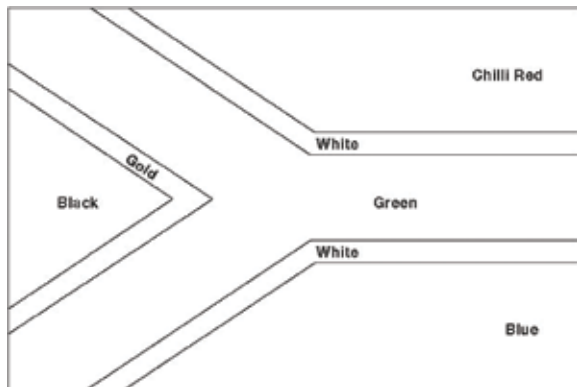


SCHEDULE 1

National Flag

- (1) The national flag is rectangular; it is one and a half times longer than it is wide.
- (2) It is black, gold, green, white, chilli red and blue.
- (3) It has a green Y-shaped band that is one fifth as wide as the flag. The centre lines of the band start in the top and bottom corners next to the flag post, converge in the centre of the flag, and continue horizontally to the middle of the free edge.
- (4) The green band is edged, above and below in white, and towards the flag post end, in gold. Each edging is one fifteenth as wide as the flag.
- (5) The triangle next to the flag post is black.
- (6) The upper horizontal band is chilli red and the lower horizontal band is blue. These bands are each one third as wide as the flag.



SCHEDULE 1A

Geographical Areas of Provinces

[Schedule 1A inserted by s. 4 of the Constitution Twelfth Amendment Act of 2005 and amended by s. 1 of the Constitution Thirteenth Amendment Act of 2007 and by the Constitution Sixteenth Amendment Act of 2009.]

The Province of the Eastern Cape

[Demarcation of the Province of the Eastern Cape substituted by the Constitution Thirteenth Amendment Act of 2007.]

Map No. 3 of Schedule 1 to Notice 1998 of 2005

Map No. 6 of Schedule 2 to Notice 1998 of 2005

Map No. 7 of Schedule 2 to Notice 1998 of 2005

Map No. 8 of Schedule 2 to Notice 1998 of 2005

Map No. 9 of Schedule 2 to Notice 1998 of 2005

Map No. 10 of Schedule 2 to Notice 1998 of 2005

Map No. 11 of Schedule 2 to Notice 1998 of 2005

The Province of the Free State

Map No. 12 of Schedule 2 to Notice 1998 of 2005

Map No. 13 of Schedule 2 to Notice 1998 of 2005

Map No. 14 of Schedule 2 to Notice 1998 of 2005

Map No. 15 of Schedule 2 to Notice 1998 of 2005

Map No. 16 of Schedule 2 to Notice 1998 of 2005

The Province of Gauteng

[Demarcation of the Province of Gauteng amended by the Constitution Sixteenth Amendment Act of 2009.]

Map No. 4 in Notice 1490 of 2008

[Reference to Map No. 4 substituted by s. 1(a) of the Constitution Sixteenth Amendment Act of 2009.]

Map No. 17 of Schedule 2 to Notice 1998 of 2005

Map No. 18 of Schedule 2 to Notice 1998 of 2005

Map No. 19 of Schedule 2 to Notice 1998 of 2005

Map No. 20 of Schedule 2 to Notice 1998 of 2005

Map No. 21 of Schedule 2 to Notice 1998 of 2005

The Province of KwaZulu-Natal

[Demarcation of the Province of KwaZulu-Natal substituted by the Constitution Thirteenth Amendment Act of 2007.]

Map No. 22 of Schedule 2 to Notice 1998 of 2005

Map No. 23 of Schedule 2 to Notice 1998 of 2005

Map No. 24 of Schedule 2 to Notice 1998 of 2005

Map No. 25 of Schedule 2 to Notice 1998 of 2005

Map No. 26 of Schedule 2 to Notice 1998 of 2005

Map No. 27 of Schedule 2 to Notice 1998 of 2005

Map No. 28 of Schedule 2 to Notice 1998 of 2005

Map No. 29 of Schedule 2 to Notice 1998 of 2005

Map No. 30 of Schedule 2 to Notice 1998 of 2005

Map No. 31 of Schedule 2 to Notice 1998 of 2005

Map No. 32 of Schedule 2 to Notice 1998 of 2005

The Province of Limpopo

Map No. 33 of Schedule 2 to Notice 1998 of 2005

Map No. 34 of Schedule 2 to Notice 1998 of 2005

Map No. 35 of Schedule 2 to Notice 1998 of 2005

Map No. 36 of Schedule 2 to Notice 1998 of 2005

Map No. 37 of Schedule 2 to Notice 1998 of 2005

The Province of Mpumalanga

Map No. 38 of Schedule 2 to Notice 1998 of 2005

Map No. 39 of Schedule 2 to Notice 1998 of 2005

Map No. 40 of Schedule 2 to Notice 1998 of 2005

The Province of the Northern Cape

Map No. 41 of Schedule 2 to Notice 1998 of 2005

Map No. 42 of Schedule 2 to Notice 1998 of 2005

Map No. 43 of Schedule 2 to Notice 1998 of 2005

Map No. 44 of Schedule 2 to Notice 1998 of 2005

Map No. 45 of Schedule 2 to Notice 1998 of 2005

The Province of North West

[Demarcation of the Province of North West amended by the Constitution Sixteenth Amendment Act of 2009.]

Map No. 5 in Notice 1490 of 2008

[Reference to Map No. 5 substituted by s. 1(b) of the Constitution Sixteenth Amendment Act of 2009.]

Map No. 46 of Schedule 2 to Notice 1998 of 2005

Map No. 47 of Schedule 2 to Notice 1998 of 2005

Map No. 48 of Schedule 2 to Notice 1998 of 2005

The Province of the Western Cape

Map No. 49 of Schedule 2 to Notice 1998 of 2005

Map No. 50 of Schedule 2 to Notice 1998 of 2005

Map No. 51 of Schedule 2 to Notice 1998 of 2005

Map No. 52 of Schedule 2 to Notice 1998 of 2005

Map No. 53 of Schedule 2 to Notice 1998 of 2005

Map No. 54 of Schedule 2 to Notice 1998 of 2005

SCHEDULE 2

Oaths and Solemn Affirmations

[Schedule 2 amended by s. 2 of Constitution First Amendment Act of 1997 (Eng text only) and substituted by s. 18 of Constitution Sixth Amendment Act of 2001.]

Oath or solemn affirmation of President and Acting President

1. The President or Acting President, before the Chief Justice, or another judge designated by the Chief Justice, must swear/affirm as follows:

In the presence of everyone assembled here, and in full realisation of the high calling I assume as President/Acting President of the Republic of South Africa, I, A.B., swear/solemnly affirm that I will be faithful to the Republic of South Africa, and will obey, observe, uphold and maintain the Constitution and all other law of the Republic; and I solemnly and sincerely promise that I will always—

- promote all that will advance the Republic, and oppose all that may harm it;
- protect and promote the rights of all South Africans;
- discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience;
- do justice to all; and
- devote myself to the well-being of the Republic and all of its people.

(In the case of an oath: So help me God.)

Oath or solemn affirmation of Deputy President

2. The Deputy President, before the Chief Justice or another judge designated by the Chief Justice, must swear/affirm as follows:

In the presence of everyone assembled here, and in full realisation of the high calling I assume as Deputy President of the Republic of South Africa, I, A.B., swear/solemnly affirm that I will be faithful to the Republic of South Africa and will obey, observe, uphold and maintain the Constitution and all other law of the Republic; and I solemnly and sincerely promise that I will always—

- promote all that will advance the Republic, and oppose all that may harm it;
- be a true and faithful counsellor;
- discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience;
- do justice to all; and
- devote myself to the well-being of the Republic and all of its people.

(In the case of an oath: So help me God.)

