

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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THE PRESIDENCY

No. 914

26 November 2013

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 18 of 2013: Electoral Amendment Act, 2013



AIDS HELPLINE: 0800-123-22 Prevention is the cure

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.

*(English text signed by the President)
(Assented to 17 November 2013)*

ACT

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 the 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— 5

(a) by the substitution 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 (Act No. 72 of 1986), or a temporary identity certificate**] card issued in terms of the Identification Act, 1997 (Act No. 68 of 1997);” 10

(b) by the insertion 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);” 15

Amendment of section 6 of Act 73 of 1998, as inserted 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.” 20

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hakies dui skrappings uit
bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in
bestaande verordenings aan.

(Engelse teks deur die President geteken)
(Goedgekuer op 17 November 2013)

WET

Tot wysiging van die Kieswet, 1998, ten einde sekere omskrywings te wysig en in te voeg; bepalings aangaande registrasie as 'n kieser te hersien; bepalings oor spesiale stemme in verkiesing vir die Nasionale Vergadering en provinsiale wetgewers en die prosedure daarvoor te hersien; bepalings oor die getal party-agente by 'n stemlokaal te hersien; sekere belangrike tegniese aspekte in die teks van die Wet te verbeter; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 73 van 1998

1. Artikel 1 van die Kieswet, 1998 (hierna die Hoofwet genoem), word hierby gewysig— 5

(a) deur die omskrywing van “identiteitsdokument” deur die volgende omskrywing te vervang:

“**‘identiteitsdokument’** 'n [identiteitsdokument na 2 Julie 1986 uitgereik ingevolge artikel 8 van die Wet op Identifikasie, 1986 (Wet No. 72 van 1986), of 'n tydelike identiteitsertifikaat] identiteitskaart ingevolge die Wet op Identifikasie, 1997 (Wet No. 68 van 1997), uitgereik;”; en 10

(b) deur die volgende omskrywing na die omskrywing van “stemlokaal” in te voeg:

“**‘Suid-Afrikaanse paspoort’** 'n paspoort ingevolge die Wet op Suid-Afrikaanse Paspoorte en Reisdokumente, 1994 (Wet No. 4 van 1994), uitgereik;”. 15

Wysiging van artikel 6 van Wet 73 van 1998, soos ingevoeg deur artikel 2 van Wet 34 van 2003

2. Artikel 6 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang: 20

“(1) Enige Suid-Afrikaanse burger wat 'n identiteitsdokument besit, mag om registrasie as 'n kieser aansoek doen[.]. Met dien verstande dat waar daardie burger gewoonlik buite die Republiek woonagtig is, hy of sy bo en behalwe die identiteitsdokument, ook 'n geldige Suid-Afrikaanse paspoort moet voorlê.” 25

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 substituted by section 4 of Act 34 of 2003

4. Section 8 of the principal Act is hereby amended—
- (a) by the substitution in subsection (2) for paragraph (d) of the following paragraph:
“(d) is detained under the [**Mental Health Act, 1973 (Act 18 of 1973)**] Mental Health Care Act, 2002 (Act No. 17 of 2002).”;
 - (b) by the deletion in subsection (2) of paragraph (f); and
 - (c) 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 section 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 intended absence from that voting district.

Wysiging van artikel 7 van Wet 73 van 1998, soos gewysig deur artikel 93 van Wet 27 van 2000 en artikel 3 van Wet 34 van 2003

3. Artikel 7 van die Hoofwet word hierby gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
“(1) ’n Persoon wat aansoek doen om registrasie as ’n kieser moet dit **[doen]** persoonlik op die voorgeskrewe wyse doen.”; en
 - (b) deur subartikel (2) te skrap.

Wysiging van artikel 8 van Wet 73 van 1998, soos vervang deur artikel 4 van Wet 34 van 2003

4. Artikel 8 van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (d) in subartikel (2) deur die volgende paragraaf te vervang:
“(d) kragtens die [**Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973)**] ‘Mental Health Care Act, 2002’ (Wet No. 17 van 2002), aangehou word;”;
 - (b) deur paragraaf (f) in subartikel (2) te skrap; en
 - (c) deur subartikel (3) deur die volgende subartikel te vervang:
“(3) ’n Persoon se naam moet in die kieserslys slegs vir die stemdistrik waarin daardie persoon gewoonlik woonagtig is, ingeskryf word en vir geen ander stemdistrik nie[.]; Met dien verstande dat waar daardie persoon gewoonlik buite die Republiek woonagtig is, sy of haar naam in ’n segment van die kieserslys ingeskryf moet word wat vir daardie doel geskep is.”.

