

**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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*(English text signed by the President)*  
*(Assented to 13 April 2023)*  
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**ACT**

To amend the Electoral Act, 1998, so as to delete a definition and insert certain definitions consequential to the expansion of this Act to include independent candidates as contesters to elections in the National Assembly and provincial legislatures; to provide that registered parties must submit a declaration confirming that all its candidates are registered to vote in the province where an election will take place; to provide that the submission of lists of candidates of a registered party not represented in the National Assembly or any provincial legislature, must be accompanied by a prescribed form with certain specified details; to provide for the nomination of independent candidates to contest elections in the National Assembly and provincial legislatures; to provide for the requirements which must be met by persons who wish to be nominated as independent candidates; to provide for the inspection of copies of lists of independent candidates and accompanying documents; to provide for objections to independent candidates; to provide for the inclusion of a list of independent candidates entitled to contest elections; to provide for the appointment of agents by independent candidates; to provide that independent candidates are bound by the Electoral Code of Conduct; to provide for the return of a deposit to independent candidates in certain circumstances; to amend Schedule 1; to substitute Schedule 1A; to provide for the Minister to establish the Electoral Reform Consultation Panel; 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 73 of 1998, as amended by section 1 of Act 18 of 2013 and section 7 of Act 4 of 2021**

1. Section 1 of the Electoral Act, 1998 (Act No. 73 of 1998) (hereinafter referred to as the “principal Act”), is hereby amended— 5

- (a) by the insertion after the definition of “agent” of the following definition: 5  
 “**‘candidate’** means a South African citizen contesting an election, or a South African citizen nominated on a list of a party contesting an election, as the context requires;” 10
- (b) by the insertion after the definition of “Commission” of the following definition: 10  
 “**‘Constitution’** means the Constitution of the Republic of South Africa, 1996;”

- (c) by the insertion after the definition of “identity document” of the following definition:  
 “**‘independent candidate’** means a South African citizen contesting an election and who is not nominated on a list of a party;”;
- (d) by the insertion after the definition of “list of candidates” of the following definition: 5  
 “**‘list of independent candidates’** means the list of independent candidates referred to in sections 31D and 31F;”;
- (e) by the deletion of the definition of “party liaison committee”;
- (f) by the insertion after the definition of “party liaison committee” of the 10  
 following definition:  
 “**‘political liaison committee’** means a committee established in terms of the Regulations on Political Liaison Committees published in terms of the Electoral Commission Act;” and
- (g) by the insertion after the definition of “presiding officer” of the following 15  
 definitions:  
 “**‘province’** means a province referred to in section 103 of the Constitution;  
**‘region’** means the territorial area of a province;”.

**Amendment of section 20 of Act 73 of 1998, as amended by section 9 of Act 1 of 2019** 20

2. Section 20 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The Commission must after consultation with the [party] national political liaison committee—”.

**Amendment of section 27 of Act 73 of 1998, as amended by section 10 of Act 4 of 2021** 25

3. Section 27 of the principal Act is hereby amended by the insertion in subsection (2) of the following paragraphs after paragraph (c):

- “(cA) declaration, signed by the duly authorised representative of the party 30  
 confirming that each candidate appearing on the party’s provincial list of candidates referred to in Schedule 1A is registered to vote within the province in which the election will take place;
- (cB) form, in the case of a registered party not represented in the National 35  
 Assembly or any provincial legislature, confirming that the party has submitted, in the prescribed manner, the names, identity numbers and signatures of voters whose names appear— 35
- (i) in the case of an election of the National Assembly in respect of regional seats, on the national segment of the voters’ roll and who support the party—
- (aa) totalling 15 percent of the quota for that region in the 40  
 preceding election, when nominating candidates for one region; or
- (bb) totalling 15 percent of the highest of the regional quotas 45  
 in the preceding election, when nominating candidates for more than one region provided that where 15 percent of the highest of the quotas is not achieved, that the party may only nominate candidates for the region or regions as determined by the next highest quota; or
- (ii) in the case of an election of a provincial legislature, on the 50  
 segment of the voters’ roll for the province and who support the party, totalling at least 15 percent of the quota of that province in the preceding election, for which the party intends to nominate candidates;”.

**Amendment of section 28 of Act 73 of 1998, as substituted by section 11 of Act 1 of 2019 and amended by section 11 of Act 4 of 2021**

4. Section 28 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections respectively:

“(1) If a registered party that has submitted a list of candidates has not fully complied with section 27(2)(a), (b), (cA), (d) or section 27(4), the chief electoral officer must notify that party of its non-compliance. 5

(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), (cA), (d) or section 27(4), by not later than the relevant date stated in the election timetable.”. 10

**Amendment of section 30 of Act 73 of 1998, as amended by section 12 of Act 4 of 2021**

5. Section 30 of the principal Act is hereby amended by the deletion of subsection (6).

**Insertion of Part 3A in Chapter 3 in Act 73 of 1998**

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6. The following Part is inserted in Chapter 3 of the principal Act after Part 3:

**“Part 3A**

***Independent candidates***

**Nomination of independent candidate**

**31A.** (1) A person may be nominated to contest an election as an independent candidate— 20

(a) in one or more regions for the National Assembly but may be elected to only one seat in the National Assembly; and

(b) for a provincial legislature in a province in which that person is registered as a voter, 25

provided that the independent candidate may only be eligible to be a member of either the National Assembly or a provincial legislature.

(2) Provided the other provisions of this Act are complied with, a person nominated in terms of subsection (1) stands as an independent candidate in that election. 30

**Requirements for independent candidates to contest elections**

**31B.** (1) A person may contest an election as an independent candidate only if that person is nominated on a prescribed form and that form is submitted to the Commission by not later than a date stated in the timetable for the election and complies with the requirements of subsection (3). 35

(2) The prescribed nomination form must be submitted in the prescribed manner by not later than the relevant date stated in the election timetable.

