

CHAPTER 3

CO-OPERATIVE GOVERNMENT

40. Government of the Republic

- (1) In the Republic, government is constituted as national, provincial and local spheres of government which are distinctive, interdependent and interrelated.
- (2) All spheres of government must observe and adhere to the principles in this Chapter and must conduct their activities within the parameters that the Chapter provides.

Principles of co-operative government and intergovernmental relations

- (1) All spheres of government and all organs of state within each sphere must –
 - (a) preserve the peace, national unity and the indivisibility of the Republic;
 - (b) secure the well-being of the people of the Republic;
 - (c) provide effective, transparent, accountable and coherent government for the Republic as a whole;
 - (d) be loyal to the Constitution, the Republic and its people;
 - (e) respect the constitutional status, institutions, powers and functions of government in the other spheres;
 - (f) not assume any power or function except those conferred on them in terms of the Constitution;
 - (g) exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere; and
 - (h) co-operate with one another in mutual trust and good faith by –
 - (i) fostering friendly relations;
 - (ii) assisting and supporting one another;

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- (iii) informing one another of, and consulting one another on, matters of common interest;
 - (iv) co-ordinating their actions and legislation with one another;
 - (v) adhering to agreed procedures; and
 - (vi) avoiding legal proceedings against one another.
- (2) An Act of Parliament must—
- (a) establish or provide for structures and institutions to promote and facilitate intergovernmental relations; and
 - (b) provide for appropriate mechanisms and procedures to facilitate settlement of intergovernmental disputes.
- (3) An organ of state involved in an intergovernmental dispute must make every reasonable effort to settle the dispute by means of mechanisms and procedures provided for that purpose, and must exhaust all other remedies before it approaches a court to resolve the dispute.
- (4) If a court is not satisfied that the requirements of subsection (3) have been met, it may refer a dispute back to the organs of state involved.