

STATUTES OF THE REPUBLIC OF SOUTH AFRICA — CONSTITUTIONAL LAW

REPUBLIC OF SOUTH AFRICA CONSTITUTION ACT
NO. 110 OF 1983

[ASSENTED TO 22 SEPTEMBER, 1983] [DATE OF COMMENCEMENT: 3 SEPTEMBER, 1984]
(Unless otherwise indicated)

(English text signed by the State President)

as amended by *From time to time*

Constitution Amendment Act, No. 105 of 1984
Powers and Privileges of Parliament and the Constitution Amendment Act,
No. 99 of 1985

Provincial Government Act, No. 69 of 1986
Constitution Amendment Act, No. 20 of 1987
Constitution Amendment Act, No. 50 of 1988
Constitution Third Amendment Act, No. 101 of 1988
Constitution Fourth Amendment Act, No. 71 of 1989
Constitution Amendment Act, No. 61 of 1990

*and by the
Transition to
Democracy Act
of 1992.*

ACT

To introduce a new constitution for the Republic of South Africa and to provide for matters incidental thereto.

IN HUMBLE SUBMISSION to Almighty God, Who controls the destinies of peoples and nations,
Who gathered our forebears together from many lands and gave them this their own.
Who has guided them from generation to generation.
Who has wondrously delivered them from the dangers that beset them,

WE DECLARE that we

ARE CONSCIOUS of our responsibility towards God and man;

ARE CONVINCED of the necessity of standing united and of pursuing the following national goals:

- To uphold Christian values and civilized norms, with recognition and protection of freedom of faith and worship,
- To safeguard the integrity and freedom of our country,
- To uphold the independence of the judiciary and the equality of all under the law,
- To secure the maintenance of law and order,
- To further the contentment and the spiritual and material welfare of all,
- To respect and to protect the human dignity, life, liberty and property of all in our midst,
- To respect, to further and to protect the self-determination of population groups and peoples,
- To further private initiative and effective competition;

ARE PREPARED TO ACCEPT our duty to seek world peace in association with all peace-loving peoples and nations; and

ARE DESIROUS OF GIVING THE REPUBLIC OF SOUTH AFRICA A CONSTITUTION which provides for elected and responsible forms of government and which is best suited to the traditions, history and circumstances of our land:

PART I

THE REPUBLIC

1. Continued existence of Republic of South Africa.—The Republic of South Africa, consisting of the provinces of the Cape of Good Hope, Natal, the Transvaal and the Orange Free State, shall continue to exist as a Republic under that name.

as defined in the Union of SA Act of 1910.

2. Sovereignty and guidance of Almighty God acknowledged.—The people of the Republic of South Africa acknowledge the sovereignty and guidance of Almighty God.

PART II

NATIONAL FLAG AND ANTHEM

3. National Flag.—There shall be a National Flag of the Republic of which the design shall be as set out in section 4: *the schedule.*

4. Design of National Flag.—(1) The National Flag of the Republic shall be a flag consisting of three horizontal stripes of equal width from top to bottom orange, white and blue on which there shall appear—

- (a) in the centre of the white stripe, the flag of the Republic of "De Oranje-Vrijstaat" hanging vertically and spread in full; and
- (b) on opposite sides and adjoining the flag referred to in paragraph (a) —
- (i) the Union Jack, as it existed in 1927, horizontally spread in full towards the pole; and
- (ii) the Vierkleur of "De Zuid-Afrikaansche Republiek" horizontally spread in full away from the pole.

(2) The flags referred to in paragraphs (a) and (b) of subsection (1) shall all be of the same size and of a shape proportionally the same as that of the National Flag, the width of each of such flags shall be equal to one-third of the width of the white stripe on the National Flag, and the flags referred to in paragraph (b) of subsection (1) shall be equidistant from the margins of the said white stripe.

5. National Anthem.—The National Anthem of the Republic shall be "The Call of South Africa/Die Stem van Suid-Afrika", and "Nkosi Sikelele iXhosa".

PART III

THE STATE PRESIDENT

6. The State President and his powers.—(1) The head of the Republic shall be the State President.

(2) The command-in-chief of the South African Defence Force is vested in the State President.

- (3) The State President shall, subject to the provisions of this Act, have power—
- (a) to address any House, or the Houses at a joint sitting, the National Assembly
- (b) to confer honours;
- (c) to appoint and to accredit, to receive and to recognize ambassadors, plenipotentiaries, diplomatic representatives and other diplomatic officers, consuls and consular officers;
- (d) to pardon or reprieve offenders, either unconditionally or subject to such conditions as he may deem fit, and to remit any fines, penalties or forfeitures;
- (e) to enter into and ratify international conventions, treaties and agreements;
- (f) to proclaim or terminate martial law;
- (g) to declare war and make peace;
- (h) to make such appointments as he may deem fit under powers conferred upon him by any law, and to exercise such powers and perform such functions as may be conferred upon or assigned to him in terms of this Act or any other law.

(4) The State President shall in addition as head of the State have such powers and functions as were immediately before the commencement of this Act possessed by the State President by way of prerogative.

7. Election of State President.—(1) (a) The State President shall be elected by the members of an electoral college present at a meeting called in accordance with the provisions of this section and presided over by the Chief Justice or a judge of appeal designated by him.

(b) An electoral college referred to in paragraph (a) shall be constituted whenever necessary in terms of this Act, and shall consist of ~~all the members of the National Assembly~~

~~(i) 50 members of the House of Assembly designated by it by resolution;~~

(ii) 25 members of the House of Representatives designated by it by resolution;

(iii) 13 members of the House of Delegates designated by it by resolution.

or, in the case of a particular House, such smaller number of members thereof, if any, as may be so designated by it.

(c) A member of a House referred to in section 41 (1) (b) or (c), 42 (1) (b) or (c) or 43 (1) (b) or (c) may not be designated as a member of an electoral college or participate in the voting or other proceedings of the House in question in connection with a resolution contemplated in paragraph (b) of this subsection.

(d) If there is no person who is competent to preside at a meeting of a House for the purposes of paragraph (b), the Secretary to Parliament or any other officer of Parliament designated by him shall preside thereat and may exercise thereat the powers of the Chairman of the House.

[Para. (d) substituted by s. 2 of Act No. 105 of 1984.]

(e) An electoral college shall dissolve after disposing of the matters for which it is constituted in terms of this Act.

(2) The election of a State President shall be held, subject to the provisions of subsection (4), at a time and place fixed by the Chief Justice and made known by notice in the *Gazette* not less than 14 days before the election.

(3) The date so fixed shall—

(a) in the case of the first such election, be a date not more than seven days after the commencement of the first session of Parliament after the commencement of this Act;

(b) whenever a general election of members of the Houses has been held after a dissolution of Parliament, be a date not more than seven days after the commencement of the first session of Parliament after the general election;

(c) if the State President dies or for any other reason vacates his office before the expiration of his period of office and his successor in office has then not yet been elected, be a date not more than one month after the office became vacant: Provided that if the State President resigns and intimates in his resignation lodged with the Chief Justice in terms of section 9 (4) that he will vacate his office on a day not less than one month after the date of the lodging of his resignation, a date earlier than the day on which the office becomes vacant, shall be so fixed.

(4) If any electoral college removes the State President from office in terms of section 9, it shall forthwith proceed to elect a State President.

(5) No person may be elected or serve as State President unless he is qualified to be nominated or elected and take his seat as a member of a House.

(6) Any person who holds a public office in respect of which he receives any remuneration or allowance out of public funds, and who is elected as State President, shall vacate such office with effect from the date on which he is elected.

8. Method of election.—(1) Nominations of candidates for election as State President shall be called for at the meeting of the electoral college at which the election is to take place, by the person presiding at the meeting.

(2) Every nomination shall be submitted in the form prescribed and shall be signed by two members of the electoral college and also by the person nominated, unless he has in writing or by telegram signified his willingness to accept nomination.

(3) The names of the persons duly nominated as provided in subsection (2) shall be announced at the meeting at which the election is to take place by the person presiding at the meeting, and no debate shall be allowed at the election.

(4) If in respect of any election only one nomination has been received, the person presiding at the meeting shall declare the candidate in question to be duly elected.

(5) Where more than one candidate is nominated for election, a vote shall be taken by secret ballot, each member of the electoral college present at the meeting in question having one vote, and any candidate in whose favour a majority of all the votes cast is recorded shall be declared duly elected by the person presiding at the meeting.

(6) (a) If no candidate obtains a majority of all the votes so cast, the candidate who received the smallest number of votes shall be eliminated and a further ballot taken in respect of the remaining candidates, this procedure being repeated as often as may be necessary until a candidate receives a majority of all the votes cast and is declared duly elected.

(b) Whenever two or more candidates being the lowest on the poll have received the same number of votes, the electoral college shall by separate vote, to be repeated as often as may be necessary, determine which of those candidates shall for the purposes of paragraph (a) be eliminated.

(7) (a) Whenever—

(i) only two candidates have been nominated; or

(ii) after the elimination of one or more candidates in accordance with the provisions of this section, only two candidates remain,

and there is an equality of votes between those two candidates, a further meeting shall be called in accordance with the provisions of section 7, and the provisions of this section shall apply as if such further meeting were the first meeting called for the purposes of the election in question.

(b) If at the third meeting there is again an equality of votes, the electoral college shall dissolve, an electoral college shall again be constituted and the provisions of section 7 and this section shall apply *mutatis mutandis* as if the newly constituted electoral college were the first electoral college constituted for the purposes of the election in question.

(8) (a) The Chief Justice shall make rules in regard to the procedure to be observed at a meeting of any electoral college constituted as provided in section 7, including rules prescribing the form in which any nomination shall be submitted and rules defining the duties of the presiding officer and of any person appointed to assist him, and prescribing the manner in which a ballot at any such meeting shall be conducted.

(b) Such rules shall be made known in such manner as the Chief Justice may consider necessary.

9. Tenure of office of State President.—(1) The State President shall hold office, subject to the other provisions of this section—

(a) during the continuance of the Parliament from which the electoral college that elected him was constituted; and

(b) after the dissolution of that Parliament, whether by effluxion of time or otherwise, until a State President has, at or after the commencement of the first session of the newly constituted Parliament, been elected as provided in sections 7 and 8 and has assumed office,

but shall be eligible for re-election.

(2) The State President shall vacate his office—

(a) if in terms of section 7 (5) he becomes disqualified from serving as State President; or

(b) if he is removed from office under subsection (3).

National Assembly

(3) (a) The State President shall cease to hold office on a resolution adopted by a majority of the members present at a meeting of an electoral college constituted as prescribed in section 7 and convened, as so prescribed, by the Chief Justice at the request of ~~each of the three Houses~~ ^{the National Assembly}, and declaring him to be removed from office on the ground of misconduct or inability to perform efficiently the duties of his office.

(b) In connection with a resolution contemplated in paragraph (a) no debate shall be allowed in the electoral college.

(c) No request in terms of paragraph (a) shall be made by ~~any House~~ ^{the National Assembly}, except after consideration of a report of a committee of Parliament appointed in accordance with rules and orders contemplated in section 64.

(d) ~~A House~~ ^{The National Assembly} shall not adopt a resolution that such a committee be appointed, unless there has previously been submitted to the Speaker of Parliament a petition signed by not less than half of the members of ~~each House~~ ^{the National Assembly} and requesting that such a committee be appointed.

(e) In connection with a resolution contemplated in paragraph (d) no debate shall be allowed in the ~~House in question~~ ^{National Assembly}.

(4) The State President may resign by lodging his resignation in writing with the Chief Justice.

10. Acting State President.—(1) Whenever the State President is for any reason unable to perform the duties of his office, a member of the Cabinet nominated by the State President shall serve as Acting State President.

(2) Whenever—

(a) the State President is unable to nominate a member of the Cabinet in terms of subsection (1); or

(b) the member so nominated is for any reason unable to act; or

(c) the office of State President is vacant and there is no member so nominated or the member so nominated is unable to act,

a member of the Cabinet designated by the remaining members thereof shall serve as Acting State President during the incapacity of the State President or of the member nominated by him, as the case may be, or until a State President has been elected and has assumed office.

(3) (a) If a member of the Cabinet serves as Acting State President in terms of a designation under subsection (2) during the incapacity of the State President or of the member nominated by him, and the Speaker of Parliament is at any time of the opinion that neither the State President nor his nominee will be able to resume the duties of his office within 60 days from the date on which his incapacity set in, the Speaker shall in writing inform the Acting State President and the Chief Justice accordingly, and thereupon a member of the Cabinet shall without delay be designated as Acting State President by an electoral college *mutatis mutandis* in accordance with sections 7 and 8.

(b) When the Acting State President so designated by the electoral college assumes office, any nomination or designation made under subsection (1) or (2) shall lapse.

(c) The Acting State President so designated by the electoral college shall serve as such during the incapacity of the State President or until a State President has been elected and has assumed office, as the circumstances may require.

(4) Whenever it is in any of the circumstances mentioned above not possible to nominate or designate an Acting State President, the Speaker of Parliament shall serve as Acting State President.

11. Oath of office by State President and Acting State President.—(1) The State President and any Acting State President shall when assuming office make and subscribe an oath of office in the following form before the Chief Justice or any other judge of the Supreme Court:

In the presence of Almighty God and in full realization of the high calling I assume as State President Acting State President in the service of the Republic, I, A.B., do swear to be faithful to the Republic of South Africa and do solemnly and sincerely promise at all times to promote that which will advance and to oppose all that may harm the Republic; to obey, observe, uphold and maintain the Constitution and all other Law of the Republic; to discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience; to do justice unto all; and to devote myself to the well-being of the Republic and its people.

May the Almighty God by His grace guide and sustain me in keeping this oath with honour and dignity.

So help me God.

(2) In the case of the State President the oath shall be made and subscribed by him at a formal function where the Seal of the Republic is handed over to him by the outgoing State President or Acting State President, unless he already has the Seal in his custody.

12. Salary of State President.—There shall be paid to the State President out of and as a charge on the State Revenue Fund and apart from any privilege which he may enjoy, such salary and allowances as may be determined from time to time by resolution of Parliament.

13. Pension payable to State President and State President's widow or widower.—

(1) There shall be paid out of and as a charge on the State Revenue Fund—

(a) to any person who has at any time held the office of State President, an annual pension equal to the annual salary which was payable to him on the day upon which he vacated office;

(b) to the widow or widower of any such person a pension at the rate of three-quarters of the rate of the pension payable to such a person.

(2) A pension in terms of subsection (1) shall be payable—

(a) in the case of the State President, with effect from the day following that upon which he vacated office;

(b) in the case of the State President's widow or widower, with effect from the day following that upon which such person became a widow or a widower.

PART IV

~~OWN AFFAIRS AND GENERAL AFFAIRS~~

14. Own affairs.—(1) Matters which specially or differentially affect a population group in relation to the maintenance of its identity and the upholding and furtherance of its way of life, culture, traditions and customs, are, subject to the provisions of section 16, own affairs in relation to such population group.

(2) Matters coming within the classes of subjects described in Schedule 1 are, subject to the provisions of section 16, own affairs in relation to each population group.

15. General affairs.—Matters which are not own affairs of a population group in terms of section 14 are general affairs.

16. Decision of questions on own or general nature of matters.—(1) (a) Any question arising in the application of this Act as to whether any particular matters are own affairs of a population group shall be decided by the State President, who shall do so in such manner that the governmental institutions serving the interests of such population group are not by the decision enabled to affect the interests of any other population group, irrespective of whether or not it is defined as a population group in this Act.

(b) All such questions shall be general affairs.

(2) The State President may, if he deems it expedient, but subject to the provisions of section 31—

(a) express his decision on any question contemplated in subsection (1) by proclamation in the *Gazette*; or

(b) make his decision on any such question known for general information by such a proclamation, or make it known or cause it to be made known in such other manner as he may deem fit,

and shall advise the Chairman of each Ministers' Council of every such decision.

(3) When the State President assigns the administration of a law to a Minister of a department of State for own affairs of a population group under section 26 or 98 he shall do so in pursuance of a decision under this section that the law, in so far as its administration is so assigned, deals with own affairs of the population group in question.

17. Reference of questions to President's Council for advice, and consultation on certain matters.—(1) The State President may refer any question which is being considered by him in terms of section 16 to the President's Council for advice.

(2) (a) Before the State President issues a certificate under section 31 in respect of a bill or an amendment or a proposed amendment thereof, he shall consult the Speaker of Parliament and the Chairmen of the respective Houses in such manner as he deems fit.

(b) Paragraph (a) does not apply to the issue of a certificate in respect of a bill or an amendment thereof which has been altered as a result of the consultation in terms of that paragraph.

18. Validity of State President's decisions on own or general nature of matters.—(1) Any division of the Supreme Court of South Africa shall be competent to inquire into and pronounce upon the question as to whether the provisions of section 17 (2) were complied with in connection with a decision of the State President contemplated in those provisions.

(2) Save as provided in subsection (1), no court of law shall be competent to inquire into or pronounce upon the validity of a decision of the State President that matters mentioned in the decision are own affairs of a population group, or are not own affairs of a population group, as the case may be.

(3) For the purposes of subsection (2), the matters dealt with in any bill which, when introduced in a House, is not endorsed with or accompanied by a certificate contemplated in section 31, shall be deemed to be matters which are not own affairs of any population group by virtue of a decision of the State President.

PART V

THE EXECUTIVE AUTHORITY

19. Executive authority.—(1) The executive authority of the Republic shall ~~vest~~ *vest*
(a) ~~in regard to matters which are own affairs of any population group is vested in the State President acting on the advice of the Ministers' Council in question;~~
(b) ~~in regard to general affairs is vested in the State President acting in consultation with the Ministers who are members of the Cabinet;~~ *provided that such consultation shall be deemed to be sufficient in respect of any decision that is supported by at least two thirds of the members of the Cabinet.*

(2) Except in sections 20 (c) ~~and 24, 25, 26, 33, 39 (2), 66 and 98 (3)~~ ^{and 37}, or where otherwise expressly stated or necessarily implied, any reference in this Act to the State President is a reference to the State President acting as provided in subsection (1).

20. The Cabinet.—The Cabinet shall consist of—

- (a) the State President, who shall preside at its meetings;
- (b) the Ministers appointed to administer departments of State ~~for general affairs~~;
- (c) any Minister appointed to perform functions other than the administration of a department of State and designated by the State President as a member of the Cabinet; and

21(1) The Cabinet shall be composed of ~~nominees~~ ^{members of political parties whose representation in the National Assembly exceeds 5% of the total membership of the Assembly}

~~(d) any member of a Ministers' Council designated by the State President as a member of the Cabinet, whether for a definite or for an indefinite period or for a particular purpose.~~

21. Ministers' Councils.—(1) A Ministers' Council shall consist of—

- (a) the Ministers appointed to administer departments of State for own affairs of one and the same population group;
- (b) any Minister who is a member of the population group in question and who has been appointed as a member of the Ministers' Council to perform functions other than the administration of a department of State;
- (c) any Deputy Minister appointed to exercise or perform powers, functions and duties on behalf of any of the Ministers referred to in paragraph (a); and
- (d) any Minister of the Cabinet who is a member of the population group in question and who has been co-opted by the Ministers' Council as a member thereof, whether for a definite or for an indefinite period or for a particular purpose.

(2) Cabinet appointments shall be in proportion to the representation of the parties concerned in the National Assembly:

~~(2) The State President shall designate a Minister who is a member of a Ministers' Council and who, at the time of the designation, in the opinion of the State President has the support of the majority in the House consisting of members of the population group in question, as the Chairman of such Ministers' Council.~~

22. Seal of Republic.—(1) There shall be a Seal of the Republic, showing the coat of arms of the Republic with the circumscription "Republic of South Africa—Republiek van Suid-Afrika".

(2) The Seal shall be in the custody of the State President and shall, save in so far as may be otherwise determined by the State President, be used on all public documents on which it was required to be used immediately before the commencement of this Act.

23. Confirmation of executive acts of State President.—(1) The will and pleasure of the State President as head of the executive authority of the Republic shall be expressed in writing under his signature.

(2) Any instrument signed by the State President acting ~~on the advice of a Ministers' Council or in consultation with the Ministers who are members of the Cabinet~~, shall be countersigned by a Minister who is ~~a member of the Ministers' Council in question or, as the case may be, a member of the Cabinet.~~

(3) The signature of the State President on any instrument shall be confirmed as provided in section 22.

24. Appointment of Ministers.—(1) The State President may appoint as many persons as he may from time to time deem necessary to administer such departments of State of the Republic as the State President may establish, or to perform such other functions as the State President may determine, and he may himself administer such a department of State ~~for general affairs~~ if at any time no person has been appointed under this subsection or section 25 to administer it.

[Sub-s. (1) substituted by s. 3 of Act No. 105 of 1984.]

(3) All Cabinet appointments shall be made by the State President in consultation with the leader of the political party from which the Cabinet Member will be appointed.

(2) Persons appointed under subsection (1) ~~shall hold office during the State President's pleasure and shall be the Ministers of the Republic, and any such person~~ shall only be removed from office by the State President acting in consultation with the leader of the political party which nominated such Minister to represent the National Assembly.

(3) (a) ~~No Minister shall hold office for a longer period than 12 months unless he is or becomes a member of a House.~~

(b) ~~A Minister of any department of State for own affairs of a population group shall~~

(i) ~~be a member of the population group in question; and~~

(ii) ~~at the time of his appointment as such Minister, in the opinion of the State President have the support of the majority in the House consisting of members of that population group.~~

(4) A Minister shall before assuming his duties make and subscribe an oath before the Chief Justice or any other judge of the Supreme Court in the following form:

I, A.B., do hereby swear to be faithful to the Republic of South Africa and undertake before God to honour this oath; to hold my office as Minister with honour and dignity; to respect and uphold the Constitution and all other Law of the Republic; to be a true and faithful counsellor; not to divulge directly or indirectly any matters which are entrusted to me under secrecy; and to perform the duties of my office conscientiously and to the best of my ability.

So help me God.

25. Temporary performance of Minister's functions of office by another Minister.— Whenever a Minister is for any reason unable to perform any of the functions of his office, or whenever any Minister has vacated his office and a successor has not yet been appointed, the State President may appoint any other Minister to act in the said Minister's stead or office, either generally or in the performance of any specific function.

26. Assignment of Minister's functions to another Minister, or performance thereof by or on behalf of State President.—(1) The State President may assign the administration of any provision in any law which entrusts to a Minister any power, duty or function, to any other Minister—

- (a) either specifically or by way of a general assignment of the administration of any law or of all laws entrusting powers, duties or functions to such first-mentioned Minister; and
- (b) either generally or in so far as such provision, law or laws relate to any population group or matter mentioned in such assignment.

(2) ~~A power, duty or function entrusted or assigned by or under this Act or any other law to a Minister of a department of State for general affairs which is administered by the State President, may be exercised or performed by the State President as if he were the Minister of the department in question, and may be exercised or performed on behalf of the State President by a Minister referred to in section 20 (b) or (c) who has been authorized thereto by the State President.~~

[S. 26 substituted by s. 4 of Act No. 105 of 1984.]

27. Appointment and functions of Deputy Ministers.—(1) (a) The State President may, subject to subsection (2), appoint any person to hold office during the State President's pleasure as Deputy Minister of any specified department of State or Deputy Minister of such other description as the State President may determine, and to exercise or perform on behalf of a Minister any of the powers, functions and duties entrusted to such Minister in terms of any law or otherwise which may, subject to the directions of the State President, be assigned to him from time to time by such Minister.

(b) Any reference in any law to a deputy to a Minister shall be construed as including a reference to a Deputy Minister appointed under this subsection, and any such reference to a Minister shall be construed as including a reference to a Deputy Minister acting in pursuance of an assignment under paragraph (a) by the Minister for whom he acts.

(2) (a) ~~No Deputy Minister shall hold office for a longer period than 12 months unless he is or becomes a member of a House.~~

(b) ~~The provisions of section 24 (3) (b) shall apply mutatis mutandis to a Deputy Minister appointed to exercise or perform any powers, functions and duties on behalf of a Minister of a department of State for own affairs of a population group.~~

(3) A Deputy Minister shall before assuming his duties make and subscribe an oath, in the form prescribed in section 24 (4) but with reference to his office as Deputy Minister, before the Chief Justice or any other judge of the Supreme Court.

PART VI

PARLIAMENT

30. Reconstitution of Parliament.-(1) Parliament shall be reconstituted as one House, the National Assembly, which shall have sovereign legislative authority in and over the Republic

(2) Parliament, reconstituted in terms of subsection (1) hereof, shall function both as a Constituent Assembly, with the power to draft and adopt a new constitution, and as a legislature, with the power to make laws for the peace, order and good government of the Republic.

31. Sitting of Parliament.-(1) Parliament shall commence its sittings seven days after the last polling day for the election.

(2) Parliament may adjourn its sittings from time to time, but shall remain in session until it has completed its primary task of adopting a new constitution, or until it is dissolved by effluxion of time in accordance with the provisions of this Act.

32. Duration and dissolution of Parliament.-(1) Parliament shall continue until a new constitution has been adopted as contemplated in section 31(2) or section 42 of this Act, provided that if a new constitution has not been adopted within a period of one year from the date on which the first sitting of Parliament commenced, it shall be dissolved, and an election shall be held for a new Parliament in accordance with the provisions of this Act.

~~(2) Notwithstanding the provisions of subsection (1) hereof, and provided that Parliament shall at the latest be dissolved five years after the day on which its first sitting commenced, Parliament shall have the power from time to time to extend the period of one year referred to in subsection (1) for such period or periods as it considers appropriate.~~ *but no longer than provided that the period in periods shall not in total be more than 10 years*
(3) Unless the new Constitution otherwise provides, the State President shall dissolve Parliament by proclamation in the gazette to be published not later than thirty days after the adoption of the new constitution, and an election shall thereafter be held for a new Parliament in accordance with the provisions of the new constitution. *the date when proclamation would be dissolved in terms of subsect (1).*

insert @ 42 as new 33.

33. Effect of dissolution.- Notwithstanding the dissolution of Parliament by effluxion of time or otherwise, the State President shall have the power by proclamation in the gazette to summon Parliament for the dispatch of urgent business during the period following such dissolution up to and including the day immediately preceding the day on which polling for the election held in pursuance of such dissolution commences.

34. Constitution of the National Assembly.-The National Assembly shall consist of four hundred members to be elected by qualified voters by secret ballot. All persons who are South African citizens, or who are deemed to be South African citizens in

any such committee to meet and exercise or perform its powers duties and functions at a place beyond the seat of Parliament.

46. **Public Access to Sitzings.-** All sittings of the National Assembly shall be held in public and members of the public and the media shall have access to such sittings: provided that reasonable safeguards may be instituted to search or refuse entry to persons in order to protect the safety of members or other persons present in the National Assembly.

(4) Whenever any Deputy Minister is for any reason unable to perform any of the functions of his office, the State President may appoint any other Deputy Minister or any other person to act in the said Deputy Minister's stead, either generally or in the performance of any specific function.

