committee may elect another one of its members to act as Chairperson.
- (2) An acting Chairperson performs the functions and may exercise the powers of the Chairperson.

First meeting

45. (1) The Secretary must call a meeting of a committee within 5 working days after the names of the members of the committee have been announced.
- (2) If the Legislature is in recess, the Secretary must notify the members of the committee, the Chief Whip and the Whip of the official opposition, of the time and place of the meeting at least 14 days before the meeting.

Meeting

46. (1) A Committee meets when necessary and as determined in accordance with these Rules and the decisions, directives and guidelines of the Programme Committee.
- (2) A meeting of a committee may in terms of subrule (1) be called –
- (a) by the Chairperson of the committee; or
 - (b) by resolution of the House.

Quorum and decision

47. (1) A majority of the members of a committee constitutes a quorum.
- (2) A committee may proceed with business irrespective of the number of members present, but may decide a question only if a quorum is present.
- (3) When a committee has to decide a question and a quorum is not present, the Chairperson may either suspend business until a quorum is present, or adjourn the meeting.

Decision in committee

48. (1) All decisions in a committee must be decided by a majority of votes of members present.
- (2) The Chairperson must cast a deciding vote when there is an equal number of votes on each side of a question.

Interruption, suspension or adjournment

49. The Chairperson at a meeting of a committee may on good cause shown interrupt or suspend the proceedings or adjourn the meeting, and reschedule the business.

Implicating a member

50. (1) If any information which concerns the business of the Legislature implicate a member comes before a committee, the committee may not proceed upon that information, but must report it to the Speaker without delay.
- (2) The Speaker may after consultation with the Rules Committee, refer the matter to the Committee on Ethics and Conduct as referred to in rule 77.

Reporting

51. (1) A committee must report to the House on a matter referred to the committee –
 - (a) when the Legislature is to decide the matter in terms of these Rules, a resolution of the House or legislation;
 - (b) if the committee has taken a decision on a matter; or
 - (c) if the committee is unable to decide a matter referred to it for a report.
- (2) A committee must quarterly and annually report to the House on all other matters considered, and all activities performed by it.
- (3) A report of a committee must be submitted to the House by the Chairperson or another member of the committee designated by the committee.

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

General powers

52. (1) For the purpose of performing its functions a committee may, subject to the Constitution, legislation, these Rules and resolutions of the House –
- (a) invite or request any person to appear before it for purpose of information, clarification or discussion of any matter;
 - (b) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;
 - (c) receive a petition in accordance with relevant provincial legislation, a representation or submission from an interested person or institution;
 - (d) conduct public hearings, or other public participation;
 - (e) permit oral evidence on a petition, a representation, submission or any other matter before the committee;
 - (f) determine its own procedure;
 - (g) meet at a venue determined by it; and
 - (h) meet on any day and at any time, including-
 - (i) on a day which is not a working day; or
 - (ii) during recess,

but if a committee meets during recess or when the House is sitting, it does so in consultation with the Chairperson of Committees with the permission of the Speaker.

- (2) A committee may deal with any matter falling within its functions and powers on its own initiative or when referred to it by the Legislature or the Speaker for consideration and report.
- (3) A person summoned in terms of subrule (1)(b) may subject to the approval of the Speaker, be paid such amount for his or her expenses as determined in relevant financial legislation.

Joint committee meeting

53. (1) A committee may confer with any other committee of the Legislature.
- (2) Committees must confer if the House instructs them to confer or if the Chairperson of Committees, with the concurrence of the Speaker, instructs them to confer.

- (3) When committees meet to confer, the members of the respective committees elects from among the Chairpersons, a person to chair the meeting, alternatively the Chairpersons may co-chair the meeting.

Admission of public in committee

54. (1) Meetings of committees are open to the public, including the media and the Chairperson may not exclude the public, including the media, from the meeting, except when –
- (a) legislation, these Rules or resolutions of the House 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 may be 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) The committee may classify the records and documentation of a meeting from which a person was excluded in terms of subrule (1) as confidential.
- (3) The Chairperson must designate seating for the public in committee rooms.
- (4) The Speaker may subject to the provisions of sections 4, 7 and 11 of the PPI Act, take reasonable measures to –
- (a) regulate public access, including access of the media, to the committees and subcommittees;
 - (b) prevent and control misconduct of the public in committee rooms; and
 - (c) 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.
- (5) Any person, including counsel or an attorney, that appears before a committee or subcommittee must observe the directions and conform to the procedures determined by the Chairperson of the committee or subcommittee.

Presence of member and permanent delegate

55. A member who is not a member of the committee, as well as the province's permanent delegates, may attend and have freedom of speech at a meeting of a committee, subject to any reasonable restrictions that the Chairperson may impose, but may not vote.

Exclusion of public and other persons from meeting

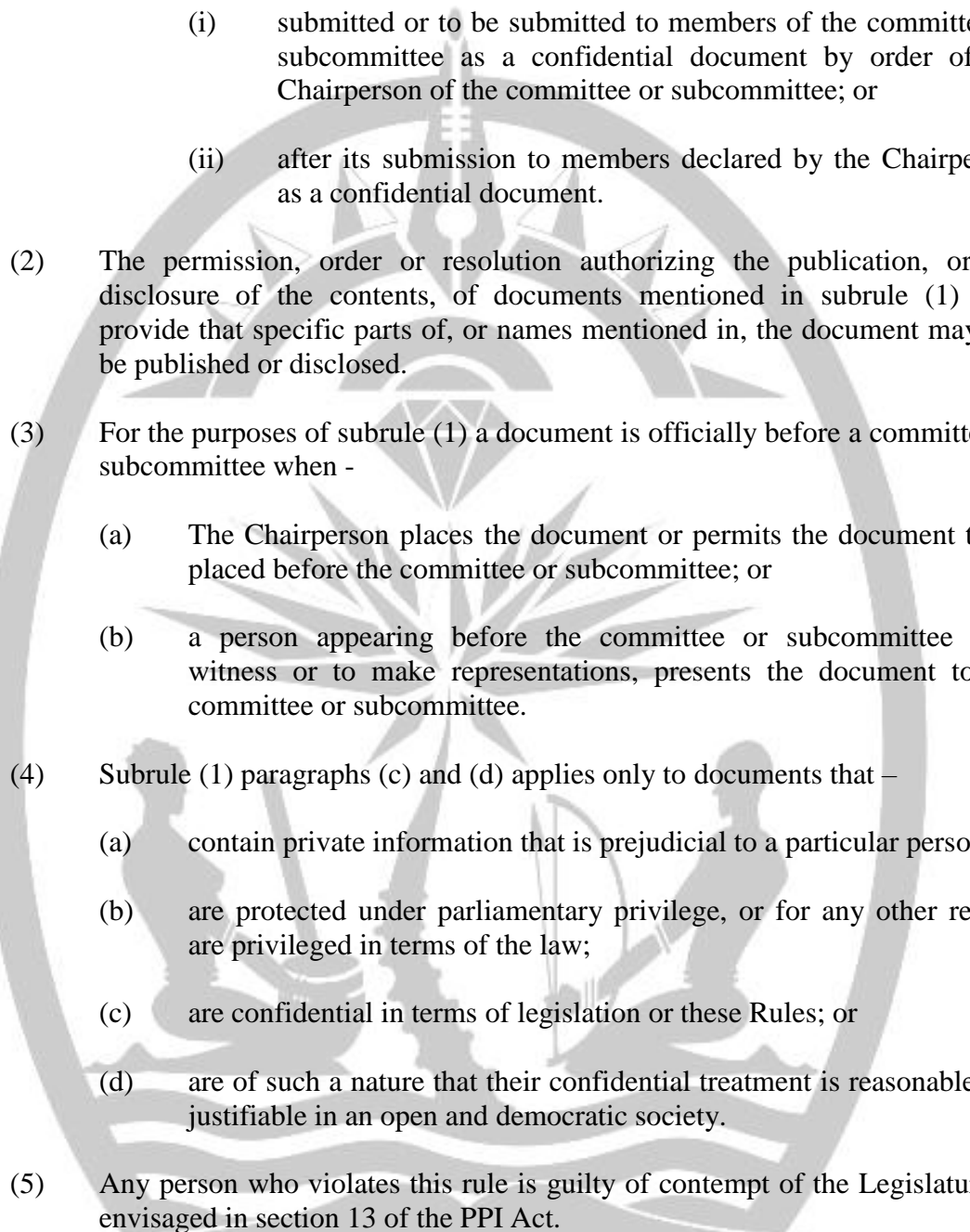
56. The Chairperson may in terms of these Rules exclude the public from a meeting, but may also order an employee, a member or employee of the executive, a member who is not a member of the relevant committee or subcommittee, or a permanent delegate to the NCOP, to leave the meeting.

Removal of person

57. When instructed by the presiding member, the serjeant-at-arms must, as contemplated in section 11 of the PPI Act, remove or arrange for the removal of any person who –
- (a) without permission, is present in that part of a committee room designated for members of the committee or subcommittee only;
 - (b) disrupts the proceedings of the committee or subcommittee or causes a nuisance; or
 - (c) does not leave when ordered to leave under these Rules.

Publication or disclosure of proceedings, evidence, reports, and documents

58. (1) All documents officially before, or emanating from, a committee or subcommittee are open to the public, including the media, but the following documents may as contemplated in section 19(a) of the PPI Act 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, or by resolution of the House:
- (a) The proceedings of, or evidence taken by or placed before, the committee or subcommittee while the public was excluded from a meeting in terms of these Rules;
 - (b) any report 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 of the committee or subcommittee; or
 - (ii) after its submission to members declared by the Chairperson as a confidential document.
 - (2) The permission, order or resolution authorizing 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 committee or subcommittee when -
 - (a) The Chairperson places the document or permits 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) paragraphs (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 or these Rules; or
 - (d) are of such a nature that their confidential treatment is reasonable and justifiable in an open and democratic society.
 - (5) Any person who violates this rule is guilty of contempt of the Legislature as envisaged in section 13 of the PPI Act.

Order in committees

59. Rules relating to -

- (i) offensive language;
- (ii) interruption of members;
- (iii) irrelevance or repetition;
- (iv) grave disorder;
- (v) members to address the Chair,

applicable in the House as contemplated in Part 1 of Chapter 5, apply *mutatis mutandis* to all committees.

Loss of committee membership

60. A member loses membership of a committee or subcommittee if -
- (a) that member is absent from three consecutive meetings or events of the committee or subcommittee without the leave of the Chairperson of the committee or subcommittee; and
 - (b) that member, in the opinion of the relevant committee in concurrence with the Chairperson of Committees, did not have valid reason to be absent from the meetings or events.

Part 2 **Standing committees**

List of committees

61. (1) The Legislature has the following standing committees:
- (a) Rules Committee;
 - (b) Programme Committee;
 - (c) Committee on Ethics and Conduct;
 - (d) Committee of Chairpersons;
 - (e) Committee on Public Accounts;
 - (f) Constitutional Affairs, Petitions and Public Participation Committee;
 - (g) Women's Caucus;
 - (h) Gender, Women, Children and Persons with Disability Committee;
 - (i) any ad hoc committee established in terms of rule 95;
 - (j) portfolio committees established in terms of rule 97; and
 - (k) Committee on Premier and Legislature.
- (2) Other committees may be established in terms of -
- (a) a resolution of the House; or
 - (b) resolution of the Rules Committee.

Subcommittees

62. (1) The Rules Committee has such subcommittees as are established in rule 67.
- (2) Subrule (1) does not prevent a committee from assigning a task to one or more of its members for a purely internal or administrative purpose.

CHAPTER IV THE VARIOUS COMMITTEES

Part 1

Rules Committee and subcommittees

Composition

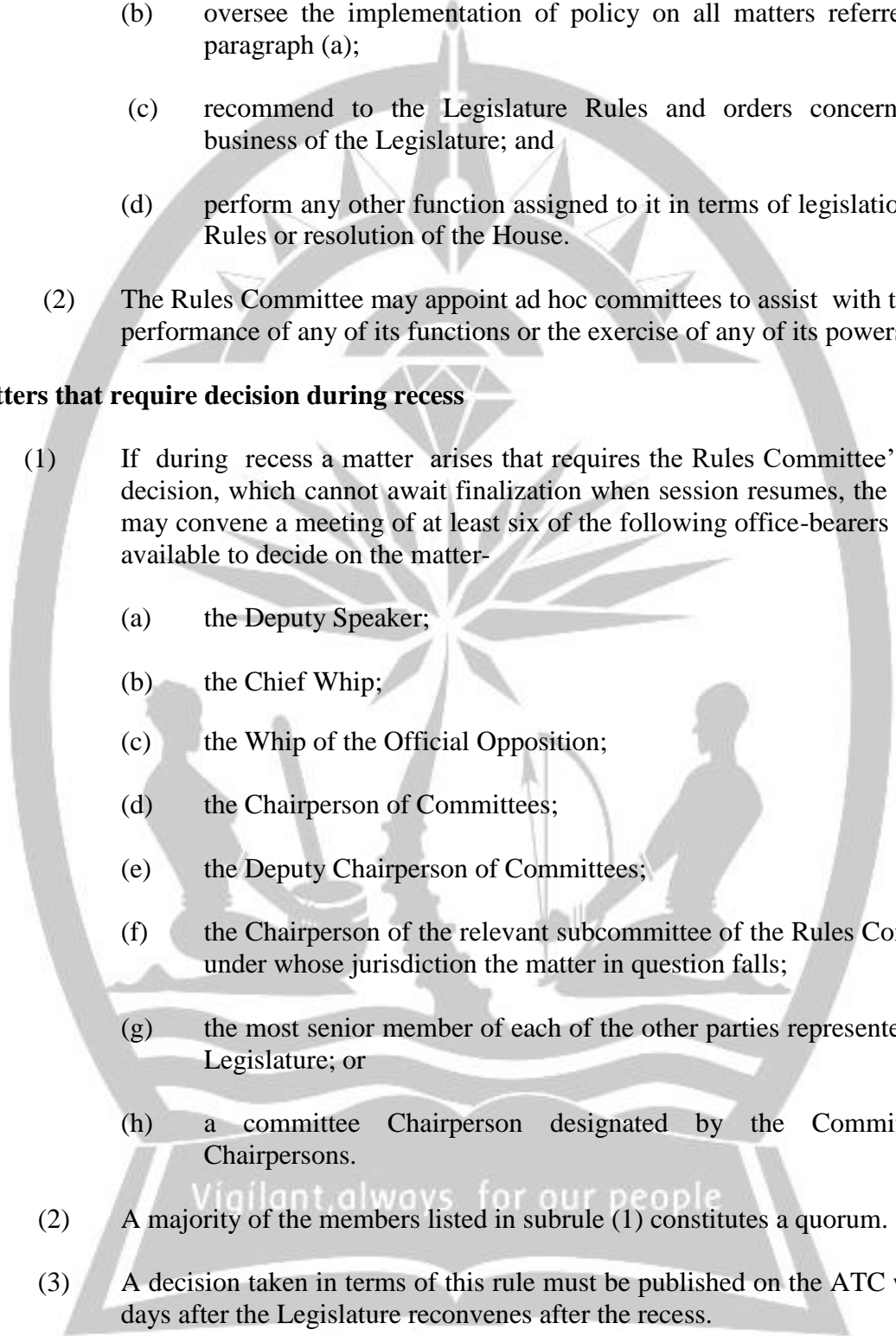
63. The Rules Committee consists of -
- (a) the Speaker;
 - (b) the Deputy Speaker;
 - (c) the Chairperson of Committees;
 - (d) the Deputy Chair of Committees;
 - (e) the Leader of Government Business; and
 - (f) no more than five other members appointed by the Speaker, from all the parties represented in the Legislature.

Chairperson

64. The Speaker is the Chairperson of the Rules Committee.

Role and function

65. (1) The Rules Committee must subject to relevant legislation –
- (a) adopt policy concerning the business of the Legislature in respect of –
 - (i) general management of the Legislature;
 - (ii) financial management of the Legislature;
 - (iii) proceedings, procedures, rules, orders and practices; and
 - (iv) provisioning of facilities and other support for members;

- 
- (b) oversee the implementation of policy on all matters referred to in paragraph (a);
 - (c) recommend to the Legislature Rules and orders concerning the business of the Legislature; and
 - (d) perform any other function assigned to it in terms of legislation, these Rules or resolution of the House.
- (2) The Rules Committee may appoint ad hoc committees to assist with the performance of any of its functions or the exercise of any of its powers.

Matters that require decision during recess

66. (1) If during recess a matter arises that requires the Rules Committee's urgent decision, which cannot await finalization when session resumes, the Speaker may convene a meeting of at least six of the following office-bearers who are available to decide on the matter-
- (a) the Deputy Speaker;
 - (b) the Chief Whip;
 - (c) the Whip of the Official Opposition;
 - (d) the Chairperson of Committees;
 - (e) the Deputy Chairperson of Committees;
 - (f) the Chairperson of the relevant subcommittee of the Rules Committee under whose jurisdiction the matter in question falls;
 - (g) the most senior member of each of the other parties represented in the Legislature; or
 - (h) a committee Chairperson designated by the Committee of Chairpersons.
- (2) A majority of the members listed in subrule (1) constitutes a quorum.
- (3) A decision taken in terms of this rule must be published on the ATC within 3 days after the Legislature reconvenes after the recess.

Rules Subcommittees

67. (1) The Rules Committee has the following subcommittees -
- (a) subcommittee on the Legislature's Budget;
 - (b) subcommittee on Review of Rules and Parliamentary Practice;

- (c) subcommittee on Internal Arrangements.
- (2) When the Rules Committee appoints members of the subcommittee, the Committee is not restricted to appoint only the members of the Rules Committee and may appoint any other member.
- (3) A subcommittee must report in writing, and within the timeframe determined, to the committee which appointed it.

Part 1.1
Subcommittee on Legislature Budget

Composition

68. The subcommittee on the Legislature Budget consist of the Speaker and members appointed in a manner as envisaged in rule 39.

Chairperson

69. The Speaker is the Chairperson of the subcommittee on the Legislature Budget.

Role and function

70. The subcommittee may –
- (a) make recommendations to the Rules Committee on the adoption of policy regarding –
 - (i) financial management;
 - (ii) sources of funding, resources, income and expenditure; and
 - (iii) the preparation of the Legislature's annual budget;
 - (b) oversee the implementation of policy on the matters referred to in paragraph (a) and make recommendations in this regard to the Rules Committee; and
 - (c) perform any other function and exercise any other power assigned to it by the Rules Committee.

Part 1.2
Subcommittee on Review of Rules and Parliamentary Practice

Composition

71. The subcommittee on Review of Rules and Parliamentary Practice consist of the Speaker and members appointed in a manner as envisaged in rule 39.

Chairperson

72. The Speaker is the Chairperson of the subcommittee.

Role and function

73. (1) The subcommittee may –
- (a) make recommendations to the Rules Committee regarding –
 - (i) the proceedings, procedures, rules, orders and practices of the Legislature;
 - (ii) adoption of policy on a matter mentioned in subparagraph (i); and
 - (b) perform any other function and exercise any other power assigned to it by the Rules Committee; and
 - (c) make recommendations to the Rules Committee to transform the existing law and parliamentary practice.

Part 1.3 **Subcommittee on Internal Arrangements**

Composition

74. The subcommittee on Internal Arrangements consists of –
- (a) the Deputy Speaker; and
- members appointed in a manner as envisaged in rule 39.

Chairperson

75. The Deputy Speaker is the Chairperson of the subcommittee.

Role and function

76. The subcommittee may –
- (a) make recommendations to the Rules Committee on the adoption of policy regarding the administration and management of the Legislature, including –
 - (i) infrastructure;
 - (ii) household services; and
 - (iii) information systems and the library;

- (b) oversee the implementation of policy on the matters referred to it in paragraph (a) and make recommendations in this regard to the Rules Committee; and
- (c) perform any other function and exercise any other power assigned to it by the Rules Committee.

Part 2
Committee on Ethics and Conduct

Composition

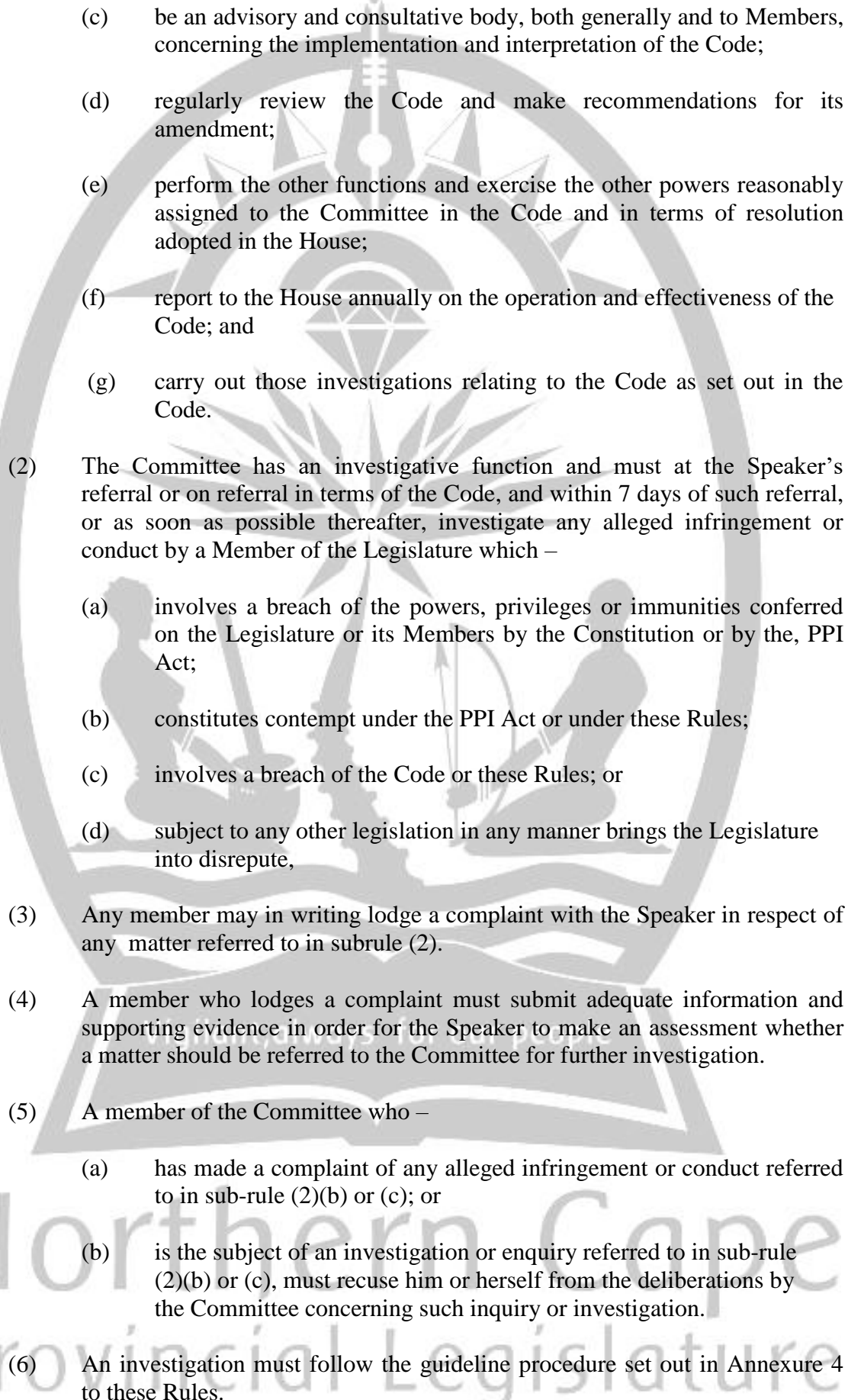
77. (1) The committee consists of the **Deputy Speaker**, who is the Chairperson of the committee, the Chief Whip, Whip of the official opposition and one representative of each of the other parties. The Committee must include at least one MEC.
- (2) If the designated Chairperson is not available the Committee must vote on who should be the Chairperson.
- (3) A person who has a direct interest in a matter before the committee may not be a member of the committee for the duration of the investigation.
- (4) No substitute may be appointed for a member of the committee.

Confidentiality and access

78. (1) Sessions of the Committee may be closed and the public and the media may be restricted from attending meetings.
- (2) The final report of an investigation may be made public but, possible embarrassment to a member and the Legislature before a final finding has been made must, be limited.
- (3) All members of the Committee as well as support staff must sign an Oath or Affirmation of confidentiality.
- (4) If a conflict of interest arise between matters discussed or a complaint received and a member of the Committee, the Committee must request the member to recuse him or herself from the proceedings.
- (5) A member or support staff of the Committee who contravenes subrule (3), must be removed from the Committee and shall no longer be eligible to be a member of or support staff to the Committee.

Role and function

79. (1) The Committee must in relation to the Code in Annexure 3 -
- (a) implement the Code;
 - (b) develop standards of ethical conduct for Members;

- 
- (c) be 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;
- (e) perform the other functions and exercise the other powers reasonably assigned to the Committee in the Code and in terms of resolution adopted in the House;
- (f) report to the House annually on the operation and effectiveness of the Code; and
- (g) carry out those investigations relating to the Code as set out in the Code.
- (2) The Committee has an investigative function and must at the Speaker's referral or on referral in terms of the Code, and within 7 days of such referral, or as soon as possible thereafter, investigate any alleged infringement or conduct by a Member of the Legislature which –
- (a) involves a breach of the powers, privileges or immunities conferred on the Legislature or its Members by the Constitution or by the, PPI Act;
- (b) constitutes contempt under the PPI Act or under these Rules;
- (c) involves a breach of the Code or these Rules; or
- (d) subject to any other legislation in any manner brings the Legislature into disrepute,
- (3) Any member may in writing lodge a complaint with the Speaker in respect of any matter referred to in subrule (2).
- (4) A member who lodges a complaint must submit adequate information and supporting evidence in order for the Speaker to make an assessment whether a matter should be referred to the Committee for further investigation.
- (5) A member of the Committee who –
- (a) has made a complaint of any alleged infringement or conduct referred to in sub-rule (2)(b) or (c); or
- (b) is the subject of an investigation or enquiry referred to in sub-rule (2)(b) or (c), must recuse him or herself from the deliberations by the Committee concerning such inquiry or investigation.
- (6) An investigation must follow the guideline procedure set out in Annexure 4 to these Rules.

- (7) A member who is being investigated has at his or her own expense, a right to legal assistance during the investigation.

Decision of House

80. (1) The Committee must on completion of an investigation, table a report on its finding of guilty or not guilty in the House, including its recommendations for appropriate disciplinary sanction, as contemplated under section 12(5) of the PPI Act.
- (2) The House must -
- (a) consider the report; and
 - (b) make a finding of guilty or not guilty on the matter, or may refer the matter back to the Committee for re-consideration within a given period of time and, after consideration of the Committee's amended or further report, if any, make a finding of guilty or not guilty.
- (3) When the House finds a member guilty of contempt it must impose an appropriate penalty as contemplated under section 12(5) of the PPI Act.
- (4) When the House finds a member guilty in terms of any other legislation or rule, impose a sanction as provided for in such legislation or rule.
- (5) Sanctions for any other finding of guilty may include -
- (a) private reprimand;
 - (b) public reprimand;
 - (c) written warning;
 - (d) a fine not exceeding a months' salary and payable in full within 30 days;
 - (e) reduction of salary or allowances;
 - (f) suspension of certain privileges for an identified period which should not be unreasonable in comparison to the transgression;
 - (g) rectification of the breach and counselling (minor offences); or
 - (h) any combination of the above sanctions.
- (6) The House may instead of, or in addition to, a penalty, refer the matter to the National Director of Public Prosecutions as contemplated under section 12(6) of the PPI Act.
- (7) The Speaker must implement the decision of the House promptly.

- (8) A member adjudged guilty of contempt may be committed to the custody of the serjeant-at-arms by order of the Chairperson of the Committee and dealt with as the Legislature may direct.

Appeal Authority

81. (1) The Appeal Authority comprise of the Speaker, or a member of the official opposition, a member of any other opposition party and two (2) additional members as appointed by the Rules Committee.
- (2) A member who is found guilty by the House and sanctioned may within 7 days of the outcome of the hearing appeal the procedure or merit to the Appeal Authority.
- (3) The Appeal Authority must bring out its finding within 7 days of the matter being referred to it.

Fines

82. (1) The amount of a fine that may be levied under the PPI Act for each of the offences mentioned therein, and for each offence referred to in these Rules or any resolution of the Legislature, must be determined in every case by an order or a resolution of the House, but such fine may in no case exceed the equivalent of one month's salary and allowances payable to the member concerned by virtue of the Remuneration of Public Office Bearers Act, 1998 (Act 20 of 1998), except where otherwise provided for in the PPI Act.
- (2) All fines must be recovered by the Secretary and be paid into the Legislature's bank account.

Part 3 ***Committee of Chairpersons***

Composition

83. The Committee of Chairpersons consists of all Chairpersons.

Role and function

84. The Committee of Chairpersons –
- (a) must co-ordinate the work of the committees of the Legislature;
- (b) consider the annual programmes of committees; and
- (c) may make recommendations to the Rules Committee and the Programme Committee regarding matters affecting the scheduling or functioning of any committee.

Role of Chairperson of Committees

85. (1) The Chairperson of Committees must -
- (a) coordinate the activities of committees and the scheduling of committee meetings;
 - (b) ensure that –
 - (i) business plans for all Portfolio and Standing Committees are adopted and implemented;
 - (ii) budgets are compiled for all committees; and
 - (iii) NCOP business is dealt with speedily and according to time frames;
 - (c) facilitate capacity–building for Chairpersons and Committee members;
 - (d) ensure that committees -
 - (i) function effectively; and
 - (ii) are provided with effective infrastructural and administrative support systems;
 - (e) preside over the House in the absence of the Speaker and the Deputy Speaker and over meetings of the House in committee.

Part 4

Committee on Gender, Youth and People with Disabilities

Composition

86. (1) The Committee on Gender, Youth and People with Disabilities is composed in accordance to rule 39.
- (2) In identifying the members for the Committee on Gender, Youth and People with Disabilities parties must have due regard to –
- (a) the role of the committee;
 - (b) the importance of enabling women, youth and people with disabilities to participate in deliberations on matters relating to women, youth and people with disabilities; and
 - (c) the need for inclusiveness.

