

REPUBLIC OF SOUTH AFRICA

CONSTITUTION TWENTY-THIRD AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 74(3)(a)); explanatory summary
of Bill and prior notice of its introduction published in Government Gazette No. 53038 of
25 July 2025)*
(The English text is the official text of the Bill)

(MR RAP TROLLIP, MP)

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.

BILL

To amend the Constitution of the Republic of South Africa, 1996, so as to abolish the office of Deputy Minister and to delete any reference to Deputy Minister; to increase the number of Ministers that may be selected from outside the National Assembly; to ensure the National Assembly's approval of every ministerial appointment and to require the creation of a committee in the National Assembly to give effect to this requirement; to provide for a motion of no confidence in a Minister; and to provide for matters connected therewith.

PREAMBLE

WHEREAS South Africa's excessively large national executive places an unnecessary financial strain on the fiscus;

AND WHEREAS the office of Deputy Minister is superfluous as it primarily serves as an instrument of political patronage rather than an essential governance role;

AND WHEREAS the President has unfettered discretion in appointing Ministers, with no parliamentary oversight or prior vetting process that needs to be followed in such appointments;

AND WHEREAS the current ministerial appointment process enables individuals with questionable track records, corruption allegations levelled against them, or inadequate experience to be placed in charge of critical government departments, often to the detriment of service delivery, which undermines transparency and erodes public trust in government;

AND WHEREAS the President currently has the sole discretion to dismiss a Minister, with no parliamentary power to institute a motion of no confidence in a Minister;

AND IN ORDER TO—

- (a) abolish the office of Deputy Minister in pursuance of a reduction of unnecessary bureaucracy and the creation of a leaner, more efficient national executive;
- (b) enhance Parliament's oversight abilities, to ensure meaningful proactive oversight over, greater scrutiny of, and transparency and accountability in, ministerial appointments, with a view to ensure that Ministers are fit for purpose before they assume office; and
- (c) empower the National Assembly to pass a motion of no confidence in a Minister,

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

Amendment of section 47 of Constitution of the Republic of South Africa, 1996, as amended by section 2 of Constitution Tenth Amendment Act of 2003, and section 2 of Constitution Fifteenth Amendment Act of 2008 5

1. Section 47 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)(a) for subparagraph (i) of the following subparagraph:

“(i) the President, Deputy President, and Ministers [**and Deputy Ministers**]; and”.

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Substitution of section 54 of Constitution of the Republic of South Africa, 1996, as substituted by section 3 of Constitution Sixth Amendment Act of 2001

2. The following section is hereby substituted for section 54 of the Constitution:

“Rights of certain Cabinet members [and Deputy Ministers] in the National Assembly 15

54. The President, and any member of the Cabinet [**or any Deputy Minister**] who is not a member of the National Assembly, may, subject to the rules and orders of the Assembly, attend and speak in the Assembly, but may not vote.”.

Amendment of section 57 of Constitution of the Republic of South Africa, 1996 20

3. Section 57 of the Constitution is hereby amended by the insertion after paragraph (a) of subsection (2) of the following paragraph:

“(aA) the establishment, powers, functions, procedure and duration of a committee to consider the approval of the appointment of a Minister as contemplated in section 91(2C)(a)(i);”.

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Amendment of section 58 of Constitution of the Republic of South Africa, 1996, as amended by section 4 of Constitution Sixth Amendment Act of 2001

4. Section 58 of the Constitution is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Cabinet members [, **Deputy Ministers**] and members of the National Assembly—”.

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Substitution of section 66 of Constitution of the Republic of South Africa, 1996

5. The following section is hereby substituted for section 66 of the Constitution:

“Participation by members of national executive

66. (1) Cabinet members [**and Deputy Ministers**] may attend, and may speak in, the National Council of Provinces, but may not vote. 35

(2) The National Council of Provinces may require a Cabinet member[, **a Deputy Minister**] or an official in the national executive or a provincial executive to attend a meeting of the Council or a committee of the Council.”.

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Amendment of section 73 of Constitution of the Republic of South Africa, 1996, as amended by section 1 of Constitution Seventh Amendment Act of 2001

6. Section 73 of the Constitution is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“Only a Cabinet member [**or a Deputy Minister**], or a member or committee of the National Assembly, may introduce a Bill in the Assembly, but only the Cabinet member responsible for national financial matters may introduce the following Bills in the Assembly:”.

Amendment of section 91 of Constitution of the Republic of South Africa, 1996 5

7. Section 91 of the Constitution is hereby amended—

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

“(2)(a) The President appoints the Deputy President and Ministers, assigns their powers and functions, and may dismiss them.