(3) The following must be attached to a nomination when it is submitted:

(a) A completed prescribed form confirming that the independent candidate has submitted, in the prescribed manner, the names, identity numbers and signatures of voters whose names appear— 40

(i) in the case of an election of the National Assembly in respect of regional seats, on the national segment of the voters' roll and who support his or her candidature—

- (aa) totalling 15 percent of the quota for that region in the preceding election, if intending to contest only one region; or
- (bb) totalling 15 percent of the highest of the regional quotas in the preceding election, if intending to contest more than one region, provided that where 15 percent of the highest of the quotas is not achieved, that the independent candidate may only contest the region or regions as determined by the next highest quota; or
- (ii) in the case of an election of a provincial legislature, on the segment of the voters' roll for the province and who support his or her candidature, totalling at least 15 percent of the quota of that province in the preceding election, which the independent candidate intends to contest,
- provided that an independent candidate who was elected to either the National Assembly or a provincial legislature as an independent candidate in the preceding election shall be exempt from this requirement;
- (b) a deposit equal to a prescribed amount, payable in the prescribed form and manner;
- (c) a prescribed undertaking, signed by the candidate, to be bound by the Code;
- (d) a prescribed declaration, signed by the candidate, that he or she is not disqualified from standing for election in terms of the Constitution or any applicable legislation;
- (e) if contesting an election of a provincial legislature, a prescribed declaration, signed by the candidate confirming that he or she is registered to vote within a province in which he or she intends contesting; and
- (f) a recent photograph of the candidate in such form as may be prescribed.
- (4) The Commission may in the form and manner as may be prescribed request—
- (a) an acceptance of nomination signed by the 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.
- (5) The Commission must accept a nomination submitted to it and allow the nominated person to stand as a candidate in the election if the provisions of section 31A and this section have been complied with.
- (6) The amount to be deposited by an independent candidate contesting an election of a provincial legislature, must be less than the amount for contesting an election of the National Assembly, and such deposits may also be different to the deposits paid by registered parties.

#### Non-compliance

**31C.** (1) If the nomination of an independent candidate does not fully comply with section 31B(3)(c), (d), (e), (f) or section 31B(4), the chief electoral officer must notify the nominated person of the non-compliance.

(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 nominated person has an opportunity to comply with section 31B(3)(c), (d), (e), (f) or section 31B(4), by not later than the relevant date stated in the election timetable.

(3) If a person has been nominated both as an independent candidate and by one or more parties for an election—

- (a) the chief electoral officer must, where possible, in writing, notify the person and such party or parties who have nominated such person about such state of affairs by no later than the relevant date and time stated in the election timetable; and
- (b) the party or parties to whom notice has been given in terms of paragraph (a) may, by not later than the relevant date and time stated in the election timetable, substitute such a candidate.

#### **Inspection of copies of lists of independent candidates and accompanying documents**

**31D.** (1) By not later than the relevant date stated in the election timetable, the chief electoral officer must—

- (a) compile a draft list of independent candidates; and
- (b) give notice that copies of the draft list of independent candidates and accompanying documents submitted in terms of section 31B, as amended and supplemented in terms of section 31C, will be available for inspection.

(2) The notice referred to in subsection (1)(b) must be—

- (a) published in the *Government Gazette*; and
- (b) publicised in the media considered appropriate by the chief electoral officer so as to ensure wide publicity of the lists.

(3) The notice referred to in subsection (1)(b) must state, and the chief electoral officer must ensure, that for the relevant period stated in the election timetable—

- (a) copies of the lists for—
- (i) an election of the National Assembly, will be available for inspection at the Commission's head office, a place in each province designated in the notice and the office of each municipality in the country; and
- (ii) an election of a provincial legislature, will be available for inspection at the Commission's head office, a place in the province designated in the notice and the office of each municipality in that province; and

(b) copies of the documents accompanying the lists are available for inspection at the Commission's head office.

(4) Any person may inspect a copy of the draft list of independent candidates and accompanying documents referred to in subsection (1).

(5) The chief electoral officer must provide a certified copy of, or extract from, the draft list of independent candidates or documents referred to in subsection (1), to any person who has paid the prescribed fee.

#### **Objections to independent candidates**

**31E.** (1) Any person, including the chief electoral officer, may object to the nomination of an independent candidate on the following grounds:

- (a) The nominated candidate is not qualified to stand in the election;
- (b) the nominated candidate has failed to submit the prescribed acceptance of nomination signed by the candidate as contemplated in section 31B(4); or
- (c) there is no prescribed undertaking, signed by the nominated candidate, that the candidate is bound by the Code.

(2) The objection must be made to the Commission in the prescribed manner by not later than the relevant date stated in the election timetable, and must be served on the nominated candidate.

(3) The Commission must decide the objection, and must notify the objector and the nominated candidate of the decision in the prescribed manner by not later than the relevant date stated in the election timetable.

(4) The objector, or the nominated candidate, may appeal against the decision of the Commission to the Electoral Court in the prescribed manner and by not later than the relevant date stated in the election timetable.

(5) The Electoral Court must consider and decide the appeal and notify the parties to the appeal and the chief electoral officer of the decision in the prescribed manner and by not later than the relevant date stated in the election timetable.

#### List of independent candidates entitled to contest election

**31E.** (1) By not later than the relevant date stated in the election timetable, the chief electoral officer must—

(a) give effect to a decision of the Commission in terms of section 31E(3) and to a decision of the Electoral Court in terms of section 31E(5); and  
(b) compile a final list of independent candidates entitled to contest the election concerned.

(2) The chief electoral officer must provide a certified copy of, or extract from, a list mentioned in subsection (1)(b) to any person who has paid the prescribed fee.

(3) By not later than the relevant date stated in the election timetable, the chief electoral officer must issue to each independent candidate on the list of independent candidates for an election, a certificate stating that the person is an independent candidate in that election.”.

#### Amendment of section 39 of Act 73 of 1998, as substituted by section 12 of Act 34 of 2003

7. Section 39 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) two agents, either from different parties or representing different independent candidates, if available.”.

#### Amendment of section 57A of Act 73 of 1998, as inserted by section 15 of Act 34 of 2003

8. Section 57A of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of the following paragraph:

“(a) lists of candidates and lists of independent candidates;” and

(b) by the substitution for paragraph (c) of the following paragraph:

“(c) the designation of candidates from candidate lists and lists of independent candidates as representatives [in] for those seats; and”.

#### Substitution of section 58 of Act 73 of 1998, as amended by section 10 of Act 18 of 2013

9. The following section is hereby substituted for section 58 of the principal Act:

#### “Appointment of [party] agents

**58.** (1) Every registered party or independent candidate contesting an election may appoint such number of agents as may be prescribed—

(a) [two party agents] for each voting station [or, if voting or counting at a voting station takes place in more than one room or separately enclosed area, two party agents in respect of each room or area]; and

(b) [four party agents] for each venue where the proceedings provided for in Part 3 or 5 of Chapter 4 take place.

(2) [A party] An agent—

- (a) must be a South African citizen; and
- (b) may not be a candidate in an election.

