# CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA FOURTH AMENDMENT BILL

(As introduced in the National Assembly)

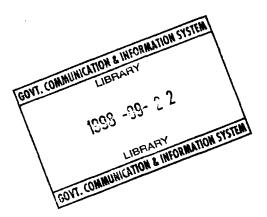
(MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT)

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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.

### **BILL**

To amend the Constitution of the Republic of South Africa, 1996, so as to allow a proclamation calling and setting dates for an election of the National Assembly to be issued either before or after the expiry of the term of the National Assembly; and to dispense with the requirement that the chairperson and deputy chairperson of the Financial and Fiscal Commission must be full-time members of the Commission; and to provide for matters connected therewith.

**B** E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

### Amendment of section 49 of Act 108 of 1996

- **1.** Section 49 of the Constitution of the Republic of South Africa, 1996 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subsection (2) 5 of the following subsection:
  - (2) If the National Assembly is dissolved in terms of section 50, or when its term expires, the President, by proclamation must call and set dates for an election, which must be held within 90 days of the date the Assembly was dissolved or its term. expired. A proclamation calling and setting dates for an election may be issued 10 before or after the expiry of the term of the National Assembly."

## . - Amendment of section 221 of Act 108 of 19%

- 2. Section 221 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:
  - "(a) A chairperson and a deputy chairperson [who are full-time members];".15

### Short title

3. This is the Constitution of the Republic of South Africa Fourth Amendment Act, 1998.

# MEMORANDUM ON THE OBJECTS OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA FOURTH AMENDMENT BILL, 1998

- 1.1 It would appear from the wording of section 49(2) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) (hereinafter called "the Constitution"), that a proclamation by the President calling and setting dates for an election of the National Assembly cannot be formally published before the National Assembly's term has actually expired. In view of the fact that it serves no purpose to delay the publication of such a proclamation until the term of the National Assembly has expired, the Chairperson of the Electoral Commission has requested the Minister for Provincial Affairs and Constitutional Development to consider an amendment to the Constitution that will allow such a proclamation to be published before the term of the National Assembly has expired. Such an arrangement will also avoid necessary pre-electoral procedures being unreasonably telescoped during the 90 day period referred to in section 49(2) of the Constitution.
- 1.2-Clause 1 of the Bill seeks to allow a proclamation calling and setting dates for an election of the National Assembly to be issued either before or after the expiry of the term of the National Assembly.
- 2.1 The Minister of Finance has requested that section 221(1) of the Constitution be amended to dispense with the requirement that the chairperson and deputy chairperson of the Financial and Fiscal Commission are to be full-time members of the Commission. Such an arrangement **will** enable the President to determine, at his or her discretion, whether the chairperson or the deputy chairperson or any other member of the Commission is to be appointed in a full-time capacity or not.
- 2.2 Clause 2 of the Bill seeks to dispense with the requirement that the chairperson and deputy chairperson of the Financial and Fiscal Commission must be full-time members of the Commission.

### 3. BODIES/ORGANISATIONS CONSULTED

The Electoral Commission

The Ministry of Finance

The Office of the President

The Bill was published for public comment and submitted to the provincial legislatures for their views, and was also submitted to the National Council of Provinces for public debate, as required by section 74(5) of the Constitution.

### 4. PARLIAMENTARY PROCEDURE

None of the above amendments relates to a matter that affects the National Council of Provinces, alters provincial boundaries, powers, functions or institutions, or amends a provision that deals specifically with a provincial matter. Consequently, the State Law Advisers and the Department of Constitutional Development are of the view that the legislative procedure established by section 74(3)(a) of the Constitution must be followed and that the Bill is required to be passed by the National Assembly only.

### 5. IMPLICATIONS FOR PROVINCES

None.

### 6. IMPLICATIONS FOR MUNICIPALITIES

None.