

SCHEDULE

1. For the purposes of this schedule

- (a) "The regional quota" shall mean the number of seats allocated to each region calculated according to the following formula:

$$\frac{\text{Number of voters registered in the region}}{\text{Total of all voters registered in South Africa}} \times 200$$

For the purposes of this calculation fractions shall in the first instance be ignored, and the number of seats to be allocated to each region established without regard to the fractions. Each of the unallocated seats shall then be allocated between the regions in sequence according to the highest fractions until all the 200 regional seats have been allocated.

- (b) "Registered Political Parties" shall mean political parties registered as such in accordance with the provisions of an Act of Parliament which shall be empowered to prescribe that a political party have a minimum membership as a condition of registration.
- (c) "Qualifying parties" in the case of regional seats shall mean registered political parties or alliances of registered political parties which have received more than 10% of the votes cast in that region, and in

the case of national seats, shall mean political parties or alliances of registered political parties which have received more than 3% of the total of all votes cast in the election.

2. Persons entitled to vote shall register as voters in the regions in which they are ordinarily resident.
3. Each registered voter shall have one vote.
4. All registered political parties shall be entitled to enter the elections, either on their own, or in alliance with another political party or other political parties.
5. Each of the registered political parties or alliances of registered political parties shall publish a national list of its candidates, and also a regional list of its candidates for each region in which it stands for election, and such lists shall be published prior to the election at a time and in a form prescribed by Act of Parliament. The name of a candidate may appear on the national list, notwithstanding the fact that his or her name also appears on a regional list, but it may not appear on more than one regional list.
6. If an alliance of registered political parties has entered the election, its lists of candidates shall disclose the registered political party by which each candidate has been

nominated.

7. Voting shall be for the registered political parties or alliances of registered political parties which have entered the election and published a list of candidates.
8. Votes shall be counted in the region in which they were cast.
9. Regional seats shall be allocated to qualifying parties according to the following formula:

Number of votes cast in each
region in favour of the
qualifying party x The regional quota
Total of all votes cast in
each region in favour of
all the qualifying parties

For the purposes of this calculation fractions shall in the first instance be ignored and any undistributed seat or seats shall thereafter be allocated in accordance with the provisions of sub-paragraph 10 hereof.

10. Each of the undistributed seats remaining after the calculation referred to in sub-paragraph 9 shall be awarded to the qualifying party (or qualifying parties if there is more than one such seat) in sequence according to the highest fractions until the regional quota has been satisfied.

11. All votes cast in all regions in favour of all registered political parties or alliances of registered political parties shall be counted and aggregated, and national seats shall be allocated to each of the qualifying parties according to the following formula:

$$\frac{\text{Number of votes cast in favour of the} \\ \text{qualifying party}}{\text{Total of all votes cast in favour of} \\ \text{all the qualifying parties}} \times 200$$

For the purposes of this calculation fractions shall in the first instance be ignored and any undistributed national seat or seats shall thereafter be allocated in accordance with sub-paragraph 12 hereof.

12. Each of the undistributed national seats remaining after the calculation referred to in sub-paragraph 11 hereof shall be awarded to the qualifying party (or qualifying parties if there is more than one such seat) in sequence according to the highest fractions, until all the national seats have been allocated.
13. Qualifying parties which have become entitled to regional seats under the provisions of sub paragraph 9 and 10 hereof shall allocate such seats according to their regional lists, in the order in which names appear on such lists. For the purpose of such allocation the names of candidates who have died or become disqualified subsequent to the compilation of the lists, shall be eliminated.

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14. Qualifying parties which have become entitled to national seats under the provisions of sub paragraph 11 and 12 hereof shall allocate such seats according to their national lists in the order in which names appear on such lists. For the purposes of such allocation the names of candidates who have been elected to regional seats, or who have died or become disqualified subsequent to the compilations of the lists, shall be eliminated.
15. Provision shall be made by Act of Parliament for the procedures and other formalities to be followed in connection with the registration of voters, the registration of political parties, the registration of alliances of political parties, the compilation and publication of lists of candidates on a regional basis, the casting of ballots and the counting of votes and for all other matters relating to the holding of elections. Such legislation shall also make provision for all parties participating in the election of members to the National Assembly to be represented at all material stages of the election process and to be afforded a reasonable opportunity for scrutinising the counting of the votes cast in such election and the allocation of seats to the qualifying parties.