Oath or solemn affirmation of Ministers and Deputy Ministers

3. Each Minister and Deputy Minister, before the Chief Justice or another judge designated by the Chief Justice, must swear/affirm as follows:

I, A.B., swear/solemnly affirm that I will be faithful to the Republic of South Africa and will obey, respect and uphold the Constitution and all other law of the Republic; and I undertake to hold my office as Minister/Deputy Minister with honour and dignity; to be a true and faithful counsellor; not to divulge directly or indirectly any secret matter entrusted to me; and to perform the functions of my office conscientiously and to the best of my ability.

(In the case of an oath: So help me God.)

Oath or solemn affirmation of members of the National Assembly, permanent delegates to the National Council of Provinces and members of the provincial legislatures

4. (1) Members of the National Assembly, permanent delegates to the National Council of Provinces and members of provincial legislatures, before the Chief Justice or a judge designated by the Chief Justice, must swear or affirm as follows:

I, A.B., swear/solemnly affirm that I will be faithful to the: Republic of South Africa and will obey, respect and uphold the Constitution and all other law of the Republic; and I solemnly promise to perform my functions as a member of the National Assembly/permanent delegate to the National Council of Provinces/member of the legislature of the province of C.D. to the best of my ability.

(In the case of an oath: So help me God.)

- (2) Persons filling a vacancy in the National Assembly, a permanent delegation to the National Council of Provinces or a provincial legislature may swear or affirm in terms of subitem (1) before the presiding officer of the Assembly, Council or legislature, as the case may be.

Oath or solemn affirmation of Premiers, Acting Premiers and members of provincial Executive Councils

5. The Premier or Acting Premier of a province, and each member of the Executive Council of a province, before the Chief Justice or a judge designated by the Chief Justice, must swear/affirm as follows:

I, A.B., swear/solemnly affirm that I will be faithful to the Republic of South Africa and will obey, respect and uphold the Constitution and all other law of the Republic; and I undertake to hold my office as Premier/Acting Premier/member of the Executive Council of the province of C.D. with honour and dignity; to be a true and faithful counsellor; not to divulge directly or indirectly any secret matter entrusted to me; and to perform the functions of my office conscientiously and to the best of my ability.

(In the case of an oath: So help me God.)

Oath or solemn affirmation of Judicial Officers

6. (1) Each judge or acting judge, before the Chief Justice or another judge designated by the Chief Justice, must swear or affirm as follows:

I, A.B., swear/solemnly affirm that, as a Judge of the Constitutional Court/Supreme Court of Appeal/High Court/ E.F. Court, I will be faithful to the Republic of South Africa, will uphold and protect the Constitution and the human rights entrenched in it, and will administer justice to all persons alike without fear, favour or prejudice, in accordance with the Constitution and the law.

(In the case of an oath: So help me God.)

- (2) A person appointed to the office of Chief Justice who is not already a judge at the time of that appointment must swear or affirm before the Deputy Chief Justice, or failing that judge, the next most senior available judge of the Constitutional Court.
- (3) Judicial officers, and acting judicial officers, other than judges, must swear/affirm in terms of national legislation.

SCHEDULE 3

Election Procedures

[Schedule 3 amended by s. 2 of the Constitution Fourth Amendment Act of 1999, by s. 19 of the Constitution Sixth Amendment Act of 2001, by s. 3 of the Constitution Ninth Amendment Act of 2002 and by s. 5 of the Constitution Fourteenth Amendment Act of 2008.]

Part A

Election Procedures for Constitutional Office-Bearers

Application

1. The procedure set out in this Schedule applies whenever—
 - (a) the National Assembly meets to elect the President, or the Speaker or Deputy Speaker of the Assembly;
 - (b) the National Council of Provinces meets to elect its Chairperson or a Deputy Chairperson; or
 - (c) a provincial legislature meets to elect the Premier of the province or the Speaker or Deputy Speaker of the legislature.

Nominations

2. The person presiding at a meeting to which this Schedule applies must call for the nomination of candidates at the meeting.

Formal requirements

3.
 - (1) A nomination must be made on the form prescribed by the rules mentioned in item 9.
 - (2) The form on which a nomination is made must be signed—
 - (a) by two members of the National Assembly, if the President or the Speaker or Deputy Speaker of the Assembly is to be elected;
 - (b) on behalf of two provincial delegations, if the Chairperson or a Deputy Chairperson of the National Council of Provinces is to be elected; or
 - (c) by two members of the relevant provincial legislature, if the Premier of the province or the Speaker or Deputy Speaker of the legislature is to be elected.

- (3) A person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.

Announcement of names of candidates

4. At a meeting to which this Schedule applies, the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.

Single candidate

5. If only one candidate is nominated, the person presiding must declare that candidate elected.

Election procedure

6. If more than one candidate is nominated—
 - (a) a vote must be taken at the meeting by secret ballot;
 - (b) each member present, or if it is a meeting of the National Council of Provinces, each province represented, at the meeting may cast one vote; and
 - (c) the person presiding must declare elected the candidate who receives a majority of the votes.

Elimination procedure

7.
 - (1) If no candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with item 6. This procedure must be repeated until a candidate receives a majority of the votes.
 - (2) When applying subitem (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.

Further meetings

8.
 - (1) If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, a further meeting must be held within seven days, at a time determined by the person presiding.

- (2) If a further meeting is held in terms of subitem (1), the procedure prescribed in this Schedule must be applied at that meeting as if it were the first meeting for the election in question.

Rules

9. (1) The Chief Justice must make rules prescribing—
 - (a) the procedure for meetings to which this Schedule applies;
 - (b) the duties of any person presiding at a meeting, and of any person assisting the person presiding;
 - (c) the form on which nominations must be submitted; and
 - (d) the manner in which voting is to be conducted.
- (2) These rules must be made known in the way that the Chief Justice determines.

Part B

Formula to Determine Party Participation in Provincial Delegations to the National Council of Provinces

1. The number of delegates in a provincial delegation to the National Council of Provinces to which a party is entitled, must be determined by multiplying the number of seats the party holds in the provincial legislature by ten and dividing the result by the number of seats in the legislature plus one.
2. If a calculation in terms of item 1 yields a surplus not absorbed by the delegates allocated to a party in terms of that item, the surplus must compete with similar surpluses accruing to any other party or parties, and any undistributed delegates in the delegation must be allocated to the party or parties in the sequence of the highest surplus.
3. If the competing surpluses envisaged in item 2 are equal, the undistributed delegates in the delegation must be allocated to the party or parties with the same surplus in the sequence from the highest to the lowest number of votes that have been recorded for those parties during the last election for the provincial legislature concerned.

[Item 3 added by s. 2 of the Constitution Fourth Amendment Act of 1999 and substituted by s. 3 of the Constitution Ninth Amendment Act of 2002 and by s. 5(a) of the Constitution Fourteenth Amendment Act of 2008.]

Schedule 3: Election Procedures

4. If more than one party with the same surplus recorded the same number of votes during the last election for the provincial legislature concerned, the legislature concerned must allocate the undistributed delegates in the delegation to the party with the same surplus in a manner which is consistent with democracy.

[Item 4 added by s. 5(b) of the Constitution Fourteenth Amendment Act of 2008.]

