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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

GOVERNMENT NOTICES
GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE
DEPARTEMENT VAN JUSTISIE

No. R. 138

31 January 2003

THE CONSTITUTIONAL COURT

**NOTICE IN TERMS OF RULE 4(8) OF THE RULES OF THE
CONSTITUTIONAL COURT MADE BY THE CHIEF JUSTICE UNDER
SECTION 171 OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH
AFRICA, 1996 (ACT NO.108 OF 1996), AND SECTION 16 OF THE
CONSTITUTIONAL COURT COMPLEMENTARY ACT, 1995 (ACT
NO.13 OF 1995) AS AMENDED:**

Case CCT 23/02

IN THE MATTER OF -

UNITED DEMOCRATIC MOVEMENT

Applicant

versus

THE PRESIDENT OF THE REPUBLIC OF
SOUTH AFRICA

First Respondent

THE MINISTER FOR JUSTICE AND CONSTITUTIONAL
DEVELOPMENT

Second Respondent

THE MINISTER FOR PROVINCIAL AND LOCAL
GOVERNMENT

Third Respondent

AFRICAN CHRISTIAN DEMOCRATIC PARTY

First Intervening Party

AFRICAN NATIONAL CONGRESS

Second Intervening Party

INKATHA FREEDOM PARTY

Third Intervening Party

PAN AFRICANIST CONGRESS OF AZANIA

Fourth Intervening Party

PREMIER OF THE PROVINCE OF
KWAZULU-NATAL

Fifth Intervening Party

SOUTH AFRICAN LOCAL GOVERNMENT
ASSOCIATION

Sixth Intervening Party

INSTITUTE FOR DEMOCRACY IN SOUTH
AFRICA

First Amicus Curiae

RESEARCH UNIT FOR LEGAL AND
CONSTITUTIONAL INTERPRETATION

Second Amicus Curiae

ORDER OF COURT

On 4 October 2002 the Constitutional Court made the following order in the above-mentioned matter:

1. The Loss or Retention of Membership of National and Provincial Legislature Act 22 of 2002, is declared to be inconsistent with the Constitution and invalid.
2. Save as aforesaid, the application is dismissed.
3. The period of 15 days referred to in item 7 of Schedule 6A to the Constitution shall be deemed to be a period of 15 days commencing on 8 October 2002.
4. The following provisions of the order of this Court made on 4 July 2002 shall remain in force until the expiry of the fifteen-day window period referred to in paragraph 3 of this order:
 - “(a) anyone who was a member of the National Assembly, a provincial legislature, or a municipal council immediately prior to the order made by the Cape High Court on 20 June 2002 and who has since then or may hereafter cease to be a member of a party of which he or she was then a member shall not by reason of that fact cease to be a member of such assembly, legislature or municipal council, or be denied any rights and privileges attaching to such membership.

- (b) anyone who, subsequent to the order made by the Cape High Court on 20 June 2002, has been removed from membership of the National Assembly, a provincial legislature, or a municipal council by reason directly or indirectly of anything done by such to take advantage of the [floor crossing legislature] shall be restored to such membership with all rights and privileges attaching thereto, and any person who has replaced such person as a member of the national assembly, provincial legislature, or municipal council shall cease to be a member of such body.
- (c) no resolution shall be taken in the National Assembly, a provincial legislature or a municipal council that will have the effect of shifting the control of the executive authority of such bodies from the political party or parties exercising such control as at the 20th June 2002, to any other party or parties.”

5. Each party is to pay its own costs.

Thus done at JOHANNESBURG on 04 October 2002.

M S Stander

M S STANDER
SNR REGISTRAR: CONSTITUTIONAL COURT