

ACT NO. 7, 1996 CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA

It is hereby notified that the President has assented to the following Act which is hereby published for general information:-

No. 7 of 1996: Constitution of the Republic of South Africa Amendment Act, 1996.

Act No. 7, 1996 CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA AMENDMENT ACT, 1996

General Explanatory Note:

Words *in bold italics* indicate omissions from existing enactments.

Words *in italics* indicate insertions in existing enactments.

ACT

To amend the Constitution of the Republic of South Africa, 1993, so as to replace the requirement that an executive committee shall be elected by a council of a local government, by a discretion to elect such a committee; to extend the period during which a certain commission shall carry out its mandate; and to further regulate the restructuring of local government; and to provide for matters in connection therewith.

(English text signed by the President.) (Assented to 25 March 1996.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of section 177 of Act 200 of 1993

1. Section 177 of the Constitution of the Republic of South Africa, 1993 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the words preceding the proviso of the following words:

"A council of a local government ***shall*** may elect *an executive committee* according to a system of proportional representation as may be prescribed by law from among its members ***an executive committee*** to exercise such powers and perform such functions as may be determined by such council".

Amendment of section 236 of Act 200 of 1993, as amended by section I of Act 20 of 1995

2. Section 236 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

"(6) Notwithstanding the provisions of this section, the conclusion or amendment of a contract, the appointment or promotion, or the award of a term or condition of service or

other benefit, which occurred between 27 April 1993 and 30 September 1994 in respect of any person employed at any time during the said period by an institution referred to in subsection (1), or any class of such persons, may, at the instance of **a Minister or a member of the Executive Council of a province, within one year and three months of the commencement of this Constitution** any interested party, before 31

December 1996 be referred to a commission appointed by the President and presided over by a judge, for review, and if not proper or justifiable in the circumstances of the case, the commission may reverse or alter the contract, appointment, promotion or award before **31 December 1995** a date to be determined by the Minister for the Public Service and Administration."

Amendment of section 245 of Act 200 of 1993, as substituted by section 12 of Act 44 of 1995

3. Section 245 of the principal Act is hereby amended(a) by the substitution for subsections (1) and (2) of the following subsections:

"(1) Local government shall not be restructured otherwise than in terms of the Local Government Transition Act, 1993 (Act No. 209 of 1993), in respect of any area in which members of a district council, a metropolitan substructure, a transitional council, a transitional representative council or a transitional rural council as contemplated in the Local Government Transition Act, 1993, have not been elected in terms of that Act.

*(2) Restructuring of local government which takes place as a result of legislation enacted by a competent authority after **31 March 1996** an election contemplated in subsection (1) shall be effected in accordance with the principles embodied in Chapter 10 and the Constitution as a whole."*; and(b) by the addition of the following subsection:

"(4) Until a period of not less than three years has elapsed from the date on which the members of a district council, a metropolitan substructure, a transitional council, a transitional representative council or a transitional rural council as contemplated in the Local Government Transition Act, 1993, have been elected in terms of that Act, such council or substructure, as the case may be, shall not be disestablished and no change shall be made to the powers, area of jurisdiction, wards or number of seats thereof except in accordance with an Act of Parliament further regulating the local government transition process or by way of proclamation in the Provincial Gazette by the Premier of a province acting in consultation with the Minister for Provincial Affairs and Constitutional Development."

Short title

4. This Act shall be called the *Constitution of the Republic of South Africa Amendment Act, 1996*.