

Report 7/2/19

REPUBLIC OF SOUTH AFRICA

**TRANSITIONAL EXECUTIVE  
COUNCIL BILL**

(As introduced)

(MINISTER OF CONSTITUTIONAL DEVELOPMENT)

[B 162—93 (GA)]

REPUBLIEK VAN SUID-AFRIKA

**WETSONTWERP OP DIE  
UITVOERENDE OORGANGSRAAD**

(Soos ingedien)

(MINISTER VAN STAATKUNDIGE ONTWIKKELING)

[W 162—93 (AS)]

ISBN 0 621 15248 X

# BILL

To establish a Transitional Executive Council with a view to promoting the preparation for and transition to a democratic order in South Africa; and to provide for matters connected therewith.

**B**E 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—

- (i) “administration” means any department of state of any Government, or any provincial administration or local government body; (i) 5
- (ii) “armed force” means any armed force not established by or under any law and which is under the authority and control of, or associated with and promotes the objectives of, a participant in the Council; (iv) 10
- (iii) “Constitution” means the Constitution of the Republic of South Africa, 1993; (v) 10
- (iv) “Council” means the Transitional Executive Council established by section 2; (xix)
- (v) “defence force” means any defence force of any Government, established by or under any law; (xxx) 15
- (vi) “election” means an election for any legislative body established by any law; (xxix)
- (vii) “Government” means—
  - (a) the Government of the Republic of South Africa;
  - (b) the Governments of the self-governing territories; and 20
  - (c) the Government of the Republic of Transkei, Bophuthatswana, Venda or Ciskei, as the case may be, if the provisions of this Act have been incorporated into the law of the State concerned; (xx)
- (viii) “Independent Broadcasting Authority” means the Independent Broadcasting Authority established by the Independent Broadcasting Authority Act, 1993; (xiii) 25
- (ix) “Independent Electoral Commission” means the Independent Electoral Commission established by the Independent Electoral Commission Act, 1993; (xiv)
- (x) “Independent Media Commission” means the Independent Media Commission established by the Independent Media Commission Act, 1993; (xii) 30
- (xi) “intelligence service” means any intelligence service of any Government, established by or under any law; (vi)
- (xii) “intelligence structure” means any intelligence structure not established by or under any law and which is under the authority or control of, or associated with and promotes the objectives of, a participant in the Council; (vii) 35
- (xiii) “military force” means any defence force or armed force, but shall not include any policing agency; (viii) 40
- (xiv) “Multi-Party Negotiating Process” means the negotiating process that commenced in March 1993 at the World Trade Centre, Kempton Park; (xxviii)
- (xv) “National Peace Accord” means the National Peace Accord signed on 14 September 1991 at the Carlton Centre, Johannesburg; (xi) 45
- (xvi) “National Peacekeeping Force” means the National Peacekeeping Force referred to in section 16(10); (x)

# WETSONTWERP

Om 'n Uitvoerende Oorgangsraad in te stel met die doel om die voorbereiding vir en oorgang na 'n demokratiese bestel in Suid-Afrika te bevorder; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

**D**AAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

## Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

- 5 (i) “administrasie” enige staatsdepartement van enige Regering, of enige provinsiale administrasie of plaaslike regeringsliggaam; (i)
- (ii) “deelnemer”, met betrekking tot die Raad, enige Regering, politieke party of organisasie wat uit hoofde van artikel 3 'n deelnemer in die Raad is; (xix)
- 10 (iii) “die Subraad”, in artikels 14, 15, 16, 17, 18, 19 en 20, die subraad bedoel in artikel 8(1)(a), (b), (c), (d), (e), (f) of (g), onderskeidelik; (xxviii)
- (iv) “gewapende mag” enige gewapende mag wat nie by of kragtens 'n wet ingestel is nie en wat onder die gesag of beheer is van, of geassosieer is met en die oogmerke bevorder van, 'n deelnemer in die Raad; (ii)
- 15 (v) “Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1993; (iii)
- (vi) “intelligensiediens” enige intelligensiediens van enige Regering, wat by of kragtens 'n wet ingestel is; (xi)
- 20 (vii) “intelligensiestruktuur” enige intelligensiestruktuur wat nie by of kragtens 'n wet ingestel is nie en wat onder die gesag of beheer is van, of geassosieer is met en die oogmerke bevorder van, 'n deelnemer in die Raad; (xii)
- 25 (viii) “militêre mag” enige weermag of gewapende mag, maar uitgesonderd 'n polisiëringsagentskap; (xiii)
- (ix) “Nasionale Vredesekretariaat” die Nasionale Vredesekretariaat ingestel by artikel 2 van die Wet op Binnelandse Vredesinstellings, 1992 (Wet No. 135 van 1992); (xvii)
- 30 (x) “Nasionale Vredesmag” die Nasionale Vredesmag in artikel 16(10) bedoel; (xvi)
- (xi) “Nasionale Vredesverdrag” die Nasionale Vredesverdrag wat op 14 September 1991 by die Carltonsentrum te Johannesburg onderteken is; (xv)
- 35 (xii) “Onafhanklike Mediakommissie” die Onafhanklike Mediakommissie ingestel by die Wet op die Onafhanklike Mediakommissie, 1993; (x)
- (xiii) “Onafhanklike Uitsaai-owerheid” die Onafhanklike Uitsaai-owerheid ingestel by die Wet op die Onafhanklike Uitsaai-owerheid, 1993; (viii)
- 40 (xiv) “Onafhanklike Verkiesingskommissie” die Onafhanklike Verkiesingskommissie ingestel by die Wet op die Onafhanklike Verkiesingskommissie, 1993; (viii)
- (xv) “Onderhandelingsraad” die Onderhandelingsraad van die Veelparty-onderhandelingsproses; (xviii)
- 45 (xvi) “Polisierraad” die Polisierraad ingestel ingevolge Hoofstuk 3 van die Nasionale Vredesverdrag; (xx)

- (xvii) "National Peace Secretariat" means the National Peace Secretariat established by section 2 of the Internal Peace Institutions Act, 1992 (Act No. 135 of 1992); (ix)
- (xviii) "Negotiating Council" means the Negotiating Council of the Multi-Party Negotiating Process; (xv) 5
- (xix) "participant", in relation to the Council, means any Government, political party or organization that is a participant in the Council by virtue of section 4; (ii)
- (xx) "Police Board" means the Police Board established in terms of Chapter 3 of the National Peace Accord; (xvi) 10
- (xxi) "policing agency" means any public police force in South Africa established or governed by or under any law; (xvii)
- (xxii) "political party" means any party or organization, whether on its own or as an alliance of parties or organizations, which participates in or intends to participate in an election in terms of the Constitution; (xviii) 15
- (xxiii) "region" includes a province or a self-governing territory; (xxiii)
- (xxiv) "self-governing territory" means a self-governing territory as defined in section 38(1) of the Self-Governing Territories Constitution Act, 1971 (Act No. 21 of 1971); (xxi) 20
- (xxv) "South Africa" means—  
 (a) the Republic of South Africa, including the self-governing territories; and  
 (b) the Republic of Transkei, Bophuthatswana, Venda or Ciskei, as the case may be, if the provisions of this Act have been incorporated into the law of the State concerned; (xxv) 25
- (xxvi) "Special Electoral Court" means the Special Electoral Court established by the Independent Electoral Commission Act, 1993; (xxii)
- (xxvii) "subcouncil" means a subcouncil established by or under this Act; (xxiv) 30
- (xxviii) "the Subcouncil", in sections 14, 15, 16, 17, 18, 19 and 20, means the subcouncil referred to in section 8(1)(a), (b), (c), (d), (e), (f) or (g), respectively; (iii)
- (xxix) "traditional authority" means any authority which in terms of indigenous law or any other law administers the affairs of any tribe or group of indigenous people or any other persons resident within an area under the control of a traditional leader; (xxvii) and 35
- (xxx) "traditional leader" means any person who in terms of indigenous law or any other law is in charge of or exercises control over a traditional authority. (xxvi) 40

## TRANSITIONAL EXECUTIVE COUNCIL

### Establishment of Transitional Executive Council

2. There is hereby established a council to be known as the Transitional Executive Council, which— 45
- (a) shall, subject to section 3, for the purpose of attaining the objects referred to in that section, have the executive and other powers conferred upon it by or under this Act; and
- (b) may exercise such other powers and shall perform such duties as may be conferred or imposed upon it by or under any other law. 50

### Objects of Council

3. The objects of the Council shall be to facilitate and promote, in conjunction with all legislative and executive structures at all levels of government in South Africa, the preparation for and transition to a democratic order in South Africa by— 55
- (a) creating and promoting a climate for free political participation by endeavouring to—

- (xvii) “polisiëringsagentskap” enige openbare polisiemag in Suid-Afrika wat ingestel is by of kragtens of beheer word deur ’n wet; (xxi)
- (xviii) “politieke party” enige party of organisasie, hetsy op sy eie of as ’n alliansie van partye of organisasies, wat deelneem of voorneemens is om deel te neem aan ’n verkiesing ingevolge die Grondwet; (xxii)
- (xix) “Raad” die Uitvoerende Oorgangsraad by artikel 2 ingestel; (iv)
- (xx) “Regering”—
- (a) die Regering van die Republiek van Suid-Afrika;
- (b) die Regerings van die selfregerende gebiede; en
- (c) die Regering van die Republiek van Transkei, Bophuthatswana, Venda of Ciskei, na gelang van die geval, indien die bepalings van hierdie Wet in die reg van die betrokke Staat opgeneem is; (vii)
- (xxi) “selfregerende gebied” ’n selfregerende gebied soos omskryf in artikel 38(1) van die Grondwet van die Selfregerende Gebiede, 1971 (Wet No. 21 van 1971); (xxiv)
- (xxii) “Spesiale Verkiesingshof” die Spesiale Verkiesingshof ingestel by die Wet op die Onafhanklike Verkiesingskommissie, 1993; (xxvi)
- (xxiii) “streek” ook ’n provinsie of ’n selfregerende gebied; (xxiii)
- (xxiv) “subraad” ’n subraad by of kragtens hierdie Wet ingestel; (xxvii)
- (xxv) “Suid-Afrika”—
- (a) die Republiek van Suid-Afrika, met inbegrip van die selfregerende gebiede; en
- (b) die Republiek van Transkei, Bophuthatswana, Venda of Ciskei, na gelang van die geval, indien die bepalings van hierdie Wet in die reg van die betrokke Staat opgeneem is; (xxv)
- (xxvi) “tradisionele leier” enige persoon wat ingevolge inheemse reg of enige wet aan die hoof staan van of beheer voer oor ’n tradisionele owerheid; (xxx)
- (xxvii) “tradisionele owerheid” ’n owerheid wat ingevolge inheemse reg of enige wet die sake administreer van enige stam of groep inheemse persone of enige ander persone woonagtig binne ’n gebied onder beheer van ’n tradisionele leier; (xxix)
- (xxviii) “Veelparty-onderhandelingsproses” die onderhandelingsproses wat in Maart 1993 by die Wêreldhandelsentrum, Kempton Park, ’n aanvang geneem het; (xiv)
- (xxix) “verkiesing” ’n verkiesing vir enige wetgewende liggaam wat by wet ingestel is; (vi) en
- (xxx) “weermag” enige weermag van enige Regering, wat by of kragtens ’n wet ingestel is. (v)

## UITVOERENDE OORGANGSRAAD

### Instelling van Uitvoerende Oorgangsraad

2. Daar word hierby ’n raad ingestel, bekend as die Uitvoerende Oorgangsraad, wat—
- (a) behoudens artikel 3, ter bereiking van die oogmerke in daardie artikel bedoel, die uitvoerende en ander bevoegdhede het wat by of kragtens hierdie Wet aan hom verleen word; en
- (b) die ander bevoegdhede kan uitoefen en pligte moet verrig wat by of kragtens enige ander wet aan hom verleen of opgelê word.

### Oogmerke van Raad

3. Die oogmerke van die Raad is om, in samewerking met alle wetgewende en uitvoerende strukture op alle regeringsvlakke in Suid-Afrika, die voorbereiding vir en oorgang na ’n demokratiese bestel in Suid-Afrika te vergemaklik en te bevorder deur—
- (a) ’n klimaat vir vrye politieke deelname te skep en te bevorder deur daarna te streef om—

- (i) eliminate any impediments to legitimate political activities;
- (ii) eliminate any form of intimidation which has a bearing on the said transition;
- (iii) ensure that all political parties are free to canvass support from voters and to organize and hold meetings and for those purposes have access to all voters; 5
- (iv) ensure the full participation of women in the transitional and electoral structures and processes; and
- (v) ensure that no Government or administration exercises any of its powers in such a way as to advantage or prejudice any political party; 10
- (b) creating and promoting conditions conducive to the holding of free and fair elections;
- (c) exercising such powers and performing such duties as may be conferred or imposed upon it by any other law. 15

#### Constitution of Council

4. (1) Each Government, political party or organization which—
- (a) is or was at any time represented on the Negotiating Council; and
  - (b) by notice in writing to the Negotiating Council commits itself to the objects of the Council, and in respect of itself and all organizations which are under its authority or control, and any armed force which is under its authority and control, or associated with it and promotes its objectives— 20
    - (i) undertakes to be bound by and to implement directions issued by the Council in terms of this Act; and
    - (ii) renounces violence as a means of achieving political objectives, 25
- shall be a participant in the Council and shall be entitled to be represented by one member on the Council.
- (2) The Government of the Republic of Transkei, Bophuthatswana, Venda or Ciskei, or any political party registered only in or operating only from or any organization operating only from such a State, shall not be a participant in the Council unless— 30
- (a) the provisions of this Act, as well as the provisions of the Independent Electoral Commission Act, 1993, the Electoral Act, 1993, the Independent Media Commission Act, 1993, and the Independent Broadcasting Authority Act, 1993, have been incorporated into the law of the State concerned; or 35
  - (b) formal provision has been made by law in such a State for the application of any Act referred to in paragraph (a) in that State.
- (3) A participant in the Council that wishes to be represented on the Council shall within seven days after the commencement of this section by notice in writing to the State President nominate a member and an alternate member to the Council. 40
- (4) The State President shall within seven days after the receipt of such a notice, by proclamation in the *Gazette* appoint the persons so nominated as a member and alternate member, respectively, of the Council. 45
- (5) (a) If the Council determines that any Government, political party or organization which is not a participant in the Council, but which by notice in writing to the Council commits itself to the objects of the Council, and in respect of itself and all organizations which are under its authority or control, and any armed force which is under its authority and control or associated with it and promotes its objectives— 50
- (i) undertakes to be bound by and to implement directions issued by the Council in terms of this Act; and
  - (ii) renounces violence as a means of achieving political objectives,
- should be such a participant, the Council shall notify the State President thereof in writing, and the State President shall by proclamation in the *Gazette* declare that Government, political party or organization to be a participant in the Council. 55

- (i) enige belemmerings van wettige politieke bedrywighede uit te skakel;
- (ii) enige vorm van intimidasie wat op gemelde oorgang betrekking het, uit te skakel;
- 5 (iii) te verseker dat alle politieke partye vrylik die ondersteuning van kiesers kan werf en vergaderings kan organiseer en belê en vir daardie doeleindes toegang tot alle kiesers het;
- (iv) die volle deelname van vroue in die oorgang- en verkiesingstrukture en -prosesse te verseker; en
- 10 (v) te verseker dat geen Regering of administrasie enige van sy bevoegdhede op so 'n wyse uitoefen dat dit enige politieke party bevoordeel of benadeel nie;
- (b) omstandighede wat bevorderlik is vir vrye en regverdige verkiesings te skep en te bevorder;
- 15 (c) die bevoegdhede uit te oefen en die pligte te verrig wat by enige ander wet aan hom verleen of opgelê word.

#### Samestelling van Raad

4. (1) Elke Regering, politieke party of organisasie wat—
- 20 (a) in die Onderhandelingsraad verteenwoordig word of te eniger tyd verteenwoordig was; en
  - (b) by skriftelike kennisgewing aan die Onderhandelingsraad hom tot die oogmerke van die Raad verbind, en ten opsigte van homself en alle organisasies wat onder sy gesag of beheer is, en enige gewapende mag wat onder sy gesag of beheer is of met hom geassosieer is en sy
  - 25 doelwitte bevorder—
    - (i) onderneem om aan lasgewings wat die Raad ingevolge hierdie Wet uitreik, gebonde te wees en dit te implementeer; en
    - (ii) afstand doen van geweld as middel om politieke doelwitte te bereik,
- 30 is 'n deelnemer in die Raad en is daarop geregtig om deur een lid in die Raad verteenwoordig te word.
- (2) Die Regering van die Republiek van Transkei, Bophuthatswana, Venda of Ciskei of enige politieke party wat slegs in so 'n Staat geregistreer is of vanaf so 'n Staat optree of enige organisasie wat slegs vanaf so 'n Staat optree, is nie 'n
- 35 deelnemer in die Raad nie tensy—
- (a) die bepalings van hierdie Wet, sowel as die bepalings van die Wet op die Onafhanklike Verkiesingskommissie, 1993, die Kieswet, 1993, die Wet op die Onafhanklike Mediakommissie, 1993, en die Wet op die Onafhanklike Uitsaai-owerheid, 1993, in die reg van die betrokke Staat
  - 40 opgeneem is; of
  - (b) formele voorsiening by wet in so 'n Staat gemaak is vir die toepassing van enige Wet bedoel in paragraaf (a) in daardie Staat.
- (3) 'n Deelnemer in die Raad wat in die Raad verteenwoordig wil word, moet binne sewe dae na die inwerkingtreding van hierdie artikel by skriftelike
- 45 kennisgewing aan die Staatspresident 'n lid en 'n plaasvervangende lid in die Raad benoem.
- (4) Die Staatspresident moet binne sewe dae na ontvangs van so 'n kennisgewing, by proklamasie in die *Staatskoerant* die persone aldus benoem, onderskeidelik as lid en plaasvervangende lid van die Raad aanstel.
- 50 (5) (a) Indien die Raad bepaal dat enige Regering, politieke party of organisasie wat nie 'n deelnemer in die Raad is nie, maar wat by skriftelike kennisgewing aan die Raad hom tot die oogmerke van die Raad verbind, en ten opsigte van homself en alle organisasies wat onder sy gesag of beheer is, en enige gewapende mag wat onder sy gesag of beheer is of met hom geassosieer is en sy
- 55 doelwitte bevorder—
- (i) onderneem om aan lasgewings wat die Raad ingevolge hierdie Wet uitreik, gebonde te wees en dit te implementeer; en
  - (ii) afstand doen van geweld as middel om politieke doelwitte te bereik, so 'n deelnemer behoort te wees, stel die Raad die Staatspresident skriftelik
  - 60 daarvan in kennis, en die Staatspresident moet by proklamasie in die *Staatskoerant* verklaar dat daardie Regering, politieke party of organisasie 'n deelnemer in die Raad is.

(b) If such a participant wishes to be represented on the Council, it shall within seven days after the date of the proclamation concerned by notice in writing to the State President nominate a member and an alternate member to the Council.

(c) The State President shall within seven days after the receipt of such a notice, by proclamation in the *Gazette* appoint the persons so nominated as a member and alternate member, respectively, of the Council. 5

(6) The Council shall determine whether a member thereof shall serve in a full-time or part-time capacity.

(7) If a member of the Council is for any reason unable to perform the duties of his or her office, the alternate member concerned shall act in the place of that member, and for that purpose the alternate member shall have all the powers and duties of the member concerned. 10

(8) (a) If a participant in the Council or any organization under its authority or control, or any armed force which is under its authority and control or associated with it and promotes its objectives— 15

(i) breaches the undertaking or renunciation submitted by the participant in terms of subsection (1)(b) or (5)(a); or

(ii) fails or refuses to comply with any provision of this Act or any regulation made thereunder, or with any direction of the Council or a subcouncil in terms of this Act or any other law, 20

the Council may, if it has reason to believe that such breach, failure or refusal is of a material nature or has occurred persistently, by notice in writing to that participant direct it to refrain from such breach or to comply with such provision or direction, or to see to it that such organization or armed force refrains from such breach or complies with such provision or direction, as the case may be. 25

(b) If the participant concerned or such an organization or armed force, after the receipt of such a notice—

(i) fails or refuses to comply with a direction of the Council under paragraph (a) within a reasonable time; or

(ii) wilfully persists with any conduct referred to in subparagraph (i) or (ii) of paragraph (a), 30

the Council may, without derogating from its powers under section 7(1)(j), suspend that participant from participating in the Council or any subcouncil or any body, committee or subcommittee established by or under this Act, for such period and on such conditions as may be determined by the Council. 35

(9) A participant in the Council which fails or refuses to nominate a member on the Council, or terminates or suspends its participation in the Council, or whose participation in the Council is suspended under subsection (8), shall nevertheless remain bound by the obligations it incurred by becoming such a participant.

#### **Vacation of office, removal from office and filling of vacancies in Council** 40

5. (1) If a member of the Council loses the confidence of the participant which nominated that member, the Council, on being advised thereof in writing by the participant concerned, shall inform the State President accordingly in writing, and the State President shall by proclamation in the *Gazette* remove that person from office. 45

(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 under subsection (1), the participant 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*. 50

(3) Subsections (1) and (2) shall apply *mutatis mutandis* in respect of an alternate member of the Council.

#### **Conditions of service, remuneration and allowances of members of Council**

6. (1) The conditions of service, remuneration, allowances and other benefits of members of the Council shall be determined by the State President in consultation with the Negotiating Council. 55

(b) Indien so 'n deelnemer in die Raad verteenwoordig wil word, moet hy binne sewe dae na die datum van die betrokke proklamasie by skriftelike kennisgewing aan die Staatspresident 'n lid en 'n plaasvervangende lid in die Raad benoem.

5 (c) Die Staatspresident moet binne sewe dae na ontvangs van so 'n kennisgewing, by proklamasie in die *Staatskoerant* die persone aldus benoem, onderskeidelik as lid en plaasvervangende lid van die Raad aanstel.

(6) Die Raad bepaal of 'n lid daarvan in 'n voltydse of deeltydse hoedanigheid moet dien.

10 (7) Indien 'n lid van die Raad om enige rede nie sy of haar ampspligte kan verrig nie, tree die betrokke plaasvervangende lid in die plek van daardie lid op, en vir daardie doel het die plaasvervangende lid al die bevoegdhede en pligte van die betrokke lid.