(3) The appointment and revocation of appointment of a person as [a party] an agent must be effected in the prescribed manner.”.

**Amendment of section 59 of Act 73 of 1998, as amended by section 16 of Act 34 of 2003** 5

10. Section 59 of the principal Act is hereby amended by the substitution in subsection (3)(a) for subparagraph (ii) of the following subparagraph:

- “(ii) the registered party or independent candidate represented by that agent; and”.

**Amendment of section 62 of Act 73 of 1998**

11. Section 62 of the principal Act is hereby amended—

- (a) by the substitution for the heading of the section of the following heading:
  - “**Consultation with [party] political liaison committee**”; and
- (b) by the substitution for paragraphs (a) and (b) of the following paragraphs, respectively:
  - “(a) the municipal [party] political liaison committee for the municipality within which that voting district will fall; or
  - (b) if no municipal [party] political liaison committee has been established in a municipality, the provincial [party] political liaison committee for the province within which that voting district will fall.”.

**Amendment of section 64 of Act 73 of 1998, as amended by section 18 of Act 34 of 2003**

12. Section 64 of the principal Act is hereby amended by the substitution in subsection (3) for paragraphs (a) and (b) of the following paragraphs, respectively: 25

- “(a) the municipal [party] political liaison committee for the municipality within which that voting station will fall; or
- (b) if no municipal [party] political liaison committee has been established in the municipality, the provincial [party] political liaison committee for the province within which the voting station will fall.”. 30

**Amendment of section 66 of Act 73 of 1998, as substituted by section 19 of Act 34 of 2003**

13. Section 66 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 35
  - “(1) Before the voting station opens for voting on voting day the presiding officer of a voting station must determine the boundary of the voting station after consultation with [party] agents and members of the security services who are available at that voting station at that stage.”; and 40
- (b) by the substitution for subsection (3) of the following subsection:
  - “(3) The presiding officer may alter the boundary at any time if it is necessary to do so to ensure proper control and security at the voting station and after consultation with [party] agents and members of the security services who are available at that voting station at that stage.”. 45

**Substitution of section 94 of Act 73 of 1998**

14. The following section is hereby substituted for section 94 of the principal Act:

**“Contravention of Code**

**94.** No person, [or] registered party, or independent candidate bound by the Code may contravene or fail to comply with a provision of that Code.”.

**Amendment of section 96 of Act 73 of 1998**

**15.** Section 96 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (c) of the following paragraph: 5

“(c) the forfeiture of any deposit paid by that person or party in terms of section 27(2)(e) or paid by an independent candidate in terms of section 31B(3)(b);”.

**Amendment of section 99 of Act 73 of 1998, as amended by section 15 of Act 4 of 2021** 10

**16.** Section 99 of the principal Act is hereby amended by the deletion in subsection (1) of the word “and” at the end of paragraph (a), the insertion of the word “and” at the end of paragraph (b), and the addition of the following paragraph:

“(c) by every independent candidate before that independent candidate may be placed on a list of independent candidates in terms of section 31F.”. 15

**Amendment of section 100 of Act 73 of 1998**

**17.** Section 100 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“(2) The Commission may make regulations, after consultation with the [party] national political liaison committee, regarding any matter—”. 20

**Amendment of section 106 of Act 73 of 1998**

**18.** Section 106 of the principal Act is hereby amended—

(a) by the insertion after subsection (1) of the following subsection:

“(1A) Subject to section 96(2)(c), the Commission must refund to an independent candidate any deposit paid by such candidate in terms of section 31B(3)(b) if the candidate is allocated a seat in the legislature whose election the independent candidate contested.”; and 25

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

“(2) A deposit that is not refundable in terms of subsection (1) or (1A) is forfeited to the State.”. 30

**Amendment of section 110 of Act 73 of 1998**

**19.** Section 110 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any mistake in the certified segment of the voters’ roll referred to in section 24, [or] the final list of candidates referred to in section 31, or the final list of independent candidates referred to in section 31F, does not invalidate that voters’ roll, [or] that list of candidates, or that list of independent candidates.”. 35

**Amendment of Schedule 1 to Act 73 of 1998, as amended by section 24 of Act 34 of 2003 and section 17 of Act 1 of 2019**

**20.** Schedule 1 to the principal Act is hereby amended— 40

(a) by the substitution for item 4 of the following item:

“Cut-off date for submission of list of candidates and nominations of independent candidates”

4. (1) Registered parties that intend to contest this election must nominate and submit a list of their candidates for the election to the chief electoral officer in the prescribed manner by ..... [day/month/year].
- (2) Nominators of independent candidates that intend to contest this election must submit their nominations to the chief electoral officer in the prescribed manner by ..... [day/month/year].”;
- (b) by the substitution for subitem 5(1) of the following subitem:  
 “(1) The chief electoral officer must notify a registered party that has submitted a list of candidates in terms of section 27 but has not fully complied with **[that]** section 27(2)(a), (b), (cA), (d) or section 27(4), of that non-compliance by ..... [day/month/year].”;
- (c) by the insertion after subitem 5(1) of the following subitem:  
 “(1A) The chief electoral officer must notify the person nominated to be an independent candidate, who has not fully complied with section 31B(3)(c), (d), (e), (f) or section 31B(4), of that non-compliance by ... [day/month/year].”;
- (d) by the substitution for subitem 5(2) of the following subitem:  
 “(2) If the party or person notified **[party]** in terms of subitem (1) or (1A) takes the opportunity to comply with section 27(2)(a), (b), (cA), (d), section 27(4), section 31B(3)(c), (d), (e), (f) or section 31B(4), that party or person must do so by ..... [day/month/year].”;
- (e) by the insertion after subitem 5A(1) of the following subitem:  
 “(1A) The Commission must notify—  
 (a) a person who has been nominated both as an independent candidate and by one or more parties for an election; and  
 (b) all the parties on whose party lists such a candidate appears, of the multiple nominations by ..... [day/month/year].”;
- (f) by the substitution for subitem 5A(2) of the following subitem:  
 “(2) If the notified party decides to act in terms of section 28(3) or section 31C(3), that party must do so by ..... (date).”;
- (g) by the substitution for item 6 with the following item:  
**“Inspection of lists of candidates and draft list of independent candidates and accompanying documents** 35
6. The chief electoral officer must give notice by ..... [day/month/year], that from the date of the notice until ..... [day/month/year], copies of the following documents will be available for inspection:  
 (a) The lists of candidates and accompanying documents submitted by registered parties in terms of section 27, as amended and supplemented in terms of section 28[.]; and  
 (b) the draft list of independent candidates and accompanying documents submitted in terms of section 31B, as amended and supplemented in terms of section 31C. ”; 45
- (h) by the substitution for item 8 of the following item:  
**“Decision of objections**
8. The Commission must decide an objection under section 30 or section 31E, and must notify the objector, **[and]** the registered party that nominated the candidate, and the nominated independent candidate, if applicable, of the decision in the prescribed manner by ..... [day/month/year].”;
- (i) by the substitution for item 9 of the following item:

**“Cut-off date for appeals against decisions**

**9.** (1) The objector or the registered party who nominated the candidate may appeal against a decision of the Commission in terms of section ~~30(3)~~ 30(4) to the Electoral Court in the prescribed manner by ..... [day/month/year]. 5

(2) The objector or the nominated independent candidate may appeal against a decision of the Commission in terms of section 31E(4) in the prescribed manner by ..... [day/month/year].”;

(j) by the substitution for item 10 of the following item: 10  
**“Deciding appeals**

**10.** The Electoral Court must consider and decide an appeal brought under section 30(4) or 31E(4) and notify the parties to the appeal, and the chief electoral officer, of the decision in the prescribed manner by ..... [day/month/year].”;

(k) by the substitution for item 11 of the following item: 15  
**“List of parties and candidates entitled to contest election and final list of candidates**

**11.** By ..... [day/month/year], the chief electoral officer—

(a) must give effect to a decision of the Commission in terms of section 30(3), section 31E(3), or a decision of the Electoral Court in terms of section 30(5) or section 31E(5); and 20

(b) must compile a list of the registered parties entitled to contest the election, **[and]** the final list of candidates for each of those parties, and the list of independent candidates contesting this election.”; 25  
 and

(l) by the substitution for item 12 of the following item:  
**“Issue of certificate to candidates**

**12.** By ..... [day/month/year], the chief electoral officer must issue in the prescribed manner to each candidate on a final list of candidates, and to each independent candidate on the final list of independent candidates, a certificate stating that the person is a candidate in this election in terms of section 31(3) and section 31F(3).” 30

**Substitution of Schedule 1A to Act 73 of 1998, as inserted by section 25 of Act 34 of 2003 and amended by section 8 of Act 55 of 2008**

**21.** Schedule 1A to the principal Act is hereby substituted for the following schedule: 35

## “SCHEDULE 1A

**SYSTEM OF REPRESENTATION IN NATIONAL ASSEMBLY AND PROVINCIAL LEGISLATURES****(Section 57A)****National Assembly**

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1. The seats in the National Assembly are as determined in terms of section 46 of the Constitution and item 1 of Schedule 3 and are allocated as follows:

- (a) Half the seats are filled by independent candidates and candidates from lists of candidates of parties contesting the nine regions and these shall be referred to as regional seats; and 10
- (b) half the seats are filled by candidates from lists of candidates of parties and these shall be referred to as compensatory seats.

2. The Commission must prepare a list of independent candidates contesting an election of the National Assembly in each region in accordance with this Act. 15

3. (1) Registered parties contesting an election of the National Assembly must nominate candidates on a list of candidates prepared in accordance with this Act.

(2) A party's list of candidates must consist of— 20

- (a) a regional list for each region that the party wishes to contest; and
- (b) a national list,
- with such number of names on each list as the party may determine subject to subitem (3).

(3) The lists of candidates submitted by a party must together not contain more names than the number of seats in the National Assembly, and each such list must denote the fixed order of preference of the names as the party may determine. 25

(4) A candidate—

- (a) may be nominated on a party's regional list for one region and the national list of a party but the same candidate's name may not appear on more than one regional list for that party; or 30
- (b) may be nominated as an independent candidate in more than one region.

**Regional seats**

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4. The Commission must determine a fixed number of seats reserved for each region for every election of the National Assembly, taking into account available scientifically based data in respect of voters and representations by interested parties.

5. The seats referred to in item 1(a) must be allocated to the parties and independent candidates contesting an election, as follows: 40

- (a) A quota of votes per seat must be determined in respect of each region by dividing the total number of valid votes cast in a region by the number of seats, plus one, reserved for such region under item 4.
- (b) The result plus one, disregarding fractions, is the quota of votes per seat in respect of a particular region. 45
- (c) The number of seats to be awarded for the purposes of paragraph (e) in respect of such region to a party or independent candidate must, subject to paragraph (d), be determined by dividing the total number of votes cast in favour of such party or independent candidate in a region by the quota of votes per seat indicated by paragraph (b) for that region. 50

(d) Where the result of the calculation referred to in paragraph (c) yields seats not absorbed by the number awarded to parties or independent candidates, the surplus of votes accruing to any party, parties or 55

- independent candidates in respect of the relevant region, competes for the remaining seats in sequence of the highest surplus of votes.
- (e) The aggregate of a party's or independent candidate's awards in terms of paragraphs (c) and (d) in respect of a particular region indicates that party's or that independent candidate's provisional allocation of the seats reserved under item 4 for that region. 5
- (f) Where an independent candidate's award in terms of paragraph (e) exceeds one seat, the candidate is awarded one seat as his or her provisional allocation. The excess seats must be dealt with in terms of item 7. 10
- (g) If the same independent candidate is provisionally allocated a seat in more than one region, the candidate is awarded the seat in the region where he or she received the highest proportion of votes, as his or her provisional allocation. The excess seats in other regions must be dealt with in terms of item 7. 15
- (h) The aggregate of a party's provisional allocations for the various regions in terms of paragraph (e), indicates its provisional allocation of the seats referred to in item 4.
- (i) If no recalculation of provisional allocations is required in terms of item 7, the provisional allocation of such seats in terms of paragraphs (e), (f), (g) and (h) becomes the final allocation of such seats to the various parties and independent candidates, and if a recalculation is required, the provisional allocation of such seats, as adjusted in terms of item 7, becomes the final allocation of such seats to the various parties and independent candidates. 20 25
- (j) Parties' seats shall be filled from its regional lists in accordance with its final allocation of seats in respect of each region.
- (k) Where an independent candidate is contesting in more than one region, the votes received across regions for that independent candidate may not be aggregated in order to obtain a seat in the National Assembly. 30

