



CONSTITUTIONAL COURT OF SOUTH AFRICA

Acting Speaker of the National Assembly v Teddy Bear Clinic for Abused Children and Another

CCT 54/15

Date of hearing: 7 May 2015

Date of order: 13 May 2015

Date of reasons: 15 June 2015

MEDIA SUMMARY

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.

Today the Constitutional Court handed down reasons for an order it granted on 13 May 2015. The order was in relation to an urgent application brought by the Acting Speaker of the National Assembly. In that order, the period of suspension of the declaration of invalidity issued by this Court in *Teddy Bear Clinic for Abused Children and Another v Minister of Justice and Constitutional Development and Another* (Teddy Bear judgment) was extended to 5 August 2015.

In the *Teddy Bear* judgment, this Court declared certain provisions of the Criminal Law (Sexual Offences and Related Matters) Amendment Act to be inconsistent with the Constitution and accordingly invalid, insofar as they criminalised consensual sexual activities amongst children aged between 12 and 16 years old. The Court suspended the declaration of invalidity and imposed a moratorium on investigations and prosecution of children initiated under the provisions. The suspension period was due to expire on 2 April 2015.

On 30 March 2015, the Acting Speaker filed an urgent application requesting an extension of the suspension because the Minister of Justice and Correctional Services was considering the amendments to the constitutionally invalid provisions concurrently with the further amendments mandated by the order in *J v National Director of Public Prosecutions and Another*. In that case, this Court found other provisions of the same Act constitutionally invalid and suspended the declaration of invalidity until 5 August

2015. The Acting Speaker also submitted that the extension was justified because it would allow for greater public involvement and would cause no prejudice because the moratorium would remain in force.

The respondents, the Teddy Bear Clinic for Abused Children and Resources Aimed at the Prevention of Child Abuse and Neglect, did not oppose the application. However, they indicated that they would oppose any additional extensions beyond the period requested.

In a unanimous judgment providing reasons for the order, Nkabinde J found that the explanation for the delay in implementing the court order was adequate; there was no prejudice to be suffered; and, based on assertions made on behalf of the Acting Speaker at the hearing, the Court had no reason to doubt the ability of Parliament to comply with the requested timeline. The Court concluded that, in these circumstances, an extension would promote an orderly state administration for the benefit of the general public and would be just and equitable.