

REPUBLIC OF SOUTH AFRICA

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# ELECTORAL LAWS AMENDMENT BILL

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*As introduced in the National Assembly (proposed section 76 of the Constitution); explanatory summary of Bill and prior notice of its introduction published in Government Gazette No. 43697 of 9 September 2020)  
(The English text is the official text of the Bill)*

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(MINISTER OF HOME AFFAIRS)

[B 22—2020]

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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—

- Electoral Commission Act, 1996, so as to insert certain definitions; to streamline the provisions for the registration of political parties; to provide for the registration of parties in respect of particular provinces, district and metropolitan municipalities and to repeal provisions relating to registration of parties in respect of particular local municipalities; to repeal obsolete provisions;
  - Electoral Act, 1998, so as to insert certain definitions; to amend the provisions regarding public access to the voters' roll; to update references to repealed legislation; to amend provisions allowing voters to vote in a voting district where they are not registered; to amend provisions relating to the submission of lists of candidates; to amend provisions relating to special votes in elections for the National Assembly; to authorise the Commission to prescribe a different voting method; to amend provisions relating to the procedure concerning provisional results and voting materials; to provide for the limited applicability of the Code; to amend Schedule 3; and
  - Local Government: Municipal Electoral Act, 2000, so as to insert and delete certain definitions; to amend the requirements for parties contesting elections by way of party lists and for a ward candidate to contest elections; to authorise the Commission to prescribe a different voting procedure for those voters whose names appear on the voters' roll, without addresses; to authorise the Commission to prescribe a different voting method; to amend provisions relating to the effect of certain irregularities,
- and to provide for matters connected therewith.

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

**Amendment of section 1 of Act 51 of 1996 (Act No. 51 of 1996), as amended by section 6 of Act 22 of 2014**

1. Section 1 of the Electoral Commission Act, 1996, is hereby amended—5
  - (a) by the insertion after the definition of “Commission” of the following definition:

“ ‘district municipality’ has the meaning assigned to it in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);”; and10

- (b) by the insertion after the definition of “Independent Commission” of the following definitions:

“**‘local municipality’** has the meaning assigned to it in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**‘metropolitan municipality’** has the meaning assigned to it in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);”.

#### **Amendment of section 12 of Act 51 of 1996**

2. Section 12 of the Electoral Commission Act, 1996, is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) shall be the accounting officer of the Commission for the purposes of the **[Exchequer Act, 1975 (Act No. 66 of 1975)] Public Finance Management Act, 1999 (Act No. 1 of 1999)**, and shall cause the necessary accounting and other related records to be kept; and”.

#### **Amendment of section 15 of Act 51 of 1996, as amended by section 26 of Act 34 of 2003 and section 2 of Act 1 of 2019**

3. Section 15 of the Electoral Commission Act, 1996, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) The chief electoral officer shall, upon application by a party in the prescribed manner and form, accompanied by the items mentioned in subsection (3), register such party in accordance with this Chapter in respect of—

(a) the entire Republic;

(b) a particular province; or

(c) a particular district or metropolitan municipality,

Provided that a party registered for a—

(i) particular province may under such registration only participate in elections for that provincial legislature and for all the municipal councils in that province;

(ii) metropolitan municipality may under such registration only participate in elections for that metro council; or

(iii) district municipality may under such registration only participate in elections for that district council and for the local council falling within the area of that district municipality.”;

- (b) by the insertion after subsection (4) of the following subsections:

“(4A) A party applying for registration in terms of subsection (1) must publish the prescribed notice of the application in—

(a) the *Gazette*, in the case of an application referred to in subsection (1)(a);

(b) the relevant provincial *Gazette*, in the case of an application referred to in subsection (1)(b); or

(c) the relevant provincial *Gazette* or a newspaper circulating in the municipal area concerned, in the case of an application referred to in section (1)(c).

(4B) Any person may object to an application contemplated in subsection (1) in the prescribed manner and form within 14 days after the publication of the prescribed notice of the application.” and

- (c) by the insertion after subsection (6) of the following subsection:

“(7) A party that is registered for a particular local municipality on the date on which the Electoral Laws Amendment Act, 2020, comes into operation, must be deemed to be registered in respect of the district municipality within whose jurisdictional area that local municipality is situated.”.

