

NOTICE 639 OF 2012**women, children &
people with disabilities**

Department:
Women, Children and People with Disabilities
REPUBLIC OF SOUTH AFRICA

EXPLANATORY SUMMARY OF THE COMMISSION FOR GENDER EQUALITY AMENDMENT BILL

The Minister of Women, Children and People with Disability intends introducing the Commission for Gender Equality Amendment Bill in Parliament during August 2012. An explanatory summary of the Bill is hereby published in accordance with Rule 241 (1) (c) of the Rules of the National Assembly and Rule 186 (10) (b) of the Rules of the National Council of Provinces.

The aim of the draft Bill is to amend Commission on Gender Equality Act, 1996.

The draft Bill envisages to-

- (a) align it with wording of and reference to the Constitution of the Republic of South Africa, 1996;
- (b) Substitute the reference to the Exchequer Act, 1975 with reference to the Public Finance Management Act, 1999.

Copies of the draft Bill can be obtained from Miss Nondumiso Maome, Department of Women, Children and People with Disabilities, 36 Hamilton Street, Arcadia, Pretoria, Tel: (012) 359 0209 or Nondumiso@dcpd.gov.za

REPUBLIC OF SOUTH AFRICA

COMMISSION FOR GENDER EQUALITY AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory summary
of Bill published in Government Gazette No. of) (The English text is the official
text of the Bill)*

[B - 2012]

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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.

B I L L

To amend the Commission on Gender Equality Act, 1996 so as to align it with the Constitution of the Republic of South Africa, 1996; and to provide for matters connected therewith.

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

Substitution of Preamble of Act 39 of 1996

1. The following Preamble is hereby substituted for the Preamble of the Commission on Gender Equality Act, 1996 (hereinafter referred to as the principal Act):

"PREAMBLE

WHEREAS section [119] 181 and item 20(2) of Schedule 6 to the Constitution of the Republic of South Africa, 1996 [provides for the establishment of a Commission on

Gender Equality; the determination of the members of the Commission; the requirements for appointment as members of the Commission] provide for the continued existence of the Commission for Gender Equality;

AND WHEREAS section 187 of the Constitution provides that [the object of the Commission on Gender Equality shall be to promote gender equality and to advise and to make recommendations to Parliament or any other legislature with regard to any laws or proposed legislation which affects gender equality and the status of women] the Commission for Gender equality—

- must promote respect for gender equality and the protection, development and attainment of gender equality;
- has the power, as regulated by national legislation, necessary to perform its functions, including the power to monitor, investigate, research, educate, lobby, advise and report on issues concerning gender equality;
- has additional powers and functions prescribed by national legislation;

AND WHEREAS [section120] sections 193 and 194 [of the Constitution provides that an Act of Parliament shall provide for the composition, powers, functions and functioning of the Commission on Gender Equality and for all other matters in connection therewith] provide for a mechanism for the appointment and the removal of a member of the Commission for Gender Equality,".

Amendment of section 1 of Act 39 of 1996, as amended by section 35 of Act 47 of 1997

2. Section 1 of the principal Act is hereby amended—

(a) by the substitution for the definition of “**Commission**” of the following definition:

““**Commission**” means the Commission **[on] for** Gender Equality **[established by section 119] referred to in section 181** of the Constitution”;

(b) by the insertion before the definition of “**investigation**” of the following definition:

““**Constituion**” means the Constitution of the Republic of South Africa, 1996;” and

(c) by the substitution for the definition of “**Minister**” of the following definition:

““**Minister**” means the Minister **[of Justice] of Women, Children and People with Disabilities.**”.

Amendment of section 3 of Act 39 of 1996

3. Section 3 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"[Subject to section 119 (2) of the Constitution, the] The Commission shall consist of a chairperson and no fewer than seven and no more than eleven members, who shall—";

(b) by the substitution in subsection (2) for paragraphs (a), (b) and (c) of the following paragraphs, respectively:

"(a) [proposed by interested parties as contemplated in subsection (3)] nominated by a committee of the National Assembly proportionally composed of members of all parties represented in the Assembly;

(b) [nominated by a joint committee] approved by the National Assembly by a resolution adopted with a supporting vote of a majority of the members of the National Assembly; and

(c) [approved by] on the recommendation of the National Assembly **[and the Senate by a resolution adopted by a majority of the total number of members of both Houses at a joint meeting on the recommendation of the Assembly:]";**

(c) by the deletion of the proviso to subsection (2).

(d) by the deletion of subsection (3);

(e) by the substitution for subsection (5) of the following subsection:

"(5) The President shall, subject to section 194(2) and (3) of the Constitution, remove any member from office **[if] only on—**

- (a) [such removal is requested by a joint committee contemplated in subsection (2) (b)] the ground of misconduct, incapacity or incompetence; [and]
- (b) [such request is approved by the National Assembly and the Senate by a resolution adopted by a majority of the total number of members of both Houses at a joint meeting.] a finding to that effect by a committee of the National Assembly; and
- (c) the adoption by the National Assembly of a resolution calling for that person's removal."

Amendment of section 9 of Act 39 of 1996

4. Section 9 of the principal Act is hereby amended by the substitution in paragraph (b) of subsection (2) for the words preceding subparagraph (i) of the following words:

"shall, subject to the [Exchequer Act, 1975 (Act No. 66 of 1975)]
Public Finance Management Act, 1999 (Act No. 1 of 1999)—".

Amendment of section 11 of Act 39 of 1996

5. Section 11 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“In order to achieve its object referred to in section [119 (3)] 187 of the Constitution, the Commission—”.

Substitution of short title of Act 39 of 1996

6. The following short title is hereby substituted for the short title and commencement of the principal Act:

“19. This Act shall be called the Commission [on] for Gender Equality Act, 1996, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.”.

Amendment of citation of laws referring to Act 39 of 1996

7. Any reference to the “Commission on Gender Equality Act, 1996 (Act No. 39 of 1996)”, contained in any law in force immediately prior to the commencement of this Act, must be construed as a reference to the “Commission for Gender Equality Act, 1996 (Act No. 39 of 1996)”.

Substitution of long title of Act 39 of 1996

8. The following long title is hereby substituted for the long title of the principal Act:

“To provide for the composition, powers, functions and functioning of the Commission [on] for Gender Equality; and to provide for matters connected therewith.”

Short title

9. This Act is called the Commission for Gender Equality Amendment Act, 2012.
