

CHAPTER 4

PARLIAMENT

Composition of Parliament

42. (1) Parliament consists of—
- (a) the National Assembly; and
 - (b) the National Council of Provinces.
- (2) The National Assembly and the National Council of Provinces participate in the legislative process in the manner set out in the Constitution.
- (3) The National Assembly is elected to represent the people and to ensure government by the people under the Constitution. It does this by choosing the President, by providing a national forum for public consideration of issues, by passing legislation and by scrutinizing and overseeing executive action.
- (4) The National Council of Provinces represents the provinces to ensure that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces.
- (5) The President may summon Parliament to an extraordinary sitting at any time to conduct special business.
- (6) The seat of Parliament is Cape Town, but an Act of Parliament enacted in accordance with section 76(1) and (5) may determine that the seat of Parliament is elsewhere.

Legislative authority of the Republic

43. In the Republic, the legislative authority—
- (a) of the national sphere of government is vested in Parliament, as set out in section 44;
 - (b) of the provincial sphere of government is vested in the provincial legislatures, as set out in section 104; and
 - (c) of the local sphere of government is vested in the Municipal Councils, as set out in section 156.

National legislative authority

44. (1) The national legislative authority as vested in Parliament—
- (a) confers on the National Assembly the power—
 - (i) to amend the Constitution;
 - (ii) to pass legislation with regard to any matter, including a matter within a functional area listed in Schedule 4, but excluding, subject to subsection (2), a matter within a functional area listed in Schedule 5; and
 - (iii) to assign any of its legislative powers, except the power to amend the Constitution, to any legislative body in another sphere of government; and
 - (b) confers on the National Council of Provinces the power—
 - (i) to participate in amending the Constitution in accordance with section 74;
 - (ii) to pass, in accordance with section 76, legislation with regard to any matter within a functional area listed in Schedule 4 and any other matter required by the Constitution to be passed in accordance with section 76; and
 - (iii) to consider, in accordance with section 75, any other legislation passed by the National Assembly.
- (2) Parliament may intervene, by passing legislation in accordance with section 76(1), with regard to a matter falling within a functional area listed in Schedule 5, when it is necessary—
- (a) to maintain national security;
 - (b) to maintain economic unity;
 - (c) to maintain essential national standards;
 - (d) to establish minimum standards required for the rendering of services; or
 - (e) to prevent unreasonable action taken by a province which is prejudicial to the interests of another province or to the country as a whole.
- (3) Legislation with regard to a matter that is reasonably necessary for, or incidental to, the effective exercise of a power concerning any matter listed in Schedule 4 is, for all purposes, legislation with regard to a matter listed in Schedule 4.
- (4) When exercising its legislative authority, Parliament is bound only by the Constitution, and must act in accordance with, and within the limits of, the

Constitution.

Joint rules and orders and joint committees

45. (1) The National Assembly and the National Council of Provinces must establish a joint rules committee to make rules and orders concerning the joint business of the Assembly and Council, including rules and orders—
- (a) to determine procedures to facilitate the legislative process, including setting a time limit for completing any step in the process;
 - (b) to establish joint committees composed of representatives from both the Assembly and the Council to consider and report on Bills envisaged in sections 74 and 75 that are referred to such a committee;
 - (c) to establish a joint committee to review the Constitution at least annually; and
 - (d) to regulate the business of—
 - (i) the joint rules committee;
 - (ii) the Mediation Committee;
 - (iii) the constitutional review committee; and
 - (iv) any joint committees established in terms of paragraph (b).
- (2) Cabinet members, members of the National Assembly and delegates to the National Council of Provinces have the same privileges and immunities before a joint committee of the Assembly and the Council as they have before the Assembly or the Council.

The National Assembly

Composition and election

46. (1) The National Assembly consists of no fewer than 350 and no more than 400 women and men elected as members in terms of an electoral system that—
- (a) is prescribed by national legislation;
 - (b) is based on the national common voters roll;
 - (c) provides for a minimum voting age of 18 years; and
 - (d) results, in general, in proportional representation.
- (2) An Act of Parliament must provide a formula for determining the number of members of the National Assembly.

[Sub-s. (1) amended by s. 1 of the Constitution Tenth Amendment Act of 2003 and by s. 1 of the Constitution Fifteenth Amendment Act of 2008.]

