

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
ELECTORAL BILL**

[B 69—98]

*(As agreed to by the Portfolio Committee on Home Affairs
(National Assembly))*

[B 69A—98]

REPUBLIEK VAN SUID-AFRIKA

**PORTEFEULJEKOMITEE-AMENDEMENTE
OP
KIESWETSONTWERP**

[W 69—98]

*(Soos goedgekeur deur die Portefeuljekomitee oor Binnelandse Sake
(Nasionale Vergadering))*

[W 69A—98]

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AMENDMENTS AGREED TO

ELECTORAL BILL [B 69—98]

CLAUSE 1

1. On page 10, in line 22, to omit “or 57”.
2. On page 10, from line 44, to omit the definition of “identity document” and to substitute:

“identity document” means an identity document issued after 1 July 1986, in terms of section 8 of the Identification Act, 1986 (Act No. 72 of 1986), or a temporary identity certificate issued in terms of section 16 of the Identification Act, 1997 (Act No. 68 of 1997);
3. On page 10, after line 54, to insert the following definitions:

“list of candidates” means the list of candidates referred to in section 27;
“municipal council” means a municipal council referred to in Chapter 7 of the Constitution;
4. On page 12, after line 30, to insert the following definition:

“voting district” means a voting district established in terms of section 60;
5. On page 12, after line 31, to insert the following definition:

“voting station” means any voting station established in terms of section 64;

CLAUSE 7

1. On page 14, after line 7, to insert the following subsection:

(2) For the purposes of this section the head office in the Republic of a person referred to in section 33(1)(a)(ii) is regarded as the ordinary place of residence of that person or a member of that person’s household.

CLAUSE 11

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Amendments to voters’ roll by chief electoral officer

- 11.** (1) The chief electoral officer must—
 - (a) change the registration details of a voter, if the chief electoral

- officer is satisfied that the details of that voter as reflected in the voters' roll are incorrect or have changed; or
- (b) deregister a voter, if the chief electoral officer is satisfied that that voter does not qualify or no longer qualifies for registration.
- (2) The chief electoral officer must record in the voters' roll or a person's application any change in voting district for which a person is registered as a voter or has applied for registration, if that person's place of ordinary residence after a change in the boundaries of that voting district falls in another voting district.

NEW CLAUSES

1. That the following be new Clauses:

General registration of voters

14. (1) The Commission must, for the compilation of the voters' roll contemplated in section 5, conduct a general registration of voters.

(2) The Commission may prescribe cut-off dates in respect of the general registration of voters and the compilation of the voters' roll, including the date by which—

- (a) any person who wants to be included in the voters' roll must have applied for registration as a voter in terms of section 7 or for the change of registration details in terms of section 9;
- (b) the chief electoral officer must notify a person in terms of section 12;
- (c) an appellant must note an appeal in terms of section 13;
- (d) the Commission must consider and decide the appeal and notify the appellant and the chief electoral officer of the decision;
- (e) the chief electoral officer must give notice of the periods during which and the venues where a provisionally compiled voters' roll will be available for inspection;
- (f) any objections in terms of section 15 in respect of a provisionally compiled voters' roll must be made;
- (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
- (h) the chief electoral officer must complete the compilation of the voters' roll and publish it.

Objections to voters' roll

15. (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—

- (a) the exclusion of any person's name from that segment;
- (b) the inclusion of any person's name in that segment; or
- (c) the correctness of any person's registration details in that segment.

(2) A person who objects to the exclusion or inclusion of the name of another person, or to the correctness of that person's registration details, must serve notice of the objection on that person.

(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;
 - (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.
- (4) The chief electoral officer must give effect to a decision of the Commission in terms of subsection (3) within three days.
- (5) No appeal may be brought against the Commission's decision, subject to section 20(2)(a) of the Electoral Commission Act.

Publication and copies of voters' roll

16. (1) A copy of the voters' roll as it exists at any time must be available for inspection during office hours at the Commission's head office, and the provincial and municipal segments of the voters' roll must be available for inspection at the times and venues mentioned in a notice published by the chief electoral officer in the *Government Gazette*.

(2) The chief electoral officer must provide a certified copy of, or extract from, a segment of the voters' roll as it exists at that time, to any person who has paid the prescribed fee.

CLAUSE 14

1. On page 16, from line 26, to omit subsection (1) and to substitute:

(1) Whenever the President or Acting President calls an election of the National Assembly the proclamation concerned must set a single day and date for voting.

CLAUSE 15

1. On page 16, from line 32, to omit subsection (1) and to substitute:

(1) Whenever the President or the Premier or Acting Premier of a province calls an election of the provincial legislature the proclamation concerned must set a single day and date for voting.

CLAUSE 17

1. On page 16, in line 41, after "must" to insert:

after consultation with the party national liaison committee

CLAUSE 19

1. On page 18, in line 17, to omit paragraph (b).
2. On page 18, in line 20, to omit "public".

CLAUSE 20

1. On page 18, from line 27, to omit subsection (2) and to substitute:

- (2) A revote at a voting station must be—
- (a) conducted on a date that would still fall within the period referred to in section 21(1)(b);
 - (b) publicised in the media considered appropriate so as to ensure wide publicity of the date determined for the revote; and
 - (c) conducted in accordance with a procedure prescribed by the Commission which is consistent with the principles provided for in Chapter 4.

