

REPUBLIC OF SOUTH AFRICA

ELECTORAL LAWS AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 76); explanatory summary of
Bill and prior notice of its introduction published in Government Gazette No. 55283
of 28 August 2026)
(The English text is the official text of the Bill)*

(MINISTER OF HOME AFFAIRS)

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

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

To amend the—

- **Electoral Commission Act, 1996**, so as to provide for the mandatory deregistration of unrepresented parties that fail to annually renew their registration; to insert a provision regarding the eligibility of registered parties to contest elections; and to amend the composition of the Electoral Court;
 - **Electoral Act, 1998**, so as to amend certain definitions; to delete a provision; to amend the provisions providing for the requirements for eligibility to apply for registration as a voter; to limit objections to only the provisionally compiled voters' roll; and to specify the authority of the Commission in deciding objections; and
 - **Local Government: Municipal Electoral Act, 2000**, so as to amend a definition; and to amend a provision relating to the eligibility of registered parties to contest elections,
- and to provide for matters connected therewith.**

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 15 of Act 51 of 1996, as substituted by section 26 of Act 34 of 2003, section 2 of Act 1 of 2019 and section 3 of Act 4 of 2021

1. Section 15 of the Electoral Commission Act, 1996, is hereby amended—
- (a) by the substitution for subsection (6) of the following subsection:
- “(6) Every registered party not represented in a legislative body shall annually renew its registration in the prescribed manner and at the prescribed time, failing which such party’s registration shall lapse.”; and
- (b) by the addition after subsection (7) of the following subsection:
- “(8) Only a party that is registered in terms of this Act on or before the date on which an election is called in terms of sections 17 and 18 of the Electoral Act, 1998 (Act No. 73 of 1998) or section 11 of the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000), may contest that election.”.

Amendment of section 19 of Act 51 of 1996

- 2.** Section 19 of the Electoral Commission Act, 1996, is hereby amended—
(a) by the substitution for subsection (1) of the following subsection:

- “(1) The Electoral Court shall consist of—
- (a) a Judge President of the Electoral Court, who is a judge of the Supreme Court of Appeal, and five other judges of the High Court, appointed by the President of the Republic upon the recommendation of the Judicial Service Commission; and
 - (b) three other members, who are South African citizens, appointed from a list compiled by the Judge President of the Electoral Court, in consultation with the Minister responsible for the administration of justice.”; and
- (b) by the insertion after subsection (1) of the following subsections:
- “(1A) An ordinary sitting of the Electoral Court may be presided over by four judges from those appointed in terms of subsection (1)(a) and one member from those appointed in terms of subsection (1)(b).
 (1B) The Judge President of the Electoral Court may, during increased electoral activities—
- (a) direct that a matter be heard before an Electoral Court consisting of two judges and one member;
 - (b) direct the Electoral Court to have more than one sitting to hear matters, in which circumstances each sitting consists of two judges and one member; or
 - (c) based on the complexity or importance of a matter, direct that the matter be heard before an Electoral Court consisting of so many judges and other members appointed in terms of subsection (1) as the Judge President of the Electoral Court may determine.”.

Amendment of section 1 of Act 73 of 1998, as amended by section 1 of Act 18 of 2013, section 7 of Act 4 of 2021, section 1 of Act 1 of 2023 and section 30 of Act 14 of 2024

3. Section 1 of the Electoral Act, 1998, is hereby amended—

- (a) by the substitution for the definition of “identity document” of the following definition:

“**‘identity document’** means an identity card or temporary identity certificate issued in terms of the Identification Act, 1997 (Act No. 68 of 1997), and, subject to section 25 of that Act, includes the green, bar-coded identity document contemplated in that section;”; and
- (b) by the substitution for the definition of “serve” of the following definition:

“**‘serve’** means to send by [registered post,] electronic mail [, telegram, telex, telefax] or to deliver by hand;”.

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

4. Section 6 of the Electoral Act, 1998, is hereby amended—

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

“(1) [Any] Subject to subsection (1B), any South African citizen in possession of an identity document may apply for registration as a voter: Provided that where that citizen is ordinarily resident outside the Republic, he or she must, in addition to the identity document, produce a valid South African passport.”;
- (b) by the insertion after subsection (1A) of the following subsection:

“(1B) Upon applying for registration, a person contemplated in subsection (1), must provide sufficient details of his or her place of ordinary residence.”; and
- (c) by the deletion of subsection (2).

