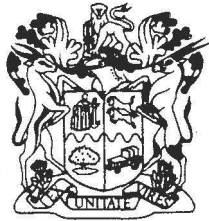


Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

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STATE PRESIDENT'S OFFICE

No. 186. 28 January 1994

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

No. 201 of 1993: Constitution Consequential Amendments Act, 1993.

KANTOOR VAN DIE STAATSPRESIDENT

No. 186. 28 Januarie 1994

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

No. 201 van 1993: Wetsontwerp op Wysigings Voortspruitend uit die Grondwet, 1993.

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.
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ACT

To amend the State Liability Act, 1957, the Interpretation Act, 1957, and the Transitional Executive Council Act, 1993, in order to provide for certain matters consequential upon the Constitution of the Republic of South Africa, 1993.

(English text signed by the State President.)
(Assented to 25 January 1994.)

Amendment of section 2 of Act 20 of 1957

1. Section 2 of the State Liability Act, 1957, is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) For the purposes of subsection (1), “Minister” shall, where appropriate, be interpreted as referring to a member of the Executive Council of a province.”

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Substitution of section 3 of Act 20 of 1957, as amended by section 36 of Act 9 of 1989

2. The following section is hereby substituted for section 3 of the State Liability Act, 1957:

“Satisfaction of judgment

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3. No execution, attachment or like process shall be issued against the defendant or respondent in any such action or proceedings or against any property of the State, but the amount, if any, which may be required to satisfy any judgment or order given or made against the nominal defendant or respondent in any such action or proceedings may be paid out of the **[Consolidated]** National Revenue Fund or a Provincial Revenue Fund, as the case may be.”

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Amendment of section 4 of Act 20 of 1957

3. Section 4 of the State Liability Act, 1957, is hereby amended by the substitution for paragraph (a) of the following paragraph:

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“(a) limits the liability of the State or the national government or a provincial government or any department thereof in respect of any act or omission of its servants; or”

Amendment of section 2 of Act 33 of 1957, as amended by section 2 of Act 45 of 1961 and section 22 of Act 69 of 1986

4. Section 2 of the Interpretation Act, 1957 (hereinafter referred to as the Interpretation Act), is hereby amended—

- (a) by the deletion of the definition of “administrator”;
- (b) by the addition to the definition of “*Gazette*” of the following paragraph:
- “(c) in the case of laws, proclamations, regulations, notices or other documents published after the date of commencement of the Constitution and required under any law to be published in the *Gazette* or the *Provincial Gazette* or any other official Gazette, means the *Government Gazette* of the Republic or the relevant *Provincial Gazette*, according to whether the administration of the law concerned or, as the case may be, the law conferring the power to make or issue such a proclamation, regulation, notice or other document, vests in, or in a functionary of, the national government or a provincial government;”;
- (c) by the substitution for the definition of “Governor-General” of the following definition:
- “ ‘Governor-General’ means the State President as defined in this section;”;
- (d) by the insertion after the definition of “person” of the following definitions:
- “ ‘Premier’, with reference to a province, means the Premier of that province, including any acting Premier, acting in terms of the Constitution;
- ‘President’ means the President of the Republic, including any acting President, acting in terms of the Constitution;”;
- (e) by the substitution for the definition of “province” of the following definition:
- “ ‘province’—
- (a) in the case of a law referred to in section 229 of the Constitution, means a province of the Republic as it existed immediately before the commencement of the Constitution;
- (b) in the case of a law passed or made after the commencement of the Constitution, or passed or made before such commencement, but with reference to the Constitution, means a province of the Republic referred to in section 124(1) of the Constitution;”;
- (f) by the deletion of the definition of “provincial council”;
- (g) by the substitution for the definition of “State President” of the following definition:
- “ ‘State President’ means, subject to section 232(1)(c) of the Constitution, the President or the Premier of a province;”;
- (h) by the insertion after the definition of “State President” of the following definition:
- “ ‘the Constitution’ means the Constitution of the Republic of South Africa, 1993;”;
- (i) by the substitution for the definition of “the Republic” of the following definition:
- “ ‘the Republic’ means, subject to section 232(1)(a) of the Constitution, the territorial limits of the Republic of South Africa referred to in section 1 of the Constitution;”.

