

# Democratic Party

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## DRAFT COMPETENCIES

### FURTHER SUBMISSION BY THE DEMOCRATIC PARTY

#### 1. Legislative authority of the Republic

- 1.1 The legislative authority of the Republic vests in Parliament which shall have power to make laws for the Republic in accordance with the Constitution.
- 1.2 Parliament shall have the competence to legislate on any matter except those matters which, subject to section 2.2, legislative competence can be exercised exclusively by the provincial legislatures.

#### 2. Legislative authority of the Provinces

- 2.1 The legislative authority of a province vests in its provincial legislature which shall have power to make laws in its province in accordance with this Constitution.
- 2.2 A provincial legislature shall have the exclusive competence to legislate on any matter which falls within the functional areas specified in Schedule I except and to the extent that Parliament makes laws that are necessary for:
  - the establishment of essential national or minimum standards required for the rendering of services;
  - the maintenance of economic unity;
  - the maintenance of national security;
  - the prevention of unreasonable action taken by one province which is materially prejudicial to the interests of another province or the nation as a whole;
  - the attainment of the uniformity across the nation that is required for a particular function to be performed effectively.

#### 3. Executive Authority of the Republic

The Executive Authority of the Republic with regard to all matters falling within the legislative competence of Parliament shall vest in the President and the Cabinet who shall perform his or her powers and functions subject to and in accordance with this Constitution.

#### **4. Executive Authority of Provinces**

- 4.1 The Executive Authority of a Province shall vest in the Premier of the Province who shall execute and perform his or her powers and functions subject to and in accordance with this Constitution.
- 4.2 A province shall have executive authority over all functional areas in respect of which it has legislative competence, matters assigned to it under section (x) or any law, and matters delegated to it by or under any law.

#### **4. Notes**

- 4.1 As so-called "residual" powers have been allocated to the national government, the need for "framework" legislation falls away.
- 4.2 A mechanism for phasing in of provincial legislative and executive competencies must be included in the constitution.

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