

**EMBARGOED  
UNTIL TABLING IN THE NEGOTIATING COUNCIL  
ON WEDNESDAY 8 NOVEMBER 1993**

**FOURTH VERSION  
OF THE DRAFT ELECTORAL BILL  
CLAUSES 1 - 41  
BY THE  
TECHNICAL COMMITTEE ON THE ELECTORAL BILL**

**8 November 1993**

## **B I L L**

**To regulate elections for the National Assembly and any other legislature to be elected in terms of the Constitution of the Republic of South Africa Act, 1993; and to provide for matters in connection therewith.**

**BE IT ENACTED** by the State President and the Parliament of the Republic of South Africa, as follows:-

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## CHAPTER I

### Interpretation and Application of Act

#### Definitions

1. In this Act, unless the context otherwise indicates -

"**Administration Directorate**" means the Election Administration Directorate established by section 19 of the Commission Act;

"**alliance party**" means any alliance party registered in terms of section 20;

"**Appeal Tribunal**" means an Electoral Appeal Tribunal established in terms of section 30 of the Commission Act;

"**armed force**" means any armed force not established by or under any law and which is under the authority and control of, or associated with and promotes the objectives of, any party;

"**ballot box**" means any ballot box referred to in section 29;

"**ballot paper**" means any ballot paper referred to in section 30;

"**candidate**" means any person whose name appears on a list of nominations by any registered party to be a member of the National Assembly or any other legislature in terms of the Constitution and this Act;

"**Chief Director**" means the Chief Director: Administration appointed to that office by the Commission in terms of section 20(1) of the Commission Act;

"**Chief Director: Monitoring**" means the person appointed to that office by the Commission in terms of section 23(1) of the Commission Act;

"**Commission**" means the Independent Electoral Commission established by section 4(1) of the Commission Act;

"**Commission Act**" means the Independent Electoral Commission Act, 1993;

"**Constitution**" means the Constitution of the Republic of South Africa Act, 1993;

"**controlled area**" means any controlled area contemplated in section 25(1)(c);

"**counting officer**" means any counting officer appointed in terms of section 7(1)(b)(iii);

"**counting station**" means any place determined by the Commission in terms of section 42 where the counting of votes is to take place;

"**deputy director**" means any deputy director appointed in terms of section 20(1) of the Commission Act;

"**directorate**" means the Administration or Monitoring Directorate;

"**district electoral officer**" means any district electoral officer appointed in terms of section 7(1)(b)(i);

"**election**" means any election conducted in terms of the Electoral Act for the National Assembly or any other legislature;

"**election centre**" means any election centre contemplated in section 25(1)(a);

"**election material**" means any ballot papers, counterfoils, envelopes, statements and other documentation used in connection with the voting in an election;

"**Electoral Code of Conduct**" means the Electoral Code of Conduct contained in Schedule 2;



"**electoral district**" means any electoral district demarcated by the Commission by regulation;

"**electoral officer**" means any deputy director, any provincial or district electoral officer or his or her deputy, any counting officer or any voting officer;

"**Electoral Tribunal**" means an Electoral Tribunal established in terms of section 28 of the Commission Act;

"**foreign voting station**" means any foreign voting station established in terms of section 26;

"**identification mark**" means the mark approved by the Commission for the purpose of the identification of a voter who has voted in the election in terms of section 36(4);

"**inner perimeter**" means any inner perimeter contemplated in section 25(1)(b);

"**interim party liaison committee**" means the interim party liaison committee established in terms of section 5(1)(a);

"**international observer**" means any person appointed as a representative of the United Nations, the Organization of African Unity, the European Community, the Commonwealth and any other inter-governmental organization or foreign government accredited for that purpose by the Subcouncil on Foreign Affairs of the Transitional Council in consultation with the Department of Foreign Affairs in order to observe and report on the electoral process;

"**monitor**" means any person appointed as such in terms of section 24(1)(a) of the Commission Act;

"**Monitoring Directorate**" means the Election Monitoring Directorate established by section 22 of the Commission Act;

"**National Assembly**" means the National Assembly which together with the Senate shall constitute the Constitutional Assembly as contemplated in the Constitution;

"**observer**" means any observer registered as such with the Monitoring Directorate in terms of section 24(1)(b) of the Commission Act;

"**official mark**" means the mark determined by the Chief Director, for the purpose of the identification of a ballot paper having been officially issued in terms of section 36(6)(a) or 41(3);

"**other legislature**" means any legislature contemplated in the Constitution, excluding the National Assembly and Senate;

"**party**" means any registered party, and any party, organization or movement of a political nature which publicly supports or opposes the policies, candidates or cause of any registered party, or which propagates non-participation in any election or the non-acceptance of the results certified by the Commission;

"**party election agent**" means any party election agent appointed in terms of section 13(1) or (3)(c);

"**party election district agent**" means any party election district agent appointed in terms of section 13(1)(c);

"**party election national agent**" means any party election national agent appointed in terms of section 13(1)(a);

"**party election provincial agent**" means any party election provincial agent appointed in terms of section 13(1)(b);

"**party liaison national committee**" means the party liaison national committee established in terms of section 5(3)(a);

"**party liaison provincial committee**" means the party liaison provincial committee established by section 5(3)(b);

"**party voting agent**" means any party voting agent appointed in terms of section 13(5);



"**prescribe**" means prescribe by regulation under this Act or the Commission Act;

"**presiding officer**" means any presiding officer appointed in terms of section 7(1)(b)(ii);