Amendment of section 8 of Act 73 of 1998, as amended by section 4 of Act 18 of 2013 and section 7 of Act 1 of 2019

5. Section 8 of the Electoral Act, 1998, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If satisfied that a person’s application for registration complies with this Act, and that the person is a South African citizen and is at least 18 years of age, the chief electoral officer must register that person as a voter by **[making the requisite entries]** recording such person’s identity number, name and sufficient details of his or her place of ordinary residence in the voters’ roll.”.

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Amendment of section 12 of Act 73 of 1998

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

- “(1) The chief electoral officer must notify, in the prescribed manner, a person—
- (a) whose application in terms of section 7 for registration as a voter has been refused;
 - (b) whose application in terms of section 9 to have a change of name or ordinary place of residence recorded, has been refused;
 - (c) who has been deregistered as a voter in terms of section 11; **[or]**
 - (d) whose registration details have been changed in terms of section 11[.]; or
 - (e) against whom an objection has been made in terms of section 15, of the Commission’s decision.”.

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Amendment of section 14 of Act 73 of 1998

7. Section 14 of the Electoral Act, 1998, is hereby amended by the substitution in subsection (2) for paragraph (g) of the following paragraph:

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- “(g) the Commission must decide an objection made in terms of section 15 and notify the objector and the chief electoral officer **[and a person other than the objector whose name or registration details are involved]**; and”.

Amendment of section 15 of Act 73 of 1998

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

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- (a) by the substitution for the heading of the following heading:
“Objections to provisionally compiled voters’ roll”;
- (b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
“(1) In relation to any segment of **[the voters’ roll or]** a provisionally compiled voters’ roll, any person may object to the Commission in the prescribed manner to—”;
- (c) by the substitution for subsection (3) of the following subsection:
“(3) The Commission must decide an objection and **[, except for an objection in relation to a provisionally compiled voters’ roll, by not later than 14 days after the objection was made,]** notify the following persons of the decision:
 - (a) The person who made the objection; and
 - (b) the chief electoral officer.; **and**
 - (c) **in the case of an objection against the exclusion or inclusion of the name, or the correctness of the registration details, of a person other than the objector, that other person.]”;** and
- (d) by the insertion after subsection (3) of the following subsections:
“(3A) The Commission may, when deciding an objection in terms of subsection (3)—
 - (a) in relation to an objection to the correctness of any person’s registration details in any segment of the provisionally compiled voters’ roll, direct the chief electoral officer to change the registration details of such person, if it is satisfied that the details of that person as reflected in that segment of the voters’ roll are incorrect or have changed; or
 - (b) in relation to an objection to the exclusion or the inclusion of any person’s name from or in any segment of the provisionally compiled voters’ roll—
 - (i) direct the chief electoral officer to record in the voters’ roll any change in voting district for which such person is registered, if

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it is satisfied that such person's place of ordinary residence falls in a voting district within another ward;

- (ii) where such person's address or details of his or her place of ordinary residence appearing in that segment of the voters' roll are incomplete or inadequate, direct that such person shall only vote in accordance with the voting procedure prescribed in terms of section 38(8) of this Act, or section 47(7) of the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000); or
- (iii) where the correctness of a voter's place of ordinary residence is not ascertainable, direct the chief electoral officer to remove such person's details of place of ordinary residence from the voters' roll: Provided that a voter in such circumstances may vote in the prescribed manner if that voter satisfies the Commission that he or she is ordinarily resident at the address that was removed from the voters' roll.

(3B) Subject to section 41(1A) of this Act and section 51(1A) of the Local Government: Municipal Electoral Act, 2000, no person shall object to any segment of the voters' roll certified for an election."

Amendment of section 16 of Act 73 of 1998, as amended by section 5 of Act 34 of 2003 and section 8 of Act 4 of 2021

9. Section 16 of the Electoral Act, 1998, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) Notwithstanding subsection (2), 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 and have not been removed in terms of section 15(3A)(b)(iii), to a registered party and an independent candidate contesting the elections."