28. Power to appoint and discharge persons.—(1) The appointment and removal of persons in the service of the Republic shall be vested in the State President, unless the appointment or removal is delegated by the State President to any other authority or is in terms of this Act or any other law vested in any other authority.

(2) A Minister may, subject to the directions of the State President, assign to any person appointed by the State President under subsection (1) for that purpose, any power, function or duty entrusted to the Minister in terms of any law or otherwise—

- (a) either specifically or by way of a general assignment of the exercise or performance of all powers, functions or duties of the Minister; and
- (b) either generally or in so far as such power, function or duty relates to any population group or matter or applies in any area mentioned or described in such assignment.

and any such power, function or duty so assigned shall be exercised or performed by the said person on behalf of the Minister.

[Sub-s. (2) added by s. 1 of Act No. 20 of 1987.]

29. Seat of Government.—Save as is otherwise provided in section 36, Pretoria shall be the seat of the Government of the Republic.

PART VI ~~PARLIAMENT~~ ~~THE LEGISLATURE~~

The Legislature and its Powers

30. Legislature and its powers.—The legislative power of the Republic is vested in the State President and the Parliament of the Republic, which, as the sovereign legislative authority in and over the Republic, shall have full power to make laws for the peace, order and good government of the Republic: Provided that the powers of Parliament in respect of any bill contemplated in section 31 shall be exercised as provided by that section.

31. Bills on own affairs of a population group.—(1) A bill which, when introduced in a House, is endorsed with or accompanied by the certificate of the State President that the bill deals with matters which are own affairs of the population group in question, shall be disposed of by that House, and shall not be required to be, or be, introduced in or dealt with by any other House.

(2) If an amendment of any such bill is proposed in the House in question or adopted by it, and the certificate of the State President that such amendment deals with matters which are not own affairs of the population group in question, is at any time, whether before the bill is passed by the House or after it has been passed by it but before the State President has assented to it, laid upon the Table of the House, the bill shall not or, as the case may be, not again be presented to the State President for his assent unless—

- (a) the proposal for the amendment is withdrawn or not agreed to; or
- (b) if the bill was passed before the tabling of the certificate, the House has reconsidered the amendment and has adopted in its place an amendment in respect of which the State President's certificate *mutatis mutandis* in accordance with subsection (1) of this section was issued before it was adopted.

(3) A bill passed by a House under subsection (1) or passed by a House and thereafter amended in accordance with subsection (2) (b), shall, when it is presented to the State President for his assent, be endorsed with the certificate of the Chairman of the House that it has been passed and is presented for assent in accordance with this section or, as the circumstances may require, that it has been passed and amended and is presented for assent in accordance with this section.

32. Disagreement among the Houses.—(1) If during the same session of Parliament—

- (a) one or two Houses pass a bill and the other Houses or House rejects it or is deemed in terms of subsection (2) to have rejected it; or
- (b) two Houses pass different versions of a bill and the other House rejects it or is so deemed to have rejected it; or

(c) ~~two Houses pass a bill and the other House passes a different version of it;~~
or

(d) each of the Houses passes a different version of a bill,

the State President may during that session refer the bill or the different versions thereof which have been passed, as the case may be, to the President's Council for its decision: Provided that the State President may withdraw the reference at any time before the President's council gives its decision.

(2) (a) If—

(i) the State President, by message to a House, has requested that a bill passed by another House and introduced in the House in question or in respect of which notice of a motion for its introduction or consideration has been given in that House, be disposed of by that House before a date mentioned in the message, which may not be a date earlier than 14 days after the date of the message; and

(ii) that House has not disposed of such bill before the date mentioned in the message,

that House shall be deemed for the purposes of subsection (1) to have rejected the bill, unless the State President by like message determines otherwise within seven days after the date so mentioned.

(b) A House which has rejected a motion for the introduction or consideration of a bill shall be deemed for the purposes of subsection (1) to have rejected the bill.

[Sub-s. (2) substituted by s. 5 of Act No. 105 of 1984.]

(3) When a recommendation of the President's Council has been laid upon the Table of a House as provided in section 78 (8), the House may deal with the recommendation.

(4) A bill which was referred to the President's Council under subsection (1) and which, in terms of a decision of that council given during the session of Parliament in which the bill was so referred, is to be presented to the State President for his assent, shall be deemed to have been passed by Parliament.

(5) A bill which is deemed in terms of subsection (4) to have been passed by Parliament shall, when it is presented to the State President for his assent, be endorsed with the certificate of the Speaker of Parliament that the bill is by virtue of a decision of the President's Council so deemed to have been passed by Parliament.

37 ~~33.~~ Assent to bills.—(1) ~~When a bill which has been passed by the National Assembly~~ *shall be*
(a) ~~has been passed by Parliament; or~~
(b) ~~in terms of section 32 (4) is deemed to have been passed by Parliament; or~~
(c) ~~has been passed by a House in accordance with section 31,~~

~~is presented to the State President for his assent, he shall declare that he assents thereto or that he withholds assent, but he shall not declare that he withholds assent unless he is satisfied that the bill has not been dealt with as provided in this Act.~~

~~(2) The provisions of subsection (1) of this section shall not affect the State President's powers in terms of subsection (2) of section 31 to issue a certificate contemplated in the last mentioned subsection in respect of an amendment of a bill when the bill is presented to him for assent, and to return the bill to the House in question.~~

38 ~~34.~~ Validity of Acts of Parliament.—(1) A bill referred to in section 33 ³⁷ (4) to which the State President has assented shall be an Act of Parliament.

(2) (a) Any division of the Supreme Court of South Africa shall, subject to the provisions of sections ~~34~~, be competent to inquire into and pronounce upon the question as to whether the provisions of this Act were complied with in connection with any law which is expressed to be enacted by the State President and Parliament or by the State President and any House

41 (7) and 41 (8)

(2) The State President shall assent to a bill which has been passed in accordance with the provisions of this Act, and shall withhold his assent if the provisions of this Act have not been complied with

~~(b) Rules and orders of a House and joint rules and orders of the Houses shall not be regarded as provisions of this Act for the purposes of paragraph (a).~~

(3) Save as provided in ^{THIS ACT IS THE PROVISIONS OF THE CONSTITUTIONAL RIGHTS ACT} subsection (2), no court of law shall be competent to inquire into or pronounce upon the validity of an Act of Parliament.

39. ~~35.~~ Signature and enrolment of Acts.—As soon as may be after any law has been assented to by the State President, the Secretary to Parliament shall cause two fair copies of such law, one being in the English and the other in the Afrikaans language (one of which copies shall have been signed by the State President), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa, and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies so enrolled that signed by the State President shall prevail.

40. ~~36.~~ Seat of Legislature.—Cape Town shall be the seat of the ~~Legislature of the Republic~~
National Assembly
~~Parliament~~

~~37. Constitution of Parliament.—(1) Parliament shall consist of three Houses, namely, a House of Assembly, a House of Representatives and a House of Delegates.~~

~~(2) If and for as long as any House is unable, during a session of Parliament, to meet for the performance of its functions or to perform its functions—~~

~~(a) by reason of a shortfall in the number of its members, or because there are no members, as a result of the resignation of members or the fact that an insufficient number of members or no member was elected at any election of members of such House; or~~

~~(b) by reason of the absence of members, or the failure of members to take their seats or to perform the functions of their office, after the State President has by proclamation in the *Gazette* called upon all members of such House to be present in the chamber of such House for the performance of their functions as such members on a day and at an hour mentioned in the proclamation, and that hour and day have passed,~~

Parliament shall consist of the Houses that are or, according to the circumstances, the House that is able to perform their or its functions, and the provisions of this Act and any other law shall be construed accordingly.

38. Sessions of Parliament.—(1) The State President may appoint such times for the sessions of Parliament as he thinks fit, and may also from time to time, by proclamation in the *Gazette* or otherwise, prorogue Parliament.

(2) There shall be a session of Parliament at least once in every year, so that a period of 13 months shall not intervene between the commencement of one session and the commencement of the next session.

(3) The first session of Parliament after the general election of members of the Houses held in pursuance of a dissolution of Parliament, shall commence within 30 days after the polling day of the election.

39. Duration and dissolution of Parliament or a House.—(1) Every Parliament shall continue for five years from the day on which its first session commences.

(2) The State President—

(a) may dissolve Parliament by proclamation in the *Gazette* at any time; and

(b) shall so dissolve parliament, unless he resigns from office, if each House, during one and the same ordinary session of Parliament—

(i) passes a motion of no confidence in the Cabinet within any period of 14 days; or

41(1). Voting in the National Assembly.--(1) Save as set out in this section all questions in the National Assembly shall be determined by a majority of 66,7% of votes of members present ~~other than the Chairman or the Presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.~~

(2) When Parliament sits as a Constituent Assembly for the purposes of adopting a new constitution, all questions shall be determined by a majority of 66,7 per cent of votes of members present ~~other than the Chairman or the Presiding member:~~ provided that the Constitution to be adopted shall in all respects conform with, and shall not in any respect contradict the constitutional principles set out in the Schedule to this Act.

general
(3) The constitutional principles set out in the Schedule to this Act shall limit the power of Parliament sitting as a Constituent Assembly, and no repeal or amendment of such principles shall be permissible under this Constitution.

(4) Should any political party represented in the National Assembly contend that a proposed provision of the new Constitution which has been put to the National Assembly for adoption does not comply with the requirements of section 41(2) of this Act, the political party concerned shall inform the Speaker of its contention, and in that event debate upon such proposal shall be suspended, and the contention of the political party shall be referred by the Speaker to the Constitutional Panel referred to in section 41(5) of this Act for its determination.

(5) A Constitutional Panel consisting of seven (suitably qualified) persons shall be appointed en bloc by the National Assembly to determine all disputes arising out the provisions of section 41(3) hereof. The Constitutional Panel shall function and take decisions in accordance with the procedures set out in the Schedule hereto.

(6) A determination by the Constitutional Panel shall be final and binding and shall not be subject to appeal or review by a court of law.

(7) No court of law shall have jurisdiction to pronounce upon the validity of any constitution adopted by Parliament sitting as a Constituent Assembly on the grounds that such constitution does not comply with the requirements of section 41(3) of this Act.

(8) Nothing in section 41(7) of this Act shall be construed as depriving a court of law of its duty to uphold determinations made by the Constitutional Panel.

(9) When Parliament sits as a legislature the special majorities hereinafter set out shall be required for the following matters--

(a) in order to repeal specific provisions of or

otherwise amend this constitution, 80 per cent of the votes of members present other than the Chairman or the Presiding member.

(b) in order to repeal or amend (special legislation agreed to by Codesa, including the 'Protection of Fundamental Rights Act'), 80 per cent of the votes of members present other than the Chairman or the Presiding member.

(42(1)) If the National Assembly ^{elected after the dissolution of the State Assembly} sitting as a Constituent Assembly, has not adopted a new constitution within a period of ^{which has been decided in terms of sec 32(1)} six months from the date of the first sitting of such Assembly, ~~the National Assembly may resolve by a simply majority of members present other than the Chairman, or the Presiding Member, that a constitution which has the approval of such majority, be put to a general referendum.~~ ^{a simple shall}

(2) If a resolution is passed in terms of subsection (1) hereof, a general referendum shall be held on a date to be fixed by the State President by notice in the gazette, which shall not be later than one month after the passing of such resolution. ^{and}

(3) The referendum shall be conducted in accordance with the provisions set out in the Schedule to this Act.

(4) If at least ^{55% 55.7% (60%)} of the votes cast in the general referendum are in favour of the adoption of the proposed constitution, it shall be deemed to have been adopted in accordance with the provisions of this Act.

43. Repeal of this Act.- When Parliament is sitting as a Constituent Assembly adopts a new constitution in accordance with the provisions of section 41(2) hereof, or when a new constitution is deemed to have been adopted in accordance with the provisions of section 42 hereof, this Act shall be deemed to be repealed thereby. Save as aforesaid, and save as set out in section 41(9)(a) hereof, the House of Assembly shall have no power to repeal this Act or any of its provisions.

44. Committees of the National Assembly - The National Assembly may appoint committees consisting of its members in order to perform functions assigned to them by the Assembly provided that no party represented in the Assembly shall be excluded from any such committee, and provided further that the committees shall as far as possible be composed in a way which gives parties representation in proportion to their representation in the Assembly

45. Rules of procedure.- (1) The National Assembly may make rules and orders in connection with the order and conduct of its business and proceedings as a Constituent Assembly and as a Legislature.

(2) The rules and orders may provide for the manner in which committees appointed by it in terms of section 43 hereof shall conduct their affairs and take their decisions, and may authorise

accordance with the provisions of the schedule to this Act, shall be qualified and entitled to vote in the election for members of the National Assembly.

35. Elections for the National Assembly.- The members of the House of Assembly shall be elected by proportional representation in accordance with the principles and procedures set out in the schedule to this Act.

36. Disqualifications for membership of the National Assembly- (1) No person shall be capable of being elected to or of sitting as a member of the National Assembly unless such person is qualified in accordance with the provisions set out in the schedule to this Act to hold such office

(2) Any member of the National Assembly who, after having been elected to the House, ceases to be qualified for membership, shall vacate his seat.

(ii) rejects any bill which appropriates revenue or moneys for the ordinary annual requirements or services of the departments of State controlled by members of the Cabinet.

(3) Subject to the provisions of subsection (2) —

(a) the State President may dissolve any House by proclamation in the *Gazette* if —

- (i) such House passes a motion of no confidence in the Cabinet; or
- (ii) such House rejects any bill referred to in subsection (2) (b) (ii); or
- (iii) any circumstance contemplated in section 37 (2) applies to such House; or
- (iv) the Ministers' Council in question requests him to do so;

(b) the State President shall so dissolve any House or reconstitute the Ministers' Council in question if —

- (i) such House passes a motion of no confidence in the Ministers' Council in question; or
- (ii) such House rejects any bill referred to in section 31 which appropriates revenue or moneys for the ordinary annual requirements or services of the departments of State controlled by members of the Ministers' Council in question.

40. Effect of dissolution. — Notwithstanding the dissolution of any House in terms of this Act, whether by a dissolution of Parliament or otherwise and whether by effluxion of time or otherwise —

- (a) every person who at the date of the dissolution is a member of such House shall remain a member thereof;
- (b) such House shall remain competent to perform its functions; and
- (c) the State President shall have power to summon Parliament or the House in question for the dispatch of business.

during the period following such dissolution up to and including the day immediately preceding the polling day for the election held in pursuance of such dissolution, in the same manner in all respects as if the dissolution had not occurred.

The Houses

41. Constitution of House of Assembly. — (1) The House of Assembly shall consist of —

- (a) 166 members, each of whom shall be directly elected by the persons entitled to vote at an election of such a member in an electoral division delimited as provided in section 49;
- (b) four members nominated by the State President, of whom one shall be nominated from each province;
- (c) eight members elected by the members contemplated in paragraph (a) according to the principle of proportional representation, each voter having one transferable vote.

(2) The number of members of the House of Assembly to be elected as provided in subsection (1) (a) in each province, shall be as follows: —

Cape of Good Hope	56
Natal	20
Orange Free State	14
Transvaal	76

42. Constitution of House of Representatives.—(1) The House of Representatives shall consist of—

- (a) 80 members, each of whom shall be directly elected by the persons entitled to vote at an election of such a member in an electoral division delimited as provided in section 49;
- (b) two members nominated by the State President;
- (c) three members elected by the members contemplated in paragraph (a) according to the principle of proportional representation, each voter having one transferable vote.

(2) The number of members of the House of Representatives to be elected as provided in subsection (1) (a) in each province, shall be as follows:—

Cape of Good Hope	60
Natal	5
Orange Free State	5
Transvaal	10

43. Constitution of House of Delegates.—(1) The House of Delegates shall consist of—

- (a) 40 members, each of whom shall be directly elected by the persons entitled to vote at an election of such a member in an electoral division delimited as provided in section 49;
- (b) two members nominated by the State President;
- (c) three members elected by the members contemplated in paragraph (a) according to the principle of proportional representation, each voter having one transferable vote.

(2) The number of members of the House of Delegates to be elected as provided in subsection (1) (a) in a province, shall be as follows:—

Cape of Good Hope	3
Natal	29
Transvaal	8

44. References to directly and indirectly elected and nominated members of Houses.—Any reference in this Part to a directly elected member, a nominated member and an indirectly elected member of a House, shall be construed as a reference to a member of such House who, as the case may be and as the context may require, has been elected or nominated or is to be elected or nominated as provided in section 41 (1) (a), (b) and (c), respectively, or section 42 (1) (a), (b) and (c), respectively, or section 43 (1) (a), (b) and (c), respectively.

45. Alteration of number of members of province.—Notwithstanding any provision to the contrary contained in this Act, the number of members of any House to be elected in the various provinces as provided in section 41 (2), 42 (2) or 43 (2), as the case may be, shall not be altered until—

- (a) in the case of the House of Assembly, a period of five years has elapsed from the last delimitation of its electoral divisions in terms of the previous Constitution; and
- (b) in the case of the House of Representatives and the House of Delegates, a period of 10 years has elapsed from the first delimitation of the electoral divisions of the House in question in terms of this Act.

46. Nomination and indirect election of members of Houses.—(1) The State President may make regulations in regard to the election of indirectly elected members of a House, including regulations prescribing the manner of voting and of the transfer and counting of votes and the duties of returning officers in connection with such election.

(2) (a) A casual vacancy in the seat of a nominated or an indirectly elected member of a House shall, subject to the provisions of paragraph (b), be filled by the nomination or election of a member for the unexpired portion of the term of office of the member in whose stead he is nominated or elected, and in the same manner in which the last-mentioned member was nominated or elected.

(b) If a casual vacancy in the seat of an indirectly elected member of a House exists while there is one or more directly elected members of the House who belong to or are supporters of the same political party as that to which the member whose seat is vacant belonged or of which he was a supporter at the time when the seat became vacant, the vacancy shall be filled by the nomination of a member by the said directly elected member or members (hereinafter referred to as competent members) for the unexpired portion of the term of office of the member whose seat is vacant: Provided that in the case of a casual vacancy in the seat of an indirectly elected member who, when the vacancy occurred, no longer belonged to or was a supporter of the said political party, the vacancy shall be filled in the manner prescribed in paragraph (a).

(c) A nomination in terms of paragraph (b) shall—

- (i) be made on a form prescribed by the Speaker of Parliament;
- (ii) contain the nominee's consent to his nomination and his confirmation that he is competent to become a member of the House in question, signed by him;
- (iii) if there are not more than five competent members, be signed by every competent member;
- (iv) if there are more than five competent members, be signed on behalf of the competent members by the leader of the political party in question in the House and at least four other competent members; and
- (v) be lodged with the Secretary to Parliament, who shall record on it, under his signature, the date on which he receives it.

and shall take effect on the date so recorded on it and not earlier.

(d) A member of a House nominated in accordance with paragraphs (b) and (c) of this subsection shall for the purposes of this Act and any other law be deemed to have been elected in accordance with the provisions of section 41 (1) (c), 42 (1) (c) or 43 (1) (c), as the case may be, and any reference in this Act (except subsection (1) of this section) or any other law to an indirectly elected member or a member elected or to be elected as provided in the said provisions, or to the election of such a member, shall be construed as including a reference to a member nominated or to be nominated as provided in paragraphs (b) and (c) of this subsection or to the nomination of a member in accordance with the last-mentioned paragraphs, as the case may be.

[Sub-s. (2) substituted by s. 6 of Act No. 105 of 1984.]

(3) A nominated or indirectly elected member of a House who—

- (a) remains a member of the House in terms of section 40 up to and including the day immediately preceding the polling day for the relevant election referred to in that section; and
- (b) is not elected as a member of the House in question at that election.

shall, during the period which in terms of subsection (4) of this section is applicable in his case, be deemed to have been nominated or elected on that polling day as a nominated member or, as the case may be, as an indirectly elected member of that House, and, in the case of a nominated member of the House of Assembly, from the province from which he was in fact nominated.

(4) Any person who is a member of a House in terms of the provisions of subsection

(3) shall cease to be a member of such House in terms of those provisions—

- (a) in the case of a person deemed in terms of those provisions to have been nominated from a particular province as a member of the House of Assembly, on the day on which a nominated member of that House is nominated from

that province in pursuance of the relevant dissolution of that House referred to in section 40, or, if such a member is not so nominated within the period of 45 days after the polling day of the general election held in pursuance of that dissolution, at the expiration of that period; and

- (h) in the case of a person deemed in terms of those provisions to be an indirectly elected member of a House or a nominated member of a House other than the House of Assembly, on the first day on which indirectly elected or, as the case may be, nominated members of the House in question are elected or nominated in pursuance of the relevant dissolution referred to in section 40, or, if no such members are elected or nominated within the period of 45 days after the polling day of the general election held in pursuance of that dissolution, at the expiration of that period: Provided that such person, if he is elected or nominated as such a member but not on such first day, shall be deemed to have remained a member of the House in question up to and including the day immediately preceding the day on which he is so elected or nominated.

47. Polling day at general elections.—(1) At any general election of members of the Houses held in pursuance of a dissolution of Parliament, all polls shall be taken on one and the same day in all the electoral divisions of all three Houses throughout the Republic, such day to be appointed by the State President.

(2) At any general election of members of a House held in pursuance of its dissolution otherwise than at a dissolution of Parliament, all polls shall be taken on one and the same day in all the electoral divisions of that House throughout the Republic, such day to be appointed by the State President.

(3) The day appointed by the State President in terms of subsection (1) or (2), shall be a day not more than 180 days after the dissolution of Parliament or the House in question, as the case may be.

48. Delimitation of electoral divisions.—(1) At intervals of not less than five years and not more than 10 years, commencing from the first delimitation of electoral divisions in terms of this Act, the State President shall appoint a delimitation commission consisting of three judges of the Supreme Court of South Africa, which shall, subject to the provisions of section 41 (2), 42 (2) or 43 (2), as the case may be, divide the Republic, for the purpose of the election of directly elected members of a House, into the same number of electoral divisions as the number of such members of that House, in such a manner that no electoral division is situated partly in one province and partly in another province.

[Sub-s. (1) substituted by s. 1 of Act No. 61 of 1990.]

(2) No judge shall be appointed under subsection (1) as a member of a delimitation commission unless he has served as a judge, whether in a permanent or temporary capacity, for a total period of not less than five years.

(3) In dividing the Republic into electoral divisions in terms of subsection (1) the delimitation commission shall act in accordance with the provisions of section 49.

(Date of commencement of s. 48: 24 February, 1984.)

49. Method of dividing provinces into electoral divisions.—(1) For the purposes of the division of a province into electoral divisions of a House, the quota of the province for the House shall be obtained, subject to the provisions of subsection (4), by dividing the number of voters of the House in the province in terms of the current voters lists, duly corrected up to the latest possible date, by the number of members of the House to be elected in the province in terms of section 41 (2), 42 (2) or 43 (2), as the case may be.

(Date of commencement of s. 49 (1): 24 February, 1984.)

(2) A province shall be divided into electoral divisions of a House in such a manner that each such electoral division shall, subject to the provisions of subsections (3) and (4), contain a number of voters as nearly as may be equal to the quota of the province for the House.

(Date of commencement of s. 49 (2): 24 February, 1984.)

(3) The delimitation commission shall give due consideration to—

- (a) community or diversity of interests;
- (b) means of communication;
- (c) physical features;
- (d) boundaries of existing electoral divisions;
- (e) sparsity or density of population;
- (f) probability of increase or decrease of population;
- (g) local authority and magisterial district boundaries,

in such manner that, while taking the quota of voters as the basis of division, the commission may depart from the quota whenever it is deemed necessary, but in no case to a greater extent than 15 per cent more or 15 per cent less than the quota: Provided that in the case of an electoral division with an area of 25 000 square kilometres or more, the commission may reduce the number of voters to a number equal to 70 per cent of the quota.

(Date of commencement of s. 49 (3): 24 February, 1984.)

(4) (a) The port and settlement mentioned in the Walvis Bay and St John's River Territories Annexation Act, 1884, of the Cape of Good Hope, and the territory surrounding it and bounded as described in that Act, shall be one of the electoral divisions into which the province of the Cape of Good Hope shall be divided for the election of members of the House of Assembly, and, as such electoral division, it shall be called Walvis Bay until different provision is made under section 50.

(b) The boundaries of such electoral division, as described in paragraph (a), shall not be altered by any delimitation commission, but in so far as may be necessary for the purposes of any provision of this Act or any other law those boundaries shall be deemed to have been settled by such commission.

(c) The provisions of this section in regard to the quota of a province and the number of voters of an electoral division shall not apply in connection with the electoral division referred to in paragraph (a), and in their application at any delimitation of the other electoral divisions in the province of the Cape of Good Hope for the election of members of the House of Assembly—

- (i) the port, settlement and territory mentioned in paragraph (a) shall be deemed not to be part of that province;
- (ii) the voters of that electoral division, in terms of the current voters' list, duly corrected up to the latest possible date, shall be deemed not to be voters in that province; and
- (iii) the number of members of the House of Assembly to be elected in that province, shall be deemed not to include a member for that electoral division.

50. Powers and duties of delimitation commission.—(1) A delimitation commission, having delimited the electoral divisions of a House, shall submit to the State President—

- (a) a list of the electoral divisions, with the names given to them by the commission and, if the commission considers it necessary, a description of the boundaries or any part of the boundaries of any division;

[Para. (a) substituted by s. 1 (a) of Act No. 71 of 1989.]

- (b) a map or maps showing the electoral divisions into which the provinces have been divided;
- (c) such further particulars as it considers necessary.

(2) The State President may refer to the commission for its consideration all matters relating to such list or arising out of the powers or duties of the commission.

(3) The State President shall by proclamation in the *Gazette* make known the names of the electoral divisions as finally settled and certified by the commission, or a majority thereof, on the aforesaid map or maps, and thereafter, until there shall be a redivision, the electoral divisions so named and settled shall be the electoral divisions of the House in question in the Republic and the provinces.

[Sub-s. (3) substituted by s. 1 (b) of Act No. 71 of 1989.]

(4) The map or maps so certified shall be filed at the office of the Chief Electoral Officer referred to in section 5 (1) (a) of the Electoral Act, 1979, and such map or maps, together with any description contemplated in subsection (1) (a), shall be conclusive evidence of the boundaries of the electoral divisions as settled by the commission.

[Sub-s. (4) substituted by s. 1 (c) of Act No. 71 of 1989.]

(5)

[Sub-s. (5) deleted by s. 1 (d) of Act No. 71 of 1989.]

(6) (a) The State President may by proclamation in the *Gazette* alter the name of any electoral division as made known under subsection (3).

(b) The name given to any electoral division under paragraph (a) shall, notwithstanding the provisions of subsection (3), be the name of that electoral division until there shall be a redivision.

(Date of commencement of s. 50: 24 February, 1984.)

