

REPUBLIC OF SOUTH AFRICA

**ELECTORAL COMMISSION
AMENDMENT BILL**

(As introduced in the National Assembly)

(MINISTER OF HOME AFFAIRS)

[B 114-97]

REPUBLIEK VAN SUID-AFRIKA

**WYSIGINGSWETSONTWERP OP
DIE VERKIESINGSKOMMISSIE**

(Soos ingedien in die Nasionale Vergadering)

(MINISTER VAN BINNELANDSE SAKE)

[w 114-97]

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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,

BILL

To amend the Electoral Commission Act, 1996, so as to further regulate the financial administration and accountability of the Electoral Commission; to provide that regulations regarding the appointment and remuneration of staff of the Commission shall be made with the concurrence of the Public Service Commission; 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 51 of 1996

1. Section 1 of the Electoral Commission Act, 1996 (hereinafter referred to as the principal Act), is hereby amended by the insertion after the definition of “Electoral 5 Court” of the following definition:

“ ‘Minister’ means the Minister of Home Affairs;”.

Amendment of section 12 of Act 51 of 1996

2. Section 12 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (2) of the following paragraph: 10

“(b) shall be [**the accounting officer**] charged with the responsibility of accounting for money received or paid out for or on account of the Commission [for the purposes of] subject to the provisions of the Exchequer Act, 1975 (Act No. 66 of 1975), and shall cause the necessary accounting and other related records to be kept; and”.

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Amendment of section 14 of Act 51 of 1996

3. Section 14 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Commission shall annually, as soon as possible after the end of each financial year, submit to the Minister for tabling in the National Assembly, an 20 audited report of all money received from other sources as contemplated in section 13(1), as well as the audited statement on income and expenditure and a report in regard to the functions, activities and affairs of the Commission in respect of such financial year.”.

Amendment of section 23 of Act 51 of 1996

4. Section 23 of the principal Act is hereby amended by the addition of the following subsection:

"(4) Any regulation which affects the appointment and remuneration of the staff of the Commission shall be made with the concurrence of the Public Service Commission, established by section 196(1) of the Constitution."

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Short title

5. This Act shall be called the Electoral Commission Amendment Act, 1997

**MEMORANDUM ON THE OBJECTS OF THE ELECTORAL
COMMISSION AMENDMENT BILL, 1997**

1. Section 12 of the Electoral Commission Act, 1996 (Act No, 51 of 1996), provides that—

- (a) the Chief Electoral Officer shall be the accounting Officer for the purposes of the Exchequer Act, 1975; and
- (b) the conditions of service, remuneration, allowances, subsidies and other benefits of the Chief Electoral Officer and other staff be prescribed by regulation by the Commission.

2. In terms of section 14 of the said Act the Commission shall, *inter alia*, table its annual financial reports in the National Assembly.

3. In this Bill amendments to the Electoral Commission Act, 1996 (Act No. 51 of 1996), are being proposed in order to ensure that the financing of the Commission, the appointment of staff and the accountability of the Commission in Parliament, are in accordance with vested principles regarding state expenditure, appointment of staff in the Civil Service and accountability in Parliament. The proposed amendments will bring the Electoral Commission in line with other Commissions mentioned in section 181 of the Constitution.

4. The proposals contained in the Bill can be briefly explained as follows:

Clause 1

This clause proposes to define the word “Minister” as the Minister of Home Affairs who, in terms of the amendment proposed in clause 3, must table the financial reports of the Commission in the National Assembly. The proposed insertions in the Act will make it clear that the said Minister is accountable to Parliament for the Commission’s actions. A reference to this political accountability is currently lacking in the Act.

Clause 2

In the legislation regulating the establishment and powers of the Commissions referred to in the Commission on Gender Equality Act, 1996 (Act No. 39 of 1996), and the Human Rights Commission Act, 1994 (Act No. 54 of 1994), it is provided that the financing of those Commissions are subject to the laws regulating state expenditure. (See sections 9 and 16 of the said Acts, respectively.) The proposals contained in clause 2 bring the Electoral Commission’s financial arrangements in line with the said two Commissions.

Clause 3

Clause 3 seeks to require the Minister of Home Affairs to table the annual reports of the Commission in the National Assembly.

Clause 4

The proposal contained in this clause brings the arrangements regarding the staffing and remuneration of the Commission in line with the other Commissions referred to in the discussion of clause 2.

5. Other institutions consulted

- (a) The Bill is the result of extensive deliberations with the Department of State Expenditure and the Minister of Finance.
- (b) The Department of Justice was consulted with the view to establishing how the budgets of the Commissions referred to in the discussions of clause 2 are being dealt with,

6. Parliamentary process

The Department of Home Affairs and the State Law Advisers are of the opinion that the procedure established by section 75 of the Constitution should be followed in respect of this Bill.