(8) (a) Indien 'n deelnemer in die Raad of enige organisasie onder sy gesag of 15 beheer, of enige gewapende mag wat onder sy gesag of beheer is of met hom geassosieer is en sy doelwitte bevorder—

(i) die onderneming of afstanddoening verbreek wat die deelnemer in-  
gevolge subartikel (1)(b) of (5)(a) voorgelê het; of

20 (ii) versuim of weier om te voldoen aan enige bepaling van hierdie Wet of enige regulasie daarkragtens uitgevaardig, of aan enige lasgewing van die Raad of 'n subraad ingevolge hierdie Wet of enige ander wet,

kan die Raad, indien hy rede het om te glo dat sodanige verbreking, versuim of weiering van 'n wesenlike aard is of aanhoudend voorgekom het, by skriftelike kennisgewing aan daardie deelnemer hom gelas om hom van sodanige verbre- 25 king te weerhou of om aan sodanige bepaling of lasgewing te voldoen, of om toe te sien dat sodanige organisasie of gewapende mag hom van sodanige verbreking weerhou of aan sodanige bepaling of lasgewing voldoen, na gelang van die geval.

(b) Indien die betrokke deelnemer of so 'n organisasie of gewapende mag, na ontvangs van so 'n kennisgewing—

30 (i) versuim of weier om binne 'n redelike tyd aan 'n lasgewing van die Raad kragtens paragraaf (a) te voldoen; of

(ii) moedswillig volhou met enige optrede bedoel in subparagraaf (i) of (ii) van paragraaf (a),

kan die Raad, sonder om afbreuk te doen aan sy bevoegdhede kragtens artikel 35 7(1)(j), daardie deelnemer se deelname in die Raad of enige subraad of enige liggaam, komitee of subkomitee wat by of kragtens hierdie Wet ingestel is, vir die tydperk en op die voorwaardes wat die Raad bepaal, opskort.

(9) 'n Deelnemer in die Raad wat versuim of weier om 'n lid in die Raad te 40 benoem, of wat sy deelname in die Raad beëindig of opskort, of wie se deelname in die Raad kragtens subartikel (8) opgeskort word, bly desnieteenstaande gebonde aan die verpligtinge deur hom aangegaan toe hy so 'n deelnemer geword het.

### Ontruiming van amp, ontheffing van amp en vul van vakatures in Raad

5. (1) Indien 'n lid van die Raad die vertroue verloor van die deelnemer wat 45 daardie lid benoem het, moet die Raad, wanneer hy skriftelik deur die betrokke deelnemer daarvan ingelig is, die Staatspresident dienooreenkomstig skriftelik in kennis stel, en die Staatspresident moet by proklamasie in die *Staatskoerant* daardie persoon van sy of haar amp onthef.

(2) Indien 'n lid van die Raad te sterwe kom, uit sy of haar amp bedank (wat 50 skriftelik aan die Staatspresident moet geskied) of kragtens subartikel (1) van sy of haar amp onthef word, is die deelnemer wat voorheen deur daardie lid verteenwoordig is, daarop geregtig om 'n ander persoon as lid van die Raad te benoem, en ten opsigte van sodanige benoeming is artikel 4 *mutatis mutandis* van toepassing.

55 (3) Subartikels (1) en (2) is *mutatis mutandis* ten opsigte van 'n plaasvervangende lid van die Raad van toepassing.

### Diensvoorwaardes, vergoeding en toelaes van lede van Raad

6. (1) Die diensvoorwaardes, vergoeding, toelaes en ander voordele van lede 60 van die Raad word deur die Staatspresident in oorleg met die Onderhandelingsraad bepaal.

(2) Those members of the Council who receive remuneration, allowances or other benefits by virtue of their employment by or position in any Government or public service or administration and who continue to receive such remuneration, allowances or other benefits while serving on the Council, shall not receive any remuneration, allowance or other benefits by virtue of subsection (1), 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. 5

(3) The conditions of service, remuneration, allowances and other benefits contemplated in this section may differ according to whether a member is a full-time or part-time member of the Council. 10

(4) An alternate member shall be entitled to such allowances, if any, as may be determined by the Council.

### General powers of Council

7. (1) The Council shall, in addition to the other powers conferred upon it by this Act or any other law, for the purpose of attaining its objects have the power to— 15

- (a) request and obtain, subject to any other provision of this Act, all such information and documents as may be necessary for attaining its objects;
- (b) direct a subcouncil to enquire into and to advise the Council on any matter in connection with the functions of the Council;
- (c) initiate or participate in negotiations relating to its functions and objects;
- (d) appoint staff to assist the Council and the subcouncils in the performance of their functions, and in consultation with the State President, to determine the conditions of service, remuneration, allowances and other benefits of such staff;
- (e) request the secondment of skilled staff from any public service in South Africa, subject to any law applicable to such staff in that regard, to assist the Council or a subcouncil in the performance of its functions;
- (f) make rules providing for the convening of and procedure at meetings of the Council and subcouncils;
- (g) appoint from among its members office-bearers, on either a fixed or a rotational basis;
- (h) appoint a person, body or subcommittee to investigate or deal with any matter relating to the Council's functions and to report thereon;
- (i) open and administer its own financial accounts; and
- (j) take such steps, including legal steps, in terms of any law or the common law, as may be necessary to give effect to this Act or to any decision taken by the Council or a subcouncil under this Act or any other law. 20 25 30 35

(2) The Council may delegate to a subcouncil any of its powers, but it shall not be divested of a power so delegated.

(3) In respect of any power delegated to a subcouncil under subsection (2) or any power referred to in sections 12(1) and 14 to 20, the Council— 40

- (a) shall identify categories of subjects in respect of which the Council shall itself take decisions or make recommendations;
- (b) shall identify categories of subjects in respect of which decisions or recommendations of subcouncils shall have no force or effect unless ratified by the Council;
- (c) shall be informed by each subcouncil of all decisions or recommendations of that subcouncil;
- (d) may review, amend or withdraw any such decision or recommendation of a subcouncil; and
- (e) may exercise that power itself. 45 50

(4) If the Council exercises any power by virtue of subsection (3), the relevant provisions of this Act relating to the subcouncil concerned shall apply *mutatis mutandis* in respect of the Council.

(2) Lede van die Raad wat uit hoofde van hul indiensneming by of posisie in enige Regering of staatsdiens of administrasie vergoeding, toelaes of ander voordele ontvang en wat voortgaan om sodanige vergoeding, toelaes en ander voordele te ontvang terwyl hulle in die Raad dien, ontvang nie enige vergoeding, 5 toelaes of ander voordele uit hoofde van subartikel (1) nie, behalwe in die mate wat nodig is om daardie lede in die posisie te plaas waarin hulle sou gewees het indien dit nie vir sodanige indiensneming of posisie was nie.

(3) Die diensvoorwaardes, vergoeding, toelaes en ander voordele in hierdie artikel beoog, kan verskil na gelang daarvan of 'n lid 'n voltydse of deeltydse lid 10 van die Raad is.

(4) 'n Plaasvervangende lid is geregtig op die toelaes, as daar is, wat die Raad bepaal.

### Algemene bevoegdhede van Raad

7. (1) Die Raad het, benewens die ander bevoegdhede wat by of kragtens 15 hierdie Wet of enige ander wet aan hom verleen is, ter bereiking van sy oogmerke die bevoegdheid om—

- (a) behoudens enige ander bepaling van hierdie Wet, alle inligting en dokumente aan te vra en te bekom wat vir die bereiking van sy oogmerke nodig is;
- 20 (b) 'n subraad te gelas om ondersoek in te stel na en die Raad te adviseer oor enige aangeleentheid in verband met die werksaamhede van die Raad;
- (c) onderhandelinge met betrekking tot sy werksaamhede en oogmerke te inisieer of daaraan deel te neem;
- 25 (d) personeel aan te stel om die Raad en die subrade by te staan by die verrigting van hul werksaamhede, en om in oorleg met die Staatspresident die diensvoorwaardes, vergoeding, toelaes en ander voordele van sodanige personeel te bepaal;
- (e) die afstaan van bekwame personeel van enige staatsdiens in Suid-Afrika aan te vra, behoudens enige wet wat in daardie verband op sodanige personeel van toepassing is, om die Raad of 'n subraad by te 30 staan by die verrigting van sy werksaamhede;
- (f) reëls uit te vaardig wat voorsiening maak vir die belê van en prosedure by vergaderings van die Raad en subrade;
- 35 (g) uit sy geledere ampsdraers aan te stel, hetsy op 'n vaste of op 'n roterende grondslag;
- (h) 'n persoon, liggaam of subkomitee aan te stel om enige aangeleentheid wat op die Raad se werksaamhede betrekking het, te ondersoek of daarmee te handel en om daarvoor verslag te doen;
- 40 (i) sy eie finansiële rekeninge te open en te administreer; en
- (j) die stappe, met inbegrip van regstappe, ingevolge enige Wet of die gemene reg te doen wat nodig is om gevolg te gee aan hierdie Wet of aan enige besluit wat deur die Raad of 'n subraad kragtens hierdie Wet of enige ander wet geneem is.

45 (2) Die Raad kan enige van sy bevoegdhede aan 'n subraad delegeer, maar word nie onthef van 'n bevoegdheid aldus gedelegeer nie.

(3) Ten opsigte van 'n bevoegdheid wat kragtens subartikel (2) aan 'n subraad gedelegeer is of enige bevoegdheid in artikels 12(1) en 14 tot 20 bedoel—

- 50 (a) moet die Raad kategorieë onderwerpe identifiseer ten opsigte waarvan die Raad self beslissings neem of aanbevelings doen;
- (b) moet die Raad kategorieë onderwerpe identifiseer ten opsigte waarvan besluite of aanbevelings van subrade geen regs krag het nie tensy deur die Raad bekragtig;
- 55 (c) moet die Raad deur elke subraad oor alle besluite of aanbevelings van daardie subraad ingelig word;
- (d) kan die Raad so 'n besluit of aanbeveling van 'n subraad hersien, wysig of tersyde stel; en
- (e) kan die Raad daardie bevoegdheid self uitoefen.

60 (4) Indien die Raad 'n bevoegdheid uit hoofde van subartikel (3) uitoefen, is die toepaslike bepalings van hierdie Wet wat op die betrokke subraad betrekking het, *mutatis mutandis* ten opsigte van die Raad van toepassing.

(5) Notwithstanding any provision of this Act, the Council or a subcouncil, in exercising any power referred to in section 14(e), 14(i), 15(1)(g), 16(2)(f), 16(2)(g), 17(1)(a), 17(1)(h), 17(3), 18(a), 19(j), 20(1)(k) or 20(1)(l) shall not be limited to acting within the scope of the objects of the Council.

## SUBCOUNCILS 5

### Establishment of subcouncils

8. (1) There are hereby established the following subcouncils under the control and supervision of the Council:

- (a) Subcouncil on Regional and Local Government and Traditional Authorities; 10
- (b) Subcouncil on Law and Order, Stability and Security;
- (c) Subcouncil on Defence;
- (d) Subcouncil on Finance;
- (e) Subcouncil on Foreign Affairs;
- (f) Subcouncil on the Status of Women; and 15
- (g) Subcouncil on Intelligence.

(2) (a) Additional subcouncils may be established at the request of the Council by means of an amendment to this Act as contemplated in section 28, if the establishment of such subcouncils is necessary for the Council to perform its functions. 20

(b) If any dispute between the Council and State President arises as to the necessity of establishing such subcouncils, the matter shall be referred to the Special Electoral Court for determination.

(3) A subcouncil shall—

- (a) subject to sections 3 and 7(2) and (3), for the purpose of attaining the objects of the Council have the powers conferred upon it by or under this Act or any other law; 25
- (b) report to the Council in such manner and at such times as may be determined by the Council. 30

### Constitution of subcouncils 30

9. (1) (a) The members of the subcouncils shall be appointed by the Council in a full-time capacity.

(b) The Council shall give notice in the *Gazette* of each such appointment.

(2) (a) The membership of a subcouncil shall not be restricted to members of the Council. 35

(b) The subcouncils referred to in section 8(1)(b), (c) and (g), shall each have eight members.

(c) The subcouncils referred to in section 8(1)(a), (d), (e) and (f), shall each have six members. 40

(3) The Council shall not appoint more than one person representing a particular participant in the Council on a particular subcouncil.

(4) If a member of a subcouncil is for any reason unable to perform the duties of his or her office, the Council may in writing appoint a substitute to act in the place of the member concerned, and for that purpose that substitute shall have all the powers and duties of the member concerned. 45

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

10. (1) If the Council is satisfied that a member of a subcouncil is unable to perform his or her duties satisfactorily, the Council shall remove that member from office and shall give notice of such removal in the *Gazette*. 50

(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 Council shall appoint another member to that subcouncil and give notice of such appointment in the *Gazette*. 55

### Conditions of service, remuneration and allowances of members of subcouncils

11. (1) The conditions of service, remuneration, allowances and other benefits of members of the subcouncils shall be determined by the State President in consultation with the Council. 55

(5) Ondanks enige bepaling van hierdie Wet word die Raad of 'n subraad, wanneer hy 'n bevoegdheid bedoel in artikel 14(e), 14(i), 15(1)(g), 16(2)(f), 16(2)(g), 17(1)(a), 17(1)(h), 17(3), 18(a), 19(j), 20(1)(k) of 20(1)(l) uitoefen, nie tot handelinge binne die omvang van die oogmerke van die Raad beperk nie.

5

## SUBRADE

### Instelling van subrade

8. (1) Daar word hierby die volgende subrade onder die beheer en toesig van die Raad ingestel:

- (a) Subraad oor Streek- en Plaaslike Regering en Tradisionele Owerhede;
- 10 (b) Subraad oor Wet en Orde, Stabiliteit en Veiligheid;
- (c) Subraad oor Verdediging;
- (d) Subraad oor Finansies;
- (e) Subraad oor Buitelandse Sake;
- (f) Subraad oor die Status van Vroue; en
- 15 (g) Subraad oor Intelligensie.

(2) (a) Bykomende subrade kan op versoek van die Raad deur middel van 'n wysiging van hierdie Wet soos in artikel 28 beoog, ingestel word, indien die instelling van sodanige subrade nodig is vir die Raad om sy werksaamhede te verrig.

- 20 (b) Indien daar 'n geskil tussen die Raad en die Staatspresident oor die noodnag van die instelling van sodanige subrade ontstaan, word die aangeleentheid na die Spesiale Verkiesingshof vir beslissing verwys.

(3) 'n Subraad—

- 25 (a) het, behoudens artikels 3 en 7(2) en (3), ter bereiking van die oogmerke van die Raad die bevoegdhede wat by of kragtens hierdie Wet of enige ander wet aan hom verleen is;
- (b) moet op die wyse en tye wat die Raad bepaal, aan die Raad verslag doen.

### Samestelling van subrade

- 30 9. (1) (a) Die lede van die subrade word deur die Raad in 'n voltydse hoedanigheid aangestel.

(b) Die Raad moet in die *Staatskoerant* van elke aanstelling kennis gee.

- 35 (2) (a) Die lidmaatskap van 'n subraad word nie tot lede van die Raad beperk nie.

(b) Die subrade bedoel in artikel 8(1)(b), (c) en (g) het elk agt lede.

(c) Die subrade bedoel in artikel 8(1)(a), (d), (e) en (f) het elk ses lede.

- (3) Die Raad stel nie meer as een persoon wat 'n bepaalde deelnemer van die Raad verteenwoordig in 'n bepaalde subraad aan nie.

- 40 (4) Indien 'n lid van 'n subraad om enige rede nie in staat is om sy of haar ampspligte te verrig nie, kan die Raad skriftelik 'n plaasvervanger aanstel om in die plek van die betrokke lid op te tree, en vir daardie doel het daardie plaasvervanger al die bevoegdhede en pligte van die betrokke lid.

### Ontruiming van amp, ontheffing van amp en vul van vakatures in subrade

- 45 10. (1) Indien die Raad oortuig is dat 'n lid van 'n subraad nie sy of haar pligte bevredigend kan verrig nie, moet die Raad daardie lid van sy of haar amp onthef en van sodanige ontheffing in die *Staatskoerant* kennis gee.

- (2) Indien 'n lid van 'n subraad te sterwe kom, uit sy of haar amp bedank (wat skriftelik aan die Raad moet geskied) of ingevolge subartikel (1) van sy of haar amp onthef word, moet die Raad 'n ander lid in daardie subraad aanstel en van 50 sodanige aanstelling in die *Staatskoerant* kennis gee.

### Diensvoorwaardes, vergoeding en toelaes van lede van subrade

11. (1) Die diensvoorwaardes, vergoeding, toelaes en ander voordele van lede van die subrade word deur die Staatspresident in oorleg met die Raad bepaal.

(2) Section 6(2) shall apply *mutatis mutandis* in relation to members of subcouncils.

(3) A substitute contemplated in section 9(4) shall be entitled to such allowances, if any, as may be determined by the Council.

**General powers of subcouncils**

5

12. (1) Except in so far as the Council determines otherwise under section 7(3), a subcouncil shall have the power to—

(a) request and obtain, subject to any other provision of this Act, all such information and documents as may be necessary for performing its functions and attaining the objects of the Council;

10

(b) initiate or participate in negotiations relating to its functions and objects;

(c) appoint from among its members office-bearers, on either a fixed or a rotational basis; and

(d) appoint a person or body to investigate any matter relating to the functions of the subcouncil and to report thereon.

15

(2) (a) A subcouncil may establish one or more subcommittees to assist it in the performance of its functions.

(b) A member of a subcommittee may be, but need not be, a member of the Council or of the subcouncil concerned.

**SPECIFIC POWERS AND DUTIES OF COUNCIL AND SUBCOUNCILS**

20

**Powers in regard to certain proposed legislation and other actions**

13. (1) (a) Each Government and administration shall keep the Council informed of and shall provide it with copies of all of its proposed legislation, including regulations, by-laws and other subordinate legislation, which have a bearing on the objects of the Council.

25

(b) If the Council or the subcouncil concerned has reason to believe that any proposed legislation of any Government or administration is likely to have an adverse effect on the attainment of the objects of the Council, it may, after affording the Government or administration concerned an opportunity to make representations to the Council or the subcouncil concerned, and subject to the other provisions of this Act, direct that Government or administration in writing not to proceed with the legislation concerned, and that Government or administration shall, subject to section 23, comply with such direction.

30

(2) (a) Each Government and administration, each political party or organization participating in the Council, and every other political party, shall keep the Council informed of, and the Council shall, subject to the other provisions of this Act, be entitled to request and obtain information in regard to, any decision and any proposed or intended action of that Government, administration, political party or organization likely to have a bearing on the objects of the Council.

35

(b) If the Council or the subcouncil concerned has reason to believe that a decision or action of any Government, administration, political party or organization referred to in paragraph (a) is likely to have an adverse effect on the attainment of the objects of the Council, it may, after affording the Government, administration, political party or organization concerned an opportunity to make representations to the Council or the subcouncil concerned, and subject to the other provisions of this Act, direct that Government, administration, political party or organization in writing not to implement that decision or proceed with that action, and that Government, administration, political party or organization shall, subject to section 23, comply with such direction.

40

45

(3) Subject to section 23, each Government and administration, each political party or organization participating in the Council and every other political party shall comply with and give effect to any direction made to it by the Council or a subcouncil in terms of this Act or any other law.

50

(2) Artikel 6(2) is *mutatis mutandis* ten opsigte van lede van subrade van toepassing.

(3) 'n Plaasvervanger beoog in artikel 9(4) is geregtig op die toelaes, as daar is, wat die Raad bepaal.

## 5 Algemene bevoegdhe van subrade

12. (1) Behalwe vir sover die Raad kragtens artikel 7(3) anders bepaal, het 'n subraad die bevoegdheid om—

- (a) behoudens enige ander bepaling van hierdie Wet, alle inligting en dokumente aan te vra en te bekom wat nodig is vir die verrigting van sy werksaamhede en die bereiking van die oogmerke van die Raad;
- 10 (b) onderhandelinge met betrekking tot sy werksaamhede en oogmerke te inisieer of daaraan deel te neem;
- (c) uit sy geledere ampsdraers aan te stel, hetsy op 'n vaste of op 'n roterende grondslag; en
- 15 (d) 'n persoon of liggaam aan te stel om enige aangeleentheid wat op die werksaamhede van 'n subraad betrekking het, te ondersoek en daarvoor verslag te doen.

(2) (a) 'n Subraad kan een of meer subkomitees instel om hom by die verrigting van sy werksaamhede by te staan.

- 20 (b) 'n Lid van 'n subkomitee kan 'n lid van die Raad of die betrokke subraad wees, maar hoef nie so 'n lid te wees nie.

## SPESIFIEKE BEVOEGDHEDE EN PLIGTE VAN RAAD EN SUBRADE

### Bevoegdhe met betrekking tot sekere voorgestelde wetgewing en ander optredes

13. (1) (a) Elke Regering en administrasie moet die Raad ingelig hou oor en 25 van afskrifte voorsien van al sy voorgestelde wetgewing, met inbegrip van regulasies, verordeninge en ander ondergeskikte wetgewing, wat op die oogmerke van die Raad betrekking het.

(b) Indien die Raad of die betrokke subraad rede het om te glo dat enige voorgestelde wetgewing van enige Regering of administrasie waarskynlik 'n 30 nadelige uitwerking op die bereiking van die oogmerke van die Raad gaan hê, kan hy, nadat hy die betrokke Regering of administrasie 'n geleentheid gebied het om verhoër tot die Raad of die betrokke subraad te rig, en behoudens die ander bepalings van hierdie Wet, daardie Regering of administrasie skriftelik 35 gelas om nie met die betrokke wetgewing voort te gaan nie, en daardie Regering of administrasie moet, behoudens artikel 23, aan daardie lasgewing voldoen.

(2) (a) Elke Regering en administrasie, elke politieke party of organisasie wat in die Raad deelneem en elke ander politieke party moet die Raad ingelig hou oor enige besluit en enige voorgestelde of voorgenome optrede van daardie Regering, administrasie, politieke party of organisasie wat waarskynlik op die 40 oogmerke van die Raad betrekking het, en die Raad is, behoudens die ander bepalings van hierdie Wet, daarop geregtig om inligting aangaande sodanige besluit of optrede aan te vra en te bekom.

(b) Indien die Raad of die betrokke subraad rede het om te glo dat 'n besluit of optrede van enige Regering, administrasie, politieke party of organisasie 45 bedoel in paragraaf (a) waarskynlik 'n nadelige uitwerking op die bereiking van die oogmerke van die Raad gaan hê, kan hy, nadat hy die betrokke Regering, administrasie, politieke party of organisasie 'n geleentheid gebied het om verhoër tot die Raad of die betrokke subraad te rig, en behoudens die ander bepalings van hierdie Wet, daardie Regering, administrasie, politieke party of organisasie 50 skriftelik gelas om nie daardie besluit te implementeer nie of om nie met daardie optrede voort te gaan nie, en daardie Regering, administrasie, politieke party of organisasie moet, behoudens artikel 23, aan daardie lasgewing voldoen.