#### Compensatory seats

6. The seats referred to in item 1(b) must be allocated to the parties contesting an election, as follows:
- (a) A quota of votes per seat must be determined by dividing the total number of valid votes cast for parties on both the regional and compensatory ballots by the total number of seats in the National Assembly, plus one, minus seats won by independent candidates, and the result plus one, disregarding fractions, is the quota of votes per seat. 35 40
- (b) The number of seats to be awarded to a party for the purposes of paragraph (d) must, subject to paragraph (c), be determined by dividing the total number of votes cast on both the regional and compensatory ballots in favour of such party by the quota of votes per seat determined in terms of paragraph (a). 45
- (c) Where the result of the calculation referred to in paragraph (b) yields seats not absorbed by the number awarded to parties, the surplus of votes accruing to any party or parties competes for the remaining seats in sequence of the highest surplus of votes, up to a maximum of five seats so awarded: Provided that the subsequent award of seats still remaining must be made in sequence of the party or parties with the highest average number of votes per seat already awarded in terms of paragraph (b) and this paragraph. 50
- (d) The aggregate of a party's awards in terms of paragraphs (b) and (c) must be reduced by the number of seats allocated to it in 55

- terms of item 5(i) and the result indicates that party's provisional allocation of the seats referred to in item 1(b).
- (e) If no recalculation of provisional allocations is required in terms of item 7 in respect of the seats referred to in paragraph (d), the provisional allocation of such seats in terms of paragraph (d) becomes the final allocation of such seats to the various parties, and if such a recalculation is required, the provisional allocation of such seats, as adjusted in terms of item 7, becomes the final allocation of seats to the various parties. 5
- (f) In terms of paragraph (e), the seats finally allocated to a party, must be filled from its national list. 10

**Insufficient names on party lists and independent candidates provisionally allocated more than one seat**

7. (1) If a party has submitted a national or a regional list containing fewer names than the number of its provisional allocation of seats which would have been filled from such list in terms of item 5 or item 6 had such provisional allocation been the final allocation, it forfeits a number of seats equal to the deficit. 15

(2)(a) If, following the provisional allocation in item 5, an independent candidate stands to be allocated more than one seat in a region, he or she is only allocated one seat and forfeits any additional seats. 20

(b) If, following the provisional allocation in item 5, an independent candidate stands to be allocated a seat in more than one region, he or she is only allocated a seat in the region where he or she received the highest proportion of votes and shall forfeit any additional seats. 25

(3) In the event of any forfeiture of seats in terms of subitem (1) and subitem (2) affecting the provisional allocation of seats in respect of any particular region in terms of item 5(e), such allocation must be recalculated as follows:

(a) The party or independent candidate forfeiting seats must be disregarded in such recalculation, and its provisional allocation of seats in terms of item 5(e) for the region in question, minus the number of seats forfeited by it, becomes its final allocation in respect of the seats reserved for such region in terms of item 4. 30

(b) An amended quota of votes per seat must be determined in respect of such region by dividing the total number of votes cast in the region, minus the number of votes cast in such region in favour of the party or independent candidate referred to in paragraph (a), by the number of seats, plus one, reserved for such region under item 4, minus the number of seats finally allocated to the said party or independent candidate, in terms of paragraph (a). 35 40

(c) The results plus one, disregarding fractions, is the amended quota of votes per seat in respect of such region for purposes of the said recalculation. 45

(d) The number of seats to be awarded for the purposes of paragraph (f) in respect of such region to a party or independent candidate participating in the recalculation, must, subject to paragraph (e), be determined by dividing the total number of votes cast in favour of such party or independent candidate in such region by the amended quota of votes per seat indicated by paragraph (c) for such region. 50

(e) Where the result of the calculation referred to in paragraph (d) yields seats not absorbed by the number awarded to parties or independent candidates, the surplus of votes accruing to any party, parties or

- independent candidates in respect of the relevant region, competes for the remaining seats in sequence of the highest surplus of votes.
- (f) The aggregate of a party's or independent candidate's awards in terms of paragraphs (d) and (e) in respect of such region, subject to subitem (5) and subitem (6), indicates that party's or independent candidate's final allocation of seats reserved under item 4 for that region. 5
- (4) In the event of any forfeiture of seats in terms of subitem (1) affecting the provisional allocation of seats in terms of item 6(d), such allocation must be recalculated as follows:
- (a) The party forfeiting seats must be disregarded in such recalculation, and its provisional allocation of seats in terms of item 6(d), minus the number of such seats forfeited by it, becomes its final allocation of the seats referred to in item 1(b). 10
- (b) An amended quota of votes per seat must be determined by dividing the total number of votes cast nationally on both the regional and compensatory ballots, minus the number of votes cast nationally on both the regional and compensatory ballots in favour of the party referred to in paragraph (a), by the number of seats in the National Assembly, plus one, minus the number of seats finally allocated to the said party in terms of paragraph (a), minus the aggregate of seats won by independent candidates. 15
- (c) The result plus one, disregarding fractions, is the amended quota of votes per seat for the purposes of the said recalculation. 20
- (d) The number of seats to be awarded for the purpose of paragraph (f) to a party participating in the recalculation must, subject to paragraph (e), be determined by dividing the total number of votes cast nationally in favour of such party by the amended quota of votes per seat indicated by paragraph (c). 25
- (e) Where the result of the calculation referred to in paragraph (d) yields seats not absorbed by the number awarded to parties, the surplus of votes accruing to any party or parties competes for the remaining seats in sequence of the highest surplus of votes, up to a maximum of five seats so awarded: Provided that the subsequent award of seats still remaining must be made in sequence of the party or parties with the highest average number of votes per seat already awarded in terms of paragraph (d) and this paragraph. 30
- (f) The aggregate of such a party's awards in terms of paragraphs (d) and (e) must be reduced by the number of seats finally allocated to it in terms of item 5(i), and the results, subject to subitem (5) indicates that party's final allocation of the seats referred to in item 1(b). 35
- (5) In the event of a party being allocated an additional number of seats in terms of this item, and if its list in question then does not contain the names of a sufficient number of candidates as set out in subitem (1), the procedure provided for in this item must be repeated with the changes required by the context until all seats have been allocated. 40
- (6) In the event that an independent candidate stands to be allocated more than one seat in terms of subitem (3)(f), the procedure provided for in subitem (3), must be repeated with the changes required by the context until all seats have been allocated. 45

#### Provincial legislatures 50

8. The number of seats in each provincial legislature are as determined in terms of section 105 of the Constitution and item 3(1) of Schedule 3.

9. (1) Registered parties contesting an election of a provincial legislature must nominate candidates for election to such provincial legislature on a provincial list of candidates prepared in accordance with this Act, with such 55

number of candidates on each list as the party may determine subject to subitem (2).

