

PARTY VOTING AGENT TRAINERS MANUAL

PREFACE

This file has been prepared by a group of expert trainers and curriculum designers to serve as a resource for Party Voting Agents and Party Voting Agent trainers/organisers.

It includes material that will help you

- understand the programme that parties are running for the training of Party Voting Agents
- develop an understanding of the Electoral Law
- think about the role, duty and responsibility of the Party Voting Agent
- prepare to recruit, organise and train Party Voting Agents

The file is broken into different sections which are explained on the contents page which follows. In particular it contains a workshop design. This is to help you in your own training.

This is the last version of the manual. It was prepared on 16 March 1994. There are still many issues which have not been resolved about the regulations governing Party Voting Agents. You will need to make sure that you keep in close contact with your party as you begin your training and will have to update your presentations and this material regularly.

This file has been put together and revised with the help of the people listed later in this section. There has been continuous input from the many workshops that have been run so far. We would like to thank all trainers and participants in this programme for the committed and co-operative way they have supported the programme. It bodes well for the conduct of the election.

PARTY AGENTS TRAINING - STAFF TEAMS

National Workshops Programme: Staff CV's

This list of people are acting as training staff for one or more of the workshops being presented by the Party Agents Training Programme. Each workshop will be conducted by four staff. Amongst this training team are those who developed the curriculum (↵). Others have been recruited and trained by them.

Ms Laura Best is an advice office co-ordinator for the Northern Transvaal. She was a senior researcher with the HSRC specialising in domestic and farm worker rights. She does training of voter educators workshops for the Pretoria Independent Forum for Electoral Education

Ms Linda Blokland is a professional counsellor. She was previously involved in adult education and literacy programmes. A former member of the Institute for Effectiveness Training SA she is currently employed as a student counsellor and has a part time private practice and counsels at a community clinic in a township. She is at present designing a life-skills programme for matric students.

↵ **Mr Geoffrey Brown** is a Tutor at the Idasa Training Centre for Democracy. He is also responsible for Corporate Communications and Training. Before joining Idasa, he worked at the University of the Western Cape's Student Resource Centre as coordinator and resource developer.

↵ **Ms Rachel Browne** works for the Urban Monitoring Awareness Committee (UMAC) in Cape Town. She has worked extensively in the field of monitoring and facilitation. She is also a member of the Network of Independent Monitors. Prior to this she was a journalist and news producer with Worldwide Television News.

↵ **Ms Sue Britton** holds a Diploma in Adult Education from the University of Natal. Her training experience includes work in the fields of basic human relations, designing educational events, leadership, conflict handling, peacemaking and active non-violence, education for democracy and training of trainers. In addition to her work in South Africa, she has trained on programmes in Sweden, Belgium and Israel/Palestine.

↵ **Mr Alan Dawson** is the Director of Studies at Damelin engaged in elections management and first time voter training. He is also responsible for Local Government training at Damelin. In addition to training provided by Damelin, he has been invited to participate in multi-party training with Matla Trust and the National Democratic Institute for International Affairs.

Ms Merisa Geyer has been teaching basic literacy (English) for 3 years through the RAU Worker School and Literacy project. She trained under TELL, BESA and FAAE to teach basic life skills and competence in English.

Ms Yvette Geyer does Voter Education through IDASA in the Transvaal region. She was previously a student at University of Pretoria where she completed a BA Political Science.

↵ **Ms Chumpa Goolab** is busy completing her Masters in Women's Studies with Natal University. She is a consultant to various non-governmental organisations on assessing training needs, curriculum design and gender issues. Prior to this she taught communications at the Council for Black Education and Research.

↵ **Mr Paul Graham** is Director of the IDASA Training Centre for Democracy. Prior to joining IDASA he was a tutor in the Community Organisations Programme of the Centre for Adult Education at the University of Natal.

↵ **Dr Patrick Maduna** is a medical doctor by profession but has been in the Kangwane Government for the last 5 years holding the portfolios of Health, Justice and then Home Affairs. He was chairperson of the CODESA working group 3 (on the constitution). He retired from party politics in

March and is presently a consultant to IDASA.

Mr Benny Makena is national co-ordinator for the Human Rights Education Project of Lawyers for Human Rights. He has many years of training experience in the fields of conflict resolution, bills of rights, voter education and the constitution. He operates in the rural and urban areas around Pretoria.

Mr Peter Maibela is a voter educator for the Community Law Centre in Pretoria. He is a member of a Dispute Resolution Committee. He teaches local government and industrial relations.

Mr Richard Martin has tertiary training in Adult Education, Literacy and Economics. He is a freelance consultant on community development, education and training in the Western Cape.

Mr Paul Maseko is an independent political and management consultant. He was employed by IDASA as a Regional Director in Natal and then Community and Corporate Liaison Director in 1992 and 1993. He is currently studying for a Masters degree in Business Administration.

Mr Gary Morrison has been an Industrial Relations Consultant for the last 3 years. His responsibilities have included regular training workshops for management and workers in industrial relations, disciplinary and grievance procedures.

Ms Pravierina Naidoo has a background in Primary Health Care education. Seconded to the TEC during its set up, she is now studying for a role in the health services.

Mr Noby Ngombane conducts political leadership training - training party officials in election preparation. He provides voter education training for local communities in the Western Cape. He is currently busy with studies in international relations on theories and practice of diplomacy and foreign affairs relations.

Mr Epraim Nkoe is a post-graduate student at the Wits Business School. He has several years experience in youth leadership training programmes.

♪ **Dr Sibusiso Nkomo** is leading the development of the Masters in Public Management and the curriculum review of the diploma programme at the newly founded Graduate School of Public and Development Management at the University of the Witwatersrand. Before joining Wits, he lectured at the Hague, British Civil Service College in England, and Clark University in the United States. He served as Chairperson of the Political Science Department at Lincoln University and the founding Director of the Centre for Public Policy and Diplomacy at the same institution. He has worked with the World Bank, Ford Foundation, Social Science Research Council and the USA Council on Foreign Relations. He also published articles with leading development analysts.

Ms Marie-Louise Strom is a tutor in the Training Centre for Democracy of IDASA. She co-produced the rural voter education material "You can vote" and is responsible for the annual teachers winter school for democracy. She taught at Rhodes University before moving back to Johannesburg where she was a secondary school teacher.

Mr Sello Ramasala is a senior researcher in the Law Reform project of LHR. He runs workshops for lawyers around constitutional issues. Prior to this he worked in an advice office and graduated from the University of the North.

♪ **Mr Vincent Williams** is the National Programme Co-ordinator for IDASA and is based in Cape Town. He was previously a regional co-ordinator for IDASA responsible for designing and facilitating local negotiation processes. Before joining IDASA he co-ordinated a community based video education and training project. He also worked for the Catholic Church where he was responsible for youth leadership training programmes.

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16 March 1994

FILE CONTENTS

This file is in sections to help you find what you need. When you receive notes during the workshop they will be colour coded. If they have punched holes, you can file them in the right sections.

BRIGHT BLUE PAGES

The introduction to this file and to the training workshop is to be found on the bright blue pages you are reading now.

CREAM SECTION

Background reading on the role, duties, and responsibilities of a Party Agent. This is collated in the BACKGROUND READER FOR VOTING AGENT TRAINERS AND ORGANISERS.

PINK SECTION

Workshop and training materials. Designs for workshops with times, detailed programmes, and materials lists are in **Pink**. Handouts and lecture notes are in **White** so that they can be photocopied for your use.

YELLOW SECTION

This section contains the final pre-production draft of the HANDBOOK FOR PARTY VOTING AGENTS. The final version will be prepared and published by the IEC and made available to all Party Voting Agents. This section does not therefore need to be distributed to trainees.

GREEN SECTION

Legislation relating to the elections. It contains the IEC Act, the Electoral Act (and amendments), and "Questions and Answers." These include answers based on published regulations which are obtainable from party headquarters. Regulations tend to be procedural and do not substantially alter the Acts.

BLUE SECTION

At present the file contains a summary description of the programme agreed to by the parties in the Plenary Meeting.

WHITE SECTION

Parties will be encouraged to send you their own material so that your file becomes useful not only in a multi-party way, but in your work as an official of a party. You will want to file your own notes here.

**Background Reader
for
Party Voting Agent
Trainers and Organisers**

Contents

Introduction.....	3
Party Voting Agents.....	5
What is a party voting agent?.....	5
Why are party voting agents necessary?.....	5
What do party voting agents need to know?.....	6
The Electoral Process.....	7
Party Voting Agents: Some Important Comments.....	10
The Electoral Code of Conduct.....	10
Spirit of the election.....	10
Election officials.....	11
The Functions, Responsibilities, and Rights of a Party Voting Agent.....	13
Before voting day.....	13
On voting day or days.....	14
Counting the votes.....	18
After the counting.....	20
Conclusion.....	21

Introduction

South Africa is going through a process of transition in which the forthcoming election is but one milestone. Indeed, the election is an important milestone. It will provide an opportunity for all South Africans to choose the political party that they believe can best address the problems they face.

Elections, in general, are essential to representative democracy and development. Meaningful elections only can be realised, though, if an environment conducive to honest, free and fair elections can be ensured. Party voting agents will help to ensure that such an environment is prevalent at the voting stations and counting stations to which they are assigned. The role that party voting agents play during the election is extremely important; for they will contribute to the success of the transition by ensuring that the election has strong participation from voters and that it is free and fair.

Party voting agents will not be unique to South Africa. Different countries call them by different names -- poll watcher, scrutineer, party monitor, party observer, etc. We have decided to use the term party voting agent.

A party voting agent is someone who represents his or her party at a voting station or a counting station or both. The most important responsibility of a party voting agent is to support the democratic process and to contribute to the election being free, fair, honest, and just.

Party voting agents work as volunteers. They are expected to be present at the voting station or the counting station or both from the beginning of the process right to the very end. Party voting agents not only protect the interests of their political party during the voting counting processes, but by acting as a witness to the election, will also defend the civil rights of all South African citizens.

This reader has been prepared so that party voting agent trainers and organisers will have a summary of the role, duties, and responsibilities of party voting agents. It is based on information available through comparison with other elections and the various current South African electoral laws. At the time at which the reader was written, some of the rules and regulations that will govern the election were not yet finalised. These rules and regulations will be made by the Independent Electoral Commission in accordance with the Electoral Act.

Party voting agents and party voting agent trainers and organisers need to be familiar with the provisions of the Electoral Act and the rules and regulations made by the Independent Electoral Commission, particularly in relation to the role of party voting agents and the voting and counting procedures. Party voting agents and trainers and organisers are also encouraged to obtain copies of the rules and regulations as soon as they are available.

Party Voting Agents

What is a party voting agent?

A party voting agent is a representative of a political party appointed by one of that party's Party Election Provincial Agents, to be present at a voting station or counting station or both on the day or days of voting and counting to monitor the proceeding on behalf of his or her party. A party voting agent can be a member of, an official of, or any other representative of a political party, but must be an eligible voter. A party voting agent does not need any special education, though it certainly will be good if the person has some training. After being appointed by his or her party, the agent must be registered with the Independent Electoral Commission.

A Party Election Provincial Agent is a representative of a political party who is appointed by the party at the time the party registers with the Independent Electoral Commission for the election. Similarly, a Party Election National Agent is a representative of a party who is appointed by the party at the time the party registers with the Independent Electoral Commission for the election. Party Election District Agents also may be appointed. The Party Election National Agent (or the Party Election Provincial Agent or Party Election District Agent with respect to matters concerning a province or district) will represent the party at any meetings of the Independent Electoral Commission, and will serve on the party liaison committees.

Why are party voting agents necessary?

There is some concern that during, or after the election, the various parties may accuse one another of intimidating voters, cheating, or corruption. If intimidation, cheating, or corruption does happen, it will mean that the election will not be free and fair and the results will not be accepted. For this reason, all parties will be given the opportunity to appoint people whom they trust to monitor the election and to make sure that it is free and fair. Party voting agents should not only represent the interests of their party. It is important that as many problems as possible should be avoided. Party voting agents must, therefore, also contribute to the spirit of the election -

to insure that it is free and fair. They must assist in the smooth-running and peaceful nature of the election. In other words, party voting agents must not unnecessarily interfere with the election procedure.

What do party voting agents need to know?