Amendment of section 10 of Act 33 of 1957, as amended by section 1 of Act 7 of 1959, section 4 of Act 45 of 1961, section 1 of Act 42 of 1977, section 8 of Act 101 of 1981 and section 101 of Act 110 of 1983

5. Section 10 of the Interpretation Act is hereby amended—

- (a) by the substitution, in subsection (5), for the words preceding paragraph (a) of the following words:
- “Whenever the administration of any law or any provision of any law which confers a power or imposes a duty upon or entrusts a function to any Minister of State, member of the Executive Council of a province or other authority has under **[section 26 of]** the **[Republic of South Africa]** Constitution **[Act, 1983]** been assigned by the **[State]** President or the Premier of a province to any other Minister, member of such Executive Council or authority, as the case may be, that power may be exercised by such other Minister, member of the Executive Council or authority and that duty shall and that function may be performed by him, and—”;
- (b) by the substitution for paragraph (a) of subsection (5) of the following paragraph:
- “(a) any reference in that law or provision to **[the]** a department **[of State]**, including any division of any department or administration, administered by such firstmentioned Minister, member of the Executive Council or authority shall be construed as a reference to the department **[of State]** administered by such lastmentioned Minister, member of the Executive Council or authority”;
- (c) by the substitution for subsection (5A) of the following subsection:
- “(5A) The provisions of subsection (5) shall apply in so far as the **[State]** President or the Premier of a province does not determine otherwise in the assignment concerned and, if the administration of any law or a provision of any law has been assigned to any other Minister, member of the Executive Council of a province or authority as contemplated in that subsection, but in relation to a **[category of persons or some other]** matter specified in the assignment, the provisions of that subsection shall apply accordingly.”; and
- (d) by the deletion of subsection (5B).

Amendment of section 13 of Act 33 of 1957, as amended by section 10 of Act 129 of 1993

6. Section 13 of the Interpretation Act is hereby amended by the substitution in subsection (3) for the words “State President” of the words “President or the Premier of a province”.

Amendment of section 15 of Act 33 of 1957, as amended by section 5 of Act 45 of 1961

7. Section 15 of the Interpretation Act is hereby amended by the substitution for the words “State President” of the words “President or the Premier of a province”.

Substitution of section 16 of Act 33 of 1957, as amended by section 5 of Act 45 of 1961

8. The following section is hereby substituted for section 16 of the Interpretation Act:

“Certain enactments to be published in Gazette

16. When any by-law, regulation, rule or order is authorized by any law to be made by the **[State]** President **[an Administrator]** or a Minister or by the Premier of a province or a member of the Executive Council of a province or by any local authority, public body or person, with the approval of the **[State]** President **[an Administrator]** or a Minister, or of the Premier of a province or a member of the Executive

Council of a province, such by-law, regulation, rule or order shall, subject to the provisions relative to the force and effect thereof in any law, be published in the *Gazette*.”.

Amendment of section 16A of Act 33 of 1957, as inserted by section 13 of Act 102 of 1967

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9. Section 16A of the Interpretation Act is hereby amended—

(a) by the substitution for the words “State President”, wherever they occur, of the word “President”; and

(b) by the addition of the following subsection:

“(6) The Premier of a province may exercise the President’s powers in terms of this section with reference to such province.”.

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Substitution of section 17 of Act 33 of 1957, as substituted by section 22 of Act 69 of 1986

10. The following section is hereby substituted for section 17 of the Interpretation Act:

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“List of certain proclamations and notices to be submitted to Parliament and provincial legislatures

17. When the [State] President, a Minister or the [administrator] Premier or a member of the Executive Council of a province is by any law authorized to make rules or regulations for any purpose in such law stated, [or when an administrator acts in terms of section 14(2)(a) of the Provincial Government Act, 1986] notwithstanding the provisions of any law to the contrary, a list of the proclamations, government notices and provincial notices under which such rules or regulations [or action] were published in the *Gazette* during the period covered in the list, stating in each case the number, date and title of the proclamation, government notice or provincial notice and the number and date of the *Gazette* in which it was published, shall be [laid upon the Table in the House concerned or in] submitted to Parliament or the provincial legislature concerned, as the case may be, within fourteen days after the publication of the rules or regulations [or action] in the *Gazette* [if Parliament is then in session, or if Parliament is not then in session, within fourteen days after the commencement of its next ensuing session].”.

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Amendment of section 1 of Act 151 of 1993

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11. Section 1 of the Transitional Executive Council Act, 1993, is hereby amended by the addition of the following subsections, the existing section becoming subsection (1):

“(2) Where in this Act any functionary is required to take a decision in consultation with another functionary, such decision shall require the concurrence of such other functionary: Provided that if such other functionary is a body of persons it shall express its concurrence in accordance with its own decision-making procedures.

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(3) Where in this Act any functionary is required to take a decision after consultation with another functionary, such decision shall be taken in good faith after consulting and giving serious consideration to the views of such other functionary.”.

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Short title and commencement

12. This Act shall be called the Constitution Consequential Amendments Act, 1993, and shall come into operation on the date of commencement of the Constitution of the Republic of South Africa, 1993.

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