SCHEDULE 4

Functional Areas of Concurrent National and Provincial Legislative Competence

Part A

- Administration of indigenous forests
- Agriculture
- Airports other than international and national airports
- Animal control and diseases
- Casinos, racing, gambling and wagering, excluding lotteries and sports pools
- Consumer protection
- Cultural matters
- Disaster management
- Education at all levels, excluding tertiary education
- Environment
- Health services
- Housing
- Indigenous law and customary law, subject to Chapter 12 of the Constitution
- Industrial promotion
- Language policy and the regulation of official languages to the extent that the provisions of section 6 of the Constitution expressly confer upon the provincial legislatures legislative competence
- Media services directly controlled or provided by the provincial government, subject to section 192
- Nature conservation, excluding national parks, national botanical gardens and marine resources
- Police to the extent that the provisions of Chapter 11 of the Constitution confer upon the provincial legislatures legislative competence
- Pollution control
- Population development
- Property transfer fees

Schedule 4: Functional Areas of Concurrent National and Provincial Legislative Competence

- Provincial public enterprises in respect of the functional areas in this Schedule and Schedule 5
- Public transport
- Public works only in respect of the needs of provincial government departments in the discharge of their responsibilities to administer functions specifically assigned to them in terms of the Constitution or any other law
- Regional planning and development
- Road traffic regulation
- Soil conservation
- Tourism
- Trade
- Traditional leadership, subject to Chapter 12 of the Constitution
- Urban and rural development
- Vehicle licensing
- Welfare services

Part B

The following local government matters to the extent set out in section 155(6)(a) and (7):

- Air pollution
- Building regulations
- Child care facilities
- Electricity and gas reticulation
- Firefighting services
- Local tourism
- Municipal airports
- Municipal planning
- Municipal health services
- Municipal public transport
- Municipal public works only in respect of the needs of municipalities in the discharge of their responsibilities to administer functions specifically assigned to them under this Constitution or any other law
- Pontoons, ferries, jetties, piers and harbours, excluding the regulation of international and national shipping and matters related thereto

Schedule 4: Functional Areas of Concurrent National and Provincial Legislative Competence

- Stormwater management systems in built-up areas
- Trading regulations
- Water and sanitation services limited to potable water supply systems and domestic wastewater and sewage disposal systems

SCHEDULE 5

Functional Areas of Exclusive Provincial Legislative Competence

Part A

- Abattoirs
- Ambulance services
- Archives other than national archives
- Libraries other than national libraries
- Liquor licences
- Museums other than national museums
- Provincial planning
- Provincial cultural matters
- Provincial recreation and amenities
- Provincial sport
- Provincial roads and traffic
- Veterinary services, excluding regulation of the profession

Part B

The following local government matters to the extent set out for provinces in section 155(6)(a) and (7):

- Beaches and amusement facilities
- Billboards and the display of advertisements in public places
- Cemeteries, funeral parlours and crematoria
- Cleansing
- Control of public nuisances
- Control of undertakings that sell liquor to the public
- Facilities for the accommodation, care and burial of animals
- Fencing and fences
- Licensing of dogs
- Licensing and control of undertakings that sell food to the public

Schedule 5: Functional Areas of Exclusive Provincial Legislative Competence

- Local amenities
- Local sport facilities
- Markets
- Municipal abattoirs
- Municipal parks and recreation
- Municipal roads
- Noise pollution
- Pounds
- Public places
- Refuse removal, refuse dumps and solid waste disposal
- Street trading
- Street lighting
- Traffic and parking

SCHEDULE 6

Transitional Arrangements

[Schedule 6 amended by s. 3 of Constitution First Amendment Act of 1997, by s. 5 of Constitution Second Amendment Act of 1998 and by s. 20 of Constitution Sixth Amendment Act of 2001.]

Definitions

1. In this Schedule, unless inconsistent with the context—
“homeland” means a part of the Republic which, before the previous Constitution took effect, was dealt with in South African legislation as an independent or a self-governing territory;
“new Constitution” means the Constitution of the Republic of South Africa, 1996;
“old order legislation” means legislation enacted before the previous Constitution took effect;
“previous Constitution” means the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993).

Continuation of existing law

2. (1) All law that was in force when the new Constitution took effect, continues in force, subject to—
 - (a) any amendment or repeal; and
 - (b) consistency with the new Constitution.
- (2) Old order legislation that continues in force in terms of subitem (1)—
 - (a) does not have a wider application, territorially or otherwise, than it had before the previous Constitution took effect unless subsequently amended to have a wider application; and
 - (b) continues to be administered by the authorities that administered it when the new Constitution took effect, subject to the new Constitution.

Interpretation of existing legislation

3. (1) Unless inconsistent with the context or clearly inappropriate, a reference in any legislation that existed when the new Constitution took effect—
 - (a) to the Republic of South Africa or a homeland (except when it refers to a territorial area), must be construed as a reference to the Republic of South Africa under the new Constitution;
 - (b) to Parliament, the National Assembly or the Senate, must be construed as a reference to Parliament, the National Assembly or the National Council of Provinces under the new Constitution;
 - (c) to the President, an Executive Deputy President, a Minister, a Deputy Minister or the Cabinet, must be construed as a reference to the President, the Deputy President, a Minister, a Deputy Minister or the Cabinet under the new Constitution, subject to item 9 of this Schedule;
 - (d) to the President of the Senate, must be construed as a reference to the Chairperson of the National Council of Provinces;
 - (e) to a provincial legislature, Premier, Executive Council or member of an Executive Council of a province, must be construed as a reference to a provincial legislature, Premier, Executive Council or member of an Executive Council under the new Constitution, subject to item 12 of this Schedule; or
 - (f) to an official language or languages, must be construed as a reference to any of the official languages under the new Constitution.
- (2) Unless inconsistent with the context or clearly inappropriate, a reference in any remaining old order legislation—
 - (a) to a Parliament, a House of a Parliament or a legislative assembly or body of the Republic or of a homeland, must be construed as a reference to—
 - (i) Parliament under the new Constitution, if the administration of that legislation has been allocated or assigned in terms of the previous Constitution or this Schedule to the national executive; or
 - (ii) the provincial legislature of a province, if the administration of that legislation has been allocated or assigned in terms of the previous Constitution or this Schedule to a provincial executive; or
 - (b) to a State President, Chief Minister, Administrator or other chief executive, Cabinet, Ministers' Council or executive council of the Republic or of a homeland, must be construed as a reference to—

- (i) the President under the new Constitution, if the administration of that legislation has been allocated or assigned in terms of the previous Constitution or this Schedule to the national executive; or
- (ii) the Premier of a province under the new Constitution, if the administration of that legislation has been allocated or assigned in terms of the previous Constitution or this Schedule to a provincial executive.

National Assembly

4. (1) Anyone who was a member or office-bearer of the National Assembly when the new Constitution took effect, becomes a member or office-bearer of the National Assembly under the new Constitution, and holds office as a member or office-bearer in terms of the new Constitution.
- (2) The National Assembly as constituted in terms of subitem (1) must be regarded as having been elected under the new Constitution for a term that expires on 30 April 1999.
- (3) The National Assembly consists of 400 members for the duration of its term that expires on 30 April 1999, subject to section 49(4) of the new Constitution.
- (4) The rules and orders of the National Assembly in force when the new Constitution took effect, continue in force, subject to any amendment or repeal.

Unfinished business before Parliament

5. (1) Any unfinished business before the National Assembly when the new Constitution takes effect must be proceeded with in terms of the new Constitution.
- (2) Any unfinished business before the Senate when the new Constitution takes effect must be referred to the National Council of Provinces, and the Council must proceed with that business in terms of the new Constitution.

Elections of National Assembly

6. (1) No election of the National Assembly may be held before 30 April 1999 unless the Assembly is dissolved in terms of section 50(2) after a motion of no confidence in the President in terms of section 102(2) of the new Constitution.
- (2) Section 50(1) of the new Constitution is suspended until 30 April 1999.

Schedule 6: Transitional Arrangements

- (3) Despite the repeal of the previous Constitution, Schedule 2 to that Constitution, as amended by Annexure A to this Schedule, applies—
- (a) to the first election of the National Assembly under the new Constitution;
 - (b) to the loss of membership of the Assembly in circumstances other than those provided for in section 47(3) of the new Constitution; and
 - (c) to the filling of vacancies in the Assembly, and the supplementation, review and use of party lists for the filling of vacancies, until the second election of the Assembly under the new Constitution.
- (4) Section 47(4) of the new Constitution is suspended until the second election of the National Assembly under the new Constitution.

