



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

VOL 390

CAPE TOWN. 5 DECEMBER 1997

No. 18495

KAAPSTAD. 5 DESEMBER 1997

OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 1635. 5 December 1997

No. 1635. 5 Desember 1997

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 79 of 1997: Constitutional Court Complementary Act Amendment Act, 1997.

No. 79 van 1997: Wysigingswet op die Aanvullende Wet op die Konstitusionele Hof, 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.

(English text signed by the President.)
(Assented to 26 November 1997.)

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)(u).”

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:

“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

(b) to appeal directly to the Court from any other court. 20

(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 25 Act, 1997, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Aanvullende Wet op die Konstitusionele Hof, 1995, ten einde voorsiening te maak vir die verwysing na die Konstitusionele Hof van bevel van grondwetlike ongeldigheid van Parlements wette, provinsiale Wette of optrede van die President; die aanstelling van 'n advokaat om die grondwetlike ongeldigheid van geskilpunte voor die Konstitusionele Hof te argumenteer; en die voorskryf van reëls wat die verrigtinge van die Konstitusionele Hof reel; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 26 November 1997.)*

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 13 van 1995

1. Artikel 1 van die Aanvullende Wet op die Konstitusionele Hof, 1995, word hierby
5 gewysig deur die omskrywing van "reëls" deur die volgende omskrywing te vervang:
"reëls" die reëls van die Hof kragtens artikel **[100(1) van die Grondwet]** 16
uitgevaardig."

Invoeging van artikel 8 in Wet 13 van 1995

2. Die volgende artikel word hierby in die Aanvullende Wet op die Konstitusionele
10 Hof, 1995, na artikel 7 ingevoeg:

"Verwysing van bevel van grondwetlike ongeldigheid na Hof

15 **8. (1) (a) Wanneer die Hoogste Hof van Appèl, 'n Hof of 'n hof**
met soortgelyke status 'n Parlements wet, 'n provinsiale Wet of optrede van
die President soos beoog in artikel 172(2)(u) van die Grondwet van die
Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), ongeldig
verklaar, verwys daardie hof die bevel van grondwetlike ongeldigheid
ooreenkomstig die reëls na die Hof vir bevestiging.

20 (b) Wanneer enige persoon of staatsorgaan met 'n voldoende belang na
die Hof appelleer of regstreeks by die Hof aansoek doen om 'n bevel van
grondwetlike ongeldigheid deur 'n hof te bevestig of te verander, soos
beoog in artikel 172(2)(d) van die Grondwet, handel die Hof met die
aangeleentheid ooreenkomstig die reëls.