**Repeal of section 15A of Act 51 of 1996, as inserted by section 93 of Act 27 of 2000 and amended by section 27 of Act 34 of 2003 and section 3 of Act 1 of 2019**

4. Section 15A of the Electoral Commission Act, 1996, is hereby repealed.

**Amendment of section 16 of Act 51 of 1996, as amended by sections 28 and 29 of Act 34 of 2003**

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5. Section 16 of the Electoral Commission Act, 1996, is hereby amended—

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) fourteen days have not elapsed since the applicant has submitted to the chief electoral officer proof of publication of the prescribed notice of application [**in the *Gazette* in the case of an application**] referred to in section 15(4A) [**or in a newspaper circulating in the municipal area concerned in the case of an application referred to in section 15A**];”;

(b) by the substitution in subsection (1)(c) for the words preceding subparagraph (i) of the following words:

“(c) a proposed name, abbreviated name, distinguishing mark or symbol mentioned in the application or the constitution of the party or the deed of foundation mentioned in section 15 [**or 15A**] contains anything—”; and

(c) by the substitution for subsection (2) of the following subsection:

“(2) (a) [**Any party which**] An applicant who is aggrieved by a decision of the chief electoral officer [**to register or**] not to register [**a**] that party may, within 30 days after the party has been notified of the decision, appeal against the decision to the Commission in the prescribed manner.

(b) Any person who objected to an application in terms of section 15(4B) and who is aggrieved by a decision of the chief electoral officer to register that party may, within 30 days after publication of the notice referred to in section 15(5), appeal against the decision to the Commission in the prescribed manner.”.

**Amendment of section 23 of Act 51 of 1996**

6. Section 23 of the Electoral Commission Act, 1996, is hereby amended by the deletion of subsection (3).

**Amendment of section 1 of Act 73 of 1998, as amended by section 1 of Act 18 of 2013**

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7. Section 1 of the Electoral Act, 1998 (Act No. 73 of 1998), is hereby amended by the insertion after the definition of “voters’ roll” of the following definition:

“‘**voting day**’ means the day on which voting in an election takes place or is to take place;”.

**Amendment of section 16 of Act 73 of 1998, as amended by section 5 of Act 34 of 2003**

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8. Section 16 of the Electoral Act, 1998 (Act No. 73 of 1998), is hereby amended—

(a) by the deletion of subsection (2);

(b) by the substitution for subsection (3) of the following subsection:

“(3) [**Notwithstanding subsection (2), the**] The chief electoral officer must, on payment of the prescribed fee, provide copies of the voters’ roll, or a segment thereof, which includes the addresses of voters, where such addresses are available, to all registered political parties and independent candidates contesting the elections.”;

(c) by the substitution for subsection (4) of the following subsection:

“(4) The voters’ roll with addresses referred to in subsection (3) may only be used by political parties and independent candidates for election purposes and anyone using such voters’ roll for other purposes is guilty of an offence and liable on conviction to a fine or imprisonment for a

period not exceeding one year or to both a fine and such imprisonment.”;  
and

(d) by the insertion after subsection (4) of the following subsection:

“(5) The chief electoral officer must redact any information appearing on the voters’ roll provided to a registered party or an independent candidate in terms of subsection (3) as may be necessary for the protection of the personal information of voters against unreasonable disclosure.”.

**Substitution of section 24A of Act 73 of 1998, as inserted by section 7 of Act 34 of 2003**

9. The following section is hereby substituted for section 24A of the Electoral Act, 1998:

**“Voting in voting district where not registered**

**24A.** A voter who is unable, on voting day, to cast his or her vote at the voting station in the voting district where he or she is registered may, in the prescribed manner, notify the chief electoral officer by no later than the relevant date stated in the election timetable of his or her intention to cast a vote in another specified voting district within the Republic on voting day: Provided that such voter may only vote in the election for the provincial legislature if his or her name appears on a segment of the voters’ roll for the province in which that specified voting district is situated.”.

**Amendment of section 27 of Act 73 of 1998**

10. Section 27 of the Electoral Act, 1998, is hereby amended—

(a) by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) declaration, signed by the duly authorised representative of the party, that each candidate on the list is qualified to stand for election in terms of the Constitution or national or provincial legislation under Chapter 7 of the Constitution and has signed the prescribed acceptance of nomination;”;

(b) by the deletion in subsection (2) of paragraph (c); and

(c) by the insertion after subsection (3) of the following subsection:

“(4) Upon request by the Commission, a party must, in the prescribed manner and form, submit an acceptance of nomination signed by a candidate appearing on a party list submitted by that party.”.