(b) The appointment of a Minister in terms of paragraph (a) takes effect when the Minister assumes office in accordance with subsection (2D).”;

(b) by the insertion after subsection (2) of the following subsections:

“(2A) A Minister must be a person who—

- (a) is a South African citizen;
- (b) is fit and proper to hold such office, with due regard to the person’s experience, conscientiousness and integrity; and
- (c) complies with any other requirements as may be prescribed by national legislation:

Provided that if the person was selected from outside the National Assembly, the person must be eligible for membership of the Assembly as contemplated in section 47(1) and (2).

(2B) Within two days after the President has appointed a Minister, the President must, in writing, inform the National Assembly of such appointment and request the Assembly to approve or reject that appointment.

(2C)(a) The appointment of a Minister in terms of subsection (2) must, within 90 days of receipt of the President’s request contemplated in subsection (2B), be—

- (i) considered by a committee of the National Assembly that is proportionally composed of members of all parties represented in the Assembly, for recommendation to the Assembly; and
- (ii) approved or rejected by the Assembly by a resolution adopted with a supporting vote of a majority of its members.

(b) If the Assembly fails to make a decision within 90 days of receipt of the President’s request as contemplated in subsection (2B), the Assembly is deemed to have approved the appointment.

(2D) After the National Assembly has approved the appointment of a Minister, the Minister assumes office by taking the oath as contemplated in section 95.”; and

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

“(c) may select no more than [**two**] four Ministers from outside the Assembly.”.

Repeal of section 93 of Constitution of the Republic of South Africa, 1996, as substituted by section 7 of Constitution Sixth Amendment Act of 2001 45

8. Section 93 of the Constitution is hereby repealed.

Substitution of section 94 of Constitution of the Republic of South Africa, 1996

9. The following section is hereby substituted for section 94 of the Constitution:

“Continuation of Cabinet after elections 50

94. (1) When an election of the National Assembly is held, the [**Cabinet,**] President and the Deputy President[, **Ministers and any Deputy Ministers**] remain competent to function until the person elected President by the next Assembly assumes office.

- (2) When an election of the National Assembly is held, a Minister remains competent to function until—
- (a) replaced by a person whose appointment as Minister has effect as contemplated in section 91(2)(b); or
 - (b) the President abolishes that Minister’s portfolio.”.

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Substitution of section 95 of Constitution of the Republic of South Africa, 1996

10. The following section is hereby substituted for section 95 of the Constitution:

“Oath or affirmation

95. Before the Deputy President[,] and the Ministers [**and any Deputy Ministers**] begin to perform their functions, they must swear or affirm faithfulness to the Republic and obedience to the Constitution, in accordance with Schedule 2.”.

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Amendment of section 96 of Constitution of the Republic of South Africa, 1996

11. Section 96 of the Constitution is hereby amended—

- (a) by the substitution for the heading of the following heading:
 - “**Conduct of Cabinet members [and Deputy Ministers]**”;
- (b) by the substitution for subsection (1) of the following subsection:
 - “(1) Members of the Cabinet [**and Deputy Ministers**] must act in accordance with a code of ethics prescribed by national legislation.”; and
- (c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
 - “Members of the Cabinet [**and Deputy Ministers**] may not—”.

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Amendment of section 102 of Constitution of the Republic of South Africa, 1996

12. Section 102 of the Constitution is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:
 - “(2) If the National Assembly, by a vote supported by a majority of its members, passes a motion of no confidence in the President, the President and the other members of the Cabinet [**and any Deputy Ministers**] must resign.”; and
- (b) by the addition of the following subsections:
 - “(3) If the National Assembly, by a vote supported by a majority of its members, passes a motion of no confidence in a Minister, that Minister must resign.
 - (4) The President may suspend a Minister from office at any time after a notice of motion against that Minister as contemplated in subsection (3), has been tabled in the National Assembly.”.

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Amendment of section 219 of Constitution of the Republic of South Africa, 1996

13. Section 219 of the Constitution is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

- “(a) the salaries, allowances and benefits of members of the National Assembly, permanent delegates to the National Council of Provinces, members of the Cabinet, [**Deputy Ministers**,] traditional leaders and members of any councils of traditional leaders; and”.

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Amendment of section 241 of Constitution of the Republic of South Africa, 1996

14. Section 241 of the Constitution is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

- “(2)(a) Item 1 of Schedule 6C applies to the transition from a Cabinet with members appointed by the President, to a Cabinet with members appointed by the President and approved by the National Assembly.

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(b) Item 2 of Schedule 6C applies to the transition from a Cabinet that is supported by Deputy Ministers, to a Cabinet without the support of Deputy Ministers.”.

