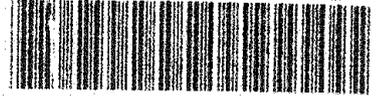


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REPUBLIC OF SOUTH AFRICA

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STANDING RULES  
FOR THE  
**CONSTITUTIONAL ASSEMBLY**

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AUGUST 1994

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REPUBLIEK VAN SUID-AFRIKA

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REGLEMENT  
VIR DIE  
**GRONDWETLIKE VERGADERING**

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AUGUSTUS 1994

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# THE RULES

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## Unforeseen eventualities

1. (1) The Chairperson of the Constitutional Assembly (in these Rules referred to as the Chairperson) may give a ruling or frame a rule in respect of any eventuality for which these Rules do not provide.
- (2) A rule framed by the Chairperson shall remain in force until a meeting of the Rules Committee has decided thereon.

## Suspension

2. (1) Any provision of these Rules may be suspended by resolution of the Constitutional Assembly.
- (2) The suspension of any provision shall be limited in its operation to the particular purpose for which such suspension has been approved.

## Application to non-members

3. (1) A reference in these Rules to a member shall, unless it is inappropriate or inconsistent with the context, be construed as including a reference to -
  - (a) the President of the Republic while he or she attends a sitting of the Constitutional Assembly;
  - (b) an Executive Deputy President who is not a member of Parliament, while he or she attends a sitting of the Constitutional Assembly; and
  - (c) the chairperson or any other member of a commission, technical committee or other body or the panel of constitutional experts appointed by the Constitutional Assembly under section 72 of the Constitution, while he or she attends a sitting of the Constitutional Assembly under leave granted in accordance with Subrule (2) or (3).
- (2) The person who is the chairperson of a commission, technical committee or other body referred to in Subrule (1)(c) or is a member of the panel so referred to, may by resolution of the Constitutional Assembly be granted leave to attend, whenever requested by the Leader of the House in the National Assembly to do so, a sitting of the Constitutional Assembly at which business assigned to, or any report of, the commission, technical committee or other body in question or the said panel is dealt with, and to participate in the proceedings when called upon to do so by the presiding officer.
- (3) A member of a commission, committee or other body referred to in Subrule (1)(c), and the chairperson thereof, or any member of the panel so referred to, who has not been granted leave under Subrule (2), may attend such a sitting and participate in the proceedings as aforesaid upon leave granted by the chairperson with the consent of all the members present at the sitting in question.
- (4) A person attending a sitting under this Rule does not have a vote.

## SITTINGS OF CONSTITUTIONAL ASSEMBLY

### Venue

4. The Constitutional Assembly shall convene in the Chamber of the National Assembly.

### *Presiding Officers*

### Election

5. (1) Whenever it is necessary to elect a Chairperson or a Deputy Chairperson, the Secretary or an officer of Parliament nominated by him or her, shall inform the Constitutional Assembly accordingly, whereupon the Constitutional Assembly shall forthwith or at a time announced by the Secretary or such officer proceed to the election in terms of the relevant provision of section 69 of the Constitution.
- (2) The member elected shall, from his or her place, express his or her sense of the honour conferred upon him or her.

**Relief of presiding officer**

6. A member who is an elected presiding officer of the National Assembly or the Senate shall take the Chair whenever requested to do so by the Chairperson during a sitting of the Constitutional Assembly.

**Absence of Chairperson**

7. Whenever the Chairperson is absent or unable to perform the functions of the office of Chairperson, or whenever that office is vacant, the Deputy Chairperson shall act as Chairperson, except, in the case of a vacancy, when a Chairperson is elected.

[section 49(4) and (10) read with section 69(4) of the Constitution]

**Absence of Chairperson and Deputy Chairperson**

8. Whenever both the Chairperson and the Deputy Chairperson are absent or unable to perform the functions of the office of Chairperson, or whenever both offices are vacant, the President of the Senate (or, in his or her absence, the Deputy President of the Senate) shall act as Chairperson, except, in the case of a vacancy, when a Chairperson is elected.

***Sittings*****Convenor**

9. Sittings of the Constitutional Assembly after the first sitting are convened by the Chairperson after consultation with the Speaker of the National Assembly and the President of the Senate.

[section 68(3) of the Constitution]

**Notice of sittings**

10. Notice of the day and time appointed for a sitting shall be placed on the Order Paper of the Constitutional Assembly and on the Order Papers of the National Assembly and the Senate or, if or in so far as such publication is not possible or practicable, the day and time so appointed may be made known by the presiding officer at a sitting of the Constitutional Assembly or at a sitting of the National Assembly or the Senate or at a joint sitting of the Houses or in a written notice to each member deposited in the place where papers for the member concerned are usually deposited.

**Quorum**

11. The presence of at least 164 members, other than the presiding member, shall be necessary to constitute a meeting of the Constitutional Assembly.

**Work days**

12. (1) The business of the Constitutional Assembly may be considered by it on any Monday, Tuesday, Wednesday, Thursday or Friday (in these Rules referred to as a work day).

(2) A public holiday which is not a sitting day for the National Assembly and the Senate shall not be a sitting day for the Constitutional Assembly.

**Adjournment, interruption and suspension**

13. (1) The Constitutional Assembly may be adjourned and its proceedings may be interrupted or suspended, by order of the presiding officer.

(2) If, at an adjournment of the Constitutional Assembly, the day of its next ensuing sitting is known, the presiding officer shall adjourn the Constitutional Assembly to that day.