(2) The list of candidates submitted by a party must not contain more names than the number of seats in the provincial legislature concerned, and must denote the fixed order of preference of the names as the party may determine.

**10.** The Commission must prepare a list of independent candidates contesting an election of a provincial legislature in accordance with this Act.

**11.** The seats determined for a provincial legislature must be allocated to parties and independent candidates contesting an election, as follows:

(a) A quota of votes per seat must be determined by dividing the total number of valid votes cast in the province concerned by the number of seats, plus one, determined for such province and the result plus one, disregarding fractions, is the quota of votes per seat for such province.

(b) The number of seats to be awarded to a party or independent candidate for the purposes of paragraph (d) must, subject to paragraph (c), be determined by dividing the total number of votes cast in the province in favour of such party or independent candidate by the quota of votes per seat determined in terms of paragraph (a).

(c) Where the result of the calculation referred to in paragraph (b) yields seats not absorbed by the number awarded to parties or independent candidates, the surplus of votes accruing to any party, parties or independent candidates in respect of the relevant province, competes for the remaining seats in sequence of the highest surplus of votes.

(d) The aggregate of a party's or independent candidate's awards in terms of paragraphs (b) and (c), indicates that party's or independent candidate's provisional allocation of seats in the provincial legislature in question.

(e) Where an independent candidate's award in terms of paragraph (d) exceeds one seat, the candidate is awarded one seat as his or her provisional allocation. The surplus of seats yielded must be dealt with in terms of item 12.

(f) If no recalculation of provisional allocations for a province concerned is required in terms of item 12, the provisional allocation of seats in respect of that province in terms of paragraph (d), becomes the final allocation of such seats to the various parties and independent candidates, and if such a recalculation is required the provisional allocation of such seats as adjusted in terms of item 12 becomes the final allocation of such seats to the various parties and independent candidates.

(g) In terms of paragraph (f) the seats finally allocated to a party, must be filled from its respective provincial lists.

**12.** (1) If a party has submitted a provincial list containing fewer names than the number of seats provisionally allocated to it in terms of item 11(d), it must forfeit a number of seats equal to the deficit.

(2) If, following the provisional allocation in item 11(d), an independent candidate stands to be allocated more than one seat in a region, he or she is only allocated one seat and forfeits any additional seats.

(3) In the event of any forfeiture of seats in terms of subitems (1) or (2), the allocation of seats in respect of the province concerned must be recalculated as follows:

(a) The party or independent candidate forfeiting seats must be disregarded in such recalculation, and its provisional allocation of seats in terms of item 11(d), minus the number of seats forfeited by it, becomes its final allocation of seats in the provincial legislature concerned.

(b) An amended quota of votes per seat must be determined in respect of such province by dividing the total number of votes cast in the

- province, minus the number of votes cast in the province in favour of the party or independent candidate referred to in paragraph (a) by the number of seats, plus one, determined in terms of item 8 in respect of the province concerned, minus the number of seats finally allocated to the said party in terms of paragraph (a). 5
- (c) The result plus one, disregarding fractions, is the amended quota of votes per seat in respect of such province for purposes of the said recalculation.
- (d) The number of seats to be awarded for the purposes of paragraph (f) in respect of such province to a party or independent candidate participating in the recalculation must, subject to paragraph (e), be determined by dividing the total number of votes cast in favour of such party or independent candidate in such province by the amended quota of votes per seat indicated by paragraph (c) for such province. 10
- (e) Where the result of the calculation referred to in paragraph (d) yields seats not absorbed by the number awarded to parties or independent candidates, the surplus of votes accruing to any party, parties or independent candidates in respect of the relevant province, competes for the remaining seats in sequence of the highest surplus of votes. 15
- (f) The aggregate of such a party's or independent candidate's awards in terms of paragraphs (d) and (e) in respect of such province, subject to subitems (4) and (5), indicates that party's or independent candidate's final allocation of the seats determined under item 8 in respect of that province. 20
- (4) In the event of a party being allocated an additional number of seats in terms of subitem (3)(f) and if its list in question then does not contain the names of a sufficient number of candidates as set out in subitem (1), the process provided for in this item must be repeated with the changes required by the context until all seats have been allocated. 25
- (5) In the event that an independent candidate stands to be allocated more than one seat in terms of subitem (3)(f), the procedure provided for in subitem (3), must be repeated with the changes required by the context until all seats have been allocated. 30

### Ballot papers

13. (1) The Commission must produce separate ballot papers for each regional election of members to the National Assembly, the compensatory seats of members to the National Assembly and of members to each provincial legislature. 35
- (2) The ballot paper to be used in each region for the election of members of the National Assembly shall include only parties and independent candidates standing in that region for election to the National Assembly. 40
- (3) The ballot for a provincial legislature shall include the names of parties and independent candidates standing for elections in that province.

### Designation of representatives of parties

14. (1) After the counting of votes has been concluded, the number of representatives of each party has been determined and the election result has been declared in terms of section 190(1)(c) of the Constitution, the Commission must, within two days after such declaration, designate from each list of candidates, the representatives of each party in the National Assembly and provincial legislature. 45
- (2) Following the designation in terms of subitem (1), if a candidate's name appears on more than one list for the National Assembly or on lists for both the National Assembly and a provincial legislature (if an election of the National Assembly and a provincial legislature is held at the same time), 50

and such candidate is due for designation as a representative in more than one case, the party which submitted such lists must, within two days after the said declaration, indicate to the Commission from which list such candidate will be designated or in which legislature the candidate will serve, as the case may be, in which event the candidate's name must be deleted from the other lists. 5

(3) If a party fails to indicate to the Commission from which list a candidate will be designated or in which legislature a candidate will serve, such candidate's name must be deleted from all the lists.

