

# **CHAPTER 14**

## **GENERAL PROVISIONS**

### **International Law**

#### **International agreements**

231. (1) The negotiating and signing of all international agreements is the responsibility of the national executive.
- (2) An international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces, unless it is an agreement referred to in subsection (3).
- (3) An international agreement of a technical, administrative or executive nature, or an agreement which does not require either ratification or accession, entered into by the national executive, binds the Republic without approval by the National Assembly and the National Council of Provinces, but must be tabled in the Assembly and the Council within a reasonable time.
- (4) Any international agreement becomes law in the Republic when it is enacted into law by national legislation; but a self-executing provision of an agreement that has been approved by Parliament is law in the Republic unless it is inconsistent with the Constitution or an Act of Parliament.
- (5) The Republic is bound by international agreements which were binding on the Republic when this Constitution took effect.

#### **Customary international law**

232. Customary international law is law in the Republic unless it is inconsistent with the Constitution or an Act of Parliament.

#### **Application of international law**

233. When interpreting any legislation, every court must prefer any reasonable interpretation of the legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law.

## Other Matters

### Charters of Rights

234. In order to deepen the culture of democracy established by the Constitution, Parliament may adopt Charters of Rights consistent with the provisions of the Constitution.

### Self-determination

235. The right of the South African people as a whole to self-determination, as manifested in this Constitution, does not preclude, within the framework of this right, recognition of the notion of the right of self-determination of any community sharing a common cultural and language heritage, within a territorial entity in the Republic or in any other way, determined by national legislation.

### Funding for political parties

236. To enhance multi-party democracy, national legislation must provide for the funding of political parties participating in national and provincial legislatures on an equitable and proportional basis.

### Diligent performance of obligations

237. All constitutional obligations must be performed diligently and without delay.

### Agency and delegation

238. An executive organ of state in any sphere of government may—
- (a) delegate any power or function that is to be exercised or performed in terms of legislation to any other executive organ of state, provided the delegation is consistent with the legislation in terms of which the power is exercised or the function is performed; or
  - (b) exercise any power or perform any function for any other executive organ of state on an agency or delegation basis.

### Definitions

239. In the Constitution, unless the context indicates otherwise—

“national legislation” includes—

- (a) subordinate legislation made in terms of an Act of Parliament; and
- (b) legislation that was in force when the Constitution took effect and that is administered by the national government;

“organ of state” means—

- (a) any department of state or administration in the national, provincial or local sphere of government; or
- (b) any other functionary or institution—
  - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
  - (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

“provincial legislation” includes—

- (a) subordinate legislation made in terms of a provincial Act; and
- (b) legislation that was in force when the Constitution took effect and that is administered by a provincial government.

### **Inconsistencies between different texts**

240. In the event of an inconsistency between different texts of the Constitution, the English text prevails.

### **Transitional arrangements**

241. Schedule 6 applies to the transition to the new constitutional order established by this Constitution, and any matter incidental to that transition.

### **Repeal of laws**

242. The laws mentioned in Schedule 7 are repealed, subject to section 243 and Schedule 6.

### **Short title and commencement**

243. (1) This Act is called the Constitution of the Republic of South Africa, 1996, and comes into effect as soon as possible on a date set by the President by proclamation, which may not be a date later than 1 July 1997.
- (2) The President may set different dates before the date mentioned in subsection (1) in

respect of different provisions of the Constitution.

- (3) Unless the context otherwise indicates, a reference in a provision of the Constitution to a time when the Constitution took effect must be construed as a reference to the time when that provision took effect.
- (4) If a different date is set for any particular provision of the Constitution in terms of subsection (2), any corresponding provision of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), mentioned in the proclamation, is repealed with effect from the same date.
- (5) Sections 213, 214, 215, 216, 218, 226, 227, 228, 229 and 230 come into effect on 1 January 1998, but this does not preclude the enactment in terms of this Constitution of legislation envisaged in any of these provisions before that date. Until that date any corresponding and incidental provisions of the Constitution of the Republic of South Africa, 1993, remain in force.