Role and function

87. (1) The functions of the Committee on Gender, Youth and People with Disabilities include –
- (a) to ensure that the Legislature, through its committees, pay attention to issues relating to gender, youth and people with disabilities when it conducts oversight; and
 - (b) to ensure that the concerns of women, youth and people with disabilities are adequately taken into account in the public participation programme of the Legislature.
- (2) The Committee on Gender, Youth and People with Disabilities must consult the Gender, Youth and People with Disabilities Caucus –
- (a) annually on its annual programme; and
 - (b) from time to time, on any other matter on which the Committee of Gender, Youth and People with Disabilities Caucus should be informed or in which the Gender, Youth and People with Disabilities Caucus has an interest.

Part 5 *Committee on Public Accounts*

Composition

88. The Committee on Public Accounts is composed in accordance to rule 39.

Role and function

89. (1) The Committee on Public Accounts –
- (a) must examine –
 - (i) financial statements of all executive organs of the province and other provincial organs of state;
 - (ii) audit reports issued on those statements;
 - (iii) reports issued by the Auditor-General on the affairs of any provincial organ of state; and
 - (iv) other financial statement or report referred to the committee by the House;
 - (b) may report on any of the financial statements or reports to the House;
 - (c) may initiate any investigation in its area of competence; and

- (d) must perform any other function assigned to it by legislation, these Rules or resolutions of the House.
- (2) The Speaker must refer the financial statements and reports as referred to in paragraph (a)(i), (ii) and (iii) of subrule (1) to the committee when it is submitted to the Legislature, irrespective of whether it is also referred to another committee.
- (3) When the committee examines the financial statements and reports of an organ of state, it must take into account previous statements of, and reports on the organ of state and report on the degree to which shortcomings have been rectified.

Relationship to other committees

90. (1) If the committee is of the opinion that a report or financial statement raises issues relating to the policy of a particular department, the committee must inform the Speaker and the report or statement must be considered by both the Committee on Public Accounts and the relevant committee or a joint meeting of both committees. The Committee of Public Accounts must advise the Speaker whether a joint meeting or separate meetings are appropriate.
- (2) If a matter arise in the examination of statements or reports that the committee is of the opinion should be taken into account in the next budget, the committee must make appropriate recommendations in its report to the House and draw the matter to the attention of the Finance Committee.
- (3) If a matter such as poor risk management, staffing problems or poor asset management arise in a department that presents the report and the committee is of the opinion that it should be monitored by another committee, the committee must make appropriate recommendations in its report and draw the matter to the attention of the relevant committee.

Part 6

Standing Committee on Premier and Legislature

Vigilant, always for our people

Composition

91. The composition of the committee must be in accordance with Rule 39 of these Rules and consists of -
- (a) the Chairperson of Committees;
- (b) the Deputy Chair of Committees; and
- (c) no more than five other members appointed by the Speaker, from all the parties represented in the Legislature.

Role and function

92. (1) The Committee oversees the activities of the Premier's office and Legislature as follows –
- (a) Premier's Office -
 - (i) scrutiny of the vote of the Premier's Office;
 - (ii) scrutiny of the Premier's Office Annual Report; and
 - (b) Legislature -
 - (i) scrutiny of the vote of the Provincial Legislature.
- (2) The committee must subject to section 4(1) of the Financial Management of Parliament and Provincial Legislatures Act, 2009 as amended –
- (a) maintain oversight of the financial management of the provincial legislature by –
 - (i) considering instructions issued by the Executive Authority in terms of the Financial Management of Parliament and Provincial Legislatures Act 2009, as amended;
 - (ii) considering the annual report of Provincial Legislature;
 - (iii) considering instructions issued by the Executive Authority in terms of relevant financial legislation; and
 - (iv) perform any other function specified in the relevant financial legislation or these standing rules or perform any other function consistent with the relevant financial legislation.
- (3) The committee must subject to relevant legislation -
- (a) oversee the implementation of policy on all matters referred to in Rule 92(2); and
 - (b) perform any other function assigned to it in terms of legislation, these Rules or resolution of the House.

Part 7

Committee on Constitutional Affairs, Petitions and Public Participation

Composition

93. The composition of the committee must be in accordance with Rule 39 of these Rules.

Role and function

94. The committee must -
- (1) consider provincial legislation that grants a power, obligation or responsibility to the Executive or any provincial organ of state;
 - (2) consider all legislation pertaining to amendments to the Constitution or policy impacting on the Constitution;
 - (3) deal with petitions according to the provisions set out in the Northern Cape Petitions Act, 2009 (Act 8 of 2009); and
 - (4) oversee the implementation of a memorandum of understanding with any Chapter 9 Constitutional institution.

Part 8 *Ad hoc committee*

Establishment

95. (1) The House may establish an ad hoc committee.
- (2) An ad hoc committee may only be established for the performance of a specific task.
- (3) The decision of the committee or the resolution of the House to establish an ad hoc committee must in writing –
- (a) specify the task assigned and terms of reference therefore to the committee; and
 - (b) set time frames for –
 - (i) the completion of any steps in performing the task;
 - (ii) the completion of the task; and
 - (c) indicate the confidentiality level required.
- (4) An ad hoc committee has those reporting powers listed in rule 51 as well as those specified in the decision or resolution establishing the committee.
- (5) An ad hoc committee ceases to exist –
- (a) when it has completed the task for which it was established and has submitted its report to the committee or the House which appointed it;
 - (b) if it is dissolved by the House; or

- (c) if it has subject to subrule (6), not completed its task by the date set for completion thereof.
- (6) If the committee is unable to complete the task within the time-frame set, it may before the date set for completion request for an expansion of the mandate or an extension of time.

Composition of ad hoc committee

96. (1) The committee decision or the House resolution establishing an ad hoc committee must either specify the number of members to be appointed or the names of the members who are appointed.
- (2) The Speaker must subject to subrule (3), within five working days after the establishment of an ad hoc committee by the House, appoint the members of such committee if the resolution does not specify the names of members.
- (3) When appointing the members of an ad hoc committee, the Speaker must consult –
- (a) the Chief Whip, when a member of the majority party is appointed; and
 - (b) the most senior member of another party, when a member of that particular party is appointed.
- (4) The names of the members appointed in terms of this rule must without delay be published on the ATC.

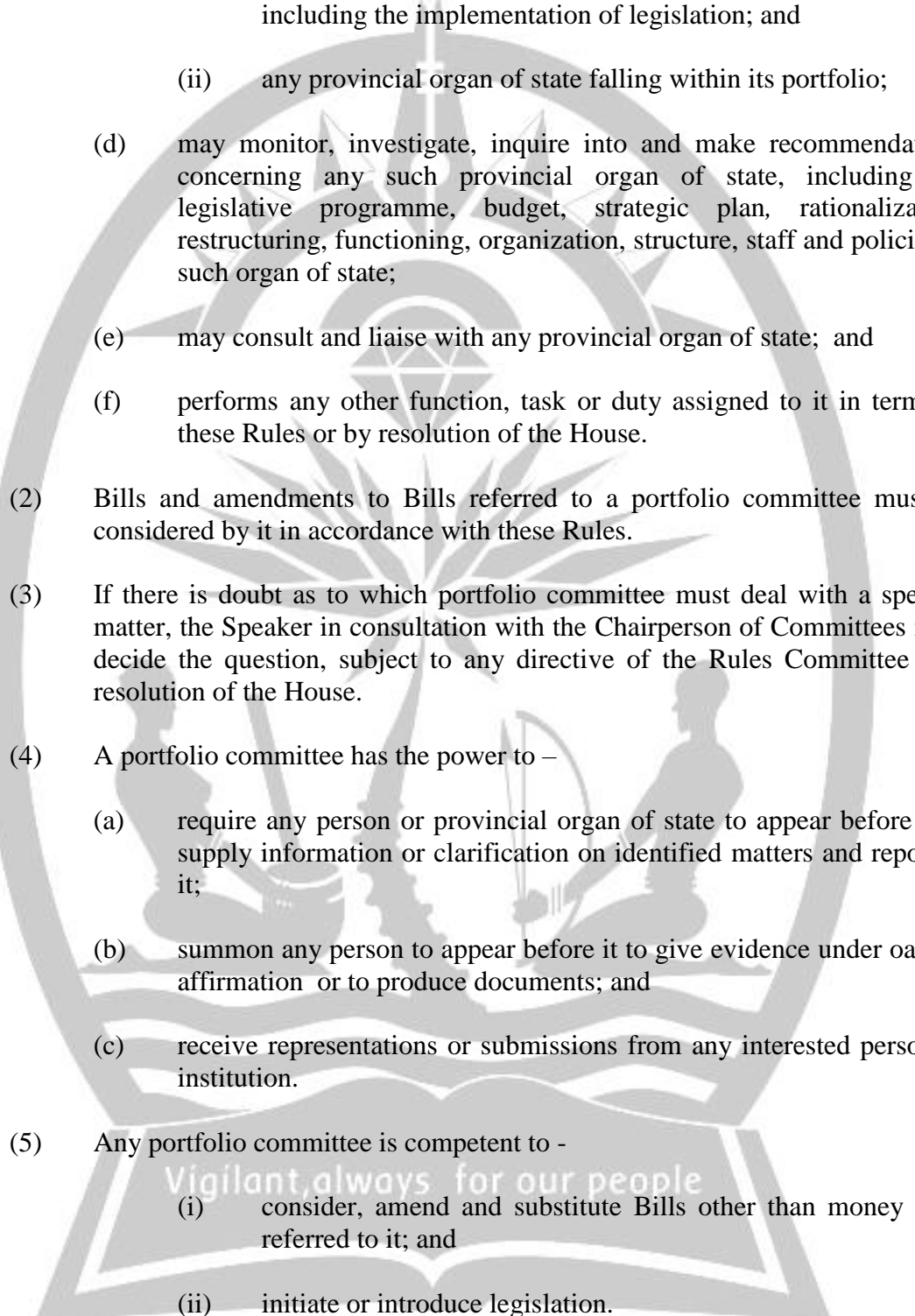
Part 9 ***Portfolio committees***

Establishment

97. (1) There are portfolio committees on all Provincial Executive Affairs.
- (2) Each portfolio committee is known by the name determined for it by the Speaker.

Role and function

98. (1) A portfolio committee –
- (a) deals with Bills and other matters falling within its portfolio as referred to it in terms of these Rules or by resolution of the House;
 - (b) deals with matters referred to it by the Speaker;
 - (c) maintains oversight of –

- 
- (i) the exercise of provincial executive authority in the province, including the implementation of legislation; and
 - (ii) any provincial organ of state falling within its portfolio;
 - (d) may monitor, investigate, inquire into and make recommendations concerning any such provincial organ of state, including the legislative programme, budget, strategic plan, rationalization, restructuring, functioning, organization, structure, staff and policies of such organ of state;
 - (e) may consult and liaise with any provincial organ of state; and
 - (f) performs any other function, task or duty assigned to it in terms of these Rules or by resolution of the House.
- (2) Bills and amendments to Bills referred to a portfolio committee must be considered by it in accordance with these Rules.
- (3) If there is doubt as to which portfolio committee must deal with a specific matter, the Speaker in consultation with the Chairperson of Committees must decide the question, subject to any directive of the Rules Committee or a resolution of the House.
- (4) A portfolio committee has the power to –
- (a) require any person or provincial organ of state to appear before it to supply information or clarification on identified matters and report to it;
 - (b) summon any person to appear before it to give evidence under oath or affirmation or to produce documents; and
 - (c) receive representations or submissions from any interested person or institution.
- (5) Any portfolio committee is competent to –
- (i) consider, amend and substitute Bills other than money Bills referred to it; and
 - (ii) initiate or introduce legislation.

Meeting of committee during House sitting

99. A portfolio committee may with the consent of the Speaker meet during a sitting of the House.

Presentation of committee report

100. (1) A report of a portfolio committee must be presented to the

House by the Chairperson or any other member of the committee.

- (2) The report of a portfolio committee must reflect the consensus arrived at by the committee.
- (3) The report must, in the absence of consensus, reflect the decision of the committee and dissenting views and the basis therefore.

CHAPTER V ORDER IN HOUSE AND RULES OF DEBATE

Part 1 Order in House

Conduct of members

101. (1) Every member must bow to the Chair on entering or leaving the House.
- (2) No person may pass between the Chair and the member who is speaking, nor between the Chair and the Table, nor stand in any of the passages or gangways.
- (3) Members must switch off all communication equipment during proceedings.
- (4) Members' attire must be in accordance with established norms and be consistent with the dignity of the House.
- (5) No member may converse aloud during debate.

Member not to be interrupted

102. No member may interrupt another member whilst speaking, except to call attention to -
 - (a) a point of order;
 - (b) a question of privilege;
 - (c) the presence of strangers; or
 - (d) ask whether a member who is speaking is prepared to take a question.

Order at adjournment

103. When the House adjourns, a member must rise and remain in his or her place until the presiding officer has left the House.

Maintenance of order

104. The presiding officer must maintain order.

Precedence of presiding officer

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

Irrelevance or repetition

106. The presiding officer, after having called attention to the conduct of a member who persists on irrelevance or repetition of arguments, may direct that member to discontinue his or her speech.

Language

107. A member may use any predominant language for the purpose of business, taking into account usage, practicality, expense, regional circumstances and the balance of the needs and preferences of the population in the province.

Member ordered to leave

108. (1) The presiding officer may order a member to leave the House immediately for the remainder of the day's sitting if the presiding officer is of the opinion that –
- (a) the member is deliberately contravening a provision of these Rules;
 - (b) the member is in contempt of or is disregarding the authority of the Chair; or
 - (c) the member's conduct is grossly disorderly.
- (2) A member ordered to leave the House may not participate in any Legislature activities during that day.

Member to withdraw while his or her conduct debated

109. When a complaint is made in respect of a members conduct in the House, he or she must, after having been heard from his or her place, withdraw from the Chamber while such complaint is being debated.

Removal of member by designated officer

110. When instructed by the presiding officer, the serjeant-at-arms must remove or arrange for the removal of any member.

Referral for investigation

111. If the presiding officer is of the opinion that a contravention committed by a member of the House is of such a serious nature that an order to withdraw from the Chamber for the remainder of the day's sitting is inadequate, the presiding officer may refer the matter to the Committee on Ethics and Conduct to deal with the matter in accordance with section 12 of the PPI Act.

Member to leave precincts of Legislature

112. (1) A member ordered to leave the House in terms of rule 108 must, forthwith withdraw from the precincts of the Legislature, but such a member is not precluded from serving on a committee on a private Bill which he or she initiated.
- (2) The action taken against a member by the presiding officer under rule 108 must be announced in the House within a reasonable period.

Grave disorder

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

Explanation of personal matter

114. (1) A member may request permission from the presiding officer to explain a matter of a personal nature, and such explanation must be in writing and lodged with the Speaker hours prior to the commencement of a sitting.
- (2) The explanation may not exceed 3 minutes and may not be debated.
- (3) The member must confine him or herself strictly to the vindication of his or her own conduct.

