



**PARLIAMENT**  
OF THE REPUBLIC OF SOUTH AFRICA

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**LEGAL OPINION**

[Confidential]

**TO:** Adv S P Holomisa, MP  
Mr. B A Mnguni, MP  
Co-Chairpersons of the Constitutional Review  
Committee

**COPY:** Acting Secretary to Parliament

**DATE:** 28 August 2012

**SUBJECT:** Submission: Chairperson of the NCOP

**LEGAL ADVISER:** Adv A Gordon

**COMMITTEE REFERENCE:** 8/12

**REFERENCE NUMBER:** 190/12

A handwritten signature in black ink, enclosed within a hand-drawn oval border.



**MEMORANDUM**

**To:** Adv S P Holomisa, MP  
Mr. B A Mnguni, MP  
Co-Chairpersons of the Constitutional Review Committee

**Copy:** Acting Secretary to Parliament

**From:** Constitutional and Legal Services Office  
Adv A Gordon

**Date:** 28 August 2012

**Subject:** Submission: Chairperson of the NCOP

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1. A letter was sent by the Chairperson of the NCOP to the Joint Constitutional Review Committee (JCRC) which indicates that section 73(4) of the Constitution should be amended.
2. It appears that the letter is an intention to request the JCRC to amend section 73(4) of the Constitution. Whilst the Chairperson of the NCOP expresses concern that most section 76 Bills are introduced in the National Assembly, the proposed amendment is not included with the letter even though the Chairperson indicates that he will submit the proposed amendment(s).
3. Due to the fact that the proposed amendment is not before the JCRC there is accordingly no substantive matter to be considered for a legal opinion. A legal opinion can only be offered once the proposed amendment to section 73(4) of the Constitution is submitted by the Chairperson of the NCOP to the JCRC.

**ADV A J GORDON**  
**LEGAL ADVISER**



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**MEMORANDUM**

**To:** Hon. B A Mnguni, MP  
Co- chairperson: Constitutional Review Committee

**From:** Hon. M J Mahlangu, MP  
Chairperson of the NCOP

**Date:** 16 May 2012

**Re:** Proposed constitutional amendments

I hereby wish to bring to your attention that as the Chairperson of the National Council of Provinces I intend to submit to the Constitutional Review Committee proposed amendments to the following provision of the Constitution of the Republic of South Africa, 1996:

- Section 73(4) which provides that only a member or committee of the National Council of Provinces may introduce a Bill in the Council.

The proposal is based on the experience of the NCOP over the past fifteen years of its existence. Because Cabinet Ministers are prohibited from introducing Bills in the NCOP the majority of section 76 bills are introduced in the National Assembly, despite these Bills affecting provinces and requiring the maximum amount of time for consideration by the NCOP.

Yours sincerely

**M J Mahlangu, MP**  
**CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES**



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Yours sincerely

**M J Mahlangu, MP**  
**CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES**