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**EMBARGOED UNTIL TABLING
IN THE NEGOTIATING COUNCIL**

TRANSITIONAL EXECUTIVE COUNCIL BILL

(FOURTH WORKING DRAFT)

**Prepared by the Technical Committee on the Transitional Executive Council in
the Multi-Party Negotiating Process**

22 July 1993

TRANSITIONAL EXECUTIVE COUNCIL BILL

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:

Definitions

1. In this Act, unless the context indicates otherwise -

"Central Economic Advisory Service" means

"Council" means the Transitional Executive Council established by section 2;

"Election" means an election to any legislative body established by any law;

"Government" means the Governments of the Republics of South Africa, Transkei, Bophuthatswana, Venda and Ciskei, as well as the Governments of the self-governing territories proclaimed in terms of the Self-Governing Territories Act, 1971 (Act No 21 of 1971);

"Independent Broadcasting Authorities" means.....

"Independent Electoral Commission" means

"Independent Media Commission" means

"Local Government Negotiating Forum" means

"Multi-Party Negotiating Process" means

"National Economic Forum" means

"National Housing Forum" means

"National Peace Accord" means

"National Peace Secretariat" means

"Police Board" means

"political party" means any party or organisation, whether on its own or as an alliance of parties and/or organisations, which intends to contest the elections in terms of the Transitional Constitution;

"South Africa" means the Republic of South Africa, including the self-governing territories proclaimed in terms of the Self-Governing Territories Act, 1971, and includes the Republics of Transkei, Bophuthatswana, Venda and Ciskei;

"South African Reserve Bank" means

"State President" means the State President of the Republic of South Africa elected in terms of the provisions of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1993)

"Subcouncil" means a subcouncil established by or under this Act;

"Tax Advisory Committee" means

"Transitional Constitution" means the draft constitution which is in the process of being drafted by the Multi-Party Negotiating Process;

NOTE: *The definition section will be finalised once the substantive content of the Bill has been finalised.*

Establishment of the Transitional Executive Council

2. There is hereby established a council to be known as the Transitional Executive Council, which shall remain in existence until the appointment of the first Cabinet in terms of the Transitional Constitution.

Objects of Council

3. The objects of the Council shall be to facilitate, in conjunction with all existing legislative and executive governmental structures at national, regional and local levels in South Africa, the transition to and preparation for the implementation of a democratic order in South Africa by -
 - (a) creating and promoting a climate for free political participation by endeavouring to -

- (i) eliminate any impediments to legitimate political activities;
 - (ii) eliminate any form of intimidation which has a bearing on the said transition process;
 - (iii) ensure that all political parties are free to canvass support from voters, to organize and hold meetings and to have access to all voters for the purposes thereof; and
 - (iv) ensure that no government or administration exercises any of its powers in such a way so as to advantage or prejudice any political party;
- (b) promoting conditions conducive to the campaigning for and holding of free and fair elections which take place in terms of decisions of the Multi-Party Negotiating Process.

Constitution of Council

4. (1) The Council shall, subject to subsections (2), (3) and (4), consist of such number of full-time and part-time members as the State President may appoint from time to time by proclamation in the Gazette.
- (2) Each government and political party which -
- (a) is represented on the Negotiating Council of the Multi-Party Negotiating Process at the time of the coming into force of this Act;
 - (b) commits itself to the objects of the Council as contemplated in section 3; and
 - (c) undertakes in writing to be bound by and to implement the decisions of the Council,
- shall be a participant in the Council and be entitled to be represented by one member on the Council.
- (3) Each appointment made in terms of subsection (1) shall be made on the recommendation of the government or political party concerned.
- (4) (a) If the Council, on good cause, determines that any government or political party which is not entitled to participate in the Council by

virtue of subsection (2) but which commits itself to the objects of the Council as contemplated in section 3 and which undertakes in writing to be bound by and to implement the decisions of the Council, should be a participant in the Council, it shall notify the State President in writing whereafter the State President shall by proclamation in the Gazette declare that government or political party to be a participant in the Council.

- (b) All the provisions of this Act shall apply in respect of a participant referred to in paragraph (a).
- (5) (a) Each participant in the Council may nominate in writing a substitute member to attend on its behalf any meeting of the Council in the place of the member concerned.
- (b) For the purposes of such a meeting the substitute member concerned shall have the powers and rights of the member concerned.
- (6) Any participant in the Council which fails or refuses to nominate a member on the Council or terminates or suspends its participation in the Council shall nevertheless remain bound by the obligations it incurred by becoming a member.

Vacation of office, removal from office and filling of vacancies in Council

- 5. (1) If a member of the Council loses the confidence of the government or political party which recommended the appointment, the State President, on being advised thereof in writing by the government or political party concerned, shall, by proclamation in the Gazette, remove such person from office.
- (2) If a member of the Council dies, resigns from office (which shall be in writing to the State President) or is removed from office in terms of subsection (1), the government or political party previously represented by that member shall be entitled to nominate another person as a member of the Council, and in respect of such nomination section 4 shall apply *mutatis mutandis*.

Remuneration, allowances and conditions of service of members of Council and Subcouncils

6. (1) The conditions of service, remuneration, allowances and other benefits of members of the Council and its Subcouncils shall be determined by the State President with the concurrence of the Multi-Party Negotiating Process: Provided that those members who receive remuneration, allowances and other benefits by virtue of their employment by or position in any government or public service and who continue to receive such remuneration, allowances and other benefits from such government or public service shall not receive any remuneration, allowance and other benefits from the monies appropriated by Parliament for purposes of remuneration of members of the Council and its Subcouncils, except to the extent required to place those members in the position in which they would have been were it not for such employment or position.
- (2) The remuneration, allowances and conditions of service contemplated in this section may differ according to whether a member is a full-time or part-time member of the Council.

Powers of Council

7. The Council shall, for the purpose of achieving its objects and the performance of its functions, have the power to -
- (a) have access to all such information, including records, which may be required by it for that purpose;
 - (b) establish one or more Subcouncils, in addition to those established by section 8, to assist it in the performance of its functions;
 - (c) delegate to a subcouncil such of its powers as it may deem fit, but it shall not be divested of any power so delegated;
 - (d) except where the delegation concerned expressly otherwise provides, it may amend or withdraw any decision or recommendation of a subcouncil;
 - (e) require a Subcouncil, either generally or specifically, to enquire into and to advise the Council on any matter in connection with the functions of the Council;
 - (f) initiate or participate in negotiations relating to its functions and objects;

- (g) appoint staff to assist the Council in the performance of its functions, and in the case of staff not in the full-time service of any government or public service, to determine their remuneration and conditions of service;
- (h) request the secondment of skilled personnel from any public service to assist the Council in the performance of its functions;
- (i) make rules providing for the convening of and procedure at meetings of the Council and Subcouncils;
- (j) appoint from among its members office-bearers on a permanent or rotational basis;
- (k) appoint a person or body to investigate any matter relating to the Council's functions and to report thereon; and
- (l) open and administer its own financial accounts.

NOTE: *The question of any further general or specific powers will be re-examined once the powers of the Subcouncils have been completed and the Technical Committee can review the structure as a whole.*

Establishment of Subcouncils

8. There are hereby established the following Subcouncils which shall report to the Council in such manner and at such times as may be determined by the Council -
- (a) A Subcouncil on Regional and Local Government;
 - (b) A Subcouncil on Law and Order, Stability and Security;
 - (c) A Subcouncil on Defence;
 - (d) A Subcouncil on Finance;
 - (e) A Subcouncil on Foreign Affairs; and
 - (f) A Subcouncil on the Status of Women.

Constitution of Subcouncils

9. (1) (a) Subcouncils shall consist of such number of members as may be determined by the Council.
- (b) A member of a subcouncil need not be a member of the Council.
- (c) Unless the Council, on good cause, determines otherwise, the membership of a subcouncil shall not exceed six.
- (2) The members of a subcouncil shall be appointed by the State President by proclamation in the Gazette on the recommendation of the Council.
- (3) No government or political party shall have more than one representative on a particular subcouncil.
- (4) (a) A member of a subcouncil may nominate in writing a substitute member to attend any meeting of that subcouncil on that members' behalf.
- (b) For the purposes of such a meeting the substitute member concerned shall have all the powers and rights of the member concerned.