CLAUSE 21

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Voters' roll for election

24. (1) The voters' roll, or the segments of the voters' roll that must be used for an election, are those as they exist on the day the election is proclaimed.

(2) By not later than the relevant date stated in the election time table, the chief electoral officer must certify the voters' roll or the segments of the voters' roll to be used in that election and publish it by making it available for inspection at the following venues:

- (a) At the Commission's head office, the segments for all voting districts in which the election will take place;
- (b) in each province, at the office of the Commission's provincial representative, the segments for all voting districts in the province in which the election will take place; and
- (c) at the office of each municipality, the segments for all voting districts in that municipality in which the election will take place.

CLAUSE 22

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Voters' roll for first elections of National Assembly and provincial legislatures

25. (1) Section 24 does not apply in respect of the first election of the National Assembly and the first election of a provincial legislature referred to in items 6(3)(a) and 11(1)(a) of Schedule 6 to the Constitution, respectively.

(2) The voters' roll that must be used for the elections referred to

in subsection (1) is the voters' roll compiled by the chief electoral officer in terms of section 5 and published by that officer by the date referred to in section 14(2)(h).

CLAUSE 23

Clause rejected.

CLAUSE 24

Clause rejected.

CLAUSE 26

1. On page 22, from line 28, to omit subparagraph (ii).

CLAUSE 28

1. On page 22, in line 48, to omit "public".
2. On page 24, from line 6, to omit subparagraph (iii).

CLAUSE 32

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Special votes

- 33.** (1) The Commission—
 - (a) must allow a person to apply for a special vote if that person cannot vote at a voting station in the voting district in which the person is registered as a voter, due to that person's—
 - (i) physical infirmity or disability, or pregnancy;
 - (ii) absence from the Republic on Government service or membership of the household of the person so being absent; or
 - (iii) absence from that voting district while serving as an officer in the election concerned, or while on duty as a member of the security services in connection with the election;
 - (b) may prescribe other categories of persons who may apply for special votes.
- (2) The Commission must prescribe—
 - (a) the procedure for applying for special votes; and
 - (b) procedures, consistent in principle with Chapter 4, for the casting and counting of special votes.

NEW CLAUSE

1. That the following be a new Clause:

Declaration votes

- 34.** The Commission may prescribe—
- (a) circumstances in and conditions on which a person who is unavoidably and unforeseeably unable to vote in the voting district in which that person is registered as a voter, may apply to vote elsewhere;
 - (b) the procedure for applying for declaration votes; and
 - (c) procedures, consistent in principle with Chapter 4, for the casting and counting of declaration votes.

CLAUSE 34

1. On page 26, in line 45, to omit “public”.
2. On page 28, from line 8, to omit paragraph (b) and to substitute:
 - (b) had reported for voting at that voting station at the time prescribed for that voting station to close for voting.

CLAUSE 36

1. On page 28, from line 42, to omit paragraphs (a), (b) and (c) and to substitute:
 - (a) record that the voter is regarded to have voted in the election;
 - (b) mark the hand of the voter in the prescribed manner;
 - (c) mark the back of a ballot paper for that election; and
 - (d) hand the ballot paper to the voter.
2. On page 28, in line 55, to omit “area within the inner boundary of the”.

CLAUSE 37

1. On page 30, in line 3, after “voting” to add:

in the presence of—

 - (a) a person appointed in terms of section 84 by an accredited observer, if available; and
 - (b) two agents from different parties, if available

CLAUSE 40

1. On page 30, from line 43, to omit subsection (2) and to substitute:
 - (2) Immediately after the last vote has been cast, every remaining used ballot box must be similarly dealt with.
 - (3) A sealed ballot box must remain—

- (a) sealed until opened for the counting of votes in terms of section 46(1); and
- (b) in the voting station until the commencement of the counting of the votes there or, if the votes are not to be counted at that voting station, until removed for delivery in terms of section 43(3).

CLAUSE 41

- 1. On page 32, from line 19, to omit subsection (3).
- 2. On page 32, in line 23, to omit “In the circumstances contemplated in subsection (3)” and to substitute:

If the votes in an election are not to be counted at the voting station at which those votes were cast

- 3. On page 32, from line 30, to omit subsection (5).

CLAUSE 42

- 1. On page 32, in line 37, to omit “to (5)”.

CLAUSE 45

- 1. On page 34, in line 7, to omit “41(3)(b)” and to substitute “(2)”.
- 2. On page 34, in line 11, after “sorted” to insert:
 - and compare it with the number of ballot papers issued
- 3. On page 34, in line 14, to omit “provisional result of the election or each election held” and to substitute “result of each count”.

CLAUSE 47

- 1. On page 34, in lines 42 and 50, respectively, to omit “provisional”.