Party voting agents need to know and understand the electoral laws -- the Electoral Act, the Independent Electoral Commission Act, and the rules and regulations made by the Independent Electoral Commission. The electoral laws will contain all the rules and regulations about the election. They also will explain what party voting agents are allowed to do - their rights and responsibilities. A party voting agent who does not know and understand the electoral laws will not be able to do much on the day or days of voting and counting of the votes to help insure a free and fair election. It is expected that the Independent Electoral Commission will finalize the rules and regulations sometime in February 1994. However, some of the laws are already known. The rest of this reader will explain what is currently known.

The Electoral Process

In November 1993, the Multi-party Negotiating Process reached agreement about the mechanisms required to prepare South Africa for an election. The agreements were passed by Parliament in December 1993. Below is a brief outline of the transitional process up to, and including the election as it is currently envisaged.

November-December 1993

Passing of the Interim Constitution - The Interim Constitution contains the blueprint for the interim government which is the subject of the election. It also contains guarantees for fundamental rights. The interim constitution will come into effect at the time of the voting.

Passing of the Electoral Act - The Electoral Act is the law which will guide the electoral process. It contains an electoral code of conduct for political parties and other rules and regulations to govern political party activities, duties of election officials and detailed procedures for voting and counting the votes, and other rules and regulations for the election.

Establishment of the Transitional Executive Council (TEC) - The TEC is responsible for overseeing the current South African government during the process leading up to the election. It has subcouncils to take particular responsibility for law and order, stability, and security; foreign affairs; regional and local government, and traditional authorities; defence; finance; intelligence; and the status of women.

The following structures have been or will be appointed by the State President and the TEC.

Independent Election Commission (IEC) - The IEC will administer and monitor the election, and after the election, determine whether the election was free and fair. This all will be done in accordance with the Electoral Act. The IEC works through three directorates:

Administration - responsible for administering the election;

Monitoring - responsible for monitoring the election; and

Adjudication - responsible for the administrative needs of the electoral courts.

The IEC will be an independent body - it will not be part of, or controlled by any political party or organisation or government. Everything to do with the election will be controlled by the IEC.

Independent Media Commission (IMC) - The IMC will regulate the use of the media during the electoral process and will ensure that all parties have equitable access.

Independent Broadcasting Authority (IBA) - The IBA will assign new broadcasting licenses to commercial, community, and public broadcasters.

January-February 1994

All parties that are going to participate in the election are registered with the IEC. Thereafter, the parties will be required to submit candidate lists and adhere to the Code of Conduct.

July 1993 - April 1994

Many political parties and organizations have already started campaigning for support in preparation for the election. It is expected that these campaigns will continue until just before the election. The official campaign, however, began when the State President in consultation with the TEC officially announced the voting period. Campaigning will cease

48 hours before the voting period, except that political meetings and rallies may be held up until 12 hours before the voting period.

April 1994

The voting period is April 26 to April 28. The first day is for special votes. April 27 is a public holiday and the first day of general voting.

Party Voting Agents - Some Important Comments

The Electoral Code of Conduct

As a trainer of party voting agents you should read and familiarize yourself with the electoral laws as thoroughly as possible and discuss them with your fellow trainers. Amongst the sections in the Electoral Act, you will find an electoral code of conduct for political parties. It is particularly important that you understand this section as this forms the backbone of being a successful party voting agent. There is a summary of the electoral code of conduct in the attached HANDBOOK FOR PARTY VOTING AGENTS. In addition, party voting agents also need to know the duties of electoral officials, the relationships between party voting agents and electoral officials, the rights and responsibilities of voters, and the processes of voting and counting the votes.

Spirit of the election

The electoral laws are subject to interpretation. Party voting agents might find that on the day or days of voting, situations arise which require them to consult the electoral laws and interpret their meaning. It is possible that the electoral officials will come up with different interpretations. It is for this reason that the spirit of the election should be the guiding factor. It is important that the process leading up to, and including the actual voting should be free and fair. Party voting agents must attempt to engender this spirit. Below are some suggestions.

- Work cooperatively with other party voting agents and electoral officials.
- Use discretion at times of tension or potential conflict, but use the electoral laws as your guide.
- Create an atmosphere of cooperation to achieve a common goal - a free and fair election.

The party voting agents are at the voting stations and counting stations to help facilitate the smooth-running of the elections.

Therefore, it is essential that party voting agents do not unnecessarily interfere with the procedures.

Election officials

On the day or days of voting, there will be many people present at the voting station, in addition to the people who come to vote. Exactly who will be allowed inside or within a certain distance of the voting station, what they will be allowed to do, and exactly what they will be called is explained in the electoral laws. Below is a list of people whom the party voting agent can expect to see.

Presiding Officer: This person will be employed by the IEC and will be in charge of, and responsible for everything that happens inside and within a certain distance of the voting station, in accordance with the electoral laws.

Voting Officers: Like the Presiding Officer, these persons will be employed by the IEC. Their function is to assist the Presiding Officer.

Monitors: These persons will be employed by the IEC. They will monitor and report to the IEC on the electoral process - including the voting and the vote counting.

Observers: These persons will be representative of domestic or international independent organizations, such as churches and NGOs. They will be registered with the IEC. Their presence contributes to the general smooth-running and spirit of the election.

International Observers: These persons will be representative of foreign governments or intergovernmental organizations such as the UN, and will be accredited by the TEC Subcouncil on Foreign Affairs. They will be co-ordinated by the UN.

Safety officers: These persons will be responsible for ensuring

that the events at the voting station and counting station proceed in a peaceful manner. They will comprise the National Peacekeeping Force established by the TEC, but also may include the South African police.

Counting Officers: This person will be employed by the IEC and will be responsible for the counting of the votes at a particular counting station. The counting may be done at the voting stations or at other locations to be determined by the IEC.

Enumerators: Like the Counting Officer, these persons will be employed by the IEC. Their function is to assist the Counting Officer.

The Functions, Responsibilities, and Rights of a Party Voting Agent

Before voting day

Register - If your Party Election Provincial Agent has appointed you as one of your party's party voting agents, they will send your name to the IEC. You must make sure that you go to the nearest IEC office (your Party Election Provincial Agent will tell you where this will be) as soon as possible to register as a party voting agent. You will need identification and a letter from your party which confirms your appointment and the voting station to which you have been assigned. You will be required to take an oath not to disclose how individuals voted if you become aware of this information during your duties on voting day (declaration of secrecy). The IEC registration officer will give you a registration card which you need to present to the Presiding Officer on the days of voting and counting.

Meet with the Presiding Officer, other officials, and other party voting agents - If it is at all possible, you should try to meet with the Presiding Officer and other electoral officials a few days before voting. This is not only so you can meet them, but also to discuss various arrangements for voting day. Some of the things which you may want to discuss are access to emergency services such as first aid, doctors, ambulances, and the fire department, and the availability of telephones, toilet facilities, and water and refreshments.

Attend briefings - If you hear about meetings at which party voting agents will be briefed about their role during the election, try to attend these if possible. You will obtain up-to-date and useful information.

On voting day or days

Make sure you have what you need

- ID and party voting agent registration card
- copy of electoral laws and handbook for party voting agents
- pen
- paper or notebook
- torch or candles, particularly in rural areas
- calculator (to count votes)
- food and drinks
- telephone number - way of contacting your Party Election Provincial Agent, Party Election National Agent, and Party Election District Agent, and the Independent Electoral Commission

Report to the Presiding Officer more than one hour before the voting station opens - The voting stations open at 7:00 am. When you arrive at the voting station, present your credentials and sign in if required. Meet the Presiding Officer, the voting officers, other party voting agents, monitors, and observers. Note the presence of any other person.

Check the physical set-up (outside and inside) of the voting station for

- ease of access and exit,
- secrecy of the voting compartments,
- the availability of emergency services, toilets, water, and telephones, and
- the distance of 600 meters (or such lesser area determined by the Provincial Electoral Officer) around the voting station. The distance is considered the inner perimeter of the voting station. Campaigning will be prohibited in that area. In addition, the Presiding Officer will have the power to keep persons not authorized out of the area.

Check the voting materials - All the materials which will be used during voting (ballot papers, ink, etc.) must be set out in a certain

order, as prescribed by the IEC. Part of your job is to ensure that it is set out correctly.

Check the ballot box - Not more than one hour before the opening of the voting station, the Presiding Officer must show party voting agents, observers, and international observers that the ballot box is empty. Immediately thereafter, the box will be closed and sealed by the Presiding Officer. As a party voting agent you may ask him or her to do this if it is not done. You are permitted to place a party seal on the box.

Check the ballot papers - Check to see how many ballot papers were issued for use at the voting station.

Cast your vote - After you have checked all of the above and you are satisfied, you may be able to vote. This is partly to test the set-up of the voting station, but also so that you do not forget to cast your vote. You may, however, not be permitted to vote until after the voting station officially opens. If this is the case, you should vote sometime during the day when there is not a large queue waiting to vote.

Record the opening of the doors - The TEC will prescribe at which time the voting station must open for voting. At the prescribed time, the Presiding Officer will call for the opening of the door and the voting process to begin. This time will be noted by the Presiding Officer. It is advisable that you write down the time, particularly if the voting station opens late.

Regularly check the voting process - It is not possible for you to watch all the proceedings at the same time. It is thus advisable to do spot-checks - watch one thing at a time very carefully while also keeping an eye on the rest of the proceedings. Spot-checks are particularly important during the first hour or two. Below is a list of the things you need to spot-check.

ID Check: Determine whether the voter has appropriate identification showing that the person is a SA citizen or a permanent resident, and is at least 18 years of age. Determine that the person is the person identified on the identification document and that the identification document is not forged. Also

determine that the identification has not been marked showing that the person has voted before.

Hand check: Determine that the person has not got a mark on his or her hand showing that he or she has voted before.

ID and hand marking: Immediately before a person is handed a ballot paper, his or her identification document and hand are marked with special ink. This is done to identify a person who has already voted and to prevent him or her from voting more than once. Make sure that this is done.

Ballot paper issue: Determine that each person is issued a single ballot paper that is officially marked for each vote they must cast. They will get a National Assembly ballot paper and then, after they have put this in the box, a Provincial Legislature ballot paper.

Voting: You may not view the actual voting. You should make sure that the voter is alone in the voting compartment and that no-one can see how he or she votes. *Special Cases - Illiterate, blind, and disabled voters - An illiterate, blind, and physically disabled person, at his or her request, may be assisted in the mechanics of voting by the Presiding Officer. If a Presiding Officer marks a ballot paper for such a person, it must be done so in the presence of at least two authorised people other than officials. A blind or disabled person also may be assisted in the mechanics of voting by a friend who is at least 18 years old. Spoilt ballot papers - If any voter spoils a ballot paper or mistakenly marks a party not his or her choice, he or she may return the ballot to the Presiding Officer. The Presiding Officer will cancel the ballot and place it with other spoilt ballot papers and separate from the other ballot papers. The voter will be provided with another ballot paper.*

Ballot box: Make sure that the voter puts the folded ballot paper into the ballot box, without showing the vote to or giving the ballot paper to anyone. Also insure that the ballot paper is marked with the official mark.

Exit: As soon as a person has voted, he or she should leave the voting station without delay.

Note that the procedures discussed are done by IEC appointed electoral officials and your role is to make sure that they carry out their duties in terms of the electoral laws.

Tips for party voting agents

Watching people - Throughout the process of voting, keep an eye on other party voting agents, electoral officials, observers, monitors, peacekeeping forces, and any other people in the voting station to ensure that they perform their functions in accordance with the electoral laws.

Irregularities - Write down in your notebook and the official journal, if one is available, any irregularities, disputes, or procedural confusion which occur throughout the day and bring them to the attention of the Presiding Officer as they occur.

Dispute resolution - When disputes, irregularities or procedural confusion or problems arise, make sure you (or another party voting agent from your party) are part of any discussions to resolve them. Attempt to resolve such issues in the spirit of the election and in terms of the electoral laws. If disputes are not resolved by those in the voting station, you should bring them to the attention of your Party Election Provincial Agent, immediately by phone or when he or she visits the voting station from time to time.

Record the closing of the doors - The official time at which voting stations must close is 7:00 pm. Sometimes it may be necessary to extend the voting hours. If this happens, write down for how long

and why it was necessary.

Verify the accounting for all ballot papers - Insure that the Presiding Officer

- (1) seals the opening of the ballot box or boxes,
- (2) seals and records the number of unused ballot papers, and
- (3) seals and records the number of spoiled ballot papers.

The Presiding Officer must deliver such materials to the District Electoral Officer who will account for the materials to the Provincial Electoral Officer. Insure that all communication occurs and is open to scrutiny.