51. **Date from which alteration of electoral divisions takes effect.**—Any alteration in the number of members of a House to be elected in the several provinces, and any redivision of the provinces into electoral divisions of a House, shall come into operation at the next general election of directly elected members of the House in question held after the completion of the redivision or of any allocation consequent upon such alteration, and not earlier.

52. **Franchise.**—Every White person, Coloured person and Indian who—

- (a) is a South African citizen in terms of the South African Citizenship Act, 1949; and
- (b) is of or over the age of 18 years; and
- (c) is not subject to any of the disqualifications mentioned in section 4 (1) or (2) of the Electoral Act, 1979,

shall, on compliance with and subject to the provisions of the Electoral Act, 1979, be entitled to vote at any election of a member of the House of Assembly, the House of Representatives and the House of Delegates, respectively, in the electoral division of the House in question determined in accordance with the last-mentioned Act.

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53. Qualifications of members of Houses.—No person shall be qualified to be a member of a House under this Act unless he—

- (a) is qualified to be included as a voter in any list of voters of the House in question in an electoral division thereof; and
- (b) has resided for five years within the limits of the Republic.

54. Disqualifications for membership of Houses.—No person shall be capable of being elected or nominated or of sitting as a member of a House if he—

- (a) has at any time been convicted of any offence for which he has been sentenced to imprisonment without the option of a fine for a period of not less than twelve months, unless he has received a grant of amnesty or a free pardon or unless the period of such imprisonment expired at least five years before the date of his election or nomination; or
- (b) is an unrehabilitated insolvent; or
- (c) is of unsound mind, and has been so declared by a competent court; or
- (d) is an officer or other employee in the service of any institution, council or body contemplated in section 84 (1) (f) of the previous Constitution; or
- (e) holds any office of profit under the Republic: Provided that the following persons shall be deemed not to hold an office of profit under the Republic for the purposes of this paragraph, namely—
 - (i) a Minister of the Republic, or any person holding office as deputy to any Minister;
 - (ii) a person in receipt of a pension from the Republic;
 - (iii) an officer or member of the South African Defence Force on retired or half-pay, or an officer or member of the South African Defence Force whose services are not wholly employed by the Republic;
 - (iv) any person who has been appointed or has become a justice of the peace under section 2 of the Justices of the Peace and Commissioners of Oaths Act, 1963;
 - (v) any person appointed as an appraiser under section 6 of the Administration of Estates Act, 1965, or deemed to have been so appointed;
 - (vi) any person who, while the Republic is at war, is an officer or member of the South African Defence Force or any other force or service established by or under the Defence Act, 1957;
 - (vii) a member of any council, board, committee or similar body established by or under any law who receives no payment in respect of his services on such council, board, committee or body in excess of an allowance at a rate not exceeding the amount determined by the Minister of Finance by notice in the *Gazette* from time to time for each day on which he renders such services, any reimbursement of travelling expenses and subsistence expenses incurred by him in the course of such services and an allowance in respect of entertaining by him in connection with such services;
 - (viii) a member of a commission of inquiry or a committee of inquiry appointed by the State President or the Administrator of a province, or a member of a Select Committee of a House or of a provincial council or a member of a committee of Parliament.

55. Vacating of seats in Houses.—(1) a member of a House shall vacate his seat if he—

- (a) becomes subject to any disability mentioned in section 54; or

(b) ceases to be qualified as required by law; or

(c) fails for a whole ordinary session of Parliament or of the House of which he is a member to attend without the special leave of that House, unless his absence is due to his serving, while the Republic is at war, with the South African Defence Force or any other force or service established by or under the Defence Act, 1957.

(2) A member of a House who—

(a) is designated or appointed as a member of the President's Council, shall vacate his seat as a member of such House with effect from the date on which he becomes a member of the President's Council;

(b) is appointed to the office of administrator of a province or of member of the executive committee of a province, shall vacate his seat as a member of such House with effect from the date on which he assumes such office.

[Para. (b) substituted by s. 22 (a) of Act No. 69 of 1986.]

the National Assembly

56. Penalty for sitting or voting when disqualified.—Any person who is by law incapable of sitting as a member of ~~a House~~ and who, while so incapable and knowing or having reasonable grounds for knowing that he is so incapable, sits or votes as a member of the House in question, shall be liable to a penalty of R200 for each day on which he so sits or votes, which may be recovered on behalf of the Treasury of the Republic by action in any division of the Supreme Court of South Africa.

57. Oath.—Every member of ~~a House~~ shall, before taking his seat, make and subscribe before the Chief Justice, any other judge of the Supreme Court, the Speaker of Parliament or the Chairman of the House in question an oath in the following form:

I, A.B., do swear to be faithful to the Republic of South Africa and solemnly promise to perform my duties as a member of the ~~House of Assembly~~ ~~House of Representatives~~ ~~House of Delegates~~ to the best of my ability.
So help me God.

National Assembly

58. Speaker of Parliament.—(1) An electoral college referred to in subsection (1) of section 7 shall, after having elected a State President at a meeting called in accordance with the provisions of subsection (3) (a) or (b) of that section or those provisions as applied by subsection (7) of section 8, proceed to elect a Speaker of Parliament, who shall be a member of ~~a House~~. *the National Assembly*.

(2) The provisions of sections 7 and 8 shall apply *mutatis mutandis* and subject to the provisions of subsection (4) of this section in respect of the election of a Speaker.

(3) (a) The Speaker shall hold office until his successor is elected in terms of subsection (1), but shall be eligible for re-election.

(b) The Speaker shall cease to hold office if he ceases to be a member of the ~~House~~ of which he was a member at the time of his election as speaker, and may resign his office or his seat by lodging his resignation in writing with the Chief Justice.

National Assembly

(c) The provisions of subsection (3) of section 9 shall apply *mutatis mutandis* to the Speaker, but for the purpose of such application the words "~~every Chairman of a House~~" shall be deemed to have been substituted for the words "the Speaker of Parliament" in paragraph (d) of that subsection.

the Chairman of the National Assembly

(4) (a) When the Speaker is for any reason unable to perform the functions of his office, he shall designate a member of ~~a House~~ to perform those functions as Acting Speaker during his absence or inability. *the National Assembly*

(b) If the Speaker is unable to designate an Acting Speaker under paragraph (a) or when the office of Speaker is vacant and there is no Acting Speaker so designated, the State President shall designate a member of ~~a House~~ to perform the functions of the Speaker during his absence or inability or, notwithstanding the provisions of section 7 (3) (c) as applied by subsection (2) of this section but subject to the provisions of paragraph (c) of this subsection, until a Speaker is elected.

the National Assembly

(c) If the office of Speaker is vacant, the functions of that office may not during a session of Parliament be performed by an Acting Speaker for longer than a month unless it is the last session before a dissolution of Parliament, or a session contemplated in section 40.

59. Functions of Speaker.—(1) The Speaker of Parliament shall be the Speaker of each of the respective Houses and shall preside at a meeting of a House whenever he deems it necessary or desirable. *2 meetings of the National Assembly*

(2) The Speaker shall, when presiding at a meeting of a House, be vested with all the powers, duties and functions of the Chairman of the House, in so far as they are consistent with any functions assigned to the Speaker by rules and orders approved by all three Houses. Provided that the Speaker may only vote in the House of which he is a member.

60. Chairmen of Houses.—(1) *The* Every House shall at its first meeting not convened for the purposes of section 7 (1) (b), before proceeding to the dispatch of any other business, elect a member to be the Chairman of the House, and, as often as the office becomes vacant, the House shall again elect a member to be the Chairman. *The National Assembly*

[Sub-s. (1) substituted by s. 7 of Act No. 105 of 1984.]

(2) The Chairman of a House shall cease to hold office if he ceases to be a member of the House ~~in question~~ and may be removed from office by resolution of ~~that~~ House, and may resign his office or his seat by lodging his resignation in writing with the Speaker of Parliament.

(3) Before or during the absence of its Chairman, a House may elect a member to perform his functions during his absence. *the*

61. Quorums.—To constitute a meeting of a House for the determination of a question, the presence shall be necessary of ~~the House~~ *the National Assembly sitting either as the Constituent Assembly or as the Legislature, for the determination of a question, the presence of at least 100 members shall be necessary*

(a) in the case of the House of Assembly, at least 50 members;

(b) in the case of the House of Representatives, at least 25 members;

(c) in the case of the House of Delegates, at least 13 members.

[S. 61 amended by s. 1 of Act No. 50 of 1988.]

~~62. Voting in Houses.—All questions in a House shall be determined by a majority of votes of members present other than the Chairman or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.~~

63. Rules of procedure.—A House may make rules and orders in connection with the order and conduct of its business and proceedings.

~~64. Joint committees and rules and orders.—(1) In this section—~~

- (a) "joint committee" means a committee consisting of members of each of the Houses;
- (b) "joint rules and orders" means rules and orders approved, with a view also to uniformity, by each of the Houses as joint rules and orders in connection with the order and conduct of their joint and separate business and proceedings, and, in particular, of—
 - (i) the business and proceedings in connection with general matters and bills thereon or joint committees or a particular joint committee or other matters affecting all three Houses;
 - (ii) the business and proceedings of joint committees or a particular joint committee or any other committee; and
 - (iii) the business and proceedings of joint meetings;

[Para. (b) substituted by s. 8 of Act No. 105 of 1984 and by s. 2 (a) of Act No. 50 of 1988.]

(bA) "joint meeting" a meeting convened in terms of joint rules and orders as a joint meeting of the Houses and presided over by the Speaker, or by a member of a House in terms of such rules and orders;

[Para. (bA) inserted by s. 2 (b) of Act No. 50 of 1988.]

(c) "standing committee" means a joint committee which, in terms of joint rules and orders applicable to it, is established for the duration of the Parliament concerned and is competent to exercise or perform some or all of its powers, duties and functions also while Parliament is prorogued.

(2) Joint rules and orders may provide for any or all of the following matters, namely—

- (a) the establishment of standing committees on general affairs;
- (b) the constitution of any such committee, including its chairmanship and the representation of political parties, including opposition parties, in such committee;
- (c) the manner in which and the circumstances under which any matter may be referred to any such committee;
- (d) the powers, duties or functions of any such committee in connection with a matter referred to it;
- (e) the manner in which any such committee may make any decision;
- (f) the submission of any proposal to any such committee by a member of a House who is not a member of the committee;
- (g) the operation of a decision of any such committee on a matter referred to it, in relation to any further business and proceedings of a House in connection with that matter;
- (h) the order and conduct generally of the business and proceedings of any such committee.

but the preceding provisions of this subsection shall not be construed as defining or limiting in any manner the matters or any matter that may be dealt with or provided for in joint rules and orders or as requiring any matter to be dealt with or provided for in such rules and orders.

(3) Joint rules and orders shall provide for at least one standing committee on bills dealing with general affairs.

(4) Notwithstanding the provisions of section 36, a joint committee may, in terms of the joint rules and orders applicable to it or if otherwise authorized thereto by each House, meet and exercise or perform its powers, duties and functions at a place beyond the seat of Parliament.

[Sub-s. (4) added by s. 2 of Act No. 99 of 1985.]

65. Powers of the State President, Ministers and their deputies in Houses.—(1) The State President, a Minister who is a member of the Cabinet and any deputy to such a Minister has the right to sit and to speak in any House, but may not vote except in the case of such a Minister or deputy who is a member of a House, in the House of which he is a member. *unless he is a member of the National Assembly*

(2) A member of a Ministers' Council who is not a member of any House or of the Cabinet has the right to sit and to speak in the House of which the members are of the same population group as the members of the Ministers' Council in question, but may not vote therein.

(3) A member of a House who holds the office of Chief Whip of Parliament has the right to sit in any other House and to speak on the arrangement of the business of such other House, but may not vote therein.

[S. 65 substituted by s. 9 of Act No. 105 of 1984. Sub-s. (3) added by s. 3 of Act No. 99 of 1985.]

~~66. Summoning of a House during recess of Parliament.—The State President may by proclamation in the *Gazette* summon any House for the dispatch of business in connection with own affairs when Parliament is not in session, and may prorogue the House in like manner before the commencement of the next ensuing session of Parliament.~~

67. Joint sittings of Houses.—(1) This section applies to joint sittings called thereunder, but does not otherwise derogate from the power of Parliament to regulate its business and proceedings.

- [Sub-s. (1) substituted by s. 10 of Act No. 105 of 1984 and by s. 3 (a) of Act No. 50 of 1988.]

(2) The State President may call a joint sitting of the Houses by message to them whenever he deems it desirable, and shall call such a joint sitting if requested to do so by all three Houses.

[Sub-s. (2) substituted by s. 3 (b) of Act No. 50 of 1988.]

(3) The Speaker of Parliament shall preside at such a joint sitting.

(4) The Speaker shall determine the rules and orders for the order and conduct of the proceedings of such a joint sitting.

~~(5) No resolution shall be adopted at any such joint sitting.~~

PART VII

ADMINISTRATION OF JUSTICE

68. Constitution and powers of Supreme Court of South Africa.—(1) The judicial authority of the Republic is vested in a Supreme Court to be known as the Supreme Court

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of South Africa and consisting of an Appellate Division and such provincial and local divisions as may be prescribed by law.

(2) The Supreme Court of South Africa shall, subject to the provisions of sections 18 and 34, have jurisdiction as provided in the Supreme Court Act, 1959.

(3) Save as otherwise provided in the Supreme Court Act, 1959, Bloemfontein shall be the seat of the Appellate Division of the Supreme Court of South Africa.

69. **Administrative functions relating to administration of justice.**—All administrative powers, duties and functions affecting the administration of justice shall be under the control of the Minister of Justice.

PART VIII

PRESIDENT'S COUNCIL

70. **Establishment and constitution of President's Council.**—(1) There shall be a President's Council consisting of—

- (a) 20 members designated by resolution of the House of Assembly;
- (b) 10 members designated by resolution of the House of Representatives;
- (c) 5 members designated by resolution of the House of Delegates; and
- (d) 25 members appointed by the State President,

or, in the case of members contemplated in paragraph (a), (b) or (c), such smaller number of members, if any, as may have been so designated by the House in question.

(2) (a) Subject to the provisions of paragraph (f) of this subsection, the members of the President's Council appointed under subsection (1) (d) shall include 10 persons of whom—

- (i) six have been nominated as provided in paragraph (b) of this subsection by members of the House of Assembly who were supporters of the opposition parties in that House at the time of the nomination;
- (ii) three have been so nominated by members of the House of Representatives who were supporters of the opposition parties in that House at the time of the nomination;
- (iii) one has been so nominated by members of the House of Delegates who were supporters of the opposition parties in that House at the time of the nomination.

(b) Any nomination contemplated in paragraph (a) shall be made by election, according to the principle of proportional representation whereby each voter has one transferable vote, by the members of the House in question who are supporters of opposition parties in the House and who are present at a meeting of such members called in accordance with the provisions of paragraph (c): Provided that any nomination made in pursuance of an agreement among such members of the House who are present at the meeting shall be a valid nomination for all purposes.

(c) A meeting contemplated in paragraph (b) shall take place during a session of Parliament or of the House in question and under the chairmanship of the Speaker of Parliament or the Chairman of the House, at a time and place fixed by the Speaker and made known by him or that Chairman at a sitting of the House, and the date so fixed shall—

- (i) in the case of a dissolution of the President's Council, be a date after the dissolution but not more than 14 days thereafter;
- (ii) if the House was dissolved otherwise than at a dissolution of Parliament, and at least two members of the newly constituted House who would be entitled in terms of paragraph (a) to participate in a nomination have requested the Speaker in writing that such a meeting be called, be a date not more than 14 days after the first meeting of the newly constituted House;

- (iii) in the case of a casual vacancy in the President's Council in respect of which a person is to be nominated for appointment and of which notice in writing has been given to the Speaker by the Chairman of the President's Council, be a date not more than 14 days after the date of the notice or, if Parliament or the House is not then in session, a date not more than 14 days after the commencement of the next ensuing session of Parliament or the House.

(d) The regulations which apply in terms of this Act to an election of members of a House in terms of section 41 (1) (c), 42 (1) (c) or 43 (1) (c) at a meeting of members of the House who may vote at such an election, shall apply *mutatis mutandis* to an election contemplated in paragraph (b) of this subsection, except in so far as they are amended or replaced by regulations made by the State President for the purposes of an election so contemplated.

(e) The Speaker shall submit to the State President in writing—

- (i) the name of every person nominated in terms of this subsection;
- (ii) the date upon which he was nominated; and
- (iii) if he has been nominated at a meeting called in terms of paragraph (c) (ii) for appointment in the place of a member of the President's Council, the name of the member in question.

and the State President shall appoint the nominated person as a member of the President's Council.

(f) If the Speaker advises the State President—

- (i) that a meeting was called in accordance with the provisions of paragraph (c) and that a nomination which was required to be made thereat, was not made; or
- (ii) that such a meeting cannot be called for the reason that there is no opposition party in the House in question or that there is only one opposition party in the House with only one member of the House supporting it or that any circumstance contemplated in section 37 (2) applies to the House,

the State President may appoint any person deemed fit by him as a member of the President's Council in the seat in question: Provided that the provisions of this subsection shall again apply to any subsequent appointment to the seat in question.

(3) A casual vacancy in the President's Council shall be filled by the designation or appointment of a member in the same manner as that in which the member whose office is vacant was designated or appointed.

71. Qualifications and period of office of members of President's Council.—(1) No person shall be qualified to be designated or appointed as a member of the President's Council—

- (a) unless he is of or over the age of 30 years;
- (b) in the case of a member designated by a House, unless he is a member of such House or is qualified to be elected or nominated and take his seat as a member of such House;
- (c) in the case of a member appointed by the State President, unless he is a member of a House or is qualified to be elected or nominated and take his seat as a member of a House:

Provided that the provisions of section 54 (e) shall not apply with reference to the qualification of a person to be designated or appointed as a member of the President's Council or to be such a member.

(2) A member of the President's Council shall hold office until the next ensuing dissolution of that Council in terms of section 77, but shall be eligible for redesignation or reappointment.

(3) A member of the President's Council shall vacate his office —

- (a) on the dissolution of that Council;
- (b) subject to the proviso to subsection (1), if he becomes disqualified to be elected or nominated and take his seat as a member of any House;
- (c) if he becomes a member of a House or is appointed as administrator or member of an executive committee of a province in terms of the Provincial Government Act, 1986;

[Para. (c) substituted by s. 22 (a) of Act No. 69 of 1986.]

- (d) in the case of a member designated by a House which was thereafter dissolved, if the House constituted after the general election held in pursuance of such dissolution, withdraws the designation of that member —
 - (i) where it was a dissolution of Parliament, by a resolution adopted before that member vacates his office in terms of paragraph (a) of this subsection;
 - (ii) where it was a dissolution of such House only, by a resolution adopted within seven days after the first meeting of the House as reconstituted;
- (e) in the case of a member appointed otherwise than in terms of section 70 (2) by a State President who thereafter resigned his office or was removed from office or died, if the appointment of such member is withdrawn by the newly elected State President within seven days after having assumed office;
- (f) in the case of a member appointed by the State President in terms of subsection (2) of section 70, on the date on which a person nominated under that subsection for appointment in the place of the member concerned, by competent members of the House in question at a meeting of such members called in terms of paragraph (c) (ii) of that subsection, becomes a member of the President's Council by virtue of his appointment in terms of paragraph (e) of that subsection.

(4) A member of the President's Council may resign as such member by lodging his resignation in writing with the State President, who shall, in the case of a member designated by a House, forthwith notify the Chairman of the House in question of the resignation.

(5) The designation or redesignation of a person as a member of the President's Council by a House during the period in which a member's designation may be withdrawn under subsection (3) (d) (i) of this section, shall take effect on the day on which the then existing President's Council dissolves in terms of section 77, and shall be a designation as a member of the President's Council constituted on or after that day.

72. Chairman of President's Council. — (1) The President's Council shall elect a Chairman from among its members at its first meeting after its constitution, at which a person designated by the State President shall preside until a Chairman is elected.

(2) The Chairman of the President's Council shall hold office until the dissolution of that Council in terms of section 77 unless he —

- (a) ceases earlier to be a member of that Council; or
- (b) resigns as Chairman by lodging his resignation in writing with the State President; or
- (c) is removed from office as Chairman by resolution of that Council.

(3) The President's Council shall at its first meeting elect one of its members as Deputy Chairman, who shall act in the stead of the Chairman when the Chairman is unable to perform the functions of his office.

(4) When neither the Chairman nor the Deputy Chairman is able to act, the President's Council shall elect one of its members to act in the stead of the Chairman.

73. Remuneration and allowances of members.—(1) The members of the President's Council shall receive such remuneration and allowances as the State President may determine, as well as such other benefits as he may determine by proclamation in the *Gazette*.

(2) Such remuneration, allowances or benefits may differ according to the offices held by members in the Council, and according to whether the functions performed by members or attached to such offices are in the opinion of the State President of a full-time or part-time nature.

74. Quorum.—The presence of at least 30 members of the President's Council shall be necessary to constitute a meeting of the President's Council for the exercise of its powers.

75. Decisions.—All questions at a meeting of the President's Council shall be determined by a majority of votes of the members present other than the presiding member, who shall have and exercise a casting vote in the case of an equality of votes.

76. Rules of procedure.—(1) Subject to the provisions of this Act, the President's Council may make rules and orders in connection with the order and conduct of its business and proceedings, the establishment, constitution and powers of committees of the Council and the order and conduct of their business and proceedings.

(2) Any Minister or Deputy Minister has the right to sit and to speak in the President's Council, but shall not vote therein.

77. Duration of President's Council.—The President's Council shall be dissolved by the first dissolution of Parliament following the constitution of that Council, but the dissolution of the President's Council shall take effect on the day on which the State President elected after such dissolution of Parliament assumes office.

78. Powers and functions of President's Council.—(1) The President's Council shall at the request of the State President advise him on any matter referred to it by the State President for its advice, and may, in its discretion, advise him on any matter (excluding draft legislation) which, in its opinion, is of public interest.

(2) Whenever a matter is referred to the President's Council for its advice or when that Council is of the opinion that a matter is of public interest, it may refer such matter to a committee contemplated in section 76 for advice, and if the Council is not in session, reference of such matter to such a committee for its advice may be effected in accordance with rules and orders made by the Council.

(3) The President's Council may transmit any advice received by it in terms of subsection (2) to the State President as the advice of the Council, whether with or without its comments thereon.

(4) (a) When any bill or bills are referred for decision to the President's Council under section 32, it may refer such bill or bills to a committee contemplated in section 76 for investigation and report, and if the Council is not in session, reference of such bill or bills to such a committee for investigation and report may be effected in accordance with rules and orders made by the Council, and the Council may take any such report and any recommendation contained therein into consideration when acting in terms of paragraph (b) of this subsection or in terms of subsection (5) of this section.

(b) The President's Council may from time to time advise the State President that any bill or bills so referred to it, be amended or otherwise dealt with in the manner recommended by the President's Council.

(5) Unless the State President withdraws the reference, the President's Council shall decide—

- (a) in the case of a bill referred to in section 32 (1) (a), either that the bill is to be presented to the State President for assent or that it shall not be so presented;
- (b) in the case of a bill referred to in section 32 (1) (b), either which one of the different versions of such bill that were passed is to be presented to the State President for assent, or that none of those versions shall be so presented;

(c) in the case of a bill referred to in section 32 (1) (c) or (d), which one of the different versions of such bill that were passed is to be presented to the State President for assent.

(6) The President's Council or committee thereof may, for the purposes of the performance of its functions and in its discretion, consult with any person or State institution on any matter, and may for such purpose establish consultative committees consisting of members of the President's Council or such committee as the case may be, and members of any council established by the State President in terms of any other law.

(7) Advice received by the State President in terms of subsection (1) shall be laid upon the Table in every House that has an interest in it within 14 days after its receipt, if Parliament is then in session, or, if Parliament is not then in session, within 14 days after the commencement of its next ensuing session.

(8) Advice received by the State President in terms of subsection (4) (b) and accepted by him, and any decision of the President's Council in terms of subsection (5), shall be laid upon the Table of every House as soon as possible.

[Sub-s. (8) substituted by s. 1 of Act No. 101 of 1988.]

PART IX

FINANCE

79. Existing debts and liabilities of the State.—Nothing in this Act contained shall affect any assets or rights belonging to the State or any debts or liabilities of the State as existing immediately before the commencement of this Act, and all such assets, rights, debts and liabilities shall remain assets, rights, debts and liabilities of the Republic, subject, notwithstanding any other provisions contained in this Act, to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund and other charges conferred on the creditors concerned, and the Republic may, subject to such conditions and rights, convert, renew or consolidate such debts.

80. All revenues vest in State President.—All revenues of the Republic, from whatever source arising, shall vest in the State President.

81. State Revenue Fund.—(1) There shall be a State Revenue Fund, into which shall be paid all revenues as defined in section 1 of the Exchequer and Audit Act, 1975.

(2) No moneys shall be withdrawn from the State Revenue Fund, except in accordance with an Act of Parliament.

82. Accounts of State Revenue Fund.—(1) In respect of the State Revenue Fund there shall be—

(a) a State Revenue Account, which shall, subject to the provisions of paragraphs (b) and (c) and subsection (2), be credited with all revenues and from which shall be defrayed all expenditure and be paid any amounts with which it is charged in terms of this Act or any other law;

[Para. (a) substituted by s. 22 (a) of Act No. 69 of 1986 with effect from 1 April, 1987.]

~~(b) the accounts in connection with the administration of own affairs of the different population groups, which may be prescribed by any general law and which shall be credited with all revenues accruing to them in terms of this Act or any other law and from which shall be defrayed all expenditure and be paid any amounts with which they are charged in terms of this Act or any other law;~~

(c) the accounts in connection with the administration of a provincial matter which may be prescribed by any general law and which shall be credited with all revenues accruing to them in terms of this Act or any other law and from which shall be defrayed all expenditure and be paid any amounts with which they are charged in terms of this Act or any other law.

[Sub-s. (1) amended by s. 22 (a) of Act No. 69 of 1986 with effect from 1 April, 1987.]

Para. (c) added by s. 22 (a) of Act No. 69 of 1986 with effect from 1 April, 1987.]

~~(2) Where any law dealing with own affairs of a population group provides that revenue mentioned therein shall be paid into the State Revenue Fund or that expenditure so mentioned shall be defrayed from that fund, such revenue shall be paid into, and such expenditure shall be defrayed from, the appropriate account contemplated in subsection (1) (b).~~

(3) Where a law provides that any revenue mentioned therein shall be paid into a provincial revenue fund or that expenditure so mentioned shall be defrayed from such fund, such revenue shall be paid into and such expenditure shall be defrayed from the appropriate account contemplated in subsection (1) (c).

[Sub-s. (3) added by s. 22 (a) of Act No. 69 of 1986 with effect from 1 April, 1987.]