Vacation of office, removal from office and filling of vacancies in subcouncils

10. (1) If a member of a Subcouncil loses the confidence of the Council, the State President, on being advised thereof in writing by the Council, shall, by proclamation in the Gazette, remove such person from office.
- (2) If a member of a Subcouncil dies, resigns from office (which shall be in writing to the Council) or is removed from office in terms of subsection (1), the State President shall, on the recommendation of the Council, appoint a another member to the subcouncil concerned by proclamation in the Gazette.

Remuneration and allowances and conditions of service of members of subcouncils

11. The provisions of sections 6 shall apply *mutatis mutandis* in respect of the remuneration, allowances and conditions of service of members of Subcouncils.

Powers of Subcouncils

12. Save as when otherwise directed by the Council, the Subcouncils, in respect of their terms of reference or areas of particular concern, shall have the same powers as those of the Council.

Powers and functions in regard to Regional and Local Government

- 12A. The Council shall, within the scope of its objects, its powers of review and other general powers, have the following powers to be exercised through its Subcouncil on Regional and Local Government -
- (a) to acquaint itself with and monitor recent developments, policy objectives and targets in relation to regional and local government for the period of the transition;
 - (b) in regard to regional and local government matters administered by any government, provincial administration, regional and local governments, to propose the amendment, repeal or enactment of legislation, including subordinate legislation;
 - (c) to promote the objects as contemplated in section 3 generally, and in particular in regard to regional and local government elections, including educating the public on the electoral processes;
 - (d) to liaise with all organisations and/or structures relevant to its functions and powers, including the Local Government Negotiating Forum, the provincial and other regional governments, the Electrification Forum, the National Peace Secretariat, demarcation boards or commissions, the Independent Electoral Commission and the National Housing Forum;
 - (e) to be advised of and to initiate proposals regarding regional and local government budgets, powers and functions, restructuring and rationalisation of regional and local government administrations, transitional measures, interim local government structures, demarcation, and shall consult with the Local Government Negotiating Forum regarding such proposals;
 - (f) to set up committees to assist it in the exercise of its powers and functions;
 - (g) to monitor, make recommendations and render assistance, where practical, regarding the collapse of services and shortfall of finances in local government;

- (h) to monitor the disposal of provincial, regional and local government assets; and
- (i) in regard to any regional, provincial or local government, to exercise the powers provided for in section 14(1)(b) and 14(2)(b), subject to the right of appeal provided for in section 16(1) and 16(2).

Powers and functions in regard to Law and Order, Stability and Security

- 12B. (1)** The Council shall, within the scope of its objects, its powers of review and other general powers, have the following powers to be exercised through its Subcouncil on Law and Order, Stability and Security -
- (a) to establish a national inspectorate comprised of policemen and policewomen and such other persons as the Subcouncil may choose to appoint, which inspectorate shall be tasked with investigating and monitoring all police agencies and liaising with inspectorates of all relevant agencies to ensure the promotion of the objects set out in section 3;
 - (b) to investigate any matter, or order the investigation by the national inspectorate of any matter, which relates to the Council's objects and for the purposes hereof the Subcouncil and the national inspectorate shall have the authority to interview such persons as they may deem necessary, have access to such documents as they may require and have reasonable access to police facilities;
 - (c) to establish, in consultation with the appropriate Minister or Ministers responsible for the various policing agencies, a national independent complaints mechanism under the control of a civilian so as to allow for the receipt and investigation of complaints lodged by members of the public concerning alleged police misconduct;
 - (d) to request and have access to any information or crime intelligence reports compiled by any policing agency;
 - (e) to establish any committee or sub-committee comprised of local and/or international experts, to evaluate or monitor any police action, conduct or reform which relates to the objects set out in section 3;
 - (f) to call for a report on and evaluate the impact of any steps taken by policing agencies to prevent political violence and specifically to monitor all such steps as any policing agency is required to take in terms of the National Peace Accord and relevant legislation;

