

# "PSM14"



SOUTH AFRICA

## National Party Liaison Committee (NPLC) Meeting

### Final Minutes

**Date:** Monday, 04 January 2021  
**Venue:** Zoom Online Meeting  
**Time:** 14h00

#### 1. Opening and Welcome

The Chairperson welcomed members and thanked them for their positive response for the meeting convened at short notice.

#### 2. Apologies

No apologies were recorded. The names of parties represented at the meeting are included with the minutes. The attendance register is not signed owing to the virtual nature of the meeting.

#### 3. Consideration of the Agenda

The chairperson indicated that the meeting was called to deal with the implications of Alert Level 3 Regulations on the conduct of by-elections. The one item agenda was confirmed.

#### 4. Implications of Alert Level 3 Regulations on the conduct of by-elections.

The chairperson presented the consideration of the Commission as follows:

4.1 On 28 December 2020, the President announced that the country would revert to Alert level 3 of the Risk Adjusted Strategy. In turn, on 29 December 2020 the Minister responsible for Cooperative Governance and Traditional Affairs issued the Regulations in terms of section 27(c) of the Disaster Management Act, 2002.

4.2 At least two (2) provisions implicate the conduct of by-elections. These are:

## Electoral Commission

*Ensuring Free and Fair Elections*

Commissioners: Mr V.G. Mashinini (Chairperson) | Ms J.Y. Love (Vice-Chairperson) | Dr N.P. Masuku | Mr M. Moepya | Judge D. Pillay  
National Office: Election House, Riverside Office Park, 1303 Heuvel Avenue, Centurion, 0157 | P/Bag X112, Centurion, 0046  
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- a. Regulations 33(1) read with 82(1). The former finds application throughout the Republic while the latter apply to districts designated as hotspots. These regulations limit the free movement of persons by not allowing for movement except in prescribed limited instances between 21h00 and 06h00.
- b. Regulations 36(4) read with 84(4). These proscribe gatherings at political events. Again, the regulations apply to the Republic in its entirety and to districts determined as hotspots. The prohibition is for two weeks and will be reviewed.

4.3 There are currently by elections called on four dates. The first fall on 20 January 2021, the second on 3 February 2021, the third on 17 February 2021 and the fourth on 3 March 2021.

#### 4.3.1 20 January By-elections

- 3 wards in three (3) provinces: Mpumalanga; Bushbuckridge ward 21; KZN; Nquthu ward 11 and Gauteng; Ekurhuleni ward 43.
- All activities have largely been concluded in respect of these by elections. Nonetheless, the regulations prohibiting social gatherings and gatherings at political events will seriously hamper campaign by contestants and political parties.

#### 4.3.2 03 February By-elections

- 5 wards in three (3) provinces: Free State; Maluti a Phofung ward 25; Gauteng; City of Johannesburg wards 7 and 17; Limpopo; Makhado ward 38 and Fetakgomo Tubatse ward 13.
- Candidate nomination for these by elections closes on 11 January 2021. The period falls within the two weeks during which the regulation prohibiting gatherings at political events. This may impact political parties' ability to select candidates.

#### 4.3.3 17 February By-elections

- 6 wards in three (3) provinces: Eastern Cape; Matatiele ward 11; Gauteng; Tshwane wards 3, 58, 88 and 92 and KZN; eThekweni ward 110.
- Voter registration weekend for the by-election is on 9-10 January 2021. The period falls within the 14 days during which gatherings at political events are prohibited. In the circumstances, political parties and other contestants may be hindered in calling out potential voters to register.

#### 4.3.4 03 March By-elections

- 6 wards in three (3) provinces: Eastern Cape; Nelson Mandela bay ward 17; King Sabata Dalindyebo ward 34; Port St Johns ward 09 and Intsika Yethu ward 17; Mpumalanga; Emalahleni ward 33 and KZN; uMhlathuze ward 15.
- Voter registration is scheduled for 23 to 24 January. This period falls outside the 14-day period within which gatherings at political events are prohibited. That said, parties and candidates might be hampered from undertaking proper preparations for the registration weekend given that the prohibition lapses on 12 January. This also presupposes that the period will not be extended.

- 4.4 Given the restrictions on free movement of persons and the prohibition on gatherings at political events, the Commission is of the view that it will be constrained from ensuring that by-elections undertaken under such circumstances may be declared free and fair.
- 4.5 Accordingly, the Commission has resolved to approach the Electoral Court for an order postponing the by-elections beyond the legislated 90-day period. The implicated by-elections are those set for 20 January, 03 February and 19 February 2021. The decision on the by elections scheduled for 03 March 2021 will be made when there is further clarity on the continued applicability of the regulations sometime in Mid- January.
- 4.6 In the circumstances, candidate nomination process for the 03 February by-elections that were planned to conclude on 11 January are cancelled. Similarly, the registration weekend for the 17 February by elections that was planned for 9-10 January is stopped.
- 5. Following the presentation, parties were asked to make submissions. These are summarised below.