83. Auditing of accounts of State Revenue Fund.—The accounts of the State Revenue Fund shall be investigated, examined and audited in terms of the provisions of the Exchequer and Audit Act, 1975.

84. Payments to accounts of State Revenue Fund.—In respect of every financial year there shall be paid from the State Revenue Fund into its relevant account—

- (a) the amounts calculated in accordance with a formula prescribed by any general law;
- (b) any amount appropriated by any general law for that account in respect of the financial year in question; and
- (c) any amount to be paid into that account subject to conditions determined by any general law.

85. Appropriation bill shall not deal with other matters.—Any bill which appropriates revenue or moneys for the ordinary annual services of the State shall deal only with such appropriation.

86. Appropriation not initiated by a Minister.—^{The} House shall not consider any proposal, whether by way of a vote or by way of a resolution, address or bill, for the appropriation of any part of the public revenue or of any tax or impost to any purpose and which has not been initiated by a Minister, unless such appropriation has been recommended by message from the State President during the session in which the proposal is made.

PART X

GENERAL

87. Continuation of existing laws.—Subject to the provisions of this Act, all laws which were in force in any part of the Republic or in any territory in respect of which Parliament is competent to legislate, immediately before the commencement of this Act, shall continue in force until repealed or amended by the competent authority.

88. Continuation of constitutional conventions.—The constitutional and parliamentary conventions which existed immediately before the commencement of this Act shall continue to exist, except in so far as they are inconsistent with the provisions of this Act.

89. Equality of official languages.—(1) English and Afrikaans shall be the official languages of the Republic, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights and privileges.

(2) All records, journals and proceedings of Parliament shall be kept in both the official languages and all bills, laws and notices of general public importance or interest issued by the Government of the Republic shall be in both the official languages.

(3) Notwithstanding the provisions of subsection (1) an Act of Parliament or a proclamation of the State President, issued under an Act of Parliament ~~(whereby a Black area is declared to be a self-governing territory in the Republic, or a later Act of Parliament or a later proclamation of the State President (which in the absence of any other empowering provision may be issued under this subsection))~~ may—

- (a) provide for the recognition of one or more ~~Black languages for any or all of the following purposes, namely—~~
 - (i) ~~as an additional official language or as additional official languages of that territory; or~~
 - (ii) ^{Ciskei Region} ~~for use in that territory for official purposes prescribed by or under that Act or later Act or by any such proclamation; and,~~

~~(b) contain provisions authorizing the use of any such Black language outside the said territory for such purposes connected with the affairs of that territory and subject to such conditions as may be prescribed by or under that Act or later Act or any such proclamation.~~

90. Equality of use of official languages by provincial councils and local authorities.— All records, journals and proceedings of a provincial council shall be kept in both the official languages, and all draft ordinances, ordinances and notices of public importance or interest issued by a provincial administration, and all notices issued and all regulations or by-laws made and all townplanning schemes prepared by any institution or body contemplated in section 84 (1) (f) of the previous Constitution, shall be in both the official languages.

91. Method of publication of notices, etc., in newspapers.— Whenever anything is published in a newspaper at the instance of the State or by or under the directions of any institution or body contemplated in section 84 (1) (f) of the previous Constitution, the publication shall take place simultaneously in both the official languages and, in the case of each language, in a newspaper circulating in the area of jurisdiction of the authority concerned which appears mainly in that language, and the publication in each language shall as far as practicable occupy the same amount of space: Provided that where in the area in question any newspaper appears substantially in both the official languages, publication in both languages may take place in that newspaper.

~~92. Offences in respect of National Flag.— (1) Any person who—~~

- ~~(a) maliciously destroys or spoils the National Flag of the Republic as described in section 4; or~~
- ~~(b) commits any other act which is calculated to hold the National Flag of the Republic in contempt; or~~
- ~~(c) without being authorized thereto (the burden of proof of which shall be upon him), removes the National Flag of the Republic as so described from any place where it is displayed in terms of instructions or directions issued by any State authority.~~

~~shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000 or imprisonment for a period not exceeding five years.~~

~~(2) If in any prosecution for an offence referred to in subsection (1) it is alleged that the flag in respect of which the offence is alleged to have been committed is or was the National Flag of the Republic as described in section 4, it shall be presumed, unless the contrary is proved, that the flag in question complies or, as the case may be, complied with the description of the National Flag in that section.~~

~~93. Administration of Black affairs.— The control and administration of Black affairs shall vest in the State President, who shall exercise all those special powers in regard to Black administration which immediately before the commencement of this Act were vested in him, and any lands which immediately before such commencement vested in him for the occupation of Blacks in terms of any law shall continue to vest in him with all such powers as he may have in connection therewith, and no lands which were set aside for the occupation of Blacks and which could not at the establishment of the Union of South Africa have been alienated except by an Act of the Legislature of a Colony which became part of the Union of South Africa in terms of the South Africa Act, 1909, shall be alienated or in any way diverted from the purposes for which they were set aside, except under the authority of an Act of Parliament.~~

94. Certain rights and obligations under conventions, etc., vest in Republic.— All rights and obligations under conventions, treaties or agreements which were binding on any of the Colonies, incorporated in the Union of South Africa at its establishment, and were still binding on the Republic immediately before the commencement of this Act, shall be rights and obligations of the Republic, just as all other rights and obligations under conventions, treaties or agreements which immediately before the commencement of this Act were binding on the Republic.

95. **Transfer of certain executive powers.**—All powers, authorities and functions which immediately before the commencement of the previous Constitution were in any of the provinces vested in the Governor-General or in the Governor-General-in-Council or in any authority of the province, shall as far as they continue in existence and are capable of being exercised after the commencement of this Act, be vested in the State President, or in the authority exercising similar powers under the Republic, as the case may be, except such powers, authorities and functions as are by this Act or any other law vested in some other authority.

96. **Affirmation in lieu of oath.**—Any person who is in terms of any provision of this Act required to make and subscribe an oath may in lieu of such oath make and subscribe a solemn affirmation in corresponding form.

97. **Construction of certain references.**—Any reference in any law in force in any part of the Republic, or in any territory in respect of which Parliament is competent to legislate, immediately before the commencement of this Act—

- (a) to any territory, institution or functionary which in terms of the previous Constitution was required to be construed as a reference to the Republic, shall be so construed;
- (b) to an institution, body or functionary which in terms of the previous Constitution was required to be construed as a reference to the State President, shall be so construed;
- (c) to the House of Assembly or a member thereof, or to an institution or body or a member thereof which in terms of the previous Constitution was required to be construed as a reference to the ~~House of Assembly~~ ^{House of Assembly} or a member thereof, shall be construed as a reference to ~~Parliament or the Houses of a House or to a member of a House, as the case may be or the circumstances may require,~~ unless it is inconsistent with the context or clearly inappropriate;
- (d) to the Executive Council, shall be construed as a reference to the Cabinet ~~or to the relevant Ministers' Council, according to the circumstances;~~
- (e) ~~to the President's Council, shall be construed as a reference to the President's Council established in terms of this Act;~~
- (f) to the Secretary or the Deputy Secretary to the House of Assembly, or to a functionary which in terms of the previous Constitution was required to be construed as a reference to the Secretary or the Deputy Secretary to the House of Assembly, shall be construed as a reference to the Secretary or Deputy Secretary, respectively, ~~to Parliament.~~ ^{to the National Assembly or to Parliament.}

98. **Administration of existing laws.**—(1) Any Act of Parliament or other law which at the commencement of this Act is administered by a Minister of the Republic or in a department of State controlled by such a Minister and which relates to a matter referred to in section 14 shall, notwithstanding the fact that it relates to such matter, be regarded as a general law for the purposes of this Act until, and except in so far as, its administration is assigned under section 26 to a Minister of a department of State for own affairs of a population group.

(2) Any Act of Parliament or other law which entrusts any power, duty or function to the executive committee or other executive authority of such province established by the previous Constitution and which relates to a matter referred to in section 14 shall, notwithstanding the fact that it relates to such matter, be administered according to its provisions unless, and except in so far as, its administration is assigned to a Minister under subsection (3) (b).

[Sub-s. (2) amended by s. 22 (a) of Act No. 69 of 1986.]

~~(3) The State President may by proclamation in the Gazette~~

- (a) after consultation with the executive committee of the province concerned, declare that the provisions of Part IV apply to a law referred to in subsection (2) to the extent stated in the declaration;

- (b) when he so declares or at any time thereafter, assign the administration of such law to a Minister;
- (c) when he so assigns the administration of such law or at any time thereafter, and in so far as he considers it necessary for the efficient carrying out of the assignment by the Minister or in his department or of such law in so far as its administration is not so assigned—
- (i) amend or adapt such law in order to regulate its application or interpretation;
 - (ii) where the assignment does not relate to the whole of such law, repeal and re-enact, whether with or without an amendment or adaptation contemplated in subparagraph (i), those of its provisions to which the assignment relates or in so far as the assignment relates to them;
 - (iii) regulate any other matter necessary, in his opinion, as a result of the assignment, including the transfer or admission of persons to or in the service of the State or any other person, subject to conditions not less favourable than those under which they serve, and the transfer of assets, liabilities, rights and obligations, including moneys, to or from the State or any other person or body established by law.
- (4) Section 26 shall apply *mutatis mutandis* to an assignment under subsection (3) (b) of this section, but in such application any reference in that section to a Minister to whom a provision in a law entrusts any power, duty or function shall be construed as a reference to the relevant executive committee or other executive authority referred to in subsection (2) of this section.

~~99. Amendment of Act.—(1) Subject to the provisions of subsections (2) and (3) Parliament may by law repeal or amend any provision of this Act.~~

~~(2) No repeal or amendment of the provisions of section 89 or of this subsection or of any corresponding provisions of any law substituted for them, shall be valid unless the bill embodying such repeal or amendment has been agreed to in every House by not less than two-thirds of the total number of its members.~~

~~(3) No repeal or amendment of section 7 (1) (b), (5) or (6), section 8 (5), section 9 (1) or (3) (a), section 14 or 15, section 16 (1), section 19, 20 or 21, section 23 (2), section 30, section 31 (1) or (2), section 32 (1), (2), (3) or (4), section 33, section 34 (2) (a), section 37 (1), section 38 (2), section 39 (1) or (2), section 41 (1), section 42 (1), section 43 (1), section 52, 53 or 54, section 64 (3), section 70 (1), section 71 (1) or (3) (b) or (c), section 77, section 78 (5), this subsection, subsection (4) of this section or Schedule 1 shall be valid unless the bill embodying such repeal or amendment has been agreed to in every House by a majority of the total number of its members.~~

~~(4) A bill embodying the repeal or amendment of any provision mentioned in subsection (2) or (3) of this section shall not be referred to the President's Council for its decision under the circumstances contemplated in section 32 (1).~~

~~(5) Any reference in a provision of this Act mentioned in subsection (3) of this section, or in the definition in this Act of an expression used in any such provision, to any other provision of this Act not mentioned in that subsection or to any other law, shall be construed as a reference to such other provision or other law as it exists from time to time after any amendment or replacement thereof, and the provisions of subsections (3) and (4) of this section shall not be construed as applying to any amendment or replacement of such other provision or other law.~~

100. Definitions.—(1) In this Act, unless the context indicates otherwise—

“Chief Justice” means the Chief Justice of South Africa;

~~“Coloured person” means a person classified as a member of the Cape Coloured, Malay or Griqua group or the group Other Coloureds in terms of the Population Registration Act, 1950.~~

"department of State" means a department of State established under section 24;

~~"general affairs" means matters referred to in section 15;~~

"general law" means any law dealing with general affairs;

"House" means a House of Parliament mentioned in section 37 (1) and, in relation to a Ministers' Council, the House whose members are of the same population group as the members of the Ministers' Council;

"Indian" means a person classified as a member of the Indian group in terms of the Population Registration Act, 1950;

"own affairs" means matters referred to in section 14, and in relation to—

- (a) a population group, matters which are own affairs in relation to that population group as contemplated in that section;
- (b) a House or a Ministers' Council, matters which are own affairs of the relevant population group;
- (c) a department of State, any department of State established for the administration of own affairs of the relevant population group;
- (d) a Minister, any Minister appointed to administer a department of State for own affairs;

"population group" means the White persons, the Coloured persons or the Indians, and in relation to—

- (a) a House, the population group of which the members of the House in question are members;
- (b) a Ministers' Council, the population group of which the members of the Ministers' Council in question are members;
- ~~(c) own affairs, the population group whose own affairs are in issue;~~

"previous Constitution" means the Republic of South Africa Constitution Act, 1961, and, in so far as it is not repealed by section 101, the Provincial Government Act, 1961;

"Republic" means the Republic of South Africa;

~~"the Coloured persons" "the Indians" or "the White persons" includes persons who would be classified as Coloured persons, Indians or White persons, respectively, in terms of the Population Registration Act, 1950, had the provisions of that Act applied to them;~~

~~"White person" means a person classified as a White person in terms of the Population Registration Act, 1950;~~

(2) In this Act and in any other law, except where it is inconsistent with the context or clearly inappropriate, any reference to a resolution or the approval of, or any other act of or with reference to, Parliament (except any act constituting a law of Parliament), or to a member or a committee or the Tables of Parliament, or to any other matter in relation to Parliament (except any law of Parliament), shall be construed as a reference to a resolution or the approval or other act of, or with reference to, ^{the National Assembly} ~~each of the different Houses, a member of a House, a joint committee contemplated in section 64, the Tables of the different Houses or such other matter relating to the different Houses, as the case may be.~~

101. Repeal and amendment of laws.—(1) The laws mentioned in Part 1 of Schedule 2 are hereby repealed or amended as set out in that Part, and the laws mentioned in Part 2 of Schedule 2 are hereby repealed to the extent set out in the third column of the last-mentioned Part.

(2) Notwithstanding the repeal of sections 15 and 15A of the previous Constitution, any pension which but for such repeal would have been payable shall continue to be payable as if such repeal had not been effected.

(3) Notwithstanding the repeal of section 116 of the previous Constitution, any of its provisions which but for such repeal would have been applicable to any matter or person, shall continue to be applicable to such matter or person as if the repeal had not been effected.

(4) Any authority constituted or person appointed or power conferred or anything done in pursuance of powers conferred by or by virtue of any provision of a law repealed or amended by subsection (1), shall be deemed to have been constituted, appointed, conferred or done in pursuance of powers conferred by or by virtue of the corresponding provision of this Act or the relevant provision of such law as so amended, as the case may be.

~~102. Transitional provisions — (1) If section 19 (1) (b) comes into operation before the first State President has been elected in terms of this Act and has assumed office, a person designated by the Ministers referred to in subsection (2) of this section from among their number, shall serve as Acting State President, and such or any other Acting State President or the State President may exercise any power conferred upon the State President by this section or section 103 but not yet exercised by the State President referred to in section 103 (1) at the commencement of section 19 (1) (b).~~

(2) (a) The persons who immediately before the commencement of this Act are Ministers of the Republic or Deputy Ministers in terms of section 20 or 21 of the previous Constitution, shall be deemed to have been appointed as such Ministers or Deputy Ministers under section 24 or 27 of this Act, as the case may be, and the departments of State then administered by such Ministers shall be deemed to have been established under section 24 of this Act as departments referred to in section 20 and to be administered by them under the relevant provisions of this Act.

(b) A reference in any law to the Prime Minister which at the commencement of this Act is not in consequence of an assignment under section 20A of the previous Constitution to be construed as a reference to some other Minister, shall be deemed to be a reference to the State President acting under subsection (2) of section 26 of this Act, except in so far as the State President assigns the administration of such law to a Minister under subsection (1) of the last-mentioned section.

[Para. (b) substituted by s. 11 (1) (g) of Act No. 105 of 1984.]

(3) Where any matter which, during the session of Parliament (as constituted under the previous Constitution) immediately preceding the commencement of this Act, was submitted to the said Parliament or the House of Assembly (as so constituted), has not been disposed of before such commencement, Parliament or the House of Assembly, as the case may be, constituted under this Act may continue with the disposal or consideration of that matter, and steps taken by the first-mentioned House of Assembly in connection with that matter, shall be deemed to have been taken by the House of Assembly constituted under this Act.

(4) The House of Assembly as constituted for the purposes of the previous Constitution and in existence immediately before the commencement of this Act, shall be deemed to have been duly constituted for the purposes of this Act, and any person elected or nominated as a member of that House of Assembly and holding office immediately before such commencement, shall be deemed to have been duly elected or nominated to the House of Assembly established by this Act.

(5) The regulations made under section 40 (1A) of the previous Constitution shall continue to be of force and to apply to the election of members of the House of Assembly in terms of section 41 (1) (c) of this Act, and shall apply *mutatis mutandis* to elections of members of the House of Representatives and members of the House of Delegates in terms of sections 42 (1) (c) and 43 (1) (c) of this Act, until they are replaced by regulations under section 46 (1) of this Act.

(6) (a) The rules and orders of the House of Assembly as they exist at the commencement of this Act, shall apply *mutatis mutandis* in connection with the functions and proceedings of the House of Representatives and the House of Delegates, unless and until the House in question provides otherwise.

(b) Rules and orders approved by the House of Assembly before the commencement of this Act as joint rules and orders of the Houses, shall after such commencement be deemed to be joint rules and orders approved by each of the Houses as contemplated in section 64, until, and except in so far as, they are replaced by rules and orders which

Klooh:
Appropriate
transitional
provisions
may be
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have in fact been so approved: Provided that any rules and orders so approved by the House of Assembly shall lapse on the expiry of a period of two years after the commencement of the first session of the first Parliament constituted under this Act.

[Para. (h) substituted by s. 11 (1) (h) of Act No. 105 of 1984.]

(7) The first session of the first Parliament constituted in terms of this Act shall commence within 21 days after the polling day or the last polling day of the first general election of members of the House of Representatives and the House of Delegates, according to whether the poll in respect of those Houses is held on the same day or on different days, and for the purposes of that session and until those Houses have been duly constituted (but not for a period longer than 14 days after the commencement of that session), each shall be deemed to consist of the members thereof elected at such general election.

[Sub-s. (7) substituted by s. 11 (1) (c) of Act No. 105 of 1984.]

(8) For the purposes of the application of section 39 (1) in relation to the first Parliament constituted in terms of this Act, its first session shall be deemed to have commenced on a date determined by the State President referred to in section 103 (1) by proclamation in the *Gazette*, which may not be a date earlier than the date of the first meeting of the House of Assembly which existed immediately before the commencement of this Act, or later than the day on which that first session actually commences.

(9) For the purposes of the first delimitation of electoral divisions of the House of Representatives and of the House of Delegates the words "voters of the House in the province in terms of the current voters' lists, duly corrected up to the latest possible date" in section 49 (1) shall be deemed to be replaced by the words "persons who, according to the population register kept in terms of the Population Registration Act, 1950, and on a date not more than 30 days before the delimitation commission begins to perform its functions, would be entitled to be included in any lists of the voters contemplated in section 52 of the House in electoral divisions thereof in the province had the province been divided into electoral divisions of the House on the date in question", and the references to voters in section 49 (2) and (3) shall be construed accordingly.

(Date of commencement of s. 102 (9) 24 February, 1984.)

[Sub-s. (9) substituted by s. 11 (1) (d) of Act No. 105 of 1984.]

(10) (a) A person holding office as State President or Vice State President immediately before the commencement of this Act shall vacate his office at such commencement.

(b) The salary and allowances payable to the State President immediately before such commencement shall be deemed to have been determined in terms of section 12 as the salary and allowances payable to the State President, until they are altered under that section.

(11) At the commencement of this Act the President's Council established in terms of the previous Constitution shall cease to exist and every person who immediately before such commencement is a member of that Council shall cease to be such a member.

(12) The first meeting of the first President's Council established under this Act shall be convened by the State President in such manner and at such time and place as he thinks fit.

103. Short title and commencement.—(1) This Act shall be called the Republic of South Africa Constitution Act, 1983, and shall, save in so far as may be otherwise required in order that effect may be given to any provision thereof, come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act or in respect of section 101 in so far as it relates to different laws mentioned in Schedule 2 or to different provisions of any law so mentioned.

(3) A reference in this Act to its commencement shall be construed as a reference to the applicable date so fixed.

(4) The State President referred to in subsection (1) may exercise any power vesting in the State President in terms of any provision of this Act, in so far as it is necessary in order to give effect to such provision or any other provision of this Act as contemplated in subsection (1) or, as the case may be, if the relevant provision has been put into operation as contemplated in subsection (2).

Schedule 1

Subjects referred to in section 14

1. Social welfare, but subject to any general law in relation to—
 - (a) norms and standards for the provision or financing of welfare services;
 - (b) the control of the collection of money and other contributions from members of the public for welfare services or charity; and
 - (c) the registration of social workers, and control over their profession.
2. Education at all levels, including—
 - (1) instruction by way of correspondence, and institutions providing such instruction;
 - (2) the training of adults in the trades at centres established by the State President acting as provided in section 19 (1) (a), and
 - (3) training of cadets at schools in terms of section 3 (1) (a) of, and subject to, the Defence Act, 1957, and official school sport.but subject to any general law in relation to—
 - (a) norms and standards for the financing of running and capital costs of education;
 - (b) salaries and conditions of employment of staff and professional registration of teachers, and
 - (c) norms and standards for syllabuses and examination and for certification of qualifications.
3. Art, culture and recreation (with the exception of competitive sport) which affect mainly the population group in question.
4. Health matters, comprising the following, namely—
 - (1) hospitals, clinics and similar or related institutions;
 - (2) medical services at schools and for indigent persons;
 - (3) health and nutritional guidance; and
 - (4) the registration of and control over private hospitals,but subject to any general law in relation to such matters.
5. Community development, comprising the following, namely—
 - (1) housing;
 - (2) development of the community in any area declared by or under any general law as an area for the use of the population group in question, including the establishment, development and renovation of towns and the control over and disposal of land (whether by alienation or otherwise) acquired or made available for that purpose; and
 - (3) rent control and control over and clearance of squatting, in such an area in terms of any general law,but subject to—
 - (a) any general law in relation to norms, standards and income groups for the financing of housing; and
 - (b) the provisions of the general law referred to in paragraph (2).
6. Local government within any area declared by or under any general law as a local government area for the population group in question, but subject to any general law in relation to matters to be administered on local government level on a joint basis, and excluding—
 - (a) any matter assigned to local authorities by or under any general law; and
 - (b) the exercise by any local authority, otherwise than in accordance with general policy determined by the State President acting as provided in section 19 (1) (b), of any power to raise loans.
7. Agriculture, comprising the following, namely—
 - (1) agricultural development services, which include research, advisory services and extension;
 - (2) training at agricultural colleges; and
 - (3) financial and other assistance to farmers or prospective farmers, or for the promotion of agriculture.
8. Water supply comprising the following, namely—
 - (1) irrigation schemes;
 - (2) drilling for water for agricultural and local government purposes;
 - (3) subsidizing of drilling work and water works for agricultural or local government purposes; and
 - (4) financial assistance in relation to water works damaged by flood.

- (h) by the substitution in subsection (1) of section 84 for the words preceding paragraph (a) of the following words:
- "Subject to the provisions of this Act, the Financial Relations Act, 1976 (Act No. 65 of 1976), and the assent of the State President as hereinafter provided, and except in so far as the provisions of Part IV of the Republic of South Africa Constitution Act, 1983, have under section 98 (3) (a) of the last-mentioned Act been declared to apply to any ordinance or other law of the province, a provincial council may make ordinances in relation to matters coming within the following classes of subjects, namely—";
- and the substitution in paragraphs (h) and (g) of that subsection for the words "the House of Assembly" of the word "Parliament".
3. Repeal of Part VII, Part VIII and Part VIIIA.
 4. Repeal of sections 107 and 108.
 5. Repeal of section 109.
 6. Amendment of section 110 by the deletion of the words "at the instance of the State or", the words "of any body referred to in paragraph (f) of subsection (1) of section eighty-four or", the words "circulating in the area of jurisdiction of the authority concerned" and the words "in the area in question".
 7. Repeal of sections 111, 112 and 113.
 8. Amendment of section 114 by the deletion in paragraph (b) of the words "or abridge the powers conferred on provincial councils under section eighty-four".
 9. Repeal of sections 115, 116, 117 and 118.
 10. Amendment of section 119 by the deletion of the words "'Afrikaans' includes Dutch".
 11. Substitution for section 121 of the following section:
"Short title. 121. This Act shall be called the Provincial Government Act, 1961."
 12. Substitution for the long title of the following long title:
"To provide for provincial councils and their powers and the administration of provincial matters, and for matters connected therewith."
- B. Amendment of section 10 of the Interpretation Act, 1957 (Act No. 33 of 1957)—
- (a) by the substitution in subsection (5) for the expression "20A (1)" of the expression "26", and for the expression "1961 (Act No. 32 of 1961)" of the expression "1983";
 - (b) by the substitution for subsection (5A) of the following subsection:
"(5A) The provisions of subsection (5) shall apply in so far as the State President does not determine otherwise in the assignment concerned and, if the administration of a provision of any law has been assigned to any other Minister as contemplated in that subsection, but in relation to a category of persons or some other matter specified in the assignment, the provisions of that subsection shall apply accordingly."; and
 - (c) by the insertion after subsection (5A) of the following subsection:
"(5B) Whenever the administration of a law referred to in subsection (2) of section 98 of the Republic of South Africa Constitution Act, 1983, has been assigned to a Minister of State under subsections (3) (b) and (4) of that section, the provisions of subsections (5) and (5A) of this section shall apply *mutatis mutandis* as if the relevant executive committee or other executive authority referred to in the said subsection (2), the department or division of the relevant provincial administration in which the law was administered, and an officer of that administration, were a Minister of State, the department of State controlled by him, and an officer in the public service, respectively."
- C. Amendment of the Laws of the Coloured Persons Representative Council Application Act, 1982 (Act No. 36 of 1982)—
- (a) by the substitution for the words "Until such date as may be fixed in terms of section 4 (2) of the South African Coloured Persons Council Act, 1980 (Act No. 24 of 1980)", wherever they occur, of the words "Until other provision is made by or under any law"; and
 - (b) by the insertion after section 4 of the following section:
"Effect of repeal of certain laws. 4A. The repeal of section 17 of the Coloured Persons Representative Council Act, 1964 (Act No. 49 of 1964), and section 5 of the South African Coloured Persons Council Act, 1980 (Act No. 24 of 1980), in terms of section 101 of the Republic of South Africa Constitution Act, 1983, shall not affect the provisions of sections 1 (g) (ii), 2 (1) (ii) and 3 (h) of this Act as amended by the said section 101, or the validity of any proclamation or notice published in the *Gazette* under the said section 17 which was in force immediately before the date of such repeal."

Final Clause of the Constitution of the
Republic of South Africa Act, 1993

National Unity and Reconciliation

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This Constitution provides a historic bridge between the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex.

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The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society.

The adoption of this Constitution lays the secure foundation for the people of South Africa to transcend the divisions and strife of the past, which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and a legacy of hatred, fear, guilt and revenge.

