

REPUBLIC OF SOUTH AFRICA

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# **ELECTORAL LAWS AMENDMENT BILL**

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*As amended by the Portfolio Committee on Home Affairs (National Assembly)  
(The English text is the official text of the Bill)*

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(MINISTER OF HOME AFFAIRS)

**[B 33B—2018]**

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## GENERAL EXPLANATORY NOTE:

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

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

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# BILL

To amend the—

- **Electoral Commission Act, 1996**, so as to provide for the use of all available sources of data to obtain information necessary for the Commission to compile and maintain the national common voters' roll; to provide for the electronic submission of party registration applications; to provide for the exclusive jurisdiction of the Electoral Court to adjudicate intra-party leadership disputes that have an impact on the Commission's preparation for elections; to provide for the prohibition of the use of the name and its acronym, logo, designs or electoral material used or owned by the Commission;
- **Electoral Act 1998**, so as to revise the existing provisions relating to voter registration, voters' roll, voting districts and voting procedure; to regulate the publication of, and objections to, a provisionally compiled voters' roll ahead of elections in order to establish a structured process for resolving these objections without jeopardising the preparations for elections; to clarify that the election timetable may include any matter authorised in terms of the Electoral Act; to clarify that the voter's roll to be used in an election must be that certified by the chief electoral officer for that election; to clarify that the cut-off date for the registration of voters for an upcoming election must be the date of proclamation of an election date; to provide for the chief electoral officer to notify the relevant parties where a candidate's name appears on multiple party lists and to afford such parties an opportunity to substitute that candidate and re-order their party lists; to repeal the requirement that the identity document of a voter must be stamped as proof of voting; to provide for different voting procedure for voters without addresses on the voter's roll; to provide for the circumstances under which an agent may object to a voter whose name appears on the segment of the voters' roll for the voting district in which the voting station is located; to limit the class of persons who may apply for accreditation to provide voter education for an election to juristic persons; to align the provision regarding the circumstances in which new ballot papers may be issued to voters with the provisions of the Local Government: Municipal Electoral Act, 2000; and
- **Local Government: Municipal Electoral Act, 2000**, so as to regulate the publication of, and objections to, a provisionally compiled voters' roll ahead of elections, in order to establish a structured process of resolving these objections without jeopardising the preparation for elections; to provide for the prohibition of the use of public finances to fund party political campaigns, 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 5 of Act 51 of 1996, as amended by section 94 of Act 117 of 1998**

1. Section 5 of the Electoral Commission Act, 1996, is hereby amended by the substitution in subsection (1) for paragraph (e) of the following paragraph: 5

“(e) compile and maintain voters’ rolls by means of a system of registering of eligible voters by utilising [data] available [from government sources] data and information furnished by voters, as prescribed;”.

**Amendment of section 15 of Act 51 of 1996, as amended by section 26 of Act 34 of 2003** 10

2. Section 15 of the Electoral Commission Act, 1996, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The chief electoral officer shall, upon application by a party in the prescribed manner and form, accompanied by the items mentioned in subsection (3), register such party in accordance with this Chapter.” 15

**Amendment of section 15A of Act 51 of 1996, as inserted by section 93 of Act 27 of 2000 and amended by section 27 of Act 34 of 2003**

3. Section 15A of the Electoral Commission Act, 1996, is hereby amended by the substitution for subsection (1) of the following subsection: 20

“(1) The chief electoral officer shall, upon application by a party in the prescribed manner and form, and if the application is accompanied by the items mentioned in subsection (2), register such party in respect of a particular municipality.”.

**Amendment of section 20 of Act 51 of 1996** 25

4. Section 20 of the Electoral Commission Act, 1996, is hereby amended by the insertion after subsection (2) of the following subsection:

“(2A) The Electoral Court may hear and determine any dispute relating to membership, leadership, constitution or founding instruments of a registered party.” 30

**Insertion of section 21A in Act 51 of 1996**

5. The following section is hereby inserted in the Electoral Commission Act, 1996, after section 21:

**“Restriction on use of name**

**21A.** (1) No person may use or trade under a name containing the words ‘Electoral Commission’, ‘Independent Electoral Commission’ or the acronym ‘IEC’ for the purposes of elections or the translation thereof in any other official language to— 35

- (a) conduct his, her or its affairs or business, or carry on his, her or its occupation or trade; 40
- (b) be registered or licensed under any law; or
- (c) falsely claim to be acting on behalf of the Commission.

(2) No person may, without the prior written authorisation of the Commission, represent or make use of the logos, designs or electoral material used or owned by the Commission. 45

(3) Any person who contravenes a provision of subsection (1) or (2) is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding six months or to both such fine and imprisonment.”.