- (g) in addition to the power to recommend such steps as the Subcouncil deems necessary to improve the effectiveness of and community co-operation with policing agencies in the execution of its duties, to recommend to the Council the adoption of such measures by it regarding steps to be taken by the participants in the Council in this regard;
 - (h) to receive all recommendations of the Police Board and to request the Police Board to conduct inquiries and to make recommendations with respect to any policing policy;
 - (i) to issue recommendations regarding effective and co-ordinated control of policing agencies of participants in the Council;
 - (j) to solicit minutes of and attend any relevant meeting of the policing agencies involved;
 - (k) to formulate a statement of values and objects for the promotion of law, order, peace, stability and security for policing agencies and paramilitary organisations and/or to introduce or amend a code of conduct which may be made binding on any policing agency, all participants in the Council and with the consent of signatories of the National Peace Accord who are not involved in the Council, on such signatories as well;
 - (l) to require the investigation of any alleged activity or action by a member of a policing agency which, if proven, had or would have the effect of having undermined or undermining the objects of the Council and, in consultation with the appropriate Minister, where necessary, require the suspension, with full pay, of such member pending the outcome of the investigation; and
 - (m) to liaise with the Independent Electoral Commission and the National Peace Secretariat concerning matters relevant to its objects.
- (2) A Minister or Ministers responsible for policing agencies who have the authority to declare a state of emergency or an unrest area and promulgate emergency regulations, shall do so in consultation with the Subcouncil: Provided that where the circumstances are so urgent and pressing that he or she is unable to consult with the Subcouncil before making such declaration, he or she may make such declaration: Provided further that if he or she and the Subcouncil are thereafter unable to reach consensus as to the desirability or otherwise of the declaration, either party may require a sub-committee, composed from the civilian membership of the Police Board, to determine the matter, which determination shall be final and binding and be given effect to.

- (3) The sub-committee referred to in subsection (2) shall comprise the Chairperson and Vice-Chairperson of the Police Board and one other member elected by the members of the Board.
- (4) To the extent that it may impact upon the objects as contemplated in section 3, a decision to enter into agreements of the nature contemplated in section 34G of the South African Police Act, 1958 (Act No 7 of 1958), shall be taken by the responsible Minister in consultation with the Subcouncil.
- (5) A Minister, exercising the powers in terms of section 3 of the Police Act, 1958, (Act No. 7 of 1958) or the appropriate functionary exercising corresponding powers provided for in corresponding legislation of the Republics of Transkei, Bophuthatswana, Venda and Ciskei and the self-governing territories, to the extent that it applies to officers of the rank of brigadier or above, shall act in consultation with the Subcouncil which may propose such action itself: Provided that if no agreement is reached, either party may refer the matter to the sub-committee of the Police Board for determination, which determination shall be final and binding and be given effect to.
- (6) To the extent that it may impact upon the objectives as contemplated in section 3, a Minister, exercising the powers in terms of section 33 of the Police Act, 1958, (Act No. 7 of 1958) or the appropriate functionary exercising corresponding powers provided for in corresponding legislation of the Republics of Transkei, Bophuthatswana, Venda and Ciskei and self-governing territories, to issue, amend or repeal regulations governing relevant aspects of police conduct, functioning, structures and restructuring in the course of public order policing, shall act in consultation with the Subcouncil, which may propose such action itself: Provided that if no agreement is reached, either party may refer the matter to the sub-committee of the Police Board for determination, which determination shall be final and binding and be given effect to.
- (7) In regard to any steps which a policing agency intends to take which may directly affect the Council's objects, such agency shall inform the Subcouncil whose members shall, where appropriate, be bound by the requirements of confidentiality.