National Council of Provinces

7. (1) For the period which ends immediately before the first sitting of a provincial legislature held after its first election under the new Constitution—
- (a) the proportion of party representation in the province's delegation to the National Council of Provinces must be the same as the proportion in which the province's 10 senators were nominated in terms of section 48 of the previous Constitution; and
 - (b) the allocation of permanent delegates and special delegates to the parties represented in the provincial legislature, is as follows:

PROVINCE	PERMANENT DELEGATES	SPECIAL DELEGATES
1. Eastern Cape	ANC 5 NP 1	ANC 4
2. Free State	ANC 4 FF 1 NP 1	ANC 4
3. Gauteng	ANC 3 DP 1 FF 1 NP 1	ANC 3 NP 1

Schedule 6: Transitional Arrangements

PROVINCE	PERMANENT DELEGATES	SPECIAL DELEGATES
4. KwaZulu-Natal	ANC 1 DP 1 IFP 3 NP 1	ANC 2 IFP 2
5. Mpumalanga	ANC 4 FF 1 NP 1	ANC 4
6. Northern Cape	ANC 3 FF 1 NP 2	ANC 2 NP 2
7. Northern Province	ANC 6	ANC 4
8. North West	ANC 4 FF 1 NP 1	ANC 4
9. Western Cape	ANC 2 DP 1 NP 3	ANC 1 NP 3

- (2) A party represented in a provincial legislature—
 - (a) must nominate its permanent delegates from among the persons who were senators when the new Constitution took effect and are available to serve as permanent delegates; and
 - (b) may nominate other persons as permanent delegates only if none or an insufficient number of its former senators are available.
- (3) A provincial legislature must appoint its permanent delegates in accordance with the nominations of the parties.
- (4) Subitems (2) and (3) apply only to the first appointment of permanent delegates to the National Council of Provinces.
- (5) Section 62(1) of the new Constitution does not apply to the nomination and appointment of former senators as permanent delegates in terms of this item.

- (6) The rules and orders of the Senate in force when the new Constitution took effect, must be applied in respect of the business of the National Council to the extent that they can be applied, subject to any amendment or repeal.

Former senators

8. (1) A former senator who is not appointed as a permanent delegate to the National Council of Provinces is entitled to become a full voting member of the legislature of the province from which that person was nominated as a senator in terms of section 48 of the previous Constitution.
- (2) If a former senator elects not to become a member of a provincial legislature that person is regarded as having resigned as a senator the day before the new Constitution took effect.
- (3) The salary, allowances and benefits of a former senator appointed as a permanent delegate or as a member of a provincial legislature may not be reduced by reason only of that appointment.

National executive

9. (1) Anyone who was the President, an Executive Deputy President, a Minister or a Deputy Minister under the previous Constitution when the new Constitution took effect, continues in and holds that office in terms of the new Constitution, but subject to subitem (2).
- (2) Until 30 April 1999, sections 84, 89, 90, 91, 93 and 96 of the new Constitution must be regarded to read as set out in Annexure B to this Schedule.
- (3) Subitem (2) does not prevent a Minister who was a senator when the new Constitution took effect, from continuing as a Minister referred to in section 91(1)(a) of the new Constitution, as that section reads in Annexure B.

Provincial legislatures

10. (1) Anyone who was a member or office-bearer of a province's legislature when the new Constitution took effect, becomes a member or office-bearer of the legislature for that province under the new Constitution, and holds office as a member or office-bearer in terms of the new Constitution and any provincial constitution that may be enacted.

- (2) A provincial legislature as constituted in terms of subitem (1) must be regarded as having been elected under the new Constitution for a term that expires on 30 April 1999.
- (3) For the duration of its term that expires on 30 April 1999, and subject to section 108(4), a provincial legislature consists of the number of members determined for that legislature under the previous Constitution plus the number of former senators who became members of the legislature in terms of item 8 of this Schedule.
- (4) The rules and orders of a provincial legislature in force when the new Constitution took effect, continue in force, subject to any amendment or repeal.

Elections of provincial legislatures

11. (1) Despite the repeal of the previous Constitution, Schedule 2 to that Constitution, as amended by Annexure A to this Schedule, applies—
 - (a) to the first election of a provincial legislature under the new Constitution;
 - (b) to the loss of membership of a legislature in circumstances other than those provided for in section 106(3) of the new Constitution; and
 - (c) to the filling of vacancies in a legislature, and the supplementation, review and use of party lists for the filling of vacancies, until the second election of the legislature under the new Constitution.
- (2) Section 106(4) of the new Constitution is suspended in respect of a provincial legislature until the second election of the legislature under the new Constitution.

Provincial executives

12. (1) Anyone who was the Premier or a member of the Executive Council of a province when the new Constitution took effect, continues in and holds that office in terms of the new Constitution and any provincial constitution that may be enacted, but subject to subitem (2).
- (2) Until the Premier elected after the first election of a province's legislature under the new Constitution assumes office, or the province enacts its constitution, whichever occurs first, sections 132 and 136 of the new Constitution must be regarded to read as set out in Annexure C to this Schedule.

Provincial constitutions

13. A provincial constitution passed before the new Constitution took effect must comply with section 143 of the new Constitution.

Assignment of legislation to provinces

14. (1) Legislation with regard to a matter within a functional area listed in Schedule 4 or 5 to the new Constitution and which, when the new Constitution took effect, was administered by an authority within the national executive, may be assigned by the President, by proclamation, to an authority within a provincial executive designated by the Executive Council of the province.
- (2) To the extent that it is necessary for an assignment of legislation under subitem (1) to be effectively carried out, the President, by proclamation, may—
 - (a) amend or adapt the legislation to regulate its interpretation or application;
 - (b) where the assignment does not apply to the whole of any piece of legislation, repeal and re-enact, with or without any amendments or adaptations referred to in paragraph (a), those provisions to which the assignment applies or to the extent that the assignment applies to them; or
 - (c) regulate any other matter necessary as a result of the assignment, including the transfer or secondment of staff, or the transfer of assets, liabilities, rights and obligations, to or from the national or a provincial executive or any department of state, administration, security service or other institution.
- (3) (a) A copy of each proclamation issued in terms of subitem (1) or (2) must be submitted to the National Assembly and the National Council of Provinces within 10 days of the publication of the proclamation.
- (b) If both the National Assembly and the National Council by resolution disapprove the proclamation or any provision of it, the proclamation or provision lapses, but without affecting—
 - (i) the validity of anything done in terms of the proclamation or provision before it lapsed; or
 - (ii) a right or privilege acquired or an obligation or liability incurred before it lapsed.
- (4) When legislation is assigned under subitem (1), any reference in the legislation to an authority administering it, must be construed as a reference to the authority to which it has been assigned.

- (5) Any assignment of legislation under section 235(8) of the previous Constitution, including any amendment, adaptation or repeal and re-enactment of any legislation and any other action taken under that section, is regarded as having been done under this item.

Existing legislation outside Parliament's legislative power

15. (1) An authority within the national executive that administers any legislation falling outside Parliament's legislative power when the new Constitution takes effect, remains competent to administer that legislation until it is assigned to an authority within a provincial executive in terms of item 14 of this Schedule.
- (2) Subitem (1) lapses two years after the new Constitution took effect.

Courts

16. (1) Every court, including courts of traditional leaders, existing when the new Constitution took effect, continues to function and to exercise jurisdiction in terms of the legislation applicable to it, and anyone holding office as a judicial officer continues to hold office in terms of the legislation applicable to that office, subject to—
- (a) any amendment or repeal of that legislation; and
- (b) consistency with the new Constitution.
- (2) (a) The Constitutional Court established by the previous Constitution becomes the Constitutional Court under the new Constitution.
- (b).....

[Subitem (b) deleted by s. 20(a) of the Constitution Sixth Amendment Act of 2001.]

