

**The South African
National Council for the Blind**

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**Die Suid-Afrikaanse
Nasionale Raad vir Blindes**

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World Trade Centre
Kempton Park
The Chairman
P.O. Box 307
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5/14
6 October 1993

Dear Sir

SECRET BALLOT BY BLIND PERSONS AND ELECTORAL ACT

Over the past two or three decades blind people constantly experienced problems on voting day in casting secret votes during elections. Legislation and regulations were adequate. However the officials concerned were usually familiar with some of the clauses but not all. The result was that blind people could only, with extreme difficulty, persuade the presiding officer to allow them to vote in secret. When this was not allowed (which on occasion happened) the blind person did not cast his vote at all.

Now more than ever before it is important that blind persons be allowed to vote in secret. We would like to make an urgent appeal to the Independent Electoral Commission that steps be taken to ensure that Election Officers be completely informed with regard to this matter. Despite undertakings in the past incidents did occur and we would like avoid the repetition of such incidents in the future.

In view of the prevailing circumstances it is more essential to us now that those clauses that give us the right to cast a secret vote should be included in any future legislation.

The regulations concerned, see attached, are the latest to our knowledge and appeared in the Government Gazette of 9 June 1989.

Yours faithfully,

DAAN VAN NIEKÈRK
for DR WILLIAM ROWLAND
EXECUTIVE DIRECTOR

Act No. 92, 1989

ELECTIONS AND IDENTIFICATION AMENDMENT ACT, 1989

Substitution of section 99 of Act 45 of 1979

71. The following section is hereby substituted for section 99 of the principal Act:

"Spoiled ballot papers

99. If a voter inadvertently spoils a ballot paper or accidentally votes for the wrong candidate, or accidentally has done something on the ballot paper that could lead to the rejection of such a ballot paper, he may return it to the presiding officer, who shall, if satisfied of the inadvertence, give him another paper and retain the spoiled paper, whereupon the spoiled paper shall be immediately cancelled and the fact of the cancellation shall be noted upon the counterfoil thereof." 5 10

Substitution of section 100 of Act 45 of 1979, as amended by section 69 of Act 103 of 1984

72. The following section is hereby substituted for section 100 of the principal Act:

"Voters who cannot read or are incapacitated by blindness or other physical cause" 15

100. (1) 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 this Act, shall then and there, before such agents of the candidates as may be present, mark the vote of that voter on the ballot paper [or ballot papers] in the manner directed by the voter, and place the ballot paper [or ballot papers] in the ballot box. 20

(2) The presiding officer, on the application in person of any voter who is incapacitated by blindness or other physical cause from voting in the manner prescribed by the other provisions of this Act, who has not applied to have his vote recorded by the presiding officer in terms of subsection (1), and who is accompanied by another person, shall, if he is satisfied that such person [is the father, mother, brother, sister, husband, son, daughter or friend of the voter and] has attained the age of 18 years, permit such voter to vote with the assistance of the person accompanying him, and upon such permission being granted anything which is by this Act required to be done to or by the said voter in connection with the marking of his vote may be done to or with the assistance of the person accompanying him. 25 30

(3) The name and number on the voters' list of every person whose vote is marked in pursuance of this section and the reason why it is so marked shall be entered on a separate list.] 35

Amendment of section 101 of Act 45 of 1979, as amended by section 70 of Act 103 of 1984

73. Section 101 of the principal Act is hereby amended by the deletion in subsections (1) and (1A) of the words "or ballot papers", wherever they occur. 40

Amendment of section 102 of Act 45 of 1979, as amended by section 71 of Act 103 of 1984

74. Section 102 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 45

"(1) If any candidate or his election agent or the polling agent of any candidate or any voter makes before the presiding officer a declaration on oath stating that a person enrolled on the voters' list is dead or is so incapacitated by sickness, absence or otherwise, that it is impossible that such person could be present at the polling station to record his vote at the election then being held, the presiding officer shall refuse to hand a ballot paper [or ballot papers] to any person who applies therefor in the name of the person who is the subject of the 50