"**province**" means any province of the Republic determined as such in terms of the Constitution;

"**provincial electoral officer**" means any provincial electoral officer appointed in terms of section 7(a)(a);

"**qualified person**" means any person qualified in terms of the Constitution to serve as a member of the National Assembly or other legislature;

"**registered party**" means any party registered in terms of Chapter IV;

"**regulations**" means the regulations made under section 66;

"**Republic**" means the Republic of South Africa, including any of the Republics of Transkei, Bophuthatswana, Venda or Ciskei;

"**Secretariat**" means the Election Adjudication Secretariat established by section 25 of the Commission Act;

"**Secretary**" means the person appointed to that office by the Commission in terms of Section 26(1) of the Commission Act;

"**Senate**" means the Senate as contemplated in the Constitution;

"**South African citizen**" means a citizen of the Republic;

"**Special Electoral Court**" means the Special Electoral Court established by section 32(1) of the Commission Act;

"**special vote**" means any special vote contemplated in section 40 and 41;

"**special voter**" means any voter entitled in terms of section 41 to record his or her vote as a special voter;

"**State**" means the Republic;

"**temporary voter's card**" means any voter's card issued in terms of section 17;

"**this Act**" includes the regulations;

"**Transitional Council**" means the Transitional Executive Council established by section 2 of the Transitional Executive Council Act, 1993;

"**voter**" means any eligible voter as contemplated in the Constitution and this Act;

"**voter's eligibility document**" means a valid passport, an identity document or a temporary identity certificate issued in terms of the Identification Act, 1986 (Act No. of 1986), or any other law of the Republic, as the case may be, or a voter's card or a reference book issued in terms of the repealed Blacks (Abolition of Passes and Co-ordination of Documents) Act, 1952 (Act No. 67 of 1952);

"**voting compartment**" means any voting compartment referred to in section 28;

"**voting day or days**" means the voting day or days fixed in terms of section 22(1);

"**voting materials**" means voting compartments, ballot boxes, ballot papers, instruments, seals and other requisites for the purposes of conducting the election;

"**voting officer**" means any voting officer appointed in terms of section 7(1)(c);

"**voting period**" means the voting day or days determined in terms of section 22(1); and

"**voting station**" means any voting station referred to in section 25.

### **Application of Act**

2. The provisions of this Act shall apply in respect of elections held in terms of the Constitution for the National Assembly or any other legislature.



## **Act binding on State and State President**

3. (1) This Act shall bind the State.
- (2) This Act shall bind the State President in so far as he or she shall be obliged to act in accordance with the advice of the Transitional Council wherever so provided for in this Act.

## **CHAPTER II**

### **Administration**

#### **Administration of Act**

4. The provisions of this Act shall be administered by the Commission which in such administration shall endeavour to create an environment which generates confidence in the electoral process and the secrecy of the ballot.

#### **Party liaison committees**

5. (1) The Transitional Council shall -
  - (a) as soon as practicable establish an interim party liaison committee which shall continue until the party liaison national committee has been established in terms of subsection (3)(a); and
  - (b) appoint a chairperson for such committee, who may or may not be a person contemplated in subsection (2), who shall determine the procedures to be followed at the meetings thereof : Provided that if a person contemplated in subsection (2) is so appointed as chairperson, the party represented by such person on such committee may designate another representative in his or her place.
- (2) The interim party liaison committee shall consist of such representatives of parties as may be appointed for that purpose by the Transitional Council.
- (3) Upon publication of the notice contemplated in section 21 the Commission shall -
  - (a) establish a party liaison national committee consisting of all party election national agents of all registered parties participating in the election whether in respect of the National Assembly or the other legislatures; and
  - (b) establish party liaison provincial and local committees consisting of all party election provincial and district agents, as the case may be, of all registered parties participating in the election whether in respect of the National Assembly or the other legislatures.
- (4) The Commission shall attempt -
  - (a) appoint a chairperson for each of the committees contemplated in subsection (3) who shall determine the procedures to be followed at the meetings thereof; and
  - (b) a representative of the Commission to serve on any such committee.



(5) Notwithstanding the provisions of subsection (3) the Commission may require any registered party which is unrepresented on any party liaison provincial or local committee to appoint a representative to attend the meetings of such committee and to serve thereon.

#### **Functions of party liaison committees**

6. A party liaison committee contemplated in section 5 shall not make decisions but shall

- (a) establish liaison between the Commission and the parties represented thereon and between such parties regarding election matters, including -
  - (i) the administration of the electoral arrangement in general;
  - (ii) staffing;
  - (iii) the number and location of voting and counting stations;
  - (iv) the demarcation of electoral districts; and
  - (v) the number and location of foreign voting stations;
- (b) be a forum in which the parties represented on such committee may -
  - (i) discuss matters of concern with a view to obviating the incidence of infringements of the Electoral Code of Conduct and, if possible, resolving same without the necessity for formal complaint and investigation procedures; and
  - (ii) consult regarding the need for and formulation of regulations governing matters in connection with the election.

#### **Appointment and control of electoral officers and staff**

7. (1) Subject to sections 15 and 20 of the Commission Act, the Chief Director shall, in respect of any election proclaimed in terms of this Act, in consultation with the Commission, appoint -

- (a) a provincial electoral officer and one or more deputies in respect of each province;
- (b)
  - (i) a district electoral officer and one or more deputies in respect of each district;
  - (ii) a presiding officer in respect of each voting station; and
  - (iii) one or more counting officers in respect of each counting station, or subject to such consultation, authorize any such appointment by any provincial electoral officer; and
- (c) one or more voting officers in respect of each voting station as he or she may consider necessary for the effective administration of the election, or subject to such consultation, authorize any such appointment by any provincial or district electoral officer.

(2) Subject to section 15 of the Commission Act, the Chief Director, any provincial or district electoral officer or any counting officer may, if authorized thereto by the Chief Director, appoint other staff as may be necessary for the effective administration of the election.

(3) All electoral officers, and staff appointed in terms of this section, shall be under the control and carry out the instructions of the Chief Director.

(4) In the appointment of staff in terms of this section an endeavour shall be made to appoint a broad cross-section of the population, including women.



(5) In effecting any appointment in terms of subsection (1), the Commission shall invite and, where given within 48 hours after submission to the interim party liaison committee or the party liaison national committee, as the case may be, of a proposal regarding any such appointment, consider, but shall not be bound by, the advice of any such committee.

(6) No appointment made in terms of subsections (1) or (9) or removal from office in terms of subsection (7) shall be subject to appeal or review.

(7) Notwithstanding anything to the contrary contained in this Act or any other law any presiding, voting or counting officer may be removed from office by the Chief Director or his or her delegate on account of -

- (a) misconduct;
- (b) inability to perform the duties of his or her office efficiently;
- (c) his or her absence without the prior permission of the Chief Director or his or her delegate;
- (d) his or her incompetence;
- (e) displaying bias; or
- (f) his or her unsuitability for office.

(8) Subject to subsection (5), in the event of a removal from office contemplated in subsection (7), compensation shall be the only remedy available.

(9) In the event of the death of any officer contemplated in subsection (1), any removal from office contemplated in subsection (7) or the ceasing to hold office by any such officer for any other reason, the Chief Director or his or her delegate or the provincial or district electoral officer or his or her respective deputy, as the case may be, may appoint a person in the place of such officer.

#### **Powers, duties and functions of provincial electoral officers**

8. (1) Subject to the control of the Chief Director, the provincial electoral officer shall assume responsibility for the administration, organization, supervision and conduct of the election for both the National Assembly and the other legislature in the province in respect of which he or she has been appointed.

(2) In addition to the powers, duties and functions conferred or imposed by the other provisions of this Act, the provincial electoral officer shall have such other powers, duties and functions as may be prescribed.

#### **Powers, duties and functions of district electoral officers**

9. (1) Subject to the control of the provincial electoral officer, the district electoral officer shall have such powers as may be delegated to him or her by the Chief Director under section 21(4) of the Commission Act in respect of the administration, organization, supervision and conduct of the election in the electoral district in respect of which he or she has been appointed.

(2) In addition to the powers, duties and functions conferred or imposed by the other provisions of this Act, the district electoral officer shall have such other powers, duties and functions as may be prescribed.



### **Powers, duties and functions of presiding officers during voting**

10. (1) The presiding officer at a voting station shall have power to -
- (a) take such steps as may be necessary for the orderly conduct of the voting, including the regulating of the number of voters to be admitted at a time to the election centre and the inner perimeter; and
  - (b) exclude from the election centre and the inner perimeter all other persons except -
    - (i) members, employees and representatives of the Commission;
    - (ii) the Chief Director and any electoral officer concerned;
    - (iii) any party voting agent entitled in terms of section 13(5) to be present at a voting station;
    - (iv) any other person authorized by the Commission to be present as a monitor or international or other observer;
    - (v) any such prescribed number of candidates as the presiding officer may allow;
    - (vi) any such interpreters, staff and other persons as the presiding officer may allow; and
    - (vii) any person recording his or her vote.

(2) Subject to subsection (1)(b), no person shall enter or remain in an election centre or inner perimeter without the permission of the presiding officer.

(3) The presiding officer shall take all reasonable steps for the protection of persons and property, and for preventing any violence or disturbance in or in the vicinity of the voting station.

(4) The powers conferred by this section shall not be so exercised as to prevent any person who is entitled to vote, from having an opportunity to record his or her vote.

(5) In addition to the powers, duties and functions conferred or imposed by the other provisions of this Act, the presiding officer shall have such other powers, duties and functions as may be prescribed.

### **Powers, duties and functions of voting officers at voting stations**

11. (1) Voting officers shall assist the presiding officer in the exercise of the powers and the performance of the duties and functions of the presiding officer in terms of this Act and carry out his or her lawful instructions.

(2) In addition to the powers, duties and functions conferred or imposed by the other provisions of this Act, the voting officer shall have such other powers, duties and functions as may be prescribed.

### **Powers, duties and functions of counting officers**

12. (1) Subject to the control of the provincial electoral officer, the counting officer shall have such powers as may be delegated to him or her by the Chief Director under section 21(4) of the Commission Act in respect of the administration, organization and conduct of the counting of the votes in the area concerned.

(2) In addition to the powers, duties and functions conferred or imposed by the other



provisions of this Act, the counting officer shall have such other powers, duties and functions as may be prescribed.

(3) The provisions of section 10 shall, in so far as they are capable of being applied, mutatis mutandis apply to a counting officer.

### **Appointment and powers, duties and functions of party election and voting agents**

13. (1) Upon registration in terms of sections 19 and 20 the party concerned shall by written notice to the Chief Director -

- (a) if the party is contesting the election for the National Assembly, appoint a party election national agent and his or her deputy and a party election provincial agent in respect of each province, and shall furnish the names and business addresses of such party election agents;
- (b) if the party is not contesting the election for the National Assembly, appoint a party election provincial agent and his or her deputy in respect of each province in which it is contesting the election, and furnish the names and business addresses of such party election agents; and
- (c) when so required by the Commission, appoint a party election district agent in respect of any electoral district within 10 days after notification of such requirement and furnish the name and business address of such party election agent.

