

**THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA BILL, 1996**

**AMENDMENTS SUBMITTED BY THE NATIONAL PARTY**

**25 APRIL 1996**

**10:00**

**PREAMBLE**

**The following paragraph to be inserted after the words "freedom in our land":**

"Respect those who have worked to build and develop our country".

**Amend the penultimate paragraph as follows:**

"May God , in whom we trust, protect our people."

**CLAUSE 1**

" Republic of South Africa

1. The Republic of South Africa is one sovereign democratic state founded on the following [values] principles :

(a)...

(b)...

(c)...

(d)...

(e) separation of powers of the legislature, the executive and the judiciary with checks and balances;

(f) co-operative government; and

(g) the independence of the courts."

**CLAUSE 6**

**"Languages**

6. (1) Afrikaans, English, isiNdebele, Sepedi, Sesotho, siSwati, Xitsonga, Setswana, Tshivenda, isiXhosa, and isiZulu are the national official languages of the Republic. They enjoy equal esteem and must be treated equitably.

(2) A provincial legislature must, by a law adopted by a majority of at least two thirds of all its members, declare at least two national official languages to be official languages for the province.

(3) Recognising the dispossession and diminution of the traditional languages, governments at all levels must take practical and positive measures to elevate the use of these languages

(4)(a) Where practicable, a person has the right to use and to be addressed in his or her dealings with any government in any national official language of his or her choice.

(b) Recognising the multilingual nature of the South African society, governments at all levels must be committed to promote and increase their ability to satisfy the right referred to in paragraph (a).

(5) For the purposes of government, national, provincial and local government must, by legislation and administrative action, regulate the use of particular official languages, taking into account the need for the protection of the equal status of all official languages, as well as considerations of past and present usage, practicality, expense, regional circumstances and the needs and preferences of the particular population: Provided that -

(a) no government may use only one official language; and

(b) the regulated use of particular official languages must be fair and such languages must, as far as may be practicable, be used on an equal footing.

(6) The Pan South African Language Board must -

(a) promote and create conditions for the development and use of

(i) all the official languages; and

(ii) Khoi, Nama and San; and

(b) promote and ensure respect for and the development of languages, including German, Greek, Gujarati, Hindi, Portuguese, Tamil, Telegu, Urdu and sign language and other languages commonly used by communities in South Africa, and Arabic, Hebrew, Sanskrit and other languages used for religious purposes.

(7) For the purposes of this section, "government" includes statutory bodies.

## **CLAUSE 7**

### **Rights**

(4) The Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law, or legislation, to the extent that they are consistent with the Bill. *[Moved from Clause 38.]*

## **CLAUSE 11**

### **Life**

13. Everyone has the right to life. This right may be limited following conviction of a person for a crime specified by national legislation and after due process of law.

## **CLAUSE 12**

### **Freedom and Security of the Person**

(1) Everyone has the right to freedom of the person and security of the person, which includes the right ...

- (2) Everyone has the right to bodily and psychological integrity, which includes the right -
- (a) to make decisions concerning reproduction; and
  - (b) **[to security in and control over their body;] and**
  - (c) not to be subjected to medical or scientific experiments without their informed consent.

#### **CLAUSE 16 (1)(d)**

##### **Freedom of expression**

(d) academic freedom and freedom of scientific research in autonomous institutions of higher learning or research.

#### **CLAUSE 23**

(3) Every employer has the right:

- (a) .....
- (b) .....
- (c) to recourse to appropriate mechanisms for the protection of legitimate rights recognised in international law as provided for in national legislation.

#### **CLAUSE 29**

##### **Education**

"(1) Everyone has the right -

- (a) to a basic education, including adult basic education, in a state or state-aided institution;
- (b) to further education, which the state must take reasonable and progressive legislative and other measures to make generally available and accessible; and
- (c) to **[choose instruction] receive education** in any national official language of one's choice **[where instruction in that language can be reasonably provided]** in state or state-aided institutions, unless such education is impracticable.