CHAPTER SIX

THE SENATE

who in his or her opinion can make a special contribution to the work of the Senate

Article 61. Composition of the Senate

The Senate shall consist of ¹¹⁰ 105 senators:-

(a) One hundred (100) of whom shall be elected by secret ballot.

(b) Ten (10) of whom shall be nominated by the President, *prior to the first meeting of the Senate*
~~but who shall have no vote.~~

They shall have all the powers and privileges of senators but shall not have the ~~of the~~ vote.

Article 62. Powers of the Senate

The Senate shall have the power to

(a) Consider and approve or refer back to the National Assembly for its further consideration in accordance with the provisions of Articles 77 and 80 hereof, all Bills passed by the National Assembly.

(b) Refer any Bill passed by the National Assembly to the Constitutional Court in terms of Article 80, if it considers that such bill is or may be contrary to the provisions of this constitution.

(c) Consider reports from Regional Administrators made in

? Local Govt.

terms of Article , and generally to enquire into and make recommendations to the President in regard to the functioning of Regional Councils, and the desirability of increasing, curtailing or amending their powers.

(d) Confirm or reject, through the appropriate committees appointed by it in terms of this Constitution or any other law, and in accordance with the provisions of this Constitution, the nomination by the President of any person or persons to be appointed to the following offices

- (i) Judge of the Supreme Court
- (ii) The Ombud
- (iii) The Director of Public Prosecutors
- (iv) The Chief of the Defence Force
- (v) The Commissioner of Police
- (vi) ^{Members of} The Public Service Commission

(vii) any other office which its any other law requires such confirmation.

(e) Enquire into, consider and report on any other matters referred to it for such purpose by the President.

(f) Perform any other functions assigned to it by the President, the National Assembly or by an Act of Parliament.

under this Constitution or

- (1) Every South African citizen who has reached the age of forty (40) years and who is not disqualified under Article 64 of this Constitution, shall be eligible for election to the Senate.
- (2) Elections for the Senate shall be conducted in accordance with Schedule() hereof, and in accordance with procedures to be determined by Act of Parliament.
- (3) Elections for the Senate shall take place at the same time as elections for the National Assembly.
- (4) Senators shall, *subject to ~~Article 67~~, article* be elected for a period of five (5) years.

Article 64. Disqualification

Any person who is disqualified from being a member of the National Assembly in terms of Article 48 of this constitution, shall be disqualified from being a member of the Senate.

Article 65. Vacation of Seats

- (1) Members of the Senate shall vacate their seats:
 - (a) if they become disqualified under Article 64; or
 - (b) If they cease to be members of the political party which nominated them to sit in the Senate; or

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- (c) If they resign their seats in writing addressed to the leader of the Senate; or
 - (d) If they cease to be ordinarily resident in the region from which they have been elected.
 - (e) If they absent themselves voluntarily from the Senate for thirty (30) consecutive sitting days, without having obtained the leave of the Senate on grounds specified in its rules and standing orders.
- (2) If a member of the Senate dies, or if the seat of a member of the Senate is vacated in terms of Sub-Article (1) hereof, the political party which nominated such member to sit in the Senate shall be entitled to fill the vacancy by nominating another person, qualified to be appointed as a senator, who is ordinarily resident in the region from which the former member was elected.

Article 66. Duration

The Senate shall continue for a maximum period of five (5) years from the date of its election, but may prior thereto be dissolved by the President by Proclamation, in the circumstances provided for in Article 67 of this Constitution.

Article 67. Dissolution of the Senate

- (1) If the President dissolves the National Assembly in

President can ~~also~~ ^{renew} continue
Senate ~~and~~ ^{for 30 days}

terms of Article 50 of this Constitution, he or she shall simultaneously, by Proclamation, dissolve the Senate.
 or within a period of not more than 30 days].

(2) Upon the expiry of the term of the Senate, or if it is dissolved in terms of Sub-Article (1) hereof, an election for a new Senate shall be held and such election shall take place on the same day as the election for a new National Assembly.