(3) If such day is not known at such adjournment, the Constitutional Assembly shall stand adjourned until further notice in terms of Rule 6.

**Alteration of date or time for resumption**

14. The Chairperson may by notice as provided in Rule 6 during an adjournment order that business be resumed on a day or at a time earlier or later than the day or time appointed for such resumption, or that such resumption be postponed until further notice.

### *Strangers*

#### **Admittance of strangers**

15. The authority to regulate the admission of strangers to the Chamber in which the Constitutional Assembly sits or is about to sit, and the places set apart for them in the Chamber, shall vest in the Chairperson, subject to the provisions of the Constitution, and may be exercised on his or her behalf by or under the authority of the Speaker of the National Assembly.

[section 67 read with 68(4) of the Constitution].

#### **Withdrawal of strangers**

16. The presiding officer may, whenever he or she thinks fit, order strangers to withdraw.

#### **Removal of strangers**

17. The Serjeant-at-Arms of the National Assembly and the Usher of the Senate shall remove, or cause to be removed, any stranger from any part of the Chamber which has been set apart for members only, and also any stranger who, having been admitted into any other part of the Chamber, misconducts himself or herself or does not withdraw when strangers are ordered to withdraw.

## COMMITTEES AND OTHER APPOINTED BODIES

### Public access to meetings of committees, etc

17A. (1) Members of the public and the media may be present during the proceedings of any committee, commission, technical committee or other body appointed by or on the authority of the Constitutional Assembly, subject to such restrictions and requirements as the body in question may consider necessary in the interest of the due performance of its functions, and further subject to its right to conduct its proceedings in private by excluding non-members whenever it considers it necessary to do so.

(2) A person who attends a meeting by virtue of Subrule (1) shall confine himself or herself to that part of the chamber in question set aside for non-members, and shall obey the orders of the chairperson concerned.

### *Rules Committee*

#### Members of Rules Committee

18. (1) The Chairperson and the Deputy Chairperson of the Constitutional Assembly (in these Rules referred to as the Deputy Chairperson) and the members of the Rules Committees of the National Assembly and the Senate shall constitute the Rules Committee of the Constitutional Assembly.

(2) The Chairperson shall preside at meetings of the Rules Committee and if he or she is absent, the Deputy Chairperson shall preside.

### *Panel of Constitutional Experts*

#### Members of Panel

19. (1) The Constitutional Assembly may from among its members appoint a committee to recommend persons for appointment to the independent panel of constitutional experts contemplated in subsection (2) of section 72 of the Constitution.

(2) If the majority prescribed by subsection (3) of the said section for the appointment of the panel is not achieved, the nominees provided for in that subsection may be appointed by a majority of the members present at the meeting where their appointment is proposed.

### *Constitutional Committee*

#### Appointment and functions of Constitutional Committee

19A. (1) The Constitutional Assembly shall by resolution from among its members appoint a Constitutional Committee.

(2) Every political party in the Constitutional Assembly is entitled to be represented in the Constitutional Committee by a number of members equal to the number obtained by dividing the total number of its members in the Constitutional Assembly by 12, any fraction obtained being regarded as one.

(3) The Chairperson and the Deputy Chairperson of the Constitutional Assembly shall be the chairperson and deputy chairperson, respectively, of the Constitutional Committee.

(4) Subject to this Rule, the provisions of Rules 22, 24, 27, 28, 29, 30, 31, 32, 33 and 34 shall apply, with the necessary adjustments, to the Constitutional Committee.

(5) The Constitutional Committee shall -

(a) co-ordinate, under the control and guidance of the Constitutional Assembly, the drafting of the new constitutional text and, in particular, the work of all committees, commissions, technical committees and other bodies appointed by or on the authority of the Constitutional Assembly;

(b) consider and evaluate reports submitted to it by such committees, commissions, technical committees and other bodies, and report thereon to the Constitutional Assembly;

- (c) consider and report on any matter referred to it by or on the order of the Constitutional Assembly;
  - (d) periodically submit reports and recommendations to the Constitutional Assembly; and
  - (e) perform such other functions as may be assigned to it by the Constitutional Assembly.
- (6) (a) The Constitutional Committee may from among its members appoint a management committee.
- (b) The management committee shall include at least one member of each political party represented in the Constitutional Assembly and willing to serve on the committee.
- (c) The Chairperson of the Constitutional Assembly shall be the chairperson of the management committee.
- (d) The management committee shall, subject to these Rules, perform such functions as may be assigned to it by the Constitutional Committee.

### ***Select Committees***

#### **Definition**

20. Committees, other than the Constitutional Committee, consisting of members of the Constitutional Assembly only are in these Rules referred to as select committees.

#### **Appointment**

21. A select committee may be appointed by or under a resolution of the Constitutional Assembly or under a rule approved by it.

#### **Membership of select committee**

22. (1) A select committee shall not have more than 50 members, unless the Rules Committee directs otherwise in the case of a particular committee.

(2) A select committee shall include members of each House of Parliament.

#### **Representation of parties**

23. Every political party in the Constitutional Assembly is entitled to be represented in a select committee by a number of members equal to the number obtained by dividing the total number of its members in the Constitutional Assembly by 16, or such other number as may be determined by the Constitutional Committee in respect of a particular select committee, any fraction obtained being regarded as one.

#### **Appointment of members**

24. (1) If the members of a select committee are not appointed by or under the resolution establishing the committee, the Chairperson shall appoint the members whose names are submitted to him or her in writing by a political party not later than five work days after the said resolution is adopted.

(2) The names of the members of a select committee shall be published in the Minutes of Proceedings.