(3) Behoudens artikel 23 moet elke Regering en administrasie, elke politieke party of organisasie wat in die Raad deelneem en elke ander politieke party 55 voldoen en gevolg gee aan enige lasgewing deur die Raad of 'n subraad ingevolgt hierdie Wet of enige ander wet aan hom gerig.

**Powers and duties in regard to regional and local government and traditional authorities**

14. The Council shall, for the purpose of attaining its objects, have the following powers to be exercised through its Subcouncil on Regional and Local Government and Traditional Authorities: 5
- (a) To acquaint itself with and monitor developments, policy objectives and targets in relation to regional and local government, relevant organizations active in the field of local government and traditional authorities; 5
  - (b) in regard to regional and local government matters, to propose the amendment, repeal or enactment of legislation, including subordinate legislation; 10
  - (c) to promote the objects of the Council generally, and in particular in regard to regional and local government elections, and to educate the public on the electoral processes; 10
  - (d) to liaise with all organizations and bodies relevant to the functions of the Subcouncil, including the Local Government Negotiating Forum, regional governments, the Electrification Forum, the National Peace Secretariat, demarcation boards or commissions, the Independent Electoral Commission and the National Housing Forum; 15
  - (e) to be informed of and to make proposals regarding regional and local government budgets, the powers, duties and functions and the restructuring and rationalization of regional and local government administrations, transitional measures, interim local government structures and the demarcation of boundaries, and shall consult with the Local Government Negotiating Forum and other interested bodies regarding such proposals; 20
  - (f) to monitor any collapse of services and shortfall of finances in any regional or local government and to make recommendations designed to redress problems in this regard; 25
  - (g) to request and obtain information regarding— 30
    - (i) the disposal and intended disposal of regional and local government assets; and
    - (ii) intended loans by any local government;
  - (h) to make recommendations to the appropriate institutions and authorities on— 35
    - (i) legislative and executive measures, either existing or proposed, which may affect traditional leaders' powers during the transition;
    - (ii) free and fair political participation in areas in respect of which traditional leaders exercise their powers; and
    - (iii) matters of material concern to traditional leaders and their communities; and 40
  - (i) to approve any amendment of the terms or conditions of, and any diminution of or increase in, the remuneration of traditional leaders. 45

**Powers and duties in regard to law and order, stability and security**

15. (1) The Council shall, for the purpose of attaining its objects, have the following powers to be exercised through its Subcouncil on Law and Order, Stability and Security: 45
- (a) To establish a national inspectorate comprised of members of policing agencies and such other persons as the Subcouncil may determine, which shall investigate and monitor all policing agencies, and shall liaise with all such agencies or their inspectorates in order to promote the objects of the Council; 50
  - (b) to investigate, or order the investigation by the national inspectorate of, any matter relating to the functions of the Subcouncil, and for such purpose the Subcouncil and the national inspectorate shall, subject to the other provisions of this Act— 55

**Bevoegdheids en pligte met betrekking tot streek- en plaaslike regering en tradisionele owerhede**

14. Die Raad het ter bereiking van sy oogmerke die volgende bevoegdheids wat deur middel van sy Subraad oor Streek- en Plaaslike Regering en Tradisionele Owerhede uitgeoefen word:

- (a) Om homself op die hoogte te bring van ontwikkelings, beleidsoogmerke en doelwitte ten opsigte van streek- en plaaslike regering, toepaslike organisasies wat bedrywig is op die gebied van plaaslike regering en tradisionele owerhede, en dit te monitor;
- (b) om ten opsigte van streek- en plaaslike regeringsaangeleenthede die wysiging, herroeping of verordening van wetgewing, met inbegrip van ondergeskikte wetgewing, voor te stel;
- (c) om die oogmerke van die Raad oor die algemeen, en in besonder met betrekking tot streek- en plaaslike regeringverkiegings, te bevorder, en om die publiek oor die verkiesingsprosesse te onderrig;
- (d) om te skakel met alle organisasies en liggame wat betrekking het op die werksaamhede van die Subraad, met inbegrip van die Plaaslike Rege-  
ringsonderhandelingsforum, streekregerings, die Elektrifiseringsforum,  
die Nasionale Vredesekretariaat, afbakeningrade of -kommissies, die  
Onafhanklike Verkiesingskommissie en die Nasionale Behuisingsforum;
- (e) om ingelig te word oor en voorstelle te doen rakende begrotings van  
streek- en plaaslike regerings, die bevoegdheids, pligte en werksaam-  
hede en die herstrukturering en rasionalisasie van streek- en plaaslike  
regeringsadministrasies, oorgangsmaatreëls, tussentydse plaaslike re-  
geringstrukture en die afbakening van grense, en moet met die  
Plaaslike Regeeringsonderhandelingsforum en ander belanghebbende  
liggame aangaande sodanige voorstelle oorleg pleeg;
- (f) om die ineenstorting van dienste en die tekort aan finansies in enige  
streek- of plaaslike regering te monitor en om aanbevelings te doen ten  
einde probleme in dié verband te oorkom;
- (g) om inligting aan te vra en te bekom rakende—
  - (i) die beskikking en voorgenome beskikking oor bates van streek- en  
plaaslike regerings; en
  - (ii) voorgenome lenings deur enige plaaslike regering;
- (h) om aanbevelings aan die toepaslike instellings en owerhede te doen  
oor—
  - (i) wetgewende en uitvoerende maatreëls, hetsy bestaande of voor-  
gestelde, wat tradisionele leiers se bevoegdheids tydens die oor-  
gang kan raak;
  - (ii) vrye en regverdige politieke deelname in gebiede ten opsigte  
waarvan tradisionele leiers hul bevoegdheids uitoefen; en
  - (iii) aangeleenthede van wesenlike belang vir tradisionele leiers en hul  
gemeenskappe; en
- (i) om enige wysiging van die bepalings of voorwaardes van, en enige  
verlaging of verhoging van, die vergoeding van tradisionele leiers goed  
te keur.

**Bevoegdheids en pligte met betrekking tot wet en orde, stabiliteit en veiligheid**

15. (1) Die Raad het ter bereiking van sy oogmerke die volgende bevoegdheids wat deur middel van sy Subraad oor Wet en Orde, Stabiliteit en Veiligheid uitgeoefen word:

- (a) Om 'n nasionale inspektoraat in te stel bestaande uit lede van  
polisiëringsagentskappe en die ander persone wat die Subraad bepaal,  
wat alle polisiëringsagentskappe moet ondersoek en monitor, en met  
alle sodanige agentskappe of hul inspektorate moet skakel ten einde  
die oogmerke van die Raad te bevorder;
- (b) om ondersoek in te stel na enige aangeleentheid wat op die werksaam-  
hede van die Subraad betrekking het of om so 'n ondersoek deur die  
nasionale inspektoraat te gelas, en vir daardie doel het die Subraad en  
die nasionale inspektoraat, behoudens die ander bepalings van hierdie  
Wet—

- (i) have the authority to interview such persons as they may consider necessary; and
  - (ii) have access to all such documents and facilities of any policing agency as may be necessary for the purpose of the investigation;
  - (c) to establish, in consultation with the Ministers responsible for the various policing agencies, a national independent complaints mechanism under the control of a civilian, which shall be responsible for the receipt and investigation of complaints lodged by members of the public concerning alleged misconduct by members of policing agencies: Provided that if no agreement is reached between the Ministers concerned and the Subcouncil within one month of the establishment of the Subcouncil, the matter shall be referred to the committee referred to in subsection (3)(c) for final determination;
  - (d) to request and obtain, subject to the other provisions of this Act, any information or crime intelligence reports compiled by any policing agency;
  - (e) to establish a committee comprised of local experts or of local and foreign experts, to evaluate or monitor any police action, conduct or reform relating to the objects of the Council;
  - (f) to call for a report on and evaluate the impact of any steps taken by any policing agency to prevent political violence, including such steps as any policing agency is required to take in terms of the National Peace Accord and relevant legislation;
  - (g) to make proposals, after such consultation as it may deem necessary and in consultation with the policing agencies concerned, to improve the effectiveness of and community co-operation with such policing agencies, which proposals shall be given effect to by the participants in the Council and the policing agencies concerned;
  - (h) to receive all recommendations of the Police Board, and to request the Police Board to conduct inquiries and to make recommendations in relation to any policing policy;
  - (i) to attend, and require the minutes of, any relevant meeting of any policing agency;
  - (j) to formulate a statement of values and objects for the promotion of law, order, peace, stability and security for policing agencies, and to introduce or amend a code of conduct which shall be binding on all policing agencies, all participants in the Council and, with the consent of any signatory of the National Peace Accord not participating in the Council, on that signatory as well;
  - (k) to require the investigation of any activity or action by a member of a policing agency which is alleged to have or to have had an adverse effect on the attainment of 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;
  - (l) to liaise with the Independent Electoral Commission and the National Peace Secretariat and other structures of the National Peace Accord concerning matters relevant to the objects of the Council; and
  - (m) to receive all proposed regulations and directives governing the activities of the National Peacekeeping Force and to make recommendations in regard thereto.
- (2) (a) Notwithstanding any other law, the power of the State President to declare the existence of a state of emergency shall be exercised only after consultation with the Subcouncil.
- (b) The Council may by a decision which has the support of at least eighty percent of the members of the Council, review such a declaration and direct the State President to withdraw it, and the State President shall forthwith comply with such a direction.

- (i) die magtiging om met die persone wat hulle nodig ag onderhoude te voer; en
  - (ii) toegang tot alle dokumente en fasiliteite van enige polisiëringsagentskap wat nodig is vir die doel van die ondersoek;
- 5 (c) om, in oorleg met die Ministers wat vir die onderskeie polisiëringsagentskappe verantwoordelik is, 'n onafhanklike nasionale klagtemeganisme in te stel wat onder die beheer van 'n burgerlike persoon staan en wat verantwoordelik is vir die ontvangs en ondersoek van
- 10 klagtes van lede van die publiek aangaande beweerde wangedrag deur lede van polisiëringsagentskappe: Met dien verstande dat indien eenstemmigheid nie tussen die betrokke Ministers en die Subraad binne een maand na die instelling van die Subraad bereik word nie, die aangeleentheid na die komitee bedoel in subartikel (3)(c) vir finale beslissing verwys word;
- 15 (d) om, behoudens die ander bepalings van hierdie Wet, enige inligting of misdaadinligtingsverslae wat deur enige polisiëringsagentskap saamgestel is, aan te vra en te bekom;
- (e) om 'n komitee bestaande uit plaaslike deskundiges of uit plaaslike en
- 20 buitelandse deskundiges in te stel om enige polisie-optrede, -gedrag of -hervorming wat op die oogmerke van die Raad betrekking het, te evalueer of te monitor;
- (f) om 'n verslag aan te vra oor en die uitwerking te evalueer van enige
- 25 stappe wat deur 'n polisiëringsagentskap gedoen is om politieke geweld te voorkom, met inbegrip van die stappe wat 'n polisiëringsagentskap verplig is om te doen ingevolge die Nasionale Vredesverdrag en relevante wetgewing;
- (g) om na die oorlegpleging wat hy nodig ag en in oorleg met die betrokke polisiëringsagentskappe, voorstelle te doen om die doeltreffendheid van en samewerking van die gemeenskap met polisiëringsagentskappe
- 30 te verbeter, aan watter voorstelle deur die deelnemers in die Raad en die betrokke polisiëringsagentskappe gevolg gegee moet word;
- (h) om alle aanbevelings van die Polisieraad te ontvang, en om die Polisieraad te versoek om ondersoeke te onderneem en aanbevelings te doen met betrekking tot enige polisiëringsbeleid;
- 35 (i) om enige relevante vergadering van enige polisiëringsagentskap by te woon en die notules daarvan te vereis;
- (j) om 'n verklaring van norme en oogmerke vir die bevordering van wet, orde, vrede, stabiliteit en veiligheid vir polisiëringsagentskappe op te stel, en om 'n gedragskode in te voer of te wysig wat bindend is vir alle
- 40 polisiëringsagentskappe, alle deelnemers in die Raad en, met die toestemming van enige ondertekenaar van die Nasionale Vredesverdrag wat nie in die Raad deelneem nie, ook vir daardie ondertekenaar;
- (k) om die ondersoek te vereis van enige bedrywigheid of optrede deur 'n lid van 'n polisiëringsagentskap wat na bewering 'n nadelige uitwerking
- 45 op die bereiking van die oogmerke van die Raad het of gehad het en om, in oorleg met die toepaslike Minister, waar nodig, die skorsing, met volle besoldiging, van so 'n lid te vereis hangende die uitslag van die ondersoek;
- (l) om met die Onafhanklike Verkiesingskommissie en die Nasionale
- 50 Vredesekretariaat en ander strukture van die Nasionale Vredesverdrag te skakel oor aangeleenthede wat op die oogmerke van die Raad betrekking het; en
- (m) om alle voorgestelde regulasies en voorskrifte wat die bedrywigheede van die Nasionale Vredesmag reël, te ontvang en om aanbevelings in verband daarmee te doen.
- 55 (2) (a) Ondanks enige ander wet word die bevoegdheid van die Staatspresident om die bestaan van 'n noodtoestand af te kondig, alleenlik na oorlegpleging met die Subraad uitgeoefen.
- (b) Die Raad kan deur middel van 'n besluit wat die steun van ten minste
- 60 tagtig persent van die lede van die Raad geniet, so 'n verklaring hersien en die Staatspresident gelas om dit in te trek, en die Staatspresident moet onverwyld aan so 'n lasgewing voldoen.

(3) (a) Subject to subsection (2) and paragraph (b), any Minister or other person (hereinafter in this subsection referred to as "the functionary") who has the authority to declare the existence of a state of emergency or to declare an area to be an unrest area, as the case may be, and to make regulations with regard thereto, shall do so in consultation with the Subcouncil. 5

(b) Where the circumstances are urgent and pressing and the functionary concerned is unable to consult with the Subcouncil before making such a declaration, the functionary may make such a declaration without such consultation: Provided that if the Subcouncil at its first meeting thereafter, having due regard to such reasons as may be advanced by the functionary for such declaration, does not give its approval to the declaration concerned, the functionary, on being notified thereof by the Subcouncil, shall, subject to paragraph (c), forthwith withdraw the declaration. 10

(c) If the functionary and the Subcouncil are unable to reach agreement as to the necessity of a declaration referred to in paragraph (a) or (b), either party may refer the matter for determination to a committee, composed from the civilian membership of the Police Board, which determination shall be given within three days of such referral and shall be binding on the functionary, the Council and the Subcouncil, and be given effect to. 15

(d) The committee referred to in paragraph (c) shall be comprised of the chairperson and the vice-chairperson of the Police Board and one other member of that board elected by the civilian members of the board. 20

(4) To the extent that an agreement of the nature contemplated in section 34G of the Police Act, 1958 (Act No. 7 of 1958), could have an effect on the attainment of the objects of the Council, the decision to enter into such an agreement shall be taken by the responsible Minister or other responsible functionary in consultation with the Subcouncil. 25

(5) The State President and the Minister of Law and Order, exercising any power under section 3 of the Police Act, 1958, and the appropriate functionary exercising corresponding powers provided for in corresponding legislation of the Republic of Transkei, Bophuthatswana, Venda or Ciskei or any self-governing territory, in relation to an officer 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 between the State President or the Minister or the functionary concerned and the Subcouncil, any of them may refer the matter to the committee referred to in subsection (3)(c) for determination, which determination shall be given within seven days after such referral and shall be binding and be given effect to. 30

(6) (a) To the extent that it may affect the objects of the Council— 35

(i) the Minister of Law and Order, exercising any power in terms of section 33 of the Police Act, 1958, to make, amend or repeal regulations, or issue directives, governing relevant aspects of police conduct, functioning, structures and restructuring; and 40

(ii) the appropriate functionary exercising corresponding powers provided for in corresponding legislation of the Republic of Transkei, Bophuthatswana, Venda or Ciskei or any self-governing territory, shall act in consultation with the Subcouncil, which may propose such action itself: Provided that if no agreement is reached between the Minister or the functionary and the Subcouncil, either party may refer the matter to the committee referred to in subsection (3)(c) for determination, which determination shall be given within seven days after such referral and shall be binding and be given effect to. 45

(b) When the Minister of Law and Order, or the appropriate functionary exercising corresponding powers provided for in corresponding legislation of the Republic of Transkei, Bophuthatswana, Venda or Ciskei or any self-governing territory, issues directives of the nature contemplated in section 4 of the Police Act, 1958, the said Minister or functionary shall inform the Subcouncil thereof. 50

(7) (a) The various policing agencies shall designate officers of the rank of brigadier or above to assist the Subcouncil in drafting rules to ensure uniformity of conduct of members of the said agencies and the co-ordinated control and command of such agencies in so far as such conduct or the functions of those agencies have a bearing on the objects of the Council. 55

(3) (a) Behoudens subartikel (2) en paragraaf (b) moet enige Minister of ander persoon (hieronder in hierdie subartikel "die funksionaris" genoem) wat die bevoegdheid het om die bestaan van 'n noodtoestand af te kondig of om 'n gebied as 'n onrusgebied te verklaar, na gelang van die geval, en om regulasies in verband daarmee uit te vaardig, in oorleg met die Subraad optree.

(b) Waar omstandighede spoedeisend en dringend is en die betrokke funksionaris nie met die Subraad oorleg kan pleeg alvorens so 'n verklaring uitgereik word nie, kan die funksionaris so 'n verklaring sonder sodanige oorlegpleging uitreik: Met dien verstande dat indien die Subraad, by sy eersvolgende vergadering daarna, met behoorlike inagneming van die redes wat die funksionaris vir so 'n verklaring aanvoer, nie sy goedkeuring van die betrokke verklaring verleen nie, moet die funksionaris, nadat hy of sy deur die Subraad daarvan in kennis gestel is, behoudens die bepalinge van paragraaf (c) die verklaring onverwyld intrek.

(c) Indien die funksionaris en die Subraad nie eenstemmigheid oor die noodsaaklikheid al dan nie van 'n verklaring in paragraaf (a) of (b) bedoel, kan bereik nie, kan enigeen van hulle die aangeleentheid vir beslissing verwys na 'n komitee saamgestel uit die burgerlike lidmaatskap van die Polisieraad, watter beslissing binne drie dae na die verwysing gegee moet word en bindend is vir die funksionaris, die Raad en die Subraad en gevolg aan gegee moet word.

(d) Die komitee in paragraaf (c) bedoel, bestaan uit die voorsitter en die vise-voorsitter van die Polisieraad en nog 'n lid van daardie raad, verkies deur die burgerlike lede van daardie raad.

(4) In soverre 'n ooreenkoms van die aard beoog in artikel 34G van die Polisiewet, 1958 (Wet No. 7 van 1958), 'n uitwerking op die bereiking van die oogmerke van die Raad kan hê, word die besluit om so 'n ooreenkoms aan te gaan deur die verantwoordelike Minister of ander verantwoordelike funksionaris in oorleg met die Subraad geneem.

(5) Die Staatspresident en die Minister van Wet en Orde, moet by die uitoefening van enige bevoegdheid kragtens artikel 3 van die Polisiewet, 1958, en die toepaslike funksionaris wat oor ooreenstemmende bevoegdhede ingevolge ooreenstemmende wetgewing van die Republiek van Transkei, Bophuthatswana, Venda of Ciskei of enige selfregerende gebied beskik, moet by die uitoefening van daardie bevoegdhede, ten opsigte van 'n offisier met die rang van brigadier of hoër, in oorleg met die Subraad optree, wat sodanige optrede self kan voorstel: Met dien verstande dat indien daar nie eenstemmigheid tussen die Staatspresident of die Minister of die betrokke funksionaris en die Subraad bereik word nie, enigeen van hulle die aangeleentheid na die komitee bedoel in subartikel (3)(c) vir beslissing kan verwys, watter beslissing binne sewe dae na sodanige verwysing gegee moet word en bindend is en aan gevolg gegee moet word.

(6) (a) In soverre dit die oogmerke van die Raad kan raak—

(i) moet die Minister van Wet en Orde, by die uitoefening van enige bevoegdheid kragtens artikel 33 van die Polisiewet, 1958, om regulasies uit te vaardig, te wysig of te herroep, of voorskrifte uit te reik, wat tersaaklike aspekte van polisiedrag, -funksionering, -strukture en -herstrukturering reël; en

(ii) moet die toepaslike funksionaris wat oor ooreenstemmende bevoegdhede ingevolge ooreenstemmende wetgewing van die Republiek van Transkei, Bophuthatswana, Venda of Ciskei of enige selfregerende gebied beskik, by die uitoefening van daardie bevoegdheid,

optree in oorleg met die Subraad, wat self sodanige optrede kan voorstel: Met dien verstande dat indien daar nie eenstemmigheid tussen die Minister of die funksionaris en die Subraad bereik word nie, enigeen van hulle die aangeleentheid na die komitee bedoel in subartikel (3)(c) vir beslissing kan verwys, watter beslissing binne sewe dae na sodanige verwysing gegee moet word en bindend is en aan gevolg gegee moet word.

(b) Wanneer die Minister van Wet en Orde, of die toepaslike funksionaris wat ooreenstemmende bevoegdhede ingevolge ooreenstemmende wetgewing van die Republiek van Transkei, Bophuthatswana, Venda of Ciskei of enige selfregerende gebied uitoefen, voorskrifte uitreik van die aard beoog in artikel 4 van die Polisiewet, 1958, lig bedoelde Minister of funksionaris die Subraad daaromtrent in.

(b) The said rules shall be formulated within one month after the establishment of the Subcouncil and shall be promulgated by the Council by notice in the *Gazette*: Provided that if the rules are not formulated within that period or do not meet with the approval of the Minister or functionary referred to in subsection 5  
(6)(a), the matter shall be referred to the committee referred to in subsection (3)(c) for final determination.

(c) The officers referred to in paragraph (a) may be summoned at any time to assist the Subcouncil in the performance of its functions.

### **Powers and duties in regard to defence**

16. (1) (a) Each military force shall, at the same time as the submission of the relevant commitment, undertaking and renunciation contemplated in section 10  
4(1)(b) or 4(5)(a), or as soon as possible thereafter, by notice in writing to the Negotiating Council or the Council—

(i) associate itself with that commitment, undertaking and renunciation; and 15

(ii) acknowledge the authority of the Council and the Subcouncil on Defence for the purpose of attaining the objects of this Act.