Provision for uncompleted business

(3) Notwithstanding any dissolution of the Senate under this Constitution, whether by effluxion of time or otherwise -

(a) every person who at the date of the dissolution is a member of the Senate shall remain a member thereof;

(b) The Senate shall remain competent to perform its functions; and

(c) The President shall have the power to reconvene the National Assembly and the Senate for the dispatch of business,

during the period following such dissolution up to and including the day immediately preceding the polling day for the election held in pursuance of such

dissolution, in the same manner in all respects as if the dissolution had not occurred.

- (4) The President shall by Proclamation convene the first sitting of a newly elected Senate to take place on the ^{not later than 14 days} ~~same day as the first sitting of the newly elected~~ ^{after his or her election} ~~National Assembly.~~

Article 68. Quorum

The presence of at least twenty-five (25) ^{entitled to vote} senators, other than the Leader of the Senate or the person presiding at a meeting of Senate, shall be necessary to constitute a valid meeting for the exercise by the Senate of its powers and for the performance of its functions.

Article 69. Leader and Deputy Leader of the Senate

- (1) At the first meeting of a newly elected Senate, and before proceeding to the dispatch of any other business, the Senate, with the Secretary of the Senate acting as Chairperson, shall elect one of its members to be the Leader of the Senate. The Senate, with the Leader presiding, shall then elect a Deputy Leader from amongst its members and whenever the Leader is not available, the Deputy Leader shall act as Leader of the Senate and for that purpose, shall have all the powers vested in the Leader of the Senate by this Constitution.

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- (2) The Leader of the Senate, or in his or her absence the Deputy Leader shall preside over meetings of the Senate.
 - (3) The Leader or Deputy Leader of the Senate shall vacate his or her office if he or she ceases to be a member of the Senate, may be removed from office by a resolution of the Senate, and may resign by resignation tendered in writing under his or her hand to the President.
 - (4) When the office of Leader of the Senate becomes vacant, the Senate shall in like manner elect one of its members to fill the vacancy.
 - (5) When neither the Leader or Deputy Leader of the Senate is available to preside at any meeting of the Senate, the Senate, with the Secretary acting as Chairperson, shall elect one of its members to act as Leader for as long as may be necessary.

Article 70. Casting Vote

The Leader, or Deputy or Acting Leader presiding at a meeting of the Senate, shall have and exercise a casting vote in the case of equality of votes.

Article 71. Oath/Affirmation

Every member of the Senate shall make and subscribe to an oath

or solemn affirmation before the Chief Justice, or a judge designated by the Chief Justice for this purpose, in the terms set out in Schedule ().

Article 72. Privileges and Duties

- (1) Members of the Senate shall bear no legal responsibility for the statements expressed by them and for the votes cast by them in the course of conducting the official business of the Senate.
- (2) Rules providing for the privileges and immunities of members of the National Assembly shall be of equal application to members of the Senate, and all members of the Senate shall be entitled to the protection of such privileges and immunities.
- (3) All members of the Senate shall regard themselves as servants of the people of South Africa and seek to discharge their duties with dignity and integrity.
- (4) Any statute, or resolution of the National Assembly, requiring members of the National Assembly to make disclosure in regard to their financial or business affairs, shall be of equal application to members of the Senate.

Article 73. Public Access to Sittings

sessions of the Senate shall be held in public and members

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of the public and media shall have access to such meetings: provided that reasonable safeguards may be instituted to search or refuse entry to persons in order to protect members of the Senate.

Article 74. Committees

- (1) The Senate may make rules of procedure for the conduct of its business and proceedings and may also make such rules for the establishing, functioning and proceedings of committees, and formulate such standing orders, including restrictions on access to such committees as may appear to be expedient or necessary, having regard to the business of such committees.

- (2) For the purposes of exercising its power and performing its functions any committee of the Senate established in terms of Sub-Article (1) hereof shall have the power to subpoena persons to appear before it to give evidence on oath and to produce any document required by it, and to hear and receive representations from interested parties.