Powers and functions in regard to Defence

- 12C.** **NOTE:** *The Technical Committee is still addressing the powers and functions with regard to the Subcouncil on Defence.*

Powers and functions in regard to Finance

- 12D. (1)** The Council shall, within the scope of its objects, its powers of review and other general powers, have the following powers to be exercised through its Subcouncil on Finance -
- (a) to acquaint itself with recent economic developments, economic policy objectives and targets for the medium-term and more particularly, for the ensuing fiscal year (1994/1995);
 - (b) to be represented on all function and budgeting committees with a view to ensuring that funds are not applied in a manner favouring one or other political grouping participating in the election of a democratic government;
 - (c) to receive such reports, and in addition such information relating to fiscal transfers, as are reasonably necessary for the Subcouncil to perform its functions in terms of this Act;
 - (d) to approve any measures designed to rationalise Treasury functions in the process of realignment of government structures during the transition;
 - (e) to make recommendations to the relevant departments concerning the privatisation or tendering out of functions currently performed by relevant departments of state;
 - (f) to require an investigation into allegations of general or specific corruption and inefficiency;
 - (g) to review the contents of existing Public Service disciplinary codes and to request disciplinary investigations into the conduct of public servants who fail to perform their tasks within guidelines governing financial discipline and authorised or proper expenditure; and
 - (i) to make recommendations regarding the prevention of wasteful expenditure.

- (2) In the performance of its functions and exercise of its powers, the Subcouncil shall -
- (a) have access to all relevant information available from any government department, administration, the South African Reserve Bank, the Central Economic Advisory Service, the Tax Advisory Committee and the National Economic Forum; and
 - (b) be entitled to conduct such research as it deems necessary.
- (3) The views of the Subcouncil shall, in the course of the preparation of the 1994/1995 government budgets, be taken into account, and there shall be consultation on -
- (a) the overall level of state expenditure;
 - (b) the broad composition of security, social, economic and general government expenditure, broken down into capital and recurrent expenditure;
 - (c) the level and composition of any taxes to be collected;
 - (d) the financing of budget deficits; and
 - (e) the contingent liabilities of government.
- (4) The Subcouncil shall be informed of the creation of new posts in the Public Service, the filling of vacant posts above the level of director and any deviation from the rules and regulations applicable to retirement.
- (5) The Subcouncil shall be provided, on a continuous basis, with full particulars, including the intended purposes, concerning any new international financial agreement which is being negotiated with any foreign government or international agency.

Powers and Functions in regard to Foreign Affairs

- 12E.** The Council shall, within its powers of review and other general powers, through its Subcouncil on Foreign Affairs, in regard to foreign policy, liaise, monitor, make recommendations and, where it deems necessary, assist with a view to -

- (a) achieving progressively the broadest possible consensus on matters affecting South Africa's international interests, particularly its long-term interests;
- (b) securing appropriate agreements with the international community regarding the contribution this community may make to the peaceful transition to democracy;
- (c) securing such international assistance as the Subcouncil deems necessary to address the socio-economic needs of the people as a whole and not one or other political grouping;
- (d) ensuring that foreign policy initiatives benefit the country as a whole and not one or other political grouping; and
- (e) promoting such international relations including trade, finance, culture and sport relations, which in the opinion of the Subcouncil will benefit the country as a whole.

Powers and functions in regard to the Status of Women

12F. The Council shall, within the scope of its objects, its powers of review and other general powers, have the following powers to be exercised through its Subcouncil on the Status of Women -

- (1) In regard to the status of women, at national, regional and local levels -
 - (a) to acquaint itself with and advise all Subcouncils, the Independent Electoral Commission, the Independent Media Commission, the Independent Broadcasting Authority, governments, relevant departments, local government including traditional authorities and policy making forums;
 - (b) to exercise the powers provided for in section 14(1)(b), propose amendments to existing or proposed legislation and facilitate the implementation of such legislation;
 - (c) to exercise the powers provided for in section 14(2)(b), be informed of and make formal and substantive representation on all such actions;
 - (d) to liaise with all employee and employer organisations, non-governmental organisations, all groups of women (in particular rural women and women under customary unions) and any other relevant organisations and/or structures;

