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KEEP PARTY REGISTRATION SIMPLE AND MAKE ELECTORAL RULES CLEAR

By Daryl Swanepoel

Parliament's Portfolio Committee on Home Affairs has invited written submissions on the Electoral Laws Amendment Bill. The Bill proposes changes to how political parties maintain their registration and qualify to contest elections, how voters register and raise objections to the voters' roll, and how the Electoral Court is constituted. The Inclusive Society Institute is responding to that call with three proposals. Two concern what happens when an unrepresented party's registration is due for renewal. The third concerns who appoints some of the people who decide election disputes.

There is a sensible case for allowing a party's registration to lapse automatically if it fails to renew. The Electoral Commission has pointed out that inactive parties can remain on the register and retain names and symbols that could otherwise be available to new parties. It is reasonable to expect a party without elected representation to confirm once a year that it still exists and continues to operate. Under the current regulations, a duly authorised party official does that by submitting a written declaration. That is a modest obligation.

Much therefore turns on three words in the Bill, *the prescribed manner*. Under clause 1(a), failure to renew in the prescribed manner and on time would cause a party's registration to lapse automatically. That is a consequence we can support as long as the renewal process remains materially as simple as it is today. The regulations can govern how the declaration is submitted. Parliament should make clear in the Bill that the declaration remains sufficient and that the power to prescribe the procedure cannot be used to add requirements that make renewal materially more difficult. A large party may have staff to handle extra paperwork. A small party run by volunteers may have one person doing it after work. The same requirement can land very differently.

There is also the question of who made the mistake. A party that misses the deadline must take responsibility for that. Suppose, however, that it can show it filed a compliant declaration on time and the Electoral Commission mistakenly records its registration as having lapsed. The Bill should require the Commission to correct the register promptly and recognise that the party's registration continued without interruption. Where an election is imminent, the correction has to come in time for the party to contest it, provided it meets the other requirements. A correction after the ballot has been settled may come too late to make a difference.

The proposed changes to the Electoral Court raise a more straightforward drafting question. The Bill would increase the number of judges from three to six so the Court can hold simultaneous sittings when electoral activity is at its peak. Under the existing Act, the President appoints all members of the Court on the recommendation of the Judicial Service Commission. Clause 2 expressly names the President as the appointing authority for the judges. For the three non-judge members, it says that the Judge President compiles a list in consultation with the Minister of Justice, but it does not expressly

say who makes the appointments from that list. If the President is to continue making those appointments, Parliament should say so in the Bill.

Keeping the party register current and giving the Electoral Court the capacity to hear disputes quickly are both worthwhile aims. Parliament can advance them with a renewal rule that small parties can readily comply with, a timely remedy when the Commission gets it wrong, and a clear statement of who has the authority to appoint members of the Court.

Daryl Swanepoel is the Chief Executive Officer of the Inclusive Society Institute. This article draws on the Institute's submission to Parliament's Portfolio Committee on Home Affairs on the Electoral Laws Amendment Bill [B24-2026].