

NOTES ON SPECIAL PETITIONS

(K Hahndiek, 14 March 2006)

1. INTRODUCTION

- (1) Constitution provides for NA to receive petitions, representations or submissions from any interested persons or institutions (§56(d)).
- (2) The vision of Parliament, as adopted by the Houses, also reflects a commitment to being responsive to the needs of the people.
- (3) NA Rules identify two types of petitions (Rule 315):
 - Special petitions, defined in Rule 1 as "petitions requesting a pension or other specific or personal relief from the State which is not authorised by law".
 - Petitions of a general nature, which are referred to the relevant Portfolio Committee.
- (4) General requirements which all petitions must comply with are set out in Rules 309-14, and cover:
 - form of petition
 - language
 - signature
 - lodging process
 - approval by Speaker
 - tabling and referral.

2. SPECIAL PETITIONS

- (1) Individual members required to play a particular role. The origin of special petitions is often members' constituency work.
- (2) Laws on pensions, social grants, etc, as passed by Parliament are always of general application. That being the case, no law can identify all the particular personal circumstances that may arise.
- (3) The amounts of different kinds of pensions and grants are adjusted annually in the Budget and are paid to all falling within categories identified in laws.

- (4) It would be untenable for Parliament to grant an additional amount to individuals merely on the grounds that the approved amount is inadequate.
- (5) Exceptions by way special petitions must relate to personal circumstances which could not be foreseen in the laws of general application and which result in unintended disadvantaging of an individual and the individual therefore "falling through the net".
- (6) In such circumstances, Parliament may recommend that special relief be granted.
- (7) It is significant that such relief can only be effected through a special money bill: Parliament is a legislator and does not itself maintain a fund to assist needy individuals. That is a function of the Executive arm of government.
- (8) Parliament will only consider a special petition when all legal remedies available to the individual have been exhausted.
- (9) A member, when approached by a member of the public for financial relief, should in the first instance assist that individual to seek relief from relevant State agencies and to follow legal recourses.
- (10) An appeal to Parliament by way of a special petition is therefore a last resort.

3. PROCESSING OF SPECIAL PETITIONS

- (1) As a last resort, members would assist the individual to petition Parliament for financial or other relief.
- (2) A petition typically should contain the following information:
 - Name, address and ID number of petitioner.
 - Explicit information on the grounds for the petition, including formal applications and legal processes followed.
 - Nature of relief asked for.
- (3) A petition must in addition satisfy the requirements of the NA Rules.
- (4) Steps in the process:

- The petition is presented by a member on behalf of the petitioner.
- It is submitted to the Secretary.
- The Secretary advises the Speaker on admissibility.
- If Speaker approves, the petition is tabled and referred to the Committee on Private Members' Legislative Proposals and Special Petitions.
- It is the practice for the petition to be referred to the relevant State department for a report.
- The Committee then considers the petition and the departmental report.
- The Committee finally reports to the House. It may recommend that specified financial or other relief be granted; that the petition not be entertained; or, possibly, that the petition be referred to the government for consideration.
- If the House approves a committee recommendation for specified relief to be granted, the Speaker writes to the relevant Minister *A Finance* informing him/her accordingly and requesting the introduction of an appropriate bill.
- The bill, usually a money bill, follows the legislative process and must be approved by both Houses.
- It is important that in due course the petitioner and the member who presented the petition be informed of the outcome (and, if necessary, of progress).
- Given that an appeal for financial relief would almost always be urgent, delays in the processing of a petition should be avoided as far as possible.

4. MEMBERS' MANUAL

It is recommended that a manual be developed to assist members in carrying out their functions in relation to petitions.

5. PETITIONS OF A GENERAL NATURE

- (1) These often do not require to follow the specific processes required for special petitions.
- (2) If presented by a member, they may be formally tabled and referred to the appropriate portfolio committee.
- (3) Petitions directly submitted to Parliament by the petitioner(s) on any subject, may be referred directly to a committee without formal tabling.
- (4) The committee receiving the petition should consider what action, if any, it should take or even whether a response is required.
- (5) The Committee should, if necessary, report to the House if the petition was tabled, or it can communicate a response directly to the Speaker for communication to the petitioner.
- (6) In the spirit of being responsive to people's needs, it would be good practice in most cases to ensure that a response is given.