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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NO. 6785

31 October 2025



350 Witch-Hazel Avenue,
Eco Point Office Park
Eco Park, Centurion
Private Bag X10,
Highveld Park 0169
Tel number: (012) 568 3000/1

DRAFT AMENDMENT TO THE MUNICIPAL PARTY ELECTIONS BROADCASTS AND POLITICAL ADVERTISEMENTS REGULATIONS, 2011

The Independent Communications Authority of South Africa (“**ICASA**” or “**the Authority**”) hereby declares its intention to amend the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011 as amended (“**the Regulations**”) in terms of section 4(3)(j) of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) read with sections 4(1), 56, 57, 58 and 59 of the Electronic Communications, 2005 (Act No. 36 of 2005), to the extent reflected in the Schedule.

A copy of the Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2026 (“**the Draft Regulations**”) will be made available on the Authority’s website at <https://www.icasa.org.za> or can be sent via email upon request by any individual or can be collected from ICASA Library at the following address: 350 Witch-Hazel Avenue, Eco Point Office Park, Eco Park, Centurion between 09h00 and 16h00, Monday to Friday.

The Authority hereby invites interested parties to make written representations on the Draft Regulations by no later than 16H00 on **9 January 2026** by post, hand delivery or electronically (in Microsoft Word) and marked specifically for the attention of: **Ms Mamedupe Kgatshe – Project Manager.**

Delivery address: Block C, 350 Witch-Hazel Avenue, Eco Point Office Park, Centurion; or by email at cg_municipalelectionsbroadcasting@icasa.onmicrosoft.com and mkgatshe@icasa.org.za.

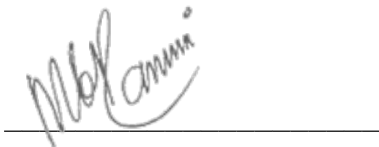
Telephonic enquiries should be directed to **Mamedupe Kgatshe** at 012 568 3259 between 08h30 and 16h30, from Monday to Friday.

Written representations received by the Authority pursuant to this notice will be made available for inspection by interested persons at the Authority's library.

When a person submits information to the Authority, such person may request that specific information be treated as confidential information in terms of section 4D of the Independent Communications Act of South Africa Act, 2000 (Act No.13 of 2000) ("ICASA Act"). The request for confidentiality must be accompanied by a written statement explaining why the specific information should be treated as confidential, in accordance with ICASA Guidelines for Confidentiality Request published in Government Gazette No. 41839 of 17 August 2018.

The Authority may determine whether such specific information or any portion thereof is to be treated as confidential in terms of section 4D of the ICASA Act. Where the request for confidentiality is refused, the person who made the request will be granted an opportunity to withdraw such representations or portion(s) thereof.

Persons submitting written representations are further invited to indicate, as part of their submissions, whether they require an opportunity to make oral representations on the draft Regulations, should the Authority elect to hold public hearings.



MOTHIBI RAMUSI

CHAIRPERSON

DATE: 29/10/2025

SCHEDULE

1. Definitions

In these regulations "the Regulations" means the Municipal Elections Party Elections Broadcasts and Political Advertisements Regulations, 2011 as published in Government Gazette 34086 of 8 March 2011, amended by Government Gazette 39738 of 2016 and Government Gazette 44370 of 2021.

2. Amendment of regulation 1 of the Regulations

Regulation 1 of the Regulations is hereby amended –

- 2.1 by the substitution of the definition of "CCC Regulation", for the following definition:

"CCC Regulations" means the Regulations Governing Aspects of the Procedures of the Complaints and Compliance Committee of the Authority, published in Government Gazette No.33609, Notice No. R 886 of 06 October 2010 as amended by Government Gazette No. 46091, Notice No. 917 of 28 March 2022;

- 2.2 by the deletion of the definition of "Commission" after the definition of "CCC Regulations";

- 2.3 by the insertion, after the definition of "Election broadcast period", of the following definition:

"Election period" means the period commencing with the date on which the election day is proclaimed and ending on the day immediately following upon the day on which candidates of any of the political parties or independent candidates are declared elected;

- 2.4 by the deletion of the definition of "Electoral Commission Act" after the definition of "Electoral Code";

- 2.5 by the deletion the definition of "ICASA Act" after the definition of "Electoral Commission Act":

- 2.6 by the substitution of the definition of "independent candidate", of the following definition:

"Independent candidate" means a South African citizen contesting an election and who is not nominated on a list of a party contesting an election;

- 2.7 by the deletion of the definition of "party", after the definition of "PA";

- 2.8 by the substitution of the definition of "PEB", of the following definition:

"PEB" means a political election broadcast;

- 2.9 by the insertion after the definition of "PEB" of the following definition:

"Political advertisement" means an advertisement broadcast on a broadcasting service which is intended or calculated to advance the interests of any particular political party or independent candidate, for which advertisement the relevant broadcasting service licensee has received or is to receive, directly or indirectly, any money or other consideration;

- 2.10 by the insertion after the definition of "Political advertisement" of the following definition:

"Political Party" means a registered party as defined in section 1 of the Electoral Act 73 of 1998;

- 2.11 by the insertion the definition of "Political election broadcast" after the definition of "Political Party" of the following definition:

"Political election broadcast" means a direct address or message broadcast free of charge on a broadcasting service during an election period and which is intended or calculated to advance the interests of any particular political party or an independent candidate.

- 2.12 by the deletion of the definition of "SABC" after the definition of "Political Party".

3. Amendment of regulation 2 of the Regulations

- 3.1 The following regulation is hereby substituted for regulation 2 of the Regulations:

"2 OBJECT OF THE REGULATIONS

The object of these regulations is to prescribe the framework and guidelines under which PEB(s) and PA(s) shall be broadcast by the BSL during the municipal elections."

4. Amendment of regulation 3 of the Regulations

- 4.1 The following regulation is hereby substituted for regulation 3 of the Regulations:

"3. SCOPE OF THE REGULATIONS

These regulations are applicable during the election period to;

- a) broadcasting service licensees,
- b) political parties contesting the municipal elections, and
- c) independent candidates contesting the municipal elections."

5. Amendment of regulation 4 of the Regulations

Regulation 4 of the Regulations is hereby amended –

- 5.1 by the substitution for sub-regulation 5 of the following sub-regulation:

"(5) A BSL that is obliged, or intends to broadcast PEB(s) must ensure that the PEB conforms to technical standards and quality as listed in Schedule 2 of Annexure A";

- 5.2 by the substitution for sub-regulation 7 of the following sub-regulation:

"(7) A BSL that rejects a PEB submitted by a political party or an independent candidate for broadcast, must within twenty-four (24) hours of receipt of such PEB:

- (a) furnish the political party or independent candidate concerned with written reasons for the rejection; and
 - (b) afford the political party or independent candidate concerned an opportunity, within forty-eight (48) hours after receiving the rejected PEB, to alter or edit the PEB and re-submit it to the BSL concerned or confirm in writing that it will not be re-submitting the PEB”;
- 5.3 by the substitution in sub-regulation 8 for the words “twenty-four (24) hours” of “forty-eight (48) hours”;
- 5.4 by the substitution of sub-regulations (10) – (23) of the following sub-regulations:
 - “(10) A political party or independent candidate that submits a PEB to a BSL for broadcast must ensure that the PEB does not:
 - (a) contravene the provisions of the Municipal Electoral Act, the Electoral Code, the Electoral Act, the Constitution, the Act, and the Broadcasting Act; and
 - (b) contain any material that is calculated, or that in the ordinary course is likely to provoke or incite any unlawful, illegal or criminal act, or that may be perceived as condoning or lending support to any such act.
 - (11) A political party or independent candidate that submits a PEB for broadcast to a BSL is deemed to have indemnified the BSL against incurred costs, damages, losses, and third-party claims arising from the broadcast thereof.
 - (12) A BSL that broadcasts PEB must:
 - (a) make available, every day and throughout the election broadcast period, twelve (12) time-slots of forty (40) seconds each for the broadcast of PEB, excluding the concluding message (tail) disclaimer;

- (b) do so in accordance with the sequence and timing that will be prescribed by the Authority upon allocation of airtime slots after the publication of these Regulations;
 - (c) ensure that all PEB(s) broadcast are identified as such; and
 - (d) ensure that all PEB(s) broadcast by it are identified through a standard pre-recorded concluding message (tail) disclaimer.
- (13) A PEB must not exceed forty (40) seconds in duration.
- (14) Content broadcast as a PEB cannot be broadcast as a PA.
- (15) A BSL must not broadcast a PEB immediately before or after another PEB or immediately before or after a PA.
- (16) PEB air-time allocated to, but not used by a political party or independent candidate, shall be forfeited by the political party or independent candidate concerned.
- (17) If a political party or an independent candidate fails to deliver the PEB to the BSL before the expiry of five (5) working days prior to the broadcasting thereof, then the political party or independent candidate is deemed to have forfeited its allocated airtime.
- (18) In the event that a political party or an independent candidate elects to forfeit its allocated PEB air-time, then such air-time must not be allocated to another political party or independent candidate but must be used by the broadcaster concerned for the purpose of broadcasting its normal programming.
- (19) In the event that a political party or an independent candidate does not wish to use its allocated PEB air-time, the BSL concerned must not, during the relevant time-slot, in any way vary the sequence or scheduling of PEB(s).

- (20) A BSL or political party or an independent candidate must not permit or engage in any interference with, or trading in, the sequence or scheduling of PEB(s).
- (21) In the event that a political party or independent candidate has complied with the requirements of this regulation 4, and a BSL concerned is unable to broadcast such political party's or independent candidate's PEB due to a breakdown in transmission, the BSL after consulting the Authority shall broadcast the PEB within forty-eight (48) hours from the date on which the PEB was scheduled.
- (22) A PEB must be in the broadcast language(s) as contained in the issued broadcasting service license of the relevant BSL.
- (23) A Low Power Broadcasting Service Licensee must not broadcast a PEB."

6. Amendment of regulation 6 of the Regulations

Regulation 6 of the Regulations is hereby amended –

- 6.1 by the substitution for sub-regulation (3) of the following sub-regulation:

"(1) BSL that intends to transmit a PA must ensure that the advertisement conforms to the technical standard and quality as listed in Schedule 2 of Annexure A".

- 6.2 by the substitution for sub-regulations (8) to (15), of the following sub-regulations

- (8) A political party or an independent candidate that submits a PA to a BSL for broadcast must ensure that the PA does not:
- (a) contravene the provisions of the Municipal Electoral Act, the Electoral Code, the Electoral Act, the Constitution, the Act, and the Broadcasting Act; and
- (b) contain any material that is calculated, or that in the ordinary course is likely to provoke or incite any unlawful, illegal or criminal

act, or that may be perceived as condoning or lending support to any such act.

- (9) A political party or an independent candidate that submits a PA for broadcast to a BSL is deemed to have indemnified the BSL against incurred damages, losses, and third-party claims arising from the broadcast thereof.
- (10) Content broadcast as a PA cannot be broadcast as a PEB.
- (11) A BSL must not broadcast a PA immediately before or after another PA or PEB.
- (12) A BSL that broadcasts a PA must ensure that all PA broadcasts are clearly identified through a standard pre-recorded concluding message (tail) disclaimer.
- (13) A BSL that broadcasts a PA must ensure that all PA disclaimers are announced in a similar manner.
- (14) A Low Power Broadcasting Service Licensee must not broadcast a PA.
- (15) A BSL that intends to broadcast a PA must inform the Authority, in writing, of its intention to do so within twenty (21) working days of the publication of these Regulations”.

7. Amendment of regulation 7 of the Regulations

Regulation 7 of the Regulations is hereby amended –

7.1 by the substitution for sub-regulations (1) of the following sub-regulation;

“(1) In the event of any person being aggrieved by any PA or PEB that person may lodge a complaint with the Authority within five (5) working days after such broadcast has occurred.

7.2 by the substitution for sub-regulations (2), of the following sub-regulation;

“(2) Any complaint lodged with the Authority in terms of sub-regulation 7 (1) will be addressed by the Authority in accordance with regulation 6 of the CCC Regulations”.

7.3 by the substitution for sub-regulations (6), of the following sub-regulation;

“(6) Any complaint lodged with the Authority in terms of sub-regulation 6 (7) will be addressed by the Authority in accordance with regulation 6 of the CCC Regulations.

8. Amendment of regulation 8 of the Regulations

Regulation 8 of the Regulations is hereby amended –

8.1 by the addition of the following sub-regulation;

“(4) The broadcasting service licensees that intend to broadcast PEBs and/or PA should inform the Authority by writing an email to BroadcastingCompliance@icasa.org.za”.

9. SHORT TITLE AND COMMENCEMENT

These Regulations are called Municipal Political Elections Broadcasts and Political Advertisements Amendment Regulations, 2026 and shall commence on publication in the *Government Gazette*.

10. Substitution of Annexure A of the Regulations

The following Annexure is hereby substituted for Annexure A of the Regulations:

"ANNEXURE A**SCHEDULE 1****PRINCIPLES FOR AIRTIME ALLOCATION IN RESPECT OF PEBs**

The allocation principles in Table 1 below will apply if there are sufficient PEB slots to accommodate all the contesting political parties and independent candidates.

Table 1

Basic Allocation	
Percentage of slots to be allocated to all political parties and independent candidates contesting seats in the Municipal Elections.	60%
District Municipalities List	
Percentage of slots to be allocated according to the number of candidates fielded by parties on the District Municipalities list.	15%
Local Municipalities List	
Percentage of slots to be allocated according to the number of candidates fielded by parties on the Local Municipalities list.	15%
Proportional representation	
The number of seats currently held at District and Local level.	10%

The allocation principles in Table 2 below will apply if there are insufficient PEB slots to accommodate all the contesting political parties and independent candidates.

Table 2

Basic Allocation Percentage of slots to be allocated to all political parties and independent candidates contesting seats in the Municipal Elections.
District Municipalities List Percentage of slots to be allocated according to the number of candidates fielded by parties on the District Municipalities list.
Local Municipalities List Percentage of slots to be allocated according to the number of candidates fielded by parties on the Local Municipalities list.
Proportional representation The number of seats currently held at District and Local level.

SCHEDULE 2

TECHNICAL STANDARDS AND QUALITY

Audio and video recordings must be clearly labelled to indicate the name of the political party or independent candidate and nominated representative.

Audio and video recordings must be submitted electronically or physically to the BSL.

For Television

HD (High Definition)

- Commercials to comply with the 1920 x 1080i HD Standard in a 16:9 aspect ratio at 25 frames per second.
- Digital Audio Reference level is defined as 18dB below the maximum coding value (-18dBFS) as per EBU recommended practice R128
- Timecode of commercial start is at 10:00:00:00.
- Stereo audio on tracks 1&2, (Any additional audio tracks should not be MUTE but rather be duplicates of track 1&2)
- Fade to silence at commercials end.

File format:

MXF OP-1a (SMPTE 378M), XDCAM HD 422

Video:

- Codec: MPEG-2 422P@HL LongGOP
- Bit rate mode Constant
- Bit rate: 50 Mb/s (CBR)
- Resolution: 1920 x 1080
- Interlacing: Upper Field First Display aspect ratio 16:9
- Frame rate: 25 fps (50i).

For Radio (Audio)

- Track 1 (AES1) Stereo Left / Lt

- Track 2 (AES1) Stereo Right / Rt
- Codec: Uncompressed (PCM)
- Sample Rate: 48 kHz,
- Sampling Size: 24 bit
- Additional tracks: Duplicate tracks 1&2.

Additional element: WAV 48 kHz/16-bit PCM and high-quality MP3 320 kbps, as accepted radio formats alongside MPEG-2, reducing transcoding errors and turnaround time.

SCHEDULE 3

GUIDELINES

1. INTRODUCTION

- 1.1. These guidelines are intended to outline a general approach that should be adopted by BSLs in their coverage of the municipal elections. Elections are an important public event and as such fall within the ambit of news and current affairs. BSLs are encouraged, in the public interest, to provide a full, impartial, and independent coverage of the elections.
- 1.2. The Authority does not intervene in the news and programming operations of the broadcasters. BSLs' role during elections does not differ from their normal journalistic role during non-election periods. Normal ethical considerations will continue to apply. A distinguishing feature of the election period is the obligation to achieve equitable coverage of political parties or independent candidates without abdicating news value judgments.

2. EDITORIAL MATTERS

- 2.1. Section 59 of the ECA prescribes specific requirements for the treatment of political parties or independent candidates during the election period by broadcasters in their editorial programming. The requirements are:
 - (a) If during an election period, the coverage of any broadcasting service licensee extends to the field of elections, political parties or independent candidates and issues relevant thereto, the broadcasting licensee concerned must afford reasonable opportunities for the discussion of conflicting views and must treat all political parties and all independent candidates equitably.

(b) In the event of any criticism against a political party or an independent candidate being levelled in a particular programme of any broadcasting service licensee without such party having been afforded an opportunity to respond thereto in such programme or without the view of the party having been reflected therein, the broadcasting service licensee concerned will be obliged to afford the party a reasonable opportunity to respond to criticism.

(c) If within 48 hours before the commencement of the polling period or during the polling period, a broadcasting service licensee intends broadcasting a programme in which a particular political party or an independent candidate is criticized, the broadcasting service licensee must ensure that the political party or independent candidate is given a reasonable opportunity to respond thereto in the same programme, or to do so as soon as reasonably practicable thereafter”.

2.2. The Authority advises broadcasters to take special care during the final 48 hours prior to Election Day. There will be limited time for broadcasters to ensure that political parties’ or independent candidates’ right of reply is honoured during this period. Broadcasters should, therefore, ensure that parties are given time to reply, should this be necessary, within the same programme during this period.

3. EQUITABLE TREATMENT

3.1. Equitable treatment means fair treatment

Each BSL will be expected to treat political parties and independent candidates fairly. Equitable treatment is unlikely to be achieved in a single programme but can be achieved in a series of programmes. Each BSL should be

consistent in its treatment of contesting political parties and independent candidates of conflicting views.

3.2. Broadcasting service licensee must seek out information

BSLs should recognise their obligation to the electorate to provide a full and accurate record of events and developments. BSLs should not rely on political parties or independent candidates to bring information to them but should actively seek out information. Failure to do so will give political parties and independent candidates with greater resources inequitable amounts of news coverage.

4. PRINCIPLES TO BE ADHERED TO

To further assist BSLs in fulfilling the requirements of the Act the following principles will apply:

4.1. Fairness

- (a) All news coverage should be fair to all interests concerned.
- (b) Care should be taken to balance the exposure given to the non-political activities of candidates (such as attendance at functions, sporting events, etc).
- (c) All political parties and independent candidates should receive equitable treatment on current affairs programmes. If the programme intends to feature political party or independent candidate representatives, political parties or/and independent candidates contesting the elections must be invited, with reasonable notice, to participate either in the same programme or in a series of programmes.

- (d) The requirement that broadcasters give an opportunity for conflicting views to be heard should not be interpreted as a requirement that all political parties and independent candidates be heard on any subject, only that all views be heard. Nor is it a requirement that all views be heard on the same programme.

4.2. The right of reply to broadcast criticism

- (a) Each BSL should afford all political parties and independent candidates reasonable opportunity to respond to criticism broadcast by that BSL. However, affording political parties and independent candidates reasonable time to respond should not amount to forcing BSLs to turn their editorial programmes into a series of replies and replies-to-replies. There should be a distinction between demands for the right to reply to mild or rhetorical criticism, which properly forms part of the cut and thrust of robust political contest; and demands for the right to reply to criticisms which result in clear and immediate damage to a political party or an independent candidate.
- (b) With regard to rhetorical criticisms, BSLs must have the flexibility to incorporate responses into their formal news patterns. With regard to damaging criticisms, BSLs should give the offended political party or independent candidates an opportunity to respond. The political party or independent candidates should be afforded the earliest and most appropriate opportunity to do so. Broadcasters should, however, not allow political parties or independent candidates to use their right to reply to criticism to manipulate or distort the general principle of equity.

4.3. Coverage of government

During the election period, BSLs must recognise that government officials are in a position to use their incumbency to advance their electoral prospects. During the election period, BSLs should regard with particular caution any statement or action by an official of an incumbent political party or independent candidates. In particular, BSLs need to ensure that, during the election period, they do not afford the policies of incumbent parties' or independent candidate's greater legitimacy than they would afford those policies or actions if the political party or independent candidate was not in government.

4.4. Coverage of non-participating organisations

In providing a reasonable opportunity for the discussion of conflicting views, non-participating political parties, independent candidates, and organisations affiliated to alliances should not be excluded from debates and news bulletins. They should be included in terms of normal journalistic practice – when the topic is one in which they have a material interest. However, they should not be included with such frequency that they distort the general principle of equity between registered, contesting political party or independent candidate.

4.5. Coverage of election results

BSLs, particularly the public BSL, have an obligation to inform the electorate of the election results, as they become available. Coverage of election results may also include a comment, analysis, and interpretation. Special care should be taken to ensure the accuracy of all results broadcast.

5. GUIDELINE FOR PRE-RECORDED PROMO FOR COMPLAINTS

The Authority hereby provides an example of the wording for the promo in line with section 7(1) of the Regulations as follows:

*"Any person aggrieved by any Political Advertisement or Political Election Broadcast that is broadcast by [insert name of station] may lodge a complaint within 5 days from broadcast with the Independent Communications Authority of South Africa (ICASA). To lodge your complaint, please contact ICASA's Compliance Department via telephone number on **012 568 3233** or email **BroadcastingCompliance@icasa.org.za** and **Complaintsccc@icasa.org.za**"*
(The contact details of ICASA should be repeated twice).

6. HOW LICENSEES CAN INFORM THE AUTHORITY OF THEIR INTENTION TO BROADCAST PEBS AND PAS

A BSL that intends to broadcast PEBs and/or PAs must inform the Authority by writing an email to BroadcastingCompliance@icasa.org.za. For inquiries, broadcasters may call Ms Busisiwe Mashigo at **012 568 3233/0725939294**.