Membership

47. (1) Every citizen who is qualified to vote for the National Assembly is eligible to be a member of the Assembly, except—
- (a) anyone who is appointed by, or is in the service of, the state and receives remuneration for that appointment or service, other than—
 - (i) the President, Deputy President, Ministers and Deputy Ministers; and
 - (ii) other office-bearers whose functions are compatible with the functions of a member of the Assembly, and have been declared compatible with those functions by national legislation;
 - (b) permanent delegates to the National Council of Provinces or members of a provincial legislature or a Municipal Council;
 - (c) unrehabilitated insolvents;
 - (d) anyone declared to be of unsound mind by a court of the Republic; or
 - (e) anyone who, after this section took effect, is convicted of an offence and sentenced to more than 12 months imprisonment without the option of a fine, either in the Republic, or outside the Republic if the conduct constituting the offence would have been an offence in the Republic, but no one may be regarded as having been sentenced until an appeal against the conviction or sentence has been determined, or until the time for an appeal has expired. A

disqualification under this paragraph ends five years after the sentence has been completed.

- (2) A person who is not eligible to be a member of the National Assembly in terms of subsection (1)(a) or (b) may be a candidate for the Assembly, subject to any limits or conditions established by national legislation.
- (3) A person loses membership of the National Assembly if that person—
 - (a) ceases to be eligible; or
 - (b) is absent from the Assembly without permission in circumstances for which the rules and orders of the Assembly prescribe loss of membership; or
 - (c) ceases to be a member of the party that nominated that person as a member of the Assembly.

[Sub-s. (3) substituted by s. 2 of the Constitution Tenth Amendment Act of 2003 and by s. 2 of the Constitution Fifteenth Amendment Act of 2008.]

- (4) Vacancies in the National Assembly must be filled in terms of national legislation.

Oath or affirmation

48. Before members of the National Assembly begin to perform their functions in the Assembly, they must swear or affirm faithfulness to the Republic and obedience to the Constitution, in accordance with Schedule 2.

Duration of National Assembly

49. (1) The National Assembly is elected for a term of five years.
- (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 before or after the expiry of the term of the National Assembly.

[Sub-s. (2) substituted by s. 1 of the Constitution Fifth Amendment Act of 1999.]

- (3) If the result of an election of the National Assembly is not declared within the period established in terms of section 190, or if an election is set aside by a court, the President, by proclamation, must call and set dates for another election, which must be held within 90 days of the expiry of that period or of the date on which the

election was set aside.

- (4) The National Assembly remains competent to function from the time it is dissolved or its term expires, until the day before the first day of polling for the next Assembly.

Dissolution of National Assembly before expiry of its term

50. (1) The President must dissolve the National Assembly if—
 - (a) the Assembly has adopted a resolution to dissolve with a supporting vote of a majority of its members; and
 - (b) three years have passed since the Assembly was elected.
- (2) The Acting President must dissolve the National Assembly if—
 - (a) there is a vacancy in the office of President; and
 - (b) the Assembly fails to elect a new President within 30 days after the vacancy occurred.

Sittings and recess periods

51. (1) After an election, the first sitting of the National Assembly must take place at a time and on a date determined by the Chief Justice, but not more than 14 days after the election result has been declared. The Assembly may determine the time and duration of its other sittings and its recess periods.

[Sub-s. (1) substituted by s. 1 of the Constitution Sixth Amendment Act of 2001.]

- (2) The President may summon the National Assembly to an extraordinary sitting at any time to conduct special business.
- (3) Sittings of the National Assembly are permitted at places other than the seat of Parliament only on the grounds of public interest, security or convenience, and if provided for in the rules and orders of the Assembly.

Speaker and Deputy Speaker

52. (1) At the first sitting after its election, or when necessary to fill a vacancy, the National Assembly must elect a Speaker and a Deputy Speaker from among its members.
- (2) The Chief Justice must preside over the election of a Speaker, or designate another judge to do so. The Speaker presides over the election of a Deputy Speaker.

[Sub-s. (2) substituted by s. 2 of the Constitution Sixth Amendment Act of 2001.]

- (3) The procedure set out in Part A of Schedule 3 applies to the election of the Speaker and the Deputy Speaker.
- (4) The National Assembly may remove the Speaker or Deputy Speaker from office by resolution. A majority of the members of the Assembly must be present when the resolution is adopted.
- (5) In terms of its rules and orders, the National Assembly may elect from among its members other presiding officers to assist the Speaker and the Deputy Speaker.