Wysiging van artikel 24B van Wet 73 van 1998, soos ingevoeg deur artikel 7 van Wet 34 van 2003

5. Artikel 24B van die Hoofwet word hierby gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
“(1) In ’n verkiesing vir die Nasionale Vergadering of ’n provinsiale wetgewer word ’n persoon wat op verkiesingsdag in die gevangenis is **[en wat nie ’n vonnis van gevangenisstraf sonder die keuse van ’n boete uitdien nie]** en wie se naam op die kieserslys vir ’n ander stemdistrik verskyn, vir daardie verkiesingsdag geag geregistreer te wees deurdat sy of haar naam ingeskryf is op die kieserslys vir die stemdistrik waarin hy of sy in die gevangenis is.”; en
 - (b) deur subartikel (2) te skrap.

Vervanging van artikel 33 van Wet 73 van 1998, soos gewysig deur artikel 9 van Wet 34 van 2003 en artikel 2 van Wet 40 van 2003

6. Artikel 33 van die Hoofwet word hierby deur die volgende artikel vervang:

“Spesiale stemme in verkiesing vir Nasionale Vergadering

- 33.** (1) In ’n verkiesing vir die Nasionale Vergadering, moet die Kommissie ’n persoon toelaat om aansoek te doen om ’n spesiale stem en om dit uit te bring, voor verkiesingsdag, indien daardie persoon op verkiesingsdag nie by ’n stemlokaal in ’n stemdistrik waar hy of sy as ’n kieser geregistreer is, kan stem nie weens sy of haar—
- (a) fisiese ongesteldheid of gestremdheid, of swangerskap;
 - (b) afwesigheid van daardie stemdistrik terwyl diens as ’n beampte in die betrokke verkiesing verrig word; of
 - (c) diens as ’n lid van die veiligheidsdienste in verband met die verkiesing.
- (2) In ’n verkiesing vir die Nasionale Vergadering, moet die Kommissie ’n persoon toelaat om om ’n spesiale stem aansoek te doen en dit uit te bring, voor verkiesingsdag, in die stemdistrik waarin daardie persoon geregistreer is indien hy of sy nie op verkiesingsdag in daardie stemdistrik kan stem nie, weens sy of haar voorgenome afwesigheid uit daardie stemdistrik.

(3) 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 voter's 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 and the location of the South African embassy, high commission or consulate where he or she will cast his or her vote: Provided that the Commission may make special arrangements for security services personnel serving in that capacity outside the Republic. 5

(4) 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 voter's 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 outside the Republic and the location of the South African embassy, high commission or consulate where he or she will cast his or her vote. 10 15

(5) For the purposes of Schedule 1A, votes cast in accordance with subsections (3) and (4) shall be counted as votes cast nationally.

(6) 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.”. 20

Insertion of section 33A in Act 73 of 1998

7. The following section is hereby inserted after section 33 of the principal Act: 25

“Special votes in election for provincial legislatures

33A. (1) In an election for a provincial legislature, 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. 30 35

(2) In an election for a provincial legislature, 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 intended absence from that voting district on election day. 40

(3) The Commission must prescribe—
(a) the procedure for applying for special votes in an election for a provincial legislature; and
(b) the procedure, consistent in principle with Chapter 4, for the casting and counting of special votes.”. 45

Repeal of section 34 of Act 73 of 1998

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

(3) In 'n verkiesing vir die Nasionale Vergadering, moet die Kommissie 'n persoon, wat buite die Republiek is, toelaat om om 'n spesiale stem aansoek te doen en dit uit te bring indien daardie persoon se naam op die segment van die kieserslys vir persone wat in die Republiek is, verskyn, indien daardie persoon die Kommissie binne 15 dae na die afkondiging van die datum van die verkiesing in kennis stel van sy of haar voorneme om buite die Republiek te stem en die ligging van die Suid-Afrikaanse ambassade, hoë kommissie of konsulaat waar hy of sy 'n stem sal uitbring: Met dien verstande dat die Kommissie spesiale reëlins kan tref vir veiligheidsdienstepersoneel wat in daardie hoedanigheid buite die Republiek diens doen.

