

REPUBLIC OF SOUTH AFRICA

CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA AMENDMENT BILL

*(As introduced in the National Assembly in terms of section 74 Bill; explanatory summary
of Bill published in Government Gazette No 21599 of 22 September 2000) (The English text
is the official text of the Bill)*

(MINISTER OF DEFENCE)

[B 4—2001]

ISBN 0 621 29734 8

No. of copies printed 1 800

GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend item 24 of Schedule 6 to the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), so as to remove the right of a member of a non-statutory force to conclude an agreement of appointment with the National Defence Force.

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

Amendment of item 24 of Schedule 6 to Act 108 of 1996

- 1.** Item 24 of Schedule 6 to the Constitution of the Republic of South Africa, 1996, is amended by the substitution for subitem (1) of the following subitem: 5
- “(1) Sections 82(4)(b), 215, 218(1), 219(1), 224 to 228, 236(1), (2), (3), (6), (7)(b) and (8)(a), (b) and (c), 237(1) and (2)(a) and 239(4) and (5) of the previous Constitution continue in force as if the previous Constitution had not been repealed, subject to—
- (a) the amendments to those sections as set out in Annexure D; 10
- (b) any further amendment or repeal of those sections by an Act of Parliament passed in terms of section 75 of the new Constitution; and
- (c) consistency with the new Constitution.”.

Short title

- 2.** This Act is called the Constitution of the Republic of South Africa Amendment Act, 15 2001.

MEMORANDUM ON THE OBJECTS OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA AMENDMENT BILL, 2001

PURPOSE

1. The termination of intake of members of APLA and MK for integration purposes requires the repeal of section 236(8)(d) of the repealed Constitution of South Africa, 1993 (Act No. 200 of 1993), by an Act of Parliament as provided for in item 24(1)(b) of Schedule 6 to the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996). The Bill provides for the deletion of the said section. Such deletion will remove the right of a member of APLA or MK to conclude an agreement of appointment with the SANDF if his or her name and further particulars appear in the certified personnel register or personnel list.

CLAUSE BY CLAUSE ANALYSIS

2.1 The Bill provides for the deletion of section 236(8)(d) of the repealed Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993). The said section is still in force by virtue of item 24 of Schedule 6 to the Constitution. The deletion of the said section 236(8)(d) is necessitated by the need to bring to an end the process of entering into agreements referred to therein.

2.2 Clause 2 provides for the short title of the Bill.

CONSULTATION

3. Before the Bill was referred to Cabinet it was sent to all Government Departments for their comments and inputs. On 22 September 2000 particulars of the Bill were published for public comment in the *Government Gazette* in terms of section 74(5)(a) of the Constitution. These particulars were also submitted to the provincial legislatures for their views.

FINANCIAL IMPLICATIONS FOR STATE

4. The proposed constitutional amendment has no financial implications for the State.

PARLIAMENTARY PROCEDURE

5. This amendment to the Constitution does not—

- (a) relate to a matter that affects the National Council of Provinces;
- (b) alter provincial boundaries, powers, functions or institutions; or
- (c) amend a provision that deals specifically with a provincial matter.

Consequently the Department of Defence and the State Law Advisers are of the view that the legislative procedure established by section 74(3)(a) of the Constitution must be followed and that the Bill is required to be passed only by the National Assembly.