(2) Everyone has the right to establish and maintain **[, at their own expense,]** private educational institutions that ...

(3) Everyone has the right to public educational institutions based on a common culture, language or religion, provided that there must be no discrimination based on race, and provided further that the state may not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it has been established on a basis of a common language, culture or religion, and provided further that everyone has the right, when desiring education in the medium of education of such a particular institution, not to be refused admission to that institution solely on account of the fact that that person's mother tongue differs from the medium of education of that institution.

#### **CLAUSE 30 A**

##### **Cultural, religious and linguistic communities**

- (1) Every cultural, religious or linguistic community and everyone who belongs to a cultural, religious or linguistic community with other members of their community has the right to
  - (a) enjoy their culture, practice their religion and use their language; and
  - (b) form, join and maintain linguistic, cultural and religious associations and other organs of civil society.
- (2) These rights may not be exercised in a manner inconsistent with the provisions of the Bill of Rights.

## **CLAUSE 32**

### **Just administrative action**

"(4) The legislation referred to in subsection (3) must -

- (a) ...
- (b) ...
- (c) be reasonable and justifiable in an open and democratic society based on human dignity, freedom and equality; and."

## **CLAUSE 37(1)**

### **Limitations of Rights**

(1) The rights in the Bill of Rights may be limited only in terms of a law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, having [**regard to**] taken into account all relevant factors including -

- (i) the nature of the right;
- (ii) the [**importance of the**] purpose of the limitation;
- (iii) the nature and extent of the limitation;
- (iv) the relation between the limitation and its purpose; and
- (v) all less restrictive means to achieve the purpose.

## **CLAUSE 38**

### **Interpretation of bill of rights**

"(1) When interpreting the Bill of Rights, every court -  
must promote the values that underlie an open and democratic society based on human dignity, equality and freedom;  
must consider international law; and  
may consider foreign law.

(2) When interpreting any legislation, and when developing the common law or customary law, every court, must promote the spirit, purport, and objects of the Bill of Rights."

**[(3) The Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law, or legislation, to the extent that they are consistent with the Bill.] Moved to Clause 7.**

## **CLAUSE 40(2)**

### **Intergovernmental co-operation**

(2) National legislation [**may**] must provide for appropriate mechanisms and procedures to facilitate settlement of intergovernmental disputes.

## **CLAUSE 41 (3)**

### **Composition of Parliament**

(3) The National Assembly is elected to represent the people and to ensure government by the people under the Const this by choosing the President, by providing a national forum for public consideration of issues, by passing legislation and by scrutinising and overseeing executive action. Members of the National Assembly are representatives of the whole people and they shall not be bound by any instructions, but only by their conscience.

## **CLAUSE 45**

### **Membership**

"(3) A person loses membership of the National Assembly if that person-

(a) ceases to be eligible; or

(b) is absent from the Assembly or a committee on which the member sits without permission in circumstances for which the rules and orders of the Assembly prescribe loss of membership."

## **CLAUSE 48**

### **Dissolution of National Assembly before expiry of its term**

"(1) The President may dissolve the National Assembly if the Assembly adopts a resolution by at least two thirds of its members supporting its dissolution."

## **CLAUSE 49**

### **Sittings and recess periods**

#### **Insert new sub-clause:**

"(3) The National Assembly sits at the Houses of Parliament in Cape Town; but the Assembly, in the national interest and by resolution adopted by at least two thirds of its members, may determine that it sits elsewhere."

## CLAUSE 55

### Internal arrangements

#### Insert new sub-clause after sub-clause (2):

"(3)(a) The leader of the largest minority party in the National Assembly is the Leader of the Opposition.

(b) The Leader of the Opposition is entitled to the remuneration, allowances and privileges necessary in order to appoint staff, provide facilities and, in general, enable the Leader of the Opposition effectively to perform his or her functions.

(c) The leaders of parties other than the majority party and the largest minority party are entitled to privileges and facilities to enable them to effectively perform their functions as leaders of the smaller parties in the Assembly.