(2) The party election national or provincial agent shall attend and represent the registered party at meetings of the party liaison national or provincial committee, as the case may be, and all other fora which the Commission, a Chief Director of a directorate or the provincial electoral officer in its, his or her discretion may constitute in respect of an election.

(3)(a) A registered party which has appointed an election agent may at any time revoke such appointment.

(b) When a registered party revokes an appointment under paragraph (a) or if any party election agent resigns, becomes incapacitated or dies, the registered party shall forthwith inform the Chief Director or the provincial electoral officer concerned in writing of such revocation, resignation, incapacity or death.

(c) A registered party shall as soon as practicable but not later than five days after the occurrence of any vacancy in terms of paragraph (a) or (b), fill such vacancy by appointing any other person as party election agent and shall forthwith notify the Chief Director or the provincial electoral officer concerned in writing of the name and address of the person so appointed: Provided that in the case of a party election national agent, such appointment shall be made within 48 hours of the vacancy having occurred.

(4) A record of all appointments and information noted in terms of this section shall be kept as a matter of public record by the Chief Director and the provincial electoral officer concerned for public scrutiny and a copy of each such notice shall be submitted to each presiding officer in the district concerned.

(5) A party election provincial agent shall in the prescribed manner appoint such number of party voting agents as may be prescribed for the purposes of monitoring voting



at a voting station and counting of votes on behalf of a registered party.

(6) No person shall be appointed as party election or voting agent unless he or she is a person entitled to vote in terms of section 15 and 16.

### **Declaration of secrecy**

14. Before assuming or performing any of the duties or functions assigned to him or her by or under this Act, every officer or agent referred to in this Chapter shall make a declaration of secrecy, under oath or affirmation, in the prescribed form and in accordance with the prescribed procedure.

## **CHAPTER III**

### **Franchise**

#### **Persons entitled to vote**

15. Note : Under discussion by the Ad Hoc Committee.

#### **Persons not entitled to vote**

16. Notwithstanding the provisions of section 16, no person shall be entitled to vote in an election, if that person is -

- (a) subject to an order of court declaring him or her to be of unsound mind or mentally disordered or affected;
- (b) detained as a mentally ill patient under the Mental Health Act, 1973 (Act No. 18 of 1973), or any other applicable law, as the case may be;
- (c) detained under the Prevention and Treatment of Drug Dependency Act, 1992 (Act No. 20 of 1992), or any other applicable law, as the case may be.
- (d) Note : Under discussion by the Ad Hoc Committee.

#### **Temporary voters' cards**

17. (1) If the Commission considers the issuing of temporary voters' cards necessary for the purposes of the election, the Commission may -

- (a) upon receipt of an application in the prescribed manner, including the taking of a set of fingerprints of the applicant; and
- (b) upon verification to the satisfaction of the Commission of the information furnished in the application with -
  - (i) the source information at the disposal of the Department of Home Affairs; and
  - (ii) such other information furnished by any person, institution or organization at the request of the Commission,issue to such applicant who so qualifies, a temporary voter's card as provided for in this section.



(2) Unless the Commission decides otherwise, the Director-General : Home Affairs may issue temporary voters' cards mutatis mutandis in accordance with the provisions of this section under the supervision of the Commission.

(3) A temporary voters' card shall be in the prescribed form and shall contain the following particulars in respect of the applicant to whom it is issued:

- (i) The identity number referred to in section 5 of the Identification Act, 1986, (Act No. of 1986), or the date of birth or the age, if the said number has not yet been allocated;
- (ii) the full name;
- (iii) a passport size photograph with a recognizable image; and
- (iv) the home address and the province concerned.

(4) Any applicant shall qualify for the issuing of a temporary voters' card only if he or she is entitled to vote in terms of this Act, but does not possess any other valid voter's eligibility document identifying him or her as such.

## **CHAPTER IV**

### **Registration of Participating Parties**

#### **Registration for purposes of election**

18. (1) No party shall be entitled to contest an election unless such party is registered as a participant in the election in accordance with, and subject to, the provisions of this Chapter.

(2) The registration of any party in terms of this Chapter shall continue until the proclamation in the Gazette of the next election or the dissolution of the party or the adoption of a new Constitutional text in terms of section 68 of the Constitution, whichever may occur first.

#### **Application for registration for purposes of election**

19. (1) An application for the registration of a party as a participant in the election shall be submitted in the prescribed form to the Chief Director not later than 10 days after the proclamation in the Gazette of the election in terms of section 22.

(2) The application referred to in subsection (1) shall -

- (a) if the party wishes to contest the election for the National Assembly, be accompanied by a deposit of R25 000;
- (b) if the party wishes to contest the election for any other legislature, be accompanied by a deposit of R5 000 in respect of each such election it wishes to contest.

(3) The application form shall inter alia make provision for the following:

- (a) The name of the party, consisting of not more than 60 letters, which in terms of the provisions of section 30 is required to appear on the ballot paper;
- (b) the distinguishing mark or symbol in colour of the party;
- (c) such photographs as may be prescribed for the purposes of the ballot paper; and
- (d) the abbreviation, if any, of the name of the party, consisting of not more than 8 letters;



- (e) the business address of the party;
- (f) the constitution of the party;
- (g) the names and addresses of -
  - (i) the national leader;
  - (ii) the regional leaders, if any;
  - (iii) the members constituting the national executive body; and
  - (iv) the members of the regional executive bodies, if any,of the party.

