## 

**PROPOSALS TO SCHEDULE 1A**

**SYSTEM OF REPRESENTATION IN NATIONAL ASSEMBLY AND PROVINCIAL LEGISLATURES**

**(Section 57A)**

**National Assembly**

**1.** The seats in the National Assembly are 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 political parties contesting the nine regions and these shall be referred to as regional seats; and

*(b)* half the seats are filled by candidates from lists of candidates of political 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.

**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—

*(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.

(4) A candidate —

*(a)* may be nominated for one or more regions and the national list of a party; and

*(b)* may be nominated as an independent candidate in more than one region.

**Regional seats**

**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:

*(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.

*(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.

*(d)* Where the result of the calculation referred to in paragraph *(c)* yields a surplus of seats not absorbed by the number awarded to a party concerned or independent candidate who has not been awarded a seat, such surplus competes with other similar surpluses accruing to any other party, parties or independent candidates in respect of the relevant region, and any seat or seats in respect of that region not awarded in terms of paragraph *(c)*, must be awarded to the party, parties or independent candidate concerned in sequence of the highest surplus.

*(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 independent candidate’s provisional allocation of the seats reserved under item4 for that region.

*(eA)* 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 surplus of seats yielded must be dealt with in terms of item 7.

*(eB)* If the same independent candidate receives a seat in more than one region, the candidate is awarded the seat in the region where he or she received the most votes, as his or her provisional allocation. The surplus of seats yielded in other region/s, must be dealt with in terms of item 7.

*(f)* 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.

*(g)* If no recalculation of provisional allocations is required in terms of item 7, in respect of the seats referred to in paragraph *(e)*, the provisional allocation of such seats in terms of paragraphs *(e)* and *(f)* 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. Parties’ seats shall be allocated from the relevant regional lists”

*(h)* In terms of paragraph *(g)*, the seats finally allocated to a party, must be filled from its regional lists in accordance with its final allocation of seats in respect of the various regions.

**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.

*(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)*.

*(c)* Where the result of the calculation in terms of paragraph *(b)* yields a surplus not absorbed by the number of seats awarded to a party concerned, such surplus competes with other similar surpluses accruing to any other party or parties, and any seat or seats not awarded in terms of paragraph *(b)*, must be awarded to the party or parties concerned in sequence of the highest surplus, up to a maximum of five seats so awarded: Provided that subsequent awards of seats still remaining unawarded must be made in sequence to those parties having the highest average number of votes per seat already awarded in terms of paragraph *(b)* and this paragraph.

*(d)* The aggregate of a party's awards in terms of paragraphs *(b)* and *(c)* must be reduced by the number of seats provisionally allocated to it in terms of item 5 *(f)* and the result indicates that party's provisional allocation of the seats referred to in item 2 *(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 such seats to the various parties.”

*(f)* In terms of paragraph *(e)* the seats finally allocated to a party, must be filled from its national list.

**7.** **Insufficient party lists and independent candidates allocated more than one seat**

(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 6 had such provisional allocation been the final allocation, it forfeits a number of seats equal to the deficit.

(1A) If an independent candidate has been allocated more than one seat in a region, he or she is allocated one seat and forfeits any additional seats.

(1B) If an independent candidate has been allocated seats in more than one region, he or she is allocated the seat in the region where he or she received the most votes.

(2) In the event of any forfeiture of seats in terms of subitems (1), (1A) or (1(B) 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. Independent candidates already allocated a seat must further be disregarded in such recalculation.

*(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),* minus the votes cast in such region in favour of independent candidates already allocated one seat, 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, in terms of paragraph *(a),* minus the seats held by independents in terms of paragraph *5(e).*

*(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.

*(d)* The number of the 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 in such region by the amended quota of votes per seat indicated by paragraph *(c)* for such region.

*(e)* Where the results of the recalculation in terms of paragraph *(d)* yields a surplus not absorbed by the number of seats awarded to a party concerned or independent candidate who has not been awarded a seat, such surplus competes with other similar surpluses accruing to any other party, parties or independent candidates participating in the recalculation in respect of the said region, and any seats or seats in respect of such region not awarded in terms of paragraph (*d),* must be awarded to the party, parties, or independent candidates concerned in sequence of the highest surplus.

*(f)* The aggregate of a party’s awards in terms of paragraph *(d)* and *(e)* in respect of such region, subject to subitem (4), indicates that party’s or independent candidate’s final allocation of the seats reserved under item (4) for that region.

