

REPUBLIC OF SOUTH AFRICA

CITATION OF CONSTITUTIONAL LAWS BILL

(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill published in Government Gazette No 27278 of 10 February 2005) (The English text is the official text of the Bill)

(MINISTER FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT)

[B 5—2005]

REPUBLIEK VAN SUID-AFRIKA

WETSONTWERP OP DIE VERWYSING NA KONSTITUSIONELE WETTE

(Soos ingedien by die Nasionale Vergadering as 'n artikel 75-wetsontwerp; verduidelikende opsomming van Wetsontwerp in Staatskoerant No. 27278 van 10 Februarie 2005 gepubliseer) (Die Afrikaanse teks is die amptelike vertaling van die Wetsontwerp)

(MINISTER VIR JUSTISIE EN STAATKUNDIGE ONTWIKKELING)

[W 5—2005]

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Short titles of laws amending the Constitution of the Republic of South Africa, 1996

3. (1) From the date of commencement of this Act, no Act number is to be associated with or allocated to any law amending the Constitution of the Republic of South Africa, 1996. 5

(2) The short titles of laws amending the Constitution of the Republic of South Africa, 1996, passed by Parliament after the commencement of this Act must reflect their chronological order, in line with the short titles indicated in the third column of the Schedule; the first such law passed after this Act takes effect starting with the number following the last number indicated in the third column of the Schedule. 10

Short title

4. This Act is called the Citation of Constitutional Laws Act, 2005.

SCHEDULE

No. and year of law	Short title	Extent of amendment	
Act No. 35 of 1997	Constitution of the Republic of South Africa Amendment Act, 1997	<p>The following section is substituted for section 4:</p> <p>“Short title and commencement</p> <p>4. This Act is called the Constitution [of the Republic of South Africa] <u>First Amendment Act of 1997</u>, and must be regarded as having taken effect on 4 February 1997.”.</p>	5 10 15
Act No. 65 of 1998	Constitution of the Republic of South Africa Amendment Act, 1998	<p>The following section is substituted for section 6:</p> <p>“Short title</p> <p>6. This Act is called the Constitution [of the Republic of South Africa] <u>Second Amendment Act of 1998</u>.”.</p>	20 25
Act No. 87 of 1998	Constitution of the Republic of South Africa Second Amendment Act, 1998	<p>The following section is substituted for section 3:</p> <p>“Short title</p> <p>3. This Act is called the Constitution [of the Republic of South Africa Second] <u>Third Amendment Act of 1998</u>.”.</p>	30 35
Act No. 3 of 1999	Constitution of the Republic of South Africa Amendment Act, 1999	<p>The following section is substituted for section 3:</p> <p>“Short title</p> <p>3. This Act is called the Constitution [of the Republic of South Africa] <u>Fourth Amendment Act of 1999</u>.”.</p>	40 45
Act No. 2 of 1999	Constitution of the Republic of South Africa Second Amendment Act, 1999	<p>The following section is substituted for section 3:</p> <p>“Short title</p> <p>3. This Act is called the Constitution [of the Republic of South Africa Second] <u>Fifth Amendment Act of 1999</u>.”.</p>	50 55
Act No. 34 of 2001	Constitution of the Republic of South Africa Amendment Act, 2001	<p>The following section is substituted for section 21:</p> <p>“Short title [and commencement]</p> <p>21. This Act is called the Constitution [of the Republic of South Africa] <u>Sixth Amendment Act of 2001</u>.”.</p>	60 65

No. and year of law	Short title	Extent of amendment	
Act No. 61 of 2001	Constitution of the Republic of South Africa Second Amendment Act, 2001	<p>The following section is substituted for section 11:</p> <p>“Short title and commencement</p> <p>11. This Act is called the Constitution [of the Republic of South Africa Second] Seventh Amendment Act of 2001, and comes into operation on a date fixed by the President by proclamation in the <i>Gazette</i>.”.</p>	5 10 15
Act No. 18 of 2002	Constitution of the Republic of South Africa Amendment Act, 2002	<p>The following section is substituted for section 3:</p> <p>“Short title</p> <p>3. This Act is called the Constitution [of the Republic of South Africa] Eighth Amendment Act of 2002.”.</p>	20 25
Act No. 21 of 2002	Constitution of the Republic of South Africa Second Amendment Act, 2002	<p>The following section is substituted for section 4:</p> <p>“Short title</p> <p>4. This Act is called the Constitution [of the Republic of South Africa Second] Ninth Amendment Act of 2002.”.</p>	30 35
Act No. 2 of 2003	Constitution of the Republic of South Africa Amendment Act, 2003	<p>The following section is substituted for section 10:</p> <p>“Short title and commencement</p> <p>10. This Act is called the Constitution [of the Republic of South Africa] Tenth Amendment Act of 2003, and comes into operation on a date set by the President by proclamation.”.</p>	40 45
Act No. 3 of 2003	Constitution of the Republic of South Africa Second Amendment Act, 2003	<p>The following section is substituted for section 5:</p> <p>“Short title and commencement</p> <p>5. This Act is called the Constitution [of the Republic of South Africa Second] Eleventh Amendment Act of 2003, and takes effect on a date determined by the President by proclamation in the <i>Gazette</i>.”.</p>	50 55 60

MEMORANDUM ON THE OBJECTS OF THE CITATION OF CONSTITUTIONAL LAWS BILL, 2005

1. BACKGROUND

1.1 In South Africa, as in many other countries, an Act number is allocated to every Act that is passed by Parliament and placed on the Statute Book. Consequently, the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) (the Constitution), was also allocated an Act number.

1.2 Section 2 of the Constitution provides that the “Constitution is the supreme law of the Republic”. Furthermore, the Constitution, unlike other Acts of the Republic, was not passed by Parliament, but was adopted by the Constitutional Assembly.

1.3 For the said reasons the view has been expressed by, among others, the Chief Justice of South Africa and other members of the judiciary that the Constitution should be treated differently from other, ordinary Acts of Parliament, for example by not being allocated an Act number.

1.4 The view has also been expressed that the short titles of all laws amending the Constitution should, as in some other countries, be numbered consecutively.

2. OBJECTS OF BILL

The objects of the Bill are to give effect to the above views by, among others—

- (a) providing that in future no Act number is to be associated with the “Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)” (clause 1);
- (b) substituting the short titles of existing laws amending the Constitution so as to provide for their consecutive numbering (clause 2);
- (c) providing that in future no Act number is to be associated with or allocated to laws amending the Constitution (clause 3(1)); and
- (d) providing that the short titles of all future laws amending the Constitution must be numbered consecutively, in line with the short titles indicated in the third column of the Schedule to the Bill (clause 3(2)).

3. DEPARTMENTS/BODIES/PERSONS CONSULTED

The amendments contained in the Bill do not affect any national or provincial Department or any other body or person and therefore no Department, body or person was consulted.

4. IMPLICATIONS FOR PROVINCES

None.

5. FINANCIAL IMPLICATIONS FOR STATE

None.

6. PARLIAMENTARY PROCEDURE

6.1 The State Law Advisers and the Department of Justice and Constitutional Development are of the opinion that the Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

6.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.