CLAUSE 48

- 1. On page 36, in lines 2 and 4, respectively, to omit “provisional”.
- 2. On page 36, after line 3, to insert the following paragraph:
 - (a) the number of ballot papers supplied to the voting station;
- 3. On page 36, in line 12, to omit “inform the Commission of the provisional result of the election” and to substitute:
 - announce the result of the count at the voting station to members of the public and agents present

4. On page 36, in lines 15 and 16, to omit “announce the provisional result at the voting station to members of the public and agents present” and to substitute:

inform the Commission of the result of the count

CLAUSE 52

1. On page 38, in lines 5 and 6, respectively, to omit “provisional”.

CLAUSE 55

1. On page 38, from line 39, to omit subsections (2) and (3) and to substitute:

(2) The determination and declaration of the result of an election must occur within seven days after the voting day, but not—

- (a)* sooner than 21:00 of the second day after the voting day; or
- (b)* before all objections made under section 53 have been dealt with in terms of that section, other than an appeal to the Electoral Court in terms of subsection (5) of that section.

(3) The Commission may determine and declare the result of an election without having received the results of all voting stations, if—

- (a)* to wait for the receipt of the result from every voting station would unduly and unreasonably delay the determination and declaration of the result of that election; and
- (b)* the outstanding results are not likely to materially influence the overall result of that election.

CLAUSE 57

Clause rejected.

CLAUSE 60

1. On page 42, in line 15, to omit “district” and to substitute “station”.

CLAUSE 62

1. On page 42, in line 32, to omit “public”.

CLAUSE 65

1. On page 44, in line 29, to omit “inner and outer boundaries” and to substitute “boundary”.
2. On page 44, in line 30, to omit “boundaries” and to substitute “boundary”.
3. On page 44, in line 32, after “station” to insert:

, and must demarcate that boundary in the prescribed manner

CLAUSE 66

1. On page 44, in line 40, to omit “public”.

CLAUSE 72

1. On page 46, in line 42, to omit “inner”.
2. On page 48, in line 7, to omit “inner”.

CLAUSE 99

1. On page 64, in line 4, after “regulations” to insert:
 , after consultation with the party national liaison committee,

CLAUSE 104

1. In the English text, on page 64, in line 46, to omit “to own” and to substitute “as owning”.

CLAUSE 107

1. On page 66, in line 28, to omit “inner”.

CLAUSE 108

1. In the Afrikaans text, on page 67, in line 35, to omit “meningspeiling” and to substitute “uitgangspeiling”.

NEW CLAUSE

1. That the following be a new Clause:

Composition of National Assembly and provincial legislatures

114. The formulas referred to in sections 46(2) and 105(2) of the Constitution are set out in Schedule 3.

CLAUSE 116

1. On page 68, in lines 27 and 29, respectively, to omit “from” and to substitute “on”.

SCHEDULE 1

1. On page 70, from the twelfth line, to omit item 2 and to substitute:

Cut-off date for publication of voters' roll

2. By ... [day/month/year], the chief electoral officer must publish the voters' roll or the segments of the voters' roll to be used in this election in terms of section 24(2).

2. On page 70, from the thirty-third line, to omit items 4, 5, 6 and 7.
3. On page 74, in the twelfth and thirteenth lines, to omit "inner and outer boundaries" and to substitute "boundary".

SCHEDULE 2

1. On page 78, after the sixteenth line, to insert:

Role of media

8. Every registered party and every candidate—
 - (a) must respect the role of the media before, during and after an election conducted in terms of this Act;
 - (b) may not prevent access by members of the media to public political meetings, marches, demonstrations and rallies; and
 - (c) must take all reasonable steps to ensure that journalists are not subjected to harassment, intimidation, hazard, threat or physical assault by any of their representatives or supporters.
2. On page 78, in the forty-eighth line, in item 8(1)(d), after "on" to insert "the grounds of".
3. On page 80, from the first line, to omit subparagraph (e).

NEW SCHEDULE

1. That the following be a new Schedule to follow Schedule 2:

SCHEDULE 3

COMPOSITION OF NATIONAL ASSEMBLY AND PROVINCIAL LEGISLATURES

(Section 114)

Formula for determining number of members of National Assembly

1. (1) By taking into account available scientifically based data and representations by interested parties, the number of seats of the National Assembly must be determined by awarding one seat for every 100 000 of the population with a minimum of 350 and a maximum of 400 seats.

(2) If the total number of seats for all provincial legislatures determined in terms of item 2 exceeds 400, the number of seats for the National Assembly may not be less than 400.

Formula for determining number of members of provincial legislatures

2. By taking into account available scientifically based data and representations by interested parties, the number of seats of a provincial legislature must be determined by awarding one seat for every 100 000 of the population whose ordinary place of residence is within that province, with a minimum of 30 and a maximum of 80 seats.

Commission responsible for determination of seats

3. (1) The determination of seats contemplated in items 1 and 2 must be completed by the Commission not later than 31 March 1999.

(2) The Commission must give notice in the *Government Gazette* of the time and date on which, and the venue where, the determination is to take place, and must afford interested parties an opportunity to make representations before the determination is made.

Determination to be published in *Government Gazette*

4. A determination made in terms of this Schedule must be published in the *Government Gazette* within 14 days of the determination, and takes effect on the date it is published.