

REPUBLIC OF SOUTH AFRICA

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# COMMISSION ON GENDER EQUALITY AMENDMENT BILL

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*(As introduced in the National Assembly (proposed section 75); explanatory summary of  
Bill published in Government Gazette No. 35572 of 10 August 2012)  
(The English text is the official text of the Bill)*

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(MINISTER OF WOMEN, CHILDREN AND PEOPLE WITH DISABILITIES)

[B 36—2012]

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**GENERAL EXPLANATORY NOTE:**

[                    ]     Words in bold type in square brackets indicate omissions from existing enactments.

                         Words underlined with a solid line indicate insertions in existing enactments.

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## **BILL**

**To amend the Commission on Gender Equality Act, 1996, so as to align it with the Constitution of the Republic of South Africa, 1996; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Substitution of Preamble of Act 39 of 1996**

1. The following Preamble is hereby substituted for the Preamble of the Commission on Gender Equality Act, 1996 (hereinafter referred to as the principal Act): 5

**“PREAMBLE**

**WHEREAS** section [119] 181 and item 20(2) of Schedule 6 to the Constitution [provides for the establishment of a Commission on Gender Equality; the determination of the members of the Commission; the requirements for appointment as members of the Commission] of the Republic of South Africa, 1996, provide 10 for the continued existence of the Commission for Gender Equality;

**AND WHEREAS** section 187 of the Constitution provides that [the object of the Commission on Gender Equality shall be to promote gender equality and to advise and to make recommendations to Parliament or any other legislature with regard to any laws or proposed legislation which affects gender equality and the status of 15 women] the Commission for Gender Equality—

- must promote respect for gender equality and the protection, development and attainment of gender equality;
- has the power, as regulated by national legislation, necessary to perform its functions, including the power to monitor, investigate, research, educate, lobby, advise and report on issues concerning gender equality; 20
- has additional powers and functions prescribed by national legislation;

**AND WHEREAS [section 120] sections 193 and 194 of the Constitution [provides that an Act of Parliament shall provide for the composition, powers, functions and functioning of the Commission on Gender Equality and for all other matters in connection therewith] provide for a mechanism for the appointment and the removal of a member of the Commission for Gender Equality.”** 5

**Amendment of section 1 of Act 39 of 1996, as amended by section 35 of Act 47 of 1997**

2. Section 1 of the principal Act is hereby amended—
- (a) by the substitution for the definition of “Commission” of the following definition: 10  
 “ ‘Commission’ means the Commission **[on] for Gender Equality [established by section 119] referred to in section 181** of the Constitution;”;
  - (b) by the insertion before the definition of “investigation” of the following definition: 15  
 “ ‘**Constitution**’ means the Constitution of the Republic of South Africa, 1996;” and
  - (c) by the substitution for the definition of “Minister” of the following definition: 20  
 “ ‘**Minister**’ means the Minister **[of Justice] responsible for women, children and people with disabilities;**”.

**Amendment of section 3 of Act 39 of 1996**

3. Section 3 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 25  
 “**[Subject to section 119(2) of the Constitution, the]** The Commission shall consist of a chairperson and no fewer than seven and no more than eleven members, who shall—”;
  - (b) by the substitution in subsection (2) for paragraphs (a), (b) and (c) of the following paragraphs, respectively: 30  
 “(a) **[proposed by interested parties as contemplated in subsection (3)]** nominated by a committee of the National Assembly proportionally composed of members of all parties represented in the Assembly;  
 (b) **[nominated by a joint committee]** approved by the National Assembly by a resolution adopted with a supporting vote of a majority of the members of the Assembly; and 35  
 (c) **[approved by the National Assembly and the Senate by a resolution adopted by a majority of the total number of members of both Houses at a joint meeting;]** on the recommendation of the Assembly.”; 40
  - (c) by the deletion of the proviso to subsection (2);
  - (d) by the deletion of subsection (3);
  - (e) by the substitution for subsection (5) of the following subsection: 45  
 “(5) The President shall, subject to section 194(2) and (3) of the Constitution, remove any member from office **[if] only on—** 45  
 (a) **[such removal is requested by a joint committee contemplated in subsection (2)(b)]** the ground of misconduct, incapacity or incompetence; [and]  
 (b) **[such request is approved by the National Assembly and the Senate by a resolution adopted by a majority of the total number of members of both Houses at a joint meeting.]** a finding to that effect by a committee of the National Assembly; and 50  
 (c) the adoption by the National Assembly of a resolution calling for that person’s removal.”.

**Amendment of section 9 of Act 39 of 1996**

4. Section 9 of the principal Act is hereby amended by the substitution in paragraph (b) of subsection (2) for the words preceding subparagraph (i) of the following words:  
 “shall, subject to the [**Exchequer Act, 1975 (Act No. 66 of 1975)**] Public Finance Management Act, 1999 (Act No. 1 of 1999)—”.

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**Amendment of section 11 of Act 39 of 1996**

5. Section 11 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:  
 “In order to achieve its object referred to in section [**119(3)**] 187 of the Constitution, the Commission—”.

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**Substitution of short title of Act 39 of 1996**

6. The following short title is hereby substituted for the short title and commencement of the principal Act:

“**19.** This Act shall be called the Commission [**on**] for Gender Equality Act, 1996, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.”.

**Amendment of citation of laws referring to Act 39 of 1996**

7. Any reference to the “Commission on Gender Equality Act, 1996 (Act No. 39 of 1996)”, contained in any law in force immediately prior to the commencement of this Act, must be construed as a reference to the “Commission for Gender Equality Act, 1996 (Act No. 39 of 1996)”.

**Substitution of long title of Act 39 of 1996**

8. The following long title is hereby substituted for the long title of the principal Act:

“**To provide for the composition, powers, functions and functioning of the Commission [on] for Gender Equality; and to provide for matters connected therewith.**”.

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**Short title**

9. This Act is called the Commission on Gender Equality Amendment Act, 2012.