(d) Parliament must appropriate the money required under paragraph (b) and (c) and may prescribe how expenditures must be reported and audited."

## CLAUSE 59

### Allocation of delegates

"(2) Within 30 days after the result of an election of a provincial legislature is declared, a legislature must -

(a) determine, [**in an equitable manner prescribed by nation legislation**] in accordance with the formula set out in Part C of Schedule 3, how many of each party's delegates are to be permanent delegates and how many are to be special delegates; and

(b) appoint the permanent delegates in accordance with the nominations of the parties.

"(3) The provincial legislature must designate as a special delegate [**a member of the legislature** ] a person nominated by a party entitled to a special delegate as and when the party requires."

## CLAUSE 60

### Permanent delegates

"(4) A person ceases to be a permanent delegate if that person -

(a) ...

(b) ...

(c) ...

(d) is absent from the National Council of Provinces or a committee on which the member sits without permission [**in circumstances for which the rules and orders of the National Council prescribe loss of office as a permanent delegate**] for 15 consecutive days on which the Council or that committee sat."

## CLAUSE 61

## **Sittings of National Council**

"(3) The National Council meets in the same place as the National Assembly. Meetings at other places are permitted on the grounds of public interest, security or convenience, and in a manner provided for in the rules and orders of the Council. "

## **CLAUSE 62**

### **Chairperson and Deputy Chairperson**

"(6) The National Council may remove the Chairperson or a Deputy Chairperson from office by a vote of least five provinces."

## **CLAUSE 67**

### **Evidence or information before National Council**

"The National Council of Provinces and any of its committees may-

(a)...

(b) require any person or institution to report to it;

~~[(b)](c) ...~~

~~[(c)](d) ...~~

## **CLAUSE 68(2)(b)**

### **Internal arrangements, proceedings and procedures of National Council**

(b) the participation of all the provinces and minority political parties in its proceedings in a manner consistent with democracy.

## **CLAUSE 72**

### **Bills amending the Constitution**

#### **New subsections**

"(2) If a Bill referred to in subsection (1)(b) concerns only a specific province or provinces, the National Council of Provinces may not pass it unless the Bill has been approved by the relevant provincial legislature or legislatures by a majority of at least two thirds of their members.

(3) An amendment of the Constitution which repeals or amends this subsection or section 1, or violates any of the principles listed in section 1, must be passed by a majority of at least 75% of the members of the National Assembly and, as far as it affects the National Council of Provinces or provincial boundaries, powers, functions or institutions, by the National Council of Provinces by a vote of at least seven provinces .

(4)(a) A committee of Parliament must review the Constitution regularly and, when necessary, report to the National Assembly on proposed amendments to the Constitution.

(b) The committee must be composed of-

(i) members of the National Assembly drawn from all parties which desire to participate;

(ii) delegates to the National Council drawn from all provincial delegations which desire to participate; and

(iii) one member of the local government delegation in the National Council of Provinces referred to in section 65."

## **CLAUSE 79**

### **Application by members of National Assembly to Constitutional Court**

"(4) If an application is unsuccessful, the Constitutional Court [**must**] may order the applicants to pay costs [**unless the application had a reasonable prospect of success**] if it finds that the application was frivolous ."

## **CLAUSE 83**

### **Powers and functions of President**

"(2) The President is responsible for -

...

(j) proclaiming national referenda and plebiscites."

## **CLAUSE 90**

### **Cabinet**

#### **Substitute the following new section for section 90:**

"(1) The Cabinet consists of the President, a Deputy President and Ministers.

(2) The President appoints the Deputy President and Ministers, assigns their powers and functions and dismiss them.

(3) The President -

(a) must select the Deputy President from the members of the National Assembly;

(b) may select any number of Ministers from among the members of the National Assembly; and

(c) may select no more than two Ministers from outside the Assembly.

(4) The Deputy President must assist the President in the execution of the functions of government.



(5) The Deputy President and Ministers are responsible for the powers and functions of the executive assigned to them by the President.

