

## **Schedule 6A**

# Retention of Membership of National Assembly or Provincial Legislature, after a change of Party Membership, Mergers between Parties, Subdivision of Parties and Subdivision and Merger of Parties

[Schedule 6A inserted by s. 6 of Constitution Tenth Amendment Act of 2003.]

### **1. Definition**

In this Schedule "legislature" means the National Assembly or any provincial legislature.

### **2. Retention of membership of legislature in event of change of party membership**

- (1) Subject to item 4, a member of a legislature who becomes a member of a party (the new party) other than the party which nominated that person as a member (the nominating party), whether the new party participated in an election or not, remains a member of that legislature if that member, whether by himself or herself or together with one or more other members who, during a period referred to in item 4(1)(a) or (b), ceased to be members of the nominating party, represents not less than 10 per cent of the total number of seats held by the nominating party in that legislature.
- (2) The seat held by a member referred to in subitem (1) is regarded as having been allocated to the new party which the member represents.

**3. Retention of membership of legislature in event of mergers, subdivision and subdivision and merger of parties**

(1) Subject to item 4, any party (the original party) which is represented in a legislature may—

- (a) merge with another party, whether that party participated in an election or not; or
- (b) subdivide into more than one party or subdivide and any subdivision may merge with another party, whether that party participated in an election or not, if the members of a subdivision leaving the original party represent not less than 10 per cent of the total number of seats held by the original party in that legislature.

(2) If a party merges with another party or subdivides into more than one party or subdivides and any subdivision merges with another party in terms of subitem (1), the members concerned remain members of that legislature and the seats held by them are regarded as having been allocated to the party which they represent pursuant to any merger, subdivision or subdivision and merger contemplated in subitem (1).

**4. Period of application of items 2 and 3 and further requirements**

(1) The provisions of items 2 and 3 only apply –

- (a) for a period of 15 days from the first to the fifteenth day of September in the second year following the date of an election of the legislature; and
- (b) for a period of 15 days from the first to the fifteenth day of September in the fourth year following the date of an election of the legislature.

(2) For the purpose of subitem (1) "year" means a period of 365 days.

(3) During each period referred to in subitem (1)(a) and (b) –

- (a) a member of a legislature may only once change membership of a party, by informing the Speaker of the legislature thereof in writing and by submitting to the Speaker written confirmation

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from such other party that he or she has been accepted as a member of that party; and

- (b) a party may only once—
  - (i) merge with another party;
  - (ii) subdivide into more than one party; or
  - (iii) subdivide and any subdivision may merge with another party, by informing the Speaker of the legislature thereof in writing and by submitting to the Speaker written confirmation from the other party of the names of all members involved in the merger or subdivision, and that the party has accepted the merger; and
- (c) no party represented in a legislature may—
  - (i) suspend or terminate the party membership of a member representing that party in that legislature; or
  - (ii) perform any act whatsoever which may cause such a member to be disqualified from holding office as such a member, without the written consent of the member concerned.
- (4) A party which has not been registered in terms of any law applicable to the registration of political parties is regarded as a party for the purposes of this Schedule, but such a party must apply for registration as a party in accordance with applicable law within the period referred to in subitem (1)(a) or (b). If the party is not registered within four months after the expiry of that period, it is regarded as having ceased to exist, and the seats in question must be allocated to the remaining parties in accordance with applicable law.

### **5. Composition of legislature maintained until election or reconstitution in terms of Schedule**

- (1) After the expiry of a period referred to in item 4(1)(a) or (b), the composition of a legislature which has been reconstituted as a result of any conduct in terms of item 2 or 3 is maintained until the next election of that legislature or until the composition of the legislature is reconstituted in accordance with item 2 or 3.
- (2) Within seven days after the expiry of a period referred to in item 4(1)

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(a) or (b), each party represented in a legislature contemplated in subitem (1) must submit a list of its candidates to the Secretary of the legislature.

- (3) The Speaker of a legislature contemplated in subitem (1) must, within seven days after the expiry of a period referred to in item 4(1) (a) or (b), publish a notice in the Gazette which must reflect –
- (a) the number of seats allocated to each party represented in that legislature; and
  - (b) the name of, and party represented by, each member.

### **6. Transitional arrangement in respect of retention of membership of legislature in event of change of party membership, mergers between parties, subdivision of parties and subdivision and merger of parties**

- (1) During the first 15 days immediately following the date of the commencement of this Schedule –
- (a) a member of a legislature may become a member of another party (the new party), whether the new party participated in an election or not, whilst remaining a member of the legislature concerned and the seat held by that member must be regarded as having been allocated to the new party of which that member has become a member; and
  - (b) any party which is represented in a legislature may –
    - (i) merge with another party, whether that party participated in an election or not; or
    - (ii) subdivide into more than one party or subdivide and any subdivision may merge with another party, whether that party participated in an election or not, whilst the members concerned remain members of that legislature and the seats held by them must be regarded as having been allocated to the party which they represent pursuant to any merger, subdivision or subdivision and merger contemplated in this paragraph.
- (2) The provisions of item 4(3) and (4) and item 5 are also applicable in respect of subitem (1), and any reference therein to a period referred to in item 4 (1)(a) or (b) must be construed as a reference to the period referred to in subitem (1).