

THESE MINUTES ARE CONFIDENTIAL AND RESTRICTED TO MEMBERS OF THE AD HOC COMMITTEE ON THE INDEPENDENT ELECTORAL COMMISSION ACT, THE PLANNING COMMITTEE AND THE NEGOTIATING COUNCIL.

MINUTES OF THE MEETING OF THE AD HOC COMMITTEE ON THE INDEPENDENT ELECTORAL COMMISSION ACT HELD AT 15H15 ON TUESDAY 3 AUGUST 1993 AT THE WORLD TRADE CENTRE.

PRESENT: KM Andrew (Convenor)
D Schutte
P Maduna
SG Mothibe
B Desai

M Hynd (Minutes)

1. Welcome

All members were welcomed.

2. Minutes

The Minutes of the Meeting of the Committee held at 0810 on 27 July had been ratified at an informal meeting of the Committee held at 13h40 on the same day.

3. Matters Arising

3.1 Further to the meeting of 27 July, it was reported that the Planning Committee had not yet had the opportunity to consider the five recommendations put forward by this Ad Hoc Committee, but that these were on the Planning Committee Agenda for 3 August.

3.2 It had been suggested by the Chairman of the Technical Committee that prior to the submission of proposals to the Planning Committee, that discussion take place between the Ad Hoc Committee and the Technical Committee to avoid and resolve any potential problems inherent in such proposal/s.

3.3 Copies of the Government's Draft Bill had been distributed to the Committee members.

4. Independent Electoral Act (second Draft)

4.1 Section 21 - Jurisdiction: After discussion it was proposed that consideration be given to the establishment of an Independent Appeals Tribunal, made up of legally qualified persons who would act as an 'Appeal Court' in respect of certain disputes relating to the IEC, as well as disputes arising from the TEC.

In respect of IEC matters the Electoral Appeals Tribunal would be empowered to appoint, on an ad hoc basis, persons at regional or local level to address regional or local disputes. This may well be facilitated by panels nominated by local legal bodies such as bar councils or law societies from which members may be drawn from time to time to hear and adjudicate upon disputes.

The IEC itself would have an Adjudication Directorate with branches throughout the country that will hear disputes, mediate and resolve them where possible. The Adjudication Directorate's decision in certain instances would be final, but appeals to either the IEC itself and/or the Electoral Appeals Tribunal would be permitted in respect of others.

Jurisdiction of each of these bodies (i.e. the Adjudication Directorate, IEC and Electoral Appeals Tribunal) needs to be defined, but this should await further development of the Electoral Act and Code of Conduct.

The Adjudication Directorate, where unable to resolve a dispute, would refer such dispute to the IEC and/or the Electoral Appeals Tribunal.

It was agreed that appeals on certain decisions of the IEC, (still to be detailed and finalised) would be possible, and that these appeals would be addressed to the Tribunal.

It was suggested among the highly qualified persons making up the Electoral Appeals Tribunal, a number of judges be included. There shall be no appeal from any decision of the Electoral Appeals Tribunal.

4.2 Section 18: Subsection 18.3

It was agreed that a more appropriate wording would be:

"the investigation and institution of proceedings before the Adjudication Directorate, the courts, and any such electoral tribunals as may be established, in order to deal with alleged infringements of the said Code of Conduct or of the Electoral Act."

5 **General**

- 5.1 It was reported that a representative from the United Nations would be meeting with the Technical Committee later in the week when no doubt an indication of their degree of willingness to participate would be made known.
- 5.2 It was agreed that a request to meet with the Technical Committee to discuss certain items of the Ad Hoc Committee's brief be made to the Planning Committee.

6 **Next Meetings**

It was agreed that the next meeting of the Committee would take place during the Negotiating Council luncheon recess on Wednesday, 4 August, and again during the same period on Thursday, 5 August.

7 **Closure**

The meeting was closed at 17h00

These minutes were ratified at the meeting of the Ad Hoc Committee on the Independent Electoral Commission Act of 1993 and the amended version signed by the Chairperson of the original meeting on

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CHAIRPERSON

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