Decisions

53. (1) Except where the Constitution provides otherwise—
- (a) a majority of the members of the National Assembly must be present before a vote may be taken on a Bill or an amendment to a Bill;
 - (b) at least one third of the members must be present before a vote may be taken on any other question before the Assembly; and
 - (c) all questions before the Assembly are decided by a majority of the votes cast.
- (2) The member of the National Assembly presiding at a meeting of the Assembly has no deliberative vote, but—
- (a) must cast a deciding vote when there is an equal number of votes on each side of a question; and
 - (b) may cast a deliberative vote when a question must be decided with a supporting vote of at least two thirds of the members of the Assembly.

Rights of certain Cabinet members and Deputy Ministers in the National Assembly

54. The President, and any member of the Cabinet or any Deputy Minister who is not a member of the National Assembly, may, subject to the rules and orders of the Assembly, attend and speak in the Assembly, but may not vote.

[S. 54 substituted by s. 3 of the Constitution Sixth Amendment Act of 2001.]

Powers of National Assembly

55. (1) In exercising its legislative power, the National Assembly may—
- (a) consider, pass, amend or reject any legislation before the Assembly; and

- (b) initiate or prepare legislation, except money Bills.
- (2) The National Assembly must provide for mechanisms—
 - (a) to ensure that all executive organs of state in the national sphere of government are accountable to it; and
 - (b) to maintain oversight of—
 - (i) the exercise of national executive authority, including the implementation of legislation; and
 - (ii) any organ of state.

Evidence or information before National Assembly

56. The National Assembly or any of its committees may—
- (a) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;
 - (b) require any person or institution to report to it;
 - (c) compel, in terms of national legislation or the rules and orders, any person or institution to comply with a summons or requirement in terms of paragraph (a) or (b); and
 - (d) receive petitions, representations or submissions from any interested persons or institutions.

Internal arrangements, proceedings and procedures of National Assembly

57. (1) The National Assembly may—
- (a) determine and control its internal arrangements, proceedings and procedures; and
 - (b) make rules and orders concerning its business, with due regard to representative and participatory democracy, accountability, transparency and public involvement.
- (2) The rules and orders of the National Assembly must provide for—
- (a) the establishment, composition, powers, functions, procedures and duration of its committees;
 - (b) the participation in the proceedings of the Assembly and its committees of minority parties represented in the Assembly, in a manner consistent with

- democracy;
- (c) financial and administrative assistance to each party represented in the Assembly in proportion to its representation, to enable the party and its leader to perform their functions in the Assembly effectively; and
- (d) the recognition of the leader of the largest opposition party in the Assembly as the Leader of the Opposition.

Privilege

58. (1) Cabinet members, Deputy Ministers and members of the National Assembly—
- (a) have freedom of speech in the Assembly and in its committees, subject to its rules and orders; and
 - (b) are not liable to civil or criminal proceedings, arrest, imprisonment or damages for—
 - (i) anything that they have said in, produced before or submitted to the Assembly or any of its committees; or
 - (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the Assembly or any of its committees.
- (2) Other privileges and immunities of the National Assembly, Cabinet members and members of the Assembly may be prescribed by national legislation.
- (3) Salaries, allowances and benefits payable to members of the National Assembly are a direct charge against the National Revenue Fund.

[S. 58 amended by s. 4 of the Constitution Sixth Amendment Act of 2001.]

Public access to and involvement in National Assembly

59. (1) The National Assembly must—
- (a) facilitate public involvement in the legislative and other processes of the Assembly and its committees; and
 - (b) conduct its business in an open manner, and hold its sittings, and those of its committees, in public, but reasonable measures may be taken—
 - (i) to regulate public access, including access of the media, to the Assembly and its committees; and
 - (ii) to provide for the searching of any person and, where appropriate, the refusal of entry to, or the removal of, any person.

- (2) The National Assembly may not exclude the public, including the media, from a sitting of a committee unless it is reasonable and justifiable to do so in an open and democratic society.

National Council of Provinces

Composition of National Council

60. (1) The National Council of Provinces is composed of a single delegation from each province consisting of ten delegates.
- (2) The ten delegates are—
 - (a) four special delegates consisting of—
 - (i) the Premier of the province or, if the Premier is not available, any member of the provincial legislature designated by the Premier either generally or for any specific business before the National Council of Provinces; and
 - (ii) three other special delegates; and
 - (b) six permanent delegates appointed in terms of section 61(2).
- (3) The Premier of a province, or if the Premier is not available, a member of the province's delegation designated by the Premier, heads the delegation.

