

# VRYHEIDSFRONT

DRAFT: FOR DISCUSSION PURPOSES ONLY

FREEDOM FRONT

## SUBMISSION TO THEME COMMITTEE 2: BLOCK 2 AND 3: STRUCTURES OF GOVERNMENT

### INTRODUCTION

1. This proposal by the Freedom Front may be influenced by the proposals which the Volkstaat Council will make. It is however, not expected that the Volkstaat Council's proposal will have any significant influence on the structures of government proposed here.

### CONSTITUTIONAL PRINCIPLES

2. The Constitutional Principles to be adhered to are the following:

2.1 Principle X:

Formal legislative procedures shall be adhered to by legislative organs at all levels of government.

2.2 Principle XII:

Collective rights of self-determination in forming, joining and maintaining organs of civil society, including the linguistic, cultural and religious associations, shall, on the basis of non-discrimination and free association, be recognised and protected.

2.3 Principle XVI:

Government shall be structured at national, provincial and local levels.

2.4 Principle XVIII[2]:

The powers and functions of the provinces defined in the Constitution, including the competence of a provincial legislature to adopt a constitution, shall not be substantially less than or substantially inferior to those provided for in this Constitution. [Read with Section 160[31]al of the constitution].

2.5 Principle XXXII.

The Constitution shall provide that until 30 April 1999 the national executive shall be composed and shall function substantially in the manner provided for in Chapter 6 of this constitution.

## THE LEGISLATURE

### CONSTITUTION OF PARLIAMENT

3. Parliament should consist of two chambers, the National Assembly and the Senate.

### THE NATIONAL ASSEMBLY

4. The Composition of the National Assembly.

4.1 The number of representatives in the National Assembly should be determined by:

- a. The functions of the central government. If more power is devolved to the provinces, the number of representatives in the National Assembly should be decreased in favour of more substantial representation in the provinces.
- b. The role played by Select Committees. At present Select Committees play a vital role and their role should not be changed. Smaller political parties find it difficult, but very important, to participate in all the activities of the Select Committees and should the representation become smaller, the role of the Select Committees would decrease in importance. Effective central government therefore also requires a minimum strength.
- c. With the present functions of the central government, the number of representatives in the National Assembly should not be less than 350 and not more than the present 400.

4.2 The following sections of the present constitution should be maintained:

- a. Section 40,[11 to [5]: Composition of the National Assembly.  
[see 4.1 above].
- b. Section 41: Speaker and Deputy Speaker of the National Assembly.
- c. Section 42: Qualification for membership of the National Assembly.
- d. Section 43: Vacation of Seats.

- e. Section 44: Filling of Vacancies.
- f. Section 45: Oaths or Affirmation by members of the National Assembly.
- g. Section 46: Sittings of the National Assembly.
- h. Section 41: Quorum.

## THE SENATE

### 5. Introduction.

5.1 At present, the Senate in South Africa is very much a replica of the National Assembly. Provincial interests are not significantly represented by the Senate and they have the power to properly review legislation passed by the National Assembly.

5.2 South Africa should have a second chamber because of the following reasons:

- a. The ethnic, racial, regional and linguistic differences in South Africa. In most countries where these conditions exist, a second chamber was structured over the interests of cultural and corporate groups.
- b. The conflicting interests that cannot be reconciled at national assembly level and recognise provincial centres of power. A second chamber is normally designed to protect of power.

5.3 The Senate should therefore reflect the truly diverse nature of the country and society, different peoples of South Africa. Such a chamber is required to act as nation building institution the differences mentioned above and to reduce the potential for political conflict.

5.4 The role of the Senate within the overall political process must be defined in such a way that it becomes a cost effective goal orientated institution which will command respect and earn dignity in fulfilling a crucial role in government. It should not frustrate democracy but play an indispensable role in facilitating not only effective and stable government but also the building of culture and common purpose in South Africa. Constitutionally, the South African Senate should give the world an instrument for reconciliation which is truly South African.

6. Composition and Mandate of the Senate. The number of representatives in the Senate should be determined by the functions allocated to the Senate. The FF. proposes that the composition should be as follows:

6.1 8 Senators from each province, nominated by the parties represented in the provincial legislature within 10 days of an election held in pursuance of the

dissolution of parliament. The Senate should, as its first and primary function, look after provincial and cultural interests. In order to do this, the constitution should give the Senate an original mandate and power to:

- a. Interact with the Provinces, and/or representatives of corporate groups.
- b. Review, revise and even veto legislation related to the Provinces.

Section 61 of the present constitution should be amended accordingly.

6.2 8 Senators nominated by the "National Council of Traditional Authorities". These Senators should form the Executive of the National Council of Traditional Authorities. Note. This proposal should be finalised in Block 4 [Traditional Authorities]. The specific functions of the Senate in respect of Traditional Authorities should also be determined in Block 4.

6.3 8 Senators elected by voters registered on the community voters role as Afrikaner community voters. The number of Senators should be determined by a formula based on percentage voters represented by the Afrikaners seeking self-determination. Note. The "community voters role" referred to will be part of the FF proposal for self-determination.

- 6.4 Should other ethnic groups seek cultural self-determination, they could also be given represent
- 6.5 As in the case of provincial interests, the Senate should have a special mandate to protect the the language and cultural communities in South Africa.