(4) The Commission must forthwith publish the list of names of representatives in the National Assembly or provincial legislatures. 10

#### **Supplementation of lists of candidates of parties**

15. A party may not supplement a list of candidates for any legislature prior to the designation of representatives in terms of item 14. 15

16. After the designation of representatives in terms of item 14 has been concluded, parties may supplement their lists of candidates by the addition of an equal number of names at the end of the applicable list, if— 15

(a) a representative is elected as the President or to any other executive office as a result of which he or she resigns as a representative of a legislature; 20

(b) a representative is appointed as a permanent delegate to the National Council of Provinces; 20

(c) a name is deleted from a list in terms of item 14(2) or (3); or

(d) a vacancy has occurred and the appropriate list of candidates of the party concerned is depleted. 25

17. A party may supplement a list of candidates referred to in item 14(1) on one occasion only at any time during the first 12 months following the date on which the designation of representatives in terms of item 14 has been concluded, in order to fill casual vacancies: Provided that any such supplementation must be made at the end of the list. 30

18. The number of names on lists of candidates as supplemented in terms of item 16 may not exceed the difference between the number of seats in the National Assembly or a provincial legislature, as the case may be, and the number of representatives of a party in any such legislature. 35

#### **Review of lists of candidates by party**

19. A party may review its undepleted lists as supplemented in terms of items 16, 17 and 18, within seven days after the expiry of the period referred to in item 17, and annually thereafter, until the date on which a party has to submit lists of candidates for an ensuing election, in the following manner: 40

(a) All vacancies may be supplemented;

(b) no more than 25 per cent of candidates may be replaced; and

(c) the fixed order of lists may be changed.

#### **Publication of supplemented and reviewed lists of candidates**

20. The Secretary to Parliament and the Secretaries of the provincial legislatures must publish lists of candidates supplemented in terms of items 16 and 17 or reviewed in terms of item 19 within 10 days after the receipt of such lists from the parties concerned. 45

**Designation of seats of independent candidates**

**21.** (1) If an independent candidate is finally allocated a seat in accordance with item 11(f) as well as in accordance with item 5(i), such independent candidate must within two days after the said final allocation, indicate to the Commission the seat he or she elects to retain or in which legislature the independent candidate will serve, as the case may be, in which event the independent candidate's name must be deleted from the relevant other list and the recalculation performed in terms of item 23.

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(2) If an independent candidate fails to indicate to the Commission from which list such independent candidate will be designated or in which legislature an independent candidate will serve, such independent candidate's name must be deleted from all the lists and both the regional and provincial recalculations performed in terms of item 23.

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**Vacancies**

**22.** (1) In the event of a vacancy in a legislature of a seat allocated to a party, the party which the vacating member represented must fill the vacancy by nominating a person—

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(a) whose name appears on the list of candidates from which that party's members were originally nominated; and

(b) who is the next qualified and available person on the list.

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(2) A nomination to fill a vacancy must be submitted to the Speaker of the legislature in writing.

(3) If a party represented in a legislature dissolves or ceases to exist and the members in question vacate their seats in consequence of section 47(3)(c) or section 106(3)(c) of the Constitution, the seats in question must be allocated to the remaining parties with the changes required by the context as if such seats were vacated seats in terms of item 23 and item 24, as the case may be.

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**23.** (1) In the event of a vacancy in a region or provincial legislature with respect to a seat allocated to an independent candidate, the chief electoral officer must in writing allocate the seat by recalculating the result as follows:

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(a) disregarding the votes allocated to the independent candidate causing the vacancy;

(b) disregarding the votes and seats allocated to the independent candidates already in office; and

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(c) recalculating the result for the region or provincial legislature in terms of the provisions in subitem (3).

(2) The vacant seat is awarded to an eligible independent candidate or party that contested the preceding election in terms of subitem (1)(c).

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(3) (a) An amended quota of votes per seat must be determined in respect of such region or province by dividing the total number of votes cast in the region or province, minus the number of votes cast in the region or province in favour of the independent candidate causing the vacancy, minus the votes cast in such region or province in favour of independent candidates already allocated one seat, by the number of seats, plus one, determined in terms of item 4 or item 8 in respect of the region or province concerned, minus the seats held by independent candidates.

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(b) The result plus one, disregarding fractions, is the amended quota of votes per seat in respect of such region or province for purposes of the said recalculation.

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(c) The number of seats to be awarded for the purposes of paragraph (e) in respect of such region or province to a party or independent candidate participating in the recalculation must, subject to paragraph (d), be determined by dividing the total number of votes cast in favour of such

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party or independent candidate in such region or province by the amended quota of votes per seat indicated by paragraph (b) for such region or province.

(d) Where the result of the calculation referred to in paragraph (c) yields seats not absorbed by the number awarded to parties or independent candidates, the surplus of votes accruing to any party, parties or independent candidates participating in the recalculation, competes for the remaining seats in sequence of the highest surplus of votes.

(e) The aggregate of such a party's awards in terms of paragraphs (c) and (d) in respect of such region or province, subject to paragraph (f), indicates that party's or independent candidate's final allocation of the seats determined under item 4 or item 8 in respect of that region or province.

(f) In the event of a party being allocated an additional number of seats in terms of this item and if its list in question then does not contain the names of a sufficient number of candidates as set out in item 7(1) or item 12(1), the process provided for in item 24 must be repeated with the changes required by the context until all seats have been allocated.

**24.** (1) Should any party or independent candidate stand to lose a seat during the recalculation contemplated in item 23, the party or independent candidate will retain the seat.

(2) A recalculation must be done as follows:

- (a) disregarding the votes and seat allocated to the party or independent candidate contemplated in subitem (1);
- (b) disregarding the votes and seats allocated to independent candidates already in office; and
- (c) recalculating the result for the region or provincial legislature in terms of the provisions in subitem (3).

(3) (a) An amended quota of votes per seat must be determined in respect of such region or province by dividing the total number of votes cast in the region or province, minus the number of votes cast in the region or province in favour of the party or independent candidate standing to lose a seat, minus the votes cast in such region or province in favour of independent candidates already allocated one seat, by the number of seats, plus one, determined in terms of item 4 or item 8 in respect of the region or province concerned, minus the seat or seats retained by the party or independent candidate, minus the seats held by the independent candidate.

(b) The result plus one, disregarding fractions, is the amended quota of votes per seat in respect of such region or province for purposes of the said recalculation.

(c) The number of seats to be awarded for the purposes of paragraph (f) in respect of such region or province to a party or independent candidate participating in the recalculation must, subject to paragraph (d), be determined by dividing the total number of votes cast in favour of such party or independent candidate in such region or province by the amended quota of votes per seat indicated by paragraph (b) for such region or province.

(d) Where the result of the calculation referred to in paragraph (c) yields seats not absorbed by the number awarded to parties or independent candidates, the surplus of votes accruing to any party, parties or independent candidates participating in the recalculation, competes for the remaining seats in sequence of the highest surplus of votes.

(e) The aggregate of such a party's awards in terms of paragraphs (c) and (d) in respect of such region or province, subject to paragraph (f), indicates that party's or independent candidate's final allocation of the seats determined under item 4 or item 8 in respect of that region or province.