(b) Any military force which fails to comply with paragraph (a), shall not be regarded as an armed force, a defence force or a military force, as the case may be, for the purposes of this section. 20

(2) The Council shall, for the purpose of attaining its objects, have the following powers to be exercised through its Subcouncil on Defence:

(a) To be kept informed on a continuous basis by each military force regarding its activities (including, but not restricted to, the planning, preparation and execution of any action by such military force) likely to have an adverse effect on the attainment of the objects of the Council; 25

(b) to be kept informed on a continuous basis by each participant in the Council of any proposed legislation (including subordinate legislation) and internal directives or rules regarding the conduct and deployment of any military force; 30

(c) to investigate through an independent body appointed or designated by the Subcouncil, or order the investigation of, the conduct of any member or members of a military force which is likely to have an adverse effect on the attainment of the objects of the Council;

(d) in respect of any activity or action by any member or members of a military force which is alleged to have or to have had an adverse effect on the attainment of the objects of the Council, to recommend appropriate disciplinary measures or criminal proceedings and order, in consultation with the commander of the military force concerned, the restriction to barracks or suspension, on full pay, of such member or members pending the outcome of such measures or proceedings, or recommend appropriate measures in regard to any unit or element of such military force; 35

(e) to formulate a code of conduct which shall be binding on all members of all military forces, and to monitor its observance; 45

(f) to undertake or to commission research into any relevant matter, including, but not limited to, the parliamentary control, composition, manpower policy (including conscription), organization and executive command of a future South African defence force, the policy in regard to armed forces which are not under the authority and control of participants in the Council, and the future of the arms and related industries; 50

(g) to oversee any planning, preparation and training for a future South African defence force;

(h) to liaise with the media and with the various military forces so as to keep the military forces and the public informed of developments regarding defence-related matters; 55

(i) to monitor media reporting on defence-related matters;

(j) to establish a co-ordinating council, comprised of the commander, or a

(7) (a) Die onderskeie polisiëringsagentskappe moet offisiere van die rang van brigadier of hoër aanwys om die Subraad by te staan by die opstel van reëls ten einde eenvormigheid van die gedrag van lede van bedoelde agentskappe en die gekoördineerde beheer en bevel oor daardie agentskappe te verseker in soverre sodanige gedrag of die werksaamhede van daardie agentskappe betrekking het op die oogmerke van die Raad.

(b) Bedoelde reëls moet binne een maand na die instelling van die Subraad opgestel word en word deur die Raad by kennisgewing in die *Staatskoerant* afgekondig: Met dien verstande dat indien die reëls nie binne daardie tydperk opgestel word nie of nie die goedkeuring van die Minister of funksionaris bedoel in subartikel (6)(a) wegdra nie, die aangeleentheid na die komitee bedoel in subartikel (3)(c) vir finale beslissing verwys word.

(c) Die offisiere bedoel in paragraaf (a) kan te eniger tyd ontbied word om die Subraad by te staan by die verrigting van sy werksaamhede.

## 15 Bevoegdheede en pligte met betrekking tot verdediging

16. (1) (a) Elke militêre mag moet op dieselfde tydstip as die voorlegging van die betrokke verbintenis, onderneming en afstanddoening beoog in artikel 4(1)(b) of 4(5)(a), of so gou moontlik daarna, by skriftelike kennisgewing aan die Onderhandelingsraad of die Raad—

(i) hom met daardie verbintenis, onderneming en afstanddoening vereenselwig; en

(ii) die gesag van die Raad en die Subraad oor Verdediging vir die doel van die bereiking van die oogmerke van hierdie Wet erken.

(b) 'n Militêre mag wat versuim om aan paragraaf (a) te voldoen, word nie as 'n gewapende mag, 'n weermag of 'n militêre mag, na gelang van die geval, vir die doeleindes van hierdie artikel beskou nie.

(2) Die Raad het ter bereiking van sy oogmerke die volgende bevoegdheede wat deur middel van sy Subraad oor Verdediging uitgeoefen word:

(a) Om op 'n deurlopende grondslag deur elke militêre mag ingelig gehou te word aangaande sy bedrywighede (met inbegrip van, maar nie beperk nie tot, die beplanning, voorbereiding en uitvoering van enige optrede deur die militêre mag) wat waarskynlik 'n nadelige uitwerking op die bereiking van die oogmerke van die Raad gaan hê;

(b) om op 'n deurlopende grondslag deur elke deelnemer in die Raad ingelig gehou te word aangaande enige voorgestelde wetgewing (met inbegrip van ondergeskikte wetgewing) en interne voorskrifte of reëls betreffende die gedrag en ontplooiing van enige militêre mag;

(c) om deur middel van 'n onafhanklike liggaam deur die Subraad aangestel of aangewys ondersoek in te stel na, of die ondersoek te gelas van, die gedrag van enige lid of lede van 'n militêre mag wat waarskynlik 'n nadelige uitwerking op die bereiking van die oogmerke van die Raad gaan hê;

(d) om, ten opsigte van enige handeling of optrede deur enige lid of lede van 'n militêre mag wat na bewering 'n nadelige uitwerking op die bereiking van die oogmerke van die Raad het of gehad het, toepaslike dissiplinêre maatreëls of strafregtelike verrigtinge aan te beveel en om, in oorleg met die bevelvoerder van die betrokke militêre mag, die beperking tot kaserne of skorsing, met volle soldy, van so 'n lid of lede te gelas hangende die uitslag van sodanige maatreëls of verrigtinge, of om toepaslike maatreëls met betrekking tot enige eenheid of element van so 'n militêre mag aan te beveel;

(e) om 'n gedragskode op te stel wat bindend is vir alle lede van alle militêre magte, en om die nakoming daarvan te monitor;

(f) om navorsing ten opsigte van enige tersaaklike aangeleentheid te onderneem of te gelas, met inbegrip van, maar nie beperk nie tot, die parlementêre beheer, samestelling, mannekragbeleid (met inbegrip van diensplig), organisasie en uitvoerende bevelvoering van 'n toekomstige Suid-Afrikaanse weermag, die beleid ten opsigte van gewapende magte wat nie onder die gesag en beheer van deelnemers in die Raad is nie, en die toekoms van wapen- en verbandhoudende nywerhede;

person designated by the commander, of every military force, which shall—

(i) liaise with all military forces in order to promote the objects of the Council; and

(ii) report and make recommendations to the Subcouncil, as and when required, concerning any matter relating to the functions of the Subcouncil; and

(k) to budget for and be allocated additional resources for the daily maintenance, the remuneration and allowances, if any, and the administration in assembly points within South Africa of all armed forces: Provided that the location of and the security arrangements in regard to such assembly points, the extent of such maintenance, remuneration and allowances, if any, and the requirements entitling a person to be regarded as a member of an armed force for the purpose of this paragraph, shall be subject to agreement by a committee of experts appointed by the Planning Committee of the Multi-Party Negotiating Process, and comprised of representatives of the military forces of participants in the Negotiating Council designated by the commanders of those forces.

(3) For the purpose of subsection (2)(k) a person shall not be considered a member of an armed force as defined in section 1, unless—

(a) that person was a registered member of such armed force at the commencement of this section and qualifies in terms of the requirements referred to in subsection (2)(k); and

(b) that person's name and other particulars are included in a certified personnel register, which shall be submitted by such armed force to the Subcouncil within 21 days after the commencement of this section or, in the case of a participant referred to in section 4(5), within 21 days after the publication of the relevant proclamation referred to in section 4(5)(a), and which register shall be updated monthly.

(4) (a) The Council shall, in consultation with the Minister of Defence, make regulations governing—

(i) the deployment of any defence force unit in crime prevention or peacekeeping operations; and

(ii) the relationship and interaction between such a unit and any other unit of a defence force, the National Peacekeeping Force or any policing agency involved in such operations,

and any such deployment and the discontinuance of such deployment shall take place only in accordance with such regulations and with the concurrence of both the said Minister and the Subcouncil.

(b) Until such regulations have been promulgated, a defence force unit may be deployed or continue to be deployed in crime prevention and peacekeeping operations in terms of existing laws governing such deployment: Provided that in respect of any such deployment—

(i) which took place before the commencement of this section, the Subcouncil may review such deployment and, in consultation with the Minister of Defence, order the discontinuance of such deployment;

(ii) which takes place after the commencement of this section, such deployment and the discontinuance of such deployment shall take place only with the concurrence of both the Minister and the Subcouncil.

(c) If the Council or the Subcouncil and the Minister are unable to reach agreement on any matter dealt with in this subsection or, in the case of the regulations contemplated in paragraph (a), are unable to reach such agreement within one month of the appointment of the members of the Subcouncil, the matter shall be referred to the Special Electoral Court for determination.

(5) Notwithstanding subsection (4)(a), but subject to section 13(2)(b), the command structure of any military force shall remain responsible for the day to day management of such force, including routine transfers, training, promotion and, in the case of any defence force, any routine defensive functions relating to the protection of the integrity of the borders of the State concerned.

- (g) om toesig te hou oor enige beplanning, voorbereiding en opleiding vir 'n toekomstige Suid-Afrikaanse weermag;
- (h) om met die media en die onderskeie militêre magte te skakel ten einde die militêre magte en die publiek ingelig te hou oor ontwikkelinge betreffende aangeleenthede wat met verdediging verband hou;
- (i) om mediaverslaggewing oor aangeleenthede wat met verdediging verband hou, te monitor;
- (j) om 'n koördinerende raad in te stel, bestaande uit die bevelvoerder, of 'n persoon deur die bevelvoerder aangewys, van elke militêre mag, watter raad—
- (i) met alle militêre magte moet skakel ten einde die oogmerke van die Raad te bevorder; en
- (ii) aan die Subraad verslag moet doen en aanbevelings moet doen, soos en wanneer vereis, betreffende enige aangeleentheid wat met die werksaamhede van die Subraad verband hou; en
- (k) om vir bykomende bronne vir die daaglikse onderhoud, die vergoeding en toelaes, as daar is, en die administrasie by vergaderplekke binne Suid-Afrika van alle gewapende magte te begroot en om die nodige toewysings te ontvang: Met dien verstande dat die ligging en die veiligheidsreëlings met betrekking tot sodanige vergaderplekke, die omvang van sodanige onderhoud, vergoeding en toelaes, as daar is, en die vereistes op grond waarvan 'n persoon geregtig is om vir die doel van hierdie paragraaf as 'n lid van 'n gewapende mag beskou te word, onderworpe is aan ooreenkoms deur 'n komitee van deskundiges deur die Beplanningskomitee van die Veelparty-onderhandelingsproses aangestel, en wat bestaan uit verteenwoordigers van die militêre magte van deelnemers in die Onderhandelingsraad, aangewys deur die bevelvoerders van daardie magte.
- (3) Vir die doel van subartikel (2)(k) word 'n persoon nie as 'n lid van 'n gewapende mag soos in artikel 1 omskryf, beskou nie, tensy—
- (a) daardie persoon by die inwerkingtreding van hierdie artikel 'n geregistreerde lid van so 'n gewapende mag was en ingevolge die vereistes in subartikel (2)(k) bedoel daarvoor kwalifiseer; en
- (b) daardie persoon se naam en ander besonderhede opgeneem is in 'n gesertifiseerde personeelregister, wat binne 21 dae na die inwerkingtreding van hierdie artikel deur die gewapende mag aan die Subraad voorgelê moet word of, in die geval van 'n deelnemer bedoel in artikel 4(5), binne 21 dae na die publikasie van die betrokke proklamasie bedoel in artikel 4(5)(a), en watter register maandeliks bygewerk moet word.
- (4) (a) Die Raad moet in oorleg met die Minister van Verdediging regulasies uitvaardig—
- (i) wat die ontplooiing van enige weermageenheid in misdaadvoorkoming- of vredeshandhawingoperasies reël; en
- (ii) wat die verhouding en interaksie reël tussen so 'n eenheid en enige ander eenheid van 'n weermag, die Nasionale Vredesmag of enige polisiëringsagentskap wat by sodanige operasie betrokke is, en so 'n ontplooiing en die staking van so 'n ontplooiing geskied alleenlik ooreenkomstig sodanige regulasies en met die instemming van sowel bedoelde Minister as die Subraad.
- (b) Totdat sodanige regulasies afgekondig is, kan 'n weermagseenheid in misdaadvoorkoming- en vredeshandhawingoperasies ontplooi word of ontplooi bly ingevolge bestaande wette wat sodanige ontplooiing reël: Met dien verstande dat ten opsigte van sodanige ontplooiing—
- (i) wat voor die inwerkingtreding van hierdie artikel plaasgevind het, die Subraad sodanige ontplooiing kan hersien en, in oorleg met die Minister van Verdediging, die staking van sodanige ontplooiing kan gelas;
- (ii) wat na die inwerkingtreding van hierdie artikel plaasvind, sodanige ontplooiing en die staking van sodanige ontplooiing alleenlik met die instemming van sowel die Minister as die Subraad geskied.
- (c) Indien die Raad of die Subraad en die Minister nie eenstemmigheid oor enige aangeleentheid wat in hierdie subartikel behandel word, kan bereik nie of,

(6) The Subcouncil may establish—

- (a) monitoring mechanisms to ensure that its directives are complied with and that the activities of any military force have no adverse effect on the attainment of the objects of the Council;
- (b) any mechanism to ensure appropriate interaction between the Subcouncil, the various military forces, the National Peacekeeping Force, policing agencies and any other relevant agency at national, regional or local level.

(7) The Minister of Defence, exercising the powers in terms of the Defence Act, 1957 (Act No. 44 of 1957), and the appropriate functionary exercising corresponding powers provided for in the corresponding legislation of the Republic of Transkei, Bophuthatswana, Venda or Ciskei, to make, amend or repeal regulations regarding matters concerning defence force conduct, functioning, structures and deployment relevant to the objects of the Council, and any commander of an armed force issuing directives in regard to such a matter, shall act in consultation with the Subcouncil, which may itself propose such regulations or directives or the amendment or repeal of such regulations or directives: Provided that if no agreement is reached between the Minister, functionary or commander and the Subcouncil, the matter shall be referred to the Special Electoral Court for determination.

(8) Without derogating from the rights of any participant in the Council in terms of section 23, the commander of any military force shall ensure that any directive of the Subcouncil regarding the deployment or conduct of any military force is made known to and binding upon all members of such military force, including, where appropriate, by incorporation thereof in the relevant standing orders and any disciplinary code.

(9) The Subcouncil shall have the responsibility to ensure and monitor—

- (a) the audit and effective supervision of the arms and armaments of any military force, by that force; and
- (b) the identification of the personnel of any military force, for which purpose every military force shall submit a certified personnel register to the Subcouncil within 21 days after the commencement of this section or, in the case of a participant referred to in section 4(5), within 21 days after the publication of the relevant proclamation referred to in section 4(5)(a), and shall update such register on a monthly basis.

(10) (a) The Subcouncil shall budget for and be allocated the necessary resources to establish and maintain a force, to be known as the National Peacekeeping Force, the functions of which shall relate to the maintenance of peace and public order in South Africa.

(b) The National Peacekeeping Force shall be comprised of members of—

- (i) all military forces, as far as practicable in equal numbers, except in so far as any such force prefers to contribute fewer members to that Force; and
- (ii) every policing agency which falls under the authority and control of a participant in the Council,

wishing to be represented in that Force.

(11) The Subcouncil shall establish a National Peacekeeping Force Command Council, comprised of representatives of all the military forces and policing agencies participating in the National Peacekeeping Force and wishing to be represented on that Command Council.

(12) The Subcouncil, in consultation with the National Peacekeeping Force Command Council, having due regard also to the interests of women, shall—

- (a) establish and see to the training of a unit of National Peacekeeping Force instructors, who may be drawn from the participating military forces and policing agencies but shall also include foreign experts;
- (b) formulate the philosophy, doctrine, syllabi and training policy of the National Peacekeeping Force;
- (c) establish criteria for the recruitment, training and selection of members of the National Peacekeeping Force;

in die geval van die regulasies beoog in paragraaf (a), nie binne een maand na die aanstelling van die lede van die Subraad eenstemmigheid kan bereik nie, word die aangeleentheid na die Spesiale Verkiesingshof vir beslissing verwys.

- (5) Ondanks subartikel (4)(a), maar behoudens artikel 13(2)(b), bly die bevelstruktuur van enige militêre mag verantwoordelik vir die daaglikse bestuur van daardie mag, met inbegrip van roetineverplasings, opleiding, bevordering, en, in die geval van enige weermag, enige roetineverdedigingsfunksies met betrekking tot die beskerming van die integriteit van die grense van die betrokke Staat.
- (6) Die Subraad kan—
- (a) moniteringsmeganismes instel om te verseker dat aan sy voorskifte voldoen word en dat die bedrywighede van enige militêre mag nie 'n nadelige uitwerking op die bereiking van die oogmerke van die Raad het nie;
- (b) enige meganisme instel om toepaslike interaksie tussen die Subraad, die onderskeie militêre magte, die Nasionale Vredesmag, polisiëringsagentskappe en enige ander tersaaklike agentskap op nasionale, streek- of plaaslike vlak te verseker.
- (7) Die Minister van Verdediging wat die bevoegdhede kragtens die Verdedigingswet, 1957 (Wet No. 44 van 1957), uitoefen om regulasies uit te vaardig, te wysig of te herroep aangaande aangeleenthede met betrekking tot weermaggedrag, -funksionering, -strukture en -ontplooiing wat betrekking het op die oogmerke van die Raad, en die toepaslike funksionaris wat ooreenstemmende bevoegdhede uitoefen ingevolge ooreenstemmende wetgewing van die Republiek van Transkei, Bophuthatswana, Venda of Ciskei, en die bevelvoerder van 'n gewapende mag wat voorskrifte ten opsigte van so 'n aangeleentheid uitreik, moet in oorleg met die Subraad optree, wat self sodanige regulasies of voorskrifte of die wysiging of herroeping van sodanige regulasies of voorskrifte kan voorstel: Met dien verstande dat indien eenstemmigheid nie tussen die Minister, funksionaris of bevelvoerder en die Subraad bereik word nie, die aangeleentheid na die Spesiale Verkiesingshof vir beslissing verwys word.
- (8) Sonder om afbreuk te doen aan die regte van enige deelnemer in die Raad ingevolge artikel 23, moet die bevelvoerder van 'n militêre mag verseker dat enige lasgewing van die Subraad aangaande die ontplooiing of gedrag van enige militêre mag bekend gemaak word aan en bindend is vir alle lede van die militêre mag, met inbegrip van die opneming daarvan, waar toepaslik, in die betrokke staande orders en dissiplinêre kode.
- (9) Die Subraad het die verantwoordelikheid om—
- (a) die ouditering van en doeltreffende toesig oor die wapens en wapentuig van 'n militêre mag deur daardie mag te verseker en te monitor; en
- (b) die identifikasie van die personeel van 'n militêre mag te verseker en te monitor, vir watter doel elke militêre mag 'n gesertifiseerde personeelregister aan die Subraad moet voorlê binne 21 dae na die inwerkingtreding van hierdie artikel, of in die geval van 'n deelnemer bedoel in artikel 4(5), binne 21 dae na die publikasie van die betrokke proklamasie in artikel 4(5)(a) bedoel, en sodanige register op 'n maandelikse grondslag moet bywerk.
- (10) (a) Die Subraad begroot vir en word die nodige bronne toegeken om 'n mag wat bekend staan as die Nasionale Vredesmag in te stel en te onderhou, watter mag se werksaamhede betrekking het op die behoud van vrede en openbare orde in Suid-Afrika.
- (b) Die Nasionale Vredesmag bestaan uit lede van—
- (i) alle militêre magte, sover doenlik in gelyke getalle, behalwe in soverre so 'n mag verkies om minder lede tot daardie Mag by te dra; en
- (ii) elke polisiëringsagentskap wat onder die gesag en beheer van 'n deelnemer in die Raad val, wat in daardie Mag verteenwoordig wil word.
- (11) Die Subraad moet 'n Nasionale Vredesmag-bevelsraad instel, wat bestaan uit verteenwoordigers van alle militêre magte en polisiëringsagentskappe wat in die Nasionale Vredesmag deelneem en wat in daardie Bevelsraad verteenwoordig wil word.
- (12) Die Subraad moet, in oorleg met die Nasionale Vredesmag-bevelsraad, met behoorlike inagneming ook van die belange van vroue—

- (d) establish the command structure of the National Peacekeeping Force and appoint, and in its discretion dismiss, the Commander and other senior officers, above a rank to be determined by the Subcouncil, of that Force, which command structure shall be accountable to the Subcouncil through the National Peacekeeping Force Command Council; 5
- (e) determine standard operational procedures for the National Peacekeeping Force;
- (f) consult with other military forces and policing agencies regarding the deployment and operation of the National Peacekeeping Force; and
- (g) make regulations regarding— 10
- (i) the powers and duties of the National Peacekeeping Force;
  - (ii) the circumstances under which the National Peacekeeping Force may be deployed;
  - (iii) the conditions of service and remuneration of members of the National Peacekeeping Force: Provided that the provisions of section 6(2) shall apply *mutatis mutandis* to such members; 15
  - (iv) the relationship and interaction between the National Peacekeeping Force and any other military force or policing agency deployed in a peacekeeping operation in the same area as the National Peacekeeping Force; 20
  - (v) a disciplinary code, including a code of conduct, for members of the National Peacekeeping Force;
  - (vi) the application of any existing law relating to any matter referred to in subparagraph (i), (ii), (iii), (iv) or (v), with such adjustments, if any, to that law as may be considered necessary. 25
- (13) (a) The National Peacekeeping Force shall have its own distinctive uniform and insignia, and its vehicles shall be marked distinctively.
- (b) The Subcouncil shall—
- (i) in consultation with the National Peacekeeping Force Command Council and after consultation with the South African Defence Force, determine the requirements of the National Peacekeeping Force in respect of uniforms, transport, accommodation, equipment and other logistical support; and 30
  - (ii) budget for and be allocated funds for this purpose. 35
- (c) The uniforms, transport, accommodation, equipment and other logistical support referred to in paragraph (b) shall be supplied by the South African Defence Force, either from its own resources or from the resources of any other defence force or policing agency or any other source, for the account of the Subcouncil.
- (14) In the event of the Subcouncil and the National Peacekeeping Force Command Council being unable to reach agreement on any matter referred to in subsection (12), the matter shall be referred to the Council, which shall endeavour to resolve it, failing which the matter shall be referred to the Special Electoral Court for determination. 40

#### **Powers and duties in regard to finance** 45

17. (1) The Council shall, for the purpose of attaining its objects, have the following powers to be exercised through its Subcouncil on Finance:

- (a) To be informed of recent economic developments, economic policy objectives and targets for the medium term and, more particularly, for the ensuing fiscal year (1994/95); 50
- (b) to be represented on all function and budgeting committees in respect of the 1994/95 fiscal year of any Government or regional authority with a view to ensuring that funds are not applied in a manner favouring one or other political party; 60
- (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; 55

- (a) 'n opleidingseenheid vir Nasionale Vredesmag-instrukteurs instel en omsien na die opleiding van daardie instrukteurs, wat gewerf kan word uit die deelnemende militêre magte en polisiëringsagentskappe, maar wat ook buitelandse deskundiges moet insluit;
- 5 (b) die filosofie, leerstelsel, leerplanne en opleidingsbeleid van die Nasionale Vredesmag formuleer;
- (c) maatstawwe bepaal vir die werwing, opleiding en keuring van lede van die Nasionale Vredesmag;
- 10 (d) die bevelstruktuur van die Nasionale Vredesmag instel en die Bevelvoerder en ander senior offisiere van daardie Mag, bo 'n rang deur die Subraad bepaal, aanstel en in sy diskresie ontslaan, watter bevelstruktuur deur middel van die Nasionale Vredesmag-bevelsraad aan die Subraad verantwoording verskuldig is;
- (e) standaard- operasionele prosedures vir die Nasionale Vredesmag bepaal;
- 15 (f) met ander militêre magte en polisiëringsagentskappe oorleg pleeg rakende die ontplooiing en bedryf van die Nasionale Vredesmag; en
- (g) regulasies uitvaardig met betrekking tot—
- (i) die bevoegdheids- en pligte van die Nasionale Vredesmag;
- 20 (ii) die omstandighede waarin die Nasionale Vredesmag ontplooi kan word;
- (iii) die diensvoorwaardes en vergoeding van lede van die Nasionale Vredesmag: Met dien verstande dat die bepaling van artikel 6(2) *mutatis mutandis* met betrekking tot sodanige lede van toepassing is;
- 25 (iv) die verhouding en interaksie tussen die Nasionale Vredesmag en enige ander militêre mag of polisiëringsagentskap wat in dieselfde gebied as die Nasionale Vredesmag by 'n vredeshandhawing-operasie ontplooi is;
- 30 (v) 'n dissiplinêre kode, met inbegrip van 'n gedragskode, vir lede van die Nasionale Vredesmag; en
- (vi) die toepassing van enige bestaande wet met betrekking tot enige aangeleentheid bedoel in subparagraaf (i), (ii), (iii), (iv) of (v), met sodanige aanpassings, as daar is, aan daardie wet as wat nodig geag word.
- 35 (13) (a) Die Nasionale Vredesmag het sy eie onderskeibare uniform en ordetekens, en sy voertuie word onderskeibaar gemerk.
- (b) Die Subraad moet—
- (i) in oorleg met die Nasionale Vredesmag-bevelsraad en na oorlegpleging met die Suid-Afrikaanse Weermag, die behoeftes van die Nasionale Vredesmag ten opsigte van uniforms, vervoer, akkommodasie, toerusting en ander logistieke ondersteuning bepaal; en
- 40 (ii) vir daardie doel begroot en fondse toegeken word.
- (c) Die uniforms, vervoer, akkommodasie, toerusting en ander logistieke ondersteuning bedoel in paragraaf (b) word deur die Suid-Afrikaanse Weermag voorsien, hetsy uit sy eie bronne of uit die bronne van enige ander weermag of polisiëringsagentskap of enige ander bron, op rekening van die Subraad.
- 45 (14) Indien die Subraad en die Nasionale Vredesmag-bevelsraad nie eenstemmigheid kan bereik oor enige aangeleentheid bedoel in subartikel (12) nie, word die aangeleentheid na die Raad verwys, wat moet poog om dit op te los, by gebreke waarvan die aangeleentheid na die Spesiale Verkiesingshof vir beslissing verwys word.

### Bevoegdheids- en pligte met betrekking tot finansies

- 55 17. (1) Die Raad het ter bereiking van sy oogmerke die volgende bevoegdheids- en pligte wat deur middel van sy Subraad oor Finansies uitgeoefen word:
- (a) Om ingelig te word oor onlangse ekonomiese ontwikkelinge, ekonomiese beleidsoogmerke en -doelwitte vir die mediumtermyn en, meer in die besonder, vir die eersvolgende belastingjaar (1994/95);
- 60 (b) om in alle funksie- en begrotingskomitees ten opsigte van die 1994/95-belastingjaar van enige Regering of streekowerheid verteenwoordig te

- (d) to approve any measures designed to rationalize Treasury functions in the process of realignment of governmental structures;
- (e) to advise the relevant departments of State concerning the privatisation or tendering out of functions currently performed by those departments;
- (f) to investigate or require the investigation of specific allegations of corruption or inefficiency that may have an adverse effect on the attainment of the objects of the Council; 5
- (g) to monitor the contents of existing public service disciplinary codes and to request disciplinary investigations into the conduct of public servants who fail to perform their duties within guidelines governing financial discipline and authorized or proper expenditure; 10
- (h) to make recommendations regarding the prevention of wasteful expenditure; and
- (i) to monitor any expenditure of State funds by any Government or any department of State or any institution funded wholly or partly from State funds, and to ascertain whether any public monies or State funds have been allocated or given improperly to any political party. 15
- (2) In the exercise of its powers and the performance of its duties, the Subcouncil shall, subject to the other provisions of this Act—
- (a) have access to all information relating to its functions available from any Government or administration, the South African Reserve Bank, the Central Economic Advisory Service, the Tax Advisory Committee and the National Economic Forum; and 20
- (b) be entitled to conduct such research as it considers necessary.
- (3) In the course of the preparation of the 1994/95 budgets of any Government, the views of the Subcouncil shall be taken into account, and there shall be consultation on— 25
- (a) the overall level of state expenditure;
- (b) the composition of security, social, economic and general state expenditure, broken down into capital and recurrent expenditure; 30
- (c) the level and composition of any taxes to be collected by any Government;
- (d) the financing of budget deficits;
- (e) the contingent liabilities of any Government; and
- (f) any other matter considered by the Subcouncil to be relevant to the objects of the Council. 35
- (4) (a) The Subcouncil shall be informed of and its approval sought for—
- (i) the upgrading of any post or the creation of any new post in the public service of any Government above a level to be determined by the Subcouncil; and 40
- (ii) any amendment to or deviation from the laws governing the retirement of members of any such public service.
- (b) The Subcouncil shall be informed of the proposed filling of any vacant post in the public service of any Government above a level to be determined by the Subcouncil. 45
- (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 between a Government and any foreign government or international agency, and no such agreement shall be concluded without the prior approval of the Subcouncil. 50
- (6) The Subcouncil shall be informed of transfers of public funds as between the various Governments, regardless of the departments from which the transfers are made.

- word ten einde te verseker dat fondse nie op 'n wyse aangewend word wat die een politieke party bo 'n ander bevoordeel nie;
- (c) om die verslae te ontvang, en daarbenewens die inligting met betrekking tot fiskale oordragte, wat redelikerwys nodig is vir die Subraad om sy werksaamhede ingevolge hierdie Wet te verrig;
- (d) om maatreëls goed te keur wat daarop gerig is om Tesouriefunksies in die proses van herskikking van regeringstrukture te rasionaliseer;
- (e) om die betrokke staatsdepartemente te adviseer betreffende die privatisering of uitbesteding van werksaamhede wat tans deur daardie departemente verrig word;
- (f) om ondersoek in te stel of te vereis na spesifieke beweringe van korrupsie of ondoeltreffendheid wat 'n nadelige uitwerking op die bereiking van die oogmerke van die Raad kan hê;
- (g) om die inhoud van bestaande staatsdiens- dissiplinêre kodes te monitor en om dissiplinêre ondersoeke aan te vra ten opsigte van die gedrag van staatsamptenare wat versuim om hulle pligte te verrig binne die riglyne wat finansiële dissipline en gemagtigde of behoorlike uitgawes reël;
- (h) om aanbevelings te doen met betrekking tot die voorkoming van verkwistende uitgawes; en
- (i) om enige besteding van staatsfondse deur enige Regering of enige staatsdepartement of enige instelling wat in die geheel of gedeeltelik uit staatsfondse befonds word, te monitor en om vas te stel of enige openbare geld of staatsfondse onbehoorlik aan enige politieke party toegeken of gegee is.
- (2) By die uitoefening van sy bevoegdhede en die verrigting van sy pligte het die Subraad, behoudens die ander bepalings van hierdie Wet—
- (a) toegang tot alle inligting wat op sy werksaamhede betrekking het en wat by enige Regering of administrasie, die Suid-Afrikaanse Reserwebank, die Sentrale Ekonomiese Adviesdiens, die Belastingadvieskomitee en die Nasionale Ekonomiese Forum beskikbaar is; en
- (b) die bevoegdheid om die navorsing te doen wat hy nodig ag.
- (3) By die opstel van die 1994/95-begrotings van enige Regering moet die standpunte van die Subraad in ag geneem word, en moet daar oorlegpleging wees oor—
- (a) die algehele vlak van staatsbesteding;
- (b) die samestelling van veiligheids-, sosiale, ekonomiese en algemene staatsbesteding, onderverdeel in kapitale en lopende uitgawes;
- (c) die vlak en samestelling van enige belasting wat deur enige Regering gehef staan te word;
- (d) die finansiering van begrotingstekorte;
- (e) die deurlopende verpligtinge van enige Regering; en
- (f) enige ander aangeleentheid wat die Subraad as ter sake beskou vir die oogmerke van die Raad.
- (4)(a) Die Subraad moet ingelig word oor en sy goedkeuring moet verkry word vir—
- (i) die opgradering van enige pos of die skepping van enige nuwe pos in die staatsdiens van enige Regering bo 'n vlak wat deur die Subraad bepaal word; en
- (ii) enige wysiging of afwyking van die wette wat die aftrede van lede van enige sodanige staatsdiens reël.
- (b) Die Subraad moet ingelig word oor die voorgestelde vul van enige vakante pos in die Staatsdiens van enige Regering bo 'n vlak wat deur die Subraad bepaal word.
- (5) Die Subraad moet op 'n deurlopende grondslag voorsien word van volledige besonderhede, met inbegrip van die voorgenome doeleindes, aangaande enige nuwe internasionale finansiële ooreenkoms wat tussen 'n Regering en enige buitelandse regering of internasionale agentskap beding word, en so 'n ooreenkoms word nie sonder die voorafverkreë goedkeuring van die Subraad aangegaan nie.
- (6) Die Subraad moet ingelig word oor oordragte van openbare fondse tussen die onderskeie Regerings, ongeag vanaf watter departemente die oordragte afkomstig is.

(7) The Subcouncil shall be informed on a monthly basis of domestic borrowing by the various Governments of amounts in excess of a figure determined by the Council.

#### **Powers and duties in regard to foreign affairs**

18. The Council shall, for the purpose of attaining its objects, through its Subcouncil on Foreign Affairs, in regard to foreign policy liaise, monitor, make recommendations and, where it is considered 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 that community could make to the peaceful transition to democracy in South Africa;
  - (c) in consultation with the Subcouncil on Finance, securing such international assistance as the Subcouncil considers necessary in order to address the socio-economic needs of the people as a whole and not to serve the interests of one or other political party;
  - (d) ensuring that any foreign policy initiative benefits the country as a whole and not one or other political party; and
  - (e) promoting such international relations, including trade, finance, culture and sport relations, as in the opinion of the Subcouncil will benefit the country as a whole.

#### **Powers and duties in regard to the status of women**

19. The Council shall, for the purpose of attaining its objects, with a view to the full and equal participation of women in the preparation for, the implementation of and the transition to a free and democratic order in South Africa, at national, regional and local levels, have the following powers to be exercised through its Subcouncil on the Status of Women:
- (a) To liaise with and advise all participants in the Council, all subcouncils, the Independent Electoral Commission, the Independent Media Commission, the Independent Broadcasting Authority, Governments, relevant departments of State, local governments, traditional authorities and policy-making forums;
  - (b) to propose amendments to existing or proposed legislation and facilitate the implementation of such legislation;
  - (c) to request information and make formal and substantive representations regarding any decision or action referred to in section 13(2)(a);
  - (d) to liaise with all employee and employer organizations, all groups of women (in particular rural women and women under customary unions) and any other relevant organizations and structures;
  - (e) to investigate any matter affecting the status of women and relating to the objects of the Council, for which purpose it shall have the authority to interview any officer or employee of any participant in the Council or of any regional or local government;
  - (f) to commission research;
  - (g) to promote and monitor educational programmes regarding the participation of women in the electoral process;
  - (h) to ensure that positive, practical steps are taken to enable all women to exercise fully their right to—
    - (i) vote in all elections and public referendums, be eligible for election to all publicly elected bodies and freely participate in the political, public and electoral processes at all levels in South Africa;
    - (ii) participate in the formulation and implementation of policy at all levels of government and in the Council;
    - (iii) equal opportunity in the appointment to, participation in, election to and promotion within all structures at all levels of government; and

(7) Die Subraad moet op 'n maandelikse grondslag ingelig word oor binne-landse lenings deur die onderskeie Regerings van bedrae bo 'n totaal wat die Raad bepaal.

#### **Bevoegdhede en pligte met betrekking tot buitelandse sake**

- 5 18. Die Raad moet ter bereiking van sy oogmerke, deur middel van sy Subraad oor Buitelandse Sake, met betrekking tot buitelandse beleid skakel, monitor, aanbevelings doen, en waar dit nodig geag word, bystand lewer met die oog daarop om—
- 10 (a) voortdurend die wyds moontlike konsensus te bereik oor aangeleenthede wat Suid-Afrika se internasionale belange raak, veral sy langtermynbelange;
- (b) toepaslike ooreenkomste met die internasionale gemeenskap te beding betreffende die bydrae wat daardie gemeenskap kan lewer ten opsigte van die vreedsame oorgang na demokrasie in Suid-Afrika;
- 15 (c) in oorleg met die Subraad oor Finansies, die internasionale bystand te bekom wat die Subraad nodig ag ten einde die sosio-ekonomiese behoeftes van die bevolking as geheel te verlig en nie om die belange van die een of ander politieke party te dien nie;
- (d) te verseker dat enige buitelandse beleidsinisiatiewe die land as geheel bevoordeel en nie die een of ander politieke party nie; en
- 20 (e) internasionale verhoudinge te bevorder, met inbegrip van handels-, finansiële, kulturele en sportverhoudinge, wat na die mening van die Subraad die land as geheel sal bevoordeel.

#### **Bevoegdhede en pligte met betrekking tot die status van vroue**

- 25 19. Die Raad het ter bereiking van sy oogmerke, met die oog op die volle en gelyke deelname van vroue aan die voorbereiding vir, die implementering van en die oorgang na 'n vrye en demokratiese bestel op nasionale, streek- en plaaslike vlakke in Suid-Afrika, die volgende bevoegdhede wat deur middel van sy Subraad oor die Status van Vroue uitgeoefen word:
- 30 (a) Om met alle deelnemers in die Raad, alle subrade, die Onafhanklike Verkiesingskommissie, die Onafhanklike Mediakommissie, die Onafhanklike Uitsaai-owerheid, Regerings, betrokke staatsdepartemente, plaaslike regerings, tradisionele owerhede en beleidsforums te skakel en hulle te adviseer;
- 35 (b) om wysigings aan bestaande of voorgestelde wetgewing voor te stel en die implementering van sodanige wetgewing te vergemaklik;
- (c) om inligting aan te vra en om formele en wesenlike verhoë te rig aangaande enige besluit of optrede in artikel 13(2)(a) bedoel;
- (d) om met alle werknemer- en werkgewersorganisasies, alle vrouegroepes (veral landelike vroue en vroue in gebruike huwelike) en enige ander toepaslike organisasies en strukture te skakel;
- 40 (e) om enige aangeleentheid te ondersoek wat die status van vroue raak en wat betrekking het op die oogmerke van die Raad, vir watter doel hy die bevoegdheid het om met enige beampte of werknemer van enige deelnemer in die Raad of van enige streek- of plaaslike regering onderhoude te voer;
- 45 (f) om navorsing te gelas;
- (g) om opvoedingsprogramme met betrekking tot die deelname van vroue aan die verkiesingsproses te bevorder en te monitor;
- 50 (h) om te verseker dat positiewe, praktiese stappe gedoen word ten einde alle vroue in staat te stel om hulle reg ten volle uit te oefen—
- (i) om in alle verkiesings en openbare referendums te stem, verkiesbaar te wees vir alle openbare verkose liggame en vrylik aan die politieke, openbare en verkiesingsprosesse op alle vlakke in Suid-Afrika deel te neem;
- 55 (ii) om aan die formulering en implementering van beleid op alle vlakke van regering en in die Raad deel te neem;
- (iii) op gelyke geleenthede met betrekking tot aanstelling in, deelname aan, verkiesing tot en bevordering binne alle strukture op alle vlakke van regering; en
- 60

- (iv) be free from intimidation and harassment;
- (i) to make recommendations to all participants in the Council, the other subcouncils, the Independent Electoral Commission, the Independent Media Commission, the Independent Broadcasting Authority, the National Peace Secretariat, policy-making forums, all statutory commissions and all electoral educational programmes on steps to promote the free and equal participation of women in the electoral process; and
- (j) to submit proposals to the Subcouncil on Finance and the relevant departments of State in regard to the 1994/95 budget on the allocation of resources for the promotion of the equality of women and their participation at all levels of government, including appropriate programmes and mechanisms.

### **Powers and duties in regard to intelligence**

20. (1) The Council shall, for the purpose of attaining its objects, have the following powers to be exercised through its Subcouncil on Intelligence:
- (a) To acquaint itself, subject to the other provisions of this Act, with the nature, objects and functioning of every intelligence service or structure in South Africa (hereinafter in this section referred to as "service");
  - (b) to establish a Joint Co-ordinating Intelligence Committee (hereinafter in this section referred to as "the Committee"), comprised of the head or a duly authorized senior representative of every service, which Committee—
    - (i) shall monitor and liaise with all services in order to promote the objects of the Council, taking into account matters of common concern in relation to the Subcouncil on Law and Order, Stability and Security and the Subcouncil on Defence; and
    - (ii) may, if it considers it necessary to do so, establish a management structure which shall manage the affairs of the Committee;
  - (c) to adopt a set of basic principles on intelligence, which could also serve as a basis for the creation of a national intelligence capability in a new democratic dispensation;
  - (d) to formulate a code of conduct which shall be binding on all members of all services during the period of transition and which could serve as a basis for an official code of conduct in a new democratic dispensation;
  - (e) to monitor, in consultation with the Committee, the compliance of all services and their members with the said code of conduct;
  - (f) to investigate, or order the investigation by the Committee of, any matter (including complaints by members of the public) relating to the objects of the Council or the said code of conduct;
  - (g) to require the investigation by, or under the supervision of, the Committee of any activity or action by a member of any service which is alleged to have or to have had an adverse effect on the attainment of the objects of the Council or the said code of conduct and, in consultation with the appropriate Minister or the head of that service, as the case may be, where appropriate, require the suspension, with full pay, of such member pending the outcome of the investigation;
  - (h) to request and obtain, subject to the other provisions of this Act, on a regular basis from all services, via the Committee, evaluated information on the overall security situation in the country, highlighting threats, actions or events that may adversely affect the attainment of the objects of the Council: Provided that nothing in this subsection shall authorize the disclosure of a document or information relating to the above matters but which consists of unevaluated information;
  - (i) to request and obtain, subject to the other provisions of this Act, via the Committee, from any service evaluated information on matters of special concern or urgency: Provided that such service shall—

- (iv) om vry van intimidasie en teistering te wees;
- (i) om aanbevelings te doen aan alle deelnemers in die Raad, die ander subrade, die Onafhanklike Verkiesingskommissie, die Onafhanklike Mediakommissie, die Onafhanklike Uitsaai-owerheid, die Nasionale Vredesekretariaat, beleidsforums, alle statutêre kommissies en alle verkiesingsopvoedingsprogramme oor stappe om vrye en gelyke deelname van vroue in die verkiesingsproses te bevorder; en
- (j) om voorstelle aan die Subraad oor Finansies en die betrokke staatsdepartemente voor te lê met betrekking tot die 1994/95-begroting oor die toekenning van bronne ter bevordering van die gelykheid van vroue en hulle deelname op alle vlakke van regering, met inbegrip van toepaslike programme en meganismes.

