**REVISED ISSUES: ELECTORAL AMENDMENT BILL DELIBERATIONS**

2 May 2022

**Clause 1**

1. Is the definition of “region” sufficiently clear as compared to a province?

A member suggested that the word provinces should be used instead of the region. 2 members felt it was clear enough.

1. Is there a need to redefine “Party Liaison Committees” as “Liaison Committees” or “Electoral Liaison Committee’s” along with the inclusion of such in amendments to Sections 20, 62 and 64 of the Electoral Act as well as related Clauses in the Electoral Commission Act to allow for the inclusion of Independents Candidates in these consultative bodies?

The Party Liaison Committee should be redefined to include independent candidates and the inclusion of Party agents to allow independent candidates to have agents during elections. The Committee also agreed that the word Liaison Committee should be used to include independent candidates. Can the IEC define inclusion of IC candidates in the regulations.

**Clause 2**

17. Requires those on the partys’ regional list to be registered to vote but not ordinarily resident in that region. Should this change to include signatures since required of IC?

**Clause 3:** Clause 3 amends section 28 of the Act, which provides for non-compliance concerning submission of lists of candidates, to provide for technical amendments by including reference to the newly inserted paragraph 27(2)(cA) in section 28 of the Act.

**Clause 4**

1. Should amendments to 31A(a) and 31B(3)(f), be removed to bring independents in line with political party candidates in terms of not being required to be ordinarily resident in the region in which they are registered to stand in an election?

There was one argument that the same requirement does not apply to political party candidates and this requirement was unfair. The suggestion by the IEC that independent candidates should be allowed to contest elections in all provinces but their votes should not be aggregated as this would be unfair. Another argument was that IC should either run for a province or national but not both or several provinces.

1. Should there be signature requirements in 31B(3)(a) for Independents as compared to none for party candidates? Should political parties require signatures.

There was one argument that political party candidates are not required to provide proof of support by providing signatures of supporters. This would be unfair to require it from independent candidates and this might discourage them to contest the elections. The one opposing view is that signatures should be required to show support or maybe the requirement should be extended to political parties. There was also a concern during the public hearings about the long ballot paper. There was a need for independent candidates to show support

1. Should the deposit for independents in 31B(3)(b) be the same as parties given that they only qualify for one seat?

One member suggested that independent candidates should not pay the same deposits as that of political parties and two opposing members’ view was that independent candidates should pay the same deposits as the political parties because the deposits would be refunded once an independent candidate wins a seat. It was also pointed out that there were political parties that have one seat in the National Assembly and provincial legislatures and they paid the same deposits as other parties. Deposits assist to carry the costs of an independent candidate to stand for elections. Independent candidates should be able to raise funds like political parties. If independent candidates do not pay deposits, will they qualify for the equitable share if they become members of Parliament?

1. Should the requirement for the determination of the number of signatures required or the deposit needed for independents, be left to the IEC to formulate in regulations or should the formula for the determination of signature requirements or deposits be included in the bill? The Committee should deliberate on the number of signatures to be included in the Bill.
2. Should the requirement in 31B(3)(f) of not having been a member of a political party for 3 months prior to running as an independent remain, be increased or reduced?

Two members were in favour of the currents cooling-off period for independent candidates in the local government should be used for the national elections. The Committee agreed on the cooling-off period. The question was whether the IEC would be able to verify the signatures submitted within three months of each independent candidate.

**Clause 5**: amends section 57A of the Act, which provides for the system of representation in the National Assembly and the provincial legislatures, by expanding the application of Schedule 1A to the Act to include candidate lists and lists of independent candidates.

**Clause 6** substitutes section 94 of the Act, which provides for the contravention of the Electoral Code of Conduct, to expand the application of the section to independent candidates.

**Clause 7** amends section 99 of the Act which provides for the Electoral Code of Conduct and other codes, by providing that every independent candidate, before that independent candidate may be placed on a list of independent candidates in terms of section 31F, must subscribe to the Electoral Code of Conduct.

**Clause 8**

1. Depending on decisions on point 5 above on deposits, this section on refunds may have to change.

**Clause 9** amends section 110 of the Act, which provides for the effect of certain irregularities by including reference to independent candidates.

**Clause 10** amends Schedule 1 to the Act, which provides for the election timetable, to include independent candidates in the election timetable.

**Clause 11**

1. Should the clause 11(1) ratio of regional and compensatory seat to Parties remain 50/50% (200 to 200 seats) or change to 75% to 25% or to allow all candidates to contest all 400 seats?
2. In 11 (4 to 9) should there be reference to constituencies (66 or 200) as in the Van Zyl Slabbert report or the Lekota Bill?

3 members felt this should rather be done in a later amendment given the time left.

1. In clause 11(5 to 8) on regional seats should the 3 rounds remain the same or a single round according to the Droop formula as proposed by the IEC to improve proportionality and inclusion of small parties? Alternatively a two-stage process was proposed where all who meet the full quota for one seat, be awarded a seat – whether as parties or independents. Once no one is left who is entitled to a seat based on meeting the full quota threshold, the remaining seats should then be given to the candidates that have the highest average of votes per seat won.

The bill was in the right direction and it was indicated that on the issue of seat allocation, the IEC should come back to the Committee to explain the droop quota system.

1. Should clause 11.16 be removed in favour ensuring compliance prior to elections rather than forfeiting seats if parties don’t have enough candidates on their list after an election?
2. In clause 11 (11 to 16 and 25) should the IEC draft a proposal for inclusion in the bill of the 3 ballot system for National Assembly Compensatory; National Assembly Regional and Provincial Legislature either with a requirement for being ordinarily resident in the region for all candidates or a removal of this requirement for all candidates?
3. In Clause 11(34) how would it be responded in court to the objection that the major disadvantage of independents having their surplus votes discarded, effectively means they have no choice but to run as parties which then means the bill does not truly fairly address the Constitutional Court ruling for the inclusion of independents in the National Assembly and NCOP?
4. In Clause 11(34) should there be by-elections for replacing independents what would this cost according to which calculation of projected number of by-elections? Alternatively should votes be transferable as per the Lekota Bill where Independents have a list of “running mates” OR should (all or just independent) candidates with next highest number of votes in the initial election fill the seat? (If going with the DHA proposal of replacing vacant independent candidates’ seats with the candidate that received the next highest number of votes; will it not be argued that this gives political parties the benefit of replacing their seats with chosen candidates next on their list; whereas the independents and their support base could now be replaced by a political party or an independent with a completely different ideology?)

The gist of the judgement was to include the independent candidates to contest the national and provincial elections. The suggestion of running mates was problematic in that the votes could go to someone who the voter would not know. The independent candidates should consider contesting as a voluntary association and apply as a political party. If an independent candidate seat becomes available, it should be filled with the next independent candidate or political party with the highest number of votes.

**Not in the Bill but to be considered for inclusion**

1. A proposed amendment to Chapter 5 (Section 68 and 69) of the Electoral Act is needed to allow for independents to have agents during elections. This could require an application to the National Assembly for revision of the bill.

The Committee wanted the IEC to clarify whether a voting station would be able to accommodate party agents and agents that would represent independent candidates.