(h) the names, addresses and telephonic or other means of contact of the party election national agent and the party election provincial agents and their respective deputies.

(4) No party shall be registered as a participant in the election unless a declaration in the form prescribed by the Chief Director has been signed on behalf of such party by the duly authorized representative of the party in terms of which the party commits and subjects itself, its office bearers, party officials and candidates to the Electoral Code of Conduct.

(5) The Commission shall, within three days after the 10 day period referred to in subsection (1) has expired, cause to be published in the Gazette a notice containing a complete list of applications received in terms of that subsection and inviting objections thereto by interested parties, together with the address at which copies of the original applications and supporting documents shall be available for public inspection.

(6) A copy of each document submitted to the Chief Director for the purposes of the registration of a party as a participant in the election shall be kept at the address referred to in subsection (5) for perusal by the public, and anyone who desires to inspect such a document, may do so free of charge during office hours.

(7) The Chief Director shall, upon payment of the prescribed fees, provide a copy of any document referred to in subsection (6) to any person applying therefor.

(8) (a) The Commission may disallow a proposed name, abbreviated name, distinguishing mark or symbol of a party in the event that it -

- (i) resembles the proposed name, abbreviated name, distinguishing mark or symbol, as the case may be, of any other party to such extent that, it may, in the opinion of the Commission, deceive or confuse; or
- (ii) contains anything which in the opinion of the Commission portrays the propagation of or incitement to violence or hatred or which might cause serious offence to any section of the population on the grounds of race, sex, ethnic origin, colour, sexual orientation, age, disability, religion, conscience, creed, culture or language.

(b) If the Commission is of the opinion that the name, abbreviated name, distinguishing mark or symbol of a party referred to in subsection (3) corresponds with, or substantially resembles, the name, abbreviated name, distinguishing mark or symbol, as the case may be, of another party, it -

- (i) shall take into account the fact that the party which is associated with the name, the distinguishing mark or symbol or abbreviated name, as the case may be, for the longest time, should prima facie be entitled thereto;



- (ii) may, for the purposes of subparagraph (i) -
- (aa) grant the party concerned an opportunity to deliver such proof, including oral evidence or sworn or affirmed statements by any person which, in the opinion of the Commission, could be of assistance in the expeditious determination of the matter; and
  - (bb) administer an oath or affirmation to any person appearing to testify before it.
- (9) Any objection against the registration of a party as a participant in the election, together with the reasons therefor, shall be lodged in writing with the Chief Director within 10 days after the date of the publishing of the list referred to in subsection (5).
- (10) If the Commission is of the opinion, taking into account any objections received, that any application submitted in terms of subsection (1) -
- (a) complies with the provisions of this section, it shall register that party as a participant in the election and issue to it a registration certificate in the prescribed form; or
  - (b) does not comply with the provisions of this Act, it shall afford the party an opportunity to rectify such application, but shall make its final determination not later than 28 days after the date of the proclamation in the Gazette in terms of section 22.
- (11) The Commission shall at the request of any authorized person who is investigating an alleged offence or any other matter in terms of this Act or the Commission Act, furnish such person with a certified copy of any registration certificate or written confirmation of the registration referred to in subsection (10)(a), which shall for all purposes serve as prima facie proof of such registration.

### **Registration of alliances of parties**

20. Note : Under discussion by Ad Hoc Committee.

### **Notice of registration in Gazette**

21. The Chief Director shall within three days following the expiration of the 28 day period referred to in section 19(10)(b) cause to be published in the Gazette a notice containing -
- (a) the full name and business address of the registered party;
  - (b) the distinguishing mark or symbol of the party;
  - (c) the abbreviation, if any, of the name of the party; and
  - (d) the address at which a copy of the original application and supporting documents shall be available for public inspection and lodging of written objections, if any, in terms of section 19(5).



## CHAPTER V

### Announcement of Election and Submission of Lists of Candidates

#### Determination of voting day and hours of voting

22. (1) Subject to subsection (3), the State President shall, upon the advice of the Transitional Council, by proclamation in the Gazette determine the voting period of an election as well as the hours during which the voting shall take place : Provided that the first voting day shall be at least 60 days after the day of the publication of such proclamation.

(2) The election shall, for the purposes of this Act and any other law, be deemed to have commenced on the day on which such proclamation is published in the Gazette.

(3) The voting period shall consist of one day for special votes followed by not more than two days for general voting, one of which shall be a public holiday.

#### Submission of lists of candidates to Chief Director

23. (1) A registered party shall submit in the prescribed form, to the Chief Director, the lists of candidates in respect of the National Assembly and each of the other legislatures in which such party wishes to be represented as contemplated in Schedule 5 to the Constitution, within 30 days after the date of publication of the proclamation referred to in section 22(1).

(2) The names on such lists of candidates shall appear in such order as the party may determine with a view to the allocation of representatives in that order in terms of the Constitution, subject to the provisions of section 24(2).

(3) Each list of candidates shall be accompanied by a declaration in the prescribed form signed by the duly authorized office bearer of the registered party that each person whose name appears on the list has accepted his or her nomination as a candidate of the registered party submitting that list and that he or she is a qualified person, together with the signed acceptance of such nomination by the candidate and a declaration that he or she commits and subjects himself or herself to the Electoral Code of Conduct.