Part 2 **Rules of debate in House**

Disrespectful use of name of President

115. The name of the President may not be used disrespectfully during a debate.

Right of member and permanent delegate to speak

116. A member has freedom of speech in the House subject to these Rules and relevant legislation, but an NCOP member may not vote.

Member to address Chair

117. (1) A member desiring to speak must rise in his or her place,

and on being recognized, address the presiding officer.

- (2) If a podium is used, a member may only speak from the podium, unless he or she wishes to:
 - (a) Raise a point of order;
 - (b) raise a point of privilege; or
 - (c) furnish an explanation in terms of rule 114.

Member called to speak

118. (1) When a member is called to speak by the presiding officer, he or she must, unless disabled to an extent that makes it impossible, rise from his or her seat.
- (2) In the absence of a list of speakers, and if two or more members rise at the same time, the member who is first identified by the presiding officer, is entitled to speak first.

Member may not speak twice to question

119. No member may speak twice to a question before the House, unless as referred to in rules 131 and 132.

List of speakers

120. The Chief Whip must approve a name list of speakers after consultation with the whips of all other parties.

Time limit for speeches and debate

121. (1) The time limit for all speeches and ensuing debates in the House must be calculated by the Chief Whip in consultation with the presiding officer in accordance to the proportional representation of political parties in a manner consistent with democracy, but with reasonable recognition of the Leader of the Opposition.
- (2) Time allocations are guided by Annexure 5.
- (3) Whether there is a signed name list of speakers or not, a member may only speak for the time allocated to him or her.
- (4) The Whips must settle on how many speakers a party wish to allow to speak within the allocated time.
- (5) The presiding officer may upon a request in the House, allow a member in charge of a matter before the House, additional time to a maximum of 10 minutes.

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Reference to member

122. (1) No member may refer directly to another member by his or her first name or first names only.
- (2) Members must address one another as “Honourable Member”.

Offensive and unbecoming language and falsities

123. No member may –
- (1) use offensive or unbecoming language in the House; or
- (2) deliberately make a statement in the House which the member knows is false.

Reflection upon decision of same session

124. No member may reflect upon any decision of the House during the same session, except for the purpose of moving that such decision be amended or rescinded.

Reflection upon judge and other

125. No member may reflect upon the competence or dishonour of:
- (a) A judge of a court of law;
- (b) an employee of the Legislature; or
- (c) a public office bearer whose removal from such office is dependent upon a recommendation of the House, except upon a substantive motion in the House alleging facts which, if true, would in the opinion of the presiding officer *prima facie* warrant such a decision.

Matter sub *judice*

126. A member must refrain from commenting on the merit of a civil or criminal matter pending before a court of law.

Rule of anticipation

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

Explanation

128. An explanation during a debate may be allowed by the presiding officer only when a material part of a member's speech has been misquoted or misunderstood, but such member shall not be permitted to introduce any new matter, and no debate shall be allowed upon such explanation.

Point of order

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

Acting for absent member

130. A member may take charge of a motion or an order of the day in the absence of the member in charge, but such member must be authorized in writing by the absent member, or by the most senior member of the relevant party.

When reply allowed

131. A reply shall be allowed to the member introducing a subject for discussion or to the member in charge of an order of the day.

Debate closed

132. A reply to a debate closes the debate.

CHAPTER VI

Part 1

Determination and arrangement of business

Order Paper

133. (1) The business of the House must be disposed of in accordance with the Order Paper, unless the Rules require or allow otherwise.
- (2) The presiding officer places business of the House on the Order Paper and the Secretary distributes it by noon, on the day preceding the sitting.
- (3) The Chief Whip in consultation with the presiding officer arranges the business of the House on the Order Paper, subject to these Rules, the directives of the Programme Committee and the concurrence of the Leader of Government Business when any government business is prioritized.
- (4) The Leader of Government Business approves after consultation with the Premier, an MEC, Speaker and the Chief Whip, all business on the Order

Paper in accordance with the provisions of these Rules and, in the absence of any such provision arranges it, in whatever order he or she deem fit.

Announcement, Tabling and Committee Report (ATC)

134. (1) When necessary, the Speaker must cause the ATC to be published in-between sittings of the House on any working day of the Legislature.
- (2) Only announcements that relate to business of the Legislature may be sanctioned by the Speaker to be printed on the ATC.

Part 2 ***Motions in House***

Notice of motion

135. (1) Every motion requires notice.
- (2) When giving notice of a motion a member must -
- (a) read its contents aloud and deliver at the Table a signed copy of the notice; or
 - (b) deliver to the Secretary a signed copy of the notice on any working day of the Legislature.
- (3) When a notice of a motion has been read in the House, the Secretary places it on the Order Paper.
- (4) A notice of motion delivered to the Secretary after noon on any working day may be placed on the Order Paper of a sitting day thereafter.
- (5) A member who intends to move a motion during recess or after the resumption of a session, must submit a written notice with his or her name and signature thereon to the Secretary, so as to reach the latter not later than 21 days before the day for which it is to be considered by the Legislature, who must then send such notice of motion to every member at least 14 days before the day of commencement of the session or of resumption thereof.

Motion without notice

136. Every motion requires notice, except a motion -
- (a) by way of amendment to a draft resolution permitted in terms of these Rules;
 - (b) raising a point of order or a question of privilege;
 - (c) for the postponement or discharge of, or giving precedence to, an order of the day;
 - (d) referring a Bill to a committee;

- (e) by the member in charge, proposing a draft resolution on the report of a committee immediately after the debate on the report has been concluded;
- (f) specially exempted by these Rules;
- (g) for the suspension of a rule; or
- (h) in regard to which notice is dispensed with by the unanimous concurrence of all the members present.

Draft resolution

137. The Chairperson of a committee or a member authorized in writing by such Chairperson, may propose a draft resolution on behalf of a committee for approval as a resolution of the House.

Presiding officer may amend notice

138. The presiding officer may amend or otherwise deal with any notice of a motion which contravenes these Rules.

Question of privilege

139. An urgent motion directly concerning the privilege of the Legislature takes precedence over other motions and orders of the day.

Withdrawal of motion

140. A member who has tabled a motion may move without notice, that it be withdrawn.

Vote of no confidence

141. When a motion pertains to a vote of no confidence, such motion must be placed on the Order Paper not less than 7 working days prior to the House sitting.

Resolution tabled by Speaker

142. (1) Any draft resolution that has been tabled by the Speaker, in terms of this rule through the ATC on any subject matter shall be deemed to have been adopted by the House, unless by noon on the following day, at least four members have submitted a written objection to the Secretary.
- (2) If at least four members have submitted an objection in terms of subrule (1), then the matter must be decided by the House.

No amendment to draft resolution

143. No amendment to a draft resolution of committees may be moved, except an amendment -

- (a) to a draft resolution on a question of privilege;
- (b) to substitute the name of another member for the name of a member in a draft resolution; or
- (c) which is allowed by the presiding officer.

Amendment in writing and signed

144. A proposed amendment must be in writing and must be signed by the proposer and delivered to the Speaker, and if moved during debate, must be delivered to the Table.

Order in which amendment put

145. No amendment must be moved to an earlier part of a question after an amendment to a later part thereof has been decided.

Subject for discussion

146. Any member may propose a matter of discussion in the House upon which no decision is yet to be taken.

Matter of public importance

147. (1) Any member other than a member from the Executive Council may in writing on any sitting day request the Speaker to place a matter of public importance on the Order Paper for discussion.
- (2) The Speaker may place the matter on the Order Paper for discussion on the next sitting day.
- (3) A member may not submit a request for discussion under this Rule if he or she has had the opportunity to bring it before the Programme Committee through his or her representative in the Programme Committee and he or she did not utilize that opportunity.
- (4) Discussion of matters of public importance may not be more than 45 minutes.
- (5) The presiding officer must determine the sequence of speakers and the time limit per speaker.
- (6) Questions of privilege may not be discussed under this rule.

Matter of urgent public importance

148. (1) A member may on any sitting day request the Speaker in writing to allow a matter of urgent public importance to be discussed by the House.
- (2) The request must be made to the Speaker at least 90 minutes prior to the time determined for a sitting.

- (3) If the Speaker grants the request, the presiding officer announces it in the House, and debate on the matter may stand over until the time determined by the presiding officer.
- (4) The Speaker in consultation with the Chief Whip and the Whip of the official opposition must determine the sequence of speakers and a time limit for discussions.
- (5) A question of privilege may not be discussed under this rule.
- (6) A matter already discussed by the House during the same session may not be discussed under this rule.
- (7) The rule of anticipation does not apply during such a debate.

Motion commending excellence

149. (1) Any member may propose a draft resolution that:
- (a) Commends any individual, organization, agency, organ of state or private sector institution for outstanding service to society; or
 - (b) promotes a special service to any community by a duly constituted organization, agency, private sector institution or organ of state.
- (2) The member referred to in subrule (1) may propose any person or representative to support such a draft resolution in a speech of not more than five minutes.

Statements by members

150. (1) A member other than the Premier may be recognized by the presiding officer to make a statement on any matter that is in the public arena, for no more than 3 minutes.
- (2) Parties are entitled to make a number of statements in substantially the same proportion in which they are represented in the House, but each party has the right to make at least one statement.
 - (3) If a member for whatever reason, during the sequence of proceedings, fails to utilize the opportunity to make a statement, the party to which such a member belongs, forfeits that opportunity.
 - (4) Members of the various parties must be recognized as follows -
 - (a) a member of the majority party; and
 - (b) a member of each of the other parties in the order of their representation in the House, but a member of the majority party must

be recognized each time after a member of another party has made a statement or has been given the opportunity to do so.

- (5) The process in subrule (4) must continue until statements by a member is exhausted or the time allocated for statements by members has expired, whichever occurs first.
- (6) At the conclusion of a statement by a member, an MEC present must be given an opportunity to respond for not more than 5 minutes to any statement directed at that MEC or made in respect of that MEC's portfolio.
- (7) The total time allocated to an MEC may not exceed 30 minutes, unless the Speaker determines otherwise.

Executive Council statements

151. (1) An MEC may submit a request to the Speaker to make a statement relating to government policy, an administrative action or omission or any other matter of which the House should be informed.
- (2) If the presiding officer grants such a request, he or she must inform all members at least 24 hours before the sitting.
- (3) The presiding officer must determine the time allocated to an MEC to make an executive statement in terms of subrule (1).
- (4) A copy of the executive statement and supporting documentation must be delivered to the leader of each party, or that party's representative, at or before the time the statement is made in the House.
- (5) After an executive statement has been made, an MEC making that statement must table the statement as well as the applicable supporting documents, if any.
- (6) Following any executive statement, a member of each of the parties represented in the House may comment on the executive statement for not more than 3 minutes per party, commencing with the official opposition then followed by other parties proportional to their representation in the House.

Part 3 ***Decision on question***

Decision on question postponed

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

Postponed question put without further debate

153. A question postponed after the debate thereon had been concluded, must be put without further debate.

Question put again

154. If the presiding officer has put a question at the conclusion of a debate and it is not heard or understood, he or she must put it again.

Question decided

155. (1) A question is deemed to be decided in the affirmative if there is no objection.
- (2) If a member or a party raises an objection to a question, the name of the party or the member raising the objection must be recorded in the minutes of proceedings.
- (3) The presiding officer may order that a division takes place in the event of eight or more members wishing to record their individual opposition in the minutes.

Declaration of vote

156. The presiding officer may at any time after a question has been decided, permit one member of each political party to state on behalf of his or her party, in a speech not exceeding 3 minutes, the reasons why the party is in favour of or against the question.

Demand for division

157. After a question has been put and the presiding officer has indicated whether in his or her opinion the question is decided, any member may demand a division, whereupon a division must, subject to rule 158, take place without debate.

Less than two (2) members support demand for division

158. (1) When a division is demanded, the presiding officer must, before ordering the division bells to be rung, satisfy him or herself that at least two members support the demand for the division.
- (2) If less than 10 members indicate their support, the presiding officer must forthwith declare the decision on the question.

Division bell rung and door locked

159. (1) If 10 members support the demand for a division, the division bells is again rung and the door to the Chamber must be locked after 3 minutes, but if further divisions are required to dispose of the question and such divisions follow immediately upon the first division, the division bells shall again be rung and the doors must be locked as soon as the lapse of 60 seconds or as the presiding officer may direct.
- (2) When the doors have been locked, no member may enter or leave the House until the result of the division has been declared.

- (3) After division bells are rung, the presiding officer must put the question again before a vote is taken.
- (4) After the doors are locked every member present in the House may vote and the presiding officer must forthwith declare the decision on the question in favour of the majority vote.

Point of order during division

160. While a division is in progress, a member may speak only on a point of order arising out of or during the division.

Confusion or error concerning division

161. In the event that the presiding officer is convinced of substantive error or confusion when a division took place, another division may be allowed.

Electronic voting system

162. At a sitting of the House held in a Chamber where an electronic voting system is in operation, questions may at the discretion of the presiding officer be decided by the utilization of such system in accordance with a procedure determined by the Speaker.

CHAPTER VII LAWMAKING

Part 1 Bill initiated by MEC

Departmental publication of draft Bill

163. (1) An MEC may in his or her discretion, besides any other form of public involvement, publish a draft Bill in order to at the early drafting stage, obtain comment from stakeholders and interest groups.
- (2) Comment should be directed to the relevant MEC or head of department responsible for the administration of the Bill.
- (3) The relevant department may amend the draft Bill according to the input received.

Publication of Bill

164. (1) An MEC must publish a Bill intended for introduction in the House in at least two predominant languages of the Province for purpose of public comment.
- (2) If the department amends the Bill after publication, it may be introduced in the House without further publication, but a copy of the amended Bill must be availed to every member at least 2 days before introduction.

