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# Celebrating 20 years of the Constitution



This year marks the 20<sup>th</sup> anniversary of the South African Constitution, which has been hailed as one of the most progressive in the world, and has received high acclaim internationally. This momentous occasion presents an opportunity for the nation to be reminded of the transformation of the country and the guiding light that the Constitution has been in making our democracy come alive.

**“The Constitution is the supreme law of the land and no other law or government action can supersede the provisions of the Constitution,” explains Joseph Mogoshane; State Law Advisor: Constitutional Development in the Department of Justice and Constitutional Development (DOJ&CD).**

The Constitution was signed into law by former President Nelson Mandela in Sharpeville on 10 December 1996 and came into operation on 4 February 1997. The signing of the Constitution in Sharpeville was a commemorative gesture in remembrance of the people who died during a peaceful demonstration against the vicious pass laws on 21 March 1960. As President

Mandela described it: “The signing of the Constitution in Sharpeville marked the closure of a chapter of exclusion and a reaffirmation of our determination to build a society of which all of us can be proud.”

The South African Constitution has been amended seventeen (17) times. Each new amendment was made with the intention to deepen our democracy and to create a better life for all South Africans. The last amendment was the Constitution Seventeenth Amendment Act of 2012. The amendment was aimed at strengthening the independence of the judiciary and positions the office of the Chief Justice as the head of the judiciary. ●





# Enriching our Constitution

Over the past 20 years there have been amendments to the South African Constitution. Each new amendment was made with the intention to improve our justice system and create a better life for all South Africans.

On 1 April 2001, President Thabo Mbeki assigned the administration of the Constitution of the Republic of South Africa, 1996, to the Minister of Justice and Constitutional Development. From 4 February 1997 to 31 March 2001 the then Department of Constitutional Development was responsible for the administration of the Constitution and promoted the following Constitutional Amendment Acts:

## Constitution First Amendment Act of 1997

This Act amended the Constitution to make further provision in relation to the oath sworn or affirmation made by an Acting President and to extend the cut-off date in respect of the granting of amnesty.

**Date of commencement:** 4 February 1997

## Constitution First Amendment Act of 1997

This Act amended the Constitution to extend the term of Municipal Councils and also to provide for the designation of alternates in respect of certain members of the Judicial Service Commission. The Act also changed the name of the Human Rights Commission to the South African Human Rights Commission. The Act adjusted the powers of the Public Service Commission and extended and modified the application of transitional arrangements in respect of local government.

**Date of commencement:** 7 October 1998

## Constitution Third Amendment Act of 1998

The Constitution was amended in terms of this Act to provide that, where a municipal boundary is determined across a provincial boundary, national legislation must make provision for establishing a municipality of a type agreed to by the provincial governments concerned and for the exercising of executive authority over that municipality.

**Date of commencement:** 30 October 1998

## Constitution Fourth Amendment Act of 1999

This Act amended the Constitution to enable a proclamation calling and setting dates for an election of a provincial legislature to be issued either before or after the expiry of the term of that legislature. Provision was also made for the allocation of undistributed delegates in a provincial delegation to the National Council of Provinces in a case where competing surpluses are equal.

**Date of commencement:** 19 March 1999

## Constitution Fifth Amendment Act of 1999

This Act amended the Constitution so as to allow a proclamation calling and setting dates for an election of the National Assembly to be issued either before or after the expiry of the term of the National Assembly. The Act also affected an amendment to the Constitution in order to do away with the requirement that the chairperson and deputy chairperson of the Financial and Fiscal Commission must be full-time members of that Commission.

**Date of commencement:** 19 March 1999





### Constitution Sixth Amendment Act of 2001

This Act amends the Constitution of the Republic of South Africa, 1996, so as to change the title of the President of the Constitutional Court to that of Chief Justice, to provide for the offices of Deputy Chief Justice, President of the Supreme Court of Appeal and Deputy President of the Supreme Court of Appeal, to provide for the extension of the term of office of a Constitutional Court judge, to further regulate the appointment of Deputy Ministers, to make provision for municipal borrowing powers and to enable a Municipal Council to bind itself and a future Council in the exercise of its legislative and executive authority to secure loans or investments for the municipality concerned.

### Constitution Seventh Amendment Act of 2001

The National Treasury has been involved in a process of reviewing national legislation on financial matters and the relevant review has revealed a range of difficulties in the implementation of the financial legislative regime contemplated in the Constitution. This Act therefore deals exclusively with the financial provisions of the Constitution. **The Act, with the exception of sections 4 and 7, was implemented on 26 April 2002. Sections 4 and 7 were implemented on 1 December 2003**

### Constitution Eighth Amendment Act of 2002

This Act amends the Constitution so as to, among others, enable a member of Municipal Council to become a member of another party whilst retaining membership of that Council, to enable an existing party to merge with another party or to subdivide into more than one party.  
**Date of commencement: 20 June 2002**

### Constitution Ninth Amendment Act of 2002

The Act amends the Constitution so as to further regulate the allocation of delegates to the National Council of Provinces.  
**Date of commencement: 20 June 2002**

### Constitution Tenth Amendment Act of 2003

This Act, among others, deals with members of the National Assembly or a Provincial Legislature becoming members of other parties whilst retaining membership of the National Assembly or a Provincial Legislature.  
**Date of commencement: 20 March 2003**

### Constitution Eleventh Amendment Act of 2003

This Act deals with the change of name of Northern Province to Limpopo and regulates anew some of the financial arrangements in the Constitution, e.g. to deal with financial crises at various levels of government.  
**Date of commencement: 11 July 2003**

### Constitution Twelfth Amendment Act of 2005

This Act amended the Constitution so as to, among others, re-determine the geographical areas of the nine provinces of the Republic of South Africa.  
**Date of commencement: 1 March 2006**

### Constitution Thirteenth Amendment Act of 2007

The Constitution Thirteenth Amendment Act of 2007 amends the Constitution of the Republic of South Africa, 1996, so as to correct invalid provisions relating to the re-determination of the provincial boundary between the Eastern Cape and KwaZulu-Natal.  
**Date of commencement: 14 December 2007**

### Constitution Fourteenth Amendment Act of 2008; and Constitution Fifteenth Amendment Act of 2008

These Acts sought to abolish floor-crossing and further regulate matters relating to the funding of political parties.  
**Date of commencement: Both Acts were implemented on 17 April 2009**

### Constitution Sixteenth Amendment Act of 2009

The Act aims to amend the Constitution of the Republic of South Africa, 1996, in order to re-determine the geographical areas of the provinces of Gauteng and North-West and to provide for matters connected therewith.  
**Date of commencement: 3 April 2009**

### Constitution Seventeenth Amendment Act of 2012

The Act amended the Constitution of the Republic of South Africa, 1996, so as to further define the role of the Chief Justice as the head of the judiciary; to provide for a single High Court of South Africa; to provide that the Constitutional Court is the highest court in all matters; to further regulate the jurisdiction of the Constitutional Court and the Supreme Court of Appeal and to provide for the appointment of an Acting Deputy Chief Justice.