Sign the official journal - The Presiding Officer may be required to keep a journal to record the events of the day. You could even suggest this if it is not specified in the electoral laws. The journal will record any problems, disputes, and complaints by any of the voting station members. The party voting agent must read the journal, add any further comments, and when satisfied, may be required to sign it. The journal will be sent to the IEC and will be used to determine what happened at a particular voting station.

Counting the votes

The place for counting the votes will be determined by the IEC. Each party will be informed of the time and place or places.

Verify the accounting for all ballot papers - Insure that the counting officer in the presence of the district electoral officer verifies that the seals of all ballot papers and boxes are intact. Thereafter, the sealed ballot boxes will be opened, ballot papers will be accounted for, and then the votes will be counted.

Observe the counting of the votes - The counting of the votes is the responsibility of the Counting Officer. Party voting agents will not get physically involved in the counting procedure. Instead, they should carry out a parallel count. This means that while the votes are sorted and recorded, the party voting agent also will record the number of votes for each party. Party voting agents may need additional training in conducting a parallel count. Party voting agents can object to the counting of a vote on a ballot paper if

- on the ballot paper there is more than one vote recorded,
- the ballot paper does not appear to be official, or
- the vote is unclear.

The party voting agents also may dispute rejected ballot papers, in which case the ballot paper will be so recorded.

Challenging the vote count

Once the counting has been completed (and recounts may be necessary), it has to be recorded on the official tally. The Counting Officer will advise the party voting agents of the official tally and give the party voting agents the opportunity to challenge that tally. If you believe the tally is inaccurate, you must challenge it and give reasons immediately. If the Counting Officer refuses to conduct a recount, you should lodge an appeal to the Independent Electoral Commission.

At any time during the counting or verifying of the ballot papers, you have the right to object to irregularities and to have the Counting Officer determine how your allegation should be handled. Also, all such instances must be reported to the Chief Director of the Administration Directorate of the Independent Electoral Commission.

Insure proper accounting for all ballot papers - Party voting agents also should verify that the counting officer encloses in and seals separate packets of

- all counted ballot papers,
- all rejected ballot papers,
- all disputed rejected ballot papers,
- all disputed accepted ballot papers,
- all unused ballot papers,
- all spoilt ballot papers, and
- all counterfoils of used and spoilt ballot papers.

All of the packets should be delivered to the Chief Director of the Administration Directorate of the IEC immediately.

After the counting

Remain available to regional party officials - Party voting agents should remain available to Party Election Provincial Agents in the event that there are inquiries regarding the voting procedure of a particular voting station or the counting procedure of a particular counting station. The end of the voting day or the counting day does not mean the end of the process. It is only when the results are finally announced that the process will be over.

The results can only be announced two days after the voting ends. Part objections must be made within this 48 hour period and before the results are announced. The results must be announced within 10 days - so you may be required to provide information to your party for some time if there were any problems at your voting or counting station.

Conclusion

Many of the exact details regarding the rules and regulations that will govern the election are made by the by the Independent Electoral Commission. It is important that all the people who will be responsible for the training of party voting agents should obtain a copy of the rules and regulations as they become available. This will help to fill in the gaps which may occur in this guide and will also help party voting agents understand more fully what their role should be. You should be able to obtain copies from your party or from the Independent Electoral Commission.

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PARTY AGENTS TRAINING PROGRAMME
Workshop design for training of trainers
Version: 1 February 1994

TRAINERS DESIGN

This design has been prepared for PARTY TRAINERS who will conduct workshops to train Party Voting Agents at local level. There are 12 HOURS of programme time. Trainers will have to decide exactly what is essential and work out times for sessions according to their programme outline. Allowance must be made for breaks.

WORKSHOP OBJECTIVES

The purpose of this programme is to train party officials so that they can exercise their responsibility as party voting agents on the election days. In particular the training of party election agents should aim to achieve the following:

- 1 A common understanding of the new Electoral Act, the structures, resources available to political parties, access to voter registration, the electoral process, the rules governing it and the code of conduct that all parties should adhere to.
- 2 Knowledge of electoral malpractice; what constitutes electoral fraud, vote rigging, intimidation and how to avoid this .
- 3 An understanding of the role of monitoring in reducing political tension and skills training in conflict resolution.
- 4 Practical skills for monitoring the electoral process.
- 5 The ability to train others in their organisation to be effective election monitors.
- 6 To build up equal knowledge and a common interpretation of the rules, which will promote acceptance of the notion that the election result, however unpopular for a particular party, has to be accepted if the election has been deemed to be free and fair.
- 7 To contribute towards the creation of an atmosphere of political tolerance within communities to ensure free and fair elections.

TEA AND LUNCH BREAKS

Breaks should be taken in the programme between steps rather than during an exercise or discussion. Short breaks can be taken if participants are in need of a stretch. Trainers should go through the programme before they begin each workshop and decide on where they will break.

OUTLINE PROGRAMME

The initials below appear on the details programme as a guide to the steps that should be completed in any training programme.

- A Overview and introduction
- B Election day simulation
- C The Electoral legislation
- D The Count
- E Pre-voting Period Monitoring
- F Election walkthrough
- G The party voting agent's preparation
- H Creative Communication Skills
- I Party Agents' Simulation
- J Evaluation

The detailed programme is printed in a table with **five** columns:

- STEP TIME** This is the time the particular step should take when you are conducting training. It is a guide.
- CLOCK TIME** When sitting down to plan your training workshop, you will want to write into this block the actual time that you will start each step. For example, if your workshop starts at 8:30, you will write **8:30** into the first **CLOCK TIME** block and **8:45** into the next one.
- PROGRAMME STEP** Here you will find a description of what you as a trainer should do with your trainees. When planning you will want to read this section very carefully and work out exactly how the step will work with the numbers you have in your workshop.
- WHO** If you are working with others, you should decide who does each step.
- RESOURCES & MATERIALS** Each step may take some resources and materials which you will have to prepare. You may need to draw posters, duplicate notes, or have worksheets. Your file will always have the information you need to prepare and may actually have a master copy of the resource - but with the election simulation you may need to make some basic materials yourself.

PAGE NUMBERING

While the programme has page numbers, master copies of handouts do not. Make sure that you have what you need before running a workshop.

PROGRAMME OUTLINE

STEP TIME	CLOCK TIME	PROGRAMME STEP	WHO	RESOURCES & MATERIALS
15m A		<p>OVERVIEW</p> <p>Plenary: Trainers give an overview of the objectives and outline of the overall programme and the workshop</p>		Circulated memorandum
30m B		<p>ELECTION DAY SIMULATION</p> <p>Plenary: Introduction to the voting simulation. While introducing the voting cycle volunteers will be called upon to take particular roles - which will be explained to them in the plenary. Trainers will receive certain roles.</p> <p>Presiding Officer - Trainer ID Checking - 2 volunteers Hand checking - 2 volunteers Hand marking - 2 volunteers IEC safety - 2 volunteers IEC door control - 1 volunteer Independent monitors - 2 volunteers Police (optional) - 1 volunteer Party Agents - 10 volunteers Shadows - Trainer/ workshop staff</p> <p>Shadows have the role of watching the simulation and identifying critical incidents for later discussion. They will hand out numbered and coloured cards in order to keep track of these.</p> <p>All those without a role will vote in the simulation which is designed to establish the context within which the PA will have to operate and to ensure that all participants have an experience of the voting centre.</p>		<ul style="list-style-type: none"> ● Election paraphernalia ● Role cards and identification materials
45		<p>Plenary simulation: The simulation will run without interruption until all voters have cast their ballot. Any mid-simulation process decisions will be taken by the simulation director. 'In game' decisions will be monitored by the shadows for later discussion.</p>		As above

STEP TIME	CLOCK TIME	PROGRAMME STEP	WHO	RESOURCES & MATERIALS
30	30min	<p>DEBRIEFING</p> <p>Plenary:</p> <ol style="list-style-type: none"> 1. Participants in the role play will remain at their posts and each post will be asked to describe one exceptional incident and how they reacted to it. Shadows will assist. 2. Those with roles will return to their seats, leaving identification at the posts. 3. In buzz groups participants will discuss observations about the simulation. 4. In plenary an informal report back and brief discussion will focus on these general observations. <p>Issues relating to the role and duties of party agents will be noted but not discussed in detail.</p>		
20		<p>4 Groups in plenary venue: Participants will group around 2 party agents. Groups will discuss the questions on the handout. The purpose of this group work is to discover issues relating to acting as a party agent during voting.</p>		Structured interview schedule
70 C		<p>THE ELECTORAL ACT</p> <p>Plenary and small groups: Overview of the Electoral Act and ancillary legislation followed by discussion in small groups of problems related to particular sections of the legislation and its interpretation</p> <p>The staff overview should focus on the Act contents page and draw attention to sections 6, 13, 36 and the schedules.</p> <p>After the group discussion, a short plenary should get report back about interesting debates from the groups.</p>		<ul style="list-style-type: none"> ● Legislation overview ● Problem cards and Act references

STEP TIME	CLOCK TIME	PROGRAMME STEP	WHO	RESOURCES & MATERIALS
60 D		<p>THE COUNT</p> <p>Plenary demonstration: Making use of the role players and ballot box from the simulation, a count will take place in front of participants and party agents. An overview of legislation relating to counting and the role of the party agent will be given</p>		<ul style="list-style-type: none"> ● Legislation overview ● Vote count schedules
30		<p>Small groups: Discussion of the count demonstration and problems relating to the count and certification</p>		
10 E		<p>PRE VOTING PERIOD MONITORING</p> <p>In plenary: Introduce the purpose of the exercise, which is to explore monitoring needs prior to voting day and how party agents might be involved.</p> <p>In buzz groups: People should discuss "What are our worst fears about what might happen during the campaign period?"</p>		
15		<p>In groups of 7-10: Participants should discuss and note down for reporting: "In the light of our fears, what needs monitoring during the campaign period?"</p>		
30		<p>In plenary: Groups report back and a list on OHP is created. The list may be categorised and sorted if necessary</p>		<ul style="list-style-type: none"> ● Blank OHP transparencies
45		<p>In same groups of 7-10: Participants discuss: "How would these needs best be dealt with and by whom?"</p> <p>A plenary report back should be conducted informally with discussion if required.</p>		
20		<p>In plenary: Staff input on the planned structures and mechanisms for violence reduction and complaints adjudication together with a summary conclusion of the points made by groups.</p>		
30 F		<p>ELECTION WALKTHROUGH</p> <p>Plenary: Trainers introduction to the election process, campaign timing and party agent registration and preparation</p>		<p>Election timetable handout</p>

STEP TIME	CLOCK TIME	PROGRAMME STEP	WHO	RESOURCES & MATERIALS
45 G		Plenary: Trainers introduction to the election day timetable and responsibilities of the party agent		Party agent guide
90 H		CREATIVE COMMUNICATION SKILLS Plenary: Staff introduce the concept of controversy and interpersonal and intergroup communication breakdowns. Ask for or give examples from the participants' experience		
		Introduce a problem situation by reading the second story aloud. Encourage discussion of the problem: "Who are the people involved? What are the issues? What are the people feeling? What is this party agent feeling?" Ask the whole group: "What advice would you give to this person how to handle the situation?" List their responses on newsprint.		● Situation sheet
		Split the participants into small groups and explain that they are going to dramatise this situation. One of them must be the party agent and try to use the advice they have been given during the discussion as well as ideas of their own. The others must play the other parts. When they have had a chance to dramatise, stop the groups and ask them to talk amongst themselves about what happened. Ask them to make a list of "Do's and dont's for a party agent in situations like this" Take a report back from groups and list on newsprint.		
		Explain that, in addition to the ideas they have, there are some special skills which they may not have mentioned. Introduce the handout.		● Theory handout on communication skills
		Introduce the exercise on controversy and run it twice - once without special instructions and then with people forced to repeat what they have heard before responding. Allow a discussion of the exercise - some may have tried skills from the handout above.		● Controversy and paraphrasing handout

STEP TIME	CLOCK TIME	PROGRAMME STEP	WHO	RESOURCES & MATERIALS
		<p>If there is still time, introduce the concept of being careful how things are said and, in plenary, try out some of the statements from the "careful speech" handout. If used, distribute this handout.</p> <p>Ask some people to explain something they have learned during this session on communication.</p>		<ul style="list-style-type: none"> • Careful listening handout
15	I	<p>PARTY AGENTS SIMULATION</p> <p>Plenary: Introduction to the closing simulation. In two groups, participants will prepare and run election simulations with 5 party agents and any incidents which they feel appropriate to introduce. Each simulation will have a staff facilitator and referees. The referees will hand out penalty cards for later discussion of problem areas and critical incidents.</p>		<ul style="list-style-type: none"> • Election paraphernalia • Penalty cards
30		Preparation for the simulation		
45		Simulation: The purpose of this second simulation is to test the ability of the party agents to intervene appropriately during the voting - and if there is time - the counting.		
45		Debriefing: discussions led by staff facilitators and referees		
30	J	<p>EVALUATION</p> <p>Plenary: Evaluation questionnaire and closing exercises</p>		Evaluation questionnaire

TRAINERS' NOTES

Party Agent Training: Detailed Programme p8

PARTY AGENT TRAINING PROGRAMME

Preparing a voting simulation

1. What you will need

- * At least two tables (four tables if possible).
- * A ballot box (you must obtain or make).
- * A voting compartment (you must obtain or make).
- * Voting papers (you will need to copy a simulated ballot paper such as the one developed by VEETU).
- * a pencil or pen.