Allocation of delegates

61. (1) Parties represented in a provincial legislature are entitled to delegates in the province's delegation in accordance with the formula set out in Part B of Schedule 3.
- (2) (a) A provincial legislature must, within 30 days after the result of an election of that legislature is declared—
 - (i) determine, in accordance with national legislation, how many of each party's delegates are to be permanent delegates and how many are to be special delegates; and
 - (ii) appoint the permanent delegates in accordance with the nominations of the parties.
- (b)

[Para. (b) omitted by s. 1 of the Constitution Fourteenth Amendment Act of 2008.]

[Sub-s. (2) substituted by s. 1 of the Constitution Ninth Amendment Act of 2002 and by s. 1 of the Constitution Fourteenth Amendment Act of 2008.]

- (3) The national legislation envisaged in subsection (2)(a) must ensure the participation of minority parties in both the permanent and special delegates' components of the delegation in a manner consistent with democracy.
- (4) The legislature, with the concurrence of the Premier and the leaders of the parties entitled to special delegates in the province's delegation, must designate special delegates, as required from time to time, from among the members of the legislature.

Permanent delegates

- 62.
- (1) A person nominated as a permanent delegate must be eligible to be a member of the provincial legislature.
 - (2) If a person who is a member of a provincial legislature is appointed as a permanent delegate, that person ceases to be a member of the legislature.
 - (3) Permanent delegates are appointed for a term that expires—
 - (a) immediately before the first sitting of the provincial legislature after its next election..
 - (b)

[Para. (b) omitted by s. 2 of the Constitution Fourteenth Amendment Act of 2008.]

[Sub-s. (3) substituted by s. 2 of the Constitution Ninth Amendment Act of 2002 and substituted by s. 2 of the Constitution Fourteenth Amendment Act of 2008.]

- (4) A person ceases to be a permanent delegate if that person—
 - (a) ceases to be eligible to be a member of the provincial legislature for any reason other than being appointed as a permanent delegate;
 - (b) becomes a member of the Cabinet;
 - (c) has lost the confidence of the provincial legislature and is recalled by the party that nominated that person;
 - (d) ceases to be a member of the party that nominated that person and is recalled by that party; or
 - (e) is absent from the National Council of Provinces without permission in circumstances for which the rules and orders of the Council prescribe loss of

office as a permanent delegate.

- (5) Vacancies among the permanent delegates must be filled in terms of national legislation.
- (6) Before permanent delegates begin to perform their functions in the National Council of Provinces, they must swear or affirm faithfulness to the Republic and obedience to the Constitution, in accordance with Schedule 2.

Sittings of National Council

63. (1) The National Council of Provinces may determine the time and duration of its sittings and its recess periods.
- (2) The President may summon the National Council of Provinces to an extraordinary sitting at any time to conduct special business.
- (3) Sittings of the National Council of Provinces are permitted at places other than the seat of Parliament only on the grounds of public interest, security or convenience, and if provided for in the rules and orders of the Council.

Chairperson and Deputy Chairpersons

64. (1) The National Council of Provinces must elect a Chairperson and two Deputy Chairpersons from among the delegates.
- (2) The Chairperson and one of the Deputy Chairpersons are elected from among the permanent delegates for five years unless their terms as delegates expire earlier.
- (3) The other Deputy Chairperson is elected for a term of one year, and must be succeeded by a delegate from another province, so that every province is represented in turn.
- (4) The Chief Justice must preside over the election of the Chairperson, or designate another judge to do so. The Chairperson presides over the election of the Deputy Chairpersons.

[Sub-s. (4) substituted by s. 5 of the Constitution Sixth Amendment Act of 2001.]

- (5) The procedure set out in Part A of Schedule 3 applies to the election of the Chairperson and the Deputy Chairpersons.
- (6) The National Council of Provinces may remove the Chairperson or a Deputy Chairperson from office.

- (7) In terms of its rules and orders, the National Council of Provinces may elect from among the delegates other presiding officers to assist the Chairperson and Deputy Chairpersons.