Amendment of Schedule 2 to Constitution of the Republic of South Africa, 1996, as substituted by section 18 of Constitution Sixth Amendment Act of 2001 5

15. Schedule 2 to the Constitution is hereby amended by the substitution for item 3 of the following item:

“Oath or solemn affirmation of Ministers [and Deputy Ministers]

3. Each Minister [**and Deputy Minister**], before the Chief Justice or another judge designated by the Chief Justice, must swear/affirm as follows: 10

I, A.B., swear/solemnly affirm that I will be faithful to the Republic of South Africa and will obey, respect and uphold the Constitution and all other law of the Republic; and I undertake to hold my office as Minister[/**Deputy Minister**] with honour and dignity; to be a true and faithful counsellor; not to divulge directly or indirectly any secret matter entrusted to me; and to perform the functions of my office conscientiously and to the best of my ability. 15

(In the case of an oath: So help me God.)”.

Insertion of Schedule 6C in Constitution of the Republic of South Africa, 1996 20

16. The following Schedule is hereby inserted in the Constitution after Schedule 6B:

“Schedule 6C

NATIONAL EXECUTIVE

Transitional arrangements in respect of Ministers

1. Any person who was a Minister when the Constitution Twenty-Third Amendment Act, 2025, takes effect, continues in and holds that office until— 25

- (a) that person— 30
- (i) dies;
 - (ii) resigns;
 - (iii) is dismissed; or
 - (iv) is replaced as contemplated in section 94(2)(a); or
- (b) that Minister’s portfolio is abolished as contemplated in section 94(2)(b), 35
- whichever occurs first.

Transitional arrangements in respect of Deputy Ministers

2. (1) The President must, within 30 days from the date of commencement of the Constitution Twenty-Third Amendment Act, 2025, issue a directive formally abolishing the office of Deputy Minister, and must complete the process to abolish that office within 60 days thereafter. 40

(2) The President must, as soon as reasonably possible from the date of commencement of the Constitution Twenty-Third Amendment Act, 2025, but not later than 120 days after that date, submit a report to the National Assembly setting out details relating to the— 45

- (a) reallocation of the powers and functions that were assigned to each Deputy Minister;
- (b) disposal or reallocation of the resources and benefits of each Deputy Minister;
- (c) disposal or reallocation of the relevant assets;
- (d) reassignment of the relevant staff; and 50

(e) total cost savings from the abolishment of the office of Deputy Minister.

(3) The relevant Cabinet members must, within nine months from the date of commencement of the Constitution Twenty-Third Amendment Act, 2025, introduce Bills in the National Assembly amending all references to Deputy Ministers in legislation, the administration of which has been entrusted to them.” 5

Short title and commencement

17. This Act is called the Constitution Twenty-Third Amendment Act, 2025, and comes into operation on a date determined by the President by proclamation in the *Gazette*. 10

MEMORANDUM ON THE OBJECTS OF THE CONSTITUTION TWENTY-THIRD AMENDMENT BILL, 2025

1. INTRODUCTION

The Constitution Twenty-Third Amendment Bill, 2025 (“Bill”), seeks to amend the Constitution of the Republic of South Africa, 1996 (“Constitution”), by, firstly, abolishing the office of Deputy Minister in pursuance of a reduction of unnecessary bureaucracy and the creation of a leaner, more efficient national executive, secondly, enhancing Parliament’s oversight abilities, to ensure meaningful proactive oversight over, greater scrutiny of, and transparency and accountability in, ministerial appointments, with a view to ensure that Ministers are fit for purpose before they assume office, and thirdly, empowering the National Assembly to pass a motion of no confidence in a Minister.

South Africa’s excessively large national executive places an unnecessary financial strain on the fiscus. The office of Deputy Minister is superfluous as it primarily serves as an instrument of political patronage rather than an essential governance role. Models of other African and foreign governments show that streamlined governance is possible without excessive political appointments (i.e. Deputy Ministers), relying instead on competent senior public servants to provide continuity and expertise. The potential loss of external expertise is addressed by increasing the number of Ministers that may be selected from outside the National Assembly.

The President currently has unfettered discretion in appointing Ministers, with no parliamentary oversight or prior vetting process that needs to be followed in respect of such appointments. The current ministerial appointment process enables individuals with questionable track records, corruption allegations levelled against them, or inadequate experience to be placed in charge of critical government departments, often to the detriment of service delivery, which undermines transparency and erodes public trust in government. Various other countries require parliamentary approval for ministerial appointments, ensuring that parliamentary oversight is exercised proactively and that appointees are qualified and publicly vetted before assuming office.