2. How to make a ballot box

Find a medium-sized cardboard box that can be closed. Cut a slit in one side, about as wide as your hand, big enough for people to drop in their folded ballot papers.

3. How to make a voting compartment

Find a large cardboard box and cut off the top, bottom, and one side. This will leave three sides standing. Stand the voting compartment on a table.

4. How to arrange the equipment

Place two tables together to form a long, straight surface. Leave some open space and place one table on its own, with the voting booth on top, so that nobody can see into it. Place the fourth table (or a chair) next, with the ballot box on top. Place the pile of voting papers at the end of the long table. Place a pen or pencil in the voting compartment.

5. How to initiate a voting simulation

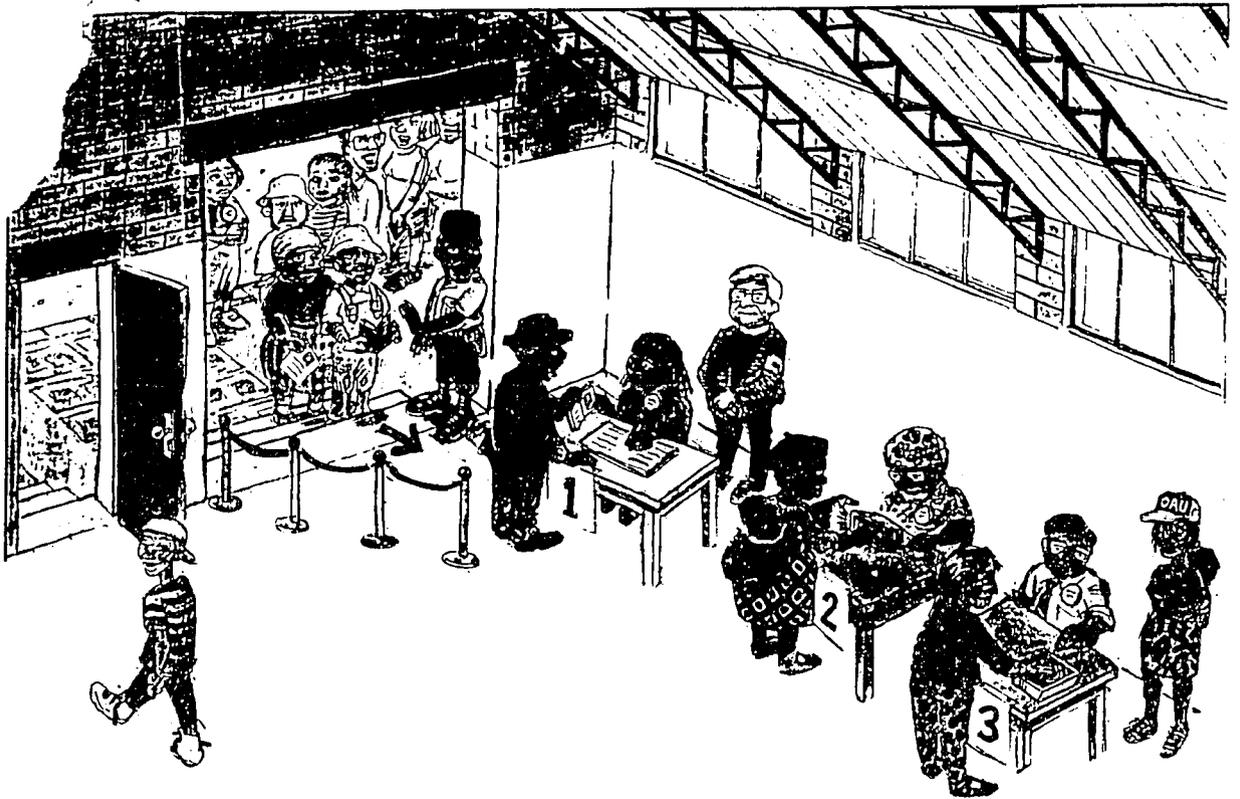
Take volunteers or appoint participants to play the roles of the following and give them brief instructions about their roles.

- * Presiding Officer to oversee everything in the voting station and to resolve all disputes. You may want to play this role.
- * Voting Officer to check identification. This person must sit or stand at the beginning of the long table.
- * Voting Officer to check hands. This person must sit or stand next to the identification checker.
- * Voting Officer to mark hands and identification. This person must sit or stand next to the hand checker.

- * Voting Officer to officially mark and issue ballot papers. This person must sit or stand next to the hand and identification marker.
- * Voting Officer to watch ballot box and insure only ballot papers with official marks are deposited. This person must stand next to the ballot box.
- * 2 observers to observe the voting station and the voting procedures.
- * 2 Party Voting agents to play the role of the party voting agents as discussed throughout this training program.

The rest of the participants will be voters. They will queue a short distance from the long table and pass through the check points one at a time, vote, and then place their folded ballot papers in the ballot box.

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VOTING PROCEDURE

1. Check identification
2. Check hands
3. Mark hands
4. Issue national ballot
5. Vote - national level
6. Deposit in national ballot box
7. Issue provincial ballot
8. Vote - provincial level
9. Deposit in provincial ballot box



(According to latest amendment of the Electoral Act)



STRUCTURED INTERVIEW

Debriefing of Party Agents

The objectives of this 20 minute session are:

to identify particular tasks which a party agent will have to perform

to identify potential problems and areas in which PA's may need further information and skills.

A staff member will use this interview schedule to guide the responses of the PA's but will also encourage questions from the other members of the group.

PA's should sit where they can be seen and heard by the whole group.

1. When you were asked to look after the interests of your party during the voting that has just happened, how did you understand your job?

2. What did you do during the simulation to make sure that your party's interests were protected?

3. What did you do, if anything, which you felt needed to be done to make the voting run more smoothly or to assist the officials?

4. Was there anything that confused or frustrated you?

5. What questions do you have now about the role and duties of the party agent?

(This question may be tackled by the whole group if time allows)

PARTY AGENT TRAINING PROGRAMME
Electoral Act problems

Choose some of these problems (or add your own) and write the problems only on newsprint or on A4 sheets for handing out to groups. Keep the answers for when the groups report back.

PROBLEMS THE PARTY VOTING AGENT MAY FACE IN THE VOTING STATION

1. An old woman arrives at the voting station and says she has forgotten her ID. She speaks fluent Xhosa. What should you do? *(Refer to Section 34 concerning identification and the definition of "voter's eligibility document." Suggested answer - Make sure that someone explains to her in Xhosa that she cannot vote without the proper identification which is either an identity document or temporary identity document, a voter's card, or a old reference book or old green card identity document. Make sure that they also explain that the woman can get her ID and return to vote.)*
2. An illiterate person asks the officials to mark his or her ballot paper. What should you do? *(Refer to Section 36 concerning voters who cannot read. Suggested answer - Make sure that at least two party voting agents from two separate parties observe that marking to insure that the Presiding Officer marks the ballot paper for the party indicated by the voter. If you are one of the party voting agents observing the official marking the ballot paper and the Presiding Officer marks the ballot paper improperly, you should object and record the incident in your journal.)*
3. It is time for the voting station to open but the ballot papers have not yet arrived. The crowds are beginning to get restless. What would you do? *(Refer to Section 26 concerning supplying of voting materials. Suggested answer - Suggest to the Presiding Officer that she contact the District Electoral Officer because it is the District Electoral Officers' duty to supply the voting materials to the Presiding Officers. You also may want to suggest that the restless crowd be informed of the situation. You also should record the incident including the time within which it was resolved.)*
4. Some youth set up a refreshment stall outside the door of the voting station and start handing out pamphlets calling on people to vote for party Y. What will you do? *(Refer to Section 24 concerning the voting station and Section 10 concerning powers and duties of Presiding Officers. Suggested answer - You must determine whether the youth are inside the election centre, inner perimeter, or controlled area of the voting station. If the youth are inside the inner perimeter as defined in Section 24(b), the Presiding Officer has the power to exclude the operation especially if the youth are campaigning. You should inform the Presiding Officer of the situation and make sure that such campaigning ceases. Section 10 also gives the Presiding Officer the power to exclude the youth whether they are campaigning or not.)*

5. You recognise someone coming in to vote whom you have seen already voting - but they have already passed the hand checking. What can you do? *(Refer to Section 37 concerning objection to voting, Section 57 concerning Personation, and the Electoral Code of Conduct. Suggested answer - You should object, informing the Presiding Officer, based on Section 37. You also should record the incident in your journal.)*
6. A handicapped person comes to vote with a friend who helps him to walk. Can the friend go into the voting compartment? *(Refer to Section 36 concerning physically disabled voters. Suggested answer - Yes, if the Presiding Officer is satisfied that the friend is at least 18 years of age.)*
7. The Presiding Officer orders you out of the voting station because she says you have been obstructing the voters. Can she do it and what should you do? *(Refer to Section 10 concerning powers and duties of Presiding Officers. Suggested answer - Sections 10(1)(a) and 10(3) seem to give the Presiding Officer such power. However, Section 10(1)(b) states that the Presiding Officer cannot exclude party voting agents from the voting station. The Independent Electoral Commission may make rules to make it clear under what, if any, circumstances the Presiding Officer can exclude a party voting agent from the voting station.)*
8. Two international observers arrive at the door and are asked to leave by the public safety officials. Should they leave? *(Refer to Section 10 concerning the powers of the Presiding Officer. Suggested answer - Only the Presiding Officer can exclude someone from the voting station. Also, accredited International Observers cannot be excluded from the voting station even by the Presiding Officer.)*
9. You find that you are the only party voting agent in the station when voting starts. Do you need to delay the start so that others can arrive? *(Refer to Section 36 concerning illiterate and disabled voters, and Sections 5 and 6 concerning the liaison committees. Suggested answer - There is no requirement for party voting agents to be present at voting stations. However, Section 36 requires party voting agents from two separate parties to observe the marking of a ballot by the Presiding Officer of a voter who is illiterate or disabled. Therefore, you might suggest that the Presiding Officer contact one of the liaison committees referred to in Sections 5 and 6 to arrange for other party voting agents to be sent to that particular voting station.)*
10. When the Presiding Officer opens the ballot box for your inspection there are already ballots in the box. What can you do? *(Refer to Section 28 concerning the ballot box. Suggested answer - You should object. You also should make sure that the box is emptied before it is sealed. You also should insure that the ballot papers are kept separate for possible future investigation. Note the incident in your journal.)*
11. A person starts campaigning for your party after they have voted and while they are still inside the voting station. What action will you take? *(Refer to Section 24 concerning the voting station. You must determine whether the person is inside the election centre, inner perimeter, or controlled area of the voting station. You should explain to the person you are and tell him he is not allowed to campaign in the inner perimeter of the voting station and that he should leave the voting station because he has already voted. If this does not solve the problem, then*

you should inform the Presiding Officer so that he can remove the person from the voting station.)

