

REPUBLIC OF SOUTH AFRICA

CONSTITUTION NINETEENTH AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 74(3)); Explanatory summary of
Bill and prior notice of its introduction published in Government Gazette No. 51526 of
8 November 2024)
(The English text is the official text of the Bill)*

(MR G MICHALAKIS, MP)

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MEMORANDUM ON THE OBJECTS OF THE CONSTITUTION NINETEENTH AMENDMENT BILL, 2025

1. INTRODUCTION

- 1.1 South Africa is currently in a transitional phase where one party no longer holds the outright majority, nationally and in a number of provinces. Motions of no confidence could possibly be used as a political tool, rather than for the mechanism it was originally intended to be, namely a process to remove a Cabinet, President, Executive Council or Premier, as the case may be, from office if they do not fulfill their duties adequately.
- 1.2 What needs to change is simple — there needs to be a limitation on the number of motions of no confidence that are allowed to be brought either at national or provincial spheres in a certain time frame. This will, at the very least, give the respective government an uninterrupted period in which to perform or steady the country.
- 1.3 The draft Bill therefore intends to limit the number of motions of no confidence to be brought against a President or Premier, as the case may be, to only one motion per every 12 months from the date of the last motion. However, as a safety mechanism, the draft Bill will propose that additional motions of no confidence may be brought in exceptional circumstances such as a violation of the Constitution or law, misconduct or the inability to perform the functions of office. The purpose of this provision is to safeguard against instances where a motion of no confidence is brought against the President or Premier on frivolous political grounds, but then shortly thereafter, there is a real and valid ground for their removal.

2. OBJECTS OF THE BILL

The purpose of the Constitution Nineteenth Amendment Bill (“the Bill”) is to amend the Constitution of the Republic of South Africa, 1996 (“the Constitution”), so as to limit the frequency with which motions of no confidence in the Cabinet or President may be tabled, but to also provide for circumstances in terms of which a motion of no confidence in the Cabinet or President will not be limited. The Bill further seeks to limit the frequency with which motions of no confidence in a province’s Executive Council or Premier may be tabled, but to also provide for circumstances in terms of which a motion of no confidence in a province’s Executive Council or Premier will not be limited.

3. CONTENTS OF THE BILL

- 3.1 **Clause 1** amends the Constitution by inserting the provision that only one motion of no confidence in the Cabinet or President may be brought in any given 12-month period from the date of the last motion. It also provides that, notwithstanding that provision, a motion may be brought at any time if the reason for the motion meets a particular ground.
- 3.2 **Clause 2** amends the Constitution by inserting the provision that only one motion of no confidence in the Executive Council or Premier may be brought in any given 12-month period from the date of the last motion. It also provides that, notwithstanding that provision, a motion may be brought at any time if the reason for the motion meets a particular ground.
- 3.3 **Clause 3** is the short title and commencement section.

4. FINANCIAL IMPLICATIONS FOR THE STATE

A full financial implication study may be completed upon introduction.

5. DEPARTMENTS, BODIES OR PERSONS CONSULTED

The Member confirms that he has complied with the requirements as set out in section 74(5) of the Constitution.

6. PARLIAMENTARY PROCEDURE

- 6.1 The Member proposes that the Bill must be dealt with in accordance with the procedure established by section 74(3) of the Constitution as the Bill deals primarily with the amendment of the Constitution.
- 6.2 The Member is of the opinion that the Bill does not need to be referred to the National House of Traditional and Khoi-San Leaders in terms of section 39(1)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), as it does not contain any provisions pertaining to customary law or customs of traditional or Khoi-San communities, nor does it contain any provisions pertaining to any matter referred to in section 154(2) of the Constitution.