- (e) to investigate any matter which affects the status of women for which purpose it shall, inter alia, have the authority to interview officials and have access to such documents as it may require;
- (f) to commission research concerning the status of women;
- (g) to establish any committee to assist in the exercise of its powers and functions;
- (h) to require that positive practical steps be taken to enable all women to exercise fully their right to -
 - (i) vote in all elections and public referenda, be eligible for election to all publically elected bodies and freely participate in the political and electoral processes, including non-governmental organisations concerned with the public and political life of the country;
 - (ii) participate in the formulation and implementation of policy of any governmental agency including the Council;
 - (iii) non-discrimination in the appointment, participation, election and promotion in all structures and at all levels of government; and
 - (iv) freedom from intimidation and harassment.
- (j) to ensure that the Subcouncils, the Independent Electoral Commission, the Independent Media Commission, the Independent Broadcasting Authority, the National Peacekeeping Secretariat, policy-making forums, all other commissions and existing or future educational programmes promote the free and equal participation of women in the electoral process.
- (k) to submit proposals to the Subcouncil on Finance and the relevant government departments in regard to the 1994/1995 budget on the allocation of resources for the promotion of the status of women and gender issues generally, the social and economic welfare of women and programmes and mechanisms to promote the participation of women at all levels of government.

Application of Act

13. Notwithstanding the provisions of the Self-governing Territories Constitution Act, 1971 (Act No 21 of 1971), or any other law, this Act and any amendment thereof shall also apply in all self-governing territories as defined in section 38(1) of the said Act.

Duties of governments and political parties

14. (1) (a) Each government which participates in the Council, shall keep the Council informed of and shall provide it with copies of all of its proposed legislation, including bills, proclamations, ordinances and regulations which have a bearing on the objects of the Council.
- (b) If the Council has reason to believe that any proposed legislation, including bills, proclamations, ordinances and regulations, may have an adverse impact on the attainment of the objects of the Council as contemplated in section 3, it may, after taking into account the necessity for such legislation, direct the government concerned not to proceed with such legislation, and the government concerned shall, subject to the provisions of section 16, comply therewith.
- (2) (a) Each government or political party which participates in the Council and any other political party shall keep the Council informed and the Council shall be entitled to request and receive, information in regard to its proposed executive actions or any other actions, as the case may be, which may have a bearing on the objects of the Council.
- (b) If the Council has reason to believe that such an executive or other action may have an adverse impact on the attainment of the objects of the Council as contemplated in section 3, it may, after taking into account the necessity for such action, direct the government or political party concerned not to proceed with such action, and the government or political party concerned shall, subject to the provisions of section 16, comply therewith.
- (3) Each government or political party which participates in the Council and any other political party shall comply with requests made to them by and decisions of the Council or a Subcouncil having the jurisdiction to do so, which requests and decisions shall, subject to the provisions of section 16, be final and binding.

Duties of Council and Subcouncils

15. The Council or a Subcouncil shall comply with a request by a member of the Council or a Subcouncil to the Council or Subcouncil concerned to procure information in terms of this Act if that request has the support of at least one-third of the members of the Council or Subcouncil, as the case may be, and the information so procured, shall, subject to the provisions of this Act, be made available to all members of the Council and the Subcouncil concerned.

NOTE: *The question of restricted access to certain categories of information has still to be discussed. Such a discussion will inter alia deal with confidentiality, special accounts and the method of compelling delivery of information if required.*

Resolution of disputes

16. (1) If any government or political party contends, in relation to a directive issued by the Council in terms of section 14(1)(b) or (2)(b), that the necessity for the proposed legislation, executive or other action, as the case may be, outweighs the adverse impact it may have on the attainment of the objects of the Council, it may refer such issue to the Independent Electoral Commission for its decision and it may only proceed with such legislation, executive or other action, as the case may be, if the Independent Electoral Commission upholds its contention.
- (2) If there is any disagreement as to whether a matter falls within the scope of the powers of the Council or one of its Subcouncils, or as to whether any proposed legislation or executive or other action may have an adverse impact on the attainment of the objects of the Council, such disagreement may be referred by any government or political party to the Independent Electoral Commission for its decision.
- (3) If any issue is referred by any government or political party in terms of this Act to the Independent Electoral Commission for decision, the said Commission shall as soon as possible, and after consideration of -
- (a) the issue in dispute;
 - (b) the views expressed thereon by the members of the Council and by the complainant government or political party; and
 - (c) any other matter considered by the Independent Electoral Commission to be relevant for its decision;
- give its decision on the issue so referred to it.