**Amendment of section 28 of Act 73 of 1998, as substituted by section 11 of Act 1 of 2019**

11. Section 28 of the Electoral Act, 1998, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) If a registered party that has submitted a list of candidates has not fully complied with section 27(2)(a), (b), [(c) or] (d) or section 27(4), the chief electoral officer must notify that party of its non-compliance.”; and

(b) by the substitution for subsection (2) of the following subsection:

“(2) The notification must be given in the prescribed manner by not later than the relevant date stated in the election timetable, and must indicate that the party has an opportunity to comply with section 27(2)(a), (b), [(c) or] (d) or section 27(4), by not later than the relevant date stated in the election timetable.”.

**Amendment of section 30 of Act 73 of 1998**

12. Section 30 of the Electoral Act, 1998, is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) **[there is no]** a party has failed to submit the prescribed acceptance of nomination signed by the candidate as contemplated in section 27(4); or”. 5

**Amendment of section 33 of Act 73 of 1998, as amended by section 9 of Act 34 of 2003, section 2 of Act 40 of 2003 and section 6 of Act 18 of 2013**

13. Section 33 of the Electoral Act, 1998, is hereby amended—

(a) by the substitution for subsection (3) of the following subsection:

“(3) In an election for the National Assembly, the Commission must allow a person, who **[is]** will be outside the Republic on voting day, to **[apply for and]** cast a special vote if that person’s name appears on the segment of the **[voter’s]** voters’ roll for persons who are in the Republic, and if that person notifies the **[Commission within 15 days after the proclamation of the date of the election]** chief electoral officer, in the prescribed manner, by no later than the relevant date stated in the election timetable of his or her intention to vote outside the Republic and the location of the South African embassy, high commission or consulate where he or she will cast his or her vote: Provided that the Commission may make special arrangements for security services personnel serving in that capacity outside the Republic.”; 10 15 20

(b) by the substitution for subsection (4) of the following subsection:

“(4) In an election for the National Assembly, the Commission must allow a person to **[apply for and]** cast a special vote if that person’s name appears on the segment of the **[voter’s]** voters’ roll for persons ordinarily resident at a place outside the Republic, if that person **[notifies the Commission within 15 days after the proclamation of the date of the election of his or her intention]** presents himself or herself to vote **[outside the Republic and the location of]** at the South African embassy, high commission or consulate on whose segment of the voters’ roll his or her name appears **[where he or she will cast his or her vote]**.”; and 25 30

(c) by the insertion after subsection (4) of the following subsection:

“(4A) In an election for the National Assembly, the Commission must allow a person to cast a special vote if— 35  
 (a) that person’s name appears on the segment of the voters’ roll for persons ordinarily resident at a place outside the Republic;  
 (b) that person intends to vote at a specified voting station within the Republic or at a South African embassy, high commission or consulate other than one on whose segment of the voters’ roll his or her name appears; and 40  
 (c) he or she notifies the chief electoral officer in the prescribed manner by no later than the relevant date stated in the election timetable of his or her intention to vote at a specified voting station within the Republic or at a specified South African embassy, high commission or consulate.”. 45

**Amendment of section 38 of Act 73 of 1998, as amended by section 11 of Act 34 of 2003 and section 12 of Act 1 of 2019**

14. Section 38 of the Electoral Act, 1998, is hereby amended by the insertion after subsection (8) of the following subsection: 50

“(9) Despite anything to the contrary contained in this Act or any other law, the Commission may prescribe a different voting method.”.

**Amendment of section 50 of Act 73 of 1998**

15. Section 50 of the Electoral Act, 1998, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection: 55

“(1) After determining the result at a voting station, the counting officer must complete a prescribed form reflecting the result of the count in respect of each ballot conducted at the voting station[—

- (a) the number of ballot papers supplied to the voting station;
  - (b) the result at the voting station;
  - (c) the number of counted ballot papers that were not disputed;
  - (d) the number of counted ballot papers that were disputed;
  - (e) the number of rejected ballot papers that were not disputed; 5
  - (f) the number of rejected ballot papers that were disputed;
  - (g) the number of cancelled ballot papers; and
  - (h) the number of unused ballot papers].”; and
- (b) by the substitution in subsection (4) for paragraph (a) of the following paragraph: 10
- “(a) seal in separate containers each of the items listed in the prescribed form mentioned in subsection (1) and the written record of any objections in terms of section 48 or 49; and”.

#### **Amendment of section 99 of Act 73 of 1998**

16. Section 99 of the Electoral Act, 1998, is hereby amended by the insertion after subsection (1) of the following subsection— 15

“(1A) A Code is binding from the date on which the notice calling an election is published to the date on which the result of the election is declared.”.

#### **Amendment of Schedule 3 to Act 73 of 1998**

17. Schedule 3 to the Electoral Act, 1998, is hereby amended by the substitution in item 3 for subitem (1) of the following subitem: 20

“(1) The determination of seats contemplated in items 1 and 2 must be completed by the Commission [**not later than 31 March 1999**] before every election and the Commission must publish such a determination in the prescribed manner.” 25

#### **Amendment of section 1 of Act 27 of 2000, as amended by section 1 of 1 of 2016**

18. Section 1 of the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000), is hereby amended—

- (a) by the insertion after the definition of “counting officer” of the following definition: 30
  - “**‘district council’** has the meaning assigned to it in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);”; and
- (b) by the deletion of the definition of “**district management area**”.

#### **Amendment of section 14 of Act 27 of 2000, as amended by section 2 of Act 14 of 2010 and section 2 of Act 1 of 2016** 35

19. Section 14 of the Local Government: Municipal Electoral Act, 2000, is hereby amended—

- (a) by the substitution in subsection (1)(a) for subparagraph (iv) of the following subparagraph: 40
  - “(iv) a declaration that none of the candidates on the party list is disqualified from standing for election in terms of the Constitution or any applicable legislation and that each of those candidates has signed the prescribed acceptance of nomination; and”; 45
- (b) by the deletion of subsection (2);
- (c) by the substitution for subsection (3) of the following subsection:
  - “(3) The [**following documents must be attached to a party list when the list is submitted to the**] Commission may, in the prescribed form and manner, request the following information from a party:[:] 50
    - (a) A prescribed acceptance of nomination signed by each party candidate; and

- (b) a copy of the identity card or that page of the candidate's identity document on which the candidate's photo, name and identity number appear."; and
- (d) by the deletion of subsection (4).

**Amendment of section 17 of Act 27 of 2000, as amended by section 4 of Act 14 of 2010 and section 4 of Act 1 of 2016** 5

20. Section 17 of the Local Government: Municipal Electoral Act, 2000, is hereby amended—

- (a) by the deletion in subsection (2) of paragraphs (b) and (c);
- (b) by the substitution in subsection (2) for paragraph (d) of the following paragraph: 10
  - “(d) a deposit equal to a prescribed amount, if any, payable [**by means of a bank guaranteed cheque in favour of the Commission**] in the prescribed form and manner.”; and
- (c) by the substitution for subsection (2A) of the following subsection: 15
  - “(2A) [**If any document mentioned in paragraphs (b) and (c) of subsection (2) were not attached to the nomination, the**] The Commission [**must**] may in the form and manner as may be prescribed request from the Party or person—
    - (a) [**notify the nominating party or person in writing by no later than the date stated in the election timetable**] an acceptance of nomination signed by the candidate; and 20
    - (b) [**allow the nominating party or person to submit the outstanding document by no later than a date stated in the election timetable**] a copy of the identity card or that page of the candidate's identity document on which the candidate's photo, name and identity number appear.” 25

**Amendment of section 47 of Act 27 of 2000**

21. Section 47 of the Local Government: Municipal Electoral Act, 2000, is hereby amended by the insertion after subsection (6) of the following subsections: 30

- “(7) The Commission may prescribe a different voting procedure for those voters whose names appear on the voters' roll, without addresses: Provided that if such voter's place of ordinary residence is located outside the relevant—
  - (a) ward on whose segment of the voters' roll that voter's name appears, the voter concerned may not vote in the ward election contemplated in section 22(1)(b) 35 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
  - (b) local or metropolitan municipality on whose segment of the voters' roll that voter's name appears, the voter concerned may not vote in the election contemplated in section 22(1)(a) or the ward election contemplated in section 22(1)(b) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); 40
  - (c) district municipality on whose segment of the voters' roll that voter's name appears, the voter concerned may not vote in the election for members of the district council contemplated in section 23(1)(a) of the Local Government: 45 Municipal Structures Act, 1998 (Act No. 117 of 1998).
- (8) Despite anything to the contrary contained in this Act or any other law, the Commission may prescribe a different voting method.”