Decisions

65. (1) Except where the Constitution provides otherwise—
 - (a) each province has one vote, which is cast on behalf of the province by the head of its delegation; and
 - (b) all questions before the National Council of Provinces are agreed when at least five provinces vote in favour of the question.
- (2) An Act of Parliament, enacted in accordance with the procedure established by either subsection (1) or subsection (2) of section 76, must provide for a uniform procedure in terms of which provincial legislatures confer authority on their delegations to cast votes on their behalf.

Participation by members of national executive

66. (1) Cabinet members and Deputy Ministers may attend, and may speak in, the National Council of Provinces, but may not vote.
- (2) The National Council of Provinces may require a Cabinet member, a Deputy Minister or an official in the national executive or a provincial executive to attend a meeting of the Council or a committee of the Council.

Participation by local government representatives

67. Not more than ten part-time representatives designated by organised local government in terms of section 163, to represent the different categories of municipalities, may participate when necessary in the proceedings of the National Council of Provinces, but may not vote.

Powers of National Council

68. In exercising its legislative power, the National Council of Provinces may—
 - (a) consider, pass, amend, propose amendments to or reject any legislation before the Council, in accordance with this Chapter; and

- (b) initiate or prepare legislation falling within a functional area listed in Schedule 4 or other legislation referred to in section 76(3), but may not initiate or prepare money Bills.

Evidence or information before National Council

69. The National Council of Provinces or any of its committees may—
- (a) summon any person to appear before it to give evidence on oath or affirmation or to produce documents;
 - (b) require any institution or person to report to it;
 - (c) compel, in terms of national legislation or the rules and orders, any person or institution to comply with a summons or requirement in terms of paragraph (a) or (b); and
 - (d) receive petitions, representations or submissions from any interested persons or institutions.

Internal arrangements, proceedings and procedures of National Council

70. (1) The National Council of Provinces may—
- (a) determine and control its internal arrangements, proceedings and procedures; and
 - (b) make rules and orders concerning its business, with due regard to representative and participatory democracy, accountability, transparency and public involvement.
- (2) The rules and orders of the National Council of Provinces must provide for—
- (a) the establishment, composition, powers, functions, procedures and duration of its committees;
 - (b) the participation of all the provinces in its proceedings in a manner consistent with democracy; and
 - (c) the participation in the proceedings of the Council and its committees of minority parties represented in the Council, in a manner consistent with democracy, whenever a matter is to be decided in accordance with section 75.

Privilege

71. (1) Delegates to the National Council of Provinces and the persons referred to in sections 66 and 67—
- (a) have freedom of speech in the Council and in its committees, subject to its rules and orders; and
 - (b) are not liable to civil or criminal proceedings, arrest, imprisonment or damages for—
 - (i) anything that they have said in, produced before or submitted to the Council or any of its committees; or
 - (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the Council or any of its committees.
- (2) Other privileges and immunities of the National Council of Provinces, delegates to the Council and persons referred to in sections 66 and 67 may be prescribed by national legislation.
- (3) Salaries, allowances and benefits payable to permanent members of the National Council of Provinces are a direct charge against the National Revenue Fund.

Public access to and involvement in National Council

72. (1) The National Council of Provinces must—
- (a) facilitate public involvement in the legislative and other processes of the Council and its committees; and
 - (b) conduct its business in an open manner, and hold its sittings, and those of its committees, in public, but reasonable measures may be taken—
 - (i) to regulate public access, including access of the media, to the Council and its committees; and
 - (ii) to provide for the searching of any person and, where appropriate, the refusal of entry to, or the removal of, any person.
- (2) The National Council of Provinces may not exclude the public, including the media, from a sitting of a committee unless it is reasonable and justifiable to do so in an open and democratic society.

National Legislative Process

All Bills

73. (1) Any Bill may be introduced in the National Assembly.
- (2) Only a Cabinet member or a Deputy Minister, or a member or committee of the National Assembly, may introduce a Bill in the Assembly, but only the Cabinet member responsible for national financial matters may introduce the following Bills in the Assembly:
- (a) a money Bill; or
 - (b) a Bill which provides for legislation envisaged in section 214.
- [Sub-s. (2) substituted by s. 1(a) of the Constitution Seventh Amendment Act of 2001.]
- (3) A Bill referred to in section 76(3), except a Bill referred to in subsection (2)(a) or (b) of this section, may be introduced in the National Council of Provinces.
- [Sub-s. (3) substituted by s. 1(b) of the Constitution Seventh Amendment Act of 2001.]
- (4) Only a member or committee of the National Council of Provinces may introduce a Bill in the Council.
- (5) A Bill passed by the National Assembly must be referred to the National Council of Provinces if it must be considered by the Council. A Bill passed by the Council must be referred to the Assembly.