Amendment of section 26 of Act 73 of 1998

10. Section 26 of the Electoral Act, 1998, is hereby amended by the substitution for paragraph (a) of the following paragraph:

"(a) is a registered party on the date that such election is called;"

Amendment of section 1 of Act 27 of 2000, as amended by section 1 of Act 1 of 2016 and section 17 of Act 4 of 2021

11. Section 1 of the Local Government: Municipal Electoral Act, 2000, is hereby amended by the substitution for the definition of "identity document" of the following definition:

"**'identity document'** means an identity card or temporary identity certificate issued in terms of the Identification Act, 1997 (Act No. 68 of 1997), and, subject to section 25 of that Act, includes the green, bar-coded identity document contemplated in that section;"

Amendment of section 13 of Act 27 of 2000

12. Section 13 of the Local Government: Municipal Electoral Act, 2000, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"(1) Only registered parties, as at the date when an election is called, may contest **[an]** that election, and may contest the election either by—"

Short title and commencement

13. This Act is called the Electoral Laws Amendment Act, 2026, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE ELECTORAL LAWS AMENDMENT BILL, 2026

1. BACKGROUND

The Electoral Laws Amendment Bill, 2026 (the “Bill”), seeks to amend the Electoral Commission Act, 1996 (Act No. 51 of 1996) (“Electoral Commission Act”), the Electoral Act, 1998 (Act No. 73 of 1998) (“Electoral Act”) and the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000) (“Municipal Electoral Act”) in preparation for the general local government elections, as well as to align the relevant provisions of the legislation relating to the national and provincial elections with those relating to general local government elections, and to enhance the existing legislative mechanisms that ensure free and fair elections, in accordance with the Constitution of the Republic of South Africa, 1996 (the “Constitution”).

2. PURPOSE OF BILL

The purpose of the Bill is to amend the—

- (a) Electoral Commission Act, so as to provide for the mandatory deregistration of unrepresented parties that fail to annually renew their registration; to insert a provision regarding the eligibility of registered parties to contest elections; to amend the composition of the Electoral Court and provide for the number of judges or members during an ordinary sitting of the court and to empower the head of the court to determine the number of judges or members in a sitting during increased electoral activities;
- (b) Electoral Act, so as to amend certain definitions; to delete a provision; to amend the provisions providing for the requirements for eligibility to apply for registration as a voter; to limit objections to only the provisionally compiled voters’ roll; to specify the authority of the Commission in deciding objections; and to make a certain consequential amendment thereto; and
- (c) Municipal Electoral Act, so as to amend a definition; and to amend a provision relating to the eligibility of registered parties to contest elections.

3. OBJECTS OF BILL

The Bill introduces the following amendments:

- 3.1 **Clause 1** seeks to amend section 15 of the Electoral Commission Act, so as to substitute subsection (6) to provide for the lapse of the registration in respect of a registered party that is not represented in a legislative body, which fails to renew its registration annually, and to insert a new subsection (8), to provide for a cut-off date for parties seeking to contest an election to be registered as such. Only parties registered on or before the date on which an election is called may contest such an election.
- 3.2 **Clause 2** seeks to amend the composition of the Electoral Court, as provided for in section 19(1) of the Electoral Commission Act, in order to capacitate the Court to deal with the disputes during the heightened election activity. The proposed changes result in the increase in the number of judges to be appointed (from current three judges to six judges), to make it possible to have more than one sitting simultaneously, as may be directed by the Judge President, during heightened election activity. The ordinary sitting of a court will consist of four judges and one member who is not a judge. Furthermore, this clause empowers the Judge President to compile, in consultation with the Minister responsible for the administration of justice, and to keep, a list of South African citizens with suitable and relevant experience who will be invited to sit as members. The latter appointments of three South Africans will no longer have to be through a recommendation of the Judicial Service Commission.
- 3.3 **Clause 3** seeks to amend section 1 of the Electoral Act, so as to substitute the definition of “identity document” to include a temporary identity certificate

and to align the definition with that set out in the Municipal Electoral Act, to substitute the definition of “registered party” to accord with the definition of “registered party”, as set out in the Electoral Commission Act, and to substitute the definition of “serve” to exclude obsolete means of communication.

