

## DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

## NOTICE 188 OF 2018

## INVITATION FOR PUBLIC COMMENTS

PROPOSED AMENDMENTS TO THE RECOGNITION OF CUSTOMARY MARRIAGES ACT,  
1998 (ACT NO. 120 OF 1998)

1. The Department of Justice and Constitutional Development invites interested parties to submit written comments on the proposed draft Recognition of Customary Marriages Amendment Bill (the Bill).
2. On 30 November 2017 the Constitutional Court handed down judgment in *Ramuhovhi and Others v President of the Republic of South Africa and Others* [2017] ZACC 41 (the Ramuhovhi-case). An application for confirmation in terms of section 172(2)(a) of the Constitution of the order made by the High Court of South Africa, Limpopo Local Division, was brought by the applicants to declare that section 7(1) of the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998) (the RCMA), is inconsistent with the Constitution and invalid in that it discriminates unfairly against women in polygamous customary marriages entered into before the commencement of the RCMA (pre-Act marriages), on the basis of gender, race and ethnic or social origin.
3. The declaration of constitutional invalidity of section 7(1) of the RCMA by the High Court of South Africa, Limpopo Local Division was confirmed. The declaration of constitutional invalidity is suspended for 24 months to afford Parliament an opportunity to correct the defect giving rise to the constitutional invalidity.
4. A draft Bill to give effect to the judgment in the Ramuhovhi-case was prepared and a copy of the draft Bill is available on the website of the Department at <http://www.justice.gov.za>.
5. The comments on the draft Bill must be submitted to Ms A Van der Walt, on or before 15 June 2018. The contact details are:
  - (a) Postal address:  
The Director-General: Justice and Constitutional Development  
Private Bag X 81  
Pretoria  
0001;
  - (b) e-mail address:  
[alvanderwalt@justice.gov.za](mailto:alvanderwalt@justice.gov.za)
  - (c) Fax nr:  
0866480963
6. Further information can be obtained from Ms A van der Walt at 012 406 4767 or Mr LG Bassett at 012 406 4753.