Bills amending the Constitution

74. (1) Section 1 and this subsection may be amended by a Bill passed by—
- (a) the National Assembly, with a supporting vote of at least 75 per cent of its members; and
 - (b) the National Council of Provinces, with a supporting vote of at least six provinces.
- (2) Chapter 2 may be amended by a Bill passed by—
- (a) the National Assembly, with a supporting vote of at least two thirds of its members; and
 - (b) the National Council of Provinces, with a supporting vote of at least six provinces.
- (3) Any other provision of the Constitution may be amended by a Bill passed—

- (a) by the National Assembly, with a supporting vote of at least two thirds of its members; and
 - (b) also by the National Council of Provinces, with a supporting vote of at least six provinces, if the amendment—
 - (i) relates to a matter that affects the Council;
 - (ii) alters provincial boundaries, powers, functions or institutions; or
 - (iii) amends a provision that deals specifically with a provincial matter.
- (4) A Bill amending the Constitution may not include provisions other than constitutional amendments and matters connected with the amendments.
- (5) At least 30 days before a Bill amending the Constitution is introduced in terms of section 73(2), the person or committee intending to introduce the Bill must—
- (a) publish in the national Government Gazette, and in accordance with the rules and orders of the National Assembly, particulars of the proposed amendment for public comment;
 - (b) submit, in accordance with the rules and orders of the Assembly, those particulars to the provincial legislatures for their views; and
 - (c) submit, in accordance with the rules and orders of the National Council of Provinces, those particulars to the Council for a public debate, if the proposed amendment is not an amendment that is required to be passed by the Council.
- (6) When a Bill amending the Constitution is introduced, the person or committee introducing the Bill must submit any written comments received from the public and the provincial legislatures—
- (a) to the Speaker for tabling in the National Assembly; and
 - (b) in respect of amendments referred to in subsection (1), (2) or (3)(b), to the Chairperson of the National Council of Provinces for tabling in the Council.
- (7) A Bill amending the Constitution may not be put to the vote in the National Assembly within 30 days of—
- (a) its introduction, if the Assembly is sitting when the Bill is introduced; or
 - (b) its tabling in the Assembly, if the Assembly is in recess when the Bill is introduced.
- (8) If a Bill referred to in subsection (3)(b), or any part of the Bill, concerns only a specific province or provinces, the National Council of Provinces may not pass the Bill or the relevant part unless it has been approved by the legislature or legislatures of

the province or provinces concerned.

- (9) A Bill amending the Constitution that has been passed by the National Assembly and, where applicable, by the National Council of Provinces, must be referred to the President for assent.

Ordinary Bills not affecting provinces

75. (1) When the National Assembly passes a Bill other than a Bill to which the procedure set out in section 74 or 76 applies, the Bill must be referred to the National Council of Provinces and dealt with in accordance with the following procedure:
- (a) The Council must—
 - (i) pass the Bill;
 - (ii) pass the Bill subject to amendments proposed by it; or
 - (iii) reject the Bill.
 - (b) If the Council passes the Bill without proposing amendments, the Bill must be submitted to the President for assent.
 - (c) If the Council rejects the Bill or passes it subject to amendments, the Assembly must reconsider the Bill, taking into account any amendment proposed by the Council, and may—
 - (i) pass the Bill again, either with or without amendments; or
 - (ii) decide not to proceed with the Bill.
 - (d) A Bill passed by the Assembly in terms of paragraph (c) must be submitted to the President for assent.
- (2) When the National Council of Provinces votes on a question in terms of this section, section 65 does not apply; instead—
- (a) each delegate in a provincial delegation has one vote;
 - (b) at least one third of the delegates must be present before a vote may be taken on the question; and
 - (c) the question is decided by a majority of the votes cast, but if there is an equal number of votes on each side of the question, the delegate presiding must cast a deciding vote.