(3) 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 2 *(b)*.

*(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 Assembly, plus one, minus the number of seats finally allocated to the said party in terms of paragraph *(a)*.

*(c)* The result plus one, disregarding fractions, is the amended quota of votes per seat for the purposes of the said recalculation.

*(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)*.

*(e)* Where the result of the recalculation in terms of paragraph *(d)* yields a surplus not absorbed by the number of seats awarded to a party concerned, such surplus competes with other similar surpluses accruing to any other party or parties participating in the recalculation and any seat or seats no awarded in terms of paragraph *(d)*, must be awarded to the party or parties concerned in sequence of the highest surplus, up to a maximum of five seats awarded: Provided that subsequent awards of seats still remaining unawarded must be made in sequence to those parties having highest average number of voters per seat already awarded in terms of paragraph *(d)* and this paragraph.

*(f)* The aggregate of such a party’s awards in terms of paragraph *(d)* and *(e)* must be reduced by the number of seats finally allocated to it in terms of item 5 *(g)*, and the results, subject to subitem (4) indicates that party’s final allocation of the seat referred to in item 4.

(4) 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 numbers 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.

(4A) In the event of an independent candidate being allocated more than one seat in terms of subitem 2, the procedure provided for in subitem (2), must be repeated with changes required by context until all seats have been allocated.

**Provincial legislatures**

**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 on a provincial list of candidates prepared in accordance with this Act, with such number 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 in terms of paragraph *(b)* yields a surplus not absorbed by the number of seats awarded to parties and independent candidates, such surplus competes with other similar surpluses accruing to any other party, parties or independent candidates in respect of the province concerned, and any seat or seats not awarded in terms of paragraph *(b)*, must be awarded to the party, parties or independent candidates concerned in sequence of the highest surplus.

*(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.

*(dA)* 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 surplus of seats yielded must be dealt with in terms of item 12.

*(e)* 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.

*(f)* In terms of paragraph *(e)* 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.

**(**1A) If an independent candidate has been allocated more than one seat in a province, he or she is allocated one seat and forfeits any additional seats.

(2) In the event of any forfeiture of seats in terms of subitems (1) or (1A), 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. Independent candidates already allocated a seat must further be disregarded in such recalculation.

*(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)*, minus the votes cast in such province in favour of independent candidates already allocated one seat, 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*), minus the seats held by independent candidates in terms of paragraph 11 *(d)* .

*(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 participating in the recalculation must, subject to paragraph *(e)*, be determined by dividing the total number of votes cast in favour of such party in such province by the amended quota of votes per seat indicated by paragraph *(c)* for such province.

*(e)* Where the result of the recalculation in terms of paragraph *(d)* yields a surplus not absorbed by the number of seats awarded to a party concerned or independent candidate who has not been awarded a seat, such surplus competes with other similar surpluses accruing to any other party, parties or independent candidates participating in the recalculation, and any seat or seats in respect of such province not awarded in terms of paragraph *(d)*, must be awarded to the party, parties or independent candidates concerned in sequence of the highest surplus.

*(f)* The aggregate of such a party's awards in terms of paragraphs *(d)* and *(e)* in respect of such province, subject to subitem (3), indicates that party's or independent candidate’s final allocation of the seats determined under item 10 in respect of that province.

(3) 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 process provided for in this item must be repeated with the changes required by the context until all seats have been allocated.

(3A) In the event of an independent candidate being allocated more than one seat in terms of this item, the procedure provided for in subitem (2), must be repeated with changes required by context until all seats have been allocated.

**Amendment of Item 25 to Schedule 1A of the Bill**

“**25.** (1) The Commission must produce separate ballot papers for each regional election of members of the National Assembly, the compensatory seats of members to the National Assembly and of members of each provincial legislature.

(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. Similarly, the ballot for a provincial legislature shall include the names of parties and independent candidates standing for elections in that province.

**(Items 26, 27, 28, 29, 30, 31, 32, 33 and 35 remain as in the Bill)**

**Amendment of item 34 to schedule 1A of the Bill**

“**34.** (1) In the event of a vacancy in a region or provincial legislature with respect to a seat allocated to an independent candidate, **[will not be filled until the next elections]**, the chief electoral officer must in writing allocate the seat by recalculating the result as follows:

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

*(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 item 7 or item 12, respectively.

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