(3) A vacancy in a select committee may be filled by the appointment by the Chairperson of a member whose name has been submitted to him or her for that purpose by the political party affected.

#### **Chairperson of select committee**

25. (1) A select committee shall elect one of its members as the chairperson of the committee.

(2) The chairperson shall be elected at the first meeting of the committee and, thereafter, whenever there is a vacancy in the office of chairperson.

(3) The Secretary or an officer of Parliament designated by the Secretary shall preside at the election of a chairperson.

### Deputy Chairperson

26. (1) The appointment of a deputy chairperson may be authorised by or under a resolution of the Constitutional Assembly in the case of a particular select committee or of select committees falling within a specified category or in respect of select committees generally.

(2) A deputy chairperson of a select committee shall be elected in the same manner as that in which the chairperson of such a committee is elected, except that the chairperson shall preside at the election.

### Powers of select committee

27. (1) In addition to exercising the powers, if any, conferred by resolution of the Constitutional Assembly, and subject to any such resolution, a select committee may, whenever it is necessary for the proper performance of its functions, summon persons to appear before it to give evidence on oath or affirmation and to produce any document required by the committee.

(2) A summons under this Rule must be issued on a form prescribed by the Chairperson of the Constitutional Assembly and shall be signed by the chairperson of the committee on behalf of the committee.

(3) The chairperson of the committee shall not sign a summons unless he or she is satisfied that the person to be summoned will not attend unless summoned, and that the Secretary as accounting officer for the funds of Parliament does not have any reason to object to the expenditure that will or may be incurred.

(4) A select committee may receive representations from interested persons.

(5) A select committee may appoint subcommittees from among its members to consider or investigate and report to the select committee on any matter falling within the select committee's functions.

(6) The Rules of the National Assembly on select committees shall apply, with the necessary adjustments, to a subcommittee so appointed.

### First meeting of select committee

28. (1) The day and venue of the first meeting of a select committee shall be determined by the Secretary in consultation with the chairperson of the committee.

(2) When Parliament is adjourned, a venue beyond the seat of Parliament may be so determined for such first meeting.

(3) When Parliament is adjourned, notification of the first meeting of a select committee shall be forwarded to the members of the committee and the senior whip of each party at least 14 days before the date of the meeting.

### Meetings of select committees

29. A select committee may upon its own resolution sit -

- (a) during the sittings of the Constitutional Assembly or any House of Parliament;
- (b) on days on which the Constitutional Assembly or any House of Parliament is not sitting; and
- (c) at a venue it considers to be the most suitable, and which may be a venue beyond the seat of Parliament.

### Adjournment, etc

30. A select committee may be adjourned, and its proceedings may be interrupted or suspended, by order of the presiding officer.

### Quorum

31. (1) Save when a question is decided, the business at a meeting of a select committee may be proceeded with irrespective of the number of members of the committee present.

(2) A select committee may decide a question only when a quorum of members is present.

(3) One half of the total number of members of the select committee (excluding the presiding member) shall constitute the quorum of the select committee.

(4) Whenever a select 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 committee.

#### **Resolutions of select committee**

32. (1) A resolution of a select committee shall enjoy the support of the majority of the members present and voting.

(2) In the event of an equality of votes, the presiding member shall exercise a casting vote.

#### **Attendance of select committee**

33. If a member of a select committee is absent from three consecutive meetings of the committee without the leave of the chairperson or without good cause shown, on which the decision of the Chairperson of the Constitutional Assembly shall be final and conclusive, the Rules Committee shall be deemed to have discharged such member from membership of the select committee, and the discharge shall be published in the Minutes of Proceedings.

#### **Charge against member**

34. If information charging a member of a House comes before a select committee, the committee shall not proceed upon such information, but the chairperson shall report it to the House in question on its next ensuing sitting day.

#### **Report of select committee**

35. A report of a select committee shall be presented to the Constitutional Committee.

### ***Commissions***

#### **Appointment**

36. (1) The Constitutional Assembly may by resolution appoint any person or persons to be a commission.

(2) Such person or persons may be or may include persons who are not members of Parliament.

(3) The Constitutional Assembly may request the President to appoint the person or persons concerned as a commission for the purpose stated in the request and to apply the Commissions Act with suitable regulations to such commission.

(4) The names of the members and the chairperson of a commission shall be published in the Minutes of Proceedings.

#### **Functions of commission**

37. A commission may be appointed by the Constitutional Assembly to investigate any matter on which the Constitutional Assembly or a committee or other body appointed by the Constitutional Assembly requires information which cannot conveniently be obtained through the procedures of the Constitutional Assembly or such committee or body.

#### **Chairperson of commission**

38. A member of a commission appointed by the Constitutional Assembly shall be named as chairperson of the commission by or under a resolution of the Constitutional Assembly.

#### **Terms of reference**

39. The terms of reference of a commission appointed by the Constitutional Assembly shall be specified by or under a resolution of the Constitutional Assembly.

#### **Powers of commission**

40. In so far as the powers of a commission appointed by the Constitutional Assembly are not specified by or under a resolution of the Constitutional Assembly, and subject to any such resolution, such commission shall be vested with the powers of a select committee, in so far as those powers can, with necessary adjustments, be exercised by the commission in question.

**Members of Parliament**

41. The Rules applicable to a member of a select committee shall apply to a member of Parliament who is a member of a commission.

**Report of commission**

42. A commission's report to the Constitutional Assembly shall be submitted to the Chairperson for presentation to the Constitutional Assembly.