7. CONCLUSION

The guidelines provide a framework to BSLs covering the elections in which the system of Political Election Broadcasts and Political Advertising will operate."



350 Witch-Hazel Avenue,
Eco Point Office Park
Eco Park, Centurion
Private Bag X10,
Highveld Park 0169
Tel number: (012) 568 3000/1

THE DRAFT AMENDMENT OF THE 2011 MUNICIPAL ELECTIONS BROADCASTING REGULATIONS

EXPLANATORY MEMORANDUM

October 2025

1. INTRODUCTION

- 1.1 The Independent Communications Authority of South Africa ("ICASA" or the "Authority") is reviewing the Municipal Elections Broadcasting Regulations, 2011¹ as amended² (the "Regulations") in anticipation of the 2026 Municipal Elections.
- 1.2 The review process is guided by the Constitution of the Republic of South Africa, 1996 (the "Constitution"), the Broadcasting Act, 1999 (Act No. 4 of 1999) ("Broadcasting Act"), the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("ECA"), and the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000).
- 1.3 The Authority's mandate to regulate election broadcasting is enshrined in sections 56 - 59 of the ECA, as these sections outline how election broadcasts should be handled by broadcasters, political parties and ICASA. The Regulations also apply to independent candidates as a result of the Constitutional Court judgment of 11 June 2020³ that upheld the right of independent candidates to contest elections at national and provincial levels.
- 1.4 The purpose of the Regulations is to regulate the broadcasting of political election broadcasts on broadcasting services and also to determine and prescribe the framework and guidelines under which political election broadcasts ("PEBs") and political advertisements ("PAs") will be conducted and carried by various Broadcasting Service Licensees (BSLs) during the elections. The ECA requires that the Authority ensure equitable treatment of political parties by BSLs during the election period.

¹ Regulations on party election broadcasts, political advertisements, the equitable treatment of political parties by broadcasting licensees and related matters during municipal elections, 2011, published in Government Gazette 34086 of 8 March 2011

² Amended by Government Gazette 39738 of 2016 and again in 2021 in Government Gazette 44370 of 31 March 2021

³ New Nation Movement NPC and Others v President of the Republic of South Africa and Others (CCT110/19) [2020] ZACC 11

1.5 The Authority acknowledges the changes in the political landscape as demonstrated during the 2021 amendment process of the Municipal Elections Regulations through the inclusion of independent candidates in the allocation of PEB slots and the Authority's first monitoring exercise thereof. Thus, the Authority will continue to include independent candidates in the regulation of election broadcasting. The Constitutional Court judgment of 11 June 2020 declared the Electoral Act, 1998 (Act No. 73 of 1998) unconstitutional so far as it provides for a pure proportional electoral system that caters only for representation by political parties and precludes adult citizens from standing as independent candidates in elections for the National Assembly and the provincial legislatures.⁴

2. AMENDMENTS TO THE REGULATIONS

This explanatory memorandum provides for the proposed amendments to the draft Municipal Political Elections Broadcasts and Political Advertisements Amendment Regulations, 2026 ("the draft Regulations"). The amendments draw lessons from the National Elections Regulations to the extent relevant. The rationale for the amendments is included herein. Where a clause is amended merely to effect editorial changes, an explanation is not provided.

2.1 Definitions

2.1.1 The Authority amended regulation 1 of the draft Regulation by deleting some of the definitions that are already included in the ECA, such as the Authority, Broadcasting Act, CCC, and ICASA Act. The Authority also deleted the definitions of Commission, Electoral Commission Act, and SABC since they are not used in the body of Regulations and amended the definition of "political party" to align it with the reference in the ECA.

⁴ Ibid

2.1.2 The definition of “PEB” was amended in 2021 to include independent candidates, but the amendment did not focus on the definition in the ECA. The amendment provided that “**PEB**” means a party election broadcast made by a political party or an independent candidate. The current amendment states that “**PEB**” or “**political election broadcast**” means a direct address or message broadcast free of charge on a broadcasting service during an election period and which is intended or calculated to advance the interests of any particular political party or an independent candidate.

2.1.3 The definition of PA was not amended in 2021 therefore the Authority is amending the definition to include independent candidates.

2.2 Object of the Regulations

The object of the Regulations is amended to simplify the wording of the clause.

2.3 Scope of the Regulations

The scope of the Regulations is amended to include independent candidates.

2.4 Political Election Broadcasts: Regulation 4

2.4.1 The Authority has amended the heading in regulation 4 to align with the definition of PEB, to include independent candidates. The Authority is changing the words “party election broadcast” and is replacing it with “political elections broadcast” as a result of the inclusion of independent candidates in the Regulations.