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These can now be addressed on the basis that there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for ubuntu but not for victimisation.

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In order to advance such reconciliation and reconstruction, amnesty shall be granted in respect of acts, omissions and offences associated with political objectives and committed in the course of the conflicts of the past. To this end, Parliament under this Constitution shall adopt a law determining a firm cut-off date, which shall be a date after 8 October 1990 and before 6 December 1993, and providing for the mechanisms, criteria and procedures, including tribunals, if any, through which such amnesty shall be dealt with at any time after the law has been passed.

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With this Constitution and these commitments we, the people of South Africa, open a new chapter in the history of our country.

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Nkosi sikelel' iAfrika. God seën Suid-Afrika
Morena boloka sechaba sa heso. May God bless our country
Mudzimu fhatutshedza Afrika. Hosi katekisa Afrika

dup

STATUTES OF THE REPUBLIC OF SOUTH AFRICA — CONSTITUTIONAL LAW

REPUBLIC OF SOUTH AFRICA CONSTITUTION ACT
NO. 110 OF 1983

[ASSENTED TO 22 SEPTEMBER, 1983] [DATE OF COMMENCEMENT: 3 SEPTEMBER, 1984]
(Unless otherwise indicated)

(English text signed by the State President)

as amended by

Constitution Amendment Act, No. 105 of 1984
Powers and Privileges of Parliament and the Constitution Amendment Act,
No. 99 of 1985
Provincial Government Act, No. 69 of 1986
Constitution Amendment Act, No. 20 of 1987
Constitution Amendment Act, No. 50 of 1988
Constitution Third Amendment Act, No. 101 of 1988
Constitution Fourth Amendment Act, No. 71 of 1989
Constitution Amendment Act, No. 61 of 1990

ACT

To introduce a new constitution for the Republic of South Africa and to provide for matters incidental thereto.

IN HUMBLE SUBMISSION to Almighty God, Who controls the destinies of peoples and nations,

Who gathered our forebears together from many lands and gave them this their own,
Who has guided them from generation to generation,
Who has wondrously delivered them from the dangers that beset them,

WE DECLARE that we

ARE CONSCIOUS of our responsibility towards God and man;

ARE CONVINCED of the necessity of standing united and of pursuing the following national goals:

To uphold Christian values and civilized norms, with recognition and protection of freedom of faith and worship,

To safeguard the integrity and freedom of our country,

To uphold the independence of the judiciary and the equality of all under the law,

To secure the maintenance of law and order,

To further the contentment and the spiritual and material welfare of all,

To respect and to protect the human dignity, life, liberty and property of all in our midst,

To respect, to further and to protect the self-determination of population groups and peoples,

To further private initiative and effective competition;

ARE PREPARED TO ACCEPT our duty to seek world peace in association with all peace-loving peoples and nations; and

ARE DESIROUS OF GIVING THE REPUBLIC OF SOUTH AFRICA A CONSTITUTION which provides for elected and responsible forms of government and which is best suited to the traditions, history and circumstances of our land:

PART I

THE REPUBLIC

1. Continued existence of Republic of South Africa.—The Republic of South Africa, consisting of the provinces of the Cape of Good Hope, Natal, the Transvaal and the Orange Free State, shall continue to exist as a Republic under that name.

as defined in the Union of SA Act of 1910,

2. Sovereignty and guidance of Almighty God acknowledged.—The people of the Republic of South Africa acknowledge the sovereignty and guidance of Almighty God.

PART II

NATIONAL FLAG AND ANTHEM

3. National Flag.—There shall be a National Flag of the Republic of which the design shall be as set out in section 4.

4. Design of National Flag.—(1) The National Flag of the Republic shall be a flag ~~consisting of three horizontal stripes of equal width from top to bottom orange, white and blue on which there shall appear—~~

- (a) in the centre of the white stripe, the flag of the Republic of "De Oranje-vrijstaat" hanging vertically and spread in full; and
- (b) on opposite sides and adjoining the flag referred to in paragraph (a)—
 - (i) the Union Jack, as it existed in 1927, horizontally spread in full towards the pole; and
 - (ii) the Vierkleur of "De Zuid-Afrikaansche Republiek" horizontally spread in full away from the pole.

the design
of which
is set
out in
the
Schedule
Sixth.

(2) The flags referred to in paragraphs (a) and (b) of subsection (1) shall all be of the same size and of a shape proportionally the same as that of the National Flag, the width of each of such flags shall be equal to one-third of the width of the white stripe on the National Flag, and the flags referred to in paragraph (b) of subsection (1) shall be equidistant ~~from the margins of the said white stripe.~~

5. National Anthem.—The National Anthem of the Republic shall be "The Call of South Africa/Die Stem van Suid-Afrika", and "Nkosi Sikelel' iAfrika".

PART III

THE STATE PRESIDENT

6. The State President and his powers.—(1) The head of the Republic shall be the State President.

(2) The command-in-chief of the South African Defence Force is vested in the State President.

(3) The State President shall, subject to the provisions of this Act, have power—

- (a) to address ~~any House, or the Houses at a joint sitting~~ the National Assembly
- (b) to confer honours;
- (c) to appoint and to accredit, to receive and to recognize ambassadors, plenipotentiaries, diplomatic representatives and other diplomatic officers, consuls and consular officers;
- (d) to pardon or reprieve offenders, either unconditionally or subject to such conditions as he may deem fit, and to remit any fines, penalties or forfeitures;
- (e) to enter into and ratify international conventions, treaties and agreements;
- (f) to proclaim or terminate martial law;
- (g) to declare war and make peace;
- (h) to make such appointments as he may deem fit under powers conferred upon him by any law, and to exercise such powers and perform such functions as may be conferred upon or assigned to him in terms of this Act or any other law.

(4) The State President shall in addition as head of the State have such powers and functions as were immediately before the commencement of this Act possessed by the State President by way of prerogative.

7. Election of State President.—(1) (a) The State President shall be elected by the members of an electoral college present at a meeting called in accordance with the provisions of this section and presided over by the Chief Justice or a judge of appeal designated by him.

(b) An electoral college referred to in paragraph (a) shall be constituted whenever necessary in terms of this Act, and shall consist of ~~all the members of the National Assembly~~

~~(i) 50 members of the House of Assembly designated by it by resolution;~~

(ii) 25 members of the House of Representatives designated by it by resolution;

(iii) 13 members of the House of Delegates designated by it by resolution.

or, in the case of a particular House, such smaller number of members thereof, if any, as may be so designated by it.

~~(c) A member of a House referred to in section 41 (1) (b) or (c), 42 (1) (b) or (c) or 43 (1) (b) or (c) may not be designated as a member of an electoral college or participate in the voting or other proceedings of the House in question in connection with a resolution contemplated in paragraph (b) of this subsection.~~

(c) If there is no person who is competent to preside at a meeting of a House for the purposes of paragraph (b), the Secretary to Parliament or any other officer of Parliament designated by him shall preside thereat and may exercise thereat the powers of the Chairman of the House.

[Para. (d) substituted by s. 2 of Act No. 105 of 1984.]

(d) An electoral college shall dissolve after disposing of the matters for which it is constituted in terms of this Act.

(2) The election of a State President shall be held, subject to the provisions of subsection (4), at a time and place fixed by the Chief Justice and made known by notice in the *Gazette* not less than 14 days before the election.

(3) The date so fixed shall—

(a) in the case of the first such election, be a date not more than seven days after the commencement of the first session of Parliament after the commencement of this Act;

(b) whenever a general election of members of the Houses has been held after a dissolution of Parliament, be a date not more than seven days after the commencement of the first session of Parliament after the general election;

(c) if the State President dies or for any other reason vacates his office before the expiration of his period of office and his successor in office has then not yet been elected, be a date not more than one month after the office became vacant: Provided that if the State President resigns and intimates in his resignation lodged with the Chief Justice in terms of section 9 (4) that he will vacate his office on a day not less than one month after the date of the lodging of his resignation, a date earlier than the day on which the office becomes vacant, shall be so fixed.

(4) If any electoral college removes the State President from office in terms of section 9, it shall forthwith proceed to elect a State President.

(5) No person may be elected or serve as State President unless he is qualified to be nominated or elected and take his seat as a member of a House.

(6) Any person who holds a public office in respect of which he receives any remuneration or allowance out of public funds, and who is elected as State President, shall vacate such office with effect from the date on which he is elected.

8. Method of election.—(1) Nominations of candidates for election as State President shall be called for at the meeting of the electoral college at which the election is to take place, by the person presiding at the meeting.

(2) Every nomination shall be submitted in the form prescribed and shall be signed by two members of the electoral college and also by the person nominated, unless he has in writing or by telegram signified his willingness to accept nomination.

(3) The names of the persons duly nominated as provided in subsection (2) shall be announced at the meeting at which the election is to take place by the person presiding at the meeting, and no debate shall be allowed at the election.

(4) If in respect of any election only one nomination has been received, the person presiding at the meeting shall declare the candidate in question to be duly elected.

(5) Where more than one candidate is nominated for election, a vote shall be taken by secret ballot, each member of the electoral college present at the meeting in question having one vote, and any candidate in whose favour a majority of all the votes cast is recorded shall be declared duly elected by the person presiding at the meeting.

(6) (a) If no candidate obtains a majority of all the votes so cast, the candidate who received the smallest number of votes shall be eliminated and a further ballot taken in respect of the remaining candidates, this procedure being repeated as often as may be necessary until a candidate receives a majority of all the votes cast and is declared duly elected.

(b) Whenever two or more candidates being the lowest on the poll have received the same number of votes, the electoral college shall by separate vote, to be repeated as often as may be necessary, determine which of those candidates shall for the purposes of paragraph (a) be eliminated.

(7) (a) Whenever—

(i) only two candidates have been nominated; or

(ii) after the elimination of one or more candidates in accordance with the provisions of this section, only two candidates remain,

and there is an equality of votes between those two candidates, a further meeting shall be called in accordance with the provisions of section 7, and the provisions of this section shall apply as if such further meeting were the first meeting called for the purposes of the election in question.

(b) If at the third meeting there is again an equality of votes, the electoral college shall dissolve, an electoral college shall again be constituted and the provisions of section 7 and this section shall apply *mutatis mutandis* as if the newly constituted electoral college were the first electoral college constituted for the purposes of the election in question.

(8) (a) The Chief Justice shall make rules in regard to the procedure to be observed at a meeting of any electoral college constituted as provided in section 7, including rules prescribing the form in which any nomination shall be submitted and rules defining the duties of the presiding officer and of any person appointed to assist him, and prescribing the manner in which a ballot at any such meeting shall be conducted.

(b) Such rules shall be made known in such manner as the Chief Justice may consider necessary.

9. Tenure of office of State President.—(1) The State President shall hold office, subject to the other provisions of this section—

(a) during the continuance of the Parliament from which the electoral college that elected him was constituted; and

(b) after the dissolution of that Parliament, whether by effluxion of time or otherwise, until a State President has, at or after the commencement of the first session of the newly constituted Parliament, been elected as provided in sections 7 and 8 and has assumed office,

but shall be eligible for re-election.

(2) The State President shall vacate his office—

(a) if in terms of section 7 (5) he becomes disqualified from serving as State President; or

(b) if he is removed from office under subsection (3).

(3) (a) The State President shall cease to hold office on a resolution adopted by a majority of the members present at a meeting of an electoral college constituted as prescribed in section 7 and convened, as so prescribed, by the Chief Justice at the request of ~~each of the~~ *National Assembly* ~~the three Houses~~, and declaring him to be removed from office on the ground of misconduct or inability to perform efficiently the duties of his office.

(b) In connection with a resolution contemplated in paragraph (a) no debate shall be allowed in the electoral college.

(c) No request in terms of paragraph (a) shall be made by ~~any House~~ *the National Assembly*, except after consideration of a report of a committee of Parliament appointed in accordance with rules and orders contemplated in section 64.

(d) ~~A House~~ *The National Assembly* shall not adopt a resolution that such a committee be appointed, unless there has previously been submitted to the Speaker of Parliament a petition signed by not less than half of the members of ~~each House~~ *the National Assembly* and requesting that such a committee be appointed.

(e) In connection with a resolution contemplated in paragraph (d) no debate shall be allowed in the ~~House in question~~ *National Assembly*.

(4) The State President may resign by lodging his resignation in writing with the Chief Justice.

10. Acting State President.—(1) Whenever the State President is for any reason unable to perform the duties of his office, a member of the Cabinet nominated by the State President shall serve as Acting State President.

(2) Whenever—

(a) the State President is unable to nominate a member of the Cabinet in terms of subsection (1); or

(b) the member so nominated is for any reason unable to act; or

(c) the office of State President is vacant and there is no member so nominated or the member so nominated is unable to act,

a member of the Cabinet designated by the remaining members thereof shall serve as Acting State President during the incapacity of the State President or of the member nominated by him, as the case may be, or until a State President has been elected and has assumed office.

(3) (a) If a member of the Cabinet serves as Acting State President in terms of a designation under subsection (2) during the incapacity of the State President or of the member nominated by him, and the Speaker of Parliament is at any time of the opinion that neither the State President nor his nominee will be able to resume the duties of his office within 60 days from the date on which his incapacity set in, the Speaker shall in writing inform the Acting State President and the Chief Justice accordingly, and thereupon a member of the Cabinet shall without delay be designated as Acting State President by an electoral college *mutatis mutandis* in accordance with sections 7 and 8.

(b) When the Acting State President so designated by the electoral college assumes office, any nomination or designation made under subsection (1) or (2) shall lapse.

(c) The Acting State President so designated by the electoral college shall serve as such during the incapacity of the State President or until a State President has been elected and has assumed office, as the circumstances may require.

(4) Whenever it is in any of the circumstances mentioned above not possible to nominate or designate an Acting State President, the Speaker of Parliament shall serve as Acting State President.

11. Oath of office by State President and Acting State President.—(1) The State President and any Acting State President shall when assuming office make and subscribe an oath of office in the following form before the Chief Justice or any other judge of the Supreme Court:

In the presence of Almighty God and in full realization of the high calling I assume as State President Acting State President in the service of the Republic, I, A.B., do swear to be faithful to the Republic of South Africa and do solemnly and sincerely promise at all times to promote that which will advance and to oppose all that may harm the Republic; to obey, observe, uphold and maintain the Constitution and all other Law of the Republic; to discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience; to do justice unto all; and to devote myself to the well-being of the Republic and its people.

May the Almighty God by His grace guide and sustain me in keeping this oath with honour and dignity.

So help me God.

(2) In the case of the State President the oath shall be made and subscribed by him at a formal function where the Seal of the Republic is handed over to him by the outgoing State President or Acting State President, unless he already has the Seal in his custody.

12. Salary of State President.—There shall be paid to the State President out of and as a charge on the State Revenue Fund and apart from any privilege which he may enjoy, such salary and allowances as may be determined from time to time by resolution of Parliament.

13. Pension payable to State President and State President's widow or widower.—

(1) There shall be paid out of and as a charge on the State Revenue Fund—

(a) to any person who has at any time held the office of State President, an annual pension equal to the annual salary which was payable to him on the day upon which he vacated office;

(b) to the widow or widower of any such person a pension at the rate of three-quarters of the rate of the pension payable to such a person.

(2) A pension in terms of subsection (1) shall be payable—

(a) in the case of the State President, with effect from the day following that upon which he vacated office;

(b) in the case of the State President's widow or widower, with effect from the day following that upon which such person became a widow or a widower.

~~PART IV~~

~~OWN AFFAIRS AND GENERAL AFFAIRS~~

14. Own affairs.—(1) Matters which specially or differentially affect a population group in relation to the maintenance of its identity and the upholding and furtherance of its way of life, culture, traditions and customs, are, subject to the provisions of section 16, own affairs in relation to such population group.

(2) Matters coming within the classes of subjects described in Schedule 1 are, subject to the provisions of section 16, own affairs in relation to each population group.

15. General affairs.—Matters which are not own affairs of a population group in terms of section 14 are general affairs.

16. Decision of questions on own or general nature of matters.—(1) (a) Any question arising in the application of this Act as to whether any particular matters are own affairs of a population group shall be decided by the State President, who shall do so in such manner that the governmental institutions serving the interests of such population group are not by the decision enabled to affect the interests of any other population group, irrespective of whether or not it is defined as a population group in this Act.

(b) All such questions shall be general affairs.

(2) The State President may, if he deems it expedient, but subject to the provisions of section 31—

(a) express his decision on any question contemplated in subsection (1) by proclamation in the *Gazette*; or

(b) make his decision on any such question known for general information by such a proclamation, or make it known or cause it to be made known in such other manner as he may deem fit,

and shall advise the Chairman of each Ministers' Council of every such decision.

(3) When the State President assigns the administration of a law to a Minister of a department of State for own affairs of a population group under section 26 or 98 he shall do so in pursuance of a decision under this section that the law, in so far as its administration is so assigned, deals with own affairs of the population group in question.

17. Reference of questions to President's Council for advice, and consultation on certain matters.—(1) The State President may refer any question which is being considered by him in terms of section 16 to the President's Council for advice.

(2) (a) Before the State President issues a certificate under section 31 in respect of a bill or an amendment or a proposed amendment thereof, he shall consult the Speaker of Parliament and the Chairmen of the respective Houses in such manner as he deems fit.

(b) Paragraph (a) does not apply to the issue of a certificate in respect of a bill or an amendment thereof which has been altered as a result of the consultation in terms of that paragraph.

18. Validity of State President's decisions on own or general nature of matters.—

(1) Any division of the Supreme Court of South Africa shall be competent to inquire into and pronounce upon the question as to whether the provisions of section 17 (2) were complied with in connection with a decision of the State President contemplated in those provisions.

(2) Save as provided in subsection (1), no court of law shall be competent to inquire into or pronounce upon the validity of a decision of the State President that matters mentioned in the decision are own affairs of a population group, or are not own affairs of a population group, as the case may be.

(3) For the purposes of subsection (2), the matters dealt with in any bill which, when introduced in a House, is not endorsed with or accompanied by a certificate contemplated in section 31, shall be deemed to be matters which are not own affairs of any population group by virtue of a decision of the State President.

PART V

THE EXECUTIVE AUTHORITY

19. Executive authority.—(1) The executive authority of the Republic shall vest—
 (a) in regard to matters which are own affairs of any population group is vested in the State President acting on the advice of the Ministers' Council in question;
 (b) in regard to general affairs is vested in the State President acting in consultation with the Ministers who are members of the Cabinet: *provided that such consultation shall be deemed to be sufficient in respect of any decision that is supported by at least two thirds of the members of the Cabinet.*

(2) Except in sections 20 (c) ~~and 21 (2)~~ and 37, 24, 25, 26, ~~33, 39 (3), 66 and 98 (2)~~, or where otherwise expressly stated or necessarily implied, any reference in this Act to the State President is a reference to the State President acting as provided in subsection (1).

20. The Cabinet.—The Cabinet shall consist of—

- (a) the State President, who shall preside at its meetings;
- (b) the Ministers appointed to administer departments of State for general affairs;
- (c) any Minister appointed to perform functions other than the administration of a department of State and designated by the State President as a member of the Cabinet; and

21 (1) The Cabinet shall be composed of nominees members of political parties whose representation in the National Assembly exceeds 5% of the total membership of the Assembly

~~(d) any member of a Ministers' Council designated by the State President as a member of the Cabinet, whether for a definite or for an indefinite period or for a particular purpose.~~

~~21. Ministers' Councils.—(1) A Ministers' Council shall consist of—~~

- ~~(a) the Ministers appointed to administer departments of State for own affairs of one and the same population group;~~
- ~~(b) any Minister who is a member of the population group in question and who has been appointed as a member of the Ministers' Council to perform functions other than the administration of a department of State;~~
- ~~(c) any Deputy Minister appointed to exercise or perform powers, functions and duties on behalf of any of the Ministers referred to in paragraph (a); and~~
- ~~(d) any Minister of the Cabinet who is a member of the population group in question and who has been co-opted by the Ministers' Council as a member thereof, whether for a definite or for an indefinite period or for a particular purpose.~~

(2) Cabinet appointments shall be in proportion to the representation of the parties concerned in the National Assembly:

~~(2) The State President shall designate a Minister who is a member of a Ministers' Council and who, at the time of the designation, in the opinion of the State President has the support of the majority in the House consisting of members of the population group in question, as the Chairman of such Ministers' Council.~~

22. Seal of Republic.—(1) There shall be a Seal of the Republic, showing the coat of arms of the Republic with the circumscription "Republic of South Africa—Republiek van Suid-Afrika".

(2) The Seal shall be in the custody of the State President and shall, save in so far as may be otherwise determined by the State President, be used on all public documents on which it was required to be used immediately before the commencement of this Act.

23. Confirmation of executive acts of State President.—(1) The will and pleasure of the State President as head of the executive authority of the Republic shall be expressed in writing under his signature.

(2) Any instrument signed by the State President acting on the advice of a Ministers' Council or in consultation with the Ministers who are members of the Cabinet, shall be countersigned by a Minister who is a member of the Ministers' Council in question or, as the case may be, a member of the Cabinet.

(3) The signature of the State President on any instrument shall be confirmed as provided in section 22.

24. Appointment of Ministers.—(1) The State President may appoint as many persons as he may from time to time deem necessary to administer such departments of State of the Republic as the State President may establish, or to perform such other functions as the State President may determine, and he may himself administer such a department of State for general affairs if at any time no person has been appointed under this subsection or section 25 to administer it.

[Sub-s. (1) substituted by s. 3 of Act No. 105 of 1984.]

(3) All Cabinet appointments shall be made by the State President in consultation with the leader of the political party from which the Cabinet member will be appointed.

- (2) Persons appointed under subsection (1) ~~shall hold office during the State President's pleasure and shall be the Ministers of the Republic, and any such persons~~ shall only be removed from office by the State President acting in consultation with the leader of the governing party who such Minister represents in the National Assembly.
- (3) (a) ~~No Minister shall hold office for a longer period than 12 months unless he is or becomes a member of a House.~~
- (b) ~~A Minister of any department of State for own affairs of a population group shall—~~
- (i) ~~be a member of the population group in question; and~~
 - (ii) ~~at the time of his appointment as such Minister, in the opinion of the State President have the support of the majority in the House consisting of members of that population group.~~
- (4) A Minister shall before assuming his duties make and subscribe an oath before the Chief Justice or any other judge of the Supreme Court in the following form:
- I, A.B., do hereby swear to be faithful to the Republic of South Africa and undertake before God to honour this oath; to hold my office as Minister with honour and dignity; to respect and uphold the Constitution and all other Law of the Republic; to be a true and faithful counsellor; not to divulge directly or indirectly any matters which are entrusted to me under secrecy; and to perform the duties of my office conscientiously and to the best of my ability.
- So help me God.

25. Temporary performance of Minister's functions of office by another Minister.—Whenever a Minister is for any reason unable to perform any of the functions of his office, or whenever any Minister has vacated his office and a successor has not yet been appointed, the State President may appoint any other Minister to act in the said Minister's stead or office, either generally or in the performance of any specific function.

26. Assignment of Minister's functions to another Minister, or performance thereof by or on behalf of State President.—(1) The State President may assign the administration of any provision in any law which entrusts to a Minister any power, duty or function, to any other Minister—

- (a) either specifically or by way of a general assignment of the administration of any law or of all laws entrusting powers, duties or functions to such first-mentioned Minister; and
- (b) either generally or in so far as such provision, law or laws relate to any population group or matter mentioned in such assignment.

(2) ~~A power, duty or function entrusted or assigned by or under this Act or any other law to a Minister of a department of State for general affairs which is administered by the State President, may be exercised or performed by the State President as if he were the Minister of the department in question, and may be exercised or performed on behalf of the State President by a Minister referred to in section 20 (b) or (c) who has been authorized thereto by the State President.~~

[S. 26 substituted by s. 4 of Act No. 105 of 1984.]

27. Appointment and functions of Deputy Ministers.—(1) (a) The State President may, subject to subsection (2), appoint any person to hold office during the State President's pleasure as Deputy Minister of any specified department of State or Deputy Minister of such other description as the State President may determine, and to exercise or perform on behalf of a Minister any of the powers, functions and duties entrusted to such Minister in terms of any law or otherwise which may, subject to the directions of the State President, be assigned to him from time to time by such Minister.

(b) Any reference in any law to a deputy to a Minister shall be construed as including a reference to a Deputy Minister appointed under this subsection, and any such reference to a Minister shall be construed as including a reference to a Deputy Minister acting in pursuance of an assignment under paragraph (a) by the Minister for whom he acts.

(2) (a) ~~No Deputy Minister shall hold office for a longer period than 12 months unless he is or becomes a member of a House.~~

(b) ~~The provisions of section 24 (3) (b) shall apply mutatis mutandis to a Deputy Minister appointed to exercise or perform any powers, functions and duties on behalf of a Minister of a department of State for own affairs of a population group.~~

(3) A Deputy Minister shall before assuming his duties make and subscribe an oath, in the form prescribed in section 24 (4) but with reference to his office as Deputy Minister, before the Chief Justice or any other judge of the Supreme Court.

PART VI

PARLIAMENT

30. Reconstitution of Parliament.-(1) Parliament shall be reconstituted as one House, the National Assembly, which shall have sovereign legislative authority in and over the Republic

(2) Parliament, reconstituted in terms of subsection (1) hereof, shall function both as a Constituent Assembly, with the power to draft and adopt a new constitution, and as a legislature, with the power to make laws for the peace, order and good government of the Republic.

31. Sitting of Parliament.-(1) Parliament shall commence its sittings seven days after the last polling day for the election.

(2) Parliament may adjourn its sittings from time to time, but shall remain in session until it has completed its primary task of adopting a new constitution, or until it is dissolved by effluxion of time in accordance with the provisions of this Act.

32. Duration and dissolution of Parliament.-(1) Parliament shall continue until a new constitution has been adopted as contemplated in section 31(2) or section 42 of this Act, provided that if a new constitution has not been adopted within a period of one year from the date on which the first sitting of Parliament commenced, it shall be dissolved, and an election shall be held for a new Parliament in accordance with the provisions of this Act.

(2) Notwithstanding the provisions of subsection (1) hereof, and ~~provided that Parliament shall at the latest be dissolved five years after the day on which its first sitting commenced,~~ Parliament shall have the power from time to time to extend the period of one year referred to in subsection (1) for such period or periods as it considers appropriate.

(3) Unless the new Constitution otherwise provides, the State President shall dissolve Parliament by proclamation in the gazette to be published not later than thirty days after the adoption of the new constitution, and an election shall thereafter be held for a new Parliament in accordance with the provisions of the new constitution.

33. Effect of dissolution.- Notwithstanding the dissolution of Parliament by effluxion of time or otherwise, the State President shall have the power by proclamation in the gazette to summon Parliament for the dispatch of urgent business during the period following such dissolution up to and including the day immediately preceding the day on which polling for the election held in pursuance of such dissolution commences.

