

REPUBLIC OF SOUTH AFRICA

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**CONSTITUTION OF THE  
REPUBLIC OF SOUTH AFRICA  
FOURTH AMENDMENT BILL**

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*(As introduced in the National Assembly)*

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(MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT)

**[B 124—98]**

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**MEMORANDUM ON THE OBJECTS OF THE CONSTITUTION OF  
THE REPUBLIC OF SOUTH AFRICA FOURTH AMENDMENT BILL,  
1998**

1.1 It would appear from the wording of section 49(2) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) (hereinafter called "the Constitution"), that a proclamation by the President calling and setting dates for an election of the National Assembly cannot be formally published before the National Assembly's term has actually expired. In view of the fact that it serves no purpose to delay the publication of such a proclamation until the term of the National Assembly has expired, the Chairperson of the Electoral Commission has requested the Minister for Provincial Affairs and Constitutional Development to consider an amendment to the Constitution that will allow such a proclamation to be published before the term of the National Assembly has expired. Such an arrangement will also avoid necessary pre-electoral procedures being unreasonably telescoped during the 90 day period referred to in section 49(2) of the Constitution.

1.2 Clause 1 of the Bill seeks to allow a proclamation calling and setting dates for an election of the National Assembly to be issued either before or after the expiry of the term of the National Assembly.

2.1 The Minister of Finance has requested that section 221(1) of the Constitution be amended to dispense with the requirement that the chairperson and deputy chairperson of the Financial and Fiscal Commission are to be full-time members of the Commission. Such an arrangement will enable the President to determine, at his or her discretion, whether the chairperson or the deputy chairperson or any other member of the Commission is to be appointed in a full-time capacity or not.

2.2 Clause 2 of the Bill seeks to dispense with the requirement that the chairperson and deputy chairperson of the Financial and Fiscal Commission must be full-time members of the Commission.

**3. BODIES/ORGANISATIONS CONSULTED**

The Electoral Commission  
The Ministry of Finance  
The Office of the President

The Bill was published for public comment and submitted to the provincial legislatures for their views, and was also submitted to the National Council of Provinces for public debate, as required by section 74(5) of the Constitution.

**4. PARLIAMENTARY PROCEDURE**

None of the above amendments relates to a matter that affects the National Council of Provinces, alters provincial boundaries, powers, functions or institutions, or amends a provision that deals specifically with a provincial matter. Consequently, the State Law Advisers and the Department of Constitutional Development 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 by the National Assembly only.

**5. IMPLICATIONS FOR PROVINCES**

None.

**6. IMPLICATIONS FOR MUNICIPALITIES**

None.

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