Note. The formulation of the proposed constitutional changes to the second chamber should be referred to th experts.

7. Functioning of the Senate. The following sections of the 1993 Constitution should be retained in the r much as they do not contradict the alterations proposed in paragraph 6:

- 7.1 Section 49: President and Deputy President of the Senate.
- 7.2 Section 50: Qualification for membership of the Senate.
- 7.3 Section 51: Vacation of seats by Senators and filling of vacancies.
- 7.4 Section 52: Oaths of affirmation by Senators.
- 7.5 Section 53: Sittings of the Senate.
- 7.6 Section 54: Quorum.

## THE NATIONAL EXECUTIVE

### THE HEAD OF STATE AND THE HEAD OF GOVERNMENT

8. The FF proposes that the following Sections in the 1993 Constitution, should be maintained:
  - 8.1 Section 75: "The executive authority of the Republic with regard to matters falling within the le; Parliament shall vest with the President, who shall exercise and perform his or her powers and f in accordance with this Constitution".
  - 8.2 Section 76: "The President shall be the Head of State".
9. The FF is of the opinion however, that the functions of Head of State and Head of Government efficiently by one person only. The workload of the President must therefore be lightened by the appoint Deputy Presidents or a Prime Minister.
10. Election of the President.
  - 10.1 The National Assembly and the Senate shall at a joint sitting, which must be their first sitting been convened, elect one of the members of Parliament as President.
  - 10.2 Sections 77[2],[3],[4] and [5] should be maintained.
11. The following Sections in the 1993 Constitution should also be maintained:
  - 11.1. Section 78: Oath of Affirmation.
  - 11.2 Section 79: Remuneration of the President.
  - 11.3 Section 80: Tenure of Office of the President.
  - 11.4 Section 83: Confirmation of executive acts of the President.
  - 11.5 Section 86: Acting President.
  - 11.6 Section 87: Removal from office of President and Deputy President/Prime Minister.

### THE CABINET

12. Composition of the Cabinet. The Cabinet shall consist of the President, Deputy Presidents/Prime M than 24 Ministers appointed by the President.

13. Appointment of Cabinet Members. The President shall appoint members of the Cabinet, or fill any from the National Assembly or the Senate.
14. Terminating a Cabinet Appointment. The President shall terminate any appointment to the Cabinet becomes necessary to comply with the spirit and the letter of the Constitution or it is deemed to be in government.
15. Cabinet Procedure. Meetings of the Cabinet shall be presided over by the President or by a Deputy Pr
16. Temporary assignment of Minister's powers and functions to another Minister. Section 90 should be main
17. Transfer of Minister's power and functions to another Minister. Section 91 should be maintained.
18. Accountability of Ministers and Cabinet. Section 92, [1] to [4] should be maintained.
19. Votes of no confidence. Maintain Section 93.
20. Appointment of Deputy Ministers. Section 94 should be maintained.

## **THE PROVINCIAL LEGISLATURE**

### THE LEGISLATURE

21. There shall be a legislature for each province. The following sections in the 1993 Constitution should
  - 21.1 Section 125: Provincial Legislature.
  - 21.2 Section 127: Composition of Provincial Legislature. The  
number of MPC's should be determined by the  
functions and powers allocated to provinces.
  - 21.3 Section 128: Duration and dissolution of provincial legislatures.
  - 21.4 Section 130: Sittings of Provincial legislature.
  - 21.5 Section 131: Speaker and Deputy Speaker of provincial  
legislature.
  - 21.6 Section 132: Qualification for membership of provincial  
legislature.
  - 21.7 Section 133: Vacation of seats and filling of vacancies. S  
section 133[2] to be scrapped.

- 21.8 Section 138: Oath or affirmation by members.
- 21.9 Section 135: Powers, privileges and immunities of provincial legislature members.
- 21.10 Section 136: Penalty for sitting or voting when disqualified.
- 21.11 Section 137: Rules and orders.
- 21.12 Section 138: Quorum.
- 21.13 Section 139: Requisite majorities.
- 21.14 Section 140: Assent to Bills.
- 21.15 Section 141: Signature and enrolment of provincial laws.
- 21.16 Section 142: Public access to provincial laws.
- 21.17 Section 143: Administration of provincial legislatures.

#### PROVINCIAL EXECUTIVE AUTHORITY

22. The executive authority of a province shall vest in the Premier of the province who shall exercise and perform her powers and functions subject to and in accordance with the constitution of South Africa.

23. The following sections of the 1993 Constitution should be maintained:

- 23.1 Section 145: Election of Premiers.
- 23.2 Section 146: Tenure of and removal from office of Premiers.
- 23.3 Section 148: Acting Premiers.

#### EXECUTIVE COUNCILS

24. The Executive Council of a province shall consist of the Premier and not more than 10 members appointed by the premier.

25. The Premier shall determine portfolios, appoint members to Executive Councils, terminate appointments in accordance with the purposes of the constitution and in the interest of good government, and fill vacancies when necessary.

26. The following sections of the 1993 Constitution should be maintained:

- 26.1 Section 150: Executive Council procedure.
- 26.2 Section 151: Temporary assignment of powers and functions to executive council members.
- 26.3 Section 152: Transfer of powers and functions from one member to another member.
- 26.4 Section 153: Accountability of members of the executive council.
- 26.5 Section 154: Votes of no confidence.

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