

ANNEXURE D

Public Administration and Security Services: Amendments to Sections of the Previous Constitution

1. The amendment of section 218 of the previous Constitution

- (a) by replacing in subsection (1) the words preceding paragraph (a) with the following words:
“(1) Subject to the directions of the Minister of Safety and Security, the National Commissioner shall be responsible for –”;
- (b) by replacing paragraph (b) of subsection (1) with the following paragraph:
“(b) the appointment of provincial commissioners;”;
- (c) by replacing paragraph (d) of subsection (1) with the following paragraph:
“(d) the investigation and prevention of organised crime or crime which requires national investigation and prevention or specialised skills;” and
- (d) by replacing paragraph (k) of subsection (1) with the following paragraph:
“(k) the establishment and maintenance of a national public order policing unit to be deployed in support of and at the request of the Provincial Commissioner;”.

2. The amendment of section 219 of the previous Constitution by replacing in subsection (1) the words preceding paragraph (a) with the following words:

- “(1) Subject to section 218(1), a Provincial Commissioner shall be responsible for –”.

3. The amendment of section 224 of the previous Constitution by replacing the proviso to subsection (2) with the following proviso:

“Provided that this subsection shall also apply to members of any armed force which submitted its personnel list after the commencement of the Constitution of the Republic of South Africa, 993 (Act 200 of 1993), but before the adoption of the new constitutional text as envisaged in section 73 of that Constitution, if the political organisation under whose authority and control it stands or with which it is associated and whose objectives it promotes did participate in the Transitional Executive Council or did take part in the first election of the National Assembly and the provincial legislatures under the said Constitution.”.

4. The amendment of section 227 of the previous Constitution by replacing subsection (2) with the following subsection:

“(2) The National Defence Force shall exercise its powers and perform its functions solely in the national interest in terms of Chapter 11 of the Constitution of the Republic of South Africa, 1996.”.

5. The amendment of section 236 of the previous Constitution

(a) by replacing subsection (1) with the following subsection:

“(1)A public service, department of state, administration or security service which immediately before the commencement of the Constitution of the Republic of South Africa, 1996 (hereinafter referred to as “the new Constitution”), performed governmental functions, continues to function in terms of the legislation applicable to it until it is abolished or incorporated or integrated into any appropriate institution or is rationalised or consolidated with any other institution.”;

(b) by replacing subsection (6) with the following subsection:

“(6)(a)The President may appoint a commission to review the conclusion or amendment of a contract, the appointment or promotion, or the award of a term or condition of service or other benefit, which occurred between 27 April 1993 and 30 September

Annexure D

1994 in respect of any person referred to in subsection (2) or any class of such persons.

- (b) The commission may reverse or alter a contract, appointment, promotion or award if not proper or justifiable in the circumstances of the case.”; and
- (c) by replacing “this Constitution”, wherever this occurs in section 236, with “the new Constitution”.

6. The amendment of section 237 of the previous Constitution

- (a) by replacing paragraph (a) of subsection (1) with the following paragraph:

“(a)The rationalisation of all institutions referred to in section 236(1), excluding military forces referred to in section 224(2), shall after the commencement of the Constitution of the Republic of South Africa, 1996, continue, with a view to establishing –

 - (i) an effective administration in the national sphere of government to deal with matters within the jurisdiction of the national sphere; and
 - (ii) an effective administration for each province to deal with matters within the jurisdiction of each provincial government.”; and
- (b) by replacing subparagraph (i) of subsection (2)(a) with the following subparagraph:

“(i) institutions referred to in section 236(1), excluding military forces, shall rest with the national government, which shall exercise such responsibility in co-operation with the provincial governments;”.

7. The amendment of section 239 of the previous Constitution by replacing subsection (4) with the following subsection:

- “(4) Subject to and in accordance with any applicable law, the assets, rights, duties and liabilities of all forces referred to in section 224(2) shall devolve upon the National Defence Force in accordance with the directions of the Minister of Defence.”.