(4) No documents contemplated in subsections (1) and (3) shall be received after 16:30 on the last day of the 30 day period referred to in subsection (1).

(5) The name of a candidate -

(a) shall not appear on a list of candidates of more than one party in respect of a particular legislative body; and

(b) may appear on lists of candidates in respect of the National Assembly and one other legislature.

(6) If a candidate's name appears on more lists of candidates than is provided for in subsection (5)(a) in respect of which he or she has signed an acceptance of nomination, the Chief Director shall delete the name of the candidate from all the lists on which such candidate's name appears.

(7) The registration of any party in terms of sections 19 and 20 and the right to participate in the election shall lapse automatically if any such party fails to submit a list of candidates in terms of the provisions of this section.



## **Publication of lists of candidates**

24. (1) The Chief Director shall within five days after the provisions of section 23 have been complied with, publish a notice in the Gazette in respect of the National Assembly and each of the other legislatures setting out -

- (a) in alphabetical order the names of all the registered parties; and
- (b) each list of candidates of each such registered party in the order of their nomination, compiled by the registered party in terms of section 23, and declaring that the persons whose names appear on the lists have been nominated as the candidates of the party concerned for the election and that such candidates have accepted their nominations of candidature.

(2) If any person whose name appears on a list of candidates in the notice published in terms of subsection (1)(b) is disqualified or incapacitated, withdraws his or her candidature or dies before voting day, the Chief Director shall amend such notice by a further notice in the Gazette by deletion from that list of the name of such person, and by the addition at any place on the list of the name of a qualified person who has been nominated in writing by the registered party concerned and who has accepted his or her nomination in accordance with section 23(3).

(3) A notice contemplated in subsections (1) and (2) shall also be published in such other public media as the Chief Director may consider necessary to ensure the widest possible publicity.

(4) A person whose name has in terms of a notice contemplated in subsection (2) been deleted from the lists of candidates of a registered party shall cease to be eligible as a candidate for the election in respect of the legislative body for which he or she had initially been a candidate.

(5) Any reference in this Act to a notice published in terms of subsection (1)(b) shall, in relation to such a notice which has been amended under subsection (2) be construed as a reference to such notice as so amended.

## **CHAPTER VI**

### **Preparation for Voting**

#### **Voting stations**

25. (1) A voting station shall comprise -

- (a) an election centre, representing that area of the voting station so designated by the provincial electoral officer within which a voter shall be allowed to record his or her vote;
- (b) an inner perimeter, representing that area of the voting station so designated by the provincial electoral officer -
  - (i) within which persons shall be allowed for the purposes of voting;
  - (ii) within which all other political activity shall be prohibited;
  - (iii) from which a presiding officer shall have the power to exclude a person, except the persons referred to in section 10(1)(b); and



- (c) a controlled area representing that area of the voting station within a radius of 500 metres around an election centre in respect of which a presiding officer may exercise such powers of control as may be prescribed.
- (2) The Chief Director shall under the authority of the Commission and with the assistance of the provincial electoral officer concerned determine the number and locations of voting stations in the province concerned.
- (3) No voting station shall be located at any premises ordinarily occupied by or under the control of any defence or police force or of any armed force, save where the Commission in its discretion, considers such premises to be a necessary location for the purposes of conducting a free and fair election.
- (4) The Chief Director shall, at least 45 days before voting day, publish in the Gazette and in any other public media as he or she may consider necessary to ensure the widest possible publicity a list of the locations of all voting stations determined in terms of subsection (2) and shall from time to time so determine, and, if possible, publish such additional and alternative locations of voting stations as may be necessary.
- (5) The district electoral officer, acting on the authorization of the provincial electoral officer, may provide one or more mobile voting stations in any district for the purpose of taking a vote.
- (6) A mobile voting station shall be under the supervision of the district electoral officer and shall, for the purposes of this Act, be deemed to be a voting station in that district.
- (7) The district electoral officer shall, as he or she may consider necessary and practicable, make known the locations and estimated times at which a mobile voting station shall function during voting day.
- (8) The presiding officer of a mobile voting station, any other electoral officer and any party election or voting agent may enter upon any land or building with such mobile voting station for the purpose of voting.

### **Foreign voting stations**

26. (1) The Commission shall establish such number of foreign voting stations outside the Republic at such locations, including South African diplomatic missions, as it may consider appropriate in order to facilitate voting by voters who are outside the Republic during the voting period.

(2) Any person who exercises a right to vote at any foreign voting station shall be required to make a sworn declaration or affirmation at the time of voting as to the province within which such person is ordinarily resident in the Republic, which shall be the province in respect of which his or her vote shall be counted in the election.

### **Supplying of voting materials**

27. (1) The Chief Director shall in respect of each voting day supply such voting materials to a provincial electoral officer and the presiding officer of any foreign voting station as may be necessary for the proper conduct of the election in the province and at the foreign voting station concerned.

(2) Each district electoral officer shall be responsible for obtaining voting materials



from the provincial electoral officer, and supplying to the presiding officers for the voting stations in his or her electoral district, a sufficient quantity of such materials to ensure the proper conduct of the election.

### **Voting compartment and ballot box**

28. The Commission shall determine the nature and style of the voting compartments and ballot boxes which it may consider suitable for the proper conduct of the election.

