

PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

NOTICE 1602 OF 2023

MR CILLIERS BRINK, MP

**NOTICE OF INTENTION TO INTRODUCE A PRIVATE MEMBER'S BILL
AND INVITATION FOR COMMENT ON THE DRAFT, NAMELY THE
ELECTORAL COMMISSION AMENDMENT BILL, 2023**

Mr Cilliers Brink, MP, acting in accordance with section 73(2) of the Constitution of the Republic of South Africa, 1996, intends to introduce the Electoral Commission Amendment Bill, 2023, in Parliament. An explanatory summary of the Bill is hereby published in accordance with Rule 276(1)(c) of the Rules of the National Assembly (9th Edition).

Section 84(2)(g) of the Constitution of the Republic of South Africa, 1996 ('Constitution'), provides that the President of the Republic of South Africa is responsible to call a national referendum in terms of an Act of Parliament. Similarly, section 127(2)(f) of Constitution provides that the Premier of a Province is responsible to call a referendum in the province in accordance with national legislation.

The current legislative framework under the Electoral Commission Act, 1996 (Act No. 51 of 1996) ('the 1996 Act'), and the Referendums Act, 1983 (Act No. 108 of 1983) ('the 1983 Act'), does provide for the holding of referendums in order to ascertain the views of voters, but both Acts only provide for mechanisms available to the President to call for a national referendum. Neither the 1983 Act, nor the 1996 Act provide for a Premier to call for a referendum in a province. Accordingly, the Premier of a province is currently unable to call a referendum in a province as no provision is made for such a process in national legislation – this is despite such national legislation being required by the Constitution. It is also not clear why the 1983 Act has not yet been repealed, as the two Acts read very similar – except that the 1996 Act provides for a permanent support structure in respect of referendums.

The Electoral Commission Amendment Bill, 2023 ('draft Bill') therefore seeks to—

- extend the application of the Electoral Commission Act, 1996 (Act No. 51 of 1996) to include a mechanism for the Premier of a province to call for a referendum;

- repeal the Referendums Act, 1983 (Act No. 108 of 1983); and
- provide for matters connected therewith.

Interested parties and institutions are invited to submit written representations on the proposed content of the draft Bill to the Speaker of the National Assembly within 30 days of the publication of this notice. Representations can be delivered to the Speaker, New Assembly Building, Parliament Street, Cape Town; mailed to the Speaker, PO Box 15, Cape Town, 8000; or emailed to speaker@parliament.gov.za and copied to legislation@da.org.za.

Copies of the Electoral Commission Amendment Bill, 2023, may, after introduction, be obtained from:

Democratic Alliance
PO Box 15, Cape Town, 8000
Attention: Mr Cilliers Brink
Email: legislation@da.org.za