Ordinary Bills affecting provinces

76. (1) When the National Assembly passes a Bill referred to in subsection (3), (4) or (5),

the Bill must be referred to the National Council of Provinces and dealt with in accordance with the following procedure:

- (a) The Council must—
 - (i) pass the Bill;
 - (ii) pass an amended Bill; or
 - (iii) reject the Bill.
- (b) If the Council passes the Bill without amendment, the Bill must be submitted to the President for assent.
- (c) If the Council passes an amended Bill, the amended Bill must be referred to the Assembly, and if the Assembly passes the amended Bill, it must be submitted to the President for assent.
- (d) If the Council rejects the Bill, or if the Assembly refuses to pass an amended Bill referred to it in terms of paragraph (c), the Bill and, where applicable, also the amended Bill, must be referred to the Mediation Committee, which may agree on—
 - (i) the Bill as passed by the Assembly;
 - (ii) the amended Bill as passed by the Council; or
 - (iii) another version of the Bill.
- (e) If the Mediation Committee is unable to agree within 30 days of the Bill's referral to it, the Bill lapses unless the Assembly again passes the Bill, but with a supporting vote of at least two thirds of its members.
- (f) If the Mediation Committee agrees on the Bill as passed by the Assembly, the Bill must be referred to the Council, and if it passes the Bill, the Bill must be submitted to the President for assent.
- (g) If the Mediation Committee agrees on the amended Bill as passed by the Council, the Bill must be referred to the Assembly, and if it is passed by the Assembly, it must be submitted to the President for assent.
- (h) If the Mediation Committee agrees on another version of the Bill, that version of the Bill must be referred to both the Assembly and the Council, and if it is passed by the Assembly and the Council, it must be submitted to the President for assent.
- (i) If a Bill referred to the Council in terms of paragraph (f) or (h) is not passed by the Council, the Bill lapses unless the Assembly passes the Bill with a supporting vote of at least two thirds of its members.

- (j) If a Bill referred to the Assembly in terms of paragraph (g) or (h) is not passed by the Assembly, that Bill lapses, but the Bill as originally passed by the Assembly may again be passed by the Assembly, but with a supporting vote of at least two thirds of its members.
 - (k) A Bill passed by the Assembly in terms of paragraph (e), (i) or (j) must be submitted to the President for assent.
- (2) When the National Council of Provinces passes a Bill referred to in subsection (3), the Bill must be referred to the National Assembly and dealt with in accordance with the following procedure:
- (a) The Assembly must—
 - (i) pass the Bill;
 - (ii) pass an amended Bill; or
 - (iii) reject the Bill.
 - (b) A Bill passed by the Assembly in terms of paragraph (a)(i) must be submitted to the President for assent.
 - (c) If the Assembly passes an amended Bill, the amended Bill must be referred to the Council, and if the Council passes the amended Bill, it must be submitted to the President for assent.
 - (d) If the Assembly rejects the Bill, or if the Council refuses to pass an amended Bill referred to it in terms of paragraph (c), the Bill and, where applicable, also the amended Bill must be referred to the Mediation Committee, which may agree on—
 - (i) the Bill as passed by the Council;
 - (ii) the amended Bill as passed by the Assembly; or
 - (iii) another version of the Bill.
 - (e) If the Mediation Committee is unable to agree within 30 days of the Bill's referral to it, the Bill lapses.
 - (f) If the Mediation Committee agrees on the Bill as passed by the Council, the Bill must be referred to the Assembly, and if the Assembly passes the Bill, the Bill must be submitted to the President for assent.
 - (g) If the Mediation Committee agrees on the amended Bill as passed by the Assembly, the Bill must be referred to the Council, and if it is passed by the Council, it must be submitted to the President for assent.
 - (h) If the Mediation Committee agrees on another version of the Bill, that version

of the Bill must be referred to both the Council and the Assembly, and if it is passed by the Council and the Assembly, it must be submitted to the President for assent.

- (i) If a Bill referred to the Assembly in terms of paragraph (f) or (h) is not passed by the Assembly, the Bill lapses.
- (3) A Bill must be dealt with in accordance with the procedure established by either subsection (1) or subsection (2) if it falls within a functional area listed in Schedule 4 or provides for legislation envisaged in any of the following sections:
 - (a) Section 65(2);
 - (b) section 163;
 - (c) section 182;
 - (d) section 195(3) and (4);
 - (e) section 196; and
 - (f) section 197.
- (4) A Bill must be dealt with in accordance with the procedure established by subsection (1) if it provides for legislation—
 - (a) envisaged in section 44(2) or 220(3); or
 - (b) envisaged in Chapter 13, and which includes any provision affecting the financial interests of the provincial sphere of government.

[Para. (b) substituted by s. 1 of the Constitution Eleventh Amendment Act of 2003.]