(6) Members of the Cabinet -

(a) must act in accordance with the Constitution [**and may perform any act required to give effect to the Constitution**] and [members of the Cabinet] are collectively and individually accountable to Parliament for the performance of their powers and functions; and

(b) [**members of the Cabinet**] must provide Parliament with full and regular reports concerning matters under their control."

## CHAPTER 6

### Terminology

Substitute the terms "Provincial Parliament", "Provincial Cabinet" and "provincial ministers", for the terms "Provincial Legislature", "Executive Council" and "members of the Executive Council", respectively, wherever it appears in this Constitution.

## CLAUSE 101

### Provinces

#### Insert new sub-clause:

" (3) A provincial parliament may by a two-thirds majority change the name of that province and Parliament must amend the Constitution accordingly when requested to do so by that province. "

## CLAUSE 103(1)

### Composition and election of provincial legislatures

(1) A provincial legislature consists of women and men elected as members of an electoral that -

- (a) is prescribed by national legislation;
- (b) is based on a common voters roll for the province;
- (c) provides for a minimum voting age of 18 years; and
- (d) results, in general, in proportional representation.

(2) A provincial legislature consists of between 30 and 80 members. The number of members, which may differ among the provinces, must be determined every five years by the Electoral Commission in [terms of national] legislation, taking into account available scientifically based data in respect of voters, representations by interested parties and the following proposed determination.

## **CLAUSE 104**

### **Membership**

"(3) A person loses membership of a provincial legislature if that person -

(a) ceases to be eligible; or

(b) is absent from the legislature or a committee on which the member sits without permission **[in circumstances for which the rules and orders of the legislature prescribe loss of membership]** for 10 consecutive days on which the legislature or that committee sat."

## **CLAUSE 107**

Dissolution of provincial legislatures before expiry of term

"(1) The Premier of a province may dissolve the provincial legislature if the legislature adopts a resolution by at least two thirds of its members supporting its dissolution."

## **CLAUSE 114**

### **Internal arrangements**

#### **Insert new sub-clause:**

"(3)(a) The leader of the largest minority party in a provincial legislature is the Provincial Leader of the Opposition of that legislature.

(b) The Provincial Leader of the Opposition is entitled to the remuneration, allowances and privileges necessary in order to appoint staff, provide facilities and, in general, enable the leader effectively to perform his or her functions.

(c) The leaders of the parties other than the majority party and the largest minority party in the provincial legislature are entitled to privileges and facilities to enable them to effectively perform their functions as leaders of the smaller parties in the provincial legislature.

(d) The provincial legislature must appropriate the money required under paragraphs (b) and (c) and may prescribe how expenditures must be reported and audited."

## **CLAUSE 120**

### **Application by members to Constitutional Court**

"(2) An application -

(a) must be supported by at least one third of the members of the legislature or by at least 90% of the members of all the minority parties in the legislature ; and

(b) ..."

...

"(4) If an application is unsuccessful, the Constitutional Court [**must**] may order the applicants to pay costs [**unless the application had a reasonable prospect of success**] if the Court finds that the application was frivolous."

## **CLAUSE 123**

### **Executive authority of provinces**

"(3) (a) [**The executive authority of a province exists**] A province shall have executive authority only to the extent that it has the administrative capacity to assume effective responsibility.

(b) National government must assist a province in the development of the administrative capacity required for the effective exercise or performance of its competencies and functions referred to in subsection (2).

## **CLAUSE 124**

### **"Powers and functions of Premiers**

(1) The Premier of a province has the powers and functions entrusted to that office by the Constitution and any legislation.

The Premier of a province is responsible for -

...

(f) appointing commissions of inquiry;

(g) proclaiming provincial referenda and plebiscites."

## **CLAUSE 129**

### **Executive councils**

**Substitute the following new subsections (3) and (4), in place of subsections (3) to (6)**

(3) Members of the Executive Council of a province are responsible for the powers and functions of the executive assigned to them by the Premier.