### **Ballot box**

29. (1) Not more than one hour before the commencement of the voting on each voting day at a voting station, the presiding officer shall -

- (a) satisfy himself or herself that all ballot boxes to be used on that day at such voting station are empty;
- (b) permit the inspection of all such empty ballot boxes by party voting agents, monitors and international and other observers as are permitted by the Commission in respect of any voting station;
- (c) immediately thereafter close and seal all such ballot boxes in accordance with the instructions issued by the Chief Director; and
- (d) allow such party voting agent and, in the discretion of the Commission, any international and other observer as may wish to do so to attach his or her seal to the ballot box.

(2) If any additional ballot box is used at any voting station, such additional ballot box shall be made available for inspection, closed and sealed mutatis mutandis in accordance with the provisions of subsection (1), before being made available for the depositing of ballot papers.

(3) The presiding officer at a voting station shall in the presence of the party voting agents, monitors and international and other observers referred to in subsection (1)(b) at the closing of the vote on each voting day, close and seal the openings of the ballot boxes in accordance with instructions issued by the Chief Director.

(4) A ballot box closed and sealed as contemplated in subsection 3 may not be opened, and the seal shall not be broken, except under the circumstances contemplated in section 43.

(5) The provisions of subsection (1) shall apply mutatis mutandis at the commencement of each other voting day.

(6) A presiding officer shall be responsible for the safe-keeping of all ballot boxes used at the voting station concerned in the manner prescribed until they are delivered to the district electoral officer and any person provided for in terms of section 39(1).

### **Ballot paper**

30. Note : Under discussion by Ad Hoc Committee.



## **Commencement and closing of vote at voting stations**

31. The vote shall commence and close on the hours determined in terms of section 22(1) in respect of each voting day: Provided that the presiding officer shall permit every voter who at the closing hour is inside the inner perimeter to record his or her vote.

## **CHAPTER VII**

### **Voting at Voting Stations**

#### **Place of voting**

32. Note : Under discussion by Ad Hoc Committee.

#### **Number of votes per voter**

33. Note : Under discussion by Ad Hoc Committee.

#### **Voting to be in secret**

34. A voter shall record his or her vote in secret, and no person may in any way interfere with a voter in connection with the recording of his or her vote.

#### **Identification**

35. No voter shall be permitted to vote unless he or she has presented to the presiding or voting officer a voter's eligibility document.

#### **Manner of voting**

36. (1) The voting at any election centre shall be conducted in accordance with the provisions of this Chapter.

(2) The presiding or voting officer shall ascertain -

- (a) by examining the voter's eligibility document that the voter is the person described therein for which purpose such officer shall be entitled to disregard any error which he or she may consider to be obvious; and
  - (b) in the manner prescribed in subsection (3) and, subject to the provisions of paragraph (c) of that subsection, that the voter has not already voted at the election.
- (3)(a) A voter shall not be given a ballot paper if he or she bears the identification mark.
- (b) Each party voting agent shall have the right to observe the procedure of establishing whether a voter bears the identification mark.
  - (c) The provisions of subsections (2)(b) and (4)(b) shall not apply in the case of a voter who suffers from a physical defect which, in the opinion of the presiding officer, makes the application of the said provisions impractical.



- (4) Where the provisions of subsection (3)(a) have been complied with -
- (a) the voter shall in the presence of the presiding officer or a voting officer -
    - (i) be marked by means of the identification mark on the right hand; or
    - (ii) where that is impractical or there is a religious objection thereto, be marked in the prescribed manner; and
  - (b) the voter's eligibility document shall be marked in the prescribed manner.
- (5) Subject to subsection (4)(b), a voter who refuses to have the identification mark administered to him or her in accordance with subsection (4)(a), shall not be issued with a ballot paper and shall be ordered by the presiding officer to leave the election centre and inner perimeter forthwith.
- (6) When the provisions of subsection (4) have been complied with, the presiding officer or a voting officer shall -
- (a) tear out a ballot paper from the ballot paper book and another voting officer shall mark that ballot paper on the back with the official mark; and
  - (b) hand that ballot paper to the voter.
- (7) When the voter has received the ballot paper, he or she shall -
- (a) take it to the voting compartment;
  - (b) indicate the registered party for which he or she desires to vote by placing a cross or any other mark which denotes a clear choice for a particular registered party with the instrument provided in the space provided on the ballot paper;
  - (c) display the ballot paper at the ballot box in such manner that the presiding officer or a voting officer designated by him or her may recognize the official mark; and
  - (d) place the ballot paper in the ballot box.
- (8) In the event that a voter -
- (a) spoils any ballot paper inadvertently; or
  - (b) records a vote by mistake for a party which is not of his or her choice,
- he or she shall return it to the presiding officer, who shall, if he or she is satisfied that the circumstances described in paragraph (a) or (b) have occurred, provide the voter with another ballot paper and cancel the discarded ballot paper which shall be kept separately.
- (9) The Commission shall make such arrangements to assist voters with official interpreters as it may consider practicable : Provided that if no such official interpreter is available a voter shall be permitted to make use of his or her own interpreter.

**Voters who cannot read or who are incapacitated by blindness or other physical disability from voting**

37. (1) Subject to the provisions of section 36, the presiding officer, on the application in person of any voter who is unable to read or of any voter who is incapacitated by blindness or other physical cause from voting in the manner prescribed by the other provisions of the Act shall then and there, before at least two party voting agents, mark the votes of that voter on the ballot papers in the manner directed by the voter, and place the ballot papers in the ballot box.



(2) (a) A voter who is incapacitated by blindness may apply to the Commission for the issue to him or her of a special ballot paper in which the text is printed in braille : Provided that the Commission shall not be obliged to accede to such request in the event that it considers it impracticable : Provided further that the Commission may prescribe such other matters as it may deem relevant in respect of voting by blind persons.