12. After a person has voted, they come out of the compartment and tell you they made a mistake and want to vote again. What should you do? *(Refer to 35(8) concerning voting. Suggested answer - If the ballot has not been placed in the ballot box, refer the voter to the Presiding Officer and make sure that the Presiding Officer cancels the spoilt ballot and that the voter is given a new ballot.)*

13. The local branch chair of your party arrives at the voting station and after voting stands around talking to some voting officials. What should you do? *(Refer to Sections 10 and 11 concerning powers and duties of the Presiding Officer and the Voting Officers. Suggested answer - Especially if the voting station is busy, inform your party local branch chair that the officials should be working and that it would be wise for her to leave the voting station. If necessary, inform the Presiding Officer who can see to it that the person is excluded from the voting station.)*

14. A well known political activist arrives to vote and the voting officials wave him past the ID check. What should you do? *(Refer to Section 35 concerning voting. Suggested answer - You should object, inform the Presiding Officer, and make sure that the procedures in Section 35 are followed, including the ID check. You also should record the incident in you journal.)*

15. The queue of voters starts getting restless because voting is going so slowly? What can you do? *(Refer to Section 10 concerning powers and duties of Presiding Officers. Suggested answer - You should inform the Presiding Officer and suggest that he attempt to talk with the voters about the situation, and, if possible, attempt to make the voting more efficient.)*

16. The voting station is closing for the day and there are still 100 voters in the queue. What should you do? *(Refer to Sections 30 concerning commencement and close of voting, and Section 24 concerning voting stations. Suggested answer - Insure that the Presiding Officer permits everyone to vote who has presented himself to vote at the time of closing.)*

17. The voting station runs out of ballot papers. What happens and what should you do? *(Refer to Section 26 concerning supplying of voting materials. Suggested answer - Suggest to the Presiding Officer that she contact the District Electoral Officer because it is the District Electoral Officers' duty to supply the voting materials to the Presiding Officers. You also may want to suggest that the voters in the queue be informed of the situation. You also should record the incident.)*

18. An old man comes out of the voting compartment and tells you he wanted to vote for party Y but he had to vote for party X because he would be fired otherwise. What do you do? *(Refer to Section 55 concerning undue influence, and the Electoral Code of Conduct. Suggested answer - Inform the Presiding Officer. Also tell the voter of his right to file a complaint with the Independent Electoral Commission and help him as much as possible.)*

19. You arrive at the voting station an hour before voting and find that the Presiding Officer has already sealed the ballot box. What should you do? *(Refer to Section 28 concerning the ballot box. Suggested answer - Insist that the Presiding Officer do it again not more than one hour before the voting station is required to open. Note the incident in your journal.)*

20. Violence breaks out right outside the voting station. What should you do? *(Refer to Section 10 concerning the powers and duties of the Presiding Officer. Suggested answer - Inform the Presiding Officer. Also use common sense to help protect the people and the voting materials, especially the ballot boxes containing votes already cast.)*

PROBLEMS THE PARTY VOTING AGENT MAY FACE AFTER VOTING CLOSES

21. The Presiding Officer cannot get the number of ballot papers issued to match the number of ballot papers in the box. What could have happened and what should you do? *(Refer to Section 38 concerning sealing of the ballot boxes. Suggested answer - Any number of things could have happened involving fraud or mistake. Advise the Presiding Officer to count again. You may want to suggest that the Presiding Officer insure she has taken into account the spoilt and unused ballot papers. Note the problem in detail in your journal. Insure that the Presiding Officer notes the incident and the details in the official journal if there is one, and insure that he informs the Chief Director of the Administration Directorate of the Independent Electoral Commission.)*

22. When everything is sealed by the Presiding Officer and ready to go to the counting station, you discover that there is a pile of ballot papers still lying on the table. What should you do? *(Refer to Section 38 concerning the sealing of the ballot box. Suggested answer - Advise the Presiding Officer to seal the pile of ballot papers separately. Note the incident in your journal.)*

23. The ballot papers are sealed by the Presiding Officer and ready to go to the counting station. What should you do now? *(Refer to Section 38 concerning the sealing of the ballot box and Section 41 concerning time and place of counting. Suggested answer - Make sure that the Presiding Officer delivers the sealed ballot boxes and other materials to the District Electoral Officer and that the District Electoral Officer reports to the Provincial Electoral Officer. After that, insure that the materials are delivered to the Counting Officer.)*

24. You disagree with the result of the counting of votes. When must you protest? *(Refer to Section 45 concerning alleged irregularities of the tally. Suggested answer - You should object immediately, but in any case, before the signing of the tally.)*

25. The Counting Officer does not inform the party voting agents of the tally after counting is completed. What should you do? *(Refer to Sections 45 concerning alleged irregularities of the tally. Suggested answer - Object. Insist that the Counting Officer advise the party voting agents of the tally in accordance with Section 45(2).)*

26. Another party voting agent objects to the Counting Officer counting a particular ballot. What should you do? *(Refer to Section 44 concerning the counting of the votes. Suggested*

answer - Make sure that the Counting Officer marks the ballot "disputed." Also, you should note in your journal if a particular party is objecting to an unusually large number of ballot papers.)

27. You object to the Counting Officer counting a particular ballot and he does not mark the ballot "disputed." What should you do? *(Refer to Section 44 concerning the counting of the votes. Suggested answer - You should insist that the ballot be marked "disputed." If the Counting Officer still does not mark the ballot "disputed," then you should inform the Independent Electoral Commission through your Provincial or District Election Agent. The counting officer also has a responsibility to inform the Chief Director of the Administration Directorate of the Independent Electoral Commission. You also should note the incident in your journal. If the Counting Officer's actions are continuous, you can object to the count tally at the end of the counting.)*

28. A Counting Officer does not show up at the counting station at the prescribed time. What do you do? *(Refer to Section 41 concerning the time and place of the counting of the votes, and Sections 5 and 6 concerning liaison committees. Suggested answer - You should attempt to contact your party representative on one of the liaison committees (either your Chief, Provincial, or District Election Agent) and convey the situation. Failing that, you should attempt to contact the Chief Director of the Administration Directorate of the Independent Electoral Commission. You should do this in consultation with any electoral officials and other party voting agents present.)*

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PARTY AGENT TRAINING PROGRAMME
Counting of the votes

There are three stages of keeping track of the ballot papers and finally counting the votes: at the voting station, before delivery to the counting station, and at the counting station. These procedures are outlined below.

Stage one: at the voting station

At the end of each day of voting, after the voting station closes, the Presiding Officer must seal the following voting materials separately.

- * All ballot boxes used in voting (The ballot boxes must remain unopened.)
- * A packet of unused ballot papers
- * A packet of spoilt ballot papers that have been cancelled by the Presiding Officer
- * A packet of the counterfoils of the used and spoilt ballot papers

The Presiding Officer then must mark and deliver all sealed ballot boxes and packets to the District Electoral Officer with a statement indicating

- * The total number of ballot papers issued to the voting station,
- * The number of ballot papers issued to voters, and
- * The number of ballot papers not issued to voters.

Stage two: before delivery to the counting station

After receiving the sealed ballot boxes and packets from the Presiding Officers, the District Electoral Officer shall place his or her seal on the ballot boxes and packets. Then, the District Electoral Officer must provide a statement to the Provincial Electoral Officer accounting for all ballot papers delivered to him or her. It is the responsibility of the District Electoral Officer to safe keep the ballot boxes and packets until delivery to the counting station.

Stage three: at the counting station

After delivery of the voting materials to the counting stations, there are distinct procedures that should be followed in order.

1. The Counting Officer must examine the seals of the ballot boxes and packets.
2. The Counting Officer must verify the Presiding Officers' statements by comparing the statements with the contents of the ballot boxes and packets; the numbers of ballot papers in the ballot boxes must match the numbers in the Presiding Officers' statements. Simultaneously, the

Counting Officer also must insure that all used ballot papers bear the official mark. Irregularities must be recorded and reported to the Chief Director of the Administration Directorate of the IEC.

Counting of the votes

3. The Counting Officer must make sure the ballot papers are sorted and counted with regard to votes for each political party.
- a. Ballot papers must not be counted and must be marked "rejected" if
- * More than one party is marked,
 - * It is impossible to tell which party is voted for,
 - * The ballot paper does not bear an official mark on the back,
- or
- * The Counting Officer has reasonable grounds to believe that the ballot paper was not officially issued.
- b. If the acceptance or rejection of a ballot paper is disputed by a party voting agent, the Counting Officer marks the ballot paper "disputed" and keeps such ballot papers separately.
-
4. The Counting Officer must communicate the vote tally to the party voting agents and give the party voting agents an opportunity to object to the tally. If no objection is made, the party voting agents will be required to sign the tally. If an objection is made, the Counting Officer shall determine whether a recount is appropriate. An appeal can be lodged with the IEC. In addition, before the determination of the result, party voting agents can bring any irregularities to the attention of the Counting Officer. All allegations of irregularities by party voting agents and determinations by Counting Officers shall be reported to the Chief Director of the Administration Directorate.
5. Next, the Counting Officer shall enclose in separate packets and seal
- * Counted ballot papers,
 - * Rejected ballot papers,
 - * Disputed accepted ballot papers, and
 - * Disputed rejected ballot papers.
6. The Counting Officer shall take the packets prepared after the counting of the votes, together with the packets previously prepared by the Presiding Officers (of unused ballot papers, of spoilt ballot papers that have been cancelled by the Presiding Officer, and of the counterfoils of the used and

spoilt ballot papers) and deliver the sealed packets to the Chief Director of the Administration Directorate and shall inform the Chief Director of the number of votes recorded for each registered party. Thereafter, the Chief Director shall examine the seals of the Counting Officers to insure that they are intact.

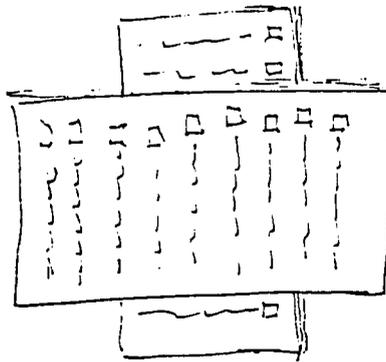
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OBSERVING THE COUNT

Party voting agents are allowed to observe the count. It appears that they will not actually count themselves. Therefore they need to learn parallel count techniques. They also need to know how ballot may be managed by the counting officials.

1. Management of paper

When counting, officials may count in batches of 20, 50 or 100. Each batch contains one party only. Batches are separated from one another either by placing them in separate piles or by cross piling them (see illustration). Party agents will have to know the size of batches and the way they are being totalled.



2. Tallying

Party agents can keep their own count by using a system called tallying. They can tally either individual votes or they can tally batches of ballot papers. They can keep track only of their party - or they can keep track of their party and any other that they think is important. These tallies, if done accurately, can check the official count to the last vote. Even if it is not possible to keep track of every vote, it will be helpful to check whether their figure is close to the official figure. If it is not, a recount may be necessary.

Tallying is done by making a stroke on a piece of paper for each item up to four and then crossing out the 4 strokes to make a mark for five. When there are 10 marks (that is a count of 50), a space is left so that it is very easy to see - even from a distance - the numbers that have been tallied. The illustration below shows a tally for 153 votes.

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VIOLENCE REDUCTION STRATEGIES

- **TEC**

- Subcouncil on Law and Order

- All police forces

- Subcouncil on Defence

- All military forces

- National PeaceKeeping Force

- **National Peace Accord**

- Regional Monitoring Programmes

- **International Monitoring**

- UN Observer Mission SA

- European Union

- COMMonwealth SA

- OAU

- Ecumenical Monitoring Programme

- SA

- **NGO Monitoring**

- Network of Independent Monitors

COMPLAINTS ADJUDICATION PROCEDURES

- **IEC**

- Code of conduct for parties

- Party Liaison Committees

- Special Electoral Court

- Electoral Appeal Tribunals

- Electoral Tribunals

- IEC Monitoring Directorate

- **International Observer Missions**

- Intergovernmental Monitoring under the UN

- **Domestic Observer groups**

- **Independent Media Commission**

DO YOU WANT TO HELP MAKE THE ELECTIONS FREE AND FAIR?

There are many things that can be done to make our elections free and fair. You can make sure that you and all your friends know how to vote. You can choose carefully which party you are going to support.

There are also some special ways in which you can help. You can become an official who works in the voting station, counting station or behind the scenes for the Independent Electoral Commission. Or you may be chosen by your party to be a party voting agent or electoral agent - these are special jobs that only party members can do to make sure that the election runs smoothly.

You may want to monitor the election. The word monitor can mean observe, oversee, regulate, supervise, or watch - so there are many different jobs which monitors (with a small 'm') do.

In the South African elections, because the word monitor is used in so many different ways, it has become quite confusing for people. So we have made a chart to help you decide what kind of monitor you want to be.

