

PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

ANNOUNCEMENTS, TABLING AND COMMITTEE REPORTS

MONDAY, 2 DECEMBER 2019

TABLING

The Speaker:

Minister of Finance and Economic Opportunities

Letter: Delay of the tabling of the 2018/19 annual consolidated financial statements (ACFS) of the provincial departments and entities.

Letter attached.

COMMITTEE REPORT

Report of the Subcommittee on Sexual Harassment Policy and Leave of Absence for Members, dated 2 December 2019.

1. Up to the end of the 5th Parliament, the Western Cape Provincial Parliament (WCPP) Standing Rules did not provide for parental leave for Members. On 19 April 2018, the House adopted the draft resolution from Hon MM Wenger:

Ms MM Wenger: That Rules Committee be tasked with drafting a policy for Members of the House relating to maternity, paternity, adoption and surrogacy leave, and that the Committee report such draft policy to the House for consideration.

2. The Rules Committee on 16 August 2019, tasked the sub-committee on Rules Review to consider this motion. The Rules Committee adopted a revision to the Rules, and confirmed by the House on 28 March 2019 which, amongst others, created a new Rule under Rule 31 for Parental and Family-related leave. Rule 31 provides that the House must determine policy providing for exceptions to Rule 29 in respect of absence for parental and other family-related purposes.

3. In the 6th Parliament, the Rules Committee on 16 August 2019 established a subcommittee to draft such a policy. The subcommittee consists of the following Members:

Ms M M Wenger; (Chief Whip) (Chairperson)

Ms D M Baartman;

Ms P Z Lekker;

Ms N Makamba-Botya; and

Mr D G Mitchell

4. It was agreed that the subcommittee will be appointed to:
- a) Prepare a draft policy document for submission to the Rules Committee, which draft policy seeks to give effect to the Rule; and
 - b) Report regularly to the Rules Committee on progress made in preparing and submitting such a draft policy document.
5. The Rules Committee further **RESOLVED** that the subcommittee dealing with leave of absence should also be tasked to:
- a) Deal with leave of absence (parental leave); and
 - b) Consider and produce a draft policy on sexual harassment for Members.
6. The Subcommittee met on 9 October, 22 November and 2 December 2019. During the meeting on the 9th of October 2019, Advocate Le Roux, the WCPP Legal Adviser, briefed the Committee on the general principles concerning parental leave of absence contained in applicable South African Law. The Subcommittee **RESOLVED** to request the Secretary to task the Research Unit to undertake additional research to include laws of a sample of developed and developing countries, as well as rules and procedures used by other Legislatures in order to have a broader understanding and options available and then use the research material on laws, practices and procedures to develop a parental leave policy for Members of the Legislature.
7. The Subcommittee reconvened on 22 November 2019, to review the research relating to samples/policy/procedure of parental leave, and to deliberate on the research in conjunction with the legal inputs previously provided. The following observations were made:
- 7.1 Members of Legislatures and Parliament in South Africa are not governed by the Basic Conditions of Employment Act, however it was decided that this legislation would be used as a foundation in the drafting of the policy.
 - 7.2 Practice from the national parliaments of South Africa, Kenya, New Zealand, the United Kingdom, Canada and South African Provincial Legislatures were considered.
 - 7.3 The research noted that with the information available, no other legislature in South Africa has a parental leave policy in place. The various legislatures and parliaments have adopted either formal practice through the incorporation of leave of absence into Standing Rules or through informal practice via conventions.
 - 7.4 Pregnancy, maternity, paternity, adoption and spousal leave were the predominant types of leave provided for in other parliaments, while some parliaments made no specific provision for leave of absence for parents.
8. The Committee agreed that the policy for Members would be gender-neutral and differentiate between parental leave for primary caregivers and non-primary caregivers. The amount of leave proposed in the draft policy reflects leave provided for in the Basic Conditions of Employment Act and the Labour Laws Amendment Act

9. The Committee considered the information available and adopted a first draft policy on Parental Leave for Parliamentarians of WCPP on 22 November 2019.
10. The Committee **RESOLVED** to request the Speaker to require the review of the draft policy by the WCPP sections of Human Resources, Finance and Legal. The draft was then amended to include these inputs. The revised draft was adopted by the Committee on 2 December 2019.
11. On 2 December 2019, the Committee **RESOLVED** that:
 - 11.1 The Draft Parental Leave for Parliamentarians Policy and Draft Report of the Subcommittee on Sexual Harassment Policy and Leave of Absence for Members Ref:12/4/2/18, be referred to the Rules Committee for consideration; and
 - 11.2 Should the Policy be adopted, it be reviewed every second year or as determined by the Rules Committee, for relevance and efficacy.

Report to be considered.