- 3.4 **Clause 4** seeks to amend section 6 of the Electoral Act, so as to substitute subsection (1) and insert a new subsection (1B). The effect of the amendment is to include, as part of the requirements for eligibility to apply for registration as a voter in section 6, the requirement that the prospective applicant must provide sufficient details of his or her place of ordinary residence. This enables the chief electoral officer to register such person by making the requisite entries in the voters’ roll for a voting district within the ward in which that person is ordinarily resident. This clause also amends section 6 by deleting subsection (2), which has now become superfluous with the amendment of the definition of “identity document”.
- 3.5 **Clause 5** seeks to amend section 8 of the Electoral Act, so as to substitute subsection (1) to set out the particulars which the chief electoral officer must record in the voters’ roll when registering a person as a voter.
- 3.6 **Clause 6** seeks to amend section 12 of the Electoral Act, so as to substitute subsection (1) to harmonise paragraphs (a), (b), (c) and (d) with the newly inserted paragraph (e). Paragraph (e) is inserted to require the chief electoral officer to notify the person, other than the objector whose name or registration details are involved in the objection, of the decision of the Commission made in terms of section 15.
- 3.7 **Clause 7** seeks to amend section 14 of the Electoral Act, so as to substitute paragraph (g) of subsection (2) to exclude the notification by the Commission of its decision made in terms of section 15 to a person, other than the objector, whose name or registration details are involved in the objection as such notification is made by the chief electoral officer in terms of section 12(1)(e).
- 3.8 **Clause 8** seeks to amend section 15 of the Electoral Act, so as to—
 - (a) substitute the heading of the section to indicate that objections in terms of this section may only be made against the provisionally compiled voters’ roll;
 - (b) to substitute subsection (1) to exclude the words that make reference to any segment of a voters’ roll and to reiterate that objections in terms of the section may only be made against the provisionally compiled voters’ roll;
 - (c) to substitute subsection (3) to exclude the distinction between a voters’ roll and a provisionally compiled voters’ roll and the timeframe within which the objections must be decided that is regulated in the election timetable;
 - (d) to delete paragraph (c) of subsection (3) to exclude the notification by the Commission of its decision to the person other than the objector referred to above, as such notification is done by the chief electoral officer in terms of section 12(1)(e);
 - (e) to insert subsection (3A), which sets out the Commission’s powers when deciding an objection; and
 - (f) to insert subsection (3B), which excludes objections against any segment of the voters’ roll certified for an election in terms of section 24, unless such objection is made in terms of section 41(1A) of the Electoral Act or section 51(1A) of the Municipal Electoral Act.
- 3.9 **Clause 9** seeks to amend section 16 of the Electoral Act, so as to substitute subsection (3) to specify that the copies of the voters’ roll or a segment thereof provided by the chief electoral officer in terms of this section, to a registered party or an independent candidate contesting the elections, shall include addresses of voters where such addresses are available and have not been

removed in terms of section 15(3A)(b)(iii). This amendment is consequential to the proposed insertion of section 15(3A)(b)(iii).

3.10 **Clause 10** seeks to amend section 26 of the Electoral Act, so as to substitute paragraph (a) of subsection (1) to introduce a cut-off date for the registration of parties intending to contest an election.

3.11 **Clause 11** seeks to amend section 1 of the Municipal Electoral Act, so as to substitute the definition of “identity document” to include a temporary identity certificate.

3.12 **Clause 11** seeks to amend section 13 of the Municipal Electoral Act, so as to substitute subsection (1) to introduce a cut-off date for the registration of parties intending to contest an election.

3.12 **Clause 13** deals with the short title and commencement of the Act.

4. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

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

5. FINANCIAL IMPLICATIONS FOR THE STATE

The amendments proposed in this Bill relate to normal election operations. For this reason, the financial implications thereof require reorganisation of budget line items internal to the Independent Electoral Commission.

6. COMMUNICATION IMPLICATIONS

There are no communication implications envisaged because of the introduction of the Bill.

7. CONSTITUTIONAL OBLIGATIONS

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

8. INSTITUTIONS CONSULTED

- The Electoral Commission; and
- The National Political Party Liaison Committee.

9. PARLIAMENTARY PROCEDURE

9.1 The Constitution distinguishes between four categories of Bills, as follows:

- (a) Bills amending the Constitution (section 74).
- (b) Ordinary Bills not affecting the provinces (section 75).
- (c) Ordinary Bills affecting the provinces (section 76); and
- (d) Money Bills (section 77).

9.2 Sections 74 to 77 of the Constitution require Parliament, firstly, to classify a Bill submitted to it, to determine which procedure should be followed in enacting the Bill. Section 76(1) of the Constitution provides that “[w]hen the National Assembly passes a Bill referred to in subsections (3), (4) or (5), the Bill must be referred to the National Council of Provinces and dealt with by the procedure” set out in that provision. Section 76(3) of the Constitution, in turn, provides that “[A] Bill must be dealt with in accordance with the procedure established by either subsection (1) or (2) if it falls within a functional area listed in Schedule 4 . . .”.

9.3 In summary, a Bill will be considered as a section 76 Bill—

- if it provides for legislation mentioned in paragraphs (a) to (f) of section 76(3) of the Constitution;

- if it provides for legislation envisaged in section 44(2), 220(3) or Chapter 13 of the Constitution; or
- if its provisions in a substantial measure fall within a functional area of concurrent national and provincial legislative competence listed in Schedule 4 to the Constitution.