(4) The members of the Executive Council -

(a) must act in accordance with the Constitution and are collective and individually accountable to the legislature for the performance of their powers and functions; and

(b) must provide the legislature with full and regular reports concerning matters under their control."

## **CLAUSE 139**

### **Contents of provincial constitutions**

"(1) A provincial constitution, or constitutional amendment, must not be [**consistent**] inconsistent with this Constitution, but may provide for -

- (a) ...
- (b) ..."

## **CLAUSE 142**

### **Conflicts between national and provincial legislation**

**Insert new sub-clause after sub-clause (4):**

"(5) Nothing in this section shall mean that subordinate legislation may prevail over a law of a legislature referred to in this section."

## **CLAUSE 146**

### **General objectives**

"(1) The objectives of local government as a distinct sphere of government are -

- (a) ...
- (b) ...
- (c) ...
- (d) to promote the participation of local communities and community organisations in the affairs of local government, and the enjoyment and improvement of its public facilities; and
- (e) ..."

## **CLAUSE 148**

### **Establishment of local government structures**

"(3) National legislation must determine -

- (a) ...
- (b) the powers, functions and other features of the system of local government [**; and** ]
- [(c) other relevant aspects of the system of local government ]."**

## **CLAUSE 154**

### **Elections**

"(2) A person may vote for a municipal council if that person -

(a) ...

(b) ordinarily resides in the municipal area or is a rate-payer on property within the municipal area ; and

(c) ..."

"(3) (a) If the electoral system for a municipality includes ward representation, provincial legislation within the framework of national legislation must provide for an independent body to demarcate the wards.

(b) In the demarcation of wards, considerations of demography, cultural diversity, economy, physical and environmental conditions must be taken into account."

## **CLAUSE 155**

..... committees, provided that the parties represented in council are all proportionally represented in all the committees.

## **CLAUSE 158**

### **Organised local government**

"(1) An Act of Parliament enacted in terms of section 74 must -

(a) provide for municipalities or categories of municipalities to organise themselves into national and provincial representative bodies;

(b) determine the powers and functions of that **[body]** bodies; and

**(c) [including the power to elect/appoint]** provide for the procedures for the joint election or appointment by these bodies of people to consult or interact with national or provincial government on behalf of local government, or to represent local government in -

(i) the National Council of Provinces;

(ii) any structures of **[executive]** intergovernmental relations referred to in section 40(2); and the parliamentary review committee referred to in section 72(4)."

## **CLAUSE 160**

### **Other matters**

"(1) All matters concerning local government not dealt with in the Constitution may be prescribed by **[national legislation, or by]** provincial legislation within the framework of national legislation."

(2) An independent body shall be established by national legislation to mediate in disputes between national, provincial or local government in respect of conflict of legislative and executive competencies in respect of local government functions.

## CLAUSE 170

### Appointment of judicial officers

"(3) The President as head of the national executive, after consulting the Judicial Service Commission and in consultation with the leaders of parties represented in the National Assembly, appoints the President and Deputy President of the Constitutional Court, and, after consulting the Judicial Service Commission, appoints the Chief Justice and Deputy Chief Justice.

(4) The other judges of the Constitutional Court are appointed by the President as head of the national executive, after consulting the President of the Constitutional Court and in consultation with the leaders of parties represented in the National Assembly, in accordance with the following procedure:

- (a)...
- (b)...
- (c)..."

(5) At all times, at least **[four ]** five members of the Constitutional Court must be persons who were judges at the time they were appointed to the Constitutional Court."

(6)...

(7) The appointment of other judicial officers must be made by an independent body established by an Act of Parliament which must ensure that the appointment, promotion, transfer or the dismissal of, or disciplinary steps against such judicial officers, take place without favour or prejudice, and that the applicable legislation and administrative directives are applied uniformly and properly, and that no victimisation or improper influencing of these officers occurs."

## CLAUSE 173

### Removal

"(1) A judge may be removed from office only if -

- (a) the Judicial Service Commission finds that the judge suffers from an incapacity, is **[grossly]** incompetent, or is guilty of gross misconduct; and ..."