- (5) A Bill envisaged in section 42(6) must be dealt with in accordance with the procedure established by subsection (1), except that—
 - (a) when the National Assembly votes on the Bill, the provisions of section 53(1) do not apply; instead, the Bill may be passed only if a majority of the members of the Assembly vote in favour of it; and
 - (b) if the Bill is referred to the Mediation Committee, the following rules apply:
 - (i) If the National Assembly considers a Bill envisaged in subsection (1)(g) or (h), that Bill may be passed only if a majority of the members of the Assembly vote in favour of it.
 - (ii) If the National Assembly considers or reconsiders a Bill envisaged in subsection (1)(e), (i) or (j), that Bill may be passed only if at least two thirds of the members of the Assembly vote in favour of it.
- (6) This section does not apply to money Bills.

Money Bills

77. (1) A Bill is a money Bill if it—
- (a) appropriates money;
 - (b) imposes national taxes, levies, duties or surcharges;
 - (c) abolishes or reduces, or grants exemptions from, any national taxes, levies, duties or surcharges; or
 - (d) authorises direct charges against the National Revenue Fund, except a Bill envisaged in section 214 authorising direct charges.
- (2) A money Bill may not deal with any other matter except—
- (a) a subordinate matter incidental to the appropriation of money;
 - (b) the imposition, abolition or reduction of national taxes, levies, duties or surcharges;
 - (c) the granting of exemption from national taxes, levies, duties or surcharges; or
 - (d) the authorisation of direct charges against the National Revenue Fund.
- (3) All money Bills must be considered in accordance with the procedure established by section 75. An Act of Parliament must provide for a procedure to amend money Bills before Parliament.

[S. 77 substituted by s. 2 of the Constitution Seventh Amendment Act 2001.]

Mediation Committee

78. (1) The Mediation Committee consists of—
- (a) nine members of the National Assembly elected by the Assembly in accordance with a procedure that is prescribed by the rules and orders of the Assembly and results in the representation of parties in substantially the same proportion that the parties are represented in the Assembly; and
 - (b) one delegate from each provincial delegation in the National Council of Provinces, designated by the delegation.
- (2) The Mediation Committee has agreed on a version of a Bill, or decided a question, when that version, or one side of the question, is supported by—
- (a) at least five of the representatives of the National Assembly; and
 - (b) at least five of the representatives of the National Council of Provinces.

Assent to Bills

79. (1) The President must either assent to and sign a Bill passed in terms of this Chapter or, if the President has reservations about the constitutionality of the Bill, refer it back to the National Assembly for reconsideration.
- (2) The joint rules and orders must provide for the procedure for the reconsideration of a Bill by the National Assembly and the participation of the National Council of Provinces in the process.
- (3) The National Council of Provinces must participate in the reconsideration of a Bill that the President has referred back to the National Assembly if—
- (a) the President's reservations about the constitutionality of the Bill relate to a procedural matter that involves the Council; or
 - (b) section 74(1), (2) or (3)(b) or 76 was applicable in the passing of the Bill.
- (4) If, after reconsideration, a Bill fully accommodates the President's reservations, the President must assent to and sign the Bill; if not, the President must either—
- (a) assent to and sign the Bill; or
 - (b) refer it to the Constitutional Court for a decision on its constitutionality.
- (5) If the Constitutional Court decides that the Bill is constitutional, the President must assent to and sign it.

Application by members of National Assembly to Constitutional Court

80. (1) Members of the National Assembly may apply to the Constitutional Court for an order declaring that all or part of an Act of Parliament is unconstitutional.
- (2) An application—
- (a) must be supported by at least one third of the members of the National Assembly; and
 - (b) must be made within 30 days of the date on which the President assented to and signed the Act.
- (3) The Constitutional Court may order that all or part of an Act that is the subject of an application in terms of subsection (1) has no force until the Court has decided the application if—
- (a) the interests of justice require this; and
 - (b) the application has a reasonable prospect of success.
- (4) If an application is unsuccessful, and did not have a reasonable prospect of success,

the Constitutional Court may order the applicants to pay costs.

Publication of Acts

81. A Bill assented to and signed by the President becomes an Act of Parliament, must be published promptly, and takes effect when published or on a date determined in terms of the Act.

Safekeeping of Acts of Parliament

82. The signed copy of an Act of Parliament is conclusive evidence of the provisions of that Act and, after publication, must be entrusted to the Constitutional Court for safekeeping.