**Amendment of section 7 of Act 73 of 1998, as amended by section 93 of Act 27 of 2000, section 3 of Act 34 of 2003 and section 3 of Act 18 of 2013**

6. Section 7 of the Electoral Act, 1998, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A person applying for registration as a voter must do so **[in person]** in the prescribed manner.”. 5

**Amendment of section 8 of Act 73 of 1998, as amended by section 4 of Act 34 of 2003 and section 4 of Act 18 of 2013**

7. Section 8 of the Electoral Act, 1998, is hereby amended by the substitution for subsection (3) of the following subsection: 10

“(3) A person’s name must be entered in the voters’ roll only for **[the]** a voting district within the ward in which that person is ordinarily resident **[and for no other voting district]**: Provided that where that person is ordinarily resident outside the Republic, his or her name must be entered in a segment of the voters’ roll created for that purpose.”. 15

**Amendment of section 11 of Act 73 of 1998**

8. Section 11 of the Electoral Act, 1998, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The chief electoral officer must record in the voters’ roll or in 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] ward**.”. 20

**Amendment of section 20 of Act 73 of 1998**

9. Section 20 of the Electoral Act, 1998, is hereby amended by the insertion after subsection (1) of the following subsection: 25

“(1A) The election timetable may include any other matter authorised in terms of this Act.”.

**Amendment of section 24 of Act 73 of 1998**

10. Section 24 of the Electoral Act, 1998, is hereby amended— 30

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

“(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]** certified by the chief electoral officer in terms of subsection (2).”; and 35

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

“(1A) Except where this Act otherwise permits, only a voter who applied for registration prior to the proclamation of an election date may vote in the election concerned.”.

**Substitution of section 28 of Act 73 of 1998** 40

11. The following section is hereby substituted for section 28 of the Electoral Act, 1998:

**“Non-compliance concerning submission of lists of candidates**

28. (1) If a registered party that has submitted a list of candidates has not fully complied with section 27(2)(a), (b), (c) or (d), the chief electoral officer must notify that party of its non-compliance. 45

(2) The notification must be given in the prescribed manner by not later than the relevant date stated in the election timetable, and must indicate that the party has an opportunity to comply with section 27(2)(a), (b), (c) or (d) by not later than the relevant date stated in the election timetable. 50

- (3) If a candidate has been nominated by more than one party for an election—
- (a) the chief electoral officer must, where possible, in writing, notify the candidate and such parties who have nominated such a candidate about such state of affairs by no later than the relevant date and time stated in the election timetable; and
- (b) each of the 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.”.

**Amendment of section 38 of Act 73 of 1998, as amended by section 11 of Act 34 of 2003**

12. Section 38 of the Electoral Act, 1998, is hereby amended—
- (a) by the deletion of subsection (5)(aA); and
- (b) by the addition of the following subsection:
- “(8) The Commission may prescribe a different voting procedure for those voters whose names appear on the voters’ roll, without addresses: Provided that if such voter does not comply with the prescribed procedure he or she may not vote in the provincial elections, but only in the national elections.”.

**Amendment of section 40 of Act 73 of 1998**

13. Section 40 of the Electoral Act, 1998, is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
- “(1) If a voter—
- (a) marks a ballot paper in a way that does not indicate for whom the voter wishes to vote; or
- (b) after having marked the ballot paper, changes his or her mind as to how he or she wishes to vote, and the ballot paper has not yet been placed in the ballot box, the voter may return that ballot paper to the presiding officer or a voting officer.”; and
- (b) by the addition of the following subsections:
- “(3) The presiding officer or voting officer must then hand a new ballot paper to the voter.
- (4) The Commission must prescribe the number of times a new ballot paper may be issued in terms of subsection (3), with due regard to section 19 of the Constitution.”.

**Amendment of section 41 of Act 73 of 1998**

14. Section 41 of the Electoral Act, 1998, is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
- “(1) [Af] Subject to subsection (1A), at any time before a voter has been handed a ballot paper, an agent may object to that voter being entitled to vote or to vote at the voting station concerned.”;
- (b) by the insertion after subsection (1) of the following subsection:
- “(1A) Where a voter’s name appears on the relevant segment of the voters’ roll concerned, an objection to that voter in terms of subsection (1) may only be made where—
- (a) it is based on the contention that the voter was included on the relevant segment of the voters’ roll due to fraud; or
- (b) exceptional circumstances exist which justify the objection being made outside the objection period prescribed in terms of section 14(2)(f).”;
- (c) by the substitution for subsections (3), (4) and (5) of the following subsections:
- “(3) An agent, or a voter, may object to any conduct, other than that mentioned in subsection (1), (1A) or (2), of an officer, an agent, or any other person present at a voting station.
- (4) An objection in terms of subsection (1), (1A), (2) or (3) must be made to the presiding officer in the prescribed manner.