

Annexure "B"

Amendments to Constitution of the Republic of South Africa Bill as amended by the Constitutional Committee

6 May 1996

The Constitution of the Republic of South Africa Bill, as amended 6 May 1996, is amended as follows:

1. Section 25 is amended by replacing subsection (8) with the following amended subsection (8):
 - (8) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).
2. Section 29 is amended by replacing subsection (2) with the following amended subsection (2):
 - (2) Everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable. In order to ensure the effective access to, and implementation of, this right, the state must consider all reasonable educational alternatives, including single medium institutions, taking into account -
 - (a) equity;
 - (b) practicability; and
 - (c) the need to redress the results of past racially discriminatory law and practice.
3. Section 29 is further amended by the addition of the following subsection (4):
 - (4) Subsection (3) does not preclude state subsidies to independent educational institutions.
4. Section 35 is amended by the replacing subsection (1)(e) with the following:
 - (1) (e) at the first court appearance after being arrested, to be charged or informed of the reason for the detention to continue, or to be released; and
5. Section 39 is amended by the deletion of subsection (4).

6. Section 42(6) is amended by replacing paragraph (a) with the following:
 - (6) (a) The seat of Parliament is Cape Town, but an Act of Parliament, enacted in accordance with subsections 76(1) and (5), may determine that the seat of Parliament is elsewhere.
7. Section 42(6) is further amended by deleting paragraph (b).
8. Section 51 is amended by the addition of the following subsection (3):
 - (3) Sittings of the National Assembly are permitted at places other than the seat of Parliament only on the grounds of public interest, security or convenience, and if provided for in the rules and orders of the Assembly.
9. Section 55 is amended by deleting from subsection (2)(b)(ii) the words "other than a court".
10. Section 63 is amended by the addition of the following subsection (3):
 - (3) Sittings of the National Council of Provinces are permitted at places other than the seat of Parliament only on the grounds of public interest, security or convenience, and if provided for in the rules and orders of the Council.
11. Section 76(4)(a) is replaced by the following:
 - (4) (a) envisaged in section 44(2) or 220(3); or
12. Section 76 is further amended by the addition of subsection (5) as follows:
 - (5) A Bill envisaged in section 42(6) must be dealt with in accordance with the procedure established in subsection (1), except that -
 - (a) when the National Assembly votes on the Bill, the provisions of section 53(1) do not apply; instead, the Bill may be passed only if a majority of the members of the Assembly vote in favour of it; and
 - (b) if the Bill is referred to the Mediation Committee, the following rules apply:
 - (i) If the National Assembly considers a Bill as envisaged in subsection (1) (g) or (h), that Bill may be passed only if a majority of the members of the Assembly vote in favour of it.
 - (ii) If the National Assembly considers or reconsiders a Bill as envisaged in subsection (1)(e), (i) or (j), that Bill may be passed only if at least two-thirds of the members of the Assembly vote in favour of it.
13. Section 104 is amended by the deletion of subsection (4), and the renumbering of the remaining subsections.
14. Section 114 is amended by deleting from subsection (2)(b)(ii) the words "including a provincial statutory body".
15. Section 155 is amended by the replacement of subsection (3) with the following subsection (3):

- (3) Subject to the provisions of sections 44, 151 and 154 -
- (a) a provincial government has the legislative and executive power to monitor the local government matters listed in Schedules 4 and 5; and
 - (b) national and provincial governments have the legislative and executive power to see to the effective performance by municipalities of their functions in respect of those matters, by regulating the exercise of municipalities' executive authority referred to in section 156(1).
16. Section 156 is amended by the deletion of subsection (2), and the renumbering of the remaining subsections.
17. Section 157 is amended by the addition of the following subsection (6):
- (6) The national legislation referred to in section 157(1)(b) must establish a system of appointment that allows for parties and interests reflected within the Municipal Council and making appointments, to be fairly represented.
18. Section 181 is amended by replacing subsection (3) with the following:
- (3) Other organs of state, through legislature and other measures, must assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions.
19. Section 196 is amended by replacing subsections (3) and (4) with the following:
- (3) Each of the provinces may nominate a person to be appointed to the commission.
 - (4) Members of the Commission nominated by provinces may exercise the powers and perform the functions of the Commission in their provinces, as prescribed by national legislation.
20. Section 217 is amended by replacing subsections (1) and (2) with the following:
- (1) When an organ of state in the national, provincial or local sphere of government, or any other institution identified by national legislation, contracts for goods and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
 - (2) Subsection (1) does not prevent the organs of state or institutions referred to in that subsection implementing a procurement policy providing for -
 - (a) categories of preference in the allocation of contracts; and
 - (b) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.
21. Section 239 is replaced by the following amended section 239:
239. (1) In the Constitution, unless the context indicates otherwise, "organs of state"

means -

- (a) any department of state or administration in the national, provincial or local sphere of government; and
 - (b) any other functionary or institution -
 - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public function in terms of legislation.
 - (2) Despite subsection (1), "organ of state" does not include judicial officers or courts.
22. Section 242 and 243 are deleted and section 241 is renumbered as section 242.
23. The following new section is inserted as section 241:

Labour Relations Act, 1995

- 241 (1) A provision of the Labour Relations Act, 1995 (Act No. 66 of 1995) remains valid, notwithstanding the provisions of the Constitution, until the provision is amended or repealed.
- (2) A Bill to amend or repeal a provision of the Labour Relations Act may be introduced in Parliament only after consultation with national federations of trade unions, and employer organisations.
- (3) The consultation referred to in subsection (2), including the identification of the federations to be consulted, must be in accordance with an Act of Parliament.
24. The following is inserted as section 243:

Repeal of laws

243. The laws mentioned in Schedule 7 are repealed, subject to section 244(4) and Schedule 6.
24. The following is inserted as section 244:

Short title and commencement

- 244 (1) This Act is called the Constitution of the Republic of South Africa Act, 1996, and comes into effect on a date set by the President by proclamation not later than 1 January 1997.

- (2) Different dates before the date referred to in subsection (1) may be fixed in respect of different provisions of the Constitution.
 - (3) Unless the context otherwise indicates, a reference in a provision of the Constitution to a time when the Constitution took effect must be construed as a reference to the time when that provision took effect.
 - (4) If a different date is fixed for any particular provision of the Constitution in terms of subsection (2), any corresponding provision of the Constitution of the Republic of South Africa, 1993, mentioned in the proclamation, is repealed with effect from the same date.
25. Schedule 4 is amended by the addition of the following items to Part A of the Schedule:
- Vehicle licensing
 - Property transfer fees
26. Schedule 6 is amended by the addition of the following words to the end of Item 20(4):
- "when the members referred to in section 178(1)(i) of the new Constitution are appointed."