Comments/ Queries by Parties	
EFF	<ul style="list-style-type: none"> <li>• The party supports the reasoning of the Commission as well as the approach to the Electoral Court.</li> <li>• The party further indicated that given the increase in the rate of infection and mortality continuing with electoral events is not advisable given the real risk to voters, party agents and electoral staff.</li> <li>• Additionally, the party asked the Commission to consider whether it is still reasonable feasible to continue with LGE2021 planning in light of pandemic situation. The specific proposal by the party was that the Commission should consider the postponement of the date on which LGE2021 may be held.</li> </ul>
ANC	<ul style="list-style-type: none"> <li>• The party supports the postponement of the by-elections and the application by the Commission to the Electoral Court.</li> </ul>

	<ul style="list-style-type: none"> <li>• The party further suggested that by-elections scheduled for 3 March 2021 should also be included in the application to the Electoral Court.</li> <li>• The party proposed a resolution that all parties present at the meeting should commit to support the application by the Commission by being on record before the Electoral Court.</li> <li>• The party asked that another meeting be convened as soon as there is clarity on whether alert level 3 and supporting regulations would be relaxed or maintained.</li> <li>• The party requested that the Commission should consider all lawful and constitutional means under which LGE2021 may be delayed should the COVID-19 situation not be under control at critical preparation stages for the general elections of municipal councils.</li> </ul>
AIC	<ul style="list-style-type: none"> <li>• The party supports the postponement of the by-elections.</li> <li>• Further, the party supports the suggestion to consider lawful avenues for delaying the date of the general elections of municipal councils to a point where there is greater clarity on the COVID-19 situation in the country.</li> </ul>
ACDP	<ul style="list-style-type: none"> <li>• The party agrees with the application to postpone the by-elections.</li> </ul>
DA	<ul style="list-style-type: none"> <li>• The party supports the stance of the Commission on the postponement of by-elections.</li> <li>• The party further enquired as to whether the Commission would persist with the postponement of by- elections in the event the regulations on the curfew are revised to allow for greater freedom of movement?</li> </ul>

GOOD	<ul style="list-style-type: none"> <li>• The party supports the postponement of the by-elections and the reasons advanced.</li> <li>• The party further support the proposal to look at the postponement of the upcoming general local government elections.</li> </ul>
NFP	<ul style="list-style-type: none"> <li>• The party supports the postponement application.</li> </ul>

## 6. IEC Response

- 6.1 The submission on the continued feasibility to hold LGE2021 within the 90 days from end of term is noted and will be presented to the Commission for consideration.
- 6.2 The submission for the Commission to explore avenues for the lawful delay of general elections of municipal councils should the COVID-19 situation still be a factor in critical stages for the preparations of LGE2021 is noted and will be presented to the Commission for consideration.
- 6.3 The Commission will decide on the postponement of 3 March 2021 by-elections by mid-January when there is greater clarity on the alert level and the applicable regulations. The in principle support by parties for the postponement of 3 March by-elections should regulations not changed is recorded.
- 6.4 The Commission will as a matter of common cause cite the interested parties in its application to the Electoral Court. Parties may then elect to support or oppose the application. The Commission would welcome parties indicating their support of the application by filing papers with the Electoral Court.
- 6.5 The stance of the Commission is that it is constrained from undertaking safe, free and fair by-elections in circumstance where the regulations and alert levels do not permit for social gatherings, gatherings at political events and where movement of persons is curtailed due to the imposition of the curfew. If the curfew is relaxed but there is no corresponding relaxation on other regulations proscribing gatherings, the Commission would still not be able to guarantee free and fair by-elections.
- 6.6 A meeting of the NPLC may be convened in mid-January to consider the implications for by-elections if the regulations are varied.

**7. Closure**

Meeting concluded at 14:45

**Signed on:** \_\_\_\_\_

**(Mr.) (Chairperson)** \_\_\_\_\_

Deputy Chief Electoral Officer

<b>Name</b>	<b>Organization/ Political Party</b>
S Mamabolo	IEC
M Sheburi	IEC
A Henning	IEC
M Mosery	IEC
G Mahlangu	IEC
G Abrahams	IEC
L Maphanga	IEC
R Raath	IEC
S Murphy	IEC
K Simelane	IEC
K Tshoke	IEC
K Molefe	IEC
A Mushwane	IEC
T Lubbe	IEC
R Tlaeli	ACDP
D Kissoonduth	ACDP
M Arnolds	AIC
M Dlamini	ANC
B Hofmeyr	ANC
N Jeku	ATM
G Hendricks	AL JAMA-AH
V Coetzee	COPE
M Moriarty	DA
T Abell	DA
M Tshwaku	EFF
S Shabane	GOOD
A Mncwango	IFP
P De Necker	VF+
W Wessels	VF+

T Nontenja	UDM