**Amendment of section 84 of Act 27 of 2000**

22. Section 84 of the Local Government: Municipal Electoral Act, 2000, is hereby amended by the substitution for subsection (1) of the following subsection: 50

- “(1) A mistake in the certified segment of the voters' roll referred to in section 6 or [**a party**] the final list of candidates [**submitted by a party in terms of section 14**] referred to in sections 15 and 18 does not invalidate that segment of the voters' roll or that [**party**] list of candidates.” 55



**Substitution of section 87 of Act 27 of 2000**

23. The following section is hereby substituted for section 87 of the Local Government: Municipal Electoral Act, 2000:

“(1) The Electoral Code of Conduct binds every party contesting an election and every **[party and ward]** candidate. 5

(2) The Electoral Code of Conduct is binding from the date on which the notice calling an election is published to the date the result of the election is declared.”.

**Short title and commencement**

24. This Act is called the Electoral Laws Amendment Act, 2020, and comes into operation on a date determined by the President by a proclamation in the *Gazette*. 10

## MEMORANDUM ON THE OBJECTS OF THE ELECTORAL LAWS AMENDMENT BILL, 2020

### 1. PURPOSE OF BILL

The purpose of the Electoral Laws Amendment Bill (“the Bill”) is to amend the—

- (a) Electoral Commission Act, 1996 (Act No. 51 of 1996) (hereinafter referred to as the “Electoral Commission Act”), so as to insert certain definitions; to streamline the provisions for the registration of political parties; to provide for the registration of parties in respect of particular provinces, district and metropolitan municipalities and to repeal provisions relating to registration of parties in respect of particular local municipalities; and to repeal obsolete provisions;
- (b) Electoral Act, 1998 (Act No. 73 of 1998) (hereinafter referred to as the (“Electoral Act”), so as to insert certain definitions; to amend the provisions regarding public access to the voters’ roll; to update references to repealed legislation; to amend provisions allowing voters to vote in a voting district where they are not registered; to amend provisions relating to the submission of lists of candidates; to amend provisions relating to special votes in elections for the National Assembly; to authorise the Commission to prescribe a different voting method; to amend provisions relating to the procedure concerning provisional results and voting materials; to provide for the limited applicability of the Code; and to amend Schedule 3; and
- (c) Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000) (hereinafter referred to as the “Municipal Electoral Act”), so as to insert and delete certain definitions; to amend the requirements for parties contesting elections by way of party lists and for award candidate to contest elections; to authorise the Commission to prescribe a different voting procedure for those voters whose names appear on the voters’ roll, without addresses; and to authorise the Commission to prescribe a different voting method; to amend provisions relating to the effect of certain irregularities; and to provide for matters connected therewith.

### 2. OBJECTS OF BILL

The Bill introduces the amendments as follows:

- 2.1.1 **Clause 1:** amends section 1 of the Electoral Commission Act to include the definitions of “district municipality”, “local municipality” and “metropolitan municipality” in order to have a corresponding meaning assigned to it in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).
- 2.1.2 **Clause 2:** amends section 12 of the Electoral Commission Act by replacing reference to the repealed Exchequer Act, 1975 (Act No. 66 of 1975), with the Public Finance Management Act, 1999 (Act No.1 of 1999).
- 2.1.3 **Clause 3:** amends section 15 of the Electoral Commission Act to authorise the Commission to streamline and regulate the application procedure for registration of parties intending to contest municipal elections in a particular municipality. The amendment will also allow for the registration of parties wishing to contest elections at metropolitan and district municipalities. The envisaged procedure includes objections to the registration of parties and appeal processes.
- 2.1.4 **Clause 4:** repeals section 15A of the Electoral Commission Act, which requires political parties to submit paper documents and the requirement of an identity document.
- 2.1.5 **Clause 5:** amends section 16 of the Electoral Commission Act to make provision for the regulation, registration and governance of the political parties to contest elections including provision for objections and appeals.