(b) Any such vote shall be deemed to be a special vote which shall be recorded on the day prescribed by and otherwise in accordance with the provisions of section 41.

(3) The secrecy of the voting as contemplated in section 34 shall mutatis mutandis be preserved in the application of this section.

### **Objection to voting**

38. (1) Any party election or voting agent present at a voting station may object to any voter on any of the following grounds:

- (a) That the voter is not the person described in the voter's eligibility document which he or she has submitted;
- (b) that the voter has already voted in the election; or
- (c) that the voter is not entitled to vote.

(2) Upon an objection having been lodged under subsection (1) the presiding officer shall deal with the objection in the prescribed manner.

### **Sealing of ballot boxes and other election material by presiding officer**

39. (1) Immediately after the close of the vote on each voting day, the presiding officer shall, in the presence of such party election or voting agents as may be in attendance, make up into separate packets, sealed with his or her own seal and the seal of any party voting agent and, in the discretion of the Commission, any international and other observer who wishes to attach his or her seal to it -

- (a) each ballot box entrusted to him or her, unopened;
- (b) the unused ballot papers;
- (c) the ballot papers discarded in terms of section 36(8)(a) and (b); and
- (d) the counterfoils of used and discarded ballot papers,

and shall in accordance with the instructions of the Commission mark each sealed packet and deliver the sealed packets to the district electoral officer for the district concerned without delay, or cause them to be so delivered, in accordance with the instructions of the provincial electoral officer.

(2) The packets shall be accompanied by a statement in a form prescribed by the Chief Director in which the presiding officer accounts for -

- (a) the number of ballot papers entrusted to him or her;
- (b) the number of ballot papers issued; and
- (c) the number of ballot papers not issued.

(3) The district electoral officer shall seal all the packets received from the presiding



officers concerned with his or her own seal and the seal of any party voting agent and, in the discretion of the Commission, any international and other observer who wishes to attach his or her seal to it.

(4) The district electoral officer shall furnish to the provincial electoral officer a statement in the prescribed form in accordance with the instructions of the Commission in which he or she accounts for the number of ballot papers entrusted to him or her.

(5) The district electoral officer shall ensure the safe-keeping of all the packets referred to in this section received by him or her in the prescribed manner.

### Special voters

40. (1) A voter who because of his or her illness or physical infirmity or physical disability or pregnancy will not be able to attend a voting station at any time during the voting hours on voting day, shall be entitled, subject to the provisions of subsection (2), to record a special vote as provided in section 42.

(2) A presiding officer shall at all times on the day before the first voting day during his ordinary office hours, and if necessary until 21:00 on the said day take the necessary steps to enable special voters to record their votes at the place where the office of the presiding officer is situated.

(3) A presiding officer may -

(a) at the request of a special voter who in his or her opinion is unable to attend at the place contemplated in subsection (2), call upon that voter at any time on the day and during the hours referred to in the said subsection (2) at any address in order to enable that voter to record his or her vote as a special voter; and

(b) shall, at some time on the day and during the hours referred to in paragraph (a) visit all registered hospitals and old age homes in the electoral district concerned in order to enable any special voter at such places to record his or her special vote, provided prior notice of such presiding officer's intention to visit such places for such purpose and of the address at which and the date on which and the time when he or she will be present thereat, has been given to every party election district agent in the electoral district in which such place is situated.

(4) Any party voting agent shall upon request be entitled to information in regard to special voters and upon such request be entitled to be present during the recording of the special votes.

(5) A place where special voters may record their special votes under this section shall, for purposes of this Act, be deemed to be a voting station.

(6) The Chief Director shall as soon as possible publish a notice in the Gazette indicating the places, except the places referred to in subsection (3), where voters referred to in paragraph (a) of subsection (1) may record their votes.

(7) The provisions of section 37 shall apply mutatis mutandis to special voters who cannot read or write or are incapacitated by blindness.



## Procedure of voting by special voters

41. (1) A special voter shall, when he or she intends to record his or her special vote, by means of a sworn or affirmed affidavit in the prescribed form convince the presiding officer that he or she -

- (i) will not be able to attend a voting station at any time during voting hours on voting day; and
- (ii) is entitled to record his or her vote as a special voter as provided in section 41,

and shall at the same time submit his or her voter's eligibility document.

(2) The provisions of section 36(2) to (5), inclusive, shall mutatis mutandis apply to a special voter recording his or her special vote.

(3) When the presiding officer has satisfied himself or herself that the voter is entitled to vote and that he or she has not voted in the election previously he or she shall tear from the ballot paper book a ballot paper, mark it on the back with the official mark and hand the ballot paper to the special voter concerned, together with a ballot paper envelope and covering envelope.

(4) When the special voter who wishes to vote has received the ballot paper, he or she shall -

- (a) mark it in secret in accordance with his or her choice;
- (b) fold the ballot paper so that the official stamp is visible and the manner in which he or she has marked his or her ballot paper is not visible;
- (c) place the marked ballot paper in the ballot paper envelope, close the ballot paper envelope and thereafter place it in the covering envelope; and
- (d) hand the covering envelope to the presiding officer.

(6) The presiding officer shall take the covering envelope in his or her custody, place it in a sealed ballot box as soon as possible and, if he or she is not the district electoral officer, shall transmit the sealed ballot box in the prescribed manner to the district electoral officer for the district concerned after the close of the special votes.

(7) The provisions of section 37 shall apply mutatis mutandis to special voters who cannot read or write or are incapacitated by blindness.