2.4.2 In terms of sub-regulation (5), the Authority has for the past years elected to refer to technical standards as “the Authority’s technical standards”. The word “Authority” has been removed. The new wording of the proposed amendment reads as follows: “(... to technical standards and quality as listed in Schedule 2

of Annexure A)“.

2.4.3 The Authority has amended sub-regulation (7) to remove the requirement of submitting 48 hours before broadcast of the PEB. The proposed requirement requires the political party or independent candidate to respond within forty-eight (48) hours after receiving the rejected PEB, and alter or edit the PEB and re-submit it to the BSL concerned or confirm in writing that it will not be re-submitting the PEB.

2.4.4 The Authority has amended sub-regulation (8) by changing the words “twenty-four (24) hours” to “forty-eight (48) hours to provide sufficient time for the BSL to notify the Authority of rejection of a PEB, whereby it will also furnish to the Authority written reasons for the rejection. That is in instances whereby the political party or independent candidate concerned has confirmed in writing to the BSL that it will not be re-submitting the PEB.

2.4.5 The Authority has moved sub-regulation (10) and (11) to complaints section in order to ensure that complaints matters are under one section.

2.4.6 In terms of sub-regulation (12), the Authority has for the past years elected to reduce the duration of PEBs. This reduction in the PEB duration has been justified by financial implications on BSLs when slots are not utilised, as these slots could have been used for advertising or other programming. Furthermore, political parties in previous elections were not using the maximum duration of their slots to record their PEBs.

2.4.7 The Authority has also, increased the total number of PEB slots, from 10 to 12 slots per day. This increase was due to the ever-changing political climate and the increase of political parties contesting the elections. Given that independent candidates are contesting Municipal elections, it is crucial to increase the number of PEB slots to ensure that there is a fair and equitable allocation of these slots to all those who are contesting the elections.

- 2.4.8 Sub-regulation (12)(d) is amended to require that a BSL broadcasting a PEB must identify all PEBs through a standard pre-recorded concluding message (tail) disclaimer. Previously, BSLs were required to identify a PEB through a standard pre-recorded opening (top) and a concluding (tail) disclaimer. The amendment recognises that a single concluding disclaimer sufficiently informs listeners or viewers that the PEB is distinct from the normal programming of the BSL and that views expressed do not represent those of the BSL. The amendment further aligns the regulatory requirement with prevailing industry practice and allows BSLs to utilise airtime more efficiently.
- 2.4.9 Sub-regulation (13) reflects that a PEB is forty seconds long in line with sub-regulation (12) to reduce the length of PEB from 50 seconds to 40 seconds. Sub-regulations (14) to (20) are improved in terms of simplifying the wording so that they are easily understandable.
- 2.4.10 Sub-regulation (21) seeks to ensure that the Authority will oversee the process of broadcasting PEBs to ensure fairness; that the political party/independent candidate is treated fairly or equitably. It is the responsibility of the BSL to show the Authority that the proposed scheduled re-allocation of the slot is fair in the context of the BSL's programming and scheduling of other PEB and PA slots.
- 2.4.11 The Authority substituted sub-regulation (23) to provide certainty on who is permitted or not permitted to broadcast PEBs and to make a clear distinction between low-power sound broadcasting service licensees and other broadcasting service licensees. The proposed exclusion of low-power sound broadcasting service licensees is due to the small coverage area (not exceeding one watt of power).
- 2.4.12 The Authority's intent in excluding low-power sound broadcasting service licensees from broadcasting PEBs was to provide certainty to the sector and to political parties and independent candidates on whom they may approach to

broadcast their political content. Regulation 10B of the Amendment Standard Terms and Conditions Regulations, 2021⁵ states that Low Power Broadcasting Service licensees must source advertising only from within the coverage area. The majority of political advertisements, therefore, fall outside of this requirement. Further, the regulations require that low power broadcasting service licensees broadcast programmes that are specific to their coverage areas, which include malls, sports grounds, show grounds, old age homes, places of worship or any other like service. The Regulations⁶ explicitly prohibit Low-Power Broadcasting Service Licensees from broadcasting news and current affairs. This sets Low-Power broadcasting service licensees apart from other licensees as they do not have an obligation to inform their listeners on events relating to news and current affairs. The Authority, therefore, is of the view that Low-Power Broadcasting Service Licensees are not an appropriate platform for the broadcasting of political content such as PEBs.