### Bevoegdhele en pligte met betrekking tot intelligensie

20. (1) Die Raad het ter bereiking van sy oogmerke die volgende bevoegdhele wat deur middel van sy Subraad oor Intelligensie uitgeoefen word:
- (a) Om, behoudens die ander bepalings van hierdie Wet, homself op die hoogte te bring van die aard, oogmerke en funksionering van elke intelligensiediens of -struktuur in Suid-Afrika (hieronder in hierdie artikel "diens" genoem);
  - (b) om 'n Gesamentlike Koördinerende Intelligensiekomitee (hieronder in hierdie artikel "die Komitee" genoem) in te stel, wat uit die hoof van 'n behoorlik gemagtigde senior verteenwoordiger van elke diens bestaan, watter Komitee—
    - (i) alle dienste moet monitor en met hulle moet skakel ten einde die oogmerke van die Raad te bevorder, met inagneming van aangeleenthede van gemeenskaplike belang met betrekking tot die Subraad oor Wet en Orde, Stabiliteit en Veiligheid en die Subraad oor Verdediging; en
    - (ii) indien hy dit nodig ag, 'n bestuurstruktuur kan instel wat die sake van die Komitee behartig;
  - (c) om 'n stel grondbeginsels oor intelligensie aan te neem, wat ook as 'n grondslag vir die skepping van 'n nasionale intelligensievermoë in 'n nuwe demokratiese bestel kan dien;
  - (d) om 'n gedragskode op te stel wat bindend is vir alle lede van alle dienste tydens die oorgangstydperk en wat as 'n grondslag vir 'n ampelike gedragskode in 'n nuwe demokratiese bestel kan dien;
  - (e) om in oorleg met die Komitee die nakoming deur alle dienste en hul lede van bedoelde gedragskode te monitor;
  - (f) om ondersoek in te stel na, of 'n ondersoek deur die Komitee te gelas van, enige aangeleentheid (met inbegrip van klagtes deur lede van die publiek) wat betrekking het op die oogmerke van die Raad of bedoelde gedragskode;
  - (g) om 'n ondersoek deur of onder die toesig van die Komitee te vereis van enige aktiwiteit of optrede deur 'n lid van enige diens wat na bewering 'n nadelige uitwerking op die bereiking van die oogmerke van die Raad of bedoelde gedragskode het of gehad het en, in oorleg met die toepaslike Minister of die hoof van daardie diens, na gelang van die geval, waar toepaslik, om die skorsing van so 'n lid, met volle besoldiging, te vereis, hangende die uitslag van die ondersoek;
  - (h) om, behoudens die ander bepalings van hierdie Wet, op 'n gereelde grondslag geëvalueerde inligting oor die algehele veiligheidsituasie in die land vanaf alle dienste via die Komitee aan te vra en te bekom, watter inligting enige dreigemente, optredes of voorvalle wat die bereiking van die oogmerke van die Raad nadelig kan raak, moet uitlig: Met dien verstande dat niks in hierdie subartikel die openbaarmaking van 'n dokument of inligting wat op bovermelde aangeleenthede betrekking het, maar wat ongeëvalueerde inligting bevat, veroorloof nie;
  - (i) om, behoudens die ander bepalings van hierdie Wet, via die Komitee, geëvalueerde inligting vanaf enige diens oor aangeleenthede van spesiale belang aan te vra en te bekom: Met dien verstande dat sodanige diens—

- (i) be informed beforehand what will be required of it;
  - (ii) be given reasonable time to prepare the required information and its presentation in that regard; and
  - (iii) have the right to be assisted or represented by persons duly authorized to do so;
  - (j) to make recommendations on steps to ensure that a service does not perform or carry out any act or operation likely or intended to undermine the attainment of the objects of the Council;
  - (k) to make proposals regarding suitable legislation relating to the practice of intelligence in a new political dispensation, including suitable mechanisms of accountability and political supervision; and
  - (l) to facilitate the transition to a future intelligence dispensation by commissioning research and making proposals in this regard.
- (2) The Subcouncil shall in the exercise of its powers and the performance of its duties —
- (a) taking into consideration the sensitive nature of intelligence, deal with intelligence matters in a manner conducive to the national interest and not sectional interests; and
  - (b) recognize that the day to day management of every service remains the responsibility of the relevant Minister or head of such service, and that all services shall during the period of transition, subject to section 3, continue to fulfil their duties to their respective principals.
- (3) (a) If there is any dispute in relation to an investigation referred to in subsection (1)(f) or (g), the matter shall, having regard to the sensitive nature of intelligence, be referred to the appropriate Minister or head of the service concerned in order to attempt to resolve the issue.
- (b) If the issue is not so resolved the matter shall be referred to the Special Electoral Court for determination.
- (4) Any power conferred upon the Subcouncil by this Act and which overlaps with any power conferred upon the Subcouncil on Law and Order, Stability and Security or the Subcouncil on Defence, shall be exercised in conjunction with such other subcouncil.

## GENERAL AND SUPPLEMENTARY PROVISIONS

### Application of Act

21. (1) Notwithstanding the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), or any other law, this Act and any amendment thereof or addition thereto under section 28, shall also apply in all self-governing territories.

(2) (a) In the event of any of the Republics of Transkei, Bophuthatswana, Venda or Ciskei deciding to incorporate the provisions of this Act into its law, such agreements as may be required to secure the co-ordinated implementation of the relevant legislation may be concluded, and such an agreement shall have the force of law.

(b) Any such proposed agreement shall be placed before the Negotiating Council or the Council, as the case may be.

### Procurement of information

22. (1) 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 any information or document in terms of this Act, provided that—

- (a) the member concerned shows to the Council or subcouncil, as the case may be, that the procurement of such information or document is reasonably necessary in order to attain the objects of the Council; and
- (b) that request has the support of at least one-third of the members of the Council or subcouncil, as the case may be,

- (i) vooraf ingelig word oor wat van hom verwag word;
- (ii) 'n redelike tyd gegun word ten einde die verlangde inligting en die aanbieding daarvan voor te berei; en
- (iii) die reg het om deur behoorlik gemagtigde persone bygestaan of verteenwoordig te word;
- (j) om aanbevelings te doen oor stappe ten einde te verseker dat 'n diens nie 'n handeling of operasie verrig of uitvoer nie wat waarskynlik daartoe sal lei of bedoel is om die bereiking van die oogmerke van die Raad te ondermyn;
- (k) om voorstelle te doen met betrekking tot toepaslike wetgewing met betrekking tot die praktyk van intelligensie in 'n nuwe politieke bestel, met inbegrip van toepaslike meganismes vir aanspreeklikheid en politieke toesig; en
- (l) om die oorgang na 'n toekomstige intelligensiebestel te vergemaklik deur navorsing te gelas en voorstelle in dié verband te doen.
- (2) Die Subraad moet by die uitoefening van sy bevoegdheid en die uitvoering van sy pligte—
- (a) met inagneming van die sensitiewe aard van intelligensie, met intelligensie-aangeleentheid handel op 'n wyse wat bevorderlik is vir die nasionale belang en nie groepsbelange nie; en
- (b) aanvaar dat die daaglikse bestuur van elke diens die verantwoordelikheid van die betrokke Minister of hoof van die diens bly, en dat alle dienste tydens die oorgangstydperk, behoudens artikel 3, voortgaan om hul pligte jeens hul onderskeie prinsipale uit te voer.
- (3) (a) Indien daar 'n geskil ontstaan met betrekking tot 'n ondersoek bedoel in subartikel (1)(f) of (g), word die aangeleentheid, met inagneming van die sensitiewe aard van intelligensie, na die toepaslike Minister of hoof van die betrokke diens verwys ten einde te poog om die geskil op te los.
- (b) Indien die geskil nie aldus opgelos word nie, word die aangeleentheid na die Spesiale Verkiesingshof vir beslissing verwys.
- (4) 'n Bevoegdheid wat by hierdie Wet aan die Subraad verleen is en wat oorvleuel met enige bevoegdheid wat aan die Subraad oor Wet en Orde, Stabieleit en Veiligheid of die Subraad oor Verdediging verleen is, word uitgeoefen in samewerking met daardie ander subraad.

## 35 ALGEMENE EN AANVULLENDE BEPALINGS

### Toepassing van Wet

21. (1) Ondanks die Grondwet van die Selfregerende Gebiede, 1971 (Wet No. 21 van 1971), of enige ander wet, is hierdie Wet en enige wysiging daarvan of toevoeging daartoe kragtens artikel 28, ook in alle selfregerende gebiede van toepassing.
- (2)(a) Indien enige van die Republieke van Transkei, Bophuthatswana, Venda of Ciskei besluit om die bepalings van hierdie Wet in sy reg op te neem, kan die ooreenkomste aangegaan word wat nodig is om die gekoördineerde implementering van die betrokke wetgewing te bewerkstellig, en so 'n ooreenkoms het regskrag.
- (b) So 'n voorgestelde ooreenkoms word aan die Onderhandelingsraad of die Raad, na gelang van die geval, voorgelê.

### Verkryging van inligting

22. (1) Die Raad of 'n subraad moet voldoen aan 'n versoek deur 'n lid van die Raad of 'n subraad aan die Raad of die betrokke subraad om enige inligting of dokument ingevolge hierdie Wet te verkry, mits—
- (a) die betrokke lid aan die Raad of subraad, na gelang van die geval, aantoon dat die verkryging van sodanige inligting of dokument redelikerwys noodsaaklik is ten einde die oogmerke van die Raad te bereik; en
- (b) daardie versoek die ondersteuning het van minstens een derde van die lede van die Raad of subraad, na gelang van die geval,

and the information or document so procured, shall, subject to the other provisions of this Act, be made available to all members of the Council or of the subcouncil concerned.

(2) (a) Notwithstanding this section or any other provision of this Act, no military force, policing agency or intelligence service or structure shall be obliged to disclose any information or document in its possession or under its control in a form which could reveal the identity of any source of such information, if that information or document was provided under an express or implied assurance of confidentiality: Provided that this paragraph shall not prevent the disclosure of the remaining parts of information or a document if the parts which could reveal the identity of the source can be separated from the rest thereof.

(b) In the event of a dispute arising from the provisions of paragraph (a) as to whether or not the disclosure of any information or document in the possession or under the control of a military force, policing agency or intelligence service or structure may reveal the identity of the source of information or document, such dispute shall be referred for determination to a committee composed of the head of the relevant military force, policing agency or intelligence service or structure and a member of the Committee referred to in subsection (4) designated by the Committee in consultation with the said head.

(3) No provision of this Act shall be interpreted as entitling the Council or a subcouncil to have access to any information or document —

- (a) which does not have a bearing on the objects of the Council;
- (b) access to or disclosure of which is prohibited in terms of any law or the common law, and—
  - (i) could reasonably be expected to endanger the life or physical safety of any person when weighed against the need or necessity for disclosure;
  - (ii) would constitute an unwarranted invasion of the privacy of any person when weighed against the need or necessity for disclosure;
  - (iii) would be likely to lead to improper or unfair speculation in currencies, securities, property or commodities at the expense of the public, or would be likely to endanger the foreign exchange reserves or the stability of financial markets, the monetary system or any financial institution when weighed against the need or necessity for disclosure; or
  - (iv) would be likely to pose a substantial threat to the security of the State;
- (c) compiled by or in the possession or under the control of any policing agency for purposes of law enforcement or criminal proceedings, to the extent that the disclosure of such information or document could reasonably be expected—
  - (i) to prejudice law enforcement investigations; or
  - (ii) to deprive any person of his or her right to a fair trial or an impartial adjudication;
- (d) compiled by or in the possession or under the control of any intelligence service or structure in South Africa, except in so far as disclosure thereof is necessary for the purpose of section 20;
- (e) relating to the activities, installations, projects, plans, movements, dispositions, weapons, armaments, procurements, capabilities or technology of a military force, except in so far as disclosure thereof is necessary for the purposes of section 16;
- (f) contained in any staff file pertaining to any officer or employee of any public service, except in so far as disclosure thereof is necessary for the purposes of section 17(4) or for the purpose of any investigation in terms of this Act into the conduct of such officer or employee;
- (g) in connection with the provision of protective services to members or officials or employees of any participant in the Council;
- (h) in the case of information or any document requested from a political party, if that information or document concerns a lawful activity of that

en die inligting of dokument aldus verkry, word, behoudens die ander bepalings van hierdie Wet, aan alle lede van die Raad of die betrokke subraad beskikbaar gestel.

(2) (a) Ondanks hierdie artikel of enige ander bepaling van hierdie Wet, is geen militêre mag, polisiëringsagentskap of intelligensiediens of -struktuur 5 verplig om enige inligting of dokument in sy besit of onder sy beheer te openbaar in 'n vorm wat die identiteit van enige bron van sodanige inligting kan blootlê nie, indien daardie inligting of dokument voorsien is met 'n uitdruklike of geïmpliseerde versekering van vertroulikheid: Met dien verstande dat hierdie paragraaf nie die openbaarmaking van die oorblywende dele van inligting of 'n 10 dokument verhinder nie indien die dele wat die identiteit van die bron kan blootlê van die res daarvan geskei kan word.

(b) Waar 'n geskil uit die bepalings van paragraaf (a) ontstaan oor die vraag of die openbaarmaking van enige inligting of dokument in die besit of onder 15 die beheer van 'n militêre mag, polisiëringsagentskap of intelligensiediens of -struktuur die identiteit van die bron van inligting of dokument kan blootlê al dan nie, word die geskil vir beslissing verwys na 'n komitee bestaande uit die hoof van die betrokke militêre mag, polisiëringsagentskap of intelligensiediens of -struktuur en 'n lid van die Komitee bedoel in subartikel (4) deur daardie Komitee in oorleg met bedoelde hoof aangewys.

(3) Geen bepaling van hierdie Wet word uitgelê nie as sou die Raad of subraad 20 geregtig wees op toegang tot enige inligting of dokument—

(a) wat nie op die oogmerke van die Raad betrekking het nie;

(b) waartoe toegang of waarvan openbaarmaking ingevolge enige wet of 25 die gemene reg verbode is, en—

(i) redelikerwys verwag kan word die lewe of fisiese veiligheid van enige persoon in gevaar te stel wanneer dit teen die behoefte of 30 noodsaak vir openbaarmaking opgeweeg word;

(ii) 'n ongeregverdigde inbreuk op die privaatheid van 'n persoon sou uitmaak wanneer dit teen die behoefte of noodsaak vir openbaar- 35 making opgeweeg word;

(iii) waarskynlik tot onbehoorlike of onbillike spekulاسie in betaal- middele, sekuriteite, eiendom of handelware ten koste van die publiek aanleiding kan gee, of waarskynlik die buitelandse valuta- 40 reserwes of die stabiliteit van finansiële markte, die geldstelsel of enige finansiële instelling in gevaar kan stel wanneer dit teen die behoefte of noodsaak vir openbaarmaking opgeweeg word; of

(iv) waarskynlik 'n wesenlike gevaar vir die veiligheid van die Staat 45 kan inhou;

(c) wat saamgestel is deur of in die besit of onder die beheer is van enige polisiëringsagentskap vir doeleindes van wetstoepassing of strafregte- 40 like verrigtinge, in die mate waarin die openbaarmaking van sodanige inligting of dokument redelikerwys verwag kan word—

(i) wetstoepassingsondersoeke te benadeel; of

(ii) enige persoon van sy of haar reg op 'n regverdigde verhoor of 'n 45 onpartydige beregting te ontnem;

(d) wat saamgestel is deur of in die besit of onder die beheer is van enige intelligensiediens of -struktuur in Suid-Afrika, behalwe in soverre 50 openbaarmaking daarvan noodsaaklik is vir die doeleindes van artikel 20;

(e) wat betrekking het op die bedrywighede, installasies, projekte, planne, bewegings, opstellings, wapens, wapentuig, verkrygings, vermoëns of 55 tegnologie van 'n militêre mag, behalwe in soverre openbaarmaking daarvan noodsaaklik is vir die doeleindes van artikel 16;

(f) vervat in enige personeellêer wat op 'n beampte of werknemer van enige staatsdiens betrekking het, behalwe in soverre openbaarmaking 60 daarvan noodsaaklik is vir die doeleindes van artikel 17(4) of vir die doel van enige ondersoek ingevolge hierdie Wet na die gedrag van so 'n beampte of werknemer;

(g) in verband met die voorsiening van beskermingsdienste aan lede of beamptes of werknemers van enige deelnemer in die Raad;

(h) in die geval van inligting of 'n dokument wat van 'n politieke party aangevra word, indien daardie inligting of dokument betrekking het op 65 'n wettige handeling van daardie party, waarvan hy, behoudens

party particulars of which it is, subject to section 13, not obliged to disclose in terms of any law;

(i) relating to any special or secret account established or governed by or under any law, except in so far as it concerns any expenditure from such account which has been found by the Auditor-General to have been unauthorized; or 5

(j) relating to any tax matter prohibited from disclosure by any law when weighed against the need or necessity for disclosure.

(4) (a) The Council shall establish a committee to be known as the Access to Information Committee (hereinafter in this section referred to as “the Committee”). 10

(b) The Committee shall consist of four members appointed by virtue of a decision of the Council which has the support of at least eighty percent of the members of the Council, including every member who represents a participant in the Council which has a military force or a policing agency. 15

(c) All persons appointed as members of the Committee shall be persons of integrity and trustworthiness in whom the Council has the fullest confidence.

(d) A member of the Council or a subcouncil may not be appointed as a member of the Committee.

(e) A member of the Committee who is not in the full-time service of any Government or administration shall be entitled to such remuneration, allowances and other benefits as may be determined by the Council. 20

(f) The Committee shall designate two of its members as a subcommittee to deal with all requests in terms of subsections (8) and (9) relating to any information or document compiled by or in the possession or under the control of any military force, policing agency or intelligence service or structure, excluding requests in respect of information or documents relating to a special or secret account referred to in subsection (3)(i), and the said members shall exercise the Committee’s powers in respect thereof. 25

(g) The other two members of the Committee shall act as a subcommittee to deal with all requests in terms of subsections (8) and (9) relating to the special or secret accounts referred to subsection (3)(i) and any information or document other than that contemplated in paragraph (f), and the said members shall exercise the Committee’s powers in respect thereof. 30

(5) The Committee shall, notwithstanding subsection (3) or any other law or the common law, but subject to subsection (2), have access to any information or document in the possession or under the control of any Government or administration, any participant in the Council or any political party: Provided that the Committee shall have such access only if and in so far as— 35

(a) it is in terms of subsection (8) or (9) requested by the Council or a subcouncil to scrutinize such information or document; and 40

(b) access to such information or document is reasonably necessary to attain the objects of the Council.

(6) (a) The Committee shall take special precautions to ensure that no information or document referred to in subsection (3) to which it gains access is disclosed to unauthorized persons. 45

(b) No person other than the members of the Committee or a subcommittee referred to in subsection (4)(f) or (g) shall be present at any meeting of the Committee or subcommittee unless such person’s presence is necessary and is authorized by the Committee or the subcommittee concerned. 50

(7) Notwithstanding any other law prohibiting the disclosure of any information or document, any Government or administration, any participant in the Council and any political party shall be entitled, subject to subsections (2) and (3), to disclose or furnish any information or document in its possession or under its control to the Council or a subcouncil. 55

(8) If any Government or administration, any participant in the Council or any political party, on being requested by the Council or a subcouncil in terms of any provision of this Act to disclose or furnish any information or document to it, refuses or fails to disclose or furnish such information or document or contends that such information or document is exempt from disclosure by virtue of subsection (3), the Council or subcouncil may request the Committee to scrutinize that information or document. 60

- artikel 13, nie verplig is om ingevolge enige wet besonderhede te openbaar nie;
- (i) wat betrekking het op enige spesiale of geheime rekening wat deur of kragtens enige wet ingestel is of gereël word, behalwe in soverre dit betrekking het op enige uitbetaling uit so 'n rekening wat deur die Ouditeur-generaal bevind is ongemagtig te wees; of
- (j) wat betrekking het op enige belastingaangeleentheid, waarvan die openbaarmaking deur 'n wet verbied word, wanneer dit teen die behoefte of noodsaak vir openbaarmaking opgeweeg word.
- (4) (a) Die Raad moet 'n komitee instel wat bekend staan as die Toegang tot Inligting-komitee (hieronder in hierdie artikel "die Komitee" genoem).
- (b) Die Komitee bestaan uit vier lede wat aangestel word uit hoofde van 'n besluit van die Raad wat die ondersteuning van ten minste tagtig persent van die lede van die Raad het, met inbegrip van elke lid wat 'n deelnemer in die Raad verteenwoordig wat 'n militêre mag of polisiëringsagentskap het.
- (c) Alle persone wat as lede van die Komitee aangestel word, moet persone van integriteit en betroubaarheid wees in wie die Raad die volste vertrouwe het.
- (d) 'n Lid van die Raad of 'n subraad mag nie as lid van die Komitee aangestel word nie.
- (e) 'n Lid van die Komitee wat nie in die voltydse diens van enige Regering of administrasie is nie, is geregtig op die vergoeding, toelaes en ander voordele wat die Raad bepaal.
- (f) Die Komitee wys twee van sy lede as 'n subkomitee aan om alle versoeke ingevolge subartikels (8) en (9) te hanteer wat betrekking het op enige inligting of dokument wat saamgestel is deur of in die besit of onder die beheer is van enige militêre mag, polisiëringsagentskap of intelligensiediens of -struktuur, uitgesonderd versoeke ten opsigte van inligting of dokumente wat betrekking het op 'n spesiale of geheime rekening bedoel in subartikel (3)(i), en bedoelde lede oefen die Komitee se bevoegdhede ten opsigte daarvan uit.
- (g) Die ander twee lede van die Komitee tree op as 'n subkomitee om alle versoeke ingevolge subartikels (8) en (9) te hanteer wat betrekking het op die spesiale of geheime rekenings bedoel in subartikel (3)(i) en enige ander inligting of dokument as dié in paragraaf (f) beoog, en bedoelde lede oefen die Komitee se bevoegdhede ten opsigte daarvan uit.
- (5) Die Komitee het, ondanks subartikel (3) of enige ander wet of die gemene reg, maar behoudens subartikel (2), toegang tot enige inligting of dokument in die besit of onder die beheer van enige Regering of administrasie, enige deelnemer in die Raad of enige politieke party: Met dien verstande dat die Komitee sodanige toegang alleenlik het indien en in soverre—
- (a) hy ingevolge subartikel (8) of (9) deur die Raad of 'n subraad gevra is om sodanige inligting of dokument te ondersoek; en
- (b) toegang tot sodanige inligting of dokument redelikerwys nodig is om die oogmerke van die Raad te bereik.
- (6) (a) Die Komitee moet spesiale voorsorg tref om te verseker dat geen inligting of dokument in subartikel (3) bedoel waartoe toegang verkry is, aan ongemagtigde persone geopenbaar word nie.
- (b) Geen ander persoon as 'n lid van die Komitee of 'n subkomitee bedoel in subartikel (4)(f) of (g) mag by enige vergadering van die Komitee of subkomitee teenwoordig wees nie, tensy so 'n persoon se teenwoordigheid noodsaaklik is en deur die Komitee of die betrokke subkomitee gemagtig is.
- (7) Ondanks enige ander wet wat die openbaarmaking van enige inligting of dokument verbied, is enige Regering of administrasie, enige deelnemer in die Raad en enige politieke party, behoudens subartikels (2) en (3), geregtig om enige inligting of dokument in sy besit of onder sy beheer aan die Raad of 'n subraad te openbaar of te verstrek.
- (8) Indien 'n Regering of administrasie, enige deelnemer in die Raad of enige politieke party, nadat hy ingevolge 'n bepaling van hierdie Wet deur die Raad of 'n subraad versoek is om enige inligting of dokument te openbaar of te verstrek, weier of versuim om sodanige inligting of dokument te openbaar of te verstrek of beweer dat sodanige inligting of dokument vrygestel is van openbaarmaking uit hoofde van subartikel (3), kan die Raad of subraad die Komitee versoek om daardie inligting of dokument te ondersoek.

(9) The Council or a subcouncil may at any time request the Committee to scrutinize any information or document in the possession or under the control of any Government or administration, any participant in the Council or any political party.

