
REPUBLIC OF SOUTH AFRICA

**CONSTITUTIONAL COURT
COMPLEMENTARY ACT
AMENDMENT ACT**

REPUBLIEK VAN SUID-AFRIKA

**WYSIGINGSWET OP DIE
AANVULLENDE WET OP DIE
KONSTITUSIONELE HOF**

No , 1997

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

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

ACT

To amend the Constitutional Court Complementary Act, 1995, so as to provide for the referral of orders of constitutional invalidity of Acts of Parliament, provincial Acts or conduct of the President to the Constitutional Court; the appointment of counsel to argue issues of constitutional invalidity before the Constitutional Court; and the prescribing of rules regulating the proceedings of the Constitutional Court; and to provide for incidental matters.

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

Amendment of section 1 of Act 13 of 1995

1. Section 1 of the Constitutional Court Complementary Act, 1995, is hereby amended by the substitution for the definition of “rules” of the following definition: 5
 “ ‘rules’ means the rules of the Court promulgated under section [100(1) of the Constitution] 16.”.

Insertion of section 8 in Act 13 of 1995

2. The following section is hereby inserted in the Constitutional Court Complementary Act, 1995, after section 7: 10

“Referral of order of constitutional invalidity to Court

8. (1) (a) Whenever the Supreme Court of Appeal, a High Court or a court of similar status declares an Act of Parliament, a provincial Act or conduct of the President invalid as contemplated in section 172(2)(a) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), that court shall, in accordance with the rules, refer the order of constitutional invalidity to the Court for confirmation. 15

(b) Whenever any person or organ of state with a sufficient interest appeals or applies directly to the Court to confirm or vary an order of constitutional invalidity by a court, as contemplated in section 172(2)(d) of the Constitution, the Court shall deal with the matter in accordance with the rules. 20

(2) If requested by the President of the Court to do so, the Minister shall appoint counsel to present argument to the Court in respect of any matter referred to the Court as contemplated in subsection (1)(a).”

Insertion of section 16 in Act 13 of 1995

3. The following section is hereby inserted in the Constitutional Court Complementary Act, 1995, after section 15: 5

“Engaging the Court, rules and saving

16. (1) (a) The President of the Court may, in consultation with the Chief Justice, by notice in the *Gazette* make rules relating to the manner in which the Court may be engaged in any matter in respect of which it has jurisdiction, including the matters referred to in section 172 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), and all matters relating to the proceedings of and before the Court. 10

(b) Every rule and every amendment or repeal thereof shall be submitted to Parliament before the promulgation thereof and tabled as soon as possible. 15

(2) The rules shall, when it is in the interests of justice and with leave of the Court, allow a person—

(a) to bring a matter directly to the Court; or 20

(b) to appeal directly to the Court from any other court.

(3) The Constitutional Court Rules, 1995, promulgated by Government Notice R5 of 6 January 1995, as amended, shall be deemed to have been made under subsection (1).”

Short title and commencement

4. This Act shall be called the Constitutional Court Complementary Act Amendment Act, 1997, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*. 25