34. Constitution of the National Assembly.-The National Assembly shall consist of four hundred members to be elected by qualified voters by secret ballot. All persons who are South African citizens, or who are deemed to be South African citizens in

any such committee to meet and exercise or perform its powers duties and functions at a place beyond the seat of Parliament.

46. **Public Access to Sitzings.-** All sittings of the National Assembly shall be held in public and members of the public and the media shall have access to such sittings: provided that reasonable safeguards may be instituted to search or refuse entry to persons in order to protect the safety of members or other persons present in the National Assembly.

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(4) Whenever any Deputy Minister is for any reason unable to perform any of the functions of his office, the State President may appoint any other Deputy Minister or any other person to act in the said Deputy Minister's stead, either generally or in the performance of any specific function.

28. Power to appoint and discharge persons.—(1) The appointment and removal of persons in the service of the Republic shall be vested in the State President, unless the appointment or removal is delegated by the State President to any other authority or is in terms of this Act or any other law vested in any other authority.

(2) A Minister may, subject to the directions of the State President, assign to any person appointed by the State President under subsection (1) for that purpose, any power, function or duty entrusted to the Minister in terms of any law or otherwise—

- (a) either specifically or by way of a general assignment of the exercise or performance of all powers, functions or duties of the Minister; and
- (b) either generally or in so far as such power, function or duty relates to any population group or matter or applies in any area mentioned or described in such assignment.

and any such power, function or duty so assigned shall be exercised or performed by the said person on behalf of the Minister.

[Sub-s. (2) added by s. 1 of Act No. 20 of 1987.]

29. Seat of Government.—Save as is otherwise provided in section 36, Pretoria shall be the seat of the Government of the Republic.

PART VI ~~PARLIAMENT~~ ~~THE LEGISLATURE~~

The Legislature and its Powers

30. Legislature and its powers.—The legislative power of the Republic is vested in the State President and the Parliament of the Republic, which, as the sovereign legislative authority in and over the Republic, shall have full power to make laws for the peace, order and good government of the Republic: Provided that the powers of Parliament in respect of any bill contemplated in section 31 shall be exercised as provided by that section.

31. Bills on own affairs of a population group.—(1) A bill which, when introduced in a House, is endorsed with or accompanied by the certificate of the State President that the bill deals with matters which are own affairs of the population group in question, shall be disposed of by that House, and shall not be required to be, or be, introduced in or dealt with by any other House.

(2) If an amendment of any such bill is proposed in the House in question or adopted by it, and the certificate of the State President that such amendment deals with matters which are not own affairs of the population group in question, is at any time, whether before the bill is passed by the House or after it has been passed by it but before the State President has assented to it, laid upon the Table of the House, the bill shall not or, as the case may be, not again be presented to the State President for his assent unless—

- (a) the proposal for the amendment is withdrawn or not agreed to; or
- (b) if the bill was passed before the tabling of the certificate, the House has reconsidered the amendment and has adopted in its place an amendment in respect of which the State President's certificate *mutatis mutandis* in accordance with subsection (1) of this section was issued before it was adopted.

(3) A bill passed by a House under subsection (1) or passed by a House and thereafter amended in accordance with subsection (2) (b), shall, when it is presented to the State President for his assent, be endorsed with the certificate of the Chairman of the House that it has been passed and is presented for assent in accordance with this section or, as the circumstances may require, that it has been passed and amended and is presented for assent in accordance with this section.

32. Disagreement among the Houses.—(1) If during the same session of Parliament—

- (a) one or two Houses pass a bill and the other Houses or House rejects it or is deemed in terms of subsection (2) to have rejected it; or
- (b) two Houses pass different versions of a bill and the other House rejects it or is so deemed to have rejected it; or

(c) two Houses pass a bill and the other House passes a different version of it;
or

(d) each of the Houses passes a different version of a bill,

the State President may during that session refer the bill or the different versions thereof which have been passed, as the case may be, to the President's Council for its decision: Provided that the State President may withdraw the reference at any time before the President's council gives its decision.

(2) (a) If—

(i) the State President, by message to a House, has requested that a bill passed by another House and introduced in the House in question or in respect of which notice of a motion for its introduction or consideration has been given in that House, be disposed of by that House before a date mentioned in the message, which may not be a date earlier than 14 days after the date of the message; and

(ii) that House has not disposed of such bill before the date mentioned in the message,

that House shall be deemed for the purposes of subsection (1) to have rejected the bill, unless the State President by like message determines otherwise within seven days after the date so mentioned.

(b) A House which has rejected a motion for the introduction or consideration of a bill shall be deemed for the purposes of subsection (1) to have rejected the bill.

[Sub-s. (2) substituted by s. 5 of Act No. 105 of 1984.]

(3) When a recommendation of the President's Council has been laid upon the Table of a House as provided in section 78 (8), the House may deal with the recommendation.

(4) A bill which was referred to the President's Council under subsection (1) and which, in terms of a decision of that council given during the session of Parliament in which the bill was so referred, is to be presented to the State President for his assent, shall be deemed to have been passed by Parliament.

(5) A bill which is deemed in terms of subsection (4) to have been passed by Parliament shall, when it is presented to the State President for his assent, be endorsed with the certificate of the Speaker of Parliament that the bill is by virtue of a decision of the President's Council so deemed to have been passed by Parliament.

37 ~~33~~. Assent to bills.—(1) ~~When a bill which has been passed by the National Assembly~~ *shall be*

(a) ~~has been passed by Parliament; or~~

(b) ~~in terms of section 32 (4) is deemed to have been passed by Parliament; or~~

(c) ~~has been passed by a House in accordance with section 31,~~

~~is presented to the State President for his assent, he shall declare that he assents thereto or that he withholds assent, but he shall not declare that he withholds assent unless he is satisfied that the bill has not been dealt with as provided in this Act.~~

~~(2) The provisions of subsection (1) of this section shall not affect the State President's powers in terms of subsection (2) of section 31 to issue a certificate contemplated in the last mentioned subsection in respect of an amendment of a bill when the bill is presented to him for assent, and to return the bill to the House in question.~~

34. Validity of Acts of Parliament.—(1) A bill referred to in section 33 (1) to which the State President has assented shall be an Act of Parliament.

(2) (a) Any division of the Supreme Court of South Africa shall, subject to the provisions of section 16, be competent to inquire into and pronounce upon the question as to whether the provisions of this Act were complied with in connection with any law which is expressed to be enacted by the State President and Parliament or by the State President and any House

41 (7) and 41 (8)

(2) The State President shall assent to a bill which has been passed in accordance with the provisions of this Act, and shall withhold his assent if the provisions of this Act have not been complied with

~~(b) Rules and orders of a House and joint rules and orders of the Houses shall not be regarded as provisions of this Act for the purposes of paragraph (a).~~

(3) Save as provided in subsection (2), no court of law shall be competent to inquire into or pronounce upon the validity of an Act of Parliament.

39. ~~35.~~ Signature and enrolment of Acts.—As soon as may be after any law has been assented to by the State President, the Secretary to Parliament shall cause two fair copies of such law, one being in the English and the other in the Afrikaans language (one of which copies shall have been signed by the State President), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa, and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies so enrolled that signed by the State President shall prevail.

40. ~~36.~~ Seat of Legislature.—Cape Town shall be the seat of the ~~Legislature of the Republic.~~
National Assembly

~~Parliament~~

37. ~~Constitution of Parliament.~~—(1) ~~Parliament shall consist of three Houses, namely, a House of Assembly, a House of Representatives and a House of Delegates.~~

(2) If and for as long as any House is unable, during a session of Parliament, to meet for the performance of its functions or to perform its functions—

- (a) by reason of a shortfall in the number of its members, or because there are no members, as a result of the resignation of members or the fact that an insufficient number of members or no member was elected at any election of members of such House; or
- (b) by reason of the absence of members, or the failure of members to take their seats or to perform the functions of their office, after the State President has by proclamation in the *Gazette* called upon all members of such House to be present in the chamber of such House for the performance of their functions as such members on a day and at an hour mentioned in the proclamation, and that hour and day have passed,

Parliament shall consist of the Houses that are or, according to the circumstances, the House that is able to perform their or its functions, and the provisions of this Act and any other law shall be construed accordingly.

38. Sessions of Parliament.—(1) The State President may appoint such times for the sessions of Parliament as he thinks fit, and may also from time to time, by proclamation in the *Gazette* or otherwise, prorogue Parliament.

(2) There shall be a session of Parliament at least once in every year, so that a period of 13 months shall not intervene between the commencement of one session and the commencement of the next session.

(3) The first session of Parliament after the general election of members of the Houses held in pursuance of a dissolution of Parliament, shall commence within 30 days after the polling day of the election.

39. Duration and dissolution of Parliament or a House.—(1) Every Parliament shall continue for five years from the day on which its first session commences.

(2) The State President—

- (a) may dissolve Parliament by proclamation in the *Gazette* at any time; and
- (b) shall so dissolve parliament, unless he resigns from office, if each House, during one and the same ordinary session of Parliament—
 - (i) passes a motion of no confidence in the Cabinet within any period of 14 days; or

41(1). **Voting in the National Assembly.**-(1) Save as set out in this section all questions in the National Assembly shall be determined by a majority of 66,7% of votes of members present other than the Chairman or the Presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

(2) When Parliament sits as a Constituent Assembly for the purposes of adopting a new constitution, all questions shall be determined by a majority of 66,7 per cent of votes of members present other than the Chairman or the Presiding member: provided that the Constitution to be adopted shall in all respects conform with, and shall not in any respect contradict the constitutional principles set out in the Schedule to this Act.

general
(3) The constitutional principles set out in the Schedule to this Act shall limit the power of Parliament sitting as a Constituent Assembly, and no repeal or amendment of such principles shall be permissible under this Constitution.

(4) Should any political party represented in the National Assembly contend that a proposed provision of the new Constitution which has been put to the National Assembly for adoption does not comply with the requirements of section 41(2) of this Act, the political party concerned shall inform the Speaker of its contention, and in that event debate upon such proposal shall be suspended, and the contention of the political party shall be referred by the Speaker to the Constitutional Panel referred to in section 41(5) of this Act for its determination.

(5) A Constitutional Panel consisting of seven suitably qualified persons shall be appointed en bloc by the National Assembly to determine all disputes arising out the provisions of section 41(3) hereof. The Constitutional Panel shall function and take decisions in accordance with the procedures set out in the Schedule hereto.

(6) A determination by the Constitutional Panel shall be final and binding and shall not be subject to appeal or review by a court of law.

?
(7) No court of law shall have jurisdiction to pronounce upon the validity of any constitution adopted by Parliament sitting as a Constituent Assembly on the grounds that such constitution does not comply with the requirements of section 41(3) of this Act.

(8) Nothing in section 41(7) of this Act shall be construed as depriving a court of law of its duty to uphold determinations made by the Constitutional Panel.

(9) When Parliament sits as a legislature the special majorities hereinafter set out shall be required for the following matters-

(a) in order to repeal specific provisions of or

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otherwise amend this constitution, 80 per cent of the votes of members present other than the Chairman or the Presiding member.

(b) in order to repeal or amend (special legislation agreed to by Codesa, including the 'Protection of Fundamental Rights Act'), 80 per cent of the votes of members present other than the Chairman or the Presiding member.

(42(1) If the National Assembly, sitting as a Constituent Assembly, has not adopted a new constitution within a period of six months from the date of the first sitting of such Assembly, the National Assembly may resolve by a simply majority of members present other than the Chairman, or the Presiding Member, that a constitution which has the approval of such majority, be put to a general referendum.

(2) If a resolution is passed in terms of subsection (1) hereof, a general referendum shall be held on a date to be fixed by the State President by notice in the gazette, which shall not be later than one month after the passing of such resolution.

(3) The referendum shall be conducted in accordance with the provisions set out in the Schedule to this Act.

(4) If at least 66,7% of the votes cast in the general referendum are in favour of the adoption of the proposed constitution, it shall be deemed to have been adopted in accordance with the provisions of this Act.

43. Repeal of this Act.- When Parliament is sitting as a Constituent Assembly adopts a new constitution in accordance with the provisions of section 41(2) hereof, or when a new constitution is deemed to have been adopted in accordance with the provisions of section 42 hereof, this Act shall be deemed to be repealed thereby. Save as aforesaid, and save as set out in section 41(9)(a) hereof, the House of Assembly shall have no power to repeal this Act or any of its provisions.

44. Committees of the National Assembly - The National Assembly may appoint committees consisting of its members in order to perform functions assigned to them by the Assembly provided that no party represented in the Assembly shall be excluded from any such committee, and provided further that the committees shall as far as possible be composed in a way which gives parties representation in proportion to their representation in the Assembly

45. Rules of procedure.- (1) The National Assembly may make rules and orders in connection with the order and conduct of its business and proceedings as a Constituent Assembly and as a Legislature.

(2) The rules and orders may provide for the manner in which committees appointed by it in terms of section 43 hereof shall conduct their affairs and take their decisions, and may authorise

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accordance with the provisions of the schedule to this Act, shall be qualified and entitled to vote in the election for members of the National Assembly.

35. Elections for the National Assembly.- The members of the House of Assembly shall be elected by proportional representation in accordance with the principles and procedures set out in the schedule to this Act.

36. Disqualifications for membership of the National Assembly- (1) No person shall be capable of being elected to or of sitting as a member of the National Assembly unless such person is qualified in accordance with the provisions set out in the schedule to this Act to hold such office

(2) Any member of the National Assembly who, after having been elected to the House, ceases to be qualified for membership, shall vacate his seat.

~~return~~

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(ii) rejects any bill which appropriates revenue or moneys for the ordinary annual requirements or services of the departments of State controlled by members of the Cabinet.

(3) Subject to the provisions of subsection (2) —

(a) the State President may dissolve any House by proclamation in the *Gazette* if —

- (i) such House passes a motion of no confidence in the Cabinet; or
- (ii) such House rejects any bill referred to in subsection (2) (b) (ii); or
- (iii) any circumstance contemplated in section 37 (2) applies to such House; or

(iv) the Ministers' Council in question requests him to do so;

(b) the State President shall so dissolve any House or reconstitute the Ministers' Council in question if —

- (i) such House passes a motion of no confidence in the Ministers' Council in question; or
- (ii) such House rejects any bill referred to in section 31 which appropriates revenue or moneys for the ordinary annual requirements or services of the departments of State controlled by members of the Ministers' Council in question.

40. **Effect of dissolution.** — Notwithstanding the dissolution of any House in terms of this Act, whether by a dissolution of Parliament or otherwise and whether by effluxion of time or otherwise —

- (a) every person who at the date of the dissolution is a member of such House shall remain a member thereof;
- (b) such House shall remain competent to perform its functions; and
- (c) the State President shall have power to summon Parliament or the House in question for the dispatch of business,

during the period following such dissolution up to and including the day immediately preceding the polling day for the election held in pursuance of such dissolution, in the same manner in all respects as if the dissolution had not occurred.

The Houses

41. **Constitution of House of Assembly.** — (1) The House of Assembly shall consist of —

- (a) 166 members, each of whom shall be directly elected by the persons entitled to vote at an election of such a member in an electoral division delimited as provided in section 49;
- (b) four members nominated by the State President, of whom one shall be nominated from each province;
- (c) eight members elected by the members contemplated in paragraph (a) according to the principle of proportional representation, each voter having one transferable vote.

(2) The number of members of the House of Assembly to be elected as provided in subsection (1) (a) in each province, shall be as follows: —

Cape of Good Hope	56
Natal	20
Orange Free State	14
Transvaal	76

42. Constitution of House of Representatives.—(1) The House of Representatives shall consist of—

- (a) 80 members, each of whom shall be directly elected by the persons entitled to vote at an election of such a member in an electoral division delimited as provided in section 49;
- (b) two members nominated by the State President;
- (c) three members elected by the members contemplated in paragraph (a) according to the principle of proportional representation, each voter having one transferable vote.

(2) The number of members of the House of Representatives to be elected as provided in subsection (1) (a) in each province, shall be as follows:—

Cape of Good Hope	60
Natal	5
Orange Free State	5
Transvaal	10

43. Constitution of House of Delegates.—(1) The House of Delegates shall consist of—

- (a) 40 members, each of whom shall be directly elected by the persons entitled to vote at an election of such a member in an electoral division delimited as provided in section 49;
- (b) two members nominated by the State President;
- (c) three members elected by the members contemplated in paragraph (a) according to the principle of proportional representation, each voter having one transferable vote.

(2) The number of members of the House of Delegates to be elected as provided in subsection (1) (a) in a province, shall be as follows:—

Cape of Good Hope	3
Natal	29
Transvaal	8

44. References to directly and indirectly elected and nominated members of Houses.—Any reference in this Part to a directly elected member, a nominated member and an indirectly elected member of a House, shall be construed as a reference to a member of such House who, as the case may be and as the context may require, has been elected or nominated or is to be elected or nominated as provided in section 41 (1) (a), (b) and (c), respectively, or section 42 (1) (a), (b) and (c), respectively, or section 43 (1) (a), (b) and (c), respectively.

45. Alteration of number of members of province.—Notwithstanding any provision to the contrary contained in this Act, the number of members of any House to be elected in the various provinces as provided in section 41 (2), 42 (2) or 43 (2), as the case may be, shall not be altered until—

- (a) in the case of the House of Assembly, a period of five years has elapsed from the last delimitation of its electoral divisions in terms of the previous Constitution; and
- (b) in the case of the House of Representatives and the House of Delegates, a period of 10 years has elapsed from the first delimitation of the electoral divisions of the House in question in terms of this Act.

46. Nomination and indirect election of members of Houses.—(1) The State President may make regulations in regard to the election of indirectly elected members of a House, including regulations prescribing the manner of voting and of the transfer and counting of votes and the duties of returning officers in connection with such election.

(2) (a) A casual vacancy in the seat of a nominated or an indirectly elected member of a House shall, subject to the provisions of paragraph (b), be filled by the nomination or election of a member for the unexpired portion of the term of office of the member in whose stead he is nominated or elected, and in the same manner in which the last-mentioned member was nominated or elected.

(b) If a casual vacancy in the seat of an indirectly elected member of a House exists while there is one or more directly elected members of the House who belong to or are supporters of the same political party as that to which the member whose seat is vacant belonged or of which he was a supporter at the time when the seat became vacant, the vacancy shall be filled by the nomination of a member by the said directly elected member or members (hereinafter referred to as competent members) for the unexpired portion of the term of office of the member whose seat is vacant: Provided that in the case of a casual vacancy in the seat of an indirectly elected member who, when the vacancy occurred, no longer belonged to or was a supporter of the said political party, the vacancy shall be filled in the manner prescribed in paragraph (a).

(c) A nomination in terms of paragraph (b) shall—

- (i) be made on a form prescribed by the Speaker of Parliament;
- (ii) contain the nominee's consent to his nomination and his confirmation that he is competent to become a member of the House in question, signed by him;
- (iii) if there are not more than five competent members, be signed by every competent member;
- (iv) if there are more than five competent members, be signed on behalf of the competent members by the leader of the political party in question in the House and at least four other competent members; and
- (v) be lodged with the Secretary to Parliament, who shall record on it, under his signature, the date on which he receives it,

and shall take effect on the date so recorded on it and not earlier.

(d) A member of a House nominated in accordance with paragraphs (b) and (c) of this subsection shall for the purposes of this Act and any other law be deemed to have been elected in accordance with the provisions of section 41 (1) (c), 42 (1) (c) or 43 (1) (c), as the case may be, and any reference in this Act (except subsection (1) of this section) or any other law to an indirectly elected member or a member elected or to be elected as provided in the said provisions, or to the election of such a member, shall be construed as including a reference to a member nominated or to be nominated as provided in paragraphs (b) and (c) of this subsection or to the nomination of a member in accordance with the last-mentioned paragraphs, as the case may be.

[Sub-s. (2) substituted by s. 6 of Act No. 105 of 1984.]

(3) A nominated or indirectly elected member of a House who—

- (a) remains a member of the House in terms of section 40 up to and including the day immediately preceding the polling day for the relevant election referred to in that section; and
- (b) is not elected as a member of the House in question at that election,

shall, during the period which in terms of subsection (4) of this section is applicable in his case, be deemed to have been nominated or elected on that polling day as a nominated member or, as the case may be, as an indirectly elected member of that House, and, in the case of a nominated member of the House of Assembly, from the province from which he was in fact nominated.

(4) Any person who is a member of a House in terms of the provisions of subsection (3) shall cease to be a member of such House in terms of those provisions—

- (a) in the case of a person deemed in terms of those provisions to have been nominated from a particular province as a member of the House of Assembly, on the day on which a nominated member of that House is nominated from

that province in pursuance of the relevant dissolution of that House referred to in section 40, or, if such a member is not so nominated within the period of 45 days after the polling day of the general election held in pursuance of that dissolution, at the expiration of that period; and

- (b) in the case of a person deemed in terms of those provisions to be an indirectly elected member of a House or a nominated member of a House other than the House of Assembly, on the first day on which indirectly elected or, as the case may be, nominated members of the House in question are elected or nominated in pursuance of the relevant dissolution referred to in section 40, or, if no such members are elected or nominated within the period of 45 days after the polling day of the general election held in pursuance of that dissolution, at the expiration of that period: Provided that such person, if he is elected or nominated as such a member but not on such first day, shall be deemed to have remained a member of the House in question up to and including the day immediately preceding the day on which he is so elected or nominated.

47. Polling day at general elections.—(1) At any general election of members of the Houses held in pursuance of a dissolution of Parliament, all polls shall be taken on one and the same day in all the electoral divisions of all three Houses throughout the Republic, such day to be appointed by the State President.

(2) At any general election of members of a House held in pursuance of its dissolution otherwise than at a dissolution of Parliament, all polls shall be taken on one and the same day in all the electoral divisions of that House throughout the Republic, such day to be appointed by the State President.

(3) The day appointed by the State President in terms of subsection (1) or (2), shall be a day not more than 180 days after the dissolution of Parliament or the House in question, as the case may be.

48. Delimitation of electoral divisions.—(1) At intervals of not less than five years and not more than 10 years, commencing from the first delimitation of electoral divisions in terms of this Act, the State President shall appoint a delimitation commission consisting of three judges of the Supreme Court of South Africa, which shall, subject to the provisions of section 41 (2), 42 (2) or 43 (2), as the case may be, divide the Republic, for the purpose of the election of directly elected members of a House, into the same number of electoral divisions as the number of such members of that House, in such a manner that no electoral division is situated partly in one province and partly in another province.

[Sub-s. (1) substituted by s. 1 of Act No. 61 of 1990.]

(2) No judge shall be appointed under subsection (1) as a member of a delimitation commission unless he has served as a judge, whether in a permanent or temporary capacity, for a total period of not less than five years.

(3) In dividing the Republic into electoral divisions in terms of subsection (1) the delimitation commission shall act in accordance with the provisions of section 49.

(Date of commencement of s. 48: 24 February, 1984.)

49. Method of dividing provinces into electoral divisions.—(1) For the purposes of the division of a province into electoral divisions of a House, the quota of the province for the House shall be obtained, subject to the provisions of subsection (4), by dividing the number of voters of the House in the province in terms of the current voters lists, duly corrected up to the latest possible date, by the number of members of the House to be elected in the province in terms of section 41 (2), 42 (2) or 43 (2), as the case may be.

(Date of commencement of s. 49 (1): 24 February, 1984.)

(2) A province shall be divided into electoral divisions of a House in such a manner that each such electoral division shall, subject to the provisions of subsections (3) and (4), contain a number of voters as nearly as may be equal to the quota of the province for the House.

(Date of commencement of s. 49 (2): 24 February, 1984.)

(3) The delimitation commission shall give due consideration to—

- (a) community or diversity of interests;
- (b) means of communication;
- (c) physical features;
- (d) boundaries of existing electoral divisions;
- (e) sparsity or density of population;
- (f) probability of increase or decrease of population;
- (g) local authority and magisterial district boundaries,

in such manner that, while taking the quota of voters as the basis of division, the commission may depart from the quota whenever it is deemed necessary, but in no case to a greater extent than 15 per cent more or 15 per cent less than the quota: Provided that in the case of an electoral division with an area of 25 000 square kilometres or more, the commission may reduce the number of voters to a number equal to 70 per cent of the quota.

(Date of commencement of s. 49 (3): 24 February, 1984.)

(4) (a) The port and settlement mentioned in the Walfish Bay and St John's River Territories Annexation Act, 1884, of the Cape of Good Hope, and the territory surrounding it and bounded as described in that Act, shall be one of the electoral divisions into which the province of the Cape of Good Hope shall be divided for the election of members of the House of Assembly, and, as such electoral division, it shall be called Walvis Bay until different provision is made under section 50.

(b) The boundaries of such electoral division, as described in paragraph (a), shall not be altered by any delimitation commission, but in so far as may be necessary for the purposes of any provision of this Act or any other law those boundaries shall be deemed to have been settled by such commission.

(c) The provisions of this section in regard to the quota of a province and the number of voters of an electoral division shall not apply in connection with the electoral division referred to in paragraph (a), and in their application at any delimitation of the other electoral divisions in the province of the Cape of Good Hope for the election of members of the House of Assembly—

- (i) the port, settlement and territory mentioned in paragraph (a) shall be deemed not to be part of that province;
- (ii) the voters of that electoral division, in terms of the current voters' list, duly corrected up to the latest possible date, shall be deemed not to be voters in that province; and
- (iii) the number of members of the House of Assembly to be elected in that province, shall be deemed not to include a member for that electoral division.

50. Powers and duties of delimitation commission.—(1) A delimitation commission, having delimited the electoral divisions of a House, shall submit to the State President—

- (a) a list of the electoral divisions, with the names given to them by the commission and, if the commission considers it necessary, a description of the boundaries or any part of the boundaries of any division;
[Para. (a) substituted by s. 1 (a) of Act No. 71 of 1989.]
- (b) a map or maps showing the electoral divisions into which the provinces have been divided;
- (c) such further particulars as it considers necessary.

(2) The State President may refer to the commission for its consideration all matters relating to such list or arising out of the powers or duties of the commission.

(3) The State President shall by proclamation in the *Gazette* make known the names of the electoral divisions as finally settled and certified by the commission, or a majority thereof, on the aforesaid map or maps, and thereafter, until there shall be a redivision, the electoral divisions so named and settled shall be the electoral divisions of the House in question in the Republic and the provinces.

[Sub-s. (3) substituted by s. 1 (b) of Act No. 71 of 1989.]

(4) The map or maps so certified shall be filed at the office of the Chief Electoral Officer referred to in section 5 (1) (a) of the Electoral Act, 1979, and such map or maps, together with any description contemplated in subsection (1) (a), shall be conclusive evidence of the boundaries of the electoral divisions as settled by the commission.

[Sub-s. (4) substituted by s. 1 (c) of Act No. 71 of 1989.]

(5)

[Sub-s. (5) deleted by s. 1 (d) of Act No. 71 of 1989.]