***Technical Committees*****Appointment of technical committees**

43. A technical committee may be appointed by or under a resolution of the Constitutional Assembly.

**Functions of technical committees**

44. A technical committee may be appointed -

- (a) to draft or supervise the drafting of a new constitutional text or any part of such a text and to submit a draft approved by the committee to the Chairperson for presentation to a select committee or to the Constitutional Assembly;
- (b) to perform any other function which may best be performed by persons with professional or technical skills, and report thereon to the Constitutional Assembly or in accordance with its assignment; or
- (c) to consider and report on any matter referred to it by or on the order of the Constitutional Assembly, the Constitutional Committee or any select committee.

**Members of technical committee**

45. (1) The members of a technical committee may be or may include persons who are not members of Parliament.

(2) The members of a technical committee may be appointed by or under a resolution of the Constitutional Assembly.

(3) The names of the members of a technical committee and of its chairperson shall be published in the Minutes of Proceedings.

**Chairperson of technical committee**

46. A member of a technical committee shall be appointed as its chairperson.

**Powers of technical committee**

47. A technical committee shall have the powers specified in or in terms of the resolution by which it is appointed or any other resolution of the Constitutional Assembly.

**Members of Parliament**

48. The Rules applicable to a member of a select committee shall apply to a member of Parliament who is a member of a technical committee.

**Report of technical committee**

49. The report of a technical committee shall be submitted, in accordance with its terms of reference, to the appropriate select committee or to the Chairperson for presentation to the Constitutional Assembly.

## BUSINESS OF CONSTITUTIONAL ASSEMBLY

### Arrangement of business

50. (1) The Leader of the House in the National Assembly shall arrange all business on the Order Paper in accordance with the provisions of these Rules or, in the absence of such provisions, in the manner he or she considers expedient.

(2) The said Leader of the House shall perform his or her functions under this Rule in consultation with the Leader of the House in the Senate, or, if the committee contemplated in Rule 108 of the Standing Rules of the respective Houses is appointed, after consultation with such committee.

### *Decision of questions*

#### Procedure

51. (1) The Constitutional Assembly shall decide questions in accordance with a procedure determined by the Chairperson.

(2) When a question is decided otherwise than by the use of an electronic voting system, the Chairperson may, if he or she deems it expedient, apply, or authorise the presiding officer to apply, with the necessary adjustments, the procedure followed in the National Assembly in deciding a question by division of the House, and in that case the "Ayes" and the "Noes" may, if the Chairperson deems it expedient, be required in turn to stand in their places until counted instead of taking their seats to the right or to the left of the Chair.

(3) All questions shall be determined by a majority of votes cast, save where otherwise required by the Constitution.

[sections 63 and 68(4) of the Constitution]

### *Motions*

#### Nature of motions

52. A member may propose a draft resolution for approval as the resolution of the Constitutional Assembly on a matter before it in terms of a provision of the Constitution or these Rules, or on a matter of privilege or order.

#### Amendment to draft resolution

53. An amendment to a draft resolution may be moved by any member.

#### When notice required

54. No notice is required of any motion, except a motion proposing a stage of a bill.

#### Notice of motion

55. When giving notice of a motion a member shall deliver to the Secretary, for placing on the Order Paper, a signed copy of the notice on any work day but before 12:00 on the day immediately preceding the day on which the notice is to appear on the Order Paper.

#### Acting for absent member

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

#### Chairperson may amend notices

57. A notice of a motion which offends against the practice or these Rules may be amended or otherwise dealt with as the Chairperson may decide.

#### Questions of privilege

58. An urgent motion directly concerning the privileges of Parliament shall take precedence of other motions and of orders of the day.

#### Withdrawal of motion

59. A member who has moved a motion may move that it be withdrawn.

### *Bill amending Chapter 5 of Constitution*

#### **Introduction**

60. (1) A bill proposing to amend any provision of Chapter 5 of the Constitution shall be introduced by a Minister or, if the bill originated in a committee appointed by the Constitutional Assembly, by the member who is Leader of the House in the National Assembly.

(2) The member in charge of the bill may introduce the bill by submitting it, together with a memorandum on its objects, to the Chairperson before or at the same time as the notice of a motion that the bill be read a first time is delivered to the Secretary.

(3) The Secretary shall supply to each member a copy of the bill so introduced and of the memorandum on its objects.

(4) If the Constitutional Assembly does not sit before the day on which the notice of motion for the First Reading appears on the Order Paper, the Secretary shall supply, with the copy of the bill, a copy of the notice of motion to each member.

#### **Tabling of bill**

61. The Chairperson shall lay a bill introduced as provided above, together with the memorandum on its objects, on the Table.

#### **First Reading**

62. (1) No amendment shall be allowed on the motion for the First Reading of the bill.

(2) At the First Reading the member in charge of the bill may, in a speech not exceeding 30 minutes, explain the background to the bill and the reasons for and objects of the amendments proposed in the bill.

(3) One member of each party in the Constitutional Assembly may make a statement on behalf of his or her party on the bill in a speech not exceeding three minutes.

(4) The bill shall thereafter be read a first time at the order of the Chairperson, without the question being put.

#### **Referral to select committee**

63. After the bill has been read a first time, the Chairperson shall refer it and the memorandum on its objects, for consideration and report, to a select committee appointed for that purpose.

#### **Public access to select committee**

64. This Rule was deleted (Report of Rules Committee - 9 August 1994).

#### **Report of select committee**

65. (1) The committee shall in its report to the Constitutional Assembly specify every amendment to the bill which was approved and is recommended by it and every amendment which was considered and, for a reason other than its being out of order, was rejected by it.