(10) A request contemplated in subsection (8) or (9) shall specify with sufficient clarity the nature of the information or document concerned as well as the reasons why it is considered to have a bearing on the objects of the Council. 5

(11) The Committee shall as soon as possible after receiving a request contemplated in subsection (8) or (9), designate a member of the appropriate subcommittee to establish whether the information or document concerned has a bearing on the objects of the Council, and if so, the appropriate subcommittee shall scrutinize the information or document concerned with a view— 10

(a) to verifying whether or not that information or document is exempt from disclosure by virtue of subsection (3);

(b) if it is so exempt, to verifying whether or not the information or document or anything dealt with therein discloses anything which adversely affects the attainment of the objects of the Council, and if so, in what manner; and 15

(c) if it is not so exempt, to releasing the information or document to the Council or to the subcouncil concerned. 20

(12) (a) For the purpose of subsection (11), the Committee may interview the duly authorized senior representative, or a person designated by him or her, of the Government or administration, the participant in the Council or the political party concerned and may direct such representative person in writing to appear before it to produce any information or document in the possession or under the control of that Government or administration, participant in the Council or political party, and may question such representative person relating to such information and require an explanation of anything contained in such a document: Provided that if the Committee is not satisfied with any such explanation, the Committee may direct any other person in writing to appear before it, and may question such person relating to such information and require an explanation of anything contained in such a document. 25 30

(b) Any person who fails to comply with a direction referred to in paragraph (a), shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding 12 months. 35

(13) If the member or subcommittee referred to in subsection (11) finds that any information or document that is exempt in terms of subsection (3) or anything dealt with therein, discloses anything which adversely affects the attainment of the objects of the Council, the Committee may make such information or document or any segregable portion thereof available to the Council or a subcouncil, subject to such limitations relating to access, publication and safekeeping as may be imposed by the Committee. 40

(14) The subcommittee shall in writing notify the Council or the subcouncil concerned and the Government, administration, participant in the Council or political party concerned, as the case may be, of any finding in terms of this section, which finding shall be binding on the parties concerned and shall be given effect to. 45

(15) (a) No person, including any member of the Council or a subcouncil or of the Committee, shall disclose any confidential information or document obtained by that person in the performance of his or her functions in terms of this Act, except— 50

(i) to the extent to which it may be necessary for the proper administration of any provision of this Act;

(ii) to any person who of necessity requires it for the performance of any function in terms of this Act; 55

(iii) when required to do so by order of a court of law; or

(iv) with the written permission of the Council.

(b) Any person who contravenes a provision of paragraph (a) shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding 12 months. 60

- (9) Die Raad of 'n subraad kan te eniger tyd die Komitee versoek om enige inligting of dokument in die besit of onder die beheer van enige Regering of administrasie, enige deelnemer in die Raad of enige politieke party te ondersoek.
- 5 (10) 'n Versoek in subartikel (8) of (9) beoog, moet die aard van die betrokke inligting of dokument sowel as die redes waarom daar gemeen word dat dit op die oogmerke van die Raad betrekking het, met voldoende duidelikheid uiteensit.
- (11) Die Komitee moet so gou doenlik nadat hy 'n versoek in subartikel (8) of
- 10 (9) beoog, ontvang het, 'n lid van die toepaslike Komitee aanwys om vas te stel of die betrokke inligting of dokument op die oogmerke van die Raad betrekking het, en indien wel moet die betrokke subkomitee die betrokke inligting of dokument ondersoek met die oog daarop—
- (a) om te verifieer of daardie inligting of dokument uit hoofde van
- 15 subartikel (3) van openbaarmaking vrygestel is al dan nie;
- (b) indien dit aldus vrygestel is, om te verifieer of die inligting of dokument of enigiets wat daarin behandel word, enigiets aan die lig bring wat die bereiking van die oogmerke van die Raad nadelig raak, en indien wel, op watter wyse; en
- 20 (c) indien dit nie aldus vrygestel is nie, om die inligting of dokument aan die Raad of die betrokke subraad beskikbaar te stel.
- (12) (a) Vir die doel van subartikel (11) kan die Komitee 'n onderhoud voer met die behoorlik gemagtigde senior verteenwoordiger, of 'n persoon deur hom of haar aangewys, van die betrokke Regering of administrasie, deelnemer in die
- 25 Raad of politieke party, en kan die Komitee so 'n verteenwoordiger of persoon skriftelik gelas om voor hom te verskyn ten einde enige inligting of dokument in die besit of onder die beheer van daardie Regering of administrasie, deelnemer in die Raad of politieke party voor te lê, en kan die Komitee daardie verteenwoordiger of persoon met betrekking tot sodanige inligting ondervra en
- 30 'n verduideliking eis van enigiets in so 'n dokument vervat: Met dien verstande dat indien die Komitee nie met so 'n verduideliking tevrede is nie, die Komitee enige ander persoon skriftelik kan gelas om voor hom te verskyn, en so 'n persoon ten opsigte van sodanige inligting kan ondervra en 'n verduideliking van enigiets in so 'n dokument vervat, kan vereis.
- 35 (b) Enige persoon wat versuim om aan 'n lasgewing in paragraaf (a) bedoel te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande.
- (13) Indien die lid of subkomitee bedoel in subartikel (11) bevind dat enige inligting of dokument wat ingevolge subartikel (3) vrygestel is of iets wat daarin
- 40 behandel word, enigiets openbaar wat die bereiking van die oogmerke van die Raad nadelig raak, kan die Komitee sodanige inligting of dokument of 'n skeibare gedeelte daarvan aan die Raad of 'n subraad beskikbaar stel, onderworpe aan die beperkinge met betrekking tot toegang, publikasie en bewaring wat die Komitee oplê.
- 45 (14) Die subkomitee stel die Raad of die betrokke subraad en die betrokke Regering, administrasie, deelnemer in die Raad of politieke party, na gelang van die geval, skriftelik in kennis van enige bevinding ingevolge hierdie artikel, watter bevinding bindend vir die betrokke partye is en aan gevolg gegee moet word.
- 50 (15) (a) Geen persoon, met inbegrip van enige lid van die Raad of 'n subraad of van die Komitee, mag enige vertroulike inligting of dokument wat deur daardie persoon by die verrigting van sy of haar werksaamhede ingevolge hierdie Wet verkry is, openbaar nie, behalwe—
- (i) in die mate waarin dit vir die behoorlike uitvoering van 'n bepaling van
- 55 hierdie Wet noodsaaklik is;
- (ii) aan iemand wat dit noodsaaklikerwys by die verrigting van enige werksaamheid ingevolge hierdie Wet nodig het;
- (iii) wanneer dit deur 'n bevel van 'n geregshof vereis word; of
- (iv) met die skriftelike toestemming van die Raad.
- 60 (b) Enige persoon wat 'n bepaling van paragraaf (a) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande.

(c) Every member of the Council, the subcouncils and the Committee, and of any other structure, organ or body established by or under this Act, and every member of the staff of the Council, the subcouncils, the Committee and any such structure, organ or body, shall, before assuming office or duty, make and subscribe to an affirmation of secrecy in the following form:

5

“I, .....solemnly declare:

(a) I have taken cognizance of the provisions of section 22(15) of the Transitional Executive Council Act, 1993.

(b) I understand that I may not disclose any information or document, or the contents thereof, of whatever nature that comes to my knowledge or into my possession in consequence of my performance of any function in terms of the Transitional Executive Council Act, 1993, whether verbal or in writing, to any unauthorized person without prior written approval of the Transitional Executive Council.

10

15

(c) I am fully aware of the serious consequences which may follow any breach or contravention of the above-mentioned provisions.

.....  
(Signature)”.

**Resolution of disputes**

20

23. (1) When there is any dispute between the Council or a subcouncil and any Government, administration, political party or any organization as to whether or not—

(a) a particular matter falls within the scope of the powers of the Council or subcouncil;

25

(b) any proposed legislation or executive or other action may have an adverse impact on the attainment of the objects of the Council; or

(c) such Government, administration, political party or organization is obliged to comply with a direction of the Council or subcouncil,

30

the Government, administration, political party or organization concerned may refer the matter to the Special Electoral Court for determination.

(2) If any Government, administration, political party or organization contends, in relation to a direction issued by the Council in terms of section 13(1)(b) or (2)(b) or a direction referred to in section 13(3), that the necessity or desirability for any proposed legislation, or for any action or for the implementation of any decision, as the case may be, outweighs the adverse effect, if any, it may have on the attainment of the objects of the Council, that Government, administration, political party or organization may, within three days after such direction was issued, refer the matter concerned to the Special Electoral Court for determination, and may only proceed with such legislation or action or implement such decision, as the case may be, if or in so far as the Special Electoral Court authorizes it to do so.

35

40

(3) When any matter is referred to the Special Electoral Court in terms of this Act, that Court shall as soon as practicable consider the matter and give its decision, having due regard to—

45

(a) the views expressed on the matter in written submissions by members of the Council or the subcouncil concerned and by the Government, administration, political party or organization concerned; and

(b) any other matter considered by the Special Electoral Court to be relevant for its decision.

50

(4) The Special Electoral Court may make such findings and give such instructions or directions as it may consider appropriate in the circumstances.

(5) The findings of the Special Electoral Court shall be final and binding and shall not be subject to further appeal.

55

(6) A direction issued by the Council or a subcouncil in terms of this Act and which is not referred to the Special Electoral Court within three days after the Government, administration, political party or organization concerned was notified of that direction, shall be binding on the Government, administration, political party or organization concerned.

60

(c) Elke lid van die Raad, die subrade en die Komitee, en van enige ander struktuur, orgaan of liggaam by of kragtens hierdie Wet ingestel, en elke lid van die personeel van die Raad, die subrade, die Komitee en so 'n struktuur, orgaan of liggaam, moet voor sy of haar amps- of pligsaanvaarding 'n plechtige verklaring van geheimhouding in die volgende vorm aflê en onderteken:

“Ek, ..... verklaar hierby plechtig en opreg:

- (a) Ek het kennis geneem van die bepalings van artikel 22(15) van die Wet op die Uitvoerende Oorgangsraad, 1993.
- (b) Ek begryp dat ek nie enige inligting of dokument of die inhoud daarvan, van watter aard ook al, wat tot my kennis of in my besit kom uit hoofde van die verrigting van enige werksaamheid ingevolge die Wet op die Uitvoerende Oorgangsraad, 1993, hetsy mondelings of in skrif, sonder die voorafverkreë skriftelike toestemming van die Uitvoerende Oorgangsraad aan enige ongemagtigde persoon mag openbaar nie.
- (c) Ek is ten volle bewus van die ernstige gevolge wat op enige verbreking of oortreding van die bovermelde bepalings kan volg.

.....  
(Handtekening)”.

## 20 Beslegting van geskille

23. (1) Wanneer daar 'n geskil is tussen die Raad of 'n subraad en enige Regering, administrasie, politieke party of enige organisasie oor die vraag of—

- (a) 'n bepaalde aangeleentheid binne die omvang van die bevoegdhede van die Raad of subraad val;
- (b) enige voorgestelde wetgewing of uitvoerende of ander optrede 'n nadelige uitwerking op die bereiking van die oogmerke van die Raad kan hê; of
- (c) die Regering, administrasie, politieke party of organisasie verplig is om aan 'n lasgewing van die Raad of subraad te voldoen,

kan die betrokke Regering, administrasie, politieke party of organisasie die aangeleentheid na die Spesiale Verkiesingshof vir beslissing verwys.

(2) Indien enige Regering, administrasie, politieke party of organisasie aanvoer, ten opsigte van 'n lasgewing uitgereik deur die Raad ingevolge artikel 13(1)(b) of (2)(b) of 'n lasgewing in artikel 13(3) bedoel, dat die noodsaaklikheid of wenslikheid van enige voorgestelde wetgewing, of vir enige optrede of vir die implementering van enige besluit, na gelang van die geval, swaarder weeg as die nadelige uitwerking, as daar is, wat dit op die bereiking van die oogmerke van die Raad kan hê, kan daardie Regering, administrasie, politieke party of organisasie, binne drie dae nadat sodanige lasgewing uitgereik is, die betrokke aangeleentheid na die Spesiale Verkiesingshof vir beslissing verwys, en hy mag slegs met sodanige wetgewing of optrede voortgaan of daardie besluit implementeer, na gelang van die geval, indien of in die mate waarin die Spesiale Verkiesingshof hom daartoe magtig.

(3) Wanneer enige aangeleentheid na die Spesiale Verkiesingshof ingevolge hierdie Wet verwys word, moet daardie Hof so gou doenlik die aangeleentheid oorweeg en sy beslissing gee, met inagneming van—

- (a) die standpunte gehuldig oor die aangeleentheid in skriftelike betoë deur lede van die Raad of die betrokke subraad en deur die betrokke Regering, administrasie, politieke party of organisasie; en
- (b) enige ander aangeleentheid wat die Spesiale Verkiesingshof as ter sake vir sy beslissing beskou.

(4) Die Spesiale Verkiesingshof kan die bevindinge maak en instruksies of opdragte gee wat hy in die omstandighede gepas ag.

(5) Die bevindinge van die Spesiale Verkiesingshof is afdoende en bindend en is nie onderworpe aan 'n verdere reg van appèl nie.

(6) 'n Lasgewing wat deur die Raad of 'n subraad ingevolge hierdie Wet uitgereik is en wat nie binne drie dae nadat die betrokke Regering, administrasie, politieke party of organisasie van daardie lasgewing in kennis gestel is na die Spesiale Verkiesingshof verwys is nie, is bindend vir die betrokke Regering, administrasie, politieke party of organisasie.

(7) The provisions of this section shall not apply to any matter referred to in subsection (1)(c), (2), (3), (4), (5) or (6) of section 15, or subsection (13) or (14) of section 22.

### Meetings and office-bearers

24. (1) The first meeting of the Council shall take place on a date and at a place agreed to by the Negotiating Council and specified in the first proclamation under section 4(4), which date shall not be later than 14 days after the date of that proclamation. 5

(2) The Council shall, after its first meeting, meet at such times and places as it may determine. 10

(3) (a) The Council shall at its first meeting designate from among its members a chairperson or chairpersons.

(b) At that meeting a person designated by the Negotiating Council shall preside until a chairperson or chairpersons, as the case may be, have been designated. 15

(4) (a) The Council shall at its first meeting, from among its members, designate a management committee.

(b) The management committee shall—

(i) until the rules contemplated in section 7(1)(f) have been made, determine the manner of convening meetings of the Council and the procedure at such meetings; 20

(ii) convene a special meeting of the Council if requested thereto in writing by not less than one-third of the members of the Council;

(iii) determine a time and place for any meeting referred to in subparagraph (ii), which meeting shall be convened with at least three days' notice to members of the Council: Provided that an urgent meeting may be convened with less than three days' notice if it is ratified by the Council at that meeting; and 25

(iv) perform any other function assigned to it by the Council.

(5) A Minister or head of any department of State, or a person designated by such Minister or head, or any other person in the service of the State, shall, when requested to do so by the Council or a subcouncil, attend any meeting of the Council or subcouncil at which a matter relating to the functions of that department and the objects of the Council is to be discussed, and shall at such a meeting, subject to the other provisions of this Act, furnish such information or document or explanation in connection with such matter as may be required by the Council or subcouncil. 30 35

(6) The leader of any political party, or of any organization participating in the Council, or a person designated by such leader, shall, when requested to do so by the Council or a subcouncil, attend any meeting of the Council or subcouncil at which a matter relating to any activity or conduct of that party or organization and which has a bearing on the objects of the Council is to be discussed, and shall at such a meeting, subject to the other provisions of this Act, furnish such information or document or explanation in connection with such matter as may be required by the Council or subcouncil. 40 45

(7) Any person who has an interest in any matter under discussion at a meeting of the Council or a subcouncil may on the invitation of the Council or subcouncil attend that meeting and, if invited to do so, address it with regard to that matter.

(8) The Subcouncil on the Status of Women shall from time to time designate three persons from among its members, who shall be entitled to attend all meetings of the Council and to address it on any matter relating to the functions of that subcouncil, the interests of women and gender issues in general. 50

### Decisions

25. (1) All decisions of the Council or a subcouncil shall be taken by the members thereof alone and shall, as far as possible, be taken on a basis of consensus. 55

(7) Die bepalinge van hierdie artikel is nie op enige aangeleentheid bedoel in subartikels (1)(c), (2), (3), (4), (5) en (6) van artikel 15 en subartikels (13) en (14) van artikel 22 van toepassing nie.

### Vergaderings en ampsdraers

- 5 24. (1) Die eerste vergadering van die Raad vind plaas op 'n tyd en plek soos deur die Onderhandelingsraad ooreengekom en wat in die eerste proklamasie kragtens artikel 4(4) vermeld word, watter datum nie later is nie as 14 dae na die datum van daardie proklamasie.
- 10 (2) Na sy eerste vergadering, vergader die Raad op die tye en plekke wat hy bepaal.
- (3) (a) Die Raad moet by sy eerste vergadering uit sy geledere 'n voorsitter of voorsitters aanwys.
- (b) By daardie vergadering sit 'n persoon wat deur die Onderhandelingsraad aangewys is voor totdat 'n voorsitter of voorsitters, na gelang van die geval,
- 15 aangewys is.
- (4) (a) Die Raad moet by sy eerste vergadering uit sy geledere 'n bestuurskomitee aanwys.
- (b) Die bestuurskomitee moet—
- 20 (i) totdat die reëls in artikel 7(1)(f) beoog, uitgevaardig is, die wyse van die byeenroeping van vergaderings van die Raad en die prosedure by sodanige vergaderings bepaal;
- (ii) 'n spesiale vergadering van die Raad belê indien deur nie minder nie as een derde van die lede van die Raad skriftelik daartoe versoek;
- 25 (iii) 'n tyd en plek bepaal vir enige vergadering bedoel in subparagraaf (ii), watter vergadering belê word met kennisgewing van ten minste drie dae aan lede van die Raad: Met dien verstande dat 'n dringende vergadering belê kan word met kennisgewing van minder as drie dae indien dit deur die Raad by daardie vergadering bekragtig word; en
- 30 (iv) enige ander werksaamheid verrig wat deur die Raad aan hom toegewys word.
- (5) 'n Minister of hoof van enige staatsdepartement, of 'n persoon deur sodanige Minister of hoof aangewys, of enige ander persoon in die diens van die Staat, moet, wanneer deur die Raad of 'n subraad daartoe versoek, enige vergadering van die Raad of die subraad bywoon waarby 'n aangeleentheid wat
- 35 op die werksaamhede van daardie departement en die oogmerke van die Raad betrekking het, bespreek staan te word, en moet by so 'n vergadering, behoudens die ander bepalinge van hierdie Wet, die inligting of dokument of verduideliking in verband met so 'n aangeleentheid verstrek wat die Raad of subraad vereis.
- 40 (6) Die leier van enige politieke party, of van enige organisasie wat in die Raad deelneem, of 'n persoon deur so 'n leier aangewys, moet, wanneer deur die Raad of 'n subraad daartoe versoek, enige vergadering van die Raad of subraad bywoon waarby 'n aangeleentheid wat op enige bedrywigheid of optrede van daardie party of organisasie en op die oogmerke van die Raad betrekking het,
- 45 bespreek staan te word, en moet by so 'n vergadering, behoudens die ander bepalinge van hierdie Wet, die inligting of dokument of verduideliking ten opsigte van so 'n aangeleentheid verstrek wat die Raad of subraad vereis.
- (7) Enige persoon wat 'n belang het by enige aangeleentheid onder bespreking by 'n vergadering van die Raad of 'n subraad, kan op uitnodiging van die Raad of subraad daardie vergadering bywoon en, indien daartoe genooi, die Raad
- 50 aangaande daardie aangeleentheid toespreek.
- (8) Die Subraad oor die Status van Vroue wys van tyd tot tyd drie persone vanuit sy geledere aan, wat daarop geregtig is om alle vergaderings van die Raad by te woon en hom toe te spreek oor enige aangeleentheid met betrekking tot
- 55 die werksaamhede van daardie subraad, die belange van vroue en geslagsaangeleenthede oor die algemeen.

### Besluite

25. (1) Alle besluite van die Raad of 'n subraad word alleenlik deur die lede daarvan geneem en, sover moontlik, op 'n grondslag van konsensus.

[B/W 162—93]

(2) When there is not total consensus in respect of any decision—

(a) in the case of the Council, subject to sections 15(2)(b) and 22(4)(b), a decision which has the support of at least seventy-five percent of the members of the Council;

(b) in the case of the subcouncils referred to in section 8(1)(b), (c) and (g), a decision which has the support of at least seventy-five percent of the members of the subcouncil concerned; and

(c) in the case of the subcouncils referred to in section 8(1)(a), (d), (e) and (f), a decision which has the support of at least two-thirds of the members of the subcouncil concerned,

shall be a decision of the Council or the subcouncil concerned, as the case may be.

#### **Administrative staff, finance and accountability**

26. (1) The Council shall at its first meeting, or as soon as possible thereafter, appoint a person to the office of the Executive Director, who—

(a) shall be responsible for the management of and administrative control over the staff appointed or seconded in terms of section 7(1)(d) and (e), respectively;

(b) shall, subject to the Exchequer Act, 1975 (Act No. 66 of 1975)—

(i) be charged with the responsibility of accounting for State monies received, or paid out, for or on account of the Council, the subcouncils and any committee or body established by or under this Act;

(ii) cause the necessary accounting and other related records to be kept;

(c) may exercise the powers and shall perform the duties which the Council may from time to time confer or impose upon him or her in order to attain the objects of this Act, and shall for those purposes be accountable to the Council.

(2) The records referred to in subsection (1)(b) shall be audited by the Auditor-General.

(3) The Executive Director and the persons referred to in section 7(1)(d) and (e) shall exercise their powers and perform their duties in an impartial manner and shall, in so doing, be subject to such provisions of the laws governing the public service of the Republic of South Africa as may be determined by the Council and to the extent and subject to such adjustments as may be determined by the Council.

(4) The financing of matters provided for in this Act shall be subject to—

(a) requests being received in the prescribed form in accordance with the budgetary processes of the Republic of South Africa; and

(b) the provisions of the Exchequer Act, 1975, and the regulations and instructions issued in terms thereof, as well as the Auditor-General Act, 1989 (Act No. 52 of 1989).

#### **Legal proceedings against Council**

27. (1) The State Liability Act, 1957 (Act No. 20 of 1957), shall apply *mutatis mutandis* in respect of the Council.

(2) In such application a reference in that Act to a Minister of a department shall be construed as a reference to the Chairperson or Chairpersons of the Council.

#### **Amendment of Act**

28. (1) The Council, in consultation with the State President, may determine the need for and the content of any amendment or supplement to or repeal of any provision of this Act, and the State President shall, by proclamation in the *Gazette*, amend, supplement or repeal the provisions of this Act accordingly.

(2) Wanneer daar nie algehele konsensus ten opsigte van enige besluit is nie, is—

- 5 (a) in die geval van die Raad, behoudens artikels 15(2)(b) en 22(4)(b), 'n besluit wat die steun van minstens vyf-en-sewentig persent van die lede van die Raad het;
- (b) in die geval van die subrade bedoel in artikel 8(1)(b), (c) en (g), 'n besluit wat die steun van minstens vyf-en-sewentig persent van die lede van die betrokke subraad het; en
- 10 (c) in die geval van die subrade bedoel in artikel 8(1)(a), (d), (e) en (f), 'n besluit wat die steun van minstens twee derdes van die lede van die betrokke subraad het,
- 'n besluit van die Raad of die betrokke subraad, na gelang van die geval.