- (3) (a) The Appellate Division of the Supreme Court of South Africa becomes the Supreme Court of Appeal under the new Constitution.
- (b).....

[Subitem (b) deleted by s. 20(a) of the Constitution Sixth Amendment Act of 2001.]

- (4) (a) A provincial or local division of the Supreme Court of South Africa or a supreme court of a homeland or a general division of such a court, becomes a High Court under the new Constitution without any alteration in its area of jurisdiction, subject to any rationalisation contemplated in subitem (6).

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- (b) Anyone holding office or deemed to hold office as the Judge President, the Deputy Judge President or a judge of a court referred to in paragraph (a) when the new Constitution takes effect, becomes the Judge President, the Deputy Judge President or a judge of such a court under the new Constitution, subject to any rationalisation contemplated in subitem (6).
- (5) Unless inconsistent with the context or clearly inappropriate, a reference in any legislation or process to—
 - (a) the Constitutional Court under the previous Constitution, must be construed as a reference to the Constitutional Court under the new Constitution;
 - (b) the Appellate Division of the Supreme Court of South Africa, must be construed as a reference to the Supreme Court of Appeal; and
 - (c) a provincial or local division of the Supreme Court of South Africa or a supreme court of a homeland or general division of that court, must be construed as a reference to a High Court.
- (6) (a) As soon as is practical after the new Constitution took effect all courts, including their structure, composition, functioning and jurisdiction, and all relevant legislation, must be rationalised with a view to establishing a judicial system suited to the requirements of the new Constitution.
 - (b) The Cabinet member responsible for the administration of justice, acting after consultation with the Judicial Service Commission, must manage the rationalisation envisaged in paragraph (a).
- (7) (a) Anyone holding office, when the Constitution of the Republic of South Africa Amendment Act, 2001, takes effect, as—
 - (i) the President of the Constitutional Court, becomes the Chief Justice as contemplated in section 167(1) of the new Constitution;
 - (ii) the Deputy President of the Constitutional Court, becomes the Deputy Chief Justice as contemplated in section 167(1) of the new Constitution;
 - (iii) the Chief Justice, becomes the President of the Supreme Court of Appeal as contemplated in section 168(1) of the new Constitution; and
 - (iv) the Deputy Chief Justice, becomes the Deputy President of the Supreme Court of Appeal as contemplated in section 168(1) of the new Constitution.

- (b) All rules, regulations or directions made by the President of the Constitutional Court or the Chief Justice in force immediately before the Constitution of the Republic of South Africa Amendment Act, 2001, takes effect, continue in force until repealed or amended.
- (c) Unless inconsistent with the context or clearly inappropriate, a reference in any law or process to the Chief Justice or to the President of the Constitutional Court, must be construed as a reference to the Chief Justice as contemplated in section 167(1) of the new Constitution.

[Subitem (7) added by s. 20(b) of the Constitution Sixth Amendment Act of 2001.]

Cases pending before courts

17. All proceedings which were pending before a court when the new Constitution took effect, must be disposed of as if the new Constitution had not been enacted, unless the interests of justice require otherwise.

Prosecuting authority

18. (1) Section 108 of the previous Constitution continues in force until the Act of Parliament envisaged in section 179 of the new Constitution takes effect. This subitem does not affect the appointment of the National Director of Public Prosecutions in terms of section 179.
- (2) An attorney-general holding office when the new Constitution takes effect, continues to function in terms of the legislation applicable to that office, subject to subitem (1).

Oaths and affirmations

19. A person who continues in office in terms of this Schedule and who has taken the oath of office or has made a solemn affirmation under the previous Constitution, is not obliged to repeat the oath of office or solemn affirmation under the new Constitution.

Other constitutional institutions

20. (1) In this section “constitutional institution” means—
- (a) the Public Protector;
 - (b) the South African Human Rights Commission;

[Para (b) amended by s. 4 of the Constitution Second Amendment Act of 1998.]

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- (c) the Commission on Gender Equality;
 - (d) the Auditor-General;
 - (e) the South African Reserve Bank;
 - (f) the Financial and Fiscal Commission;
 - (g) the Judicial Service Commission; or
 - (h) the Pan South African Language Board.
- (2) A constitutional institution established in terms of the previous Constitution continues to function in terms of the legislation applicable to it, and anyone holding office as a commission member, a member of the board of the Reserve Bank or the Pan South African Language Board, the Public Protector or the Auditor-General when the new Constitution takes effect, continues to hold office in terms of the legislation applicable to that office, subject to—
- (a) any amendment or repeal of that legislation; and
 - (b) consistency with the new Constitution.
- (3) Sections 199(1), 200(1), (3) and (5) to (11) and 201 to 206 of the previous Constitution continue in force until repealed by an Act of Parliament passed in terms of section 75 of the new Constitution.
- (4) The members of the Judicial Service Commission referred to in section 105(1)(h) of the previous Constitution cease to be members of the Commission when the members referred to in section 178(1)(i) of the new Constitution are appointed.
- (5) (a) The Volkstaat Council established in terms of the previous Constitution continues to function in terms of the legislation applicable to it, and anyone holding office as a member of the Council when the new Constitution takes effect, continues to hold office in terms of the legislation applicable to that office, subject to—
- (i) any amendment or repeal of that legislation; and
 - (ii) consistency with the new Constitution.
- (b) Sections 184A and 184B (1)(a), (b) and (d) of the previous Constitution continue in force until repealed by an Act of Parliament passed in terms of section 75 of the new Constitution.

Enactment of legislation required by new Constitution

21. (1) Where the new Constitution requires the enactment of national or provincial legislation, that legislation must be enacted by the relevant authority within a reasonable period of the date the new Constitution took effect.
- (2) Section 198(b) of the new Constitution may not be enforced until the legislation envisaged in that section has been enacted.
- (3) Section 199(3)(a) of the new Constitution may not be enforced before the expiry of three months after the legislation envisaged in that section has been enacted.
- (4) National legislation envisaged in section 217(3) of the new Constitution must be enacted within three years of the date on which the new Constitution took effect, but the absence of this legislation during this period does not prevent the implementation of the policy referred to in section 217(2).
- (5) Until the Act of Parliament referred to in section 65(2) of the new Constitution is enacted each provincial legislature may determine its own procedure in terms of which authority is conferred on its delegation to cast votes on its behalf in the National Council of Provinces.
- (6) Until the legislation envisaged in section 229(1)(b) of the new Constitution is enacted, a municipality remains competent to impose any tax, levy or duty which it was authorised to impose when the Constitution took effect.

National unity and reconciliation

22. (1) Notwithstanding the other provisions of the new Constitution and despite the repeal of the previous Constitution, all the provisions relating to amnesty contained in the previous Constitution under the heading "National Unity and Reconciliation" are deemed to be part of the new Constitution for the purposes of the Promotion of National Unity and Reconciliation Act, 1995 (Act 34 of 1995), as amended, including for the purposes of its validity.
- (2) For the purposes of subitem (1), the date "6 December 1993", where it appears in the provisions of the previous Constitution under the heading "National Unity and Reconciliation", must be read as "11 May 1994".

[Subitem (2) added by s. 3 of the Constitution First Amendment Act of 1997.]

Bill of Rights

23. (1) National legislation envisaged in sections 9(4), 32(2) and 33(3) of the new Constitution must be enacted within three years of the date on which the new Constitution took effect.
- (2) Until the legislation envisaged in sections 32(2) and 33(3) of the new Constitution is enacted—
- (a) section 32 (1) must be regarded to read as follows:
“(1) Every person has the right of access to all information held by the state or any of its organs in any sphere of government in so far as that information is required for the exercise or protection of any of their rights.”; and
- (b) section 33(1) and (2) must be regarded to read as follows:
“Every person has the right to—
- (a) lawful administrative action where any of their rights or interests is affected or threatened;
- (b) procedurally fair administrative action where any of their rights or legitimate expectations is affected or threatened;
- (c) be furnished with reasons in writing for administrative action which affects any of their rights or interests unless the reasons for that action have been made public; and
- (d) administrative action which is justifiable in relation to the reasons given for it where any of their rights is affected or threatened.”
- (3) Sections 32(2) and 33(3) of the new Constitution lapse if the legislation envisaged in those sections, respectively, is not enacted within three years of the date the new Constitution took effect.