(6) (a) The State President may by proclamation in the *Gazette* alter the name of any electoral division as made known under subsection (3).

(b) The name given to any electoral division under paragraph (a) shall, notwithstanding the provisions of subsection (3), be the name of that electoral division until there shall be a redivision.

(Date of commencement of s. 50: 24 February, 1984.)

51. Date from which alteration of electoral divisions takes effect.—Any alteration in the number of members of a House to be elected in the several provinces, and any redivision of the provinces into electoral divisions of a House, shall come into operation at the next general election of directly elected members of the House in question held after the completion of the redivision or of any allocation consequent upon such alteration, and not earlier.

52. Franchise.—Every White person, Coloured person and Indian who—

- (a) is a South African citizen in terms of the South African Citizenship Act, 1949; and
- (b) is of or over the age of 18 years; and
- (c) is not subject to any of the disqualifications mentioned in section 4 (1) or (2) of the Electoral Act, 1979,

shall, on compliance with and subject to the provisions of the Electoral Act, 1979, be entitled to vote at any election of a member of the House of Assembly, the House of Representatives and the House of Delegates, respectively, in the electoral division of the House in question determined in accordance with the last-mentioned Act.

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53. Qualifications of members of Houses.—No person shall be qualified to be a member of a House under this Act unless he—

- (a) is qualified to be included as a voter in any list of voters of the House in question in an electoral division thereof; and
- (b) has resided for five years within the limits of the Republic.

54. Disqualifications for membership of Houses.—No person shall be capable of being elected or nominated or of sitting as a member of a House if he—

- (a) has at any time been convicted of any offence for which he has been sentenced to imprisonment without the option of a fine for a period of not less than twelve months, unless he has received a grant of amnesty or a free pardon or unless the period of such imprisonment expired at least five years before the date of his election or nomination; or
- (b) is an unrehabilitated insolvent; or
- (c) is of unsound mind, and has been so declared by a competent court; or
- (d) is an officer or other employee in the service of any institution, council or body contemplated in section 84 (1) (f) of the previous Constitution; or
- (e) holds any office of profit under the Republic: Provided that the following persons shall be deemed not to hold an office of profit under the Republic for the purposes of this paragraph, namely—
 - (i) a Minister of the Republic, or any person holding office as deputy to any Minister;
 - (ii) a person in receipt of a pension from the Republic;
 - (iii) an officer or member of the South African Defence Force on retired or half-pay, or an officer or member of the South African Defence Force whose services are not wholly employed by the Republic;
 - (iv) any person who has been appointed or has become a justice of the peace under section 2 of the Justices of the Peace and Commissioners of Oaths Act, 1963;
 - (v) any person appointed as an appraiser under section 6 of the Administration of Estates Act, 1965, or deemed to have been so appointed;
 - (vi) any person who, while the Republic is at war, is an officer or member of the South African Defence Force or any other force or service established by or under the Defence Act, 1957;
 - (vii) a member of any council, board, committee or similar body established by or under any law who receives no payment in respect of his services on such council, board, committee or body in excess of an allowance at a rate not exceeding the amount determined by the Minister of Finance by notice in the *Gazette* from time to time for each day on which he renders such services, any reimbursement of travelling expenses and subsistence expenses incurred by him in the course of such services and an allowance in respect of entertaining by him in connection with such services;
 - (viii) a member of a commission of inquiry or a committee of inquiry appointed by the State President or the Administrator of a province, or a member of a Select Committee of a House or of a provincial council or a member of a committee of Parliament.

55. Vacating of seats in Houses.—(1) a member of a House shall vacate his seat if he—

- (a) becomes subject to any disability mentioned in section 54; or

- (b) ceases to be qualified as required by law; or
- (c) fails for a whole ordinary session of Parliament or of the House of which he is a member to attend without the special leave of that House, unless his absence is due to his serving, while the Republic is at war, with the South African Defence Force or any other force or service established by or under the Defence Act, 1957.
- (2) A member of a House who—
- (a) is designated or appointed as a member of the President's Council, shall vacate his seat as a member of such House with effect from the date on which he becomes a member of the President's Council;
- (b) is appointed to the office of administrator of a province or of member of the executive committee of a province, shall vacate his seat as a member of such House with effect from the date on which he assumes such office.
- [Para. (b) substituted by s. 22 (a) of Act No. 69 of 1986.]

the National Assembly

56. Penalty for sitting or voting when disqualified.—Any person who is by law incapable of sitting as a member of ~~a House~~ and who, while so incapable and knowing or having reasonable grounds for knowing that he is so incapable, sits or votes as a member of the House in question, shall be liable to a penalty of R200 for each day on which he so sits or votes, which may be recovered on behalf of the Treasury of the Republic by action in any division of the Supreme Court of South Africa.

the National Assembly

57. Oath.—Every member of ~~a House~~ shall, before taking his seat, make and subscribe before the Chief Justice, any other judge of the Supreme Court, the Speaker of Parliament or the Chairman of the House in question an oath in the following form:

I, A.B., do swear to be faithful to the Republic of South Africa and solemnly promise to perform my duties as a member of the ~~House of Assembly / House of Representatives / House of Delegates~~ to the best of my ability.
So help me God.

National Assembly

58. Speaker of Parliament.—(1) An electoral college referred to in subsection (1) of section 7 shall, after having elected a State President at a meeting called in accordance with the provisions of subsection (3) (a) or (b) of that section or those provisions as applied by subsection (7) of section 8, proceed to elect a Speaker of Parliament, who shall be a member of ~~a House~~. *the National Assembly*

(2) The provisions of sections 7 and 8 shall apply *mutatis mutandis* and subject to the provisions of subsection (4) of this section in respect of the election of a Speaker.

(3) (a) The Speaker shall hold office until his successor is elected in terms of subsection (1), but shall be eligible for re-election.

(b) The Speaker shall cease to hold office if he ceases to be a member of the ~~House~~ of which he was a member at the time of his election as speaker, and may resign his office or his seat by lodging his resignation in writing with the Chief Justice.

National Assembly

(c) The provisions of subsection (3) of section 9 shall apply *mutatis mutandis* to the Speaker, but for the purpose of such application the words "~~every Chairman of a House~~" shall be deemed to have been substituted for the words "the Speaker of Parliament" in paragraph (d) of that subsection.

(4) (a) When the Speaker is for any reason unable to perform the functions of his office, he shall designate a member of ~~a House~~ to perform those functions as Acting Speaker during his absence or inability.

the National Assembly

(b) If the Speaker is unable to designate an Acting Speaker under paragraph (a) or when the office of Speaker is vacant and there is no Acting Speaker so designated, the State President shall designate a member of ~~a House~~ to perform the functions of the Speaker during his absence or inability or, notwithstanding the provisions of section 7 (3) (c) as applied by subsection (2) of this section but subject to the provisions of paragraph (c) of this subsection, until a Speaker is elected.

the National Assembly

(c) If the office of Speaker is vacant, the functions of that office may not during a session of Parliament be performed by an Acting Speaker for longer than a month unless it is the last session before a dissolution of Parliament, or a session contemplated in section 40.

59. Functions of Speaker.—(1) The Speaker of Parliament ~~shall be the Speaker of each of the respective Houses and shall preside at a meeting of a House whenever he deems it necessary or desirable.~~ *2 meetings of the National Assembly*

(2) The Speaker shall, when presiding at a meeting of ~~a House~~, be vested with all the powers, duties and functions of the Chairman of the House, ~~in question, in so far as they are consistent with any functions assigned to the Speaker by rules and orders approved by all three Houses. Provided that the Speaker may only vote in the House of which he is a member.~~

60. Chairmen of ~~Houses~~.—(1) ~~Every House~~ *the National Assembly* shall at its first meeting not convened for the purposes of section 7 (1) (b), before proceeding to the dispatch of any other business, elect a member to be the Chairman of the House, and, as often as the office becomes vacant, the House shall again elect a member to be the Chairman.

[Sub-s. (1) substituted by s. 7 of Act No. 105 of 1984.]

(2) The Chairman of ~~a House~~ *the* shall cease to hold office if he ceases to be a member of the House ~~in question~~ and may be removed from office by resolution of ~~that~~ *the* House, and may resign his office or his seat by lodging his resignation in writing with the Speaker of Parliament.

(3) Before or during the absence of its Chairman, ~~a House~~ *the* may elect a member to perform his functions during his absence.

61. Quorums.—To constitute a meeting of ~~a House for the determination of a question, the presence shall be necessary of—~~ *the National Assembly sitting either as the Constituent Assembly or as the Legislature, for the determination of a question, the presence of at least 100 members shall be necessary*
(a) ~~in the case of the House of Assembly, at least 50 members;~~
(b) ~~in the case of the House of Representatives, at least 25 members;~~
(c) ~~in the case of the House of Delegates, at least 13 members.~~
[S. 61 amended by s. 1 of Act No. 50 of 1988.]

~~62. Voting in Houses.—All questions in a House shall be determined by a majority of votes of members present other than the Chairman or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.~~

63. Rules of procedure.—A House may make rules and orders in connection with the order and conduct of its business and proceedings.

~~64. Joint committees and rules and orders.—(1) In this section—~~

- (a) "joint committee" means a committee consisting of members of each of the Houses;
- (b) "joint rules and orders" means rules and orders approved, with a view also to uniformity, by each of the Houses as joint rules and orders in connection with the order and conduct of their joint and separate business and proceedings, and, in particular, of—
 - (i) the business and proceedings in connection with general matters and bills thereon or joint committees or a particular joint committee or other matters affecting all three Houses;
 - (ii) the business and proceedings of joint committees or a particular joint committee or any other committee; and
 - (iii) the business and proceedings of joint meetings;

[Para. (b) substituted by s. 8 of Act No. 105 of 1984 and by s. 2 (a) of Act No. 50 of 1988.]

(hA) "joint meeting" a meeting convened in terms of joint rules and orders as a joint meeting of the Houses and presided over by the Speaker, or by a member of a House in terms of such rules and orders;

[Para. (hA) inserted by s. 2 (b) of Act No. 50 of 1988.]

(c) "standing committee" means a joint committee which, in terms of joint rules and orders applicable to it, is established for the duration of the Parliament concerned and is competent to exercise or perform some or all of its powers, duties and functions also while Parliament is prorogued.

(2) Joint rules and orders may provide for any or all of the following matters, namely—

- (a) the establishment of standing committees on general affairs;
- (b) the constitution of any such committee, including its chairmanship and the representation of political parties, including opposition parties, in such committee;
- (c) the manner in which and the circumstances under which any matter may be referred to any such committee;
- (d) the powers, duties or functions of any such committee in connection with a matter referred to it;
- (e) the manner in which any such committee may make any decision;
- (f) the submission of any proposal to any such committee by a member of a House who is not a member of the committee;
- (g) the operation of a decision of any such committee on a matter referred to it, in relation to any further business and proceedings of a House in connection with that matter;
- (h) the order and conduct generally of the business and proceedings of any such committee,

but the preceding provisions of this subsection shall not be construed as defining or limiting in any manner the matters or any matter that may be dealt with or provided for in joint rules and orders or as requiring any matter to be dealt with or provided for in such rules and orders.

(3) Joint rules and orders shall provide for at least one standing committee on bills dealing with general affairs.

(4) Notwithstanding the provisions of section 36, a joint committee may, in terms of the joint rules and orders applicable to it or if otherwise authorized thereto by each House, meet and exercise or perform its powers, duties and functions at a place beyond the seat of Parliament.

[Sub-s. (4) added by s. 2 of Act No. 99 of 1985.]

65. Powers of the State President, Ministers and their deputies in Houses.—(1) The State President, a Minister who is a member of the Cabinet and any deputy to such a Minister has the right to sit and to speak in ^{the National Assembly} any House, but may not vote ~~except in the case of such a Minister or deputy who is a member of a House, in the House of which he is a member.~~ ^{unless he is a member of the National Assembly}

(2) A member of a Ministers' Council who is not a member of any House or of the Cabinet has the right to sit and to speak in the House of which the members are of the same population group as the members of the Ministers' Council in question, but may not vote therein.

(3) A member of a House who holds the office of Chief Whip of Parliament has the right to sit in any other House and to speak on the arrangement of the business of such other House, but may not vote therein.

[S. 65 substituted by s. 9 of Act No. 105 of 1984. Sub-s. (3) added by s. 3 of Act No. 99 of 1985.]

~~66. Summoning of a House during recess of Parliament.—The State President may by proclamation in the *Gazette* summon any House for the dispatch of business in connection with own affairs when Parliament is not in session, and may prorogue the House in like manner before the commencement of the next ensuing session of Parliament.~~

67. Joint sittings of Houses.—(1) This section applies to joint sittings called thereunder, but does not otherwise derogate from the power of Parliament to regulate its business and proceedings.

- [Sub-s. (1) substituted by s. 10 of Act No. 105 of 1984 and by s. 3 (a) of Act No. 50 of 1988.]

(2) The State President may call a joint sitting of the Houses by message to them whenever he deems it desirable, and shall call such a joint sitting if requested to do so by all three Houses.

[Sub-s. (2) substituted by s. 3 (b) of Act No. 50 of 1988.]

(3) The Speaker of Parliament shall preside at such a joint sitting.

(4) The Speaker shall determine the rules and orders for the order and conduct of the proceedings of such a joint sitting.

~~(5) No resolution shall be adopted at any such joint sitting.~~

PART VII

ADMINISTRATION OF JUSTICE

68. Constitution and powers of Supreme Court of South Africa.—(1) The judicial authority of the Republic is vested in a Supreme Court to be known as the Supreme Court

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of South Africa and consisting of an Appellate Division and such provincial and local divisions as may be prescribed by law.

(2) The Supreme Court of South Africa shall, subject to the provisions of sections 18 and 34, have jurisdiction as provided in the Supreme Court Act, 1959.

(3) Save as otherwise provided in the Supreme Court Act, 1959, Bloemfontein shall be the seat of the Appellate Division of the Supreme Court of South Africa.

69. Administrative functions relating to administration of justice.—All administrative powers, duties and functions affecting the administration of justice shall be under the control of the Minister of Justice.

PART VIII

PRESIDENT'S COUNCIL

70. Establishment and constitution of President's Council.—(1) There shall be a President's Council consisting of—

- (a) 20 members designated by resolution of the House of Assembly;
- (b) 10 members designated by resolution of the House of Representatives;
- (c) 5 members designated by resolution of the House of Delegates; and
- (d) 25 members appointed by the State President,

or, in the case of members contemplated in paragraph (a), (b) or (c), such smaller number of members, if any, as may have been so designated by the House in question.

(2) (a) Subject to the provisions of paragraph (f) of this subsection, the members of the President's Council appointed under subsection (1) (d) shall include 10 persons of whom—

- (i) six have been nominated as provided in paragraph (b) of this subsection by members of the House of Assembly who were supporters of the opposition parties in that House at the time of the nomination;
- (ii) three have been so nominated by members of the House of Representatives who were supporters of the opposition parties in that House at the time of the nomination;
- (iii) one has been so nominated by members of the House of Delegates who were supporters of the opposition parties in that House at the time of the nomination.

(b) Any nomination contemplated in paragraph (a) shall be made by election, according to the principle of proportional representation whereby each voter has one transferable vote, by the members of the House in question who are supporters of opposition parties in the House and who are present at a meeting of such members called in accordance with the provisions of paragraph (c): Provided that any nomination made in pursuance of an agreement among such members of the House who are present at the meeting shall be a valid nomination for all purposes.

(c) A meeting contemplated in paragraph (b) shall take place during a session of Parliament or of the House in question and under the chairmanship of the Speaker of Parliament or the Chairman of the House, at a time and place fixed by the Speaker and made known by him or that Chairman at a sitting of the House, and the date so fixed shall—

- (i) in the case of a dissolution of the President's Council, be a date after the dissolution but not more than 14 days thereafter;
- (ii) if the House was dissolved otherwise than at a dissolution of Parliament, and at least two members of the newly constituted House who would be entitled in terms of paragraph (a) to participate in a nomination have requested the Speaker in writing that such a meeting be called, be a date not more than 14 days after the first meeting of the newly constituted House;

- (iii) in the case of a casual vacancy in the President's Council in respect of which a person is to be nominated for appointment and of which notice in writing has been given to the Speaker by the Chairman of the President's Council, be a date not more than 14 days after the date of the notice or, if Parliament or the House is not then in session, a date not more than 14 days after the commencement of the next ensuing session of Parliament or the House.

(d) The regulations which apply in terms of this Act to an election of members of a House in terms of section 41 (1) (c), 42 (1) (c) or 43 (1) (c) at a meeting of members of the House who may vote at such an election, shall apply *mutatis mutandis* to an election contemplated in paragraph (b) of this subsection, except in so far as they are amended or replaced by regulations made by the State President for the purposes of an election so contemplated.

(e) The Speaker shall submit to the State President in writing—

- (i) the name of every person nominated in terms of this subsection;
- (ii) the date upon which he was nominated; and
- (iii) if he has been nominated at a meeting called in terms of paragraph (c) (ii) for appointment in the place of a member of the President's Council, the name of the member in question.

and the State President shall appoint the nominated person as a member of the President's Council.

(f) If the Speaker advises the State President—

- (i) that a meeting was called in accordance with the provisions of paragraph (c) and that a nomination which was required to be made thereat, was not made; or
- (ii) that such a meeting cannot be called for the reason that there is no opposition party in the House in question or that there is only one opposition party in the House with only one member of the House supporting it or that any circumstance contemplated in section 37 (2) applies to the House,

the State President may appoint any person deemed fit by him as a member of the President's Council in the seat in question: Provided that the provisions of this subsection shall again apply to any subsequent appointment to the seat in question.

(3) A casual vacancy in the President's Council shall be filled by the designation or appointment of a member in the same manner as that in which the member whose office is vacant was designated or appointed.

71. Qualifications and period of office of members of President's Council.—(1) No person shall be qualified to be designated or appointed as a member of the President's Council—

- (a) unless he is of or over the age of 30 years;
- (b) in the case of a member designated by a House, unless he is a member of such House or is qualified to be elected or nominated and take his seat as a member of such House;
- (c) in the case of a member appointed by the State President, unless he is a member of a House or is qualified to be elected or nominated and take his seat as a member of a House:

Provided that the provisions of section 54 (e) shall not apply with reference to the qualification of a person to be designated or appointed as a member of the President's Council or to be such a member.

(2) A member of the President's Council shall hold office until the next ensuing dissolution of that Council in terms of section 77, but shall be eligible for redesignation or reappointment.

(3) A member of the President's Council shall vacate his office —

- (a) on the dissolution of that Council;
- (b) subject to the proviso to subsection (1), if he becomes disqualified to be elected or nominated and take his seat as a member of any House;
- (c) if he becomes a member of a House or is appointed as administrator or member of an executive committee of a province in terms of the Provincial Government Act, 1986;

[Para. (c) substituted by s. 22 (a) of Act No. 69 of 1986.]

- (d) in the case of a member designated by a House which was thereafter dissolved, if the House constituted after the general election held in pursuance of such dissolution, withdraws the designation of that member —
 - (i) where it was a dissolution of Parliament, by a resolution adopted before that member vacates his office in terms of paragraph (a) of this subsection;
 - (ii) where it was a dissolution of such House only, by a resolution adopted within seven days after the first meeting of the House as reconstituted;
- (e) in the case of a member appointed otherwise than in terms of section 70 (2) by a State President who thereafter resigned his office or was removed from office or died, if the appointment of such member is withdrawn by the newly elected State President within seven days after having assumed office;
- (f) in the case of a member appointed by the State President in terms of subsection (2) of section 70, on the date on which a person nominated under that subsection for appointment in the place of the member concerned, by competent members of the House in question at a meeting of such members called in terms of paragraph (c) (ii) of that subsection, becomes a member of the President's Council by virtue of his appointment in terms of paragraph (e) of that subsection.

(4) A member of the President's Council may resign as such member by lodging his resignation in writing with the State President, who shall, in the case of a member designated by a House, forthwith notify the Chairman of the House in question of the resignation.

(5) The designation or redesignation of a person as a member of the President's Council by a House during the period in which a member's designation may be withdrawn under subsection (3) (d) (i) of this section, shall take effect on the day on which the then existing President's Council dissolves in terms of section 77, and shall be a designation as a member of the President's Council constituted on or after that day.

72. Chairman of President's Council. — (1) The President's Council shall elect a Chairman from among its members at its first meeting after its constitution, at which a person designated by the State President shall preside until a Chairman is elected.

(2) The Chairman of the President's Council shall hold office until the dissolution of that Council in terms of section 77 unless he —

- (a) ceases earlier to be a member of that Council; or
- (b) resigns as Chairman by lodging his resignation in writing with the State President; or
- (c) is removed from office as Chairman by resolution of that Council.

(3) The President's Council shall at its first meeting elect one of its members as Deputy Chairman, who shall act in the stead of the Chairman when the Chairman is unable to perform the functions of his office.

(4) When neither the Chairman nor the Deputy Chairman is able to act, the President's Council shall elect one of its members to act in the stead of the Chairman.

73. Remuneration and allowances of members.—(1) The members of the President's Council shall receive such remuneration and allowances as the State President may determine, as well as such other benefits as he may determine by proclamation in the *Gazette*.

(2) Such remuneration, allowances or benefits may differ according to the offices held by members in the Council, and according to whether the functions performed by members or attached to such offices are in the opinion of the State President of a full-time or part-time nature.

74. Quorum.—The presence of at least 30 members of the President's Council shall be necessary to constitute a meeting of the President's Council for the exercise of its powers.

75. Decisions.—All questions at a meeting of the President's Council shall be determined by a majority of votes of the members present other than the presiding member, who shall have and exercise a casting vote in the case of an equality of votes.

76. Rules of procedure.—(1) Subject to the provisions of this Act, the President's Council may make rules and orders in connection with the order and conduct of its business and proceedings, the establishment, constitution and powers of committees of the Council and the order and conduct of their business and proceedings.

(2) Any Minister or Deputy Minister has the right to sit and to speak in the President's Council, but shall not vote therein.

77. Duration of President's Council.—The President's Council shall be dissolved by the first dissolution of Parliament following the constitution of that Council, but the dissolution of the President's Council shall take effect on the day on which the State President elected after such dissolution of Parliament assumes office.

78. Powers and functions of President's Council.—(1) The President's Council shall at the request of the State President advise him on any matter referred to it by the State President for its advice, and may, in its discretion, advise him on any matter (excluding draft legislation) which, in its opinion, is of public interest.

(2) Whenever a matter is referred to the President's Council for its advice or when that Council is of the opinion that a matter is of public interest, it may refer such matter to a committee contemplated in section 76 for advice, and if the Council is not in session, reference of such matter to such a committee for its advice may be effected in accordance with rules and orders made by the Council.

(3) The President's Council may transmit any advice received by it in terms of subsection (2) to the State President as the advice of the Council, whether with or without its comments thereon.

(4) (a) When any bill or bills are referred for decision to the President's Council under section 32, it may refer such bill or bills to a committee contemplated in section 76 for investigation and report, and if the Council is not in session, reference of such bill or bills to such a committee for investigation and report may be effected in accordance with rules and orders made by the Council, and the Council may take any such report and any recommendation contained therein into consideration when acting in terms of paragraph (b) of this subsection or in terms of subsection (5) of this section.

(b) The President's Council may from time to time advise the State President that any bill or bills so referred to it, be amended or otherwise dealt with in the manner recommended by the President's Council.

(5) Unless the State President withdraws the reference, the President's Council shall decide—

- (a) in the case of a bill referred to in section 32 (1) (a), either that the bill is to be presented to the State President for assent or that it shall not be so presented;
- (b) in the case of a bill referred to in section 32 (1) (b), either which one of the different versions of such bill that were passed is to be presented to the State President for assent, or that none of those versions shall be so presented;

- (c) in the case of a bill referred to in section 32 (1) (c) or (d), which one of the different versions of such bill that were passed is to be presented to the State President for assent.
- (6) The President's Council or committee thereof may, for the purposes of the performance of its functions and in its discretion, consult with any person or State institution on any matter, and may for such purpose establish consultative committees consisting of members of the President's Council or such committee, as the case may be, and members of any council established by the State President in terms of any other law.
- (7) Advice received by the State President in terms of subsection (1) shall be laid upon the Table in every House that has an interest in it within 14 days after its receipt, if Parliament is then in session, or, if Parliament is not then in session, within 14 days after the commencement of its next ensuing session.
- (8) Advice received by the State President in terms of subsection (4) (b) and accepted by him, and any decision of the President's Council in terms of subsection (5), shall be laid upon the Table of every House as soon as possible.

[Sub-s. (8) substituted by s. 1 of Act No. 101 of 1988.]

PART IX

FINANCE

79. Existing debts and liabilities of the State.—Nothing in this Act contained shall affect any assets or rights belonging to the State or any debts or liabilities of the State as existing immediately before the commencement of this Act, and all such assets, rights, debts and liabilities shall remain assets, rights, debts and liabilities of the Republic, subject, notwithstanding any other provisions contained in this Act, to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund and other charges conferred on the creditors concerned, and the Republic may, subject to such conditions and rights, convert, renew or consolidate such debts.

80. All revenues vest in State President.—All revenues of the Republic, from whatever source arising, shall vest in the State President.

81. State Revenue Fund.—(1) There shall be a State Revenue Fund, into which shall be paid all revenues as defined in section 1 of the Exchequer and Audit Act, 1975.

(2) No moneys shall be withdrawn from the State Revenue Fund, except in accordance with an Act of Parliament.

82. Accounts of State Revenue Fund.—(1) In respect of the State Revenue Fund there shall be—

- (a) a State Revenue Account, which shall, subject to the provisions of paragraphs (b) and (c) and subsection (2), be credited with all revenues and from which shall be defrayed all expenditure and be paid any amounts with which it is charged in terms of this Act or any other law;

[Para. (a) substituted by s. 22 (a) of Act No. 69 of 1986 with effect from 1 April, 1987.]

- ~~(b) the accounts in connection with the administration of own affairs of the different population groups, which may be prescribed by any general law and which shall be credited with all revenues accruing to them in terms of this Act or any other law and from which shall be defrayed all expenditure and be paid any amounts with which they are charged in terms of this Act or any other law;~~

- (c) the accounts in connection with the administration of a provincial matter which may be prescribed by any general law and which shall be credited with all revenues accruing to them in terms of this Act or any other law and from which shall be defrayed all expenditure and be paid any amounts with which they are charged in terms of this Act or any other law.

[Sub-s. (1) amended by s. 22 (a) of Act No. 69 of 1986 with effect from 1 April, 1987.]

Para. (c) added by s. 22 (a) of Act No. 69 of 1986 with effect from 1 April, 1987.]

~~(2) Where any law dealing with own affairs of a population group provides that revenue mentioned therein shall be paid into the State Revenue Fund or that expenditure so mentioned shall be defrayed from that fund, such revenue shall be paid into, and such expenditure shall be defrayed from, the appropriate account contemplated in subsection (1) (b).~~

(3) Where a law provides that any revenue mentioned therein shall be paid into a provincial revenue fund or that expenditure so mentioned shall be defrayed from such fund, such revenue shall be paid into and such expenditure shall be defrayed from the appropriate account contemplated in subsection (1) (c).