(2) The report shall be presented to the Constitutional Assembly by the chairman or another member of the committee and shall be laid upon the Table.

#### **Consideration of report**

66. (1) The report shall be placed on the Order Paper for consideration immediately before the notice for the Second Reading of the bill.

(2) If proposed amendments to the bill are specified in the report and further amendments to the bill appear on the Order Paper for the day on which the Second Reading is to be moved, the member in charge of the bill may move that the order for the consideration of the report be suspended until the bill is recommitted for reconsideration together with such further amendments.

(3) If the motion is adopted the amendments specified in the report shall be deemed to have been referred back to the committee for reconsideration in the light of such further amendments.

(4) If a motion for suspension of the order for consideration of the report is not adopted or if no further amendments appear on the Order Paper on the day on which the Second Reading of the bill is to be moved, the consideration of the report shall be taken before the motion on the Second Reading of the bill.

(5) If the Constitutional Assembly approves the report, every amendment recommended in the report shall be deemed to have been approved by the Constitutional Assembly.

(6) If the Constitutional Assembly does not approve the report, it may consider any amendment which is specified in it and which is moved before the close of the debate on the report.

(7) If the bill is amended under this Rule, the debate on the Second Reading shall be conducted on the bill as so amended.

#### **Amendments placed on Order Paper before Second Reading**

67. (1) A member may place amendments to the clauses of the bill on the Order Paper after the report of the select committee on the bill has been presented to the Constitutional Assembly but before the bill is read a second time.

(2) Amendments delivered to the Secretary after 12:00 on any work day may be placed on the Order Paper of the second work day thereafter and not earlier, unless in a particular case the Chairperson determines otherwise.

(3) No amendment which affects the principle of the bill and in respect of which the Constitutional Assembly has not given an instruction or which is out of order for any other reason, may be placed on the Order Paper, and the Chairperson's ruling on whether an amendment is out of order or not shall be final.

(4) No amendment which has the same effect as an amendment previously rejected in the select committee may be placed on the Order Paper, except by the member in charge of the bill.

(5) Amendments appearing on the Order Paper when the bill has been read a second time shall be referred for consideration to the select committee to which the bill is recommitted by the Chairperson after Second Reading.

#### **Motion for Second Reading**

68. (1) No amendments may be moved to the motion for the Second Reading of the bill except amendments -

- (a) to omit "now" and to add at the end "this day six months";
- (b) to omit all the words after "That" and to substitute words which state some special reason or reasons against the Second Reading of the bill;
- (c) to omit all the words after "That" and to substitute "the order for the Second Reading of the . . . Bill be discharged and the subject of the Bill be referred for enquiry and report, to a select committee appointed for that purpose": Provided that such an amendment may provide for the powers of enquiry of, and instructions to, the committee.

(2) The debate on the motion for the Second Reading shall not exceed the time allocated for it by the Chairperson after consultation with the Leaders of the House in the National Assembly and in the Senate.

#### **Second Reading**

69. The debate on the Second Reading of the bill shall be confined to the objects and principles of the proposed amendments to Chapter 5 of the Constitution.

#### **Recommittal of bill after Second Reading**

70. (1) After the Second Reading of the bill, the Chairperson shall recommit the bill to the committee.

(2) The committee shall consider only the clauses in respect of which amendments are submitted to it by any member and clauses in respect of which amendments appear on the Order Paper or have been referred back to it under Rule 66(3), or in respect of which consequential amendments are necessary.

**Report and decision on amendments**

71. (1) The committee to which a bill has been recommitted shall -

- (a) present the bill together with its report to the Constitutional Assembly;
- (b) mention in the report each amendment agreed to by the committee; and
- (c) 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 report of the committee shall be placed on the Order Paper for the consideration of the amendments agreed to by the committee and any amendment which is specified in the report as prescribed by Subrule (1)(c) and which is moved during the Third Reading of the bill.

**Third Reading**

72. (1) The motion for the Third Reading of the bill shall be decided without amendment or debate.

(2) The debate on the Third Reading shall not exceed the time allocated for it by the Chairperson after consultation with the Leaders of the House in the National Assembly and in the Senate.

(3) The Constitutional Assembly shall consider only -

- (a) clauses in respect of which amendments have been agreed to by the committee and the amendments so agreed to;
- (b) any clause in respect of which the member in charge of the bill moves an amendment specified in the committee's report as having been rejected by it; and
- (c) any clause in respect of which any consequential amendment becomes necessary as the result of the adoption of an amendment so moved.

(4) The Constitutional Assembly shall first decide on the amendments and thereafter on the Third Reading of the bill.

(5) If the Constitutional Assembly agrees to amendments to, and thereafter to the Third Reading of, the bill, it shall be deemed to have agreed to the bill as amended by it.

**Bill passed by Constitutional Assembly**

73. The Constitutional Assembly passes a bill amending Chapter 5 of the Constitution if the Third Reading thereof is agreed to by the prescribed majority of at least two-thirds of all its members.

[section 74(2) of the Constitution]

**Presentation of bill for assent**

74. A fair copy of a bill passed by the Constitutional Assembly in accordance with section 74(2) of the Constitution shall be certified accordingly by the Secretary and presented to the President of the Republic for his or her assent.

***New Constitutional Text*****Representations and proposals**

75. (1) Representations and proposals for consideration in the drafting of a new constitutional text or any part of such a text may be submitted to the Chairperson by or on behalf of any interested person or organisation.