- 2.1.6 **Clause 6:** amends section 23 of the Electoral Commission Act by the deletion of subsection (3) dealing with any regulation that affects state expenditure to be made with the concurrence of the Minister of Finance.
- 2.1.7 **Clause 7:** amends section 1 of the Electoral Act to make provision for the definition of a voting day.
- 2.1.8 **Clause 8:** amends section 16 of the Electoral Act and provides that the chief electoral officer, on payment of a fee, must provide copies of the voters' roll or segments thereof to all registered political parties and independent candidates. The chief electoral officer may, however, refuse or retract certain personal information of a voter in accordance with the legal principles of protection of personal information and unreasonable disclosures.
- 2.1.9 **Clause 9:** amends section 24A of the Electoral Act to make provision for a voter who is unable, on a voting day, to cast his or her vote at the voting station where he or she is registered. Such voter must inform the chief electoral officer so that he or she is able to vote in another voting district within the Republic.
- 2.1.10 **Clause 10:** amends section 27 of the Electoral Act to make provision for the authorised representative of a political party to confirm in writing that each candidate appearing on its list is qualified to stand for election in terms of the Constitution or national and provincial legislation. A candidate may be required to produce acceptance of nomination when requested to do so by the chief electoral officer.
- 2.1.11 **Clause 11:** amends section 28 of the Electoral Act by effecting minor technical amendments and making specific reference to section 27.
- 2.1.12 **Clause 12:** amends section 30 of the Electoral Act which deals with the party that has failed to submit the prescribed acceptance of nomination signed by the candidate as contemplated in section 27(4).
- 2.1.13 **Clause 13:** amends section 33 of the Electoral Act to allow voters who will be outside the Republic on a voting day, to cast a special vote outside the Republic, at a designated place. Such voters must have informed the chief electoral officer of the voters' intention to do so. This includes voters who are ordinarily resident outside the Republic. This provision automatically allows for voters who are outside the Republic and whose names appear on the international segment of the voters roll to vote at the Embassy, Consulate or High Commission. They are not required to submit additional notice to the chief electoral officer of their intention to vote abroad. However, voters who are not registered in terms of that segment will be required to notify the chief electoral officer.
- 2.1.14 **Clause 14:** amends section 38 of the Electoral Act in order to provide for the Electoral Commission to prescribe for the different voting methods.
- 2.1.15 **Clause 15:** amends section 50 of the Electoral Act in order to streamline and simplify the manner and form that is used to count, record and dispute the number of votes in the elections.
- 2.1.16 **Clause 16:** amends section 99 of the Electoral Act to clarify the date when the Electoral Code of Conduct is binding on the parties.
- 2.1.17 **Clause 17:** amends Schedule 3 to the Electoral Act to allow for the determination of the number of seats by the Commission ahead of every election. The determination of a number of seats of provincial legislatures had to take place by 31 March 1999 and was a one-off exercise with no provision to be updated since. Currently, the legislation provides for a

minimum of 30 and a maximum of 80 seats in a provincial legislature and this has remained unchanged.

- 2.1.18 **Clause 18:** amends section 1 of the Municipal Electoral Act by inserting the definition of a district council in order to correspond with the meaning assigned to it in terms of section 1 of the Local Government: Municipal Structures Act, 1998, and by removing the definition of district management area.
- 2.1.19 **Clause 19:** amends section 14 of the Municipal Electoral Act in order to ensure that each of the candidates has signed the prescribed acceptance of nomination.
- 2.1.20 **Clause 20:** amends section 17 of the Municipal Electoral Act to provide for the payment of a deposit by the political parties contesting the elections in a prescribed manner as well as to provide that the Commission may request an acceptance of nomination form signed by the candidate and a copy of the candidate's identity document.
- 2.1.21 **Clause 21:** amends section 47 of the Municipal Electoral Act to provide for a different voting procedure for those voters whose names appear on the voters' roll, without addresses.
- 2.1.22 **Clause 22:** amends section 84 of the Municipal Electoral Act to provide that a mistake in the certified segment of the voters' roll or a final list of candidates does not invalidate that segment of the voters' roll or list of candidates.
- 2.1.23 **Clause 23:** amends section 87 by providing for the Electoral Code of Conduct to be binding on every party and candidate contesting an election.
- 2.1.24 **Clause 24:** deals with the short title and commencement of the Act.

### 3. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

There are no additional personnel implications as a result of the introduction of the Bill.

### 4. FINANCIAL IMPLICATIONS FOR STATE

Most of the amendments proposed by this Bill relate to normal operations related to elections. For this reason, the financial implications thereof have already been taken into account when compiling the budget for those elections.

### 5. COMMUNICATION IMPLICATIONS

There are no communication implications envisaged as a result of the introduction of the Bill.

### 6. CONSTITUTIONAL OBLIGATIONS

The Bill will give effect to sections 1(d), 19, 46(1), 105(1) and 157 of the Constitution.

### 7. INSTITUTIONS CONSULTED

- The National Party Liaison Committee; and
- The Information Regulator.

**8. PARLIAMENTARY PROCEDURE**

- 8.1 The State Law Advisers and the Department of Home Affairs are of the opinion that the Bill must be dealt with in accordance with the procedure established by section 76 of the Constitution since it contains no provision to which the procedure set out in section 74 or 75 of the Constitution applies.
- 8.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.





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