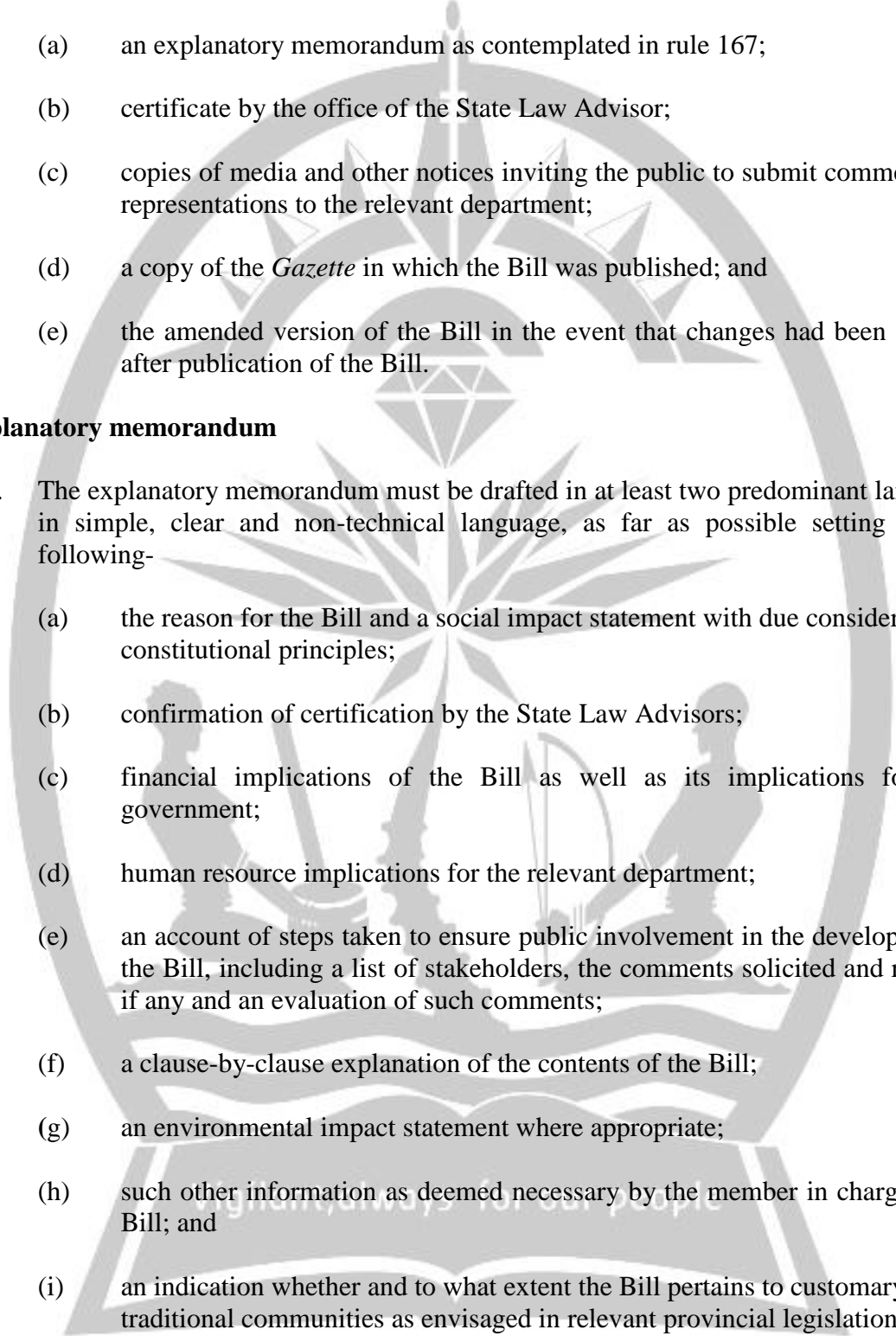
- (3) The stages in making a law are for ease of reference contained in Annexue 2.

Quality assurance

165. (1) The Legislature may at any time after publication and before introduction of a provincial Bill express itself on the quality of legislation intended for introduction.
- (2) Quality assurance must be done by -
- (a) the legal services department within the Legislature;
 - (b) the Chairperson of a portfolio committee which would deal with the subject matter of the Bill; and
 - (c) any other person co-opted for that purpose.
- (3) Legislation is assessed for quality based on -
- (a) constitutionality;
 - (b) conflict with other legislation;
 - (c) legal technical aspects;
 - (d) general style, editing and drafting convention;
 - (e) any other aspect that impacts on interpretation of the Bill; and
 - (f) non-publication in the *Gazette* in terms of these Rules.
- (4) The Chairperson of a relevant committee as referred to in subparagraph (2)(b), may advise the Speaker not to accept a Bill for introduction if such Bill seriously and materially lacks on any aspect referred to in subrule (3).
- (5) The Speaker may inform the member responsible for introduction of a Bill if such Bill seriously and materially lacks on any aspect referred to in subrule (3) and may subsequently refuse to accept a Bill for introduction in the House until such time as it is corrected.

Introduction of Bill

166. (1) A Bill (other than a money Bill) may be introduced in the House after it had been published as envisaged in rule 164.
- (2) A Bill is introduced when a member in the House submits the Bill and the papers as referred to in subrule (3) for consideration by the Legislature and the Speaker accepts the Bill.
- (3) The following papers must accompany a Bill submitted to the Legislature for introduction-

- 
- (a) an explanatory memorandum as contemplated in rule 167;
 - (b) certificate by the office of the State Law Advisor;
 - (c) copies of media and other notices inviting the public to submit comments and representations to the relevant department;
 - (d) a copy of the *Gazette* in which the Bill was published; and
 - (e) the amended version of the Bill in the event that changes had been effected after publication of the Bill.

Explanatory memorandum

167. The explanatory memorandum must be drafted in at least two predominant languages in simple, clear and non-technical language, as far as possible setting out the following-

- (a) the reason for the Bill and a social impact statement with due consideration of constitutional principles;
- (b) confirmation of certification by the State Law Advisors;
- (c) financial implications of the Bill as well as its implications for local government;
- (d) human resource implications for the relevant department;
- (e) an account of steps taken to ensure public involvement in the development of the Bill, including a list of stakeholders, the comments solicited and received if any and an evaluation of such comments;
- (f) a clause-by-clause explanation of the contents of the Bill;
- (g) an environmental impact statement where appropriate;
- (h) such other information as deemed necessary by the member in charge of the Bill; and
- (i) an indication whether and to what extent the Bill pertains to customary law of traditional communities as envisaged in relevant provincial legislation.

Procedure to introduce Bill when House in session

168. (1) A Bill must be presented in the House after the member in-charge of the Bill has given notice of motion to the House.
- (2) A notice of the presentation of a Bill must be placed on the ATC.

- (3) A Bill in respect of which notice has been given by a member in-charge must be introduced within 10 working days of publication of the notice on the ATC.
- (4) The MEC in charge of a Bill must at least 3 working days before introduction table with the Speaker as well as with the Secretary all papers required in terms of rule 166(3) and also avail the Bill in an electronic format as required by the Legislature.
- (5) The MEC in charge of a Bill introduces it by -
 - (a) delivering an introductory speech and tabling it; or
 - (b) reading the long title and tabling it without an introductory speech.
- (6) When the Bill has been tabled, the Secretary avails a copy of the Bill and the explanatory memorandum to every member.
- (7) After introduction of the Bill in the House, the Speaker refers it to the relevant committee for consideration and for public involvement if required.

Procedure during recess

169. (1) When the House is not in session, the MEC in charge of a Bill may table a Bill if the Premier has made out a case of urgency to the Speaker.
- (2) The Speaker forthwith refers the Bill together with the documents referred to in rule 166(3) to the committee under which the subject matter of the Bill falls.

Committee report

170. The committee, after considering a Bill and after public participation if any, submits to the House a report containing amongst other, a list of stakeholders and proposed amendments if any, to the Bill.

Bill on Order Paper for consideration by House

171. (1) The Bill and the committee report is tabled in the House and is without delay placed on the Order Paper for consideration by the House.
- (2) The Secretary must publish the committee report on the ATC.
- (3) The House considers only the objects and principles of the Bill.
- (4) No motion or amendment may be moved during the debate, except those amendments that may be placed on the Order Paper in terms of rule 147.
- (5) After conclusion of the debate on the Bill, and in the absence of amendments in terms of rule 172, the House decides on the Bill.

Amendment proposal by member before Bill passed

172. (1) A member may, after a Bill has been placed on the Order Paper for consideration by the House, but before the House has taken a decision thereon, place proposed amendments to clauses of the Bill on the Order Paper, but a Bill that has been rejected by the committee which considered it, may not be amended under this rule.
- (2) Proposed amendments delivered to the Secretary for purpose of placement on the Order Paper after noon on any working day of the House are published on the ATC of the second working day thereafter and not earlier.
- (3) No amendment which is out of order for any reason, may be placed on the Order Paper, and the Speaker's ruling on whether an amendment is out of order or not, is final.
- (4) No amendment, which has the same effect as an amendment previously rejected in the committee which considered the Bill, may be placed on the Order Paper, except by the member in charge of the Bill.
- (5) If an amendment has been placed on the Order Paper, the Speaker may before a decision is made on the Bill, recommit it together with the proposed amendment, to the committee which considered it.
- (6) The committee considers only the clauses in respect of which amendments have been placed on the Order Paper and consequential amendments.

Decision of House on recommitted amendment

173. (1) The committee to which a Bill has been recommitted in terms of rule 172(5) for consideration must -
 - (a) table the Bill, the committee report and amendment list agreed to on the ATC; and
 - (b) specify in the report each amendment placed on the Order Paper by the member in charge of the Bill, but rejected by the committee.
- (2) The Speaker must place the committee report and list of amendments agreed to by the committee on the Order Paper for consideration.
- (3) The debate on amendments must not exceed the time allocated for it by the Chief Whip after consultation with the Whip of the official opposition and in the absence of such time allocation, be as determined by the Speaker after consultation with the Leader of Government Business.
- (4) The House first decides on the amendments and thereafter on the Bill.
- (5) When the House agrees to the Bill as amended by it, it passes the Bill.

Withdrawal of Bill

174. The member in charge of a Bill may introduce a motion to withdraw the Bill at any stage before the Bill is passed.

Motion to postpone Bill

175. Before expiration of the time allotted for the conclusion of consideration of a Bill by the House, the member in charge of a Bill may place a motion requesting the postponement of consideration thereof on the Order Paper.

Stages of Bill

176. Unless otherwise provided for in these Rules, not more than one stage of a Bill as referred to in part 2 of Annexure 2 must be taken on the same sitting day if objection to a further stage is made by eight or more members.

Lapsing of Bill

177. Subject to rule 178, a Bill lapses at the end of a legislative year.

Resumption of proceedings on lapsed Bill

178. (1) The proceedings on a Bill which lapsed at the end of a legislative year, may by resolution of the House be placed on the Order Paper during the next legislative year, but not thereafter.
- (2) This may not be done if a general election is to take place between two legislative years and if a general election has taken place between two legislative years, the proceedings on a Bill which lapsed at the end of a legislative year must start afresh.
- (3) Unless the House directs otherwise, a Bill must be proceeded with from the commencement of the particular stage it reached during the preceding legislative year.
- (4) The approval or rejection of a draft resolution for the resumption of proceedings on a Bill does not prohibit the introduction of a Bill of the same or similar substance during the same legislative year or during an ensuing legislative year.

Part 2

Bill initiated by member in individual capacity

Legislative proposal to Speaker

179. (1) A member other than an MEC who intends to introduce a Bill in his or her individual capacity must for the purpose of obtaining the House's permission in terms of these Rules, give notice and submit to the Speaker a memorandum containing a proposal which -

- (a) explains the objects of the envisaged legislation;
 - (b) sets out particulars of the envisaged legislation; and
 - (c) state whether in his or her view, the proposed legislation may have financial or other implications for the province which may be a determining factor when the proposal is considered.
- (2) The Speaker places the memorandum on the ATC.

Referral of memorandum to committee

180. (1) The Speaker must refer the memorandum to the Rules Committee.
- (2) The Rules Committee refers the memorandum to the committee within which portfolio the proposal falls.
- (3) After considering the member's memorandum and the relevant committee reports, the Rules Committee must recommend to the House that permission either be –
- (a) given to the member to proceed with the proposed legislation; or
 - (b) refused.
- (4) The Rules Committee must in its recommendation express itself on the desirability or not of the principle of the proposal.

Consideration of legislative proposal by House

181. (1) The Chairperson of the Rules Committee or a delegated member must table in the House the memorandum and the committee recommendations, including views on the financial or other implications of the proposal.
- (2) The Speaker must place the committee reports together with the proposal on the Order Paper for a decision.
- (3) The House may -
- (a) give permission that the proposal be proceeded with;
 - (b) refer the proposal back to the Rules Committee or a relevant committee for a further report; or
 - (c) refuse permission.
- (4) The House may debate the Rules Committee's recommendation on the legislative proposal.

Preparation of draft Bill initiated by member

182. (1) If the House gives permission that the proposal be proceeded with, the Secretary must ensure that a Bill is drafted.
- (2) The Secretary must consult with the relevant member on the contents of the Bill.
- (3) The Secretary must within 3 months of the instruction of the House, report to the Rules Committee on progress made with the Bill.
- (4) The procedure referred to in Part 1 of this Chapter is with the necessary changes *mutatis mutandis* applicable to a Bill under this Part.

Part 3 ***Bill initiated by Committee***

Legislative proposal to Speaker

183. (1) If the Rules Committee intends to introduce a Bill, the committee must, for the purpose of obtaining the House's permission in terms of these Rules, table in the House a memorandum which -
 - (a) sets out particulars of the proposed legislation;
 - (b) explains the objects of the proposed legislation; and
 - (c) states whether the proposed legislation will have financial implications for the province and, if so, gives an account of those implications.
- (2) A committee which intends to introduce a Bill must obtain permission from the Rules Committee before the steps set out in this Part are followed.
- (3) The Speaker places the proposal on the Order Paper for decision.
- (4) The House may –
 - (a) give permission that the proposal be proceeded with;
 - (b) refer the proposal back to the committee for reconsideration; or
 - (c) refuse permission.
- (5) If the House gives permission that the proposal be proceeded with, it may -
 - (a) express itself on the desirability of the proposal; or
 - (b) subject its permission to conditions.

Preparation of draft Bill

184. (1) If the House gives permission that the proposal be proceeded with, the Secretary must prepare a Bill and an explanatory memorandum.
- (2) The procedure as contemplated in Part 1 of this Chapter is with the necessary changes *mutatis mutandis* applicable to a Bill under this Part.

Part 4 Money Bill

Money Bill

185. (1) A Bill is in terms of section 120 (1) of the Constitution a money Bill if it -
- (a) appropriates money;
 - (b) imposes provincial taxes, levies, duties or surcharge;
 - (c) abolishes or reduces, or grants exemptions from any provincial taxes, levies, duties or surcharge; or
 - (d) authorises direct charges against a Provincial Revenue Fund.
- (2) A money Bill may not deal with any other matter except -
- (a) a subordinate matter incidental to the appropriation of money;
 - (b) the imposition, abolition or reduction of provincial taxes, levies, duties or surcharges;
 - (c) the granting of exemption from provincial taxes, levies, duties or surcharges; or
 - (d) the authorisation of direct charges against a Provincial Revenue Fund.

MEC for Finance to introduce and recommend

186. (1) The House may not pass a Bill appropriating any money out of the Provincial Revenue Fund or authorizing the raising of any loan or raising revenue by way of taxation unless introduced by the MEC for Finance.
- (2) Any other Bill in which the raising of revenue by way of levies, tariffs, duties or surcharges is incidental to the main purpose of the Bill, shall not be regarded as a money Bill and shall be dealt with in accordance with these Rules but the provisions of a Bill that raises revenue is subject to compliance with national legislation.
- (3) If an amendment to a Bill referred to in subrule (1) subject to section 120(3) of the Constitution seeks to increase expenditure or taxation or to alter the destination of expenditure, such amendment, whether moved in this House or

in committee, shall not be effected unless the MEC for Finance has moved or recommended it.

- (4) If increased expenditure or taxation is incidentally involved in a clause or in an amendment to a clause of a Bill, other than a Bill referred to in subrule (1), such clause or amendment may, subject to compliance with national legislation, not be effected unless the MEC for Finance has moved or recommended it.
- (5) The recommendation of the MEC for Finance under this rule may be communicated by way of a motion.