- (4) Any decision made by the said Commission in respect of any matter referred to it in terms of this Act shall be final and binding and shall not be subject to appeal or review in any court of law.
- (5) If any government or political party wishes to refer a request by or a decision of the Council in terms of this Act to the Independent Electoral Commission for its decision, it shall refer such matter in writing to the said Commission not later than three days after such decision has been made.
- (6) A request by or a decision of the Council which is not referred to the Independent Electoral Commission within the prescribed period as contemplated in subsection (5), shall become final and binding and shall not be subject to appeal or review in any court of law.

NOTE: *A final recommendation on the adjudicatory function of the Independent Electoral Commission will only be possible after consideration of the report and recommendations of the Technical Committee on the Independent Electoral Commission.*

The Technical Committee will also have to look at harmonising the various adjudicatory mechanisms that have been proposed.

Meetings of Council

17. (1) The first meeting of the Council shall take place on the date and at the place which shall be specified by the State President in the proclamation referred to in section 4(1) in terms of which the first members of the Council are appointed, which date shall not be later than fourteen days after the publication of the said proclamation.
- (2) The Council shall, after its first meeting, meet at such times and places as it may determine.
- (3) The Council shall elect a chairperson from among its members at its first meeting, at which a person designated by the Multi-Party Negotiating Process shall preside until a chairperson is elected.
- (4) (a) The Council shall elect a secretary from among its members at its first meeting, who shall be a full-time member of the Council and who shall, until the rules governing the convening of and procedure at meetings are made in terms of section 7(g), determine the manner of convening meetings and the procedure thereat.

- (b) The secretary shall -
 - (i) carry out all duties assigned to that office by the Council;
 - (ii) convene special meetings of the Council if requested thereto in writing by not less than one-third of its members; and
 - (iii) determine a time, date and place for any meeting called in terms of sub-paragraph (ii) which, save in the case of urgency, shall be convened with at least three days' notice to members of the Council: Provided that an urgent meeting may be convened without the said notice if such convening is ratified by the Council at that meeting.

- (5) The presence of at least one half of the members of the Council shall constitute a quorum for any meeting.

- (6) Members of Subcouncils and ministers of governments and heads of administrations whose Subcouncils or departments may be affected by decisions of the Council may attend meetings of the Council on invitation to speak on matters affecting their Subcouncils or departments and shall attend when matters relating to their Subcouncils or departments are being discussed, but shall not be entitled to vote.

- (7) Any person may, on the invitation of the Council, attend a meeting of the Council and may, in the discretion of the Council, address it, but shall not be entitled to vote.

- (8) Representatives of governments and administrations whose departments may be affected by the decisions of a Subcouncil and who are not represented on that subcouncil, may attend meetings of that Subcouncil and address it on matters affecting the functioning of their departments and shall attend if requested thereto if a matter affecting the functioning of their departments is being considered, but shall not be entitled to vote.

Decisions

- 18. (1) (a) All decisions of the Council shall be made by members thereof alone and shall, as far as possible, be made on a basis of consensus; and
- (b) In the event of there not being total consensus in respect of any decision, a decision which has the support of at least 80% (eighty percent) of the members of the Council, shall be deemed to be a decision of the Council.

- (2) If any member of the Council or a substitute fails to attend more than two consecutive meetings of the Council, such member shall not, at the meeting thereafter, be deemed to be a member for the purposes of subsection (1).
- (3) The provisions of section 17(5) and of this section shall apply *mutatis mutandis* to subcouncils.

Amendment of Act

19. (1) The State President, in consultation with the Council, may, for the purposes of attaining the objects of the Council, repeal or amend the provisions of this Act by proclamation in the Gazette.
- (2) Any such repeal or amendment shall have the force and effect of an Act of Parliament.

Short title and commencement

20. This Act shall be called the Transitional Executive Council Act, 1993 and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.