In addition, the President currently has the sole discretion to dismiss a Minister, with no parliamentary power to institute a motion of no confidence in an individual Minister.

The Bill will improve government efficiency, protect public finances, and enhance democratic accountability by aligning South Africa with best practices in global governance.

2. OBJECTS OF BILL

The purpose of the Bill is to amend sections 47, 54, 57, 58, 66, 73, 91, 93, 94, 95, 96, 102, 219 and 241 of, as well as Schedule 2 to, the Constitution, and to insert Schedule 6C in the Constitution, to provide for the abolishment of the office of Deputy Minister and to delete all references thereto, to increase the number of Ministers that may be selected from outside the National Assembly, to ensure the Assembly’s approval of every ministerial appointment and to require the creation of a committee in the Assembly to give effect to this requirement, to provide for a motion of no confidence in a Minister, and to provide for matters connected therewith.

3. CONTENTS OF BILL

3.1 Clause 1 proposes an amendment to section 47 of the Constitution by providing for the deletion of the reference to Deputy Ministers.

- 3.2 Clause 2 proposes the substitution of section 54 of the Constitution by providing for the deletion of the references to Deputy Ministers and Deputy Minister.
- 3.3 Clause 3 proposes an amendment to section 57 of the Constitution by providing for rules and orders of the National Assembly concerning the establishment of a committee to consider the approval of a ministerial appointment.
- 3.4 Clause 4 proposes an amendment to section 58 of the Constitution by providing for the deletion of the reference to Deputy Ministers.
- 3.5 Clause 5 proposes a substitution of section 66 of the Constitution by providing for the deletion of the references to Deputy Ministers and Deputy Minister.
- 3.6 Clause 6 proposes an amendment to section 73 of the Constitution by providing for the deletion of the reference to Deputy Minister.
- 3.7 Clause 7 proposes an amendment to section 91 of the Constitution by providing for the approval of a ministerial appointment by the National Assembly, the requirements for a person to become a Minister, and the assumption of office by a Minister. Clause 7 proposes a further amendment providing for an increase in the number of Ministers who may be selected from outside the Assembly.
- 3.8 Clause 8 proposes the repeal of section 93 of the Constitution, which is a section that deals with the appointment of Deputy Ministers.
- 3.9 Clause 9 proposes a substitution of section 94 of the Constitution by providing for amended transitional arrangements relating to Ministers when an election of the National Assembly is held. It proposes that a Minister remains competent to function until that Minister is replaced, or the Minister's portfolio is abolished. It also proposes an amendment providing for the deletion of the reference to Deputy Ministers.
- 3.10 Clause 10 proposes a substitution of section 95 of the Constitution by providing for the deletion of the reference to Deputy Ministers.
- 3.11 Clause 11 proposes an amendment to section 96 of the Constitution by providing for the deletion of the references to Deputy Ministers.
- 3.12 Clause 12 proposes an amendment to section 102 of the Constitution by providing for the deletion of the reference to Deputy Ministers, the empowerment of the National Assembly to pass a motion of no confidence against a Minister, and the suspension of a Minister by the President at any time after such a notice of motion has been tabled.
- 3.13 Clause 13 proposes an amendment to section 219 of the Constitution by providing for the deletion of the reference to Deputy Ministers.
- 3.14 Clause 14 proposes an amendment to section 241 of the Constitution by providing for references to, and the application of, Schedule 6C.
- 3.15 Clause 15 proposes an amendment to Schedule 2 to the Constitution by providing for the deletion of the references to Deputy Ministers and Deputy Minister.
- 3.16 Clause 16 proposes the insertion of Schedule 6C to the Constitution, to provide for arrangements in respect of the transition from a Cabinet:
 - with members appointed by the President, to a Cabinet with members appointed by the President and approved by the National Assembly; and

- that is supported by Deputy Ministers, to a Cabinet without the support of Deputy Ministers.

3.17 Clause 17 provides for the short title and date of commencement.

4. FINANCIAL IMPLICATIONS FOR STATE

None

5. CONSULTATIONS

None

6. PARLIAMENTARY PROCEDURE

- 6.1 The Member proposes that the Bill must be dealt with in accordance with the procedure established by section 74(3)(a) of the Constitution as its objects are to amend sections within Chapters 4, 5, 13 and 14 of, to amend an item within Schedule 2 to, and to insert a new Schedule to, the Constitution.
- 6.2 The Member is of the opinion that the Bill does not need to be referred to the National House of Traditional and Khoi-San Leaders in terms of section 39(1)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), as it does not contain any provisions pertaining to customary law or customs of traditional or Khoi-San communities, nor does it contain any provisions pertaining to any matter referred to in section 154(2) of the Constitution.

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