Article 75. Sessions

- (1) The Senate shall sit:
 - (a) in Cape Town, unless the Leader of the Senate

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- directs otherwise on the grounds of public interest, security or convenience;
- (b) for at least one session during each year in order to discharge their functions under the Constitution, and such sessions shall commence and terminate on such dates as the Senate from time to time determines;
- (c) for such special sessions as may be directed by Proclamation by the President from time to time;
- (d) for such special sessions as are required in terms of the provisions of this constitution.
- (2) During such sessions the Senate shall sit on such days and during such times of the day or night as the Senate by its rules and standing orders may provide.
- (3) The date of commencement of any session of the Senate may be altered by Proclamation by the President, if the President is requested to do so by the Leader of the Senate on grounds of public interest or convenience.

Article 76. Requisite Majorities

Each elected member shall have one vote, and save as provided in this Constitution, a simple majority of votes cast in the Senate

shall be sufficient for the passage of any Bill, decision or resolution of the Senate.

Article 77. Review of Legislation

- (1) All Bills, which have been passed by the National Assembly, shall as soon as possible thereafter be referred by the Speaker of the National Assembly to the Leader of the Senate for consideration by the Senate.
- (2) The Senate shall consider every Bill referred to it under Sub-Article (1) and shall confirm the Bill, or refer such Bill back to the National Assembly either with amendments proposed by it, or with a statement adopted by a two-thirds majority of its members, indicating that it rejects the principle of such Bill and the reasons therefor, or shall refer such Bill to the Constitutional Court under the provisions of Article 80 of this Constitution.
- (3) If a Bill is referred back to the National Assembly by the Senate on a simple majority, with a recommendation that such Bill be amended, the National Assembly shall reconsider the Bill. If upon such reconsideration the Bill is reaffirmed by the National Assembly, either in the form in which it was originally passed, or with any amendments proposed by the Senate the Bill shall not require to be confirmed by the Senate, and shall

be referred by the Speaker of the National Assembly to the President to be dealt with in terms of Article 82 of this Constitution.

- (4) If a Bill is referred back to the National Assembly by the Senate by a majority of two-thirds of the Senate, with a statement that the Senate objects to the principle of the Bill, or with a recommendation that such Bill be amended in particular respects, the National Assembly shall reconsider the Bill, and if a two-thirds majority of the National Assembly re-affirms the Bill either in the form in which it was originally passed, or with any amendments proposed by the Senate, the Bill shall not require to be confirmed by the Senate, and shall be referred by the Speaker of the National Assembly to the President to be dealt with in terms of Article 82 of this constitution.
- (5) If the National Assembly fails to re-affirm a Bill in terms of under Sub-Article (4) hereof by a two-thirds majority of its members, the Bill shall be held over until the first session of the National Assembly in the following year, when the National Assembly (be it the same Assembly or a new Assembly) may then reconsider the Bill, and if it again passes the Bill, either in the form in which it was originally passed by the National Assembly, or with any amendments proposed by the Senate, the Bill shall not require to

be confirmed by the Senate, and shall be referred by the Speaker of the National Assembly to the President to be dealt with in terms of Article 82 of this Constitution.

- (6) A Bill shall be deemed to be the same Bill as a former Bill sent to the Senate if it is identical with the former Bill or contains only such alterations as are certified by the Speaker of the National Assembly to be necessary owing to the time which has elapsed since the date of the former Bill.

Article 78. Taxation and Appropriation of Revenue

Notwithstanding the provisions of Article 77 of this Constitution, if the National Assembly passes a Bill imposing taxation, or dealing with the appropriation of revenue or monies for the services of the government, and the Senate rejects or proposes amendments to such Bill, the Bill shall forthwith be referred back to the National Assembly for its consideration, and if it so resolves, the Bill with or without any of the proposed amendments shall not require to be confirmed by the Senate and shall be referred by the Speaker of the National Assembly to the President to be dealt with in terms of Article 82 of this Constitution.

Article 79. Time Limits

- (1) Any Bill other than a Bill mentioned in Article 78 of

this Constitution, shall be confirmed by the Senate or referred back to the National Assembly within ninety (90) days of the date on which such Bill was referred to the Senate, failing which, the Senate will be deemed to have confirmed such Bill, and the Speaker of the National Assembly shall thereupon refer the Bill to the President to be dealt with in terms of Article 82 of this Constitution.

- (2) A Bill mentioned in Article 78 of this Constitution shall be confirmed by the Senate or referred back to the National Assembly within thirty (30) days of the date on which such Bill was referred to the Senate, failing which, the Senate will be deemed to have confirmed such Bill, and the Speaker of the National Assembly shall thereupon refer the Bill to the President to be dealt with in terms of Article 82 of this Constitution.