[Sub-s. (3) added by s. 22 (a) of Act No. 69 of 1986 with effect from 1 April, 1987.]

83. Auditing of accounts of State Revenue Fund.—The accounts of the State Revenue Fund shall be investigated, examined and audited in terms of the provisions of the Exchequer and Audit Act, 1975.

84. Payments to accounts of State Revenue Fund.—In respect of every financial year there shall be paid from the State Revenue Fund into its relevant account—

- (a) the amounts calculated in accordance with a formula prescribed by any general law;
- (b) any amount appropriated by any general law for that account in respect of the financial year in question; and
- (c) any amount to be paid into that account subject to conditions determined by any general law.

85. Appropriation bill shall not deal with other matters.—Any bill which appropriates revenue or moneys for the ordinary annual services of the State shall deal only with such appropriation.

86. Appropriation not initiated by a Minister.—^{The} ~~X~~ House shall not consider any proposal, whether by way of a vote or by way of a resolution, address or bill, for the appropriation of any part of the public revenue or of any tax or impost to any purpose and which has not been initiated by a Minister, unless such appropriation has been recommended by message from the State President during the session in which the proposal is made.

PART X

GENERAL

87. Continuation of existing laws.—Subject to the provisions of this Act, all laws which were in force in any part of the Republic or in any territory in respect of which Parliament is competent to legislate, immediately before the commencement of this Act, shall continue in force until repealed or amended by the competent authority.

88. Continuation of constitutional conventions.—The constitutional and parliamentary conventions which existed immediately before the commencement of this Act shall continue to exist, except in so far as they are inconsistent with the provisions of this Act.

89. Equality of official languages.—(1) English and Afrikaans shall be the official languages of the Republic, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights and privileges.

(2) All records, journals and proceedings of Parliament shall be kept in both the official languages and all bills, laws and notices of general public importance or interest issued by the Government of the Republic shall be in both the official languages.

(3) Notwithstanding the provisions of subsection (1) an Act of Parliament or a proclamation of the State President, issued under an Act of Parliament ~~whereby a Black area is declared to be a self-governing territory in the Republic, or a later Act of Parliament or a later proclamation of the State President (which in the absence of any other empowering provision may be issued under this subsection)~~ may—

- (a) provide for the recognition of one or more Black languages ~~for any or all of the following purposes, namely—~~
 - (i) ~~as an additional official language or as additional official languages of that territory; or~~
 - (ii) ^{in a linguistic region} ~~for use in that territory~~ for official purposes prescribed by or under that Act or later Act or by any such proclamation; ~~and~~

~~(b) contain provisions authorizing the use of any such Black language outside the said territory for such purposes connected with the affairs of that territory and subject to such conditions as may be prescribed by or under that Act or later Act or any such proclamation~~

90. Equality of use of official languages by provincial councils and local authorities. — All records, journals and proceedings of a provincial council shall be kept in both the official languages, and all draft ordinances, ordinances and notices of public importance or interest issued by a provincial administration, and all notices issued and all regulations or by-laws made and all townplanning schemes prepared by any institution or body contemplated in section 84 (1) (f) of the previous Constitution, shall be in both the official languages.

91. Method of publication of notices, etc., in newspapers. — Whenever anything is published in a newspaper at the instance of the State or by or under the directions of any institution or body contemplated in section 84 (1) (f) of the previous Constitution, the publication shall take place simultaneously in both the official languages and, in the case of each language, in a newspaper circulating in the area of jurisdiction of the authority concerned which appears mainly in that language, and the publication in each language shall as far as practicable occupy the same amount of space: Provided that where in the area in question any newspaper appears substantially in both the official languages, publication in both languages may take place in that newspaper.

92. Offences in respect of National Flag. — (1) Any person who —

- (a) maliciously destroys or spoils the National Flag of the Republic as described in section 4; or
- (b) commits any other act which is calculated to hold the National Flag of the Republic in contempt; or
- (c) without being authorized thereto (the burden of proof of which shall be upon him), removes the National Flag of the Republic as so described from any place where it is displayed in terms of instructions or directions issued by any State authority.

shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000 or imprisonment for a period not exceeding five years.

(2) If in any prosecution for an offence referred to in subsection (1) it is alleged that the flag in respect of which the offence is alleged to have been committed is or was the National Flag of the Republic as described in section 4, it shall be presumed, unless the contrary is proved, that the flag in question complies or, as the case may be, complied with the description of the National Flag in that section.

~~93. Administration of Black affairs. — The control and administration of Black affairs shall vest in the State President, who shall exercise all those special powers in regard to Black administration which immediately before the commencement of this Act were vested in him, and any lands which immediately before such commencement vested in him for the occupation of Blacks in terms of any law shall continue to vest in him with all such powers as he may have in connection therewith, and no lands which were set aside for the occupation of Blacks and which could not at the establishment of the Union of South Africa have been alienated except by an Act of the Legislature of a Colony which became part of the Union of South Africa in terms of the South Africa Act, 1909, shall be alienated or in any way diverted from the purposes for which they were set aside, except under the authority of an Act of Parliament.~~

94. Certain rights and obligations under conventions, etc., vest in Republic. — All rights and obligations under conventions, treaties or agreements which were binding on any of the Colonies, incorporated in the Union of South Africa at its establishment, and were still binding on the Republic immediately before the commencement of this Act, shall be rights and obligations of the Republic, just as all other rights and obligations under conventions, treaties or agreements which immediately before the commencement of this Act were binding on the Republic.

95. Transfer of certain executive powers.—All powers, authorities and functions which immediately before the commencement of the previous Constitution were in any of the provinces vested in the Governor-General or in the Governor-General-in-Council or in any authority of the province, shall as far as they continue in existence and are capable of being exercised after the commencement of this Act, be vested in the State President, or in the authority exercising similar powers under the Republic, as the case may be, except such powers, authorities and functions as are by this Act or any other law vested in some other authority.

96. Affirmation in lieu of oath.—Any person who is in terms of any provision of this Act required to make and subscribe an oath may in lieu of such oath make and subscribe a solemn affirmation in corresponding form.

97. Construction of certain references.—Any reference in any law in force in any part of the Republic, or in any territory in respect of which Parliament is competent to legislate, immediately before the commencement of this Act—

- (a) to any territory, institution or functionary which in terms of the previous Constitution was required to be construed as a reference to the Republic, shall be so construed;
- (b) to an institution, body or functionary which in terms of the previous Constitution was required to be construed as a reference to the State President, shall be so construed;
- (c) to the House of Assembly or a member thereof, or to an institution or body or a member thereof which in terms of the previous Constitution was required to be construed as a reference to the ~~House of Assembly~~ ^{Parliament} of a member thereof, shall be construed as a reference to ~~Parliament of the Houses of a House or to a member of a House, as the case may be or the circumstances may require,~~ unless it is inconsistent with the context or clearly inappropriate;
- (d) to the Executive Council, shall be construed as a reference to the Cabinet ~~or to the relevant Ministers' Council, according to the circumstances;~~
- (e) ~~to the President's Council, shall be construed as a reference to the President's Council established in terms of this Act;~~
- (f) to the Secretary or the Deputy Secretary to the House of Assembly, or to a functionary which in terms of the previous Constitution was required to be construed as a reference to the Secretary or the Deputy Secretary to the House of Assembly, shall be construed as a reference to the Secretary or Deputy Secretary, respectively, ~~to Parliament.~~ ^{to the National Assembly} ~~to Parliament.~~

98. Administration of existing laws.—(1) ~~Any Act of Parliament or other law which at the commencement of this Act is administered by a Minister of the Republic or in a department of State controlled by such a Minister and which relates to a matter referred to in section 14 shall, notwithstanding the fact that it relates to such matter, be regarded as a general law for the purposes of this Act until, and except in so far as, its administration is assigned under section 26 to a Minister of a department of State for own affairs of a population group.~~

(2) Any Act of Parliament or other law which entrusts any power, duty or function to the executive committee or other executive authority of such province established by the previous Constitution and which relates to a matter referred to in section 14 shall, notwithstanding the fact that it relates to such matter, be administered according to its provisions unless, and except in so far as, its administration is assigned to a Minister under subsection (3) (b).

[Sub-s. (2) amended by s. 22 (a) of Act No. 69 of 1986.]

~~(3) The State President may by proclamation in the Gazette—~~

- (a) after consultation with the executive committee of the province concerned, declare that the provisions of Part IV apply to a law referred to in subsection (2) to the extent stated in the declaration;

- (b) ~~when he so declares or at any time thereafter, assign the administration of such law to a Minister,~~
- (c) when he so assigns the administration of such law or at any time thereafter, and in so far as he considers it necessary for the efficient carrying out of the assignment by the Minister or in his department or of such law in so far as its administration is not so assigned—
- (i) amend or adapt such law in order to regulate its application or interpretation;
 - (ii) where the assignment does not relate to the whole of such law, repeal and re-enact, whether with or without an amendment or adaptation contemplated in subparagraph (i), those of its provisions to which the assignment relates or in so far as the assignment relates to them;
 - (iii) regulate any other matter necessary, in his opinion, as a result of the assignment, including the transfer or admission of persons to or in the service of the State or any other person, subject to conditions not less favourable than those under which they serve, and the transfer of assets, liabilities, rights and obligations, including moneys, to or from the State or any other person or body established by law.
- (4) Section 26 shall apply *mutatis mutandis* to an assignment under subsection (3) (b) of this section, but in such application any reference in that section to a Minister to whom a provision in a law entrusts any power, duty or function shall be construed as a reference to the relevant executive committee or other executive authority referred to in subsection (2) of this section.

~~99. Amendment of Act.—(1) Subject to the provisions of subsections (2) and (3), Parliament may by law repeal or amend any provision of this Act.~~

~~(2) No repeal or amendment of the provisions of section 89 or of this subsection or of any corresponding provisions of any law substituted for them, shall be valid unless the bill embodying such repeal or amendment has been agreed to in every House by not less than two-thirds of the total number of its members.~~

~~(3) No repeal or amendment of section 7 (1) (b), (5) or (6), section 8 (5), section 9 (1) or (3) (a), section 14 or 15, section 16 (1), section 19, 20 or 21, section 23 (2), section 30, section 31 (1) or (2), section 32 (1), (2), (3) or (4), section 33, section 34 (2) (a), section 37 (1), section 38 (2), section 39 (1) or (2), section 41 (1), section 42 (1), section 43 (1), section 52, 53 or 54, section 64 (3), section 70 (1), section 71 (1) or (3) (b) or (c), section 77, section 78 (5), this subsection, subsection (4) of this section or Schedule 1 shall be valid unless the bill embodying such repeal or amendment has been agreed to in every House by a majority of the total number of its members.~~

~~(4) A bill embodying the repeal or amendment of any provision mentioned in subsection (2) or (3) of this section shall not be referred to the President's Council for its decision under the circumstances contemplated in section 32 (1).~~

~~(5) Any reference in a provision of this Act mentioned in subsection (3) of this section, or in the definition in this Act of an expression used in any such provision, to any other provision of this Act not mentioned in that subsection or to any other law, shall be construed as a reference to such other provision or other law as it exists from time to time after any amendment or replacement thereof, and the provisions of subsections (3) and (4) of this section shall not be construed as applying to any amendment or replacement of such other provision or other law.~~

100. Definitions.—(1) In this Act, unless the context indicates otherwise—

“Chief Justice” means the Chief Justice of South Africa;

~~“Coloured person” means a person classified as a member of the Cape Coloured, Malay or Griqua group or the group Other Coloureds in terms of the Population Registration Act, 1950;~~

"department of State" means a department of State established under section 24;

~~"general affairs" means matters referred to in section 15;~~

"general law" means any law dealing with general affairs;

"House" means a House of Parliament mentioned in section 37 (1) and, in relation to a Ministers' Council, the House whose members are of the same population group as the members of the Ministers' Council;

"Indian" means a person classified as a member of the Indian group in terms of the Population Registration Act, 1950;

"own affairs" means matters referred to in section 14, and in relation to—

- (a) a population group, matters which are own affairs in relation to that population group as contemplated in that section;
- (b) a House or a Ministers' Council, matters which are own affairs of the relevant population group;
- (c) a department of State, any department of State established for the administration of own affairs of the relevant population group;
- (d) a Minister, any Minister appointed to administer a department of State for own affairs;

"population group" means the White persons, the Coloured persons or the Indians, and in relation to—

- (a) a House, the population group of which the members of the House in question are members;
- (b) a Ministers' Council, the population group of which the members of the Ministers' Council in question are members;

~~(c) own affairs, the population group whose own affairs are in issue;~~

"previous Constitution" means the Republic of South Africa Constitution Act, 1961, and, in so far as it is not repealed by section 101, the Provincial Government Act, 1961;

"Republic" means the Republic of South Africa;

~~"the Coloured persons", "the Indians" or "the White persons" includes persons who would be classified as Coloured persons, Indians or White persons, respectively, in terms of the Population Registration Act, 1950, had the provisions of that Act applied to them;~~

~~"White person" means a person classified as a White person in terms of the Population Registration Act, 1950;~~

(2) In this Act and in any other law, except where it is inconsistent with the context or clearly inappropriate, any reference to a resolution or the approval of, or any other act of or with reference to, Parliament (except any act constituting a law of Parliament), or to a member or a committee or the Tables of Parliament, or to any other matter in relation to Parliament (except any law of Parliament), shall be construed as a reference to a resolution or the approval or other act of, ~~or with reference to, each of the different Houses, a member of a House, a joint committee contemplated in section 64, the Tables of the different Houses or such other matter relating to the different Houses, as the case may be.~~ *For National Assembly*

101. Repeal and amendment of laws.—(1) The laws mentioned in Part 1 of Schedule 2 are hereby repealed or amended as set out in that Part, and the laws mentioned in Part 2 of Schedule 2 are hereby repealed to the extent set out in the third column of the last-mentioned Part.

(2) Notwithstanding the repeal of sections 15 and 15A of the previous Constitution, any pension which but for such repeal would have been payable shall continue to be payable as if such repeal had not been effected.

(3) Notwithstanding the repeal of section 116 of the previous Constitution, any of its provisions which but for such repeal would have been applicable to any matter or person, shall continue to be applicable to such matter or person as if the repeal had not been effected.

(4) Any authority constituted or person appointed or power conferred or anything done in pursuance of powers conferred by or by virtue of any provision of a law repealed or amended by subsection (1), shall be deemed to have been constituted, appointed, conferred or done in pursuance of powers conferred by or by virtue of the corresponding provision of this Act or the relevant provision of such law as so amended, as the case may be.

← ~~102. Transitional provisions — (1) If section 19 (1) (b) comes into operation before the first State President has been elected in terms of this Act and has assumed office, a person designated by the Ministers referred to in subsection (2) of this section from among their number, shall serve as Acting State President, and such or any other Acting State President or the State President may exercise any power conferred upon the State President by this section or section 103 but not yet exercised by the State President referred to in section 103 (1) at the commencement of section 19 (1) (b).~~

(2) (a) The persons who immediately before the commencement of this Act are Ministers of the Republic or Deputy Ministers in terms of section 20 or 21 of the previous Constitution, shall be deemed to have been appointed as such Ministers or Deputy Ministers under section 24 or 27 of this Act, as the case may be, and the departments of State then administered by such Ministers shall be deemed to have been established under section 24 of this Act as departments referred to in section 20 and to be administered by them under the relevant provisions of this Act.

(b) A reference in any law to the Prime Minister which at the commencement of this Act is not in consequence of an assignment under section 20A of the previous Constitution to be construed as a reference to some other Minister, shall be deemed to be a reference to the State President acting under subsection (2) of section 26 of this Act, except in so far as the State President assigns the administration of such law to a Minister under subsection (1) of the last-mentioned section.

[Para. (b) substituted by s. 11 (1) (c) of Act No. 105 of 1984.]

(3) Where any matter which, during the session of Parliament (as constituted under the previous Constitution) immediately preceding the commencement of this Act, was submitted to the said Parliament or the House of Assembly (as so constituted), has not been disposed of before such commencement, Parliament or the House of Assembly, as the case may be, constituted under this Act may continue with the disposal or consideration of that matter, and steps taken by the first-mentioned House of Assembly in connection with that matter, shall be deemed to have been taken by the House of Assembly constituted under this Act.

(4) The House of Assembly as constituted for the purposes of the previous Constitution and in existence immediately before the commencement of this Act, shall be deemed to have been duly constituted for the purposes of this Act, and any person elected or nominated as a member of that House of Assembly and holding office immediately before such commencement, shall be deemed to have been duly elected or nominated to the House of Assembly established by this Act.

(5) The regulations made under section 40 (1A) of the previous Constitution shall continue to be of force and to apply to the election of members of the House of Assembly in terms of section 41 (1) (c) of this Act, and shall apply *mutatis mutandis* to elections of members of the House of Representatives and members of the House of Delegates in terms of sections 42 (1) (c) and 43 (1) (c) of this Act, until they are replaced by regulations under section 46 (1) of this Act.

(6) (a) The rules and orders of the House of Assembly as they exist at the commencement of this Act, shall apply *mutatis mutandis* in connection with the functions and proceedings of the House of Representatives and the House of Delegates, unless and until the House in question provides otherwise.

(b) Rules and orders approved by the House of Assembly before the commencement of this Act as joint rules and orders of the Houses, shall after such commencement be deemed to be joint rules and orders approved by each of the Houses as contemplated in section 64, until, and except in so far as, they are replaced by rules and orders which

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have in fact been so approved: Provided that any rules and orders so approved by the House of Assembly shall lapse on the expiry of a period of two years after the commencement of the first session of the first Parliament constituted under this Act.

[Para. (b) substituted by s. 11 (1) (b) of Act No. 105 of 1984.]

(7) The first session of the first Parliament constituted in terms of this Act shall commence within 21 days after the polling day or the last polling day of the first general election of members of the House of Representatives and the House of Delegates, according to whether the poll in respect of those Houses is held on the same day or on different days, and for the purposes of that session and until those Houses have been duly constituted (but not for a period longer than 14 days after the commencement of that session), each shall be deemed to consist of the members thereof elected at such general election.

[Sub-s. (7) substituted by s. 11 (1) (c) of Act No. 105 of 1984.]

(8) For the purposes of the application of section 39 (1) in relation to the first Parliament constituted in terms of this Act, its first session shall be deemed to have commenced on a date determined by the State President referred to in section 103 (1) by proclamation in the *Gazette*, which may not be a date earlier than the date of the first meeting of the House of Assembly which existed immediately before the commencement of this Act, or later than the day on which that first session actually commences.

(9) For the purposes of the first delimitation of electoral divisions of the House of Representatives and of the House of Delegates the words "voters of the House in the province in terms of the current voters' lists, duly corrected up to the latest possible date" in section 49 (1) shall be deemed to be replaced by the words "persons who, according to the population register kept in terms of the Population Registration Act, 1950, and on a date not more than 30 days before the delimitation commission begins to perform its functions, would be entitled to be included in any lists of the voters contemplated in section 52 of the House in electoral divisions thereof in the province had the province been divided into electoral divisions of the House on the date in question", and the references to voters in section 49 (2) and (3) shall be construed accordingly.

(Date of commencement of s. 102 (9) 24 February, 1984.)

[Sub-s. (9) substituted by s. 11 (1) (d) of Act No. 105 of 1984.]

(10) (a) A person holding office as State President or Vice State President immediately before the commencement of this Act shall vacate his office at such commencement.

(b) The salary and allowances payable to the State President immediately before such commencement shall be deemed to have been determined in terms of section 12 as the salary and allowances payable to the State President, until they are altered under that section.

(11) At the commencement of this Act the President's Council established in terms of the previous Constitution shall cease to exist and every person who immediately before such commencement is a member of that Council shall cease to be such a member.

(12) The first meeting of the first President's Council established under this Act shall be convened by the State President in such manner and at such time and place as he thinks fit.

103. Short title and commencement.—(1) This Act shall be called the Republic of South Africa Constitution Act, 1983, and shall, save in so far as may be otherwise required in order that effect may be given to any provision thereof, come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act or in respect of section 101 in so far as it relates to different laws mentioned in Schedule 2 or to different provisions of any law so mentioned.

(3) A reference in this Act to its commencement shall be construed as a reference to the applicable date so fixed.

(4) The State President referred to in subsection (1) may exercise any power vesting in the State President in terms of any provision of this Act, in so far as it is necessary in order to give effect to such provision or any other provision of this Act as contemplated in subsection (1) or, as the case may be, if the relevant provision has been put into operation as contemplated in subsection (2).

Schedule 1

Subjects referred to in section 14

1. Social welfare, but subject to any general law in relation to—
 - (a) norms and standards for the provision or financing of welfare services;
 - (b) the control of the collection of money and other contributions from members of the public for welfare services or charity; and
 - (c) the registration of social workers, and control over their profession.
2. Education at all levels, including—
 - (1) instruction by way of correspondence, and institutions providing such instruction;
 - (2) the training of adults in the trades at centres established by the State President acting as provided in section 19 (1) (a); and
 - (3) training of cadets at schools in terms of section 3 (1) (a) of, and subject to, the Defence Act, 1957, and official school sport.but subject to any general law in relation to—
 - (a) norms and standards for the financing of running and capital costs of education;
 - (b) salaries and conditions of employment of staff and professional registration of teachers; and
 - (c) norms and standards for syllabuses and examination and for certification of qualifications.
3. Art, culture and recreation (with the exception of competitive sport) which affect mainly the population group in question.
4. Health matters, comprising the following, namely—
 - (1) hospitals, clinics and similar or related institutions;
 - (2) medical services at schools and for indigent persons;
 - (3) health and nutritional guidance; and
 - (4) the registration of and control over private hospitals;but subject to any general law in relation to such matters.
5. Community development, comprising the following, namely—
 - (1) housing;
 - (2) development of the community in any area declared by or under any general law as an area for the use of the population group in question, including the establishment, development and renovation of towns and the control over and disposal of land (whether by alienation or otherwise) acquired or made available for that purpose; and
 - (3) rent control and control over and clearance of squatting, in such an area in terms of any general law.but subject to—
 - (a) any general law in relation to norms, standards and income groups for the financing of housing; and
 - (b) the provisions of the general law referred to in paragraph (2).
6. Local government within any area declared by or under any general law as a local government area for the population group in question, but subject to any general law in relation to matters to be administered on local government level on a joint basis, and excluding—
 - (a) any matter assigned to local authorities by or under any general law; and
 - (b) the exercise by any local authority, otherwise than in accordance with general policy determined by the State President acting as provided in section 19 (1) (b), of any power to raise loans.
7. Agriculture, comprising the following, namely—
 - (1) agricultural development services, which include research, advisory services and extension;
 - (2) training at agricultural colleges; and
 - (3) financial and other assistance to farmers or prospective farmers, or for the promotion of agriculture.
8. Water supply, comprising the following, namely—
 - (1) irrigation schemes;
 - (2) drilling for water for agricultural and local government purposes;
 - (3) subsidizing of drilling work and water works for agricultural or local government purposes; and
 - (4) financial assistance in relation to water works damaged by flood.

- (h) by the substitution in subsection (1) of section 84 for the words preceding paragraph (a) of the following words:

"Subject to the provisions of this Act, the Financial Relations Act, 1976 (Act No. 65 of 1976), and the assent of the State President as hereinafter provided, and except in so far as the provisions of Part IV of the Republic of South Africa Constitution Act, 1983, have under section 98 (3) (a) of the last-mentioned Act been declared to apply to any ordinance or other law of the province, a provincial council may make ordinances in relation to matters coming within the following classes of subjects, namely—";

and the substitution in paragraphs (h) and (g) of that subsection for the words "the House of Assembly" of the word "Parliament".

3. Repeal of Part VII, Part VIII and Part VIII A.
4. Repeal of sections 107 and 108.
5. Repeal of section 109.
6. Amendment of section 110 by the deletion of the words "at the instance of the State or", the words "of any body referred to in paragraph (f) of subsection (1) of section eighty-four or", the words "circulating in the area of jurisdiction of the authority concerned" and the words "in the area in question".
7. Repeal of sections 111, 112 and 113.
8. Amendment of section 114 by the deletion in paragraph (b) of the words "or abridge the powers conferred on provincial councils under section eighty-four".
9. Repeal of sections 115, 116, 117 and 118.
10. Amendment of section 119 by the deletion of the words " 'Afrikaans' includes Dutch".
11. Substitution for section 121 of the following section:
"Short title. 121. This Act shall be called the Provincial Government Act, 1961."
12. Substitution for the long title of the following long title:
"To provide for provincial councils and their powers and the administration of provincial matters, and for matters connected therewith."

B. Amendment of section 10 of the Interpretation Act, 1957 (Act No. 33 of 1957)—

- (a) by the substitution in subsection (5) for the expression "20A (1)" of the expression "26", and for the expression "1961 (Act No. 32 of 1961)" of the expression "1983";
- (b) by the substitution for subsection (5A) of the following subsection:

"(5A) The provisions of subsection (5) shall apply in so far as the State President does not determine otherwise in the assignment concerned and, if the administration of a provision of any law has been assigned to any other Minister as contemplated in that subsection, but in relation to a category of persons or some other matter specified in the assignment, the provisions of that subsection shall apply accordingly."; and

- (c) by the insertion after subsection (5A) of the following subsection:

"(5B) Whenever the administration of a law referred to in subsection (2) of section 98 of the Republic of South Africa Constitution Act, 1983, has been assigned to a Minister of State under subsections (3) (b) and (4) of that section, the provisions of subsections (5) and (5A) of this section shall apply *mutatis mutandis* as if the relevant executive committee or other executive authority referred to in the said subsection (2), the department or division of the relevant provincial administration in which the law was administered, and an officer of that administration, were a Minister of State, the department of State controlled by him, and an officer in the public service, respectively."

C. Amendment of the Laws of the Coloured Persons Representative Council Application Act, 1982 (Act No. 36 of 1982)—

- (a) by the substitution for the words "Until such date as may be fixed in terms of section 4 (2) of the South African Coloured Persons Council Act, 1980 (Act No. 24 of 1980)", wherever they occur, of the words "Until other provision is made by or under any law"; and
- (b) by the insertion after section 4 of the following section:

„Effect of
repeal of
certain
laws.

4A. The repeal of section 17 of the Coloured Persons Representative Council Act, 1964 (Act No. 49 of 1964), and section 5 of the South African Coloured Persons Council Act, 1980 (Act No. 24 of 1980), in terms of section 101 of the Republic of South Africa Constitution Act, 1983, shall not affect the provisions of sections 1 (g) (ii), 2 (l) (ii) and 3 (h) of this Act as amended by the said section 101, or the validity of any proclamation or notice published in the *Gazette* under the said section 17 which was in force immediately before the date of such repeal."