

CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA THIRD AMENDMENT ACT

PRESIDENT'S OFFICE

No. 696. 24 April 1996

NO. 26 OF 1996: CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA THIRD
AMENDMENT ACT, 1996.

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

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 make further provision in relation to the adoption of the new constitutional text; and to provide for matters connected therewith.

(English text signed by the President.) (Assented to 16 April 1996.)

BE IT ENACTED by the Constitutional Assembly, as follows:-

Substitution of section 73 of Act 200 of 1993

1. The following section is hereby substituted for section 73 of the Constitution of the Republic of South Africa, 1993:

"Adoption of new constitutional text

73. (1) The Constitutional Assembly shall pass the new constitutional text within two years as from the date of the first sitting of the National Assembly under this Constitution.

(2) For the passing of the new constitutional text by the Constitutional Assembly, a majority of at least two-thirds of all the members of the Constitutional Assembly shall be required: Provided that provisions of such text relating to the boundaries, powers and functions of provinces shall not be considered passed by the Constitutional Assembly unless approved also by a majority of two-thirds of all the members of the Senate.

(3) If the Constitutional Assembly fails to pass a proposed draft of the new constitutional text in accordance with ***subsection (2)***, *subsections (1) and (2)*, but such draft is supported by a majority of all its members, such proposed draft shall be referred by the Chairperson to the panel of constitutional experts referred to in section 72(2) for its

advice, to be given within 30 days of such referral, on amendments to the proposed draft, within the framework of the Constitutional Principles, which might secure the support required in terms of subsection (2).

(4) An amended draft text unanimously recommended by the panel of constitutional experts and submitted to the Constitutional Assembly within the said period of 30 days, shall be considered by the Constitutional Assembly, and ***if passed in accordance with subsection (2), it shall become the Constitution of the Republic of South Africa be voted on within 14 days of the date on which it was submitted to the Constitutional Assembly, and may be passed in terms of subsection (2).***

(5) Should the panel of constitutional experts fail to submit within the said period of 30 days to the Constitutional Assembly an amended draft text which is unanimously recommended by the panel, or should such an amended draft text not be passed by the Constitutional Assembly in accordance with subsection (2), any proposed draft text before the Constitutional Assembly may be approved by it by resolution of a majority of its members for the purposes of subsection (6) ***within 14 days of the date of submission of the amended draft text by the panel or, if no amended draft text is submitted by the panel, within 44 days after the date of referral of the draft to the panel in terms of subsection (3).***

(6) A text approved under subsection (5) shall, after it has been certified by the Constitutional Court in terms of section 71(2), be referred by the President for a decision by the electorate by way of a national referendum, ***which shall be called within 14 days after certification by the Constitutional Court, and which shall be held within 90 days of the date on which the referendum is called.***

(7) The question put before the electorate in the referendum shall be the acceptance or rejection of the text approved under subsection (5).

(8) The text presented to the electorate in the referendum shall, if approved by a majority of at least 60 per cent of the votes cast in the referendum and subject to subsection (13), become the Constitution of the Republic of South Africa.

(9) If the relevant text, ***or any amended text, taking into account the reasons of the Constitutional Court, is not supported or approved in terms of subsection (3) or (5), or is not approved in the referendum, in accordance with subsection (8) or if a new constitutional text is not passed in terms of this Chapter within the period of two years referred to in subsection (1),*** the President shall dissolve Parliament by proclamation in the Gazette within 14 days after ***the date of the referendum or the expiry of the said period or after the date on which the relevant text was not supported or approved in terms of subsection (3) or (5),*** whereupon an election contemplated in section 39(1)(a) shall be held.

(10) The Constitutional Assembly as constituted after such an election, shall pass the new constitutional text within a period of one year as from the date of its first sitting after such election.

(11) For the passing of the new constitutional text referred to in subsection (10) by the Constitutional Assembly, a majority of at least 60 per cent of all the members of the Constitutional Assembly shall be required: Provided that provisions of such text relating to the boundaries, powers and functions of provinces shall not be considered passed by the Constitutional Assembly unless approved also by a majority of at least 60 per cent of all the members of the Senate.

(12) The provisions of subsections (3) to (9) of this section and the other sections of this Chapter shall apply mutatis mutandis in respect of the Constitutional Assembly referred to in subsection (10) of this section.

(13) A new constitutional text adopted in terms of this Chapter shall be assented to by the President and shall upon its promulgation be the Constitution of the Republic of South Africa."

Insertion of section 73A in Act 200 of 1993

2. The following section is hereby inserted after section 73 of the Constitution of the Republic of South Africa, 1993:

"Procedure in event of non-certification

73A. (1) If the Constitutional Court finds that a draft of the new constitutional text passed by the Constitutional Assembly in accordance with section 73(2) or approved by it in accordance with section 73(5), does not comply with the Constitutional Principles, the Constitutional Court shall refer the draft text back to the Constitutional Assembly together with the reasons for its finding.

(2) The Constitutional Assembly shall within three months of the date of such referral pass an amended text in accordance with section 73(2) or approve an amended text in accordance with section 73(5), as the case may be, taking into account the reasons of the Constitutional Court.

(3) The amended text shall be referred to the Constitutional Court for certification in terms of section 71, whereupon the provisions of subsections (1) and (2) of this section again apply, except that the period of three months mentioned in subsection (2) is reduced to a period of one month.

(4) If, in the case of a draft text where section 73(2) applies, the Constitutional Assembly fails to pass an amended text in accordance with section 73(2) within the period prescribed in subsection (2) of this section, the provisions of section 73(3) to (9) shall apply mutatis mutandis."

Short title

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