(2) A member of the Constitutional Assembly may deliver at the Table, for consideration in the drafting of such a text or part thereof, representations and proposals made by the political party which he or she represents or by that party in collaboration with one or more other political parties.

(3) The Chairperson shall refer any representation and proposal so submitted or tabled to the committee or other body appointed by the Constitutional Assembly which he or she considers most suitable to deal with it, and shall cause a suitable entry to be made in the records of the Constitutional Assembly.

(4) The powers and functions of any committee or other body appointed by the Constitutional Assembly to call for or receive representations and proposals with reference to a new constitutional text are not affected by the preceding provisions of this Rule.

#### **Bill containing recommended new text**

76. The chairperson of the committee or other body appointed by the Constitutional Assembly to draft or supervise the drafting of a new constitutional text shall lay upon the Table a bill containing the text recommended by the committee or other body (hereinafter referred to as the bill), together with its report on that text.

#### **Distribution and publication of bill**

77. (1) The Secretary shall supply to each member a copy of the bill and report laid upon the Table as provided above.

(2) The Secretary shall, if so instructed by the Chairperson, cause the bill and the report thereon to be published in the *Government Gazette* and in the *Official Gazette* of each province.

#### **Stages of bill**

78. (1) The further proceedings on the bill shall be taken in four stages, namely -

- (a) the First Reading, at which the bill is introduced, and statements on it are made, before it is ordered to be read a first time;
- (b) the Second Reading, at which the objects and principles of the bill are discussed before the question that it be read a second time is determined;
- (c) the third stage, at which each clause or other provision of the bill, together with any amendment proposed thereto, is considered or is open for consideration before it is agreed to or negatived; and
- (d) the Third Reading, at which the bill or, as the case may be, the bill as amended during the third stage, may be discussed before the question that it be read a third time is determined.

(2) Not more than one stage of the bill may be taken at the same sitting.

### ***First Reading Stage***

#### **Notice of First Reading**

79. (1) The member in charge of the bill shall place the bill on the Order Paper for First Reading.

(2) The First Reading may be set down for the day on which the bill is laid upon the Table, provided members are supplied with copies of the bill before the First Reading is moved.

#### **No amendment allowed**

80. No amendment shall be allowed to the motion for the First Reading of the bill.

#### **Introduction of bill**

81. The member in charge of the bill, after moving that the bill be read a first time, may deliver his or her introductory speech on the bill.

#### **Statements on behalf of parties**

82. After the introductory speech one member of each political party in the Constitutional Assembly may make a statement on the bill on behalf of his or her party.

#### **Bill read a first time**

83. When statements on the bill have been made on behalf of all political parties in the Constitutional Assembly who wish to be heard, the presiding officer shall order the bill to be read a first time, without the question being put.

### *Second Reading Stage*

#### **Notice of Second Reading**

84. After the bill has been read a first time, the member in charge of the bill shall place it on the Order Paper for Second Reading.

#### **Restriction on amendments**

85. No amendments shall be allowed to the motion for the Second Reading of the bill, except amendments to omit all the words after "That" and to substitute words which state some special reason or reasons against the Second Reading.

#### **Debate on Second Reading**

86. The debate on the Second Reading shall be conducted on the objects and principles of the bill.

### *Third Stage*

#### **Notice of third stage**

87. After the bill has been read a second time, the member in charge of the bill shall place it on the Order Paper for the consideration of the clauses and other provisions.

#### **Amendments to clauses**

88. (1) Proposed amendments to the clauses or other provisions of the bill, which are to be moved during the third stage of the bill, may be placed on the Order Paper at any time after the bill has been read a first time.

(2) An amendment which does not appear on the Order Paper may not be moved except by the member in charge of the bill.

(3) An amendment which is contrary to the principles of the bill or which is inconsistent with a clause or provision already approved or is substantially the same as one already negated or which is out of order for any other reason, may not be placed on the Order Paper, and the Chairperson's decision on any question as to whether an amendment is or is not out of order, shall be final.

(4) An amendment must be in writing signed by the proposer, and must be delivered to the Secretary not later than 12:00 on the last work day preceding the day on which it is to appear on the Order Paper.

#### **Debate confined to detail**

89. The principles of the bill shall not be discussed in the debate during the third stage, but only its details.

#### **Order in which clauses considered and put**

90. The clauses and other provisions of the bill shall be considered in the order in which they are put by the presiding officer, and the question on each clause or provision shall be put and determined accordingly unless the presiding officer postpones the determination of such question pending the decision of any other question.

#### **Moving of amendments**

91. (1) An amendment to a clause or other provision of the bill must be moved when the clause or provision is under consideration.

(2) The insertion of a new clause or other provision must be moved immediately after the determination of the question on the clause or provision which will precede the new clause or provision.

#### **Order in which amendments put**

92. The presiding officer shall determine the order in which amendments to the same clause or provision shall be put.

#### **Conclusion of third stage**

93. The presiding officer shall declare the debate on the third stage of the bill to be concluded when he or she is satisfied that all the clauses and other provisions of the bill and all amendments duly moved have been duly dealt with.

### ***Third Reading Stage***

#### **Notice of Third Reading**

94. After the conclusion of the debate on the third stage of the bill, the member in charge of the bill shall place the bill or, as the circumstances may require, the bill as so amended on the Order Paper for Third Reading.

#### **Printing of amended bill**

95. (1) If the bill was amended during the third stage, the Secretary shall cause the bill as so amended to be printed and copies to be supplied to members.

