



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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OFFICE OF THE PRESIDENT

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No. 1246.

7 October 1998

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

No. 65 of 1998: Constitution of the Republic of South Africa Amendment Act. 1998.

**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.

**ACT**

To amend the Constitution of the Republic of South Africa, 1996, so as to extend the term of Municipal Councils; to provide for the designation of alternates in respect of certain members of the Judicial Service Commission; to amend the name of the Human Rights Commission; to adjust the powers of the Public Service Commission; and to extend and modify the application of transitional arrangements in respect of local government; and to provide for matters connected therewith.

*(English text signed by the President.)*  
*(Assented to 28 September 1998.)*

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 159 of Act 108 of 1996**

1. The following section is hereby substituted for section 159 of the Constitution of the Republic of South Africa, 1996 (hereinafter referred to as the principal Act):

**“Terms of Municipal Councils**

**159.** (1) The term of a Municipal Council may be no more than **[four]** five years, as determined by national legislation.

(2) If a Municipal Council is dissolved in terms of national legislation, or when its term expires, an election must be held within 90 days of the date that Council was dissolved or its term expired.

(3) A Municipal Council, other than a Council that has been dissolved following an intervention in terms of section 139, remains competent to function from the time it is dissolved or its term expires, until the newly elected Council has been declared elected.

**Amendment of section 178 of Act 108 of 1996**

2. Section 178 of the principal Act is hereby amended—

(a) by the substitution for paragraph (k) of subsection (1) of the following paragraph:

(k) when considering matters specifically relating to a provincial or local division of the High Court, the Judge President of that division

and the Premier of the province concerned. or an alternate designated by [the Premier, of the province concerned] each of them.”:

(b) by the addition of the following subsections:

“(7) If the Chief Justice or the President of the Constitutional Court is temporarily unable to serve on the Commission, the Deputy Chief Justice or the Deputy President of the Constitutional Court, as the case may be, acts as his or her alternate on the Commission.

(8) The President and the persons who appoint, nominate or designate the members of the Commission in terms of subsection (1)(c), (e), (f) and (g), may, in the same manner appoint, nominate or designate an alternate for each of those members, to serve on the Commission whenever the member concerned is temporarily unable to do so by reason of his or her incapacity or absence from the Republic or for any other sufficient reason.”.

### Amendment of section 196 of Act 108 of 1996

3. Section 196 of the principal Act is hereby amended by the addition to subsection (4) of the following paragraph:

“(g) to exercise or perform the additional powers or functions prescribed by an Act of Parliament . . . .”

### Substitution of expression in Act 108 of 1996

4. The principal Act is hereby amended by the substitution for the expression “Human Rights Commission”.. wherever it occurs, of the expression “South African Human Rights Commission . . . .”

### Amendment of item 26 of Schedule 6 to Act 108 of 1996

5. Item 26 of Schedule 6 to the principal Act is hereby amended—

(a) by the substitution for paragraphs (a) and (b) of subitem (1) of the following paragraphs, respectively:

“(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 [30 April 1999 or until repealed, whichever is sooner] 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

(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 [30 April 1999 or until an Act of Parliament provides otherwise] 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

(b) by the substitution in subitem (2) for the expression “30 April 1999” of the expression “30 April 2000”.

### Short title

6. This Act is called the Constitution of the Republic of South Africa Amendment Act, 1998.