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## **DEMOCRATIC PARTY SUBMISSION TO SUBTHEME COMMITTEE 6.1 AN INDEPENDENT ELECTORAL COMMISSION**

### **Introductory Comments**

The delivery of free and fair elections at regular intervals is at the core of democracy. In order for the electorate to trust the electoral process, and indeed for the government of the day to enjoy legitimacy, the electoral process must be as impartial as possible. For this reason the Democratic Party proposes a constitutional provision establishing an Independent Electoral Commission.

An impartial electoral commission is one which has no stake in who wins or loses an election, and which is not susceptible to improper influence. Its main objective is to create a level playing field on which all political players may compete on an equal basis. Should a department of government control the electoral process, the Democratic Party feels the delivery of free and fair elections could be severely compromised. Government departments at national or provincial level should perform the bulk of the work around an election, but control must vest in an independent body.

### **Composition of the Commission**

The DP advocates that the Commission be chaired by a judge and comprised of individuals with relevant experience and expertise who also have a reputation for independence and integrity. No person who has been a public representative or office bearer for a political party or organisation during the previous three years should be eligible. A transparent appointment procedure, at arm's length from the executive, should be specified (as in the case of the Human Rights Commission).

### **Privileges and Authority**

The members of an independent commission should be afforded various privileges and immunities. The status of commission members could be equivalent to judges. In order to ensure their independence, they should only be removed for gross

dereliction of duty and for financial improprieties. Procedures for their removal from office should be specified. They must not be eligible for appointment to public office, or to the public service, for a specified period after completing service. It is essential that the appointment, terms of office and removal procedure be specified in the Constitution. The working procedures and powers of the commission can be fleshed out by an appropriate Electoral Act.

### **Funding**

In light of the huge amount of monies unaccounted for by the 1994 Independent Electoral Commission, the Democratic Party feels that the commission's accounts should be subject to audit by the Auditor-General.

### **Responsibilities**

Given the divisions in our society, the DP believes the commission ought to have authority over the following functions and powers; some of which it may delegate to sub-committees or other persons:

interpreting the electoral law and adopting regulations; designating and training of provincial election officials; certification of candidates and registered parties; demarcation of constituencies; investigating and adjudicating complaints, including those presented directly to the commission and appeals from subordinate bodies.