What type of monitor?	Official	Independent (of parties and of the IEC)	Party
What are they called?	IEC MONITOR	OBSERVER	PARTY MONITOR
What are their powers?	They can go anywhere; they can report misconduct; they can investigate misconduct; they can recommend penalties and courses of action to the authorities; they can mediate between parties and individuals. Their job is described in the law and electoral regulations.	They can go into voting stations. Like party monitors, they can do other things but only with the normal protection and rights that ordinary people have	They can do wherever their party asks them to do but they do not have any special rights by law. In other words, they can only do what any ordinary citizen is allowed to do.
How are they appointed?	The IEC advertises for and employs them on a full time, part time or temporary basis.	They are recruited by an independent organisation and are then accredited by the IEC	They are recruited by the party through party structures
How are they trained?	The IEC will train its monitors to do the jobs that are required	They will go through an IEC approved course organised by their sponsoring organisation	They will be given the training the party thinks is needed. Some of them may do the same course as the observers if the party thinks it is a good course
Who are they accountable to?	They are employed by and accountable to the IEC	They are accountable to the organisation that sponsors them	They are accountable to their party

47

PROBLEM SITUATIONS HANDOUT

Problem no 1

John Chipanga is very experienced in the election process. He has served as an international observer on various independent election commissions worldwide, he has been invited to serve on working groups to help write election manifestos twice, both times in African countries and has himself experienced a number of other elections. Today he is a IEC monitor by special invitation. James takes great pride in this appointment. He feels that his expertise in the field of elections can be put to good use in the very busy voting station to which he has been assigned.

It is now two o'clock and the station has been open since 8.30 in the morning. James has been very busy helping voters around the hall, making sure that they fully understand the process that they have to undertake before getting to the voting booth. He is feeling a sense of well being as he feels he is contributing to the success of the day.

Two party agents, Lerato Mofakeng and Andre du Toit approach James and accuse him of electioneering in the voting station. They have been watching him for some time and have decided that his behaviour and manner towards the voters far exceeds his brief. They are angry and do not hide it.

Problem No 2

The day of voting has been long and many people have passed through the hall. Party Agent, Sibongile Ndoda is tired and her feet are particularly sore as she has been standing for the good part of the day. It is her first experience of being a party agent and she has concentrated hard throughout the day. A small, but persistent headache is dogging her.

For the past twenty minutes, Sibongile has been watching the way in which the ID Official is treating the voters. She notices that he is going far beyond his brief, questioning the voters excessively and holding onto the document for far too long as if there is something wrong with it. Sibongile notices that the ID Official's behaviour is intimidating the voters and she is afraid those standing in the queue may be discouraged and go home.

Sibongile gets more and more frustrated and angry and realises that she will have to do something about it. She seems to be the only party agent who is noticing what is going on.

Some skills useful in situations of inter-personal confrontation

1 Listening

Careful listening is by far the most effective skill in defusing tense situations. Focus on understanding why the people you are in conflict with are doing what they are doing. This helps to reduce hostility on their part and makes it more likely that your responses will be constructive.

One powerful listening skill that is effective in many situations is paraphrasing, which involves summarising in your own words what you understand others have said. If you have had training in paraphrasing, use it for it does require practice to use efficiently. Included in the manual is an explanation of how to go about paraphrase training which we suggest you read and apply during your workshop sessions.

2 Posture of Puzzlement

What it is: The 'posture of puzzlement' is a way of confronting others tactfully by approaching them in an attitude of puzzlement or confusion.

Example: "I don't understand why you are telling people they must vote for your party. I thought it is agreed by all of us that party agents are only here to observe and not to engage in electioneering. "

Not: You can't talk to people about how they're going to vote! I'm going to report you!

3 More-of/Less-of statement

What it is: Rather than call names or make categorical statements, this is a more gentle way of confrontation by asking other people to do more of something or less of something.

Example: "I'd like to request that you engage in less interaction with voters and focus more on simply observing."

Not: "Stop trying to influence people. You're cheating!"

4

Impact Statements

What it is: An impact statement is another way of confronting without attacking, by focusing your comments on describing the impact of their objectionable behaviour on yourself or others.

Example: (To Voting Official) "Some people seem to be feeling intimidated by the way you are treating them. (*impact on others*) I'm worried this will cause complaints." (*impact on self*) I'd like to suggest that you speak more slowly and quietly to people when they have questions. (*More-of statement*)

Not: "You're intimidating people. I demand that you stop!"
Always avoid 'you' statements such as "You're a cheater!", "You're party is dishonest!" etc.

Careful Speech

Language reflects perception. Careful attention to language often provides us with clues about crucial misperceptions. By choosing carefully the way in which we say something, we can find ourselves making much greater headway in difficult situations. Using the skills suggested in the previous section, think of ways in which you could rephrase the following statements:

- 1 Party Agent to Voting Official:
You are breaking the electoral law, you have no right to tamper with the ballot boxes!

- 2 Party Agent to International Official:
I think you are wasting your time by standing here - go outside and see what is really going on.

- 3 Party Agent to Security Force Member:
Don't tell me what to do, you obviously do not know who I am. If you do not watch yourself, I am going to report you.

- 4 Party Agent to Voting Booth Official
Stop hustling the voters and keep away from the booth when the voters are voting. I will bring an official complaint against you if you do not listen.

- 5 Party Agent to fellow Party Agent
The way that you are standing at the door and pretending that you own the process is getting on my nerves - you have no right to be there.

- 6 Party Agent to Presiding Official during the counting process:
I can't hear you - speak up - you are mumbling and deliberately trying to confuse us!

- 7 Party Agent to Voter
Get that animal of yours out of the voting hall and don't bring it back if you want to vote!

- 8 Party Agent to Presiding Officer
This voting hall is chaotic, you are running it appallingly and I can see that you are unable to do anything about it!

Now, how about thinking up some of your own as further examples:

PARTY AGENT TRAINERS MANUAL

Creative Communication Skills

How to train in the art of paraphrasing

- 1 Choose several controversial topics such as:
 - Abortion
 - The minimum voting age
 - The death penalty
 - SA Security Forces, should they be disbanded?
 - Divorce
 - etc and put them on a flipchart or board so that everyone can see them
- 2 Ask the group to break into pairs
- 3 Each pair chooses one of the controversial topic indicated on the flipchart or board
- 4 Tell the one pair to argue *for* the subject and the other to argue *against* the subject
- 5 The person for the subject makes her/his first point. The second person listens carefully and at the end of the point, paraphrases what s/he has heard and at the end of the paraphrase delivers his/her first point. This point is in turn paraphrased by the first speaker who then delivers her/his second point which in turn is paraphrased by the second speaker.
- 6 It is important to let at least five or six points be made by each side for the exercise to work well. This could take up to forty minutes.
- 7 At the end of the exercise, gather the group together to discuss the process and what can be learnt from it.

PARTY AGENT TRAINERS MANUAL

Creative Communication Skills

Notes for trainers:

- 1 When you perform your first workshop, it is recommended that an observer be present to watch your performance and not partake in the process. At the end of the session, this person should meet with you for an intense one to one debriefing. This process will greatly enhance the trainer's abilities.
- 2 Remember that the Group is the key resource. The trainer is simply there to facilitate the process of reflection and self learning. If the trainer finds him/herself talking for ten minutes, s/he will not be achieving this.
- 3 There is no absolute right or wrong in the Dispute Resolution Training Workshop.
- 4 The trainer does not have to have the answers. When questions are asked directly of the trainer, reflect them back to the group. The collective wisdom of a group should provide these answers.

DRAFT 16 March 1994

Handbook
for
Party Voting Agents

South Africa
General Election
26-28 April 1994

Introduction

You have volunteered as a Party Voting Agent. Your job as a Party Voting Agent is to make sure that the voting and counting procedures set out in the electoral legislation are followed by the electoral officials, voters, and other involved persons on the voting and counting days. Your job is important to help ensure that the election is free and fair.

You will be appointed to a particular voting station by your Party Election Provincial Agent. You also may be asked by your party to observe the counting of the votes at a particular counting station. The appointment will be in writing to the Independent Electoral Commission. In order to serve as a Party Voting Agent you must sign a declaration of secrecy. You also must wear or display the identification approved by the IEC.

To find out more details about your appointment, the declaration of secrecy, and the IEC identification required, consult with your Party Election Provincial Agent.

Preparation for voting days

To do your job as a Party Voting Agent well, there are several preparations you must make.

1. Know the electoral legislation, including the Electoral Act and the Electoral Code of Conduct, the Independent Electoral Commission Act, and the regulations made by the IEC. You can get copies from your party.
2. Attend a training session held by or on behalf of your political party. Also attend any briefings called by your party. Watch out for special TV and radio broadcasts about your job and that of voting officials.
3. Consult with your Party Election Provincial Agent about your appointment, including the location of the voting station, the declaration of secrecy you must sign, and your identification as a Party Voting Agent.
4. Get a notebook to take with you to the voting station. Write in it the telephone numbers of your Party Election Provincial Agent, your Party Election District Agent, and the IEC, and the address of the voting station to which you are appointed. You should write other important information in the book that you might need to refer to on voting day.

What to bring to the voting station

You should wear comfortable shoes and clothing. Remember to bring the following items with you.

- identification approved by the IEC
- your ID or voters card
- this Handbook for Party Voting Agents and a copy of the electoral legislation
- notebook with telephone numbers
- pen
- seals issued by your party, if any
- change for using the telephone
- torch or candles
- food and drinks
- box of matches
- small first aid kit for minor illnesses and accidents

At the voting station

You will arrive at the voting station more than one hour before the voting is scheduled to begin. Before voting begins, you should do the following.

1. Introduce yourself to the Presiding Officer and other voting officers, monitors, observers and other party voting agents. Make sure that no unauthorised people are in the voting station.
2. Note the surroundings of the voting station, including the voting centre, the inner perimeter, and the controlled area.
3. Check for telephone facilities, toilets, water, exits, and emergency services.
4. Check that the voting compartments are set up to ensure secrecy.
5. Note the number of ballot papers issued to the voting station.
6. Not more than one hour before voting is to begin, the Presiding Officer will permit you to check that there are no ballot papers in the ballot boxes. Thereafter, the boxes will be sealed.

Voting procedures

Throughout the day you will spend most of your time spot checking steps in the voting procedures which are summarized below. At the same time, you should keep an eye on all that is going on around you.

1. **ID CHECK** - The voting officer will determine whether the voter has appropriate identification showing that the person is a citizen or permanent resident and is at least 18 years of age. He or she will determine also that it is not marked showing that the voter has already voted.
2. **HAND CHECK** - The Voting officer will determine that the voter's hand has not already been marked.
3. **ID AND HAND MARK** - The Voting Officer will mark the identification and the voter's hand.
4. **NATIONAL BALLOT PAPER ISSUE** - One Voting Officer will mark the back of the ballot paper and another Voting Officer will issue the ballot paper to the voter.
5. **VOTING** - The voter must vote alone. However, if the voter is physically disabled or illiterate he or she can request assistance.
6. **FIRST BALLOT BOX** - The voter will put his or her folded ballot paper in the ballot box.
7. **PROVINCIAL BALLOT PAPER** - At another table a Voting officer will issue the voter the second ballot paper.

8. **SECOND VOTE** - The voter will go into a voting compartment for the second time to vote for the Provincial Legislature.
9. **SECOND BALLOT BOX** - The voter will put his or her second ballot paper into this box.

The voter must leave the voting station after voting.

Make sure that you know exactly how voting will take place in your voting station. If there are any changes, make sure that these protect the secrecy of the vote, the voter's ease of voting, and the fairness of the election.

At the end of the voting days you will make sure that every ballot paper is accounted for.

Tips for the Party Voting Agent

The role of the Party Voting Agent is to help ensure that the election is free and fair. In carrying out your duties, always remember that goal. Below are some tips for carrying out your duties.

- Do not unnecessarily interfere with electoral officers. Your role must contribute to the smooth-running of the election.
- Do not talk to voters except where necessary to resolve problems. You must not campaign for your political party at the voting station.
- Keep an eye on the people in the voting station to see that procedures are being followed correctly.
- Make notes of all potentially problematic incidents, and of the timing of such events such as the opening and closing of voting.
- Cooperate with electoral officers and other Party Voting Agents, monitors, and observers, in resolving disputes.
- Remember that the goal is a free and fair election.

Tips for resolving disputes

There may be times when disputes, confusion, or problems arise. When such situations occur, remember to keep calm, and to resolve the situation in accordance with the electoral legislation and in the spirit of a free and fair election.