## CLAUSE 174

### Judicial Service Commission

"(1) There is a Judicial Service Commission, consisting of -

- (a) - (h) ...

**[(i) four members of the National Council of Provinces designated together by the Council, by resolution adopted by at least two-thirds of its members;];**

four persons designated by the President as head of the national executive **[after consulting]** in consultation with the leaders of all the parties in the National Assembly; and."

## **CLAUSE 175**

### **Prosecuting authority**

"(1) There is a single national prosecuting authority in the Republic, structured in terms of national legislation, and consisting of -

...

other provincial and local Attorneys-General and prosecutors as determined by national legislation, which must ensure that they exercise their powers impartially, without fear, favour or prejudice.

The prosecuting authority has the power to institute prosecutions on behalf of the state in their respective jurisdictions and to carry out any necessary functions incidental to instituting prosecutions.

...

...

The national Attorney-General -

must determine prosecuting policy in consultation with the Attorneys-General which must be observed in the prosecution process;

must **[issue]** publish policy directives which must be observed in the prosecution process."

## **CLAUSE 182**

### **Composition of Commission**

Sub clause 182(1) to be deleted

Sub clause 182(2) to become 182(1)

## **CLAUSE 189**

### **GENERAL PROVISIONS**

#### **Appointments**

189(3) The President, on the recommendation of [the National Assembly] Parliament , must .....

- (a)
- (b)
- (c)

(d) the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities

(4) [The National Assembly] Parliament must recommend persons -

(a) nominated by a committee of [the National Assembly] Parliament ....

(b) approved by [the National Assembly] Parliament .....

## **CLAUSE 190**

### **Removal from office**

190(1)

The Public Protector .....

(a) .....

(b) a finding to that effect by [the National Assembly] Parliament

(c) the adoption by [the National Assembly] Parliament .....

190(2)

(a) may suspend a person from office at any time during proceedings of a committee [the National Assembly] Parliament .....

(b) must remove a person from office upon adoption by [the National Assembly] Parliament .....

## **CHAPTER 10**

### **PUBLIC ADMINISTRATION**

191.(1).....

(2)

(i) Public administration must be broadly representative of the South African people, taking into account the nature and functions of different sectors, administrations or institutions, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.

## **CLAUSE 194**

### **Governing principles**

"The following principles govern national security in the Republic:

(a) ...

(b) ...

(c) ...

(d) As part of their resolve to live in peace, South African citizens will not participate in armed conflict except as provided for in this Constitution and national legislation. "

## **CLAUSE 195**



## **Establishment, structures and conduct of security services**

"(4) The security services must be structured and regulated by **[national]** legislation.

(5)...

(6)...

(7) Neither the security services, nor any of their members may perform their functions in a manner that **[(a)] furthers or prejudices the interests of any [a] political party [interest that is legitimate in terms of this constitution; or (b) furthers any private interest of a political party]** .

Multi-party parliamentary committees must have oversight of all security services, **if not otherwise provided in this constitution**, in a manner determined by national legislation or the rules and orders of parliament

## **CLAUSE 197**

### **Political responsibility**

"(2) When the defence force is deployed in co-operation with the police service, or in the defence of the Republic, the President must inform Parliament, or, if Parliament is not in session, the appropriate committee established in terms of section 195(8), within 14 days, [at a reasonable time] and in appropriate detail, of -

(a) the reasons for the use of the defence force;

(b) any place where the force is being used;

(c) the number of people involved; and

the period for which the force is expected to be used."

**(3) (a) a joint standing committee of parliament on defence shall be established, consisting of all political parties holding more than 10 seats in the National Assembly (b)the total membership of the committee shall be as determined by or under the rules and orders**

**(c)the committee shall be competent to investigate and make recommendations regarding the budget, functioning, organisation armaments, policy, morale and state of preparedness of the defence force and perform such other functions relating to parliamentary supervision of the defence force as may be prescribed by law.**

## **CLAUSE 198**

### **Command of Defence Force**

"(1) The President as head of **[the national executive]** State is Commander-in-Chief of the defence force and must appoint **[one or more senior military officers]** the Military Command of the defence force.