Public administration and security services

24. (1) Sections 82(4)(b), 215, 218(1), 219(1), 224 to 228, 236(1), (2), (3), (6), (7)(b) and (8), 237(1) and (2)(a) and 239(4) and (5) of the previous Constitution continue in force as if the previous Constitution had not been repealed, subject to—
- (a) the amendments to those sections as set out in Annexure D;
- (b) any further amendment or any repeal of those sections by an Act of Parliament passed in terms of section 75 of the new Constitution; and
- (c) consistency with the new Constitution.

- (2) The Public Service Commission and the provincial service commissions referred to in Chapter 13 of the previous Constitution continue to function in terms of that Chapter and the legislation applicable to it as if that Chapter had not been repealed, until the Commission and the provincial service commissions are abolished by an Act of Parliament passed in terms of section 75 of the new Constitution.
- (3) The repeal of the previous Constitution does not affect any proclamation issued under section 237(3) of the previous Constitution, and any such proclamation continues in force, subject to—
 - (a) any amendment or repeal; and
 - (b) consistency with the new Constitution.

Additional disqualification for legislatures

25. (1) Anyone who, when the new Constitution took effect, was serving a sentence in the Republic of more than 12 months' imprisonment without the option of a fine, is not eligible to be a member of the National Assembly or a provincial legislature.
- (2) The disqualification of a person in terms of subitem (1)—
 - (a) lapses if the conviction is set aside on appeal, or the sentence is reduced on appeal to a sentence that does not disqualify that person; and
 - (b) ends five years after the sentence has been completed.

Local government

26. (1) Notwithstanding the provisions of sections 151, 155, 156 and 157 of the new Constitution—
 - (a) the provisions of the Local Government Transition Act, 1993 (Act 209 of 1993), as may be amended from time to time by national legislation consistent with the new Constitution, remain in force in respect of a Municipal Council until a Municipal Council replacing that Council has been declared elected as a result of the first general election of Municipal Councils after the commencement of the new Constitution; and

[Subitem (a) substituted by s. 5(a) of the Constitution Second Amendment Act of 1998.]

- (b) a traditional leader of a community observing a system of indigenous law and residing on land within the area of a transitional local council, transitional rural council or transitional representative council, referred to in the Local Government Transition Act, 1993, and who has been identified as set out in

section 182 of the previous Constitution, is ex officio entitled to be a member of that council until a Municipal Council replacing that council has been declared elected as a result of the first general election of Municipal Councils after the commencement of the new Constitution.

[Subitem (b) substituted by s. 5(a) of the Constitution Second Amendment Act of 1998.]

- (2) Section 245(4) of the previous Constitution continues in force until the application of that section lapses. Section 16(5) and (6) of the Local Government Transition Act, 1993, may not be repealed before 30 April 2000.

[Sub item (2) amended by s. 5 (b) of Constitution Second Amendment Act of 1998.]

Safekeeping of Acts of Parliament and Provincial Acts

27. Sections 82 and 124 of the new Constitution do not affect the safekeeping of Acts of Parliament or provincial Acts passed before the new Constitution took effect.

Registration of immovable property owned by the state

28. (1) On the production of a certificate by a competent authority that immovable property owned by the state is vested in a particular government in terms of section 239 of the previous Constitution, a registrar of deeds must make such entries or endorsements in or on any relevant register, title deed or other document to register that immovable property in the name of that government.
- (2) No duty, fee or other charge is payable in respect of a registration in terms of subitem (1).

ANNEXURE A

Amendments to Schedule 2 to the previous Constitution

1. **The replacement of item 1 with the following item:**
 - “1. Parties registered in terms of national legislation and contesting an election of the National Assembly, shall nominate candidates for such election on lists of candidates prepared in accordance with this Schedule and national legislation.”
2. **The replacement of item 2 with the following item:**
 - “2. The seats in the National Assembly as determined in terms of section 46 of the new Constitution, shall be filled as follows:
 - (a) One half of the seats from regional lists submitted by the respective parties, with a fixed number of seats reserved for each region as determined by the Commission for the next election of the Assembly, taking into account available scientifically based data in respect of voters, and representations by interested parties.
 - (b) The other half of the seats from national lists submitted by the respective parties, or from regional lists where national lists were not submitted.”
3. **The replacement of item 3 with the following item:**
 - “3. The lists of candidates submitted by a party, shall in total contain the names of not more than a number of candidates equal to the number of seats in the National Assembly, and each such list shall denote such names in such fixed order of preference as the party may determine.”
4. **The amendment of item 5 by replacing the words preceding paragraph (a) with the following words:**
 - “5. The seats referred to in item 2(a) shall be allocated per region to the parties contesting an election, as follows:”
5. **The amendment of item 6—**
 - (a) by replacing the words preceding paragraph (a) with the following words:
 - “6. The seats referred to in item 2(b) shall be allocated to the parties contesting an election, as follows:”; and
 - (b) by replacing paragraph (a) with the following paragraph:
 - “(a) A quota of votes per seat shall be determined by dividing the total number of votes cast nationally by the number of seats in the National

Assembly, plus one, and the result plus one, disregarding fractions, shall be the quota of votes per seat.”

6. The amendment of item 7(3) by replacing paragraph (b) with the following paragraph:

“(b) An amended quota of votes per seat shall be determined by dividing the total number of votes cast nationally, minus the number of votes cast nationally in favour of the party referred to in paragraph (a), by the number of seats in the Assembly, plus one, minus the number of seats finally allocated to the said party in terms of paragraph (a).”

7. The replacement of item 10 with the following item:

“10. The number of seats in each provincial legislature shall be as determined in terms of section 105 of the new Constitution.”

8. The replacement of item 11 with the following item:

“11. Parties registered in terms of national legislation and contesting an election of a provincial legislature, shall nominate candidates for election to such provincial legislature on provincial lists prepared in accordance with this Schedule and national legislation.”

9. The replacement of item 16 with the following item:

“Designation of representatives

16. (1) After the counting of votes has been concluded, the number of representatives of each party has been determined and the election result has been declared in terms of section 190 of the new Constitution, the Commission shall, within two days after such declaration, designate from each list of candidates, published in terms of national legislation, the representatives of each party in the legislature.

(2) Following the designation in terms of subitem (1), if a candidate's name appears on more than one list for the National Assembly or on lists for both the National Assembly and a provincial legislature (if an election of the Assembly and a provincial legislature is held at the same time), and such candidate is due for designation as a representative in more than one case, the party which submitted such lists shall, within two days after the said declaration, indicate to the Commission from which list such candidate will be designated or in which legislature the candidate will serve, as the case may be, in which event the candidate's name shall be deleted from the other lists.

- (3) The Commission shall forthwith publish the list of names of representatives in the legislature or legislatures.”..

10. The amendment of item 18 by replacing paragraph (b) with the following paragraph:

“(b) a representative is appointed as a permanent delegate to the National Council of Provinces;”

11. The replacement of item 19 with the following item:

“19. Lists of candidates of a party referred to in item 16 (1) may be supplemented on one occasion only at any time during the first 12 months following the date on which the designation of representatives in terms of item 16 has been concluded, in order to fill casual vacancies: Provided that any such supplementation shall be made at the end of the list.”

12. The replacement of item 23 with the following item:

“Vacancies

23. (1) In the event of a vacancy in a legislature to which this Schedule applies, the party which nominated the vacating member shall fill the vacancy by nominating a person—

- (a) whose name appears on the list of candidates from which the vacating member was originally nominated; and
(b) who is the next qualified and available person on the list.