9.4 In *Tongoane and Others v National Minister for Agriculture and Land Affairs and Others* 2010 (8) BCLR 741 (CC), the Constitutional Court determined the proper test for the tagging of the Communal Land Rights Bill (previously B67–2003, and now Act No. 11 of 2004) (“CLARA”), after the High Court held that, in classifying the CLARA for “tagging”, Parliament had applied the incorrect test, namely, the “pith and substance” test, instead of the “substantial measure” test suggested by the Constitutional Court in the matter of *Ex parte the President: In re Constitutionality of the Liquor Bill* 2000 (1) BCLR 1 (CC) (the “**Liquor Bill case**”). The High Court, however, refused to declare the CLARA invalid for failure to enact it following the correct procedure.

9.5 The Constitutional Court concluded that there is a difference between determining whether the National Assembly or the National Council of Provinces (“NCOP”) has the competence to legislate in a particular field and determining how a Bill ought properly to be tagged and ultimately enacted. These are two different processes for which two different tests are to be applied. Ngcobo CJ reaffirmed the decision of the Constitutional Court in the **Liquor Bill case**, at paragraphs 63 to 64 that the statement: “... *any Bill whose provisions in substantial measure fall within a functional area listed in Schedule 4* ...”, formulates the test for determining the procedure to be followed in enacting a Bill. Ngcobo CJ further, at paragraph 58, states the following:

“What matters for tagging is **not the substance or the true purpose and effect of the Bill**, rather, what matters is **whether the provisions of the Bill ‘in substantial measure fall within a functional area listed in Schedule 4’**. This statement refers to the test to be adopted when tagging Bills. This test for classification or tagging is different from that used by this Court to characterise a Bill in order to determine legislative competence. This “involves the determination of the subject-matter or the substance of the legislation, its essence, or true purpose and effect, that is, what the [legislation] is about”. (Our emphasis.)

9.6 The Constitutional Court thus held that the test for tagging must be informed by its purpose. Tagging is not concerned with determining the sphere of government that has the competence to legislate on a matter. Nor is the process concerned with preventing interference in the legislative competence of another sphere of government. The process is concerned with the question of how a Bill must be considered by the provinces and in the NCOP. The question of how a Bill must be considered by the provincial legislatures depends on whether it affects the provinces. The more it affects the interests, concerns, and capacities of the provinces, the more say the provinces should have on its content. Ngcobo CJ, at paragraphs 69 and 70, concisely dealt with the tagging question as follows:

“The tagging of Bills before Parliament must be informed by **the need to ensure that provinces fully and effectively exercise their appropriate role in the process of considering national legislation that substantially affects them**. Paying less attention to the provisions of a Bill once its substance, or purpose and effect, has been identified undermines the role that provinces should play in the enactment of national legislation affecting them. . . .

To apply the ‘pith and substance’ test to the tagging question, **therefore undermines the constitutional role of the provinces in legislation in which they should have a meaningful say**, and

disregards the breadth of the legislative provisions that section 76(3) requires to be enacted in accordance with the section 76 procedure.” (Our emphasis.)

- 9.7 We have carefully considered the Bill and measured it against the matters listed in Schedules 4 and 5 to the Constitution. As indicated above, the Bill deals with matters relating to the procedure for the local government elections. The proposed amendments therefore filter through to the other spheres of government and will impact on the interests and concerns of all spheres of government. Considering this, the Department and the State Law Advisers are of the opinion that the Bill must be tagged as a section 76 Bill.

10. Referral of Bill to National House of Traditional and Khoi-San Leaders

- 10.1 Section 39(1)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), provides for the referral of Bills to the National House of Traditional and Khoi-San Leaders (“National House”), and states as follows:

“Referral of Bills to National House

39. (1)(a) Any Parliamentary Bill—

- (i) which directly affects traditional or Khoi-San communities or pertaining to customary law or customs of traditional or Khoi-San communities; or
- (ii) pertaining to any matter referred to in section 154(2) of the Constitution,

must, in the case of a Bill contemplated in subparagraph (i) and **may**, in the case of a Bill contemplated in subparagraph (ii), before it is passed by the house of Parliament where it was introduced, be referred by the Secretary to Parliament to the National House for its comments.” (Our emphasis.)

- 10.2 It is our view that the Bill does not contain provisions pertaining to traditional or Khoi-San communities or about customary law or customs of traditional or Khoi-San communities, therefore, the Bill does not need to be referred to the National House for comments.

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