Article 80. Referral of a Bill to the Constitutional Court

- (1) If the Senate passes a Resolution to the effect that it is of the opinion that a Bill, or any provision thereof, is or may be unconstitutional, such opinion shall be recorded in a resolution, a copy of which shall forthwith be referred by the Leader of the Senate to the Speaker of the National Assembly.
- (2) Notwithstanding the passing of a Resolution in terms

of Sub-Article (1) hereof, the Senate shall consider the Bill in terms of Article 77 of the Constitution, and thereafter refer the Bill back to the National Assembly to reconsider the Bill in the light of the Resolution taken in terms of Sub-Article (1) hereof, and any recommendation or statement that may have been made in terms of Article 77(3) or 77(4) of this Constitution.

- (3) If upon reconsidering the Bill the National Assembly reaffirms the Bill in accordance, insofar as they may be applicable, with the provisions of Articles 77(3) or 77(4) of this Constitution, and by Resolution expresses the opinion that the Bill, or the relevant provision thereof, is constitutional, then notwithstanding the provisions of Article 77 of this Constitution the Bill shall be sent back to the Senate.
- (4) If the objection of the Senate is directed only to a particular provision of a Bill, any Resolution taken by the National Assembly in terms of Sub-Article (3) hereof shall indicate whether it wishes the Bill to be withdrawn or enacted without the relevant provision, should the Constitutional Court subsequently rule that the relevant provision is unconstitutional.
- (5) If, notwithstanding the Resolution of the National

Assembly and any amendments that might have been made to the Bill, the Senate passes a Resolution within fourteen (14) days of the Bill having been referred back to it in terms of Sub-Article (3) hereof recording that it is still of the opinion that the Bill, or the relevant provision thereof, is unconstitutional, the Leader of the Senate shall forthwith refer the Bill to the Registrar of the Constitutional Court, with a request that the Constitutional Court consider and give a decision upon the dispute between the Senate and the National Assembly concerning the validity of the Bill or the relevant provision thereof.

- (6) If a resolution in terms of Sub-Article (5) hereof is not passed within the prescribed time, the Bill shall be deemed to have been confirmed by the Senate and shall be referred by the Speaker of the National Assembly to the President to be dealt with in terms of Article 82 of this Constitution.
- (7) If the Bill is referred to the Constitutional Court in terms of Sub-Article (5) hereof, and such Court decides that the Bill, or the relevant provision thereof, is constitutional, the Bill shall thereupon be referred by the Leader of the Senate to the President to be dealt with by the President in terms of Article 82 of this Constitution.

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- (8) If the Constitutional Court decides that the Bill is unconstitutional, the Bill shall thereupon lapse.
- (9) If the only issue concerns a particular provision of the Bill, and the Resolution of the National Assembly taken in terms of Sub-Article(4) hereof was to the effect that in such event the Bill should be enacted without the relevant provision, the Leader of the Senate shall refer the Bill, without the relevant provision, to the President to be dealt with in terms of Article 82 of this Constitution. If the Resolution of the National Assembly was not to that effect, the Bill shall lapse.

Article 81. Confirmation by the Senate

Save as set out in Articles 77, 78, 79 and 80 of this Constitution the Senate shall be required to confirm all Bills initiated in the National Assembly, before such Bills are referred to the President to be dealt with in terms of Article 82 of this Constitution.

CHAPTER SEVEN
PRESIDENTIAL ASSENT

Article 82. Presidential Assent to Bills

- (1) Bills which have been passed by the National Assembly, and if required by this Constitution have been confirmed by the Senate, shall as soon as possible thereafter and save as set out in the Constitution be submitted by the Leader of the Senate to the President for his or her assent.
- (2) If the President assents to a Bill, such assent shall be signified by the President signing the English version of the Bill, which for this purpose shall be the language of record, and by the publication of the signed Bill in the Gazette.
- (3) Upon publication of the signed Bill in the Gazette, the Bill shall become an Act of Parliament, and subject to the provisions of this Constitution, shall have the force of law throughout the Republic of South Africa.