(2) A nomination to fill a vacancy shall be submitted to the Speaker in writing.

(3) If a party represented in a legislature dissolves or ceases to exist and the members in question vacate their seats in consequence of item 23A(1), the seats in question shall be allocated to the remaining parties *mutatis mutandis* as if such seats were forfeited seats in terms of item 7 or 14, as the case may be.”

13. The insertion of the following item after item 23:

“Additional ground for loss of membership of legislatures

23A. (1) A person loses membership of a legislature to which this Schedule applies if that person ceases to be a member of the party which nominated that person as a member of the legislature.

(2) Despite subitem (1) any existing political party may at any time change its name.

- (3) An Act of Parliament may, within a reasonable period after the new Constitution took effect, be passed in accordance with section 76(1) of the new Constitution to amend this item and item 23 to provide for the manner in which it will be possible for a member of a legislature who ceases to be a member of the party which nominated that member, to retain membership of such legislature.
- (4) An Act of Parliament referred to in subitem (3) may also provide for—
 - (a) any existing party to merge with another party; or
 - (b) any party to subdivide into more than one party:.”

14. The deletion of item 24.

15. The amendment of item 25—

- (a) by replacing the definition of “Commission” with the following definition: “‘Commission’ means the Electoral Commission referred to in section 190 of the new Constitution;”; and
- (b) by inserting the following definition after the definition of “national list”: “‘new Constitution’ means the Constitution of the Republic of South Africa, 1996;”.

16. The deletion of item 26.

ANNEXURE B

Government of National Unity: National Sphere

1. Section 84 of the new Constitution is deemed to contain the following additional subsection:

“(3) The President must consult the Executive Deputy Presidents—

- (a) in the development and execution of the policies of the national government;
- (b) in all matters relating to the management of the Cabinet and the performance of Cabinet business;
- (c) in the assignment of functions to the Executive Deputy Presidents;
- (d) before making any appointment under the Constitution or any legislation, including the appointment of ambassadors or other diplomatic representatives;
- (e) before appointing commissions of inquiry;
- (f) before calling a referendum; and
- (g) before pardoning or relieving offenders.”

2. Section 89 of the new Constitution is deemed to contain the following additional subsection:

“(3) Subsections (1) and (2) apply also to an Executive Deputy President.”

3. Paragraph (a) of section 90(1) of the new Constitution is deemed to read as follows:

“(a) an Executive Deputy President designated by the President;”

4. Section 91 of the new Constitution is deemed to read as follows:

“Cabinet

91. (1) The Cabinet consists of the President, the Executive Deputy Presidents and—

- (a) not more than 27 Ministers who are members of the National Assembly and appointed in terms of subsections (8) to (12); and
- (b) not more than one Minister who is not a member of the 175 National Assembly and appointed in terms of subsection (13), provided the President, acting in consultation with the Executive Deputy Presidents and the leaders of the participating parties, deems the appointment of such a Minister expedient.

- (2) Each party holding at least 80 seats in the National Assembly is entitled to designate an Executive Deputy President from among the members of the Assembly.
- (3) If no party or only one party holds 80 or more seats in the Assembly, the party holding the largest number of seats and the party holding the second largest number of seats are each entitled to designate one Executive Deputy President from among the members of the Assembly.
- (4) On being designated, an Executive Deputy President may elect to remain or cease to be a member of the Assembly.
- (5) An Executive Deputy President may exercise the powers and must perform the functions vested in the office of Executive Deputy President by the Constitution or assigned to that office by the President.
- (6) An Executive Deputy President holds office—
 - (a) until 30 April 1999 unless replaced or recalled by the party entitled to make the designation in terms of subsections (2) and (3); or
 - (b) until the person elected President after any election of the National Assembly held before 30 April 1999, assumes office.
- (7) A vacancy in the office of an Executive Deputy President may be filled by the party which designated that Deputy President.
- (8) A party holding at least 20 seats in the National Assembly and which has decided to participate in the government of national unity, is entitled to be allocated one or more of the Cabinet portfolios in respect of which Ministers referred to in subsection (1)(a) are to be appointed, in proportion to the number of seats held by it in the National Assembly relative to the number of seats held by the other participating parties.
- (9) Cabinet portfolios must be allocated to the respective participating parties in accordance with the following formula:
 - (a) A quota of seats per portfolio must be determined by dividing the total number of seats in the National Assembly held jointly by the participating parties by the number of portfolios in respect of which Ministers referred to in subsection (1)(a) are to be appointed, plus one.
 - (b) The result, disregarding third and subsequent decimals, if any, is the quota of seats per portfolio.

- (c) The number of portfolios to be allocated to a participating party is determined by dividing the total number of seats held by that party in the National Assembly by the quota referred to in paragraph (b).
 - (d) The result, subject to paragraph (e), indicates the number of portfolios to be allocated to that party.
 - (e) Where the application of the above formula yields a surplus not absorbed by the number of portfolios allocated to a party, the surplus competes with other similar surpluses accruing to another party or parties, and any portfolio or portfolios which remain unallocated must be allocated to the party or parties concerned in sequence of the highest surplus.
- (10) The President after consultation with the Executive Deputy Presidents and the leaders of the participating parties must—
- (a) determine the specific portfolios to be allocated to the respective participating parties in accordance with the number of portfolios allocated to them in terms of subsection (9);
 - (b) appoint in respect of each such portfolio a member of the National Assembly who is a member of the party to which that portfolio was allocated under paragraph (a), as the Minister responsible for that portfolio;
 - (c) if it becomes necessary for the purposes of the Constitution or in the interest of good government, vary any determination under paragraph (a), subject to subsection (9);
 - (d) terminate any appointment under paragraph (b)—
 - (i) if the President is requested to do so by the leader of the party of which the Minister in question is a member; or
 - (ii) if it becomes necessary for the purposes of the Constitution or in the interest of good government; or
 - (e) fill, when necessary, subject to paragraph (b), a vacancy in the office of Minister.
- (11) Subsection (10) must be implemented in the spirit embodied in the concept of a government of national unity, and the President and the other functionaries concerned must in the implementation of that subsection seek to achieve consensus at all times: Provided that if consensus cannot be achieved on—
- (a) the exercise of a power referred to in paragraph (a), (c) or (d)(ii) of that subsection, the President's decision prevails;

- (b) the exercise of a power referred to in paragraph (b), (d)(i) or (e) of that subsection affecting a person who is not a member of the President's party, the decision of the leader of the party of which that person is a member prevails; and
 - (c) the exercise of a power referred to in paragraph (b) or (e) of that subsection affecting a person who is a member of the President's party, the President's decision prevails.
- (12) If any determination of portfolio allocations is varied under subsection (10) (c), the affected Ministers must vacate their portfolios but are eligible, where applicable, for reappointment to other portfolios allocated to their respective parties in terms of the varied determination.
- (13) The President—
- (a) in consultation with the Executive Deputy Presidents and the leaders of the participating parties, must—
 - (i) determine a specific portfolio for a Minister referred to in subsection (1) (b) should it become necessary pursuant to a decision of the President under that subsection;
 - (ii) appoint in respect of that portfolio a person who is not a member of the National Assembly, as the Minister responsible for that portfolio; and
 - (iii) fill, if necessary, a vacancy in respect of that portfolio; or
 - (b) after consultation with the Executive Deputy Presidents and the leaders of the participating parties, must terminate any appointment under paragraph (a) if it becomes necessary for the purposes of the Constitution or in the interest of good government.
- (14) Meetings of the Cabinet must be presided over by the President, or, if the President so instructs, by an Executive Deputy President: Provided that the Executive Deputy Presidents preside over meetings of the Cabinet in turn unless the exigencies of government and the spirit embodied in the concept of a government of national unity otherwise demand.
- (15) The Cabinet must function in a manner which gives consideration to the consensus-seeking spirit embodied in the concept of a government of national unity as well as the need for effective government.”