## **Clause 199**

### **State of National Defence**

**(1)** The President as head of the National Executive may declare a state of national defence. A declaration of a state of national defence unless it is approved by Parliament within 7 days.

**(2) A state of national defence is deemed to be a situation when the security of the country is threatened by war or invasion, or is already under attack.**

## **CLAUSE 200**

### **Defence civilian secretariat**

191. A civilian secretariat for defence must be established by national legislation to function under the direction of the Cabinet member responsible for defence, and to perform any functions entrusted to it by that Cabinet member [**or by**] in terms of that legislation.

## **CLAUSE 201**

### **Police service**

(2) National legislation must establish the powers and functions of the police service and must enable the police service to discharge its responsibilities effectively, taking into account the requirements of the provinces. The provincial governments must be consulted before the national legislation is enacted.

(3) The objects of the police service are to prevent, combat and investigate crime, to maintain public order, and to protect and secure the inhabitants of the Republic and their property."

## **CLAUSE 202**

### **"Political responsibility**

(1) A member of the Cabinet must be responsible for policing.

(2) The responsible member of the Cabinet must develop national policing policy after consultation with the provincial governments.

- (3) Each provincial government shall be entitled to -
- (a) monitor police conduct;
  - (b) exercise oversight over the efficiency of the police;
  - (c) promote police community relations and cultivate good relations between the police and the community in the province;
  - (d) assess the effectiveness of visible policing services;
  - (e) receive and make recommendations concerning the efficiency and effectiveness of the police; and
  - (f) liaise with the responsible cabinet member concerning police matters and crime

## **CLAUSE 203**

### **Control of Police Service**

"(2) The National Commissioner must exercise control over and manage the police service in accordance with national legislation, policing policy and the directions of the Cabinet member responsible for policing.

(3) The National Commissioner, after consultation with the provincial government must appoint a woman or a man as provincial commissioner for each province, in accordance with national legislation.

(4) Provincial commissioners are responsible for policing -

(a) as prescribed by national legislation and policing policy; and

(b) subject to the power of the National Commissioner [**to exercise control over and manage the police service**] in terms of subsection (2).

**[(5) Each provincial government is responsible for monitoring and oversight of the conduct and efficiency of the police service, and for cultivating good relations between the police and the rest of the community in its province.]**

## **CLAUSE 204**

### **Police civilian secretariat**

"A civilian secretariat for the police service must be established by national legislation to function under the direction of the Cabinet member responsible for policing, and to perform any functions entrusted to it by that Cabinet member [**or by**] in terms of the legislation."

## **CHAPTER 12**

### **TRADITIONAL LEADERS**

#### **Recognition**

207(1) ....

207(2) A traditional authority that observes a system of customary law may function subject to any applicable legislation and customs.

207(3) .....

#### **Councils of traditional leaders**

208 .....

#### **General Provisions**

#### **Self-determination**

The right of the South African people as a whole to self-determination does not preclude

within the framework of this right recognition of the motion of the right to self-determination of any community sharing a common cultural and language heritage. within a territorial entity in the Republic or in any other way.

## **CHAPTER 14**

### **General Provisions**

#### **Retro-active law**

229A. No organ of state may introduce retro-active tax or regulatory law.

## **SCHEDULE 3**

### **Add the following Part C to Schedule 3**

#### **Part C**

##### **Formula to Determine Permanent Members in Provincial Delegations.**

1. All parties who qualify for a delegate in terms of Part B will be entitled to one of the permanent delegates.
2. If more than six parties qualify for a delegate in terms of Part B, the six parties who have obtained the highest number of votes cast in their favour in the election will be allocated one permanent delegate each.
3. The vacancies remaining after the delegates have been allocated in terms of par. 1 will be allocated according to the following formula:
  - (a) The number of delegates allocated to a party in terms of Part B minus one and multiplied by the number of vacancies remaining after the allocation of delegates in terms of paragraph 1 and divided by five.
  - (b) If a calculation in terms of paragraph (a) yields a surplus not absorbed by the delegates allocated to a party in terms of that paragraph, the surplus must compete with similar surpluses accruing to any other party or parties, and any undistributed vacancies of permanent delegates will be allocated to the party or parties in the sequence of the highest surplus.

