



Southern African Catholic Bishops' Conference
PARLIAMENTARY LIAISON OFFICE



**Submission to the
Portfolio Committee on
Home Affairs**

on the

**ELECTORAL AMENDMENT BILL
(B22 – 2013)**

1. Introduction

The Southern African Catholic Bishops' Conference welcomes the opportunity to comment on this legislation. South Africa has established a worldwide reputation for the integrity and efficiency of its electoral processes, and the Independent Electoral Commission has run both general and municipal elections with great competence over the years since 1994. Our people have experienced successive election days not just as a time for casting a vote, but as moments of national unity and opportunities for nation-building.

We believe that the current amendments will, for the most part, enhance the inclusivity and legitimacy of the electoral process; however, we also have one or two reservations about the proposed changes. We detail our points below.

2. Specific points

2.1. Amendment of definition of identity document

It is not clear whether the 'identity card' mentioned in s 1(a) of the Bill refers to the familiar green 'ID book' or Identity Document, or to the new 'smart card' currently being issued by DHA. If it is the latter, then we would be concerned that the roll-out of the new cards will not be complete by the time of next year's general election. Section 38(2)(a) of the Electoral Act provides that a voter must produce his or her identity document at the voting station. If the new definition of 'identity document' as 'identity card' is adopted, this will cause obvious problems.

This also has ramifications for s 6 of the Act, which deals with voter registration. Section 6(1) provides that anyone seeking registration must be in possession of an 'identity document'. Again, does this refer to the green 'ID book' or to the smart card?

2.2. Right of prisoners to vote

We welcome the amendments (deletion of s 8(2)(f) and s 24B(2) of the principal Act) that make it possible for people serving a sentence without the option of a fine to vote. While offenders may be deprived of certain rights, such as the right to freedom of movement, they still have an interest in how the country is run, and will one day emerge from prison and rejoin society.

2.3. Special votes

All citizens who have made the effort to register as voters ought to be given the opportunity to vote, even if they are ordinarily resident outside the country. The current s 33 of the primary Act is too restrictive, in that it allows people outside the country on election day to cast a special vote only if their absence is temporary. The proposed amendments to this section will make it possible for all registered voters to exercise their voting rights, and we accordingly support the amendments to s 33, as well as the amendment to s 8(3), which creates a segment of the voters' roll for people ordinarily resident outside the Republic.

We question, however, why people who are outside the Republic are restricted to voting for the National Assembly, and not for provincial legislatures. Since such voters must first be registered, it would be a simple matter to establish which province they were resident in before leaving South Africa. The principle at stake is the same for both the national and the provincial assemblies: if we allow citizens living abroad to influence the balance of representation in the one, they should surely be able to exert the same influence in the other.

It may be noted that in **Richter v Minister of Home Affairs and Others 2009 (3) SA 615 (CC)**, the case which gave rise to the need to amend s 33 of the primary Act, the Constitutional Court made no firm finding as to whether or not voters casting special votes abroad should be allowed to vote for provincial legislatures. The Court felt that it would be inappropriate to make such an order as the matter was being heard too close to the impending 2009 general election, and the administrative burden on the IEC would be too great (para 91 of the judgment). We suggest that there is more than sufficient time between now and the 2014 general election for appropriate arrangements to be made to allow voters outside the Republic to vote for provincial legislatures.

3. Conclusion

We wish the Committee well in its deliberations, and we would be happy to make a verbal presentation.

For further information please contact

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