

OFFICE OF THE PRESIDENT

No. 1600 19 September 1994

NO. 14 OF 1994: CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA FOURTH AMENDMENT ACT, 1994.

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

GENERAL EXPLANATORY NOTE:

\*\* \*\* Words between asterisks indicate insertions in existing enactments.

ACT

To amend the Constitution of the Republic of South Africa, 1993, so as to provide for the appointment of a person who is not a member of Parliament as a Minister in the Cabinet; and to provide for matters in connection therewith.

(English text signed by the President.) (Assented to 16 September 1994.)

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

Substitution of section 66 of Act 200 of 1993

1. The following section is hereby substituted for section 66 of the Constitution of the Republic of South Africa, 1993 (hereinafter referred to as the Constitution):

"Rights and duties of President, Executive Deputy Presidents, Ministers and Deputy Ministers in Houses

66. The President, an Executive Deputy President, a Minister and a Deputy Minister shall be entitled to sit and to speak in any House and at a joint sitting of the Houses, but may not vote in the House of which he or she is not a member or, if he or she is not a member of any of the Houses, in any House or at a joint sitting of the Houses."

Amendment of section 88 of Act 200 of 1993, as amended by section 2 of Act 13 of 1994

2. Section 88 of the Constitution is hereby amended-

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

"(1) The Cabinet shall consist of the President, the Executive Deputy Presidents and-

(a) not more than 27 Ministers who are members of Parliament and appointed in terms of subsections (2) to (6); and

(b) not more than one Minister who is not a member of Parliament and appointed in terms of subsection (6A), 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.";

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(b) by the substitution for subsection (2) of the following subsection:

"(2) A party holding at least 20 seats in the National Assembly and which has decided to participate in the government of national unity, shall be 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.";

(c) by the substitution for paragraph (a) of subsection (3) of the following paragraph:

"(a) A quota of seats per portfolio shall 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."; and

(d) by the insertion after subsection (6) of the following subsection:

"(6A) The President shall-

(a) in consultation with the Executive Deputy Presidents and the leaders of the participating parties-

(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 such a portfolio a person who is not a member of Parliament, as the Minister responsible for that portfolio;

(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 terminate any appointment under paragraph (a) if it becomes necessary for the purposes of this Constitution or in the interest of good government. "

Amendment of section 92 of Act 200 of 1993

3. Section 92 of the Constitution is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) If the Minister concerned fails to comply with a requirement of the President under subsection (3), the President may-

(a) in the case of a Minister referred to in section 88(l)(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 such Minister's party; or

(b) in the case of a Minister referred to in section 88(l)(b)7, after consultation with the Executive Deputy Presidents and the leaders of the participating parties, remove the Minister from office."

Amendment of section 94 of Act 200 of 1993

4. Section 94 of the Constitution is hereby amended by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"(3) The provisions of section 88(4) to (6) and (7) to (10) shall apply mutatis mutandis in respect of Deputy Ministers, and in such application a reference to-".

Short title

5. This Act shall be called the Constitution of the Republic of South Africa Fourth Amendment Act, 1994.