## **SCHEDULE 4**

### **Areas of [Concurrent] Legislative Competencies**

Agriculture

Abattoirs and generally the slaughter of animals, and the disposal of the waste products of such slaughter

**[Administration of indigenous forests]**

Airports, other than international and national airports  
Animal control and diseases  
Ambulance and fire fighting services  
Casinos, racing, gambling and wagering, excluding lotteries and sports pools  
Cemeteries, funeral parlours and crematoriums  
Child care facilities  
Civil protection  
Consumer protection  
Cultural affairs  
Education at all levels, excluding university and technikon education [**and teacher training colleges**]  
Environment  
Facilities for the accommodation care and burial of animals  
Forestry  
Health services  
Housing  
Indigenous law and customary law subject to the provisions of Chapter 12  
Language policy and the regulation of official languages within a province subject to section 6  
Liquor licensing  
Licensing and control over undertakings which purvey food to the public  
Markets  
Nature conservation, excluding national parks, national botanical gardens and marine resources  
Pounds  
Provincial public enterprises [**in respect of the functional areas in this Schedule**]  
Pontoons, ferries, jetties, piers and [**small boat**] harbours [**used for fishing or for recreational purposes**] , excluding international shipping  
Provincial sport  
Provincial recreation and amenities  
Provincial public transport  
Provincial archives  
Provincial museums  
Provincial libraries and library services  
Population function  
Police subject to [**to the extent that**] the provisions of Chapter 11 [**of this Constitution expressly confer upon the provincial legislature legislative competence**]  
Provision and administration of gas and electricity supply systems  
Provincial public works  
Provincial roads  
Regional planning and development  
Regional planning and development  
Road traffic regulation  
Refuse removal, refuse dumps and solid waste disposal  
Soil conservation  
[**Stormwater management systems in built up areas**]  
Tourism excluding international marketing of tourism  
Trade and industrial promotion  
Traditional authorities subject to the provisions of Chapter 12  
Urban and rural development

Veterinary services

Water affairs

**[Water and sanitation services limited to potable water supply systems and domestic waste-water and human excreta disposal systems]**

Welfare services

## SCHEDULE 5

### 23 LOCAL GOVERNMENT

**The provisions of the local Government Transition Act 209 of 1993, presently operative, shall continue in force until 5 November 1999, as if the previous constitution has not been repealed.**

## AMENDMENT TO THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996

### Education

#### 29.

[(1)] Everyone has the right-

(a) to a basic education, including adult basic education, in [a state or state-aided institution;] **institutions maintained wholly or partly from public funds;**

(b) to further education, which the state must take reasonable and progressive legislative and other measures to make generally available and accessible;[and]

(c) to [choose instruction] **receive education in a single-, parallel- or multimediu**  
**institution of his or her choice in the** [any] language **of his or her choice** where instruction in that language can be reasonably provided at state or state-aided institutions **practicable;**

[(2)] Everyone has the right]

(d) to establish [and maintain, at their own expense, private] educational institutions, **including institutions based on a single language, or common culture or religion, unless it is impracticable,** that-

[(a) (i) do not discriminate on the basis of race;

[(b) (ii) are registered with the state; and

[(c) (iii) maintain standards that are not inferior to standards at comparable [state-aided] educational institutions **maintained wholly or partly from public funds.**

**(e) to have educational institutions based on a single language, or common culture or religion maintained wholly or partly from public funds; and**

**(f) not to be refused admission to an educational institution only on the grounds that his or her mother tongue differs from the language medium of instruction at such institution, as long as he or she accepts education in that medium.**

NATIONAL PARTY AMENDMENTS