(2) The Third Reading of the bill shall not be moved before Subrule (1) has been complied with.

#### **Recording of number of members in favour of bill**

96. In determining the question on the Third Reading, the number of members in favour of the question shall be recorded, whether a division is called for or not, and the number of senators who vote or are in favour of the question shall in any event be recorded separately.

### ***Bill passed in accordance with section 73(2)***

#### **Lodging of bill with Constitutional Court**

97. (1) If the bill is passed in accordance with section 73(2) of the Constitution at the Third Reading, two fair copies thereof shall be certified accordingly by the Secretary and lodged with the Constitutional Court with a view to the certification of the text in terms of section 71(2) of the Constitution.

(2) With due regard to the rules of the Constitutional Court, the said two copies shall be accompanied by a request to the effect that, if the Constitutional Court certifies the text as contemplated in section 71(2) of the Constitution, one of the copies, bearing or accompanied by the Court's certificate, should be returned to the Secretary for presentation to the President of the Republic for his or her assent.

#### **Presentation of certified bill for assent**

98. If the Constitutional Court certifies the text as contemplated in section 71(2) of the Constitution, the fair copy of the bill which has been endorsed by the Secretary as provided above and which bears or is accompanied by the certificate so contemplated shall, upon its being returned to the Secretary, be presented to the President of the Republic for his or her assent.

### ***Amended text recommended under section 73(4)***

#### **Tabling of amended text submitted**

99. If the bill was not passed at the Third Reading in accordance with subsection (2) of section 73 of the Constitution and an amended text is submitted by the panel of constitutional experts in accordance with subsection (4) of that section, the Chairperson shall lay such text upon the Table.

#### **Distribution of amended text**

100. The Secretary shall supply to each member a copy of the amended text.

#### **Consideration of amended text**

101. Except as may be otherwise directed by the Chairperson after consultation with the Rules Committee, the provisions of these Rules which applied to the various stages of the bill after it had been read a first time, shall apply to the amended text as if it were the bill and had been read a first time.

#### **Amended text passed in accordance with section 73(2)**

102. If passed in accordance with section 73(2) of the Constitution at the Third Reading, the bill embodying the amended text shall be further dealt with in accordance with Rules 97 and 98.

## ORDER IN PUBLIC MEETINGS

### Conduct of members

103. (1) Every member is to be uncovered when he or she enters or leaves the Chamber, or moves to any other part of the Chamber during a debate, unless the Chairperson directs otherwise, and shall bow to the Chair in passing to or from his or her seat.

(2) No member shall 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.

### Members not to converse aloud

104. During debate no member shall converse aloud.

### Member not to be interrupted

105. No member shall interrupt a member who is speaking, except to call attention to a point of order or a question of privilege.

### Order at adjournment

106. When a meeting adjourns, members shall rise and remain in their places until the presiding officer has left the Chamber.

### Precedence of presiding officer

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

### Irrelevance or repetition

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

### Member ordered to withdraw

109. If the presiding officer is of the opinion that a member is deliberately contravening a provision of these Rules, or that a member is in contempt of or is disregarding the authority of the Chair, or that a member's conduct is grossly disorderly, he or she may order the member to withdraw immediately from the Chamber for the remainder of the day's sitting.

### Naming or suspension of member

110. If a presiding officer is of the opinion that a contravention committed by a member is of so serious a nature that an order to withdraw from the Chamber for the remainder of the day's sitting is inadequate, the presiding officer may name the member and may further, after consultation with the Speaker (in the case of a member of the National Assembly) or with the President of the Senate (in the case of a senator), suspend the member.

### Member to withdraw from precincts of Parliament

111. (1) A member ordered to withdraw from the Chamber or suspended or named shall, subject to Subrule (2), forthwith withdraw from the precincts of Parliament, but such a member shall not be exempted from serving on any committee on a private or hybrid bill to which he or she may have been appointed.

(2) If a presiding officer orders a member to withdraw from the Chamber and the member is a Minister or a Deputy Minister, the presiding officer shall, after consultation as provided in Rule 110, order the member to withdraw from the precincts of Parliament or take such other action as the presiding officer deems necessary.

(3) The action taken against a member under Rule 110 or Subrule (1) of this Rule shall be announced in the House of which he or she is a member.

(4) A member who has been named shall not return to the precincts of Parliament before the action taken against him or her has been so announced.

**Period of suspension**

112. The suspension of a member, whether under these or any other Rules, shall on the first occasion during any year continue for 5 work days, on the second occasion for 10 work days, and on any subsequent occasion for 20 work days.

**Expression of regret**

113. (1) A member who has been suspended or named may submit to the Chairperson a written expression of regret, and if the Chairperson, after consultation as provided in Rule 110, approves such expression of regret, he or she may discharge the suspension or permit the member to take his or her seat, and the Chairperson shall inform the Constitutional Assembly accordingly.

(2) An expression of regret approved by the Chairperson shall be recorded in the Minutes of Proceedings.

**Grave disorder**

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

**Member to withdraw while his or her conduct is debated**

115. Whenever a charge is made against a member, he or she shall, after having been heard from his or her place, withdraw from the Chamber while such charge is being debated.

**RULES OF DEBATE****Member to address Chair**

116. (1) Every member desiring to speak shall stand while addressing the Chair.

(2) At a sitting in the Chamber of the National Assembly a member may only speak from the podium, except—

(a) to raise a point of order or a question of privilege; and

(b) to furnish an explanation in terms of Rule 127(1),

when he or she may address the Chair from a microphone on the floor of the Chamber.