### Administratiewe personeel, finansies en rekenpligtigheid

26. (1) Die Raad moet by sy eerste vergadering, of so gou moontlik daarna, 15 'n persoon in die amp van Uitvoerende Direkteur aanstel, wat—

- (a) verantwoordelik is vir die bestuur van en administratiewe beheer oor die personeel onderskeidelik aangestel of gesecondeer ingevolge artikel 7(1)(d) of (e);
- 20 (b) behoudens die Skatkiswet, 1975 (Wet No. 66 van 1975)—
- (i) belas word met die verantwoording van Staatsgeld ontvang of uitbetaal vir of ten behoeve van die Raad, die subrade en enige komitee, liggaam of struktuur by of kragtens hierdie Wet ingestel;
- (ii) die nodige rekeningkundige en ander verwante aantekeninge laat hou;
- 25 (c) die bevoegdhede kan uitoefen en die pligte moet verrig wat die Raad van tyd tot tyd aan hom of haar verleen of oplê ten einde die oogmerke van hierdie Wet te bereik, en is vir daardie doeleindes aan die Raad verantwoordbaar.

(2) Die aantekeninge bedoel in subartikel (1)(b) word deur die Ouditeur- 30 generaal geouditeer.

(3) Die Uitvoerende Direkteur en die persone bedoel in artikel 7(1)(d) en (e) oefen hul bevoegdhede uit en verrig hul pligte op 'n onpartydige wyse en is, aldus doende, onderworpe aan die bepalings van die wette op die staatsdiens van die Republiek van Suid-Afrika wat die Raad bepaal en in die mate en 35 onderworpe aan die aanpassings deur die Raad bepaal.

(4) Die finansiering van aangeleenthede waarvoor daar in hierdie Wet voorsiening gemaak word, is onderworpe aan—

- (a) die ontvangs van versoeke in die voorgeskrewe vorm in ooreenstem- 40 ming met die begrotingsprosesse van die Republiek van Suid-Afrika; en
- (b) die bepalings van die Skatkiswet, 1975, en die regulasies en instruksies daarkragtens uitgereik, sowel as die Wet op die Ouditeur-generaal, 1989 (Wet No. 52 van 1989).

### Regsgedinge teen Raad

45 27. (1) Die Wet op Staatsaanspreeklikheid, 1957 (Wet No. 20 van 1957), is *mutatis mutandis* ten opsigte van die Raad van toepassing.

(2) By sodanige toepassing word 'n verwysing in daardie Wet na 'n Minister van 'n departement uitgelê as 'n verwysing na die Voorsitter of Voorsitters van die Raad.

### 50 Wysiging van Wet

28. (1) Die Raad kan, in oorleg met die Staatspresident, die behoefte vir en die inhoud van enige wysiging van of toevoeging tot of herroeping van enige bepaling van hierdie Wet bepaal, en die Staatspresident moet by proklamasie in die *Staatskoerant* die bepalings van hierdie Wet dienooreenkomstig wysig, of 55 daaraan toevoeg of dit herroep.

(2) Any such amendment, supplement or repeal shall have the force and effect of an Act of Parliament.

**Duration**

29. (1) This Act shall lapse upon the assumption of office by the members of the first cabinet in terms of the Constitution. 5

(2) The Council and every subcouncil shall be dissolved on the date referred to in subsection (1).

(3) (a) At such dissolution of the Council and the subcouncils, all assets, monies and liabilities of the Council, the subcouncils, and any other structure, organ or body established by or under this Act, shall revert to such department of State as the first cabinet appointed in terms of the Constitution may designate. 10

(b) The Minister responsible for such department shall—

(i) have the authority to wind up the affairs of such structures, organs or bodies;

(ii) for the purpose of any legal relationships, including legal proceedings involving the Council, be the legal successor of the Council. 15

**State bound**

30. This Act shall bind the State.

**Short title and commencement**

31. (1) This Act shall be called the Transitional Executive Council Act, 1993, and shall come into operation on a date fixed by the State President, in consultation with the Negotiating Council or, after the commencement of section 2, if applicable, in consultation with the Council, by proclamation in the *Gazette*. 20

(2) Different dates may be so fixed in respect of different provisions of this Act.

(2) So 'n wysiging, toevoeging of herroeping het die regsrag van 'n Wet van die Parlement.

#### Duur van Wet

29. (1) Hierdie Wet verval by die ampsaanvaarding deur die lede van die eerste kabinet ingevolge die Grondwet.

(2) Die Raad en elke subraad word op die datum bedoel in subartikel (1) ontbind.

(3) (a) By sodanige ontbinding van die Raad en die subrade gaan alle bates, gelde en laste van die Raad, die subrade, en enige ander struktuur, orgaan of liggaam wat by of kragtens hierdie Wet ingestel is, oor op 'n Staatsdepartement aangewys deur die eerste kabinet wat ingevolge die Grondwet aangestel word.

(b) Die Minister wat vir so 'n departement verantwoordelik is—

- (i) het die bevoegdheid om die sake van sodanige strukture, organe of liggame af te handel;
- 15 (ii) is vir die doeleindes van enige regsverhoudings, met inbegrip van geregtelike verrigtinge waarby die Raad betrokke is, die regsopvolger van die Raad.

#### Staat gebind

30. Hierdie Wet bind die Staat.

#### 20 Kort titel en inwerkingtreding

31. (1) Hierdie Wet heet die Wet op die Uitvoerende Oorgangsraad, 1993, en tree in werking op 'n datum wat die Staatspresident, in oorleg met die Onderhandelingsraad of, na die inwerkingtreding van artikel 2, indien van toepassing, in oorleg met die Raad, by proklamasie in die *Staatskoerant* bepaal.

25 (2) Verskillende datums kan aldus bepaal word ten opsigte van verskillende bepalings van hierdie Wet.

**MEMORANDUM ON THE OBJECTS OF THE TRANSITIONAL  
EXECUTIVE COUNCIL BILL, 1993**

1. The concept of a Transitional Executive Council (TEC) originated from Codesa Working Group 3. It was agreed that the transition to a new, fully democratic system of government would be preceded by preparations for the holding of free and fair elections for a new Parliament which is to be established for the transitional period in terms of a Constitution.

2. It is envisaged that the TEC, functioning in conjunction with existing legislative and executive structures, will have to prepare for and facilitate the transition to a democratic constitution by ensuring that there is an equal opportunity for participation by all parties and that a climate conducive to this and the holding of free and fair elections is created. This implies the establishment of statutory structures to prepare, in respect of predetermined areas of concern, for the institution of an elected Parliament.

3. Draft legislation was considered and approved (on 1993-09-07) by the Negotiating Council of the Multi-Party Negotiating Process at the World Trade Centre, Kempton Park. The main aim of this Bill is to introduce that legislation.

4. The Bill provides that the TEC will have a multi-party character and will be vested with the necessary executive powers to fulfil its terms of reference. It must, however, be emphasized that the TEC was never intended to be a full-fledged executive authority. In other words, the TEC does not supersede the functions and status of the Government of the day. It is no more than a statutorily constituted and mandated multi-party authority, tasked with certain responsibilities in respect of the process of transition in order to achieve the said objects.

5. In addition to the TEC, seven subcouncils are being established, which will function under the control and supervision of the TEC and will be charged with specific responsibilities in relation to areas of particular concern during the first stage of the transition, namely regional and local government and traditional authorities, law and order, stability and security, defence, finance, foreign affairs, the status of women and intelligence (clauses 8 and 14-20). Clause 8(2) of the Bill makes provision for the establishment of additional subcouncils at the request of the TEC, if this proves to be necessary for the Council to perform its functions. This has to be done in consultation with (i.e. with the concurrence of) the State President and by means of an amendment to the Act concerned by proclamation in the *Government Gazette*.

6. Some of the most important provisions contained in the Bill are highlighted below:

6.1 The objects of the TEC are set out in clause 3, namely, to promote, in conjunction with all legislative and executive structures at all levels of government in South Africa, the preparation for and transition to a democratic order in South Africa by—

- (a) creating and promoting a climate for free political participation; and
- (b) creating and promoting conditions conducive to the holding of free and fair elections.

6.2 Regarding the composition of the TEC: Each Government, administration, political party or organization which participates or participated in the Negotiation Council of the Multi-Party Negotiating Process shall be a participant in the TEC and shall be entitled to nominate one member and an alternate member on the TEC, provided it—

- (i) commits itself to the objects of the TEC;
- (ii) undertakes to be bound by and to implement the directions of the TEC; and
- (iii) renounces violence as a means of achieving political objectives.

6.3 Provision is being made for the suspension of a participant in the TEC under certain, specified circumstances (clause 4(8)). A participant in the TEC that fails or refuses to nominate a member to the Council or terminates or suspends its participation in the TEC, or whose participation in the TEC is suspended, remains bound by the obligations it incurred by becoming such a participant in the first place (clause 4(9)).

6.4 The general powers of the TEC and its subcouncils are set out in clauses 7 and 12, respectively. Clauses 14 to 20 specify the particular functions of the subcouncils in their respective fields.

## MEMORANDUM OOR DIE OOGMERKE VAN DIE WETSONTWERP OP DIE UITVOERENDE OORGANGSRAAD, 1993

1. Die idee van 'n Uitvoerende Oorgangsraad (UOR) het sy oorsprong by Kodesa-werkgroep 3. Daar is ooreengekom dat die oorgang na 'n nuwe, ten volle demokratiese regeringstelsel voorafgegaan word deur voorbereidings vir die hou van 'n vrye en regverdige verkiesing vir 'n nuwe Parlement wat ingevolge 'n Grondwet vir die oorgangsperiode ingestel staan te word.

2. Daar word beoog dat die UOR, in samewerking met bestaande wetgewende en uitvoerende strukture, voorbereidingswerk vir die oorgang na 'n demokratiese grondwet moet doen deur te verseker dat gelyke deelnamegeleentheid vir alle partye bestaan en dat 'n klimaat wat bevorderlik is daarvoor en vir die hou van vrye en regverdige verkiesings geskep word. Dit behels die instelling van statutêre strukture om ten opsigte van voorafbepaalde terreine vir die instelling van 'n verkose Parlement voor te berei.

3. Konsepwetgewing is deur die Onderhandelingsraad van die Veelparty-onderhandelingsproses by die Wêreldhandelsentrum te Kempton Park oorweeg en goedgekeur (op 1993-09-07). Die hoofdoel van hierdie Wetsontwerp is om daardie wetgewing in te voer.

4. Die Wetsontwerp maak voorsiening dat die UOR 'n veelpartykarakter sal hê en oor die uitvoerende bevoegdheid sal beskik wat nodig is om sy opdrag uit te voer. Daar moet egter beklemtoon word dat dit nooit die bedoeling was dat die UOR 'n volwaardige uitvoerende owerheid moet uitmaak nie. Met ander woorde, die UOR neem nie die werksaamhede en status van die Regering van die dag oor nie. Dit is niks meer nie as 'n statutêr saamgestelde en gemagtigde veelparty-owerheid, waaraan sekere verantwoordelikhede ter bereiking van die gestelde doelwitte ten opsigte van die oorgangsproses opgedra word.

5. Benewens die UOR word daar sewe subrade ingestel, wat onder die beheer en toesig van die UOR sal funksioneer en wat belas word met spesifieke verantwoordelikhede ten opsigte van spesifieke werksterreine tydens die eerste stadium van die oorgang, naamlik streeks- en plaaslike regering en tradisionele owerhede, wet en orde, stabiliteit en veiligheid, verdediging, finansies, buitelandse sake, die status van vroue en intelligensie (klousules 8 en 14-20). Klousule 8(2) van die Wetsontwerp maak voorsiening vir die instelling van bykomende subrade op versoek van die UOR, indien dit nodig sou blyk vir die verrigting van die Raad se werksaamhede. Dit moet gedoen word in oorleg met (dit wil sê, met die instemming van) die Staatspresident en deur middel van 'n wysiging van die Wet by proklamasie in die *Staatskoerant*.

6. Sommige belangrike bepalings van die Wetsontwerp word hieronder uitgelig:

6.1 Die oogmerke van die UOR word in klousule 3 uiteengesit, nl om in samewerking met alle wetgewende en uitvoerende strukture op alle regeringsvlakke in Suid-Afrika, die voorbereiding vir en oorgang na 'n demokratiese bestel in Suid-Afrika te bevorder deur—

- (a) 'n klimaat vir vrye politieke deelname te skep en te bevorder; en
- (b) omstandighede wat bevorderlik is vir vrye en regverdige verkiesings te skep en te bevorder.

6.2 Wat die samestelling van die UOR betref: Elke Regering, administrasie, politieke party of organisasie wat in die Onderhandelingsraad van die Veelparty-onderhandelingsproses deelneem of deelgeneem het, is 'n deelnemer in die UOR en is geregtig om een lid en 'n plaasvervangende lid in die UOR te benoem, mits hy—

- (i) homself tot die oogmerke van die UOR verbind;
- (ii) onderneem om aan die lasgewings van die UOR gebonde te wees en dit te implementeer; en
- (iii) afstand doen van geweld as middel om politieke doelwitte te bereik.

6.3 Voorsiening word gemaak vir die skorsing van 'n deelnemer in die UOR in sekere, vermelde omstandighede (klousule 4(8)). 'n Deelnemer in die UOR wat versuim of weier om 'n lid in die Raad te benoem, of wat sy deelname in die UOR beëindig of opskort, of waarvan die deelname in die UOR opgeskort word, bly desnieteenstaande gebonde aan die verpligtinge wat hy aangegaan het toe hy in die eerste instansie 'n deelnemer geword het (klousule 4(9)).

6.4 Die algemene bevoegdheid van die UOR en sy subrade word uiteengesit

6.5 In terms of clause 13(3) of the Bill, each Government, administration, political party or organization participating in the TEC and every other political party is obliged to comply with and give effect to any direction made to it by the TEC or a subcouncil in terms of any law, subject to a right of appeal in terms of clause 23.

6.6 Clause 13(1)(a) of the Bill obliges each Government and administration (cf definitions in clause 1) to keep the TEC informed of and to provide it with copies of all of its proposed legislation (including subordinate legislation) which has a bearing on the objects of the Council. If the TEC or a subcouncil is of the opinion that such legislation is likely to have an adverse effect on the attainment of the objects of the TEC, it is empowered, in terms of clause 13(1)(b), to direct that Government or administration not to proceed with that legislation and such Government or administration will be obliged to comply with such direction, subject to a right of appeal in terms of clause 23.

6.7 In similar vein clause 13(2)(a) obliges each Government and administration, every political party or organization participating in the Council, as well as every other political party, to keep the TEC informed of any decision and any proposed or intended action which is likely to have a bearing on the objects of the TEC. If the TEC or the subcouncil concerned is of the opinion that such a decision or action is likely to have an adverse effect on the attainment of the objects of the TEC, it is empowered, in terms of clause 13(2)(b) of the Bill, to direct the said Government, administration, political party or organization not to implement the decision or to proceed with that action, and such Government, administration, political party or organization is obliged to comply with such direction, subject to a right of appeal in terms of clause 23.

6.8 Clause 22 of the Bill deals with the procurement of information. The point of departure is that the TEC and the subcouncils have access to all information and documents in the possession of any Government or administration, any participant in the TEC or any political party, except information and documents specified in clause 22(3). Furthermore, provision is being made for the establishment of a committee to be known as the Access to Information Committee, and consisting of four persons of integrity (clause 22(4)). Members of this committee will have access to all such information and documents (except certain information and documents which could reveal the source thereof—clause 22(2)) with a view to verifying, *inter alia*, whether or not they contain anything which adversely affects the attainment of the objects of the TEC (clause 22(5) and (11)).

6.9 Clause 23 of the Bill makes provision for the resolution of disputes. The Special Electoral Court (established by the Independent Electoral Commission Act, 1993) is being empowered, *inter alia*, to resolve disputes between the TEC or a subcouncil and any Government, administration, political party or organization as to whether or not—

- (a) a particular matter falls within the scope of the powers of the TEC or a subcouncil;
- (b) any proposed legislation or executive or other action could have an adverse impact on the attainment of the objects of the TEC; and
- (c) such a Government, administration, political party or organization is obliged to comply with a direction of the TEC or a subcouncil.

6.10 All decisions of the TEC or a subcouncil are to be made by members thereof alone, and as far as possible, on a basis of consensus. Where total consensus is unattainable, a decision—

- (a) in the case of the TEC, which has the support of at least seventy-five percent of the members of the Council;
- (b) in the case of the subcouncils on Law and Order, Stability and Security, Defence and Intelligence, which has the support of at least seventy-five percent of the members of the subcouncil concerned; and
- (c) in the case of the subcouncils on Regional and Local Government and Traditional Authorities, Finance, Foreign Affairs and the Status of Women, which has the support of at least two-thirds of the members of the subcouncil concerned,

is deemed to be a decision of the Council or the subcouncil concerned.

in klousules 7 en 12, onderskeidelik. Klousules 14 tot 20 vermeld die besondere werksaamhede van die subrade op hulle onderskeie terreine.

6.5 Ingevolge klousule 13(3) van die Wetsontwerp is elke Regering, administrasie, politieke party of organisasie wat in die UOR deelneem en elke ander politieke party verplig om te voldoen aan enige lasgewing wat deur die UOR of 'n subraad ingevolge enige wet aan hom gerig word, en om gevolg daaraan te gee, onderworpe aan 'n reg van appèl ingevolge klousule 23.

6.6 Klousule 13(1)(a) van die Wetsontwerp verplig elke Regering en administrasie (vgl. omskrywings in klousule 1) om die UOR ingelig te hou oor en om aan hom afskrifte te voorsien van al sy voorgestelde wetgewing (met inbegrip van ondergeskikte wetgewing) wat op die oogmerke van die Raad betrekking het. Indien die UOR of 'n subraad van mening is dat sodanige wetgewing waarskynlik 'n nadelige uitwerking op die bereiking van die oogmerke van die UOR kan hê, het hy die bevoegdheid, ingevolge klousule 13(1)(b), om daardie Regering of administrasie te gelas om nie met daardie wetgewing voort te gaan nie, en daardie Regering of administrasie is verplig om daaraan te voldoen, onderworpe aan 'n reg van appèl ingevolge klousule 23.

6.7 Insgelyks verplig klousule 13(2)(a) elke Regering en administrasie, elke politieke party of organisasie wat in die Raad deelneem, asook elke ander politieke party, om die UOR ingelig te hou oor enige besluit en enige voorgestelde of voorgenome optrede wat waarskynlik op die oogmerke van die UOR betrekking kan hê. Indien die UOR of die betrokke subraad van mening is dat so 'n besluit of optrede waarskynlik 'n nadelige uitwerking op die bereiking van die oogmerke van die UOR kan hê, het hy die bevoegdheid, ingevolge klousule 13(2)(b) van die Wetsontwerp, om die betrokke Regering, administrasie, politieke party of organisasie te gelas om nie die besluit te implementeer of met die optrede voort te gaan nie, en sodanige Regering, administrasie, politieke party of organisasie is verplig om daaraan te voldoen, onderworpe aan 'n reg van appèl ingevolge klousule 23.

6.8 Klousule 22 van die Wetsontwerp handel oor die verkryging van inligting. Die uitgangspunt is dat die UOR en die subrade toegang het tot alle inligting en dokumente in die besit van enige Regering of administrasie, enige deelnemer in die UOR of enige politieke party, behalwe inligting en dokumente in klousule 22(3) vermeld. Voorts word voorsiening gemaak vir die instelling van 'n komitee wat bekend staan as die Toegang tot Inligting-komitee, en wat bestaan uit vier persone van integriteit (klousule 22(4)). Lede van hierdie komitee sal toegang tot alle sodanige inligting en dokumente hê (behalwe sekere inligting en dokumente wat die identiteit van die bron daarvan kan blootlê—klousule 22(2)) met die oog daarop om te verifieer, onder andere, of dit enigiets bevat wat die bereiking van die oogmerke van die UOR nadelig raak (klousule 22(5) en (11)).

6.9 Klousule 23 van die Wetsontwerp maak voorsiening vir die beslegting van geskille. Die Spesiale Verkiesingshof (ingestel by die Wet op die Onafhanklike Verkiesingskommissie, 1993) word gemagtig om, onder andere, geskille tussen die UOR of 'n subraad en enige Regering, administrasie, politieke party of organisasie te besleg oor die vraag of—

- (a) 'n bepaalde aangeleentheid binne die omvang van die bevoegdhede van die UOR of 'n subraad val;
- (b) enige voorgestelde wetgewing of uitvoerende of ander optrede 'n nadelige uitwerking op die bereiking van die oogmerke van die UOR kan hê; en
- (c) die Regering, administrasie, politieke party of organisasie verplig is om aan 'n lasgewing van die UOR of subraad te voldoen.

6.10 Alle besluite van die UOR of 'n subraad word slegs deur die lede daarvan geneem, en sover moontlik, op 'n grondslag van konsensus. Waar algehele konsensus nie bereik kan word nie, word 'n besluit—

- (a) in die geval van die UOR, wat die steun van minstens vyf-en-sewentig persent van die lede van die Raad het;
- (b) in die geval van die subrade oor Wet en Orde, Stabiliteit en Veiligheid, Verdediging en Intelligensie, wat die steun van minstens vyf-en-sewentig persent van die lede van die betrokke subraad het; en
- (c) in die geval van die subrade oor Streek- en Plaaslike Regering en Tradisionele Owerhede, Finansies, Buitelandse Sake en die Status van Vroue, wat die steun van minstens twee derdes van die lede van die betrokke subraad het, geag 'n beslissing van die Raad of die betrokke subraad te wees.

6.11 The Act concerned will also apply in all the self-governing territories (clause 21(1)); and provision is being made for the application of the Act in respect of the Republics of Transkei, Bophuthatswana, Venda and Ciskei (clauses 4(2) and 21(2)).

6.12 In terms of clause 29 the Act will lapse and the TEC and its subcouncils will be dissolved when the first cabinet is formed in terms of the Transitional Constitution.

6.11 Die betrokke Wet sal ook in al die selfregerende gebiede geld (klousule 21(1)); en voorsiening word gemaak vir die toepassing van die Wet ten opsigte van die Republieke van Transkei, Bophuthatswana, Venda en Ciskei (klousules 4(2) en 21(2)).

6.12 Ingevolge klousule 29 sal die Wet verval en die UOR en sy subrade ontbind wanneer die eerste kabinet ingevolge die Oorgangsgrondwet saamgestel word.





