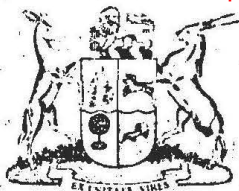


Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1459.

6 Julie 1984

No. 1459.

6 July 1984

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

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

No. 105 van 1984: Grondwetwysigingswet, 1984.

No. 105 of 1984: Constitution Amendment Act, 1984.

## CONSTITUTION AMENDMENT ACT, 1984

Act No. 105, 1984

## GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

# ACT

To amend the Republic of South Africa Constitution Act, 1961, so as to remove the restriction on the revision of the remuneration and allowances of members of the President's Council; to amend the Republic of South Africa Constitution Act, 1983, so as to make further provision for the chairmanship at a meeting of a House of Parliament under certain circumstances; the administration of certain departments of State and the performance of the functions of a Minister in that connection; the circumstances under which a House of Parliament is deemed to have rejected a bill, the filling of casual vacancies in certain seats in Parliament, the joint rules and orders of the Houses of Parliament, the right to sit and to speak in a House of Parliament, the calling of joint sittings of the Houses of Parliament, the exercise of the powers conferred in any law on the Prime Minister, the joint rules and orders that may be approved by the House of Assembly, the first session of the first Parliament constituted in terms of that Act and the first delimitation of electoral divisions of the House of Representatives and the House of Delegates; to remove certain disqualifications of certain persons in respect of the first election of members of the last-mentioned Houses of Parliament; to authorize the payment of certain moneys to persons who vacate certain offices as a result of the provisions of the Republic of South Africa Constitution Act, 1983; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)*  
*(Assented to 5 July 1984.)*

**BE IT ENACTED** by the State President and the House of Assembly of the Republic of South Africa, as follows:—

1. (1) Section 102 of the Republic of South Africa Constitution Act, 1961, is hereby amended by the deletion of paragraph 5 (c) of subsection (4).
- (2) Subsection (1) shall be deemed to have come into operation on 1 July 1983.

Amendment of section 102 of Act 32 of 1961, as inserted by section 34 of Act 101 of 1980 and amended by section 5 of Act 101 of 1981.

2. Section 7 of the Republic of South Africa Constitution Act, 1983, is hereby amended by the substitution for paragraph (d) of subsection (1) of the following paragraph:

Amendment of section 7 of Act 110 of 1983.

“(d) If there is no person who is competent to preside at a meeting of a House for the purposes of paragraph (b), the Secretary to Parliament or any other officer of Parliament designated by him shall preside thereat and may exercise thereat the powers of the Chairman of the House.”

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3. Section 24 of the Republic of South Africa Constitution Act, 1983, is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 24 of Act 110 of 1983.

5       “(1) The State President may appoint as many persons as he may from time to time deem necessary to administer such departments of State of the Republic as the State President may establish, or to perform such other functions as the State President may determine, and he may himself administer such a department of State for general affairs if  
10       at any time no person has been appointed under this subsection or section 25 to administer it.”

4. The following section is hereby substituted for section 26 of the Republic of South Africa Constitution Act, 1983: Substitution of section 26 of Act 110 of 1983.

15       “Assignment of Minister's functions to another Minister, or performance thereof by or on behalf of State President.  
20       26. (1) The State President may assign the administration of any provision in any law which entrusts to a Minister any power, duty or function, to any other Minister—  
      (a) either specifically or by way of a general assignment of the administration of any law or of all laws entrusting powers, duties or functions to such first-mentioned Minister; and  
      (b) either generally or in so far as such provision, law or laws relate to any population group or matter mentioned in such assignment.  
25       (2) A power, duty or function entrusted or assigned by or under this Act or any other law to a Minister of a department of State for general affairs which is administered by the State President, may be exercised or performed by the State President as if he were the Minister of the department in question, and may be exercised or performed on behalf of the State President by a Minister referred to in section 20 (b) or (c) who has been authorized thereto by the State President.”

35       5. Section 32 of the Republic of South Africa Constitution Act, 1983, is hereby amended by the substitution for subsection (2) of the following subsection: Amendment of section 32 of Act 110 of 1983.

40       “(2) (a) If—  
      (i) the State President, by message to a House, has requested that a bill passed by another House and introduced in the House in question or in respect of which notice of a motion for its introduction or consideration has been given in that House, be disposed of by that House before a date mentioned in the message, which may not be a date earlier than 14 days after the date of the message; and  
45       (ii) that House has not disposed of such bill before the date mentioned in the message,  
      that House shall be deemed for the purposes of subsection (1) to have rejected the bill, unless the State President by like message determines otherwise within seven days after the date so mentioned.  
50       (b) A House which has rejected a motion for the introduction or the consideration of a bill shall be deemed for  
55       the purposes of subsection (1) to have rejected the bill.”

