**Report of the Portfolio Committee on Home Affairs on the Electoral Amendment Bill [B1 – 2022] (National Assembly – sec 75)], dated 12 October 2022.**The Portfolio Committee on Home Affairs (“the Committee”), having considered the subject of the ***Electoral Amendment Bill [B1 – 2022]*** (National Assembly – sec 75)], referred to it and classified by the Joint Tagging Mechanism as a section 75 Bill, reports the Bill with amendments [B1A – 2022].

The Committee wishes to report as follows:

**1. Context and background**

1.1. On 11 June 2020, in the matter of the New Nation Movement NPC & others v. President of the Republic of South Africa & others [2020] ZACC 11, the Constitutional Court declared the Electoral Act, 1998 (Act No. 73 of 1998) (“the Act”), to be unconstitutional to the extent that it requires that adult citizens may be elected to the National Assembly and provincial legislatures only through their membership of political parties.

1.2. This declaration of unconstitutionality was held to be prospective from 11 June 2020, but its operation was suspended for 24 months to allow Parliament to remedy the defect in the Act giving rise to the unconstitutionality. As per the Constitutional Court order, the defect was meant to be corrected by 10 June 2022.

1.3. On 10 January 2022, the Minister of Home Affairs introduced into Parliament the Electoral Amendment Bill [B1 – 2022] (“the Bill”), which was referred to the Portfolio Committee on Home Affairs for processing.

The Bill, as introduced, broadly proposes to:

* insert certain definitions consequential to the expansion of the Act to include independent candidates as contesters to elections in the National Assembly and provincial legislatures;
* provide that registered parties must submit a declaration confirming that all their candidates are registered to vote in the region or province where an election will take place;
* provide for the nomination of independent candidates to contest elections in the National Assembly or provincial legislatures;
* provide for the requirements and qualifications, which must be met by persons who wish to be registered as independent candidates;
* provide the procedure to follow for a non-compliant nomination of an independent candidate;
* provide for the inspection of copies of lists of independent candidates and accompanying documents;
* provide for objections to independent candidates;
* provide for the inclusion of a list of independent candidates entitled to contest elections;
* provide that independent candidates are bound by the Electoral Code of Conduct;
* provide for the return of a deposit to independent candidates in certain circumstances;
* amend Schedule 1;
* substitute Schedule 1A; and
* provide for matters connected therewith.

**2. Parliamentary process**

2.1. The Electoral Amendment Bill [B1 - 2022] was introduced into Parliament and referred to the Committee through Announcements, Tablings and Committee Reports (ATC) on 10 January 2022.

2.2 On 8 February 2022, the Minister of Home Affairs was invited to brief the Committee on the contents of the Bill. On 21 January 2022, the Bill was published for public comment. The closing date for such comments was 21 February 2022. The Committee received 107 written submissions. On 1 and 2 March 2022, the Committee held virtual public hearings via Zoom. A total of 13 oral submissions were received from the following individuals and organisations:

* One South Africa Movement.
* Africa School of Governance.
* Mr Zolani Zonyani.
* Citizens Parliament.
* Outa.
* COSATU.
* Abatsha Force of Change.
* Independent Candidate Association.
* Inclusive Society Institute.
* 70s Group.
* New Nation Movement.
* Indigenous First Nation of South Africa.
* Council for the Advancement of South African Constitution

2.3 The Committee also conducted provincial public hearings in all nine (9) provinces from 7 – 23 March 2022. A total of 3 483 people attended the public hearings and 610 made oral submissions. Of the 610 people who made the oral submissions, 389 supported the Bill and 222 rejected the Bill in its current format.

2.4. Due to the extensive public participation process that the Committee undertook as well as the complexity of the Bill, the Committee foresaw that it was not going to meet the Constitutional Court deadline of 10 June 2022 to finalise the processing of the Bill. Parliament thus, prior to the expiry of the deadline, approached the Constitutional Court to request an extension period of six (6) months to finalise the Bill. The Constitutional Court granted an extension until 10 December 2022 to complete the processing of the Bill.

2.5. In processing the Bill, the Committee invited the Department of Home Affairs (DHA), the Electoral Commission (IEC) and the Parliamentary Legal Service to comment on the report on public participation. The public participation report formed the basis of the committee deliberation, including comments from the DHA, IEC and the Parliamentary Legal Services. The Committee deliberated on the Bill on several occasions and held meetings during the constituency period in June, July and October 2022.

2.6. Following its deliberations, the Committee proposed amendments to other sections of the Electoral Act, 1998, which were not part of the Bill and proposed other material changes to various definitions and clauses in the Bill. The Committee thus requested permission from the Assembly to extend the scope of the Bill in this regard. The request was made in terms of National Assembly Rule 286(4)(*b*) and (4)(*c*) on 30 August 2022. The Assembly granted permission to the Committee on 1 September 2022. On 2 September 2022, the Committee advertised these proposed amendments and called for public submissions by 16 September 2022 (2 weeks). The re-advertisement was to ensure that members of the public would have a chance to comment only on those proposed material amendments to the Bill.

2.7. Following this call for comments, a total of 258 submissions were received comprising 254 email submissions and 3 hand delivered submissions. Of the emails, 231 were short emails via the advocacy group Dear SA (excluding 23 duplicates). The 13 substantive submissions (emails) comprised over 100 pages of inputs. The three physically delivered submissions were from “Civil Society” which had a total of 1218 signatures, from “Defend our Democracy” which was supported by 56 Organisations; and from DearSA providing a summary of its emailed submissions. The Committee had already decided that it would only consider written submissions and there would not be any oral submissions. The Committee considered all submissions received and deliberated on these on 20 and 27 September 2022 and 4 October 2022. As a result there were five significant changes informed by these additional submissions and deliberations incorporated into the revised Bill [B1A -2022].

**3. Recommendation**

The Portfolio Committee on Home Affairs recommends that the House adopts this report and approves the second reading of the Electoral Amendment Bill [B 1 B - 2022].

Report to considered.