



Government Gazette

REPUBLIC OF SOUTH AFRICA

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THE PRESIDENCY

No. 408 19 March 2003

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 2 of 2003: Constitution of the Republic of South Africa Amendment Act, 2003



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Act No. 2, 2003 CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA
AMENDMENT ACT, 2003

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)
(Assented to 19 March 2003.)*

ACT

To amend the Constitution of the Republic of South Africa, 1996, so as to enable a member of the National Assembly or a provincial legislature to become a member of another party whilst retaining membership of the National Assembly or that provincial legislature; to enable an existing party to merge with another party, or to subdivide into more than one party, or to subdivide and to permit any of the subdivisions to merge with another party, whilst allowing a member of a legislature affected by such changes to retain membership of that legislature; and to provide for matters connected therewith.

PREAMBLE

WHEREAS section 46(1)(d) of the Constitution of the Republic of South Africa, 1996 (the Constitution), requires an electoral system for the National Assembly that results, in general, in proportional representation;

AND WHEREAS section 47(3)(a) of the Constitution provides that a person loses membership of the National Assembly if that person ceases to be eligible on the grounds listed in section 47(1);

AND WHEREAS section 105(1)(d) of the Constitution requires an electoral system for provincial legislatures that results, in general, in proportional representation;

AND WHEREAS section 106(3)(a) of the Constitution provides that a person loses membership of a provincial legislature if that person ceases to be eligible on the grounds listed in section 106(1);

AND WHEREAS the Constitution of the Republic of South Africa Amendment Act, 2002 (Act No. 18 of 2002), amended the Constitution in order to enable a member of a Municipal Council to become a member of another party whilst retaining membership of that Council; and to enable an existing party to merge with another party, or to subdivide into more than one party, or to subdivide and any of the subdivisions to merge with another party, whilst allowing a member of a Council affected by such changes to retain membership of that Council;

AND WHEREAS the need exists for uniformity within the three spheres of government regarding loss or retention of membership of the National Assembly, any provincial legislature or any Municipal Council in the event of a change of party membership, or mergers or subdivision or subdivision and merger of parties,

Act No. 2, 2003 CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA
AMENDMENT ACT, 2003

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 46 of Act 108 of 1996

1. Section 46 of the Constitution of the Republic of South Africa, 1996 (hereinafter referred to as the Constitution), is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 5

“~~[The]~~ Subject to Schedule 6A, 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—”.

Amendment of section 47 of Act 108 of 1996

2. Section 47 of the Constitution is hereby amended by the substitution for subsection (3) of the following subsection: 10

“(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 15
(c) ceases to be a member of the party that nominated that person as a member of the Assembly, unless that member has become a member of another party in accordance with Schedule 6A.”.

Amendment of section 105 of Act 108 of 1996

3. Section 105 of the Constitution is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 20

“~~[A]~~ Subject to Schedule 6A, a provincial legislature consists of women and men elected as members in terms of an electoral system that—”.

Amendment of section 106 of Act 108 of 1996

4. Section 106 of the Constitution is hereby amended by the substitution for subsection (3) of the following subsection: 25

“(3) A person loses membership of a provincial legislature if that person—
(a) ceases to be eligible; **[or]**
(b) is absent from the legislature without permission in circumstances for which the rules and orders of the legislature prescribe loss of membership; or 30
(c) ceases to be a member of the party that nominated that person as a member of the legislature, unless that member has become a member of another party in accordance with Schedule 6A.”.

Amendment of Schedule 6A to Act 108 of 1996, as inserted by section 2 of Act 18 of 2002 35

5. Schedule 6A to the Constitution is hereby amended by the deletion of item 9.

Insertion of Schedule 6A in Act 108 of 1996

6. The following Schedule is hereby inserted in the Constitution after Schedule 6, the existing Schedule 6A becoming Schedule 6B: 40

“Schedule 6A

Retention of membership of National Assembly or provincial legislature, after a change of party membership, mergers between parties, subdivision of parties and subdivision and merger of parties