**Calling of members**

117. A member shall be called in a debate by the presiding officer in accordance with a list of members who are to speak in the debate and the times allocated for speeches by members of different parties.

**Time limits for speeches**

118. Unless otherwise provided in these Rules, members shall be restricted, in regard to the length of time they may speak, to the times allocated to them in the list contemplated in Rule 117, and if or in so far as times have not been so allocated—

(a) the President, an Executive Deputy President, the leader of the largest minority party and the member in charge of the business before a meeting, shall not be restricted in regard to the length of time they may speak; and

(b) members other than those mentioned in paragraph (a) may not speak for longer than 10 minutes at a time on a vote in the schedule to an appropriation bill or 30 minutes at a time on any other business before a meeting.

**Reference to member by name**

119. No member shall refer to any other member by his or her first name or names only.

**Member not to read speech**

120. A member shall as far as possible refrain from reading his or her speech, but may refresh his or her memory by referring to notes.

**Offensive language**

121. No member shall use offensive or unbecoming language.

**Reflections upon decisions of same session**

122. No member shall reflect upon any decision of the Constitutional Assembly made within the preceding 12 months, except for the purpose of moving that such decision be amended or rescinded.

**Reflections upon statutes**

123. No member shall reflect upon any statute passed by the Constitutional Assembly during the then current year except for the purpose of moving for its amendment or repeal.

**Reflections upon judges, etc**

124. No member shall reflect upon the competence or honour of a judge of a superior court, or of the holder of an office (other than a member of the Government) whose removal from such office is dependent upon a decision of a House of Parliament.

**Matters *sub judice***

125. No member shall refer to any matter on which a judicial decision is pending.

**Rule of anticipation**

126. (1) No member shall anticipate the discussion of a matter appearing on the Order Paper.

(2) In determining whether a discussion is out of order on the ground of anticipation, the presiding officer shall have regard to the probability that the matter anticipated will be discussed in the Constitutional Assembly within a reasonable time.

**Explanations**

127. (1) An explanation during debate is allowed 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.

(2) A member may, with the prior consent of the presiding officer, also explain matters of a personal nature, but such matters may not be debated, and the member shall confine himself or herself strictly to the vindication of his or her own conduct and may not speak for longer than three minutes.

**Points of order**

128. When a point of order is raised, the member called to order shall 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 shall give his or her ruling or decision thereon either forthwith or subsequently.

**Acting for absent member**

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

**Right of members to speak**

130. A member may speak—

- (a) when called upon to do so by the presiding officer; or
- (b) to a point of order.

**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.

## MESSAGES

### Messages to Houses

133. A message from the Constitutional Assembly to the Senate or the National Assembly shall be signed by the Chairperson and the Secretary.

### Messages from Houses

134. A message received from the Senate or the National Assembly shall be recorded in the Minutes of Proceedings, or be made known in such other manner as the Chairperson may determine.

### Messages to President of the Republic

135. A message from the Constitutional Assembly to the President of the Republic shall be signed by the Chairperson and the Secretary.

### Messages from President of the Republic

136. (1) Any message from the President of the Republic shall be presented to the Constitutional Assembly by the presiding officer, may in the discretion of the presiding officer be read out by him or her and shall be printed in the Minutes of Proceedings.

(2) The consideration of the message may be placed on the Order Paper, or the presiding officer may interrupt business at the request of the member who is Leader of the House in the National Assembly, in order that precedence may be given to the consideration of the message.

## WITNESSES

### Attendance of witnesses detained in prison

137. If a witness whose attendance before the Constitutional Assembly or a committee or other body appointed by it is required, is being detained in any prison, the person in charge of such prison may be ordered to bring the witness in safe custody for examination as often as his or her attendance is deemed necessary, and the Chairperson may issue his or her warrant accordingly.

### Summoning of witnesses

138. (1) No committee or other body appointed by the Constitutional Assembly shall summons a witness without first having satisfied the Chairperson that the evidence of such witness will be material to the enquiry.

(2) For the examination of every such witness the committee or other body shall sit *de die in diem*.

(3) In the case of a joint committee both the Speaker and the President of the Senate shall be satisfied as aforesaid.

### Witness expenses

139. Subject to the Chairperson's approval, the Secretary may pay to witnesses a reasonable sum for travelling and attendance time and for transport expenses actually incurred.

## OFFICE OF SECRETARY AND RECORDS OF CONSTITUTIONAL ASSEMBLY

### Minutes of Proceedings

140. The Minutes of Proceedings shall be noted by the Secretary, and shall, after having been perused by the Chairperson, be printed and supplied to members.

### Journals of Constitutional Assembly

141. The Minutes of Proceedings, signed by the Secretary, shall constitute the Journals of the Constitutional Assembly.

### Custody of papers

142. The Secretary shall have custody of all records and other papers of the Constitutional Assembly, and he or she shall neither remove nor permit to be removed any such records or other papers or copies thereof beyond the precincts of Parliament without the leave of the Chairperson.

### Access to tabled papers

143. Subject to Rule 225, no person other than a member of the Constitutional Assembly shall have access to or be entitled to take extracts from or make copies of papers laid upon the Table, but if the Constitutional Assembly has ordered that the contents of any such paper shall not be made public, or if such paper is marked as being confidential, no member shall divulge such contents, under pain of breach of privilege.

### General duties of Secretary

144. The Secretary shall be responsible for the regulation of all matters connected with the business of the Constitutional Assembly, subject to such directions as he or she may receive from the Chairperson.