(f) In the event of a party being allocated an additional number of seats in terms of this item and if its list in question then does not contain the names

of a sufficient number of candidates as set out in item 7(1) or item 12(1), the process provided for in this subitem must be repeated with the changes required by the context until all seats have been allocated.

### Definitions

25. In this Schedule—

‘**national list**’ means a list of candidates prepared by a party for an election of the National Assembly to reflect that party’s order of preference of candidates in respect of the allocation of compensatory seats;

‘**provincial list**’ means a list of candidates prepared by a party for an election of a provincial legislature;

‘**regional list**’ means a list of candidates in respect of a region prepared by a party for an election of the National Assembly to reflect that party’s order of preference of candidates in respect of the allocation of regional seats in respect of each region; and

‘**votes**’ means—

(a) where it occurs in items 5, 6 and 7, votes cast in the election for the National Assembly;

(b) where it occurs in items 11 and 12, votes cast in the election for the provincial legislature of a province concerned; and

(c) where it occurs in item 14, votes cast in the election for the National Assembly and the provincial legislatures.”.

### Amendment of Schedule 2 to Act 73 of 1998

22. Schedule 2 to the principal Act is hereby amended by the substitution in item 7(g) for subparagraph (iii) of the following subparagraph:

“(iii) that representatives of that party or candidate attend meetings of any [party] political liaison committee or other forum convened by the Commission.”.

### Electoral Reform Consultation Panel

23. (1) Within four months after the commencement of the Electoral Amendment Act 2023, the Minister must establish the Electoral Reform Consultation Panel.

(2) (a) The functions of the Panel are to independently investigate, consult on, report on and make recommendations in respect of potential reforms of the electoral system for the election of the National Assembly and the election of the provincial legislatures, in respect of the elections to be held after the 2024 elections.

(b) The Panel must perform its functions referred to in paragraph (a) in a manner that enables Parliament to exercise its constitutional powers to determine the electoral system for the elections of the National Assembly and provincial legislatures, in respect of the elections to be held after the 2024 elections.

(3) The Panel must—

(a) prior to the 2024 elections, engage in research and consider the issues falling within its functions;

(b) after the 2024 elections, undertake a public participation process regarding the issues falling within its functions; and

(c) from the date of its establishment, submit a report to the Minister every three months on its progress.

(4) The Panel must, within 12 months of the date of the 2024 elections, submit a report to the Minister on the possible options for electoral reform for the election of the National Assembly and the election of the provincial legislatures which must include—

(a) reasons, potential advantages and disadvantages;

(b) legal and constitutional implications; and

(c) financial implications,

for each proposed electoral system or electoral reform identified by the Panel.

(5) (a) The report contemplated in subsection (4) must reflect the views of the members of the Panel as to the possible options and recommendations for electoral reform.

(b) In the case of disagreement as to the possible options and recommendations for electoral reform, the report may be divided into different sections setting out the different views of the members. 5

(6) (a) In the event that the Panel is unable to submit the report contemplated in subsection (4), the Panel must no less than three months before the date on which the report is due, make a written request to the Minister to allow the Panel an extension of no longer than six months to submit the report. 10

(b) The Minister may upon receiving the request referred to in paragraph (a), grant the extension on good cause shown, provided that such an extension may only be granted once.

(7) Upon receipt of the report contemplated in subsection (4), the Minister must within 30 days, table the report in Parliament for its consideration and publish the report through electronic and any other means. 15

(8) The Panel is authorised to do all things necessary or incidental to fulfil its functions, including—

(a) to call for and receive written submissions from political parties, independent candidates, civil society organisations and any interested person or party in respect of potential reforms of the electoral system; and 20

(b) to make the written submissions publicly available and accessible through electronic and any other means.

(9) In order to establish and constitute the Panel, the Minister must—

(a) call on the public and any interested parties to nominate fit and proper South African citizens who— 25

(i) have the necessary skills, expertise, experience, knowledge or academic qualifications in the administration and running of elections or constitutional law or electoral systems;

(ii) are not members of Parliament or of any provincial legislature; and 30

(iii) have not, in the past 12 months, been office-bearers or employees of any political party;

(b) in consultation with the Commission and after approval by the National Assembly, appoint nine members to the Panel from such nominated persons who satisfy the criteria specified in paragraph (a); and 35

(c) appoint one of the members of the Panel as the Chairperson of the Panel.

(10) A member may resign from the Panel by giving the Minister—

(a) one month's written notice; or

(b) less than one month's written notice, with the approval of the Minister.

(11) The Minister may, after taking the steps required by subsection (12), remove a member of the Panel, if that member— 40

(a) committed an act of misconduct, becomes incapacitated or is incompetent;

(b) is unable to perform his or her functions for more than 30 consecutive days;

(c) acted contrary to the fulfilment of the Panel's functions; or

(d) neglected to perform the functions as required by a resolution of the Panel. 45

(12) Before removing a member of the Panel in terms of subsection (11), the Minister must afford the member an opportunity to make written representations and must consider those representations.

(13) (a) Should a vacancy arise in the Panel, the Minister in consultation with the Commission, and after approval by the National Assembly, must fill the vacancy from the persons already nominated in the process contemplated in subsection (9)(a). 50

(b) In the event that no suitable person can be appointed, the Minister must undertake a new nomination process as provided for in subsection (9)(a).

(14) A member of the Panel, who is not in the full-time employment of the state, must— 55

(a) be appointed on such terms and conditions as the Minister may determine; and

- (b) receive such remuneration and allowances, out of the funds appropriated for the functioning of the Panel, as the Minister may determine in consultation with the Minister of Finance.
- (15) The Director General of Home Affairs must, subject to the laws governing the public service— 5
- (a) appoint, second or designate persons in its employ and
  - (b) make available any other necessary resources,
- to assist the Panel to enable it to perform and fulfil its functions.
- (16) The Minister must dissolve the Panel— 10
- (a) after the Minister has tabled the report referred to in subsection (4) in Parliament; and
  - (b) once the Minister and Parliament no longer require the Panel to perform any of its functions.
- (17) In this section: 15
- (a) “**2024 elections**” means the elections of the National Assembly and the provincial legislatures, due to be held during 2024;
  - (b) “**Minister**” means the cabinet member responsible for Home Affairs; and
  - (c) “**Panel**” means the Electoral Reform Consultation Panel established in terms of subsection (1).

**Short title and commencement**

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**24.** This Act is called the Electoral Amendment Act, 2023, and comes into operation on a date determined by the President by proclamation in the *Gazette*.