2.5 Political Advertising: Regulation 6

- 2.5.1 Similar to the provision under 4(3) regulation 6(3) has for the past years referred to technical standards as “the Authority’s technical standards”. The word “Authority” has been removed. The new wording of the proposed amendment reads as follows: “(... to technical standards and quality as listed in Schedule 2 of Annexure A)”.

⁵ Per regulation 10B (5) of the Amendment Standard Terms and Conditions for Class Licences, 2021, in Government Gazette no. 44328 and dated, 25 March 2021.

⁶ Per regulation 10B: “**10. Insertion of regulation 10B in the Regulations**”

10B. PROVISIONS FOR LOW POWER SOUND BROADCASTING SERVICE PROGRAMMING

- (1) A Low Power Sound Broadcasting Service licensee must not provide news and current affairs programming.
- (2) A Low Power Sound Broadcasting Service licensee must provide programmes intended for the specific coverage area, for example, shopping malls, sports grounds, show grounds, drive-in movie theatres, old age homes, places of worship, or any other like service.” Full citation of the Regulations in footnote 5, above.

- 2.5.2 Substitution to sub-regulations (8) to (15) seeks to align the sub-regulations after moving other sub-regulations to the Compliance section in Regulation 7, and also to improve wording of the regulations.

2.6 Complaints: Regulation 7

- 2.6.1 Sub-regulation (1) is amended to address the limited time constraints available for aggrieved persons to lodge a complaint. The Authority changed the period from 48 hours to five (5) days to allow anyone aggrieved by a PA or PEB sufficient time to lodge a complaint with the Authority. The rationale for the amendment is to ensure sufficient time for aggrieved persons to have sufficient time to prepare and submit the complaint, to improve accessibility and awareness in the complaints process and enhance procedural fairness. It is also to align with broader efforts to ensure transparency and responsiveness during the election process.

- 2.6.2 Regulation 7(7) is amended in order to correct it, as it refers to regulation 7(7) in the 2016 Municipal Elections Regulations, instead of Regulation 6(7).

2.7 General: Regulation 8

Sub-regulation (4) is inserted to streamline the communication with the Authority to ensure certainty in terms of who the BSLs, political parties and independent candidates who would like to contact the Authority, and promote accountability.

3 ANNEXURE A

3.1 SCHEDULE 2: TECHNICAL STANDARDS AND QUALITY

- 3.1.1 The Authority proposes that the electronic submission of PEBs and PAs should be allowed. Electronic submission allows political parties and independent candidates to choose a delivery method that is most convenient to them, as well as lessening the administrative burden of the BSL relating to the physical delivery of PEBs and PAs. However, physical submission is still allowed.
- 3.1.2 The Authority review technical standards and quality during elections to align with technological developments in the sector. This also reduces the financial burdens on the stakeholders when the PEB is rejected and the political party or independent candidate have to align it with the correct technical standards and quality suitable for broadcasting.

3.2 SCHEDULE 3: GUIDELINES

- 3.2.1 The Authority made changes in the Guidelines in order to ensure that the language used reads better and it is understandable. Also, the amendment provides for a pre-recorded promo for complaints is provided below.

3.2.2 Guideline for pre-recorded promo for complaints

- 3.2.2.1 The Authority provides an example of a promo for aggrieved persons to lay a complaint in terms of regulation 7(1). The promo reads:

Any person aggrieved by any Political Advertisement or Political Election Broadcast that is broadcast by [insert name of station] may lodge a complaint within 5 days from broadcast with the Independent Communications Authority of South Africa (ICASA). To lodge your complaint, please contact ICASA's Compliance Department via telephone number on 012 568 3233 or email BroadcastingCompliance@icasa.org.za and Complaintsccc@icasa.org.za" (The contact details of ICASA should be

repeated twice).

3.2.2.2 The purpose of the promo is to create awareness of the complaints procedure.

3.2.3 How licensees can inform the Authority of their intention to broadcast PEBs and PAs

3.2.3.1 Regulation 4(4) and 6(15) require licensees to inform the Authority, in writing, of their intention to broadcast PEBs and PAs within twenty-one (21) days of the publication of the regulations. This requirement ensures that the Authority is aware of all broadcasters that intend to air political content during the election period and can therefore monitor compliance with the relevant regulatory provisions.

3.2.3.2 In order to give effect to these provisions, the Authority provides the contact details to submit such requests. A BSL that intends to broadcast PEBs and/or PAs must inform the Authority by writing an email to BroadcastingCompliance@icasa.org.za. For inquiries, broadcasters may call Ms Busisiwe Mashigo at 012 568 3233/0725939294.

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