

SECTION 118

(For discussion)

1. (a) A Provincial legislature shall, subject to the provisions of subparagraphs (c) and (d), have concurrent competence with Parliament to make laws for the province, with regard to all matters which fall within the functional areas specified in Schedule 9.
- (b) The legislative competence referred to in paragraph (a) shall include the competence to make laws with regard to all such other matters as are reasonably necessary for or incidental to the effective exercise of such legislative competence.
- (c) A Parliamentary law dealing with matters referred to in paragraphs (a) and (b) shall prevail over a Provincial law inconsistent therewith if and only in so far as :
 - (i) it deals with a matter that cannot be regulated effectively by provincial legislation; or
 - (ii) it deals with a matter that requires to be regulated or co-ordinated by uniform norms or standards that apply generally throughout the Republic; or
 - (iii) the provincial law materially prejudices the economic, health or security interests of another province or the country as a whole; or
 - (iv) (This clause is proposed by the ANC - not yet accepted) the provisions of the Act of Parliament is necessary for the determination of national economic development and policies, the maintenance of economic unity, the promotion of inter-provincial commerce, the protection of the common market in respect of the mobility of goods, services, capital or labour, or the maintenance of national security; or
 - (v) it is necessary to set minimum standards across the nation for the rendering of public services.

- (d) An Act of Parliament shall prevail over a Provincial law, as provided for in paragraph (c), only if it applies uniformly in all parts of the Republic.
- (e) An Act of Parliament and a Provincial law shall be construed as being consistent with each other, unless, and only to the extent that, inconsistency is established expressly or by necessary implication.
2. Executive power and responsibility relating to all matters within the legislative competence of a province in terms of subsection (1) shall vest in the provincial executive.
3. (This clause proposed by the Government, but rejected by the ANC)
The competences of a provincial legislature and the powers and responsibilities of a provincial executive in terms of this section shall not be changed without the consent of the provincial legislature.

SCHEDULE 9

1. Agriculture
2. Casinos, Racing and Gambling
3. Correctional Services (delete)
4. Cultural Affairs
5. Primary and Secondary Education (Problem : Tertiary Education)
6. Housing
7. Language Policy and language/s of record for use in provincial administrations
8. Local Government subject to the provisions of chapter 10
9. Nature Conservation, excluding national parks, national botanical gardens and marine resources
10. Police subject to the provisions of chapter 2
11. Provincial public media
12. Health Services

13. Public Transport
14. Regional Planning and Development
15. Road Traffic Regulation
16. Roads
17. Tourism
18. Trade and Industrial Promotion (Queried)
19. Traditional Authority and indigenous law
20. Urban Development
21. Welfare Services

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