1. First try to resolve the situation with the persons involved, such as the voter, the voting officer, or another Party Voting Agent.
2. If this does not work, then take the matter to the Presiding Officer. If the matter involves the Presiding Officer, you may want to consult with the IEC monitors.
3. If you cannot resolve the situation in the voting station, then take the matter up with your Party Election District Agent or, if this is not possible, with your Party Election Provincial Agent. If your Party Election Agents are not immediately available, you may need to take the matter directly to the IEC.

Keep notes in your notebook of all situations. These notes may be necessary later on if a complaint needs to be filed with the IEC. You will want to consult with your Party Election Provincial Agent to determine if a complaint should be filed with the IEC.

At the counting station

If you have been asked by your party to observe the counting of the votes, you will need to do further study of the electoral legislation regarding the counting procedures. You also will need to know how to conduct and practice conducting a parallel count. Below is a skeleton outline of the counting procedures.

1. The ballot papers will be accounted for by the Counting Officer.
2. The counting will take place.
3. The Counting Officer will announce the count tally giving the Party Voting Agents an opportunity to object.
4. The Counting Officer will seal the materials for shipment to the IEC.

As a Party Voting Agent you have a right to object to the counting of particular ballot papers, to object to other irregularities during the process, and to object to the count tally at the end of the counting. If there is a problem, you should object as soon as possible and immediately attempt to resolve the problem.

Information you need

Voting station/s where you are registered: (Make sure you know how to get to the station)

Name of the Presiding Officer:

Name and telephone number of your Party Election District Agent:

Name and telephone number of your Party Election Provincial Agent:

The Code of Conduct for the election

The Code of Conduct is a set of rules that gives all people the right to get involved in political activity without fear of intimidation and violence.

The Code says what political parties must do to make sure that the election is free and fair. It says what political parties must do to make sure their members respect all people's rights to hold their own political views.

As a Party Voting Agent you are bound by the Code and should promote it.

Code of Conduct summary

- Allow all political parties to campaign openly
- Allow all political parties to have open public debates
- Publicly support the right of all people to speak about their own political views and the policies of the political party they choose
- Publicly support the right of all people to openly debate their political views, campaign for their party, and put up things like banners and posters in a legal and peaceful way
- Make the Code of Conduct well known amongst party members and supporters
- Publicly support voter education programmes
- Publicly condemn violence and intimidation
- Prevent people from showing weapons at political gatherings
- Do not publish or repeat bad rumours about political opponents
- Discuss any plans for political gatherings with other political parties
- Do not destroy or damage things like posters, pamphlets, and symbols which political opponents use to get votes
- Do not copy other parties' symbols
- Do not bribe voters
- Do not discriminate on the basis of race, class or gender
- Help women to participate
- Accept the outcome of the election as declared by the IEC

PARTY AGENT TRAINING PROGRAMME
The electoral legislation

This section contains copies of laws that will govern the election, the election officials, the political parties, and anyone else who will have a role in the election.

Contents

Electoral legislation overview

Independent Electoral Commission Act

Summary of Independent Electoral Commission Act

Electoral Act

Summary of Electoral Act

Questions and Answers based on the electoral legislation

PARTY AGENT TRAINING PROGRAMME

Electoral legislation overview

I. Why do we have electoral legislation?

The most important reason we have electoral legislation is to establish rules that will help insure that the election (including the election campaign) is free and fair. The legislation also serves to guide those who are charged with running the election and to provide for whom will run the election.

II. What is the electoral legislation?

There are two main laws that will govern the election - the Independent Electoral Commission Act and the Electoral Act. Other transitional legislation also will have an affect of the election. In addition, regulations made by the Independent Electoral Commission and other transitional bodies also will have an affect on the election.

A. Independent Electoral Commission Act (IEC Act)

The IEC Act is an act to establish an independent commission to administer and monitor the election. The IEC Act also requires the IEC to determine whether the election was free and fair.

B. Electoral Act

The Electoral Act contains the guidelines to be used by the IEC to administer the election. It is the main set of rules that will apply to the election. It contains rules to apply to, among other things, political parties, electoral officials, and procedures for voting and counting the votes.

1. Political Parties

The Electoral Act provides for rights of political parties, and responsibilities of political parties. It also provides for rights and responsibilities of party voting agents. The Electoral Act also includes an electoral code of conduct to be followed by all parties (and party voting agents) and a list of offenses and resultant penalties for such offenses.

2. Electoral Officials

The Electoral Act provides for the appointment of electoral officials, and provides for what the different electoral officials are required and permitted to do. On the next page is a organizational chart of the electoral officials. The chart also shows where the party voting agent fits into the structure.

3. Procedure for voting and counting votes

The Electoral Act provides detailed guidelines for how voting will take place and how counting the votes will take place.

4. Other issues

The Electoral Act also provides for other things such as rules to govern political party registration and monitoring of the election campaign and voting. The Act also gives the IEC the power to make regulations. The regulations that will be made, however, will not contradict the Electoral Act and will be based on the Electoral Act and the Independent Electoral Commission Act.

C. Related legislation

The Independent Media Commission Act is an act to establish an independent commission to regulate the media during the election campaign. The Transitional Executive Council Act is an act to establish a transitional council of representatives of political parties with certain powers concerning the governing of South Africa until after the election. The Independent Broadcasting Authority Act is an act to establish an independent authority to regulate the broadcasting frequencies and the broadcasting industry. The interim constitution that will take effect immediately after the election contains information important to the election concerning voting and the proportional representation system of government to be elected.

D. Regulations

Each of the acts gives the appropriate authority the power (and sometimes requirement) to make regulations to enforce the act. For example, the Independent Electoral Commission Act, in Section 41, gives the Independent Electoral Commission the power to make regulations generally, and specifically about a number of issues, such as the content of political advertising. Similarly, Section 76 of the Electoral Act requires the Independent Electoral Commission to make regulations about voting stations and voting procedures for prisoners. Just as copies of the legislation is available to the public, copies of the regulations also will be available to the public once the regulations are made.

III. How do you read legislation?

Each piece of legislation - or act - is divided into sections. Each section usually deals with only one substantive area. The first sections of the acts define key terms that are used throughout the acts. The subsequent sections concern the substance and procedure of the act and are usually headed with descriptive words. For example, Section 14 of the Independent Electoral Commission Act is headed "International Advisory Committee." Consequently, if

you wanted to know about the powers of the International Advisory Committee, you would look to Section 14 of the Independent Electoral Commission Act. Similarly, if you wanted to know how to register as a political party for the election, you would look to Section 19 of the Electoral Act, which is headed "Application for registration for purposes of election."

Some situations may arise that you will find there are no answers in the electoral legislation or to which there are more than one possible solution. The legislation gives the electoral officials discretion in many instances to deal with such situations. Remember that the electoral legislation, and in particular the Electoral Act, is your guide. In addition to that guide you will need to exercise common sense, and to cooperate with the electoral officials and other party agents. Always remember that your goal is to help insure that the election is free and fair.

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REPUBLIC OF SOUTH AFRICA

**INDEPENDENT ELECTORAL
COMMISSION BILL**

(As amended by the Joint Committee on Home Affairs)

(MINISTER OF HOME AFFAIRS)

[B 151B—93 (GA)]

REPUBLIEK VAN SUID-AFRIKA

**WETSONTWERP OP DIE
ONAFHANKLIKE
VERKIESINGSKOMMISSIE**

(Soos gewysig deur die Gesamentlike Komitee oor Binnelandse Sake)

(MINISTER VAN BINNELANDSE SAKE)

[W 151B—93 (AS)]

ISBN 0 621 15247 1

BILL

To make provision for the conduct of free and fair elections for the National Assembly and any other legislature to be elected contemplated in the Constitution of the Republic of South Africa Act, 1993; to make provision for the conduct of certain referendums by the Independent Electoral Commission; 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:—

ARRANGEMENT OF SECTIONS

Section

CHAPTER I		5	
<i>Interpretation and Application of Act</i>			
1. Definitions			
2. Application of Act			
3. Act binding on State and State President			
CHAPTER II		10	
<i>Independent Electoral Commission</i>			
4. Establishment and objects of Commission			
5. Constitution of Commission			
6. Conduct required of members			
7. Disclosure of conflicting interests		15	
8. Independence of Commission			
9. Dissolution of Commission			
10. Conditions of service, remuneration and allowances of members of Commission and International Advisory Committee			
11. Vacation of office, removal from office and filling of vacancies in Commission		20	
12. Meetings of Commission			
13. Powers, duties and functions of Commission			
14. International Advisory Committee			
15. Administration and staff of Commission		25	
16. Expenditure of Commission and budget			
17. Accountability and finance			
18. Determination and certification of election results, or declaration			
CHAPTER III			
<i>Election Administration Directorate</i>			30
19. Establishment of Election Administration Directorate			
20. Constitution of Election Administration Directorate			
21. Powers, duties and functions of Chief Director: Administration			
CHAPTER IV			
<i>Election Monitoring Directorate</i>			35
22. Establishment of Election Monitoring Directorate			

23. Constitution of Election Monitoring Directorate
 24. Powers, duties and functions of Chief Director: Monitoring

CHAPTER V

Election Adjudication Secretariat

25. Establishment of Election Adjudication Secretariat 5
 26. Constitution of Election Adjudication Secretariat
 27. Powers, duties and functions of Secretary

CHAPTER VI

Electoral Tribunals

28. Establishment and constitution of Electoral Tribunals 10
 29. Powers, duties and functions of Electoral Tribunals

CHAPTER VII

Electoral Appeal Tribunals

30. Establishment and constitution of Electoral Appeal Tribunals
 31. Powers, duties and functions of Electoral Appeal Tribunals 15

CHAPTER VIII

Special Electoral Court

32. Establishment and constitution of Special Electoral Court
 33. Powers, duties and functions of Special Electoral Court

CHAPTER IX

20

General Provisions

34. Application of Act in event of conflict with other laws
 35. Dissolution of directorates, Secretariat and tribunals
 36. Appeal and review
 37. Remuneration and allowances of members of tribunals and Special Electoral Court 25
 38. Secrecy
 39. Offences and penalties
 40. Legal proceedings against Commission
 41. Regulations 30
 42. Short title and commencement

CHAPTER I

Interpretation and Application of Act

Definitions

1. In this Act, unless the context otherwise indicates— 35
- (i) "Administration Directorate" means the Election Administration Directorate established by section 19; (iv)
 - (ii) "Appeal Tribunal" means any Electoral Appeal Tribunal established in terms of section 30; (ii)
 - (iii) "candidate" means any person whose name appears on a list of nominations by any registered party to become a member of the National Assembly or any other legislature in terms of the Constitution and the Electoral Act; (xvi) 40
 - (iv) "Chief Director: Administration" means the person appointed to that office by the Commission in terms of section 20(1); (ix) 45
 - (v) "Chief Director: Monitoring" means the person appointed to that office by the Commission in terms of section 23(1);

- (vi) "Chief Executive Officer" means the person appointed to that office by the Commission in terms of section 17(1); (xi)
- (vii) "Commission" means the Independent Electoral Commission established by section 4(1); (xx)
- (viii) "committee" means any committee of the Commission established under section 13(3)(c); (xix) 5
- (ix) "Constitution" means the Constitution of the Republic of South Africa Act, 1993; (vii)
- (x) "directorate" means the Administration Directorate or the Monitoring Directorate; (iii) 10
- (xi) "election" means any election conducted in terms of the Electoral Act for the National Assembly or any other legislature; (xxxvii)
- (xii) "Electoral Act" means the Electoral Act, 1993; (xviii)
- (xiii) "Electoral Code of Conduct" means the Electoral Code of Conduct for Political Parties contained in Schedule 1 to the Electoral Act; (xxxviii) 15
- (xiv) "Electoral Tribunal" means any Electoral Tribunal established in terms of section 28; (xxxix)
- (xv) "International Advisory Committee" means the International Advisory Committee established in terms of section 14; (xiii) 20
- (xvi) "international member" means any person appointed as a member of the Commission in terms of section 5(2)(a); (xiv)
- (xvii) "international observer" means any person appointed as a representative of the United Nations, the Organization of African Unity, the European Community, the Commonwealth or 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; (xv) 25
- (xviii) "judicial office" means any appointment as a judge of the Supreme Court, whether permanent or on an acting basis; (xxix) 30
- (xix) "member" means any member of the Commission appointed in terms of section 5(1); (xxi)
- (xx) "monitor" means any person appointed as such in terms of section 24(1)(a); (xxii) 35
- (xxi) "Monitoring Directorate" means the Election Monitoring Directorate established by section 22; (v)
- (xxii) "National Assembly" means the National Assembly which together with the Senate shall constitute the Constitutional Assembly as contemplated in the Constitution; (xxiii) 40
- (xxiii) "observe" means any observer registered with the Monitoring Directorate in terms of section 24(1)(b) (xli);
- (xxiv) "other legislature" means any legislature contemplated in the Constitution, excluding the National Assembly and Senate; (i) 45
- (xxv) "Parliament" means Parliament as contemplated in the Constitution; (xxvi)
- (xxvi) "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; (xxvii) 50
- (xxvii) "political office" means any executive appointment or elected office, including any elected or nominated public representative of a party, whether involving remuneration or not, or any other paid office, in the service of a party; (xxviii) 55
- (xxviii) "prescribe" means prescribe by regulation; (xl)
- (xxix) "public office" means any appointment or position in the service of the State, or any corporate or other body, institution or concern owned or controlled, whether directly or indirectly, by the State, and includes any such appointment or position in the legislative, executive or judicial organs of the State at any level of government, but excludes any appointment to judicial office and any academic 60