Article 83. Withholding of Presidential Assent to Bills

- (1) The President shall within thirty (30) days of any Bill having been placed before him or her, sign the Bill, or refer it back to the National Assembly with

a recommendation that it be amended in particular respects, or deal with it in terms of Article 84.

- (2) If a Bill is referred back to the National Assembly by the President in terms of Sub-Article (1) hereof, and the National Assembly affirms the Bill without such proposed amendment, the Bill shall again be referred to the President by the Speaker, and the President shall then assent to the Bill in the manner prescribed by Article 82(2) of this Constitution.
- (3) If the Bill is referred back to the National Assembly in terms of Sub-Article (1) hereof, and it affirms the Bill with some or all of such proposed amendments, the Bill shall then be referred to the Senate to be dealt with in terms of Article 77 of this Constitution.

Article 84. Referral of a Bill to the Constitutional Court

- (1) The President may within thirty (30) days of any Bill having been placed before him or her for assent, other than a Bill referred to in Article 80 of this Constitution cause such Bill to be referred to the Constitutional Court for its opinion in regard to the validity of the proposed legislation, if the President believes that such Bill or any provision thereof is or may be unconstitutional.
- (2) If the President decides to refer a Bill to the

Constitutional Court for its opinion in terms of Sub-Article (1) hereof, the President shall inform the Speaker of the National Assembly of the aspect or aspects of the Bill which he or she believes are or may be unconstitutional, and the Speaker shall forthwith take the steps necessary to have the matter referred to the Constitutional Court for its opinion.

- (3) If the Constitutional Court is of the opinion that the Bill is constitutional, the Registrar of the Constitutional Court shall inform the Speaker of the opinion of the Constitutional Court, and the Speaker shall as soon as possible thereafter inform the President thereof and refer the Bill to the President for his or her assent, and the President shall then assent to the Bill in the manner prescribed by Article 82(2) of this Constitution.
- (4) If the Constitutional Court is of the opinion that the Bill, or any provision thereof, is unconstitutional, the Bill shall lapse: provided that the Bill in an amended form, which meets the judgment of the Constitutional Court, may again be introduced into the National Assembly in the ordinary manner, and shall thereafter be dealt with in the ordinary way in the manner prescribed by this Constitution.

Article 85. Signature and Enrolment of Acts of Parliament

- (1) Any valid Act of Parliament which has been passed and assented to in the manner prescribed by this Constitution shall be lodged in the office of the Registrar of the Constitutional Court, and such copies shall be conclusive evidence of the provisions of the Act.

- (2) The public shall have the right of access to such copies subject to such regulations as may be prescribed by Resolution by the National Assembly in order to protect the durability of such copies, or for the convenience of the Registrar's staff.

SCHEDULE

1. For the purposes of this schedule

- (a) "The regional allocation" shall mean the number of seats allocated to each region calculated according to the following formula:

$$\frac{\text{Number of } \textit{registered voters} \text{ cast in the region}}{\text{Total of all votes cast in the election}} \times 200$$

For the purposes of this calculation fractions shall in the first instance be ignored, and the number of seats to be allocated to each region established without regard to the fractions. Each of the undistributed seats shall then be allocated between the regions in sequence according to the highest fractions until all the 200 regional seats have been allocated.

- (b) "Registered Political Parties" shall mean political parties registered as such in accordance with the provisions of an Act of Parliament.
- (c) "Qualifying parties" in the case of regional seats shall mean registered political parties or alliances of registered political parties which have received more than 10% of the votes cast in that region, and in the case of national seats, shall mean political parties or alliances of registered political parties

which have received more than 3% of the total of all votes cast in the election.

2. Persons entitled to vote shall register as voters in the regions in which they are ordinarily resident.
3. Each registered voter shall have one vote.
4. All registered political parties shall be entitled to enter the elections, either on their own, or in alliance with another political party or other political parties.
5. Each of the registered political parties or alliances of registered political parties shall publish a list of its candidates, indicating the regions for which they have been nominated, and such list shall be published prior to the election at a time and in a form prescribed by Act of Parliament.
6. If an alliance of registered political parties has entered the election, its list of candidates shall disclose the registered political party to which each candidate belongs.
non-party
7. Voting shall be for the registered political parties or alliances of registered political parties which have entered the election and published a list of candidates.
8. Votes shall be counted in the region in which they were