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REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 295

2024

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 8 of 2024: Electoral Amendment Act, 2024.

EXPLANATORY NOTE:

- _____ Words underlined with a solid line indicate insertions in existing provisions.
- [] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Electoral Act, 2014 so as to provide for the remunerated members of the public service and members of the National Council, regional councils and local authority councils as contemplated in Article 47 of the Namibia Constitution to be eligible for nomination as candidates for National Assembly election; to authorise the remunerated members of the public service to utilise their leave days in order to participate and be elected as members of the National Assembly; to allow for the remunerated members of the public service who attain the age of 55 years old on or before the date on which the results of the election are announced to resign or retire for the purposes of becoming members of the National Assembly; to make provisions for the remunerated members of the public service and members of the National Council, regional councils and local authority councils who fail or refuse to resign after taking up seats at the National Assembly to be deemed to have resigned; to exclude members of the Namibian Defence Force, Namibian Police Force, Correctional Service and Intelligence Service from certain provisions of the Act; and to provide for incidental matters.

(Signed by the President on 30 September 2024)

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

Amendment of section 77 of Act No. 5 of 2014

1. Section 77 of the Electoral Act, 2014 (Act No. 5 of 2014) is amended by the substitution for subsection (4) of the following subsection:

“(4) Despite anything in this Act or any other law or any agreement governing the conditions of employment of a person to the contrary but subject to this subsection, [A] a person may [only] be nominated as a candidate on a list of candidates for National Assembly election if the person -

- (a) **[qualifies]** is eligible to be elected as a member of the National Assembly by virtue of Articles 17(2) and 46(1)(a) of the Namibian Constitution: Provided that:
- (i) where the person is a remunerated member of the public service as contemplated in Article 47(1)(e) of the Namibian Constitution, the remunerated member may be nominated and may accept the nomination as a candidate for National Assembly election, but

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- the remunerated member must, in accordance with the applicable law or agreement governing the conditions of employment of the remunerated member, take leave from his or her employment from the date of publication of his or her name on the party list as contemplated in section 78 until the date on which the results of the election are announced as contemplated in section 110;
- (ii) if the remunerated member referred to in subparagraph (i) accepts such nomination, but fails or refuses to take such leave as contemplated in that subparagraph, the remunerated member is deemed to have been on leave during the period contemplated in that subparagraph;
 - (iii) if the remunerated member referred to in subparagraph (i) is elected as a member of the National Assembly, the remunerated member is deemed to have resigned from the public service with effect from the date on which the results of the elections are announced;
 - (iv) if the remunerated member referred to in subparagraph (i) attains the age of 55 years on or before the date on which the results of election are announced, the member is deemed to have resigned from the public service as contemplated in subparagraph (iii), but the member may, within seven days after the results of the election are announced, inform his or her employer that the member intends to retire and not to resign from the public service, and the member is deemed to have retired from the public service with effect from the date on which the results of the election are announced;
 - (v) where the remunerated member -
 - (aa) is deemed to have resigned from the public service as contemplated in subparagraph (iii), and any provision in any law or agreement that governs the employment relationship between the member and his or her employer requires the member to terminate the contract of employment by giving a termination notice to the employer or requires the member to pay any amount to the employer instead of giving the termination notice of the contract of employment; or
 - (bb) retires from the public service as contemplated in subparagraph (iv) and any provision in any law or agreement that governs the employment relationship between the member and his or her employer requires any consent to be given,or any other requirement to be complied with in order to effect such resignation or retirement, it is deemed that such termination notice or payment or consent has been given or made or such requirement has been complied with from the date on which the results of the elections are announced;

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- (vi) a member of the National Council, regional council or local authority council referred to Article 47(1)(f) of the Namibian Constitution may be nominated and may accept nomination as a candidate for National Assembly election, but if the member is elected as a member of the National Assembly, the member must resign from the National Council, regional council or local authority council at any time before the commencement of the term of office of the National Assembly for which the member is elected;
 - (vii) if the member of the National Council, regional council or local authority council referred to in subparagraph (vi) fails or refuses to resign as contemplated in that subparagraph, the member is deemed to have been so resigned on the day before the commencement of the term of office of the National Assembly for which the member is elected;
 - (viii) the provisions of this paragraph do not apply to a person who is -
 - (aa) a member of the Namibian Defence Force established by Article 115 of the Namibian Constitution;
 - (bb) a member of the Namibian Police Force established by Article 118 of the Namibian Constitution;
 - (cc) a member of the Intelligence Service established by Article 120A of the Namibian Constitution; and
 - (dd) a member of the Correctional Service established by Article 121 of the Namibian Constitution; and
 - (ix) in so far as any provisions of subparagraph (viii) may provide for a limitation on any fundamental right and freedom of any person to participate in political activity and to be elected to a public office, those provisions are enacted on the authority of Article 22 of the Namibian Constitution read with Article 17 of that Constitution;
- (b) is a registered voter; and
- (c) is a member of the registered political party submitting the list of candidates concerned.”.

Short title and commencement

2. This Act is called the Electoral Amendment Act, 2024 and comes into operation on the date of publication in the *Gazette*.