5. Section 93 of the new Constitution is deemed to read as follows:

“Appointment of Deputy Ministers

93. (1) The President may, after consultation with the Executive Deputy Presidents and the leaders of the parties participating in the Cabinet, establish deputy ministerial posts.
- (2) A party is entitled to be allocated one or more of the deputy ministerial posts in the same proportion and according to the same formula that portfolios in the Cabinet are allocated.
- (3) The provisions of section 91(10) to (12) apply, with the necessary changes, in respect of Deputy Ministers, and in such application a reference in that section to a Minister or a portfolio must be read as a reference to a Deputy Minister or a deputy ministerial post, respectively.
- (4) If a person is appointed as the Deputy Minister of any portfolio entrusted to a Minister—
- (a) that Deputy Minister must exercise and perform on behalf of the relevant Minister any of the powers and functions assigned to that Minister in terms of any legislation or otherwise which may, subject to the directions of the President, be assigned to that Deputy Minister by that Minister; and
- (b) any reference in any legislation to that Minister must be construed as including a reference to the Deputy Minister acting in terms of an assignment under paragraph (a) by the Minister for whom that Deputy Minister acts.
- (5) Whenever a Deputy Minister is absent or for any reason unable to exercise or perform any of the powers or functions of office, the President may appoint any other Deputy Minister or any other person to act in the said Deputy Minister’s stead, either generally or in the exercise or performance of any specific power or function.”

6. Section 96 of the new Constitution is deemed to contain the following additional subsections:

- “(3) Ministers are accountable individually to the President and to the National Assembly for the administration of their portfolios, and all members of the Cabinet are correspondingly accountable collectively for the performance of the functions of the national government and for its policies.

- (4) Ministers must administer their portfolios in accordance with the policy determined by the Cabinet.
- (5) If a Minister fails to administer the portfolio in accordance with the policy of the Cabinet, the President may require the Minister concerned to bring the administration of the portfolio into conformity with that policy.
- (6) If the Minister concerned fails to comply with a requirement of the President under subsection (5), the President may remove the Minister from office—
 - (a) if it is a Minister referred to in section 91(1)(a), after consultation with the Minister and, if the Minister is not a member of the President's party or is not the leader of a participating party, also after consultation with the leader of that Minister's party; or
 - (b) if it is a Minister referred to in section 91(1)(b), after consultation with the Executive Deputy Presidents and the leaders of the participating parties."

ANNEXURE C

Government of National Unity: Provincial Sphere

1. Section 132 of the new Constitution is deemed to read as follows:

“Executive Councils

132. (1) The Executive Council of a province consists of the Premier and not more than 10 members appointed by the Premier in accordance with this section.
- (2) A party holding at least 10 per cent of the seats in a provincial legislature and which has decided to participate in the government of national unity, is entitled to be allocated one or more of the Executive Council portfolios in proportion to the number of seats held by it in the legislature relative to the number of seats held by the other participating parties.
- (3) Executive Council portfolios must be allocated to the respective participating parties according to the same formula set out in section 91(9), and in applying that formula a reference in that section to—
- (a) the Cabinet, must be read as a reference to an Executive Council;
 - (b) a Minister, must be read as a reference to a member of an Executive Council; and
 - (c) the National Assembly, must be read as a reference to the provincial legislature.
- (4) The Premier of a province after consultation with the leaders of the participating parties must—
- (a) determine the specific portfolios to be allocated to the respective participating parties in accordance with the number of portfolios allocated to them in terms of subsection (3);
 - (b) appoint in respect of each such portfolio a member of the provincial legislature who is a member of the party to which that portfolio was allocated under paragraph (a), as the member of the Executive Council responsible for that portfolio;
 - (c) if it becomes necessary for the purposes of the Constitution or in the interest of good government, vary any determination under paragraph (a), subject to subsection (3);
 - (d) terminate any appointment under paragraph (b)—
 - (i) if the Premier is requested to do so by the leader of the party of which the Executive Council member in question is a member; or

- (ii) if it becomes necessary for the purposes of the Constitution or in the interest of good government; or
 - (e) fill, when necessary, subject to paragraph (b), a vacancy in the office of a member of the Executive Council.
- (5) Subsection (4) must be implemented in the spirit embodied in the concept of a government of national unity, and the Premier and the other functionaries concerned must in the implementation of that subsection seek to achieve consensus at all times: Provided that if consensus cannot be achieved on—
- (a) the exercise of a power referred to in paragraph (a), (c) or (d)(ii) of that subsection, the Premier's decision prevails;
 - (b) the exercise of a power referred to in paragraph (b), (d)(i) or (e) of that subsection affecting a person who is not a member of the Premier's party, the decision of the leader of the party of which such person is a member prevails; and
 - (c) the exercise of a power referred to in paragraph (b) or (e) of that subsection affecting a person who is a member of the Premier's party, the Premier's decision prevails.
- (6) If any determination of portfolio allocations is varied under subsection (4) (c), the affected members must vacate their portfolios but are eligible, where applicable, for reappointment to other portfolios allocated to their respective parties in terms of the varied determination.
- (7) Meetings of an Executive Council must be presided over by the Premier of the province.
- (8) An Executive Council must function in a manner which gives consideration to the consensus-seeking spirit embodied in the concept of a government of national unity, as well as the need for effective government.”

2. Section 136 of the new Constitution is deemed to contain the following additional subsections:

- “(3) Members of Executive Councils are accountable individually to the Premier and to the provincial legislature for the administration of their portfolios, and all members of the Executive Council are correspondingly accountable collectively for the performance of the functions of the provincial government and for its policies.
- (4) Members of Executive Councils must administer their portfolios in accordance with the policy determined by the Council.

- (5) If a member of an Executive Council fails to administer the portfolio in accordance with the policy of the Council, the Premier may require the member concerned to bring the administration of the portfolio into conformity with that policy.
- (6) If the member concerned fails to comply with a requirement of the Premier under subsection (5), the Premier may remove the member from office after consultation with the member, and if the member is not a member of the Premier's party or is not the leader of a participating party, also after consultation with the leader of that member's party."

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 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.”

SCHEDULE 6A

[Schedule 6A inserted by s. 6 of Constitution Tenth Amendment Act of 2003 and repealed by s. 6 of the Constitution Fourteenth Amendment Act of 2008.]

SCHEDULE 6B

[Schedule 6B, previously Schedule 6A, inserted by s. 2 of the Constitution Eighth Amendment Act of 2002, amended by s. 5 of the Constitution Tenth Amendment Act of 2003, renumbered by s. 6 of the Constitution Tenth Amendment Act of 2003 and repealed by s. 5 of the Constitution Fifteenth Amendment Act of 2008.]

SCHEDULE 7

LAWS REPEALED

NUMBER AND YEAR OF LAW	TITLE
Act No. 200 of 1993	Constitution of the Republic of South Africa, 1993
Act No. 2 of 1994	Constitution of the Republic of South Africa Amendment Act, 1994
Act No. 3 of 1994	Constitution of the Republic of South Africa Second Amendment Act, 1994
Act No. 13 of 1994	Constitution of the Republic of South Africa Third Amendment Act, 1994
Act No. 14 of 1994	Constitution of the Republic of South Africa Fourth Amendment Act, 1994
Act No. 24 of 1994	Constitution of the Republic of South Africa Sixth Amendment Act, 1994
Act No. 29 of 1994	Constitution of the Republic of South Africa Fifth Amendment Act, 1994
Act No. 20 of 1995	Constitution of the Republic of South Africa Amendment Act, 1995
Act No. 44 of 1995	Constitution of the Republic of South Africa Second Amendment Act, 1995
Act No. 7 of 1996	Constitution of the Republic of South Africa Amendment Act, 1996
Act No. 26 of 1996	Constitution of the Republic of South Africa Third Amendment Act, 1996