6. Section 46 of the Republic of South Africa Constitution Act, 1983, is hereby amended by the substitution for subsection (2) of the following subsection: Amendment of section 46 of Act 110 of 1983.

60       “(2) (a) A casual vacancy in the seat of a nominated or an indirectly elected member of a House shall, subject to the provisions of paragraph (b), be filled by the nomination or election of a member for the unexpired portion of the term of office of the member in whose stead

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he is nominated or elected, and in the same manner in which the last-mentioned member was nominated or elected.

- 5 (b) If a casual vacancy in the seat of an indirectly elected member of a House exists while there is one or more directly elected members of the House who belong to or are supporters of the same political party as that to which the member whose seat is vacant belonged or of which he was a supporter at the time when the seat became vacant, the vacancy shall be filled by the nomination of a member by the said directly elected member or members (hereinafter referred to as competent members) for the unexpired portion of the term of office of the member whose seat is vacant: Provided that in the case of a casual vacancy in the seat of an indirectly elected member who, when the vacancy occurred, no longer belonged to or was a supporter of the said political party, the vacancy shall be filled in the manner prescribed in paragraph (a).
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- 20 (c) A nomination in terms of paragraph (b) shall—
- (i) be made on a form prescribed by the Speaker of Parliament;
- (ii) contain the nominee's consent to his nomination and his confirmation that he is competent to become a member of the House in question, signed by him;
- 25
- (iii) if there are not more than five competent members, be signed by every competent member;
- (iv) if there are more than five competent members, be signed on behalf of the competent members by the leader of the political party in question in the House and at least four other competent members; and
- 30
- (v) be lodged with the Secretary to Parliament, who shall record on it, under his signature, the date on which he receives it, and shall take effect on the date so recorded on it and not earlier.
- 35
- (d) A member of a House nominated in accordance with paragraphs (b) and (c) of this subsection shall for the purposes of this Act and any other law be deemed to have been elected in accordance with the provisions of section 41 (1) (c), 42 (1) (c) or 43 (1) (c), as the case may be, and any reference in this Act (except subsection (1) of this section) or any other law to an indirectly elected member or a member elected or to be elected as provided in the said provisions, or to the election of such a member, shall be construed as including a reference to a member nominated or to be nominated as provided in paragraphs (b) and (c) of this subsection or to the nomination of a member in accordance with the last-mentioned paragraphs, as the case may be.”
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7. Section 60 of the Republic of South Africa Constitution Act, 1983, is hereby amended by the substitution for subsection (1) of the following subsection:
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Amendment of section 60 of Act 110 of 1983.

- “(1) Every House shall at its first meeting not convened for the purposes of section 7 (1) (b), before proceeding to the dispatch of any other business, elect a member to be the Chairman of the House, and, as often as the office becomes vacant, the House shall again elect a member to be the Chairman.”
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8. Section 64 of the Republic of South Africa Constitution Act, 1983, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:
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Amendment of section 64 of Act 110 of 1983.

- “(b) ‘joint rules and orders’ means rules and orders approved by each of the Houses as joint rules and orders in connection with the order and conduct of—
- (i) the business and proceedings of each in connection with general matters and bills thereon or joint

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- committees or a particular joint committee or other matters affecting all three Houses; or
- (ii) the business and proceedings of joint committees or a particular joint committee;”

5 9. The following section is hereby substituted for section 65 of the Republic of South Africa Constitution Act, 1983:

Substitution of section 65 of Act 110 of 1983.

10 **65.** (1) The State President, a Minister who is a member of the Cabinet and any deputy to such a Minister has the right to sit and to speak in any House, but may **[only vote if he]** not vote except, in the case of such a Minister or deputy who is a member of a House, **[and only]** in the House of which he is a member.

15 (2) A member of a Ministers' Council who is not a member of any House or of the Cabinet has the right to sit and to speak in the House of which the members are of the same population group as the members of the Ministers' Council in question, but may not vote therein.”

20 10. Section 67 of the Republic of South Africa Constitution Act, 1983, is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of section 67 of Act 110 of 1983.

25 **“(1) A joint sitting of the Houses shall be called by the State President by message to the Houses or, in terms and for the purposes of the joint rules and orders contemplated in section 64, by the Speaker of Parliament.”**

30 11. (1) Section 102 of the Republic of South Africa Constitution Act, 1983, is hereby amended—

Amendment of section 102 of Act 110 of 1983.