(4) In 'n verkiesing vir die Nasionale Vergadering, moet die Kommissie 'n persoon toelaat om om 'n spesiale stem aansoek te doen en dit uit te bring indien daardie persoon se naam op die segment van die kieserslys vir persone wat gewoonlik op 'n plek buite die Republiek woonagtig is, verskyn, indien daardie persoon die Kommissie binne 15 dae na die afkondiging van die datum van die verkiesing in kennis stel van sy of haar voorneme om buite die Republiek te stem en die ligging van die Suid-Afrikaanse ambassade, hoë kommissie of konsulaat waar hy of sy 'n stem sal uitbring.

(5) By die toepassing van Bylae 1A, word stemme wat ingevolge subartikels (3) en (4) uitgebring is, getel as stemme wat nasionaal uitgebring is.

(6) Die Kommissie moet—

- (a) die prosedures voorskryf waarvolgens aansoek om spesiale stemme in 'n verkiesing vir die Nasionale Vergadering, gedoen moet word; en
- (b) die prosedure, in beginsel bestaanbaar met Hoofstuk 4, vir die uitbring en tel van spesiale stemme, voorskryf.”.

Invoeging van artikel 33A in Wet 73 van 1998

7. Die volgende artikel word hierby na artikel 33 in die Hoofwet ingevoeg: 30

“Spesiale stemme in verkiesing vir provinsiale wetgewers

33A. (1) In 'n verkiesing vir 'n provinsiale wetgewer, moet die Kommissie 'n persoon toelaat om om 'n spesiale stem aansoek te doen en dit uit te bring, voor die verkiesingsdag, indien daardie persoon nie by 'n stemlokaal in die stembedstrik waarin hy of sy geregistreer is kan stem nie, weens sy of haar— 35

- (a) fisiese ongesteldheid of gestremdheid, of swangerskap;
- (b) afwesigheid van daardie stembedstrik terwyl diens as 'n beampte in die betrokke verkiesing verrig word; of
- (c) diens as 'n lid van die veiligheidsdienste in verband met die verkiesing. 40

(2) In 'n verkiesing vir 'n provinsiale wetgewer, moet die Kommissie 'n persoon toelaat om om 'n spesiale stem aansoek te doen en dit uit te bring, voor verkiesingsdag, in die stembedstrik waarin daardie persoon geregistreer is, indien daardie persoon nie op verkiesingsdag in daardie stembedstrik kan stem nie, weens sy of haar voorgenome afwesigheid uit daardie stembedstrik op verkiesingsdag. 45

(3) Die Kommissie moet—

- (a) die prosedure voorskryf waarvolgens aansoek om spesiale stemme in 'n verkiesing vir 'n provinsiale wetgewer, gemaak moet word; en 50
- (b) die prosedure, in beginsel bestaanbaar met Hoofstuk 4, vir die uitbring en tel van spesiale stemme, voorskryf.”.

Herroeping van artikel 34 van Wet 73 van 1998

8. Artikel 34 van die Hoofwet word hierby herroep.

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.”. 5

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” 10

Short title

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

Wysiging van artikel 57 van Wet 73 van 1998

9. Artikel 57 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Indien die Kommissie nie in staat is om die uitslag van ’n verkiesing te bepaal en te verklaar binne die tydperk van sewe dae deur subartikel (2)[(c)] vereis nie, moet die Kommissie by die Verkiesingshof om ’n verlenging van daardie tydperk aansoek doen.”. 5

Wysiging van artikel 58 van Wet 73 van 1998

10. Artikel 58 van die Hoofwet word hierby gewysig deur paragraaf (a) in subartikel (1) deur die volgende paragraaf te vervang: 10

“(a) twee party-agente vir elke stemlokaal of, indien die uitbring en tel van stemme in meer as een vertrek of apart afgesonderde area geskied, twee party-agente ten opsigte van elke vertrek of area, aanstel; en”.

Kort titel

11. Hierdie Wet heet die Wysigingswet op Kieswet, 2013. 15