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## GENERAL NOTICE

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### NOTICE 425 OF 2013

### DEPARTMENT OF HOME AFFAIRS ELECTORAL AMENDMENT BILL, 2013 (ACT NO. 73 OF 1998)

#### PUBLICATION OF THE DRAFT AMENDMENT BILL, 2013

The Department of Home Affairs ("DHA") invites public comments on the draft Electoral Amendment Bill, 2013.

Written submissions should reach the DHA **on or before 22 May 2013**. Submissions should be addressed to the Chief Director: Legal Services and may be forwarded to the DHA in any of the following manners:

- (a) delivered by hand to the Department of Home Affairs, 230 Johannes Ramokhoase Street, Hallmark Building (c/o old Proes and Andries Street), Pretoria, 0001, for **attention** Adv Tsietsi Sebelemetja (Tel 012 406 4271) **or** Adv Moses Malakate (Tel 012 406 4273);
- (b) mailed to the DHA at Private Bag X114, Pretoria, 0001;
- (c) faxed to 0865 144 267 **or** 086 576 9025; or
- (d) e-mailed to [Tsietsi.Sebelemetja@dha.gov.za](mailto:Tsietsi.Sebelemetja@dha.gov.za) and [Moses.Malakate@dha.gov.za](mailto:Moses.Malakate@dha.gov.za)

Any enquiries should be directed to **Adv Tsietsi Sebelemetja** at **082 907 1831** or **Adv Moses Malakate** at **012 406 4273**.

## ELECTORAL AMENDMENT DRAFT BILL, 2013

### GENERAL EXPLANATORY NOTE:

[            ]        Words in bold type 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 Act, 1998, so as to amend and insert certain definitions; to revise provisions relating to registration as a voter; to revise provisions relating to special votes in election for the National Assembly and provincial legislatures and the procedure related thereto; to revise provisions relating to number of party agents at a voting station; to correct certain important technical aspects in the text of the Act; and to provide for matters connected therewith.

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

### **Amendment of section 1 of Act 73 of 1998**

1. Section 1 of the Electoral Act, 1998 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution in subsection (1) for the definition of “identity document” of the following definition:

““**identity document**” means an identity [document issued after 1 July 1986, in terms of section 8 of the Identification Act, 1986

- (b) **(Act No. 72 of 1986), or a temporary certificate]** card issued in terms of the Identification Act, 1997 (Act No. 68 of 1997);” and
- (b) by the insertion in subsection (1) after the definition of “**serve**” of the following definition:

““South African passport” means a passport issued in terms of the South African passports and Travel Documents Act, 1994 (Act No. 4 of 1994);”.

**Amendment of section 6 of Act 73 of 1998, as amended by section 2 of Act 34 of 2003**

2. Section 6 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any South African citizen in possession of an identity document may apply for registration as a voter; Provided that where that citizen is ordinarily resident outside the Republic, he or she must in addition to the identity document produce a valid South African passport.”.

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

3. Section 7 of the principal Act is hereby amended—

- (a) 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.”; and

- (b) by the deletion of subsection (2).

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

4. Section 8 of the principal Act is hereby amended—

- (a) by the deletion of paragraph (f) of subsection (2); and

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

“(3) A person’s name must be entered in the voters’ roll only for the voting district 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.".

**Amendment of section 24B of Act 73 of 1998, as inserted by section 7 of Act 34 of 2003**

5. Section 24B of the principal Act is hereby amended—

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

"(1) In an election for the National Assembly or a provincial legislature, a person who on election day is in prison [**and not serving a sentence of imprisonment without the option of a fine**] and whose name appears on the voters' roll for another voting district, is deemed for that election day to have been registered by his or her name having been entered on the voters' roll for the voting district in which he or she is in prison."; and

(b) by the deletion of subsection (2).

**Substitution of section 33 of Act 73 of 1998, as amended by sections 9 of Act 34 of 2003 and section 2 of Act 40 of 2003**

6. The following section is hereby substituted for section 33 of the principal Act:

**"Special votes in election for National Assembly**

33. (1) In an election for the National Assembly, the Commission must allow a person to apply for and cast a special vote, prior to election day, if, on election day, that person cannot vote at a voting station in a voting district in which he or she is registered as a voter, due to his or her—

(a) physical infirmity or disability, or pregnancy;

(b) absence from that voting district while serving as an officer in the election; or

(c) being on duty as a member of the security services in connection with the election.

(2) In an election for the National Assembly, the Commission must allow a person to apply for and cast a special vote, prior to election day, in the voting district in which that person is registered if he or she cannot vote in that voting district on election day, due to his or her absence from that voting district.

(3) In an election for the National Assembly, the Commission must allow a person to apply for and cast a special vote, prior to election day, in the voting district in which that person is registered if he or she cannot vote in that voting district on election day, due to his or her intended absence from the Republic, if that person notifies the Commission within 15 days after the proclamation of the date of the election, of his or her intention to vote.

(4) In an election for the National Assembly, the Commission must allow a person, who is outside the Republic, to apply for and cast a special vote if that person's name appears on the segment of the voters' roll for persons who are in the Republic, if that person notifies the Commission within 15 days after the proclamation of the date of the election of his or her intention to vote outside the Republic.

(5) In an election for the National Assembly, the Commission must allow a person to apply for and cast a special vote if that person's name appears on the segment of the voters' roll for persons ordinarily resident at a place outside the Republic if that person notifies the Commission within 15 days after the proclamation of the date of the election of his or her intention to vote.

(6) Votes cast in accordance with subsections (4) and (5) shall be counted as votes cast nationally.

(7) The Commission must prescribe—

- (a) the procedures for applying for special votes in an election for the National Assembly; and
- (b) the procedure consistent in principle with Chapter 4, for the casting and counting of special votes.”.

**Insertion of section 33A after section 33 of Act 73 of 1998**

7. The following section is hereby inserted after section 33 of the principal Act:

**“Special votes in election for provincial legislatures**

**33A.** (1) In an election for the provincial legislatures, the Commission must allow a person to apply for and cast a special vote, prior to election day, if that person cannot vote at a voting station in the voting district in which he or she is registered, due to his or her—

- (a) physical infirmity or disability, or pregnancy;
- (b) absence from that voting district while serving as an officer in the election; or
- (c) being on duty as a member of the security services in connection with the election.

(2) In an election for the provincial legislatures, the Commission must allow a person to apply for and cast a special vote, prior to election day, in the voting district in which that person is registered, if that person cannot vote in that voting district on election day, due to his or her absence from that voting district on election day.

(3) In an election for the provincial legislatures, the Commission must allow a person to apply for and cast a special vote, prior to election day, in the voting district in which that person is registered if he or she cannot vote in that voting district on election day, due to his or her intended absence from the Republic, if that person notifies the Commission within 15 days after the proclamation of the date of the election, of his or her intention to vote.

(4) The Commission must prescribe—

- (a) the procedure for applying for special votes in an election for the provincial legislatures; and
- (b) the procedure consistent in principle with chapter 4, for the casting and counting of special votes.”.

**Repeal of section 34 of Act 73 of 1998**

8. Section 34 of the principal Act is hereby repealed.

**Amendment of section 57 of Act 73 of 1998**

9. Section 57 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) If the Commission is unable to determine and declare the result of an election within the seven-day period required by subsection (2)[(c)], the Commission must apply to the Electoral Court for an extension of that period.”.

**Amendment of section 58 of Act 73 of 1998**

10. Section 58 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(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”.

**Short title**

11. This Act is called the Electoral Amendment Act, 2013.

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