(a) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

35 **“(b) A reference in any law to the Prime Minister which at the commencement of this Act is not in consequence of an assignment under section 20A of the previous Constitution to be construed as a reference to some other Minister, shall be deemed to be a reference to the State President acting under subsection (2) of section 26 of this Act, except in so far as the State President assigns the administration of such law to a Minister **[mutatis mutandis under section 26]** under subsection (1) of the last-mentioned section.”;**

40 (b) by the substitution for paragraph (b) of subsection (6) of the following paragraph:

45 **“(b) Rules and orders approved by the House of Assembly before the commencement of this Act as joint rules and orders of the Houses **[and published in the Gazette before such commencement by the Secretary to Parliament]**, shall after such commencement be deemed to be joint rules and orders approved by each of the Houses as contemplated in section 64, until, and except in so far as, they are replaced by rules and orders which have in fact been so approved: Provided that any rules and orders so **[published]** approved by the House of Assembly shall lapse on the expiry of a period of two years after the commencement of the first session of the first Parliament constituted under this Act.”;**

50 (c) by the substitution for subsection (7) of the following subsection:

55 **“(7) The first session of the first Parliament constituted in terms of this Act shall commence within 21 days after the polling day or the last polling day of the**

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5 first general election of members of the House of Representatives and the House of Delegates, according to whether the poll in respect of those Houses is held on the same day or on different days, and for the purposes of that session and until those Houses have been duly constituted (but not for a period longer than 14 days after the commencement of that session), each shall be deemed to consist of the members thereof elected at such general election.”; and

10 (d) by the substitution for subsection (9) of the following subsection:

15 “(9) For the purposes of the first delimitation of electoral divisions of the House of Representatives and of the House of Delegates the words “voters of the House in the province in terms of the current voters’ lists, duly corrected up to the latest possible date” in section 49 (1) shall be deemed to be replaced by the words “persons who, according to the population register kept in terms of the Population Registration Act, 1950, and on a date not more than 30 days before the delimitation commission begins to perform its functions, would be entitled to be included in any lists of the voters contemplated in section 52 of the House in electoral divisions thereof in the province had the province been divided into electoral divisions of the House on the date in question”, and the references to voters in section 49 (2) and (3) shall be construed accordingly.”

(2) Paragraph (d) of subsection (1) shall be deemed to have come into operation on 24 February 1984.

30 12. Notwithstanding anything to the contrary in any other law contained, a member of the President’s Council established in terms of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), or of the South African Indian Council established in terms of the South African Indian Council Act, 1968 (Act No. 31 of 1968), shall not merely because he is such a member or in that capacity receives any remuneration, allowances or benefits, be disqualified from being nominated or elected at the first general election of members of the House of Representatives or at the first general election of members of the House of Delegates as a member of the House in question, and shall not vacate office as a member of the said President’s Council or South African Indian Council merely because he has been so nominated or elected.”

Membership of President’s Council or South African Indian Council not disqualification for election as member of House of Representatives or House of Delegates.

45 13. (1) A person who at the commencement and in terms of section 102 (10) (a) or (11) of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), ceases to hold the office of State President, Vice State President or member of the President’s Council, is entitled to the continued payment during the unexpired portion of the period for which he was elected or appointed to the office in question of the amounts payable to him by virtue of the office by way of salary and allowances or remuneration and allowances in terms of section 14 or 102 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), immediately before the said commencement.

Continued payment of certain moneys under certain circumstances.

55 (2) Subsection (1) does not apply or, according to the circumstances, ceases to apply to or in respect of a person who—

60 (a) on or after the date on which he ceases to hold the office in question as aforesaid, becomes a member of Parliament or a provincial council or of the President’s Council established in terms of the Republic of South Africa Constitution Act, 1983, or accepts an appointment in the service of the Republic in respect of which he receives remuneration (excluding reimbursement of travelling expenses and of subsistence expenses incurred in the course of such service) out of public funds; or

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- (b) dies before the expiration of the period for which he was elected or appointed to the office in question; or
- (c) within 30 days after the commencement contemplated in subsection (1) notifies the State President in writing that he desires that the provisions of subsection (1) shall not apply to him.
- (3) Notwithstanding the repeal of sections 15 (1) and (2) and 15A of the Republic of South Africa Constitution Act, 1961, at the commencement and in terms of section 101 (1) of the Republic of South Africa Constitution Act, 1983, the provisions of the said section 15 (1) and (2) or 15A, as the case may be, shall continue to apply to a person who has ceased to hold the office of State President or Vice State President as aforesaid and to his widow, and a pension thereunder shall become payable, as if—
- (a) the said section 101 (1) had not been passed;
- (b) the person in question had not ceased to hold the office as aforesaid but vacates it at the expiration of the period for which he had been elected to the office or on the earlier date on which subsection (1) of this section ceases to apply to him in terms of subsection (2) (a) thereof; and
- (c) the amount, calculated for one year, which represents his salary for the purposes of subsection (1) of this section, were his annual salary.”
14. This Act shall be called the Constitution Amendment Act, 1984.