- appointment at any university or tertiary educational institution;
(xxv)
- (xxx) "registered party" means any registered party as defined in section 1 of the Electoral Act; (vi)
- (xxxi) "regulations" means the regulations made under section 41; (xxx) 5
- (xxxii) "Republic" means the Republic of South Africa, including any of the Republics of Transkei, Bophuthatswana, Venda or Ciskei which formally incorporated the provisions of this Act and the Electoral Act as part of its law; (xxxi)
- (xxxiii) "Secretariat" means the Election Adjudication Secretariat established by section 25; (xxxii) 10
- (xxxiv) "Secretary" means the person appointed to that office by the Commission in terms of section 26(1); (xxxiii)
- (xxxv) "Senate" means the Senate as contemplated in the Constitution; (xxxiv) 15
- (xxxvi) "Special Electoral Court" means the Special Electoral Court established by section 32; (xxxv)
- (xxxvii) "State" means the Republic; (xxxvi)
- (xxxviii) "Supreme Court" means the Supreme Court of South Africa, and the Supreme Court of the Republic of Transkei, Bophuthatswana, Venda or Ciskei if such Republic has formally incorporated the provisions of this Act and the Electoral Act as part of its law; (xii) 20
- (xxxix) "this Act" includes the regulations; (viii)
- (xl) "Transitional Council" means the Transitional Executive Council established by section 2 of the Transitional Executive Council Act, 1993; (xxiv) and 25
- (xli) "voter" means any eligible voter as contemplated in the Constitution and the Electoral Act. (xvii)

Application of Act

2. (1) The provisions of this Act shall apply in respect of— 30
- (a) the first elections to be conducted for the National Assembly and all other legislatures in terms of the Constitution and the Electoral Act; and
- (b) any referendum conducted under the supervision of the Commission in terms of subsection (2),
- until the First National Assembly and all other legislatures have been validly 35 constituted.
- (2) Upon the advice of the Transitional Council the State President shall by proclamation in the *Gazette* declare—
- (a) the holding of a referendum; and
- (b) that the provisions of this Act shall, subject to subsection (3), apply in 40 respect of the holding of that referendum.
- (3) The State President shall in consultation with the Transitional Council by proclamation in the *Gazette* make regulations for the holding of such a referendum, in which case the provisions of this Act shall, subject to such regulations, apply *mutatis mutandis* in respect of the holding of such referendum, 45 whether nationally or within any particular geographic region, or in respect of any specified issue, as the case may be.
- (4) In the event of any of the Republics of Transkei, Bophuthatswana, Venda or Ciskei deciding formally to incorporate the provisions of this Act and the Electoral Act as part of its law, such agreements as may be required to secure the 50 co-ordinated implementation of the relevant legislation may be concluded and any such agreements shall have the force of law.

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 55 to act in accordance with the advice of the Transitional Council wherever so provided for in this Act.

CHAPTER II

Independent Electoral Commission

Establishment and objects of Commission

- 4. (1) There is hereby established a commission to be known as the Independent Electoral Commission. 5
- (2) The objects of the Commission shall be—
 - (a) to administer, organize, supervise and conduct, whether directly or indirectly, free and fair elections for the National Assembly and all other legislatures in terms of the Constitution and the Electoral Act; 10
 - (b) to promote conditions conducive to free and fair elections; 10
 - (c) to determine and certify the results of elections, and to certify to what extent such elections have been free and fair;
 - (d) to conduct voter education; and
 - (e) to make and enforce regulations for the achievement of such objects.

Constitution of Commission 15

- 5. (1) The Commission shall, subject to subsection (2), consist of not fewer than 7 and not more than 11 members, who shall be appointed by the State President upon the advice of the Transitional Council, and who shall be impartial, respected and suitably qualified men and women, do not have a high party political profile, are themselves voters, and represent a broad cross-section of the population. 20
- (2) (a) The State President shall, upon the advice of the Transitional Council, appoint not more than five persons (not being citizens of the Republic) from the international community as members of the Commission in a non-representative capacity. 25
- (b) Such international members shall have the same rights and powers as other members, excluding the power to vote, and shall not constitute part of any quorum in terms of this Act.
- (3) (a) The State President shall, upon the advice of the Transitional Council, designate two members as Chairperson and Vice-Chairperson of the Commission, respectively: Provided that if the Transitional Council so decides, it may advise the State President to designate two members as Co-Chairpersons in lieu of a Chairperson and Vice-Chairperson, and designate which one of them shall preside at the first meeting of the Commission. 30
- (b) In the absence of both such Chairperson and Vice-Chairperson, or both such Co-Chairpersons, as the case may be, the remaining members shall by simple majority nominate another member as acting Chairperson of the Commission. 35
- (c) The international members shall not be eligible to serve as Chairperson, Co-Chairperson, Vice-Chairperson or acting Chairperson.
- (4) The State President shall from time to time, upon the advice of the Transitional Council and subject to subsection (1), appoint additional members to the Commission, subject to the maximum number contemplated in that subsection. 40

Conduct required of members

- 6. (1) Every member and international member of the Commission shall— 45
 - (a) be appointed in his or her individual capacity, and shall, notwithstanding any personal opinion, preference or party affiliation, serve impartially and independently and perform his or her functions in good faith and without fear, favour, bias or prejudice;
 - (b) serve in a full-time capacity to the exclusion of any other duty or obligation arising out of any other employment or occupation or the holding of any other office. 50
- (2) No member or international member of the Commission shall—
 - (a) during his or her term of office be eligible for appointment or nomination to any political or public office, whether involving remuneration or not, 55

- and such ineligibility shall, in respect of such public office, continue for a period of 18 months reckoned from the date upon which such term of office as a member has terminated, save in respect of the resumption of any previously held public office at the same level;
- (b) whether directly or indirectly, in any manner give support to, or oppose, any of the parties or candidates participating in the elections, or any of the issues in contention between such parties or candidates;
 - (c) by his or her membership, association, statement, conduct or in any other manner, place in jeopardy his or her perceived independence, or in any other manner harm the credibility, impartiality, independence or integrity of the Commission;
 - (d) make private use of or profit from any confidential information gained as a result of his or her appointment and functions as such member;
 - (e) divulge any such information to any third party save in the course and scope of his or her official functions and with the prior approval of the Commission;
 - (f) accept any remuneration, emolument or benefit of whatever nature, arising from any other employment or occupation the holding of any other office, unless specifically authorized thereto by the State President, acting upon the advice of the Transitional Council;
 - (g) during his or her term of office be eligible to serve as a member of the Transitional Council, Parliament or any other legislature, and such ineligibility shall continue for a period of 18 months reckoned from the date upon which such term of office has terminated; and
 - (h) after having served as such member, be eligible to serve as a member of the Parliament or any other legislature for which that Commission was responsible to conduct elections, during the term of such Parliament or legislature.

Disclosure of conflicting interests

7. (1) Subject to subsection (2), a member or international member shall not at any meeting of the Commission—
- (a) be present;
 - (b) exercise a vote;
 - (c) in any other manner participate in the proceedings thereof,
- during the discussion of any matter before such meeting in respect of which he or she has any financial or other interest which might preclude him or her from performing his or her functions in a fair, unbiased and proper manner.
- (2) If at any stage during the course of any proceedings before the Commission it appears that any member or international member has or may have an interest which may cause such a conflict of interests to arise on his or her part—
- (a) such member shall forthwith and fully disclose the nature of his or her interest and leave the meeting so as to enable the remaining members to discuss the matter and determine whether such member is precluded from participating in such meeting by reason of a conflict of interests; and
 - (b) such disclosure and the decision taken by the remaining members regarding such determination, shall be recorded in the minutes of the relevant meeting.
- (3) If any member or international member fails to disclose any interest as required by subsection (2) or, subject to that subsection, is present at a meeting of the Commission or in any manner whatsoever participates in the proceedings of the Commission in relation to such matter, such proceedings may be reviewed, varied or set aside by the Commission.

Independence of Commission

8. (1) The Commission shall function without political or other bias or

interference and shall, save as may in this Act be expressly otherwise provided, be independent and separate from the Transitional Council, any party, any government and its administration or any other functionary or body, whether directly or indirectly representing the interests of any such entity.

(2) Any power of any of the entities referred to in subsection (1) in so far as it relates to the administration, organization, conduct and supervision of any election, shall be subject to the powers of the Commission, to which such entities shall be accountable for such of their acts and decisions as may influence or affect any election.

Dissolution of Commission

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9. The Commission shall be dissolved upon the completion of its mandate on a date fixed by the State President by proclamation in the *Gazette*.

Conditions of service, remuneration and allowances of members of Commission and International Advisory Committee

10. The conditions of service, remuneration, allowances and other benefits of members of the Commission and the International Advisory Committee shall be determined by the Transitional Council after consultation with the State President.

Vacation of office, removal from office and filling of vacancies in Commission

11. (1) A member of the Commission may be removed from office by order of the Special Electoral Court on an application lodged by or on behalf of—

- (a) the State President;
- (b) the Transitional Council;
- (c) Parliament; or
- (d) any registered party eligible to participate in the election, or at least 1 000 voters: Provided that no such application by such party or such voters shall be heard save with the prior leave of the Chairperson of the Special Electoral Court, who shall first satisfy himself or herself as to the existence of probable cause, and who may impose such conditions upon the grant of leave, including the imposition of time limits for the institution of any such proceedings, as he or she may consider appropriate,

if the Special Electoral Court is satisfied as to the existence of good and sufficient reason therefor as contemplated in subsection (2).

(2) In considering any such application the Special Electoral Court shall determine that good and sufficient reason exists for the removal from office of a member of the Commission, in case of—

- (a) serious misconduct;
- (b) unfitness or incapacity, including continued ill health;
- (c) a material contravention of or failure to comply with the provisions of section 6(1)(a) or (b) or (2)(a), (b), (c), (d), (e) or (f) or 7(1) or (2); or
- (d) any other reason which the Special Electoral Court may consider material and inconsistent with such member's continuance in office.

(3) If a member of the Commission tenders his or her resignation in writing to the State President, is removed from office in terms of this section, or dies, the State President shall, upon the advice of the Transitional Council, either—

- (a) allow such appointment to lapse, provided there remains at least the minimum number of members provided for in section 5(1); or
- (b) appoint some other suitably qualified person as a member for the unexpired portion of the term of the Commission.

Meetings of Commission

12. (1) The Commission may meet at any place in the Republic determined by the Chairperson, Vice-Chairperson or Co-Chairpersons, as the case may be, for the purpose of performing its functions.

(2) Meetings may be convened at any time at the instance of the Chairperson, Vice-Chairperson or Co-Chairpersons, as the case may be, or at the instance of any two other members, and shall be convened at such intervals as circumstances may require.

(3) A quorum for a meeting of the Commission shall be 75% of the members. 5

(4) (a) Subject to paragraph (b) and section 5(3)(b), the decision of two-thirds of the members present at a meeting of the Commission shall be the decision of the Commission.

(b) The Commission shall in terms of section 18(b) certify that an election was substantially free and fair, only if at least 75% of the members present at the meeting of the Commission concur. 10

(5) The Commission may determine its own procedures to be followed at its meetings.

Powers, duties and functions of Commission

13. (1) The Commission may exercise the powers