Procedure for introduction

187. (1) A money Bill may only be introduced when the House is sitting.
- (2) After the MEC for Finance has delivered the introductory speech, he or she submits the Bill whereupon the Speaker lays the Bill and papers, if any, upon the Table.
- (3) When a money Bill has been introduced, the Secretary avails a copy to each member together with any papers laid upon the Table.

Bill placed on Order Paper for consideration

188. After its introduction the Speaker places a money Bill on the Order Paper for consideration of the principle.

Referral of Bill to committee

189. (1) On the day on which a money Bill has been introduced, the Speaker refers the Bill, the introductory speech and papers if any, to the committee responsible for financial matters to consider the overall impact of the Bill on the province and the Speaker refers the various individual votes to the relevant committees for consideration and report.
- (2) The period for the consideration of a Bill and papers so referred shall commence on a day to be determined by the Speaker after consultation with the Leader of Government Business, and shall be limited to a maximum of 5 consecutive working days of the House.

Committee report

190. The committee report must be presented to the House before budget presentations are made on the votes.

Approval of principle

191. (1) The consideration of the principle of a money Bill may not be proceeded with before the report of the committee responsible for financial matters has been received.

- (2) After the principle consideration of a money Bill has been concluded, the principle of the Bill must be decided.

Referral of Schedule to committees

192. (1) The Speaker must, after the acceptance of the principle of the Bill refer the respective votes in the Schedule to the relevant committees for consideration and report.
- (2) The period for the consideration of a Bill and papers so referred commences on a day to be determined by the Speaker after consultation with the Leader of Government Business, and shall be limited to a maximum of 5 consecutive working days of the House.

Debate on vote

193. (1) After the principle of an appropriation Bill has been approved, the votes in the Schedule must be debated.
- (2) Decision on each vote shall be postponed until the day that decisions on all votes are taken.

Approval of vote

194. The House decides on the separate votes in the Schedule.

Adoption of money Bill

195. After decision of all separate votes in the Schedule to the Bill, the House must forthwith decide on the Bill.

Part 5 ***Appropriation Bill without Schedule***

Period for consideration

196. (1) The period for the consideration of an appropriation Bill without a Schedule may be determined by the Speaker after consultation with the Leader of Government Business.
- (2) When the Speaker has determined a period for the consideration of an appropriation Bill without a Schedule, the committee report must be presented to the House on or before the first sitting day following the expiration of the period allowed for consideration.
- (3) Rules 190 and 191 apply in respect of appropriation Bills.

Procedure for money Bill other than appropriation Bill

197. (1) The procedure for ordinary public Bills is also applicable to money Bills that are not appropriation Bills, except that money Bills which are not appropriation Bills shall be recommended by the Premier before they are passed by the House.
- (2) The Speaker refers the Bill to the Finance Committee which confers with any appropriate committee.
- (3) The period for the consideration of a money Bill that is not an appropriation Bill may be determined by the Speaker after consultation with the Leader of Government Business.
- (4) When the Speaker has determined a period for the consideration of a money Bill that is not an appropriation Bill, the committee report is presented to the House on or before the first sitting day following the expiration of the period allowed for consideration.

Part 6

Assent, publication and safekeeping

Assent to Bill

198. (1) The Premier must either assent to and sign a Bill passed by the Legislature in terms of this rule or if the Premier has reservations on the constitutionality of the Bill, refer it back to the Legislature for reconsideration.
- (2) If, after reconsideration, a Bill fully accommodates the Premier's reservations, the Premier must -
- (a) assent to and sign the Bill or if not;
- (b) refer it to the Constitutional Court for a decision on its constitutionality.
- (3) If the Constitutional Court decides that the Bill is constitutional, the Premier must assent to and sign it.

Publication of provincial Act

199. A Bill assented to and signed by the Premier becomes a provincial Act, it must be published promptly and takes effect when published or on a date determined in terms of the Act itself.

Safekeeping of provincial Act

200. The Legislature entrusts a signed copy of a provincial Act to the Constitutional Court for safekeeping.

Part 7
Role of House of Traditional Leaders

Advice and proposals of House of Traditional Leaders

201. (1) When the Legislature is sitting, the Legislature may, by way of a motion, request advice and proposals from the House of Traditional Leaders in respect of any matter relating to traditional authorities, indigenous law or the traditions and customs of traditional communities within the Province.
- (2) When the Legislature is not sitting, requests for advice and proposals must be approved by the Speaker after consultation with the Portfolio Committee on Constitutional Affairs, Petitions and Public Participation.
- (3) Bills or documents referred to the Legislature for comments and inputs may be referred by the Speaker to the House of Traditional Leaders for advice and proposals.
- (4) Requests for advice and proposals must be submitted in writing to the House of Traditional Leaders by the Secretary within 3 days from the date of the adoption of the motion, or approval by the Speaker.
- (5) Advice and proposals received from the House of Traditional Leaders, either in terms of this Rule must be referred to a portfolio committee designated by the Speaker for enquiry and report to the House.

Referral of Bill to House of Traditional Leaders

202. (1) The portfolio committee to which a Bill is referred, must consider whether such Bill pertains to traditional authorities, indigenous law or such traditions and customs, or any other matters having a bearing thereon.
- (2) A Bill pertaining to traditional authorities, indigenous law or such traditions and customs, or any other matter having a bearing thereon, must be referred to the House of Traditional Leaders for its comments
- (3) If a portfolio committee is in doubt whether a Bill pertains to traditional authorities, indigenous law or such traditions and customs, or any other matter having a bearing thereon, such Bill must be referred to the Speaker together with a summary of factors considered, instructions, and recommendations, if any, for decision and referral to the House of Traditional Leaders, if necessary.
- (4) A Bill referred to the House of Traditional Leaders must be submitted to the House of Traditional Leaders by the Secretary within 7 days of such referral.

Support for, or opposition to Bill

203. (1) The House of Traditional Leaders must, within the period indicated by the Legislature indicate by written notification to the Legislature its support for, or opposition to the Bill, together with any comment it wishes to make.

- (2) If the House of Traditional Leaders fails to indicate its support or opposition to the Bill, the Legislature may proceed with the Bill.
- (3) If the House of Traditional Leaders indicates it is opposed to the Bill, the Legislature may not pass the Bill before a period of 30 days as from the date of receipt by the Speaker of such written notification has lapsed, and after the lapsing of such period the Legislature may proceed with the Bill.
- (4) The portfolio committee which deals with the Bill must consider comments made by the House of Traditional Leaders, and may invite members of the House of Traditional Leaders, and other interested parties to make representations to the committee.

CHAPTER VIII QUESTIONS

Part 1 General

Notice

204. (1) Except as otherwise provided in these Rules or with the prior consent of the presiding officer a member who intends to give notice of a question must deliver a signed copy of the notice to the Secretary for placement on the Question Paper.
- (2) A question may be delivered to the Secretary on any working day of the House but before noon on the Monday preceding the Tuesday on which the questions will appear on the Question Paper for the first time.
- (3) A question that appears on the Question Paper must be answered on the second Tuesday following its first publication and not earlier.
- (4) No question for oral reply may be asked on the day on which notice thereof is given.
- (5) A member may give notice or take charge of a question on behalf of an absent member, provided he or she has been authorized to do so by the absent member.
- (6) A notice of a question which goes against parliamentary practice or law may be amended or otherwise dealt with as the presiding officer may direct.
- (7) No question may be addressed to a person other than an MEC.

Placing and arrangement

205. (1) The Secretary places questions on the Question Paper in the order in which it is received by him or her.

- (2) Questions for oral reply are dealt with in the following order:
- (i) Questions to the Premier standing over from previous question days;
 - (ii) new questions to the Premier;
 - (iii) questions to an MEC standing over from previous question days; and
 - (iv) new questions to an MEC.

Part 2
Question for oral reply

Period for which notice may be set down

206. No notice of a question may be placed on the Question Paper for oral reply a day beyond 11 consecutive working days of the House.

Format of question

207. (1) If the presiding officer is of the opinion that a question deals with a matter of a statistical nature, he or she may request the member who asks the question to remove statistical elements in the question.
- (2) If the member does not remove the statistical elements in the question, the presiding officer may direct that such questions be placed on the Question Paper for written reply.
- (3) Questions must comply with Annexure 1.
- (4) If the presiding officer is of the opinion that a question of which a member has given notice to the Secretary or which a member has sought to ask without notice, infringes in respect of Annexure 1, he or she may direct –
- (a) in case of a question of which a member has given notice that it must be placed on the Order Paper with such alterations as the presiding officer may direct; or
 - (b) in the case of a question which a member has sought to ask without notice, that it may be asked with such alterations as the presiding officer may direct; or
 - (c) that the member concerned be informed that the question is out of order.

Limitation on questions

208. (1) Only four questions per day may be directed to any MEC.
- (2) A question for oral reply may contain no more than five subdivisions.

- (3) The first response to a question must be 3 minutes, supplementary questions must be 1 minute each and response to supplementary questions must be 2 minutes each. There may be no more than five supplementary questions.
- (4) The restrictions imposed by the above subrules do not apply to questions for written reply placed on the Question Paper for oral reply.

Time allotted for questions

209. (1) The time allotted for questions is 60 minutes provided that the presiding officer may extend that time by 30 minutes.
- (2) Replies to questions for oral reply which have not been reached on the expiration of the time allotted must be handed to the Secretary for inclusion in the official report of the debates of the House.

Urgent question to MEC

210. (1) A member may subject to the permission of the presiding officer, on any sitting day of the House, without notice ask a question for urgent oral reply to an MEC.
- (2) The presiding officer may grant a request under this rule if satisfied that –
 - (a) the question is of an urgent nature; or
 - (b) relate to public importance; and
 - (c) sufficient notice thereof has been given.

Question without notice to Premier

211. (1) Questions of a broad generic nature on a provincial matter may be put to the Premier without prior notice on a day identified by the Chairperson of the Standing Committee of Programme, but not on a day of a week during which the Premier's vote in the Schedule to an appropriation Bill is discussed.
- (2) A maximum of 15 minutes are allowed for questions and replies under this rule, but if proceedings relating to a question are in progress when that time expires, the presiding officer may allow it to be concluded.
- (3) A member who wants to put forward a question on a particular day must personally, in writing and under his or her signature submit his or her name to the Secretary at least 3 working days before the sitting at which the question will be decided.
- (4) The Secretary places no more than 10 names of members on the Question Paper on a "first come first served" basis.
- (5) The presiding officer calls the members in the order in which their names appear on the Question Paper.

- (6) The member called may put forward and formulate one question for no longer than 3 minutes and immediately after receipt of a response thereto, put forward one supplementary question, which must relate to his or her original question or the response thereto.
- (7) A question put forward by a member under this rule may not be included in the number of questions allowed him or her under any other rule.
- (8) Time for questions without notice to the Premier may not form part of the time allocated for questions with notice to an MEC.

Part 3

Question for written reply

Format of question

212. (1) A question for written reply may be placed on the Question Paper for reply on any working day of the House, but such question must be delivered to the Secretary before noon on the Friday for inclusion in the Question Paper.
- (2) A question for written reply may contain not more than 10 subdivisions.
- (3) Questions for written reply are limited to three per member per working week.

Written question not replied to

213. If the responsible MEC has not furnished a written reply to a written question within 10 working days the Secretary must, if the member in whose name the question stands so requests, place the question on the Question Paper for oral reply.

CHAPTER IX PUBLIC INVOLVEMENT

Public involvement

214. The Legislature must in terms of section 118 of the Constitution and approved policy facilitate public involvement in the legislative and other processes of the Legislature.

Programme

215. The Speaker may cause the Legislature's programme to be published in a manner that he or she deems fit to inform the public on matters before the Legislature.

Right to petition

216. The right of a person and a process and system to petition the Legislature is set out in the Northern Cape Petitions Act, 2009 (Act 8 of 2009).

**CHAPTER X
NATIONAL COUNCIL OF PROVINCE MATTERS**

*Part 1
Section 75 and 76 Bill*

Section 75 Bill

217. (1) A section 75 Bill is a Bill in terms of the Constitution, which Bill does not affect a province.
- (2) The Secretary must ensure that all members are informed of the referral of a section 75 Bill and on request, make copies of the Bill available.

Section 76 Bill

218. (1) A section 76 Bill is a Bill in terms of the Constitution, which Bill does affect a province.
- (2) The Speaker must upon receipt from the NCOP, refer the Bill to the committee under which the subject matter of the Bill falls.
- (3) The Speaker must avail copies of the Bill to all members.
- (4) The relevant committee may obtain the view of the Executive Council in respect of the Bill.
- (5) The committee to which a Bill has been referred must consider amongst others, provincial and public interest before it commences the mandatory process of the Bill.

Prioritization of NCOP Bill

219. The Programme Committee may prioritize a section 76 Bill and related matters in line with Parliament's legislative cycle.

Consideration and report by committee

220. The committee must consider the Bill with due regard to the constitutional requirement of public involvement and report to the House.

Mandating procedure

221. The committee considers a Bill and deals with it in accordance with the provisions of the Mandating Procedures of Provinces Act, 2008 (Act 52 of 2008).

Part 2
Section 74 Bill

National Bill amending Constitution

222. (1) A section 74 Bill is a Bill amending the Constitution.
- (2) When a Bill referred to in section 74 (5) of the Constitution is referred to the Legislature, the Secretary must avail a copy to all members.
- (3) The Speaker subsequently refers the Bill to the Standing Committee on Constitutional Affairs, Petitions and Public Participation to prepare written views as contemplated in section 74 (5)(b) of the Constitution.
- (4) The Speaker lays the Bill upon the Table and places it on the Order Paper for the House to consider the written comments.
- (5) If a Bill amending the Constitution relates to the Northern Cape Province, the House must indicate its approval or disapproval of that Bill to the NCOP.
- (6) When the House is not in session, a Bill amending the Constitution must without delay be forwarded to the Chairperson of the Standing Committee on Constitutional Affairs, Petitions and Public Participation.

Part 3
Initiation of national legislation by Province

Initiation of national legislation by Executive Council or Legislature

223. (1) The Executive Council or the Legislature may initiate and prepare legislation for introduction in the NCOP.
- (2) A member who desires that the Executive Council or Legislature initiate or prepare legislation for introduction in the NCOP, must table such proposal to obtain approval of the House. The views if any of a relevant MEC must be included in the proposal.
- (3) The Rules relating to a provincial Bill initiated by a member in his or her individual capacity in the Legislature, applies *mutatis mutandis* to a proposal tabled by a member other than an MEC, but the House may only approve a draft Bill for purpose of introduction in the NCOP.
- (4) The House must upon approval of a draft Bill for introduction in the NCOP, designate a permanent delegate to introduce it.

Recommendation of legislation to National Assembly

224. (1) The Legislature may recommend to the National Assembly legislation concerning any matter outside the authority of the Legislature, or in respect of which an Act of Parliament prevails over a provincial law.
- (2) A member who desires that the Legislature recommends legislation to the National Assembly in terms of section 104(5) of the Constitution, must table such recommendation for the purpose of obtaining approval of the House. The views of a relevant MEC if any must also be included in the recommendation.
- (3) The Rules relating to legislative proposals submitted by a member other than an MEC apply *mutatis mutandis* to recommendations under this Rule, but the House may only approve a recommendation.
- (4) The Speaker must upon approval of the recommendation by the House, refer the recommendation to the Speaker of the National Assembly.

Part 4

Other matter that requires voting mandate

Other matter that requires voting mandate

225. (1) When a matter other than a Bill is referred to the Legislature for a voting mandate in terms of section 65 of the Constitution, the Speaker tables the matter and refers it to the Rules Committee for prioritisation.
- (2) The Speaker may by resolution of the House refer the matter to an ad hoc or other committee, or the matter may be dealt with in a manner that the House determine by resolution.
- (3) The committee must consider the matter and report to the House on a voting mandate to be conferred to the province's delegation in the NCOP.
- (4) The House must consider the report and by resolution confer a voting mandate on the province's delegation in the NCOP.
- (5) The Speaker must submit the resolution to the Chairperson of the NCOP and conveys its contents to the province's permanent and special delegation to the NCOP.
- (6) The relevant committee nominates special delegates to present the Legislature's position.

Northern Cape
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Part 5
Delegates

Provincial delegation

226. The province is in terms of section 60 of the Constitution represented by a single delegation consisting of 10 delegates, constituted as follows:
- (a) The Premier or, if the Premier is not available any member. designated by the Premier either generally or for any specific business before the NCOP;
 - (b) three other special delegates; and
 - (c) six permanent delegates appointed in terms of subsection (2) of the Constitution.

Leadership of delegation

227. The delegation is headed by the Premier, or if the Premier is not available, a member of the province's delegation designated by the Premier.

Allocation of delegate

228. Parties represented in the Legislature are entitled to delegates in the provinces' delegation in accordance with the formula set out in Part B of Schedule 3 of the Constitution as well as the Determination of the National Council of Provinces Act, 1998 (Act 69 of 1998).

Participation of minority party

229. The participation of minority parties as permanent and special delegates must be in a manner consistent with democracy.

Eligibility of permanent delegate

230. A person ceases in terms of sections 62(4) and 106(3) of the Constitution to be a permanent delegate if that person -
- (a) ceases to be eligible to be a member of the Legislature for any reason other than being appointed as a permanent delegate;
 - (b) becomes a member of Cabinet;
 - (c) has lost the confidence of the Legislature and is recalled by the party that nominated that person;
 - (d) ceases to be a member of the party that nominated that person and is recalled by that party; or
 - (e) is absent from the NCOP without permission in circumstances for which the Rules and orders of the NCOP prescribe loss of office as permanent delegate.

Appointment of permanent delegate

231. (1) The Speaker must after determination of the number of permanent and special delegates each party is entitled to, in writing call upon the parties to submit nominations for the permanent delegation.
- (2) Nominations by parties must be in writing and be signed by two party members.
- (3) A person nominated as a permanent delegate must be eligible to be a member.
- (4) If a member is appointed as a permanent delegate, that persons ceases to be a member.
- (5) A permanent delegate must be appointed by resolution of the House.

Vacancy among permanent delegates

232. (1) The Speaker must, after being informed in writing by the Chairperson of the NCOP in terms of the National Council of Provinces (Permanent Delegates Vacancies) Act, 1997 (Act 17 of 1997) of the occurrence of a vacancy among the permanent delegates of the province, forthwith in writing call upon the party to nominate a person in his or her stead.
- (2) The nominee must indicate acceptance of the nomination by signing the nomination form.
- (3) After a person has in writing been nominated by the party concerned, the person must be appointed as a permanent delegate by the Legislature –
 - (a) within 14 days of the date upon which the nomination is received by the Speaker if the Legislature is in session; or
 - (b) if the Legislature is not in session, when the nomination is received, within 14 days after the commencement of the next session.
- (4) Upon receipt of the acceptance of nomination by a member nominated as a permanent delegate, and within 7 working days, the presiding officer places the nomination on the Order Paper for decision of the House.
- (5) The Speaker must immediately after the appointment of a permanent delegate in terms of subrule (3) inform the Chairperson of the NCOP in writing.

Proof of appointment as permanent delegate

233. The presiding officer must -
 - (a) certify the appointment of a permanent delegate;

- (b) certify compliance with sections 61 and 62 of the Constitution; and
- (c) provide a copy of such certification to the Chairperson of the NCOP and every permanent delegate.

Vote of no confidence in permanent delegate

234. (1) The Legislature may by a resolution adopted with a supporting vote of at least two thirds of its members, pass a vote of no confidence in a permanent delegate.
- (2) When the Legislature has passed a vote of no confidence in a delegate, the party that nominated that person must forthwith recall that person.
- (3) If a permanent delegate has lost the confidence of the Legislature and is recalled by the party that nominated that person, the Speaker must inform the Chairperson of the NCOP in writing.

Role of permanent delegate in Legislature

235. A permanent delegate to the NCOP may attend and speak in the Legislature and its committees, but may not vote.

Appointment of special delegate

236. (1) When the House is sitting, the Legislature designates, by way of resolution, which may be tabled as a motion without notice, and with the concurrence of the Premier and the leaders of the parties entitled to special delegates, three special delegates, as required from time to time, from among members.
- (2) If the House is not sitting, a relevant committee with the concurrence of the Premier and the leaders of the parties entitled to special delegates, must designate three special delegates and substitutes as may be required from time to time.
- (3) If the committee is unable to meet, the Speaker with the concurrence of the Premier and the leaders of the parties entitled to special delegates designates three special delegates, as required from time to time.
- (4) The designation of special delegates must indicate the purpose of designation and must be published on the ATC.
- (5) The House may ratify the designation of a special delegate by the Speaker or committee as the case may be.

Termination of appointment of special delegate

237. The designation of a special delegate or substitute may be terminated at any time -
- (a) if the House is sitting, by resolution of the Legislature, and with the concurrence of the Premier and the leaders of the parties entitled to special delegates;
 - (b) if the House is not sitting, by the relevant committee, with the concurrence of the Premier and the leaders of parties entitled to special delegates and substitutes in terms of these Rules; or
 - (c) if the committee is unable to meet, by the Speaker with the concurrence of the Premier and the leaders of the parties entitled to special delegates.

Proof of designation as special delegate

238. The Speaker must –
- (a) certify the designation of special delegates, and the period or purpose of designation;
 - (b) certify compliance with section 61 of the Constitution; and
 - (c) provide a copy of such certification to the Chairperson of the NCOP and every special delegate.

Communication and protocol between permanent delegate and Legislature

239. Attendance of the House or a committee must be the result of an invitation by the Chief Whip or a request from the provincial Whip of the NCOP.

Nature of provincial matter on which permanent delegate may report

240. A permanent delegate may report in the House, a committee or at the NCOP in respect of amongst others, the following –
- (a) NCOP provincial week outcomes;
 - (b) a petition lodged with the Legislature which deals with a national competency; and
 - (c) an international agreement as envisaged in the Constitution.

Voting by province

241. Voting on behalf of the province takes place as set out in the Mandating Procedures of Provinces Act, 2008 (Act 52 of 2008) conferred by way of resolution of the Legislature within the time frames required by the NCOP.

Role of special delegate in Legislature

242. A special delegate must report back to the Legislature or a committee when delegated to attend an information session on a section 76 Bill or any other matter at the NCOP.

CHAPTER XI

PROCESS FOR TABLING OF REPORT AND WRITTEN INSTRUMENT (OTHER THAN LEGISLATION) IN HOUSE

Application

243. This Chapter applies to a written instrument received by the Legislature, other than draft legislation, that have to be formally dealt with in the House.

Tabling and referral of report and written instrument

244. (1) The presiding officer must table all written instruments and reports that are required in terms of legislation without delay, or if the Legislature is in recess, on its first sitting day when it resumes its sitting from an MEC.
- (2) The presiding officer must without delay refer all reports and written instruments to the relevant committee.
- (3) If there is doubt as to which committee is appropriate to handle the report or written instrument, the presiding officer after consultation with the Chief Whip, must decide the issue.

Resolution affecting Executive Council

245. The Secretary must communicate resolutions affecting the Executive Council to the Premier or the responsible MEC.

Reply required

246. The Legislature or any committee thereof may require from the Executive Council within a specified period a written or oral reply to any matter which the Legislature brings to the attention of the Executive Council.

CHAPTER XII RECORDS OF LEGISLATURE

Recording of proceedings

247. (1) House proceedings must be recorded and transcribed and be signed after having been perused by the Speaker.
- (2) Minutes of House Proceedings must be noted by the Secretary and approved by the presiding officer.

- (3) Minutes of proceedings of committees must be noted by an official of the Legislature designated by the Secretary, be approved by the Chairperson of the committee and be printed and availed to each member of the committee.

Journal of Legislature

248. The minutes of proceedings and official reports on the debates of the Legislature constitutes the journals of the Legislature.

Papers

249. (1) The Secretary has custody of all papers tabled in the Legislature or submitted to committees of the Legislature.
- (2) Papers are subject to the provisions of the Promotion of Access to Information Act, 2000 (Act 2 of 2000) and these Rules, open to members and the public.

CHAPTER XIII GENERAL

Duty and responsibility of Secretary

250. (1) The Secretary is responsible for the management and administration of all matters connected with the business of the Legislature, subject to the direction of the Speaker or the House.
- (2) The Secretary exercises all powers and performs all duties and responsibilities as derived from the Northern Cape Legislature Service Act, 2011 (Act 2 of 2011) and other legislation.

Video-conferencing

251. (1) The Legislature may use its video-conferencing facility for the business of the Legislature in accordance with the Sectoral Protocol for Video-conferencing released by Parliament as updated from time to time.
- (2) The Standing Rules will where applicable, apply *mutatis mutandis* in respect of Legislature business conducted by way of video-conferencing.

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ANNEXURE I
FORMAT OF QUESTIONS
(Rule 207)

1. Questions must conform to the following –
 - (a) a question may not include the name of a person or a statement which is not strictly necessary to make the question intelligible;
 - (b) a question may not contain a statement if the member who asks the question, is not prepared to substantiate it;
 - (c) a question intended to refer to a particular matter may not be in general terms and must contain sufficient information of the case to identify it;
 - (d) a question may not contain an argument, inference, opinion, imputation or epithet or tendentious, cronical or offensive expression;
 - (e) a question may not refer to a proceeding in a committee before that committee has made its report to the House;
 - (f) a question may not seek information about a matter which is of its nature secret or confidential;
 - (g) a question may not reflect on the decision of a court of law or be formulated as to be likely to prejudice a case pending in a court of law;
 - (h) a question may not be asked for the purpose of obtaining an expression of opinion, the solution of an abstract case, or the answer to a hypothetical proposition;
 - (i) a question may not be asked as to whether a statement in the press of a private or individual nature is accurate;
 - (j) a question that relates to the conduct of an industry or service under the control of a statutory body may not refer to a matter other than those for which an MEC is responsible in terms of relevant legislation;
 - (k) a question may not be asked about the character or conduct of any person as referred to in rule 129, except in his or her official or public capacity;
 - (l) a question may not be asked to seek information which can readily be found in accessible or ordinary works of reference;
 - (m) a question may not refer to a debate or answer to a question in the current session; or
 - (n) a question which has been fully answered may not be asked again during the same session.

ANNEXURE 2
Part 1
STAGES IN MAKING A LAW
(Rule 164(3))

1. (1) If a law or the Rules of the Legislature requires that legislation must be published in the Provincial *Gazette* before it is introduced, the relevant department, in compliance with the prescript, must do so via the relevant office in the Legislature.
- (2) The relevant department must receive and process public comment and effect amendments to legislation if required.
- (3) The department or Executive Council must introduce the Bill in the Legislature.
2. The Leader of the House informs the Speaker of Cabinet's approval of a draft Bill and supplies the Speaker with a copy of the draft Bill.
3. The relevant MEC must, introduce the Bill in the Legislature for a first reading. Every Bill must be introduced with an explanatory memorandum as envisaged in rule 167.
4. The Legislature deals with the Bill in accordance with these Standing Rules.
5. (1) After the first reading, the Bill is referred to the relevant committee to determine whether the Bill meets the policies of government.
- (2) The committee may call for public input through a public participation process. Employees and departmental officials may be requested to accompany members on these hearings in order to respond to technical and operational questions which arise.
- (3) After public participation, the Bill is returned to the committee for consideration of the public participation input.
- (4) The Bill is introduced in the House with or without amendments by the Chairperson of the committee.
- (5) A debate may be initiated in the House. The Bill may be referred back to the committee in the event that additional amendments are necessary.
- (6) At this stage it is assumed that the Bills is tabled for a second reading.
- (7) Finally, the House votes on the Bill.
- (8) Once the Bill is adopted by the House, the Bill is sent to the Premier for assent and signature. On a date determined by the Premier, the Bill becomes an Act of the Legislature and is enforceable.

- (9) The Secretary certifies one copy as a fair copy of the Bill passed by the House. The copy certified by the Secretary is submitted to the Premier for assent.
- (10) The Bill assented to by the Premier is published in the Provincial *Gazette* as an Act of the Province.
- (11) The Legislature sends an original signed copy of the Act to the Constitutional Court for safekeeping.
- (12) The contents of a pamphlet distributed by the Legislature, briefly setting out the stages of making a law is re-produced below.

** Note – The procedure as indicated above, is in line with that of the Province of New Brunswick in Canada, which played a major role in equipping Premiers and Provinces after the 1994 elections.*

Part 2 **HOW A LAW IS MADE**

Stage One

1. A member of the public or a government department draws up a policy in the form of a Green Paper or White Paper. The Green Paper or White Paper is often available for public input.

Stage Two

2. If the policy suggests new legislation, a Bill is drafted by one of the following:
 - (a) A MEC responsible for the Portfolio connected to the policy;
 - (b) A member of the Legislature; or
 - (c) Committee of the Legislature.

Stage Three

3. The Bill is sent to the Secretary of the Legislature for publication in the Provincial *Gazette*, the *Gazette* calls for public input.

Stage Four

4. The Bill is introduced in a sitting of the Legislature by the members of the Executive Council responsible.

Stage Five

5. The Bill is referred to the relevant Portfolio Committee. The committee deliberates on the Bill. The committee may call for public input through a public hearing.

Stage Six

6. After a public hearing the Bill is reported to the House with or without amendments by the Chairperson of the concerned Portfolio Committee.
A debate in the House is initiated. The Bill can be referred back to the committee if additional amendments are necessary.

Stage Seven

7. Once the Bill is accepted by the House, the Bill is sent to the Premier for his or her assent and signature. On a date determined by the Premier, the Bill becomes an Act of the Legislature and is enforceable.

Stage Eight

8. The Act is published in the Provincial *Gazette*, and the original text sent to the Constitutional Court for safekeeping and compliance.



Northern Cape
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ANNEXURE 3
CODE OF ETHICS AND CONDUCT
(Rule 79)

1. BACKGROUND

The Code of Ethics and Conduct for members of the Northern Cape Legislature (hereinafter referred to as the **Code**) is based on the Legislative framework of the Executive Members' Ethics Act, 1998 (Act 82 of 1998) and the Promotion of Access to Information Act, 2000 (Act 2 of 2000). The principle and spirit of accountability, transparency and integrity is reflected in the **Code**.

2. DEFINITIONS

Unless the context clearly indicates otherwise for purpose of this Annexure –

“**Committee**” means the Committee on Ethics and Conduct as envisaged in Rule 62;

“**company or corporate entity**” means any public or private company, closed corporation or trust other than a charitable trust, but excludes section 21 companies and associations not for gain;

“**family member**” means the spouse, permanent companion and dependent child of a member, (sibling, grandparent);

“**permanent companion**” means a person who cohabits with a member and who is publicly acknowledged by the member as his or her permanent companion;

“**Public Protector**” means Public Protector as Contemplated in section 181 of the Constitution;

“**Registrar**” means the Registrar of Members Interest appointed by the Standing Committee on Rules in terms of this Code;

“**Register**” means the Register of Members Interest kept by the Registrar as contemplated by the **Code**;

“**registrable interest**” means any interest, financial or otherwise in relation to a member or his or her family member or permanent companion, which must in terms of the Code be declared as it may give rise to a possible conflict of interest;

“**remuneration**” means the receipt of benefits in cash or in kind;

“**serious disrepute**” means any action, in an official or private capacity, wilfully carried out by a member, which will in any way detract from the status or impact negatively on the image of the Executive Council, the Legislature and its office-bearers (Including, but not limited to: criminal offences, public violence and sexual harassment).

3. APPLICATION

This Code is applicable to all members, inclusive of the Premier and members of the Executive Council, who has taken an Oath or Solemn Affirmation as set out in section 107 and Schedule 2 of the Constitution.

4. VALUES

The members recognise and aspire to the following values in the upholding and strengthening of the Code whilst being public office bearers.

- Public interest
- Accountability
- Professionalism
- Transparency
- Respect

5. PURPOSE

The **Code** provides a framework of reference for members of the Legislature to fulfil their duties as public representatives in terms of ethical standard of behaviour that the public can reasonably expect from the members elected to represent them.

The Committee on Ethics and Conduct (hereinafter referred to as the Committee), must with the administrative support of a Registrar of Members' Interests, ensure implementation of and adherence to of the Code.

This **Code** is broad in nature because not every possible behavioural and ethical problem or trend can be foreseen. The Committee must over time develop terms of reference to evaluate and interpret specific instances.

6. PRINCIPLES

The **Code** is based on the following principles against which any matter before the **Committee** must be measured.

6.1 Public Interest

Selflessness: Members must take decisions solely based on the public interest, with no regard to personal, financial or other material benefits for themselves, their families or their friends.

Integrity: A member must not place him or herself under any financial or other obligation to any individual or organisation where this has the potential to create a conflict of interest with his or her role as a member.

Objectivity: A member who conducts public business, including making public appointments, must do so on the basis of merit only.

6.2 Accountability

Openness: A member must be open and transparent about all decisions and actions with due regard for the constitutional obligation.

Honesty: A member must declare private interests which has a bearing on public duties and any conflict of interest that may arise.

A member must refrain from any dishonest conduct.

6.3 Service Delivery

Leadership: A member must promote and support ethical behaviour and work ethics by leadership and at all times set an example.

Professionalism: A member must promote professionalism through the efficient and diligent carrying out of the constitutional obligations as conferred in Chapter 6 of the Constitution.

Loyalty: A member must in all actions display loyalty to the Constitution, the Republic of South Africa, the Northern Cape Province and the Legislature.

Compliance: A member must comply with all legislation which bestows a duty or responsibility on him or her.

7. RESPONSIBILITY FOR THE IMPLEMENTATION OF THIS CODE

The Committee on Ethics and Conduct established in terms of rule 77 of the Standing Rules is responsible for the implementation of this Code.

8. REGISTRAR OF MEMBERS INTEREST

8.1 Registrar of Members' Interest

The Speaker as Chairperson of the Standing Committee on Rules must designate a senior official of the Legislature or appoint any other person with the required integrity, to be the Registrar of Members' Interest.

The Registrar reports to the chairperson of the Committee on Ethics and Conduct.

8.2. Functions of the Registrar

The Registrar is responsible to –

- provide administrative support to the Committee through interaction with the Chairperson;
- open, compile and safeguard a Register as envisaged in the Code;

- receive, register and communicate complaints received, as well as media reports relating to the Code;
- after consultation with the Chairperson, investigate a complaint or refer the complaint to such other person as the Committee may direct to investigate the matter;
- submit a recommendation to the Committee after an investigation;
- review the effectiveness of the Code and advise the Committee on proposed amendments;
- publish and distribute the public part of the register; and
- guide members on the interpretation of the Code.

8.3 Confidentiality

The Registrar of Members' Interest is subject to security clearance by the National Intelligence Agency, in order to be trusted with extremely confidential information.

9. DECLARATION OF INTEREST

Every member must declare all registrable interests within 60 days of having assumed office, and thereafter at least once in every financial year for the duration of his or her term. Amendments to a declaration must be made within 60 days of the change having occurred. The administration of such declarations is handled by the Registrar and is captured in the Register.

9.1 Register of Members' Interest

The Registrar must compile a Register which must include all information declared in terms of this Code.

The Register consist of two sections, a Public and a Confidential Part.

9.1.1 Public Part of Register

The Public Part of the Register contains all information declared by the member, as well as information pertaining to monetary value of assets, interest and income with the exclusion of information relating to family members.

A member may request the Committee permission to declare information, which normally would have been contained in the Public Part, in the Confidential Part and furnish reasons for such request. The Committee must decide whether the reasons forwarded warrants that the information to be disclosed in the Confidential Part.

The Public Part of the Register must annually be published and may be distributed to the media, libraries and other stakeholders or upon request. The Public Part of the Register is upon prior arrangement, open for inspection at the Office of the Registrar.

9.1.2 Confidential Part of Register

The Confidential Part of the Register must contain –

- all information relating to interest of a family member;
- information pertaining to monetary value of assets, interest and income of the member;
- any other interests which are not necessarily registrable in terms of the Code, but which the member, in good faith, wishes to disclose;
- information, which, after submission to the Committee, is deemed to be fit to be placed in the Confidential Part of the Register.

The Confidential Part of the Register is only accessible to the Registrar, members of the Committee and any person with a court order to that effect.

9.2 Registrable Interests

The following categories of Registrable Interests must be declared by members on the appropriate form:

- (a) **Shares and other Financial Interests:** The number, nature, nominal value and company in which any type of share in any public or private company or any corporate body recognised by law, is held.
- (b) **Remunerated Employment outside the Legislature:** The nature of any remunerated employment of any member outside of the Legislature. Such employment must be sanctioned by the political party to which the member concerned belongs and may not be incompatible with that member's role as an elected public representative.
- (c) **Directorships and Partnerships**
 - Directorship or partnership in any corporate body recognised by law.
 - The name and type of business activity of the corporate body or partnership.
- (d) **Consultancies**
 - The name and type of any consultancy or retainership.
 - The type of business activity of the organisation concerned, and
 - The value of any benefits derived as a result.
- (e) **Sponsorship:** The source, description and value of any direct financial sponsorship or assistance to a member from non-party sources.
- (f) **Gifts and Hospitality**
 - The receipt, description, value and source of any gift with a value in excess of R500 to the member or a family member.
 - Any number of gifts from a single source which cumulatively exceed the value of R500 in any calendar year to the member or a family member.

- Hospitality intended as a gift in kind, from an external source to the member or a family member.
- Gifts exchanged amongst family members and hospitality of a specific traditional or cultural nature need not be disclosed.

(g) **Benefits**

- The receipt and source of any other benefit of a material nature which is not already declared elsewhere under this Code.
- The value of such benefit must be disclosed in the Confidential Part of the Register.
- Any discount, membership or other benefit received that is not available to the general public.

(h) **Foreign Travel**

- Information on all travel abroad other than personal visits paid for entirely by the member, (with a description of the journey, the purpose and sponsor).

(i) **Land and Property:** Any interest in immovable property, including but not limited to private residence, vacation home and any other landholding.

(j) **Pension:** The receipt and source of any pension, whether funded privately or publicly. (Dormant pensions need not be disclosed.)

Where any doubt or discretion exists in respect of the registrability of a financial interest, the member must at all times act in good faith.

9.3 Ethical Declarations

9.3.1 Committees

A member must in writing disclose to the Chairperson any personal, financial or family member interest which relates to the business discussed by any Committee of which he or she is a member. The member must recuse him or herself when that particular matter is discussed, unless the **Committee** decides otherwise.

9.3.2 Representations

If a member makes a representation to the Executive Council, the House or any organ of state regarding any matter in which the member or a family member has any personal or financial interest, that member must declare such interest.

9.3.3 Remuneration

A member may not in any manner lobby for any remuneration.

9.3.4 Liabilities

- In addition to declaring any financial or other interest that a member may have, a member must also disclose liabilities.
- members are encouraged to disclose all liabilities, but any liability, be it to a bank, company or person, in excess of R50 000.00 must be declared on the appropriate form.
- The actual liability must be declared in the Public Section, while the actual amount of the liability must be disclosed in the Confidential Section.

10. CONDUCT

10.1 Obligatory Duty

A member must –

- abide by the principles, rules and obligations of this Code;
- discharge his or her obligations in terms of the Constitution,
- place public interest above own interest;
- strive to uphold the law at all times;
- earn the public trust bestowed in him or her; and
- at all times protect the integrity of the Legislature.

10.2 Personal Conduct

A member must –

- in the performance of his or her functions, strive to eradicate all forms of discrimination, including those based on gender, race, sex or ethnicity;
- avoid and condemn improper use of Legislature or government facilities and at all times adhere to administrative guidelines;
- use information with discretion and not abuse information for self-enrichment;
- attempt to resolve any conflict, real or apparent, in the public interest;
- not use his or her influence to improperly advantage private interest in his or her dealings with government; and
- ensure that his or her general conduct is in line with the values and principles of this Code.

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10.3 Conduct of Committees

10.3.1 Declaration of Possible Conflict of Interest

The Chairperson of each Committee must declare to the Speaker, as Chairperson of the Standing Committee on Rules, any possible conflict of Interest that may arise in terms of the Committee, funding received, hospitalities and benefits received. Committees should refrain from using external funding as far as possible.

11. BREACH OF CODE

11.1 Breach of Code

A member breaches this Code if he or she –

- fails to comply with any provision thereof;
- fails to comply with any of the requirements to disclose interest;
- provides the Registrar with incorrect, false or misleading information;
- through his or her conduct bring the Legislature into serious disrepute.

11.2 Complaints

- Any person, including the Media, the public or another member of the Legislature – may submit a written complaint to the Registrar of Members Interest pertaining to a breach of the Code by a member.
- An anonymous complaint may, depending on the nature of such a complaint, also discreetly be investigated in order to protect a member from arbitrary action and possible malicious intent by an unidentifiable complainant.

11.3 Administrative processing of complaints under the Code

- The Registrar must acknowledge receipt of the complaint.
- The Registrar must immediately notify the relevant member that a complaint was brought against him or her, furnish the member with the details of the complaint and request him or her to respond within 14 working days.
- The Registrar must simultaneously report the matter to the Chairperson of the Committee on Ethics and Conduct.

The affected members' response must be tabled at a meeting of the Committee, where it must be resolved whether the member's response is sufficient or whether a further investigation is required to determine whether the Code was in fact breached.

If the meeting finds that an investigation is required, a person designated by the Committee must collect and collate information pertaining to the matter and bring a further report to the Committee which may contain a recommendation for further action from the Committee,

- a) to consider documentation if there is no dispute of facts;
- b) to consider a formal hearing if facts are in dispute;
- c) to refer the matter to the Public Protector if there is possible criminal activities;

- d) to dismiss the complaint as unfounded; or
- e) initiate a further investigation by a person designated by the Committee.

All documents, evidence and information is deemed as highly confidential.



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ANNEXURE 4
(Rule 79(6))

PROCEDURE FOR THE INVESTIGATION AND DETERMINATION OF ALLEGATIONS OF MISCONDUCT AND CONTEMPT OF THE LEGISLATURE

Notification to member

1. (1) A member charged with misconduct or contempt must receive written notice of all allegations and charges against him or her. The notification must be delivered to the member at least 5 working days before the hearing. The notice must also clearly indicate the date, time and venue of the hearing, that the member is entitled to be assisted by a fellow member and that the member may request the committee to allow legal representation by a person who is not a member.
- (2) If it is not possible to serve the notice personally on the member, the sheriff may be requested to serve such notice.

Outside legal representation

2. In unusual complex cases involving complicated evidence or legal issues where the committee is on the view that such legal representation might be essential for a fair hearing, the committee may allow the member charged to be represented by a legal counsel who is not a member.

Explanation by member

3. If the member wishes to give an explanation after receiving the notice, he or she may do so either verbally or in writing. Such explanation may also be presented at the hearing.

Initiator

4. The committee must nominate a member or a person who is duly qualified, but who is not a member of the committee, to act as the initiator for the duration of the hearing. The initiator presents the evidence regarding the allegations and may cross-examine the member and any witness giving evidence on behalf of the member. At the conclusion of the hearing, the initiator may address the committee on the evidence presented before it and may also propose a penalty to be recommended by the committee in its report.

Plea to charge

5. The initiator must put the charge to the member and the Chairperson must request the member to plead to the charge(s). If the member so wishes, he or she can also give a plea explanation. If the member refuses to enter a plea, the Chairperson must enter a plea of not guilty.

Hearing

6. (1) The member has a right to be present at the hearing. The committee, initiator and the member may call witnesses and these witnesses may be questioned by the Chairperson, initiator or the member, either directly or through the fellow member. Members of the committee may also put questions to the member, but only through the Chairperson or with the permission of the Chairperson. After all the witnesses have been called, the member or fellow member may sum up the evidence and make a presentation to the committee.
- (2) If after receiving the notice, the member fails, without just cause, to attend the hearing, the committee may proceed in the absence of the member.

Penalty

7. If the committee finds the member guilty of misconduct or contempt, the member or fellow member must be given an opportunity to present mitigating factors to the committee before the committee reports to the House. Such representation may be verbal or in writing. The initiator may also address the committee on aggravating or other factors.

Suspension of member

8. (1) In order to facilitate an investigation in terms of section 12 of the Powers, Privileges and Immunities of Parliament and Provincial Legislature Act, 2004 (Act 4 of 2004) against a member in circumstances where there is a possibility that the member may interfere with evidence or witnesses or in circumstances where the allegations are of a very serious nature, the Chairperson of the subcommittee may request the House to suspend the member. Such suspension may be with or without remuneration and may not be for longer than 14 days. A member who has been suspended must leave the parliamentary precinct, and may not, during the period of suspension, without the permission of the Chairperson –
 - (a) enter the precinct of the Legislature for whatever purpose; or
 - (b) participate in any activity of the Legislature or any committee.
- (2) The Chairperson of the Legislature must in writing inform the member of the suspension prior to it taking effect.

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**ANNEXURE 5
(Rule 121(2))**

GUIDE TO TIME LIMITS

Debate/Speeches	Time limit
Premier's State of the Province address	60 minutes
Debate: Premier's State of the Province address (including reply)	90 minutes
Budget Speech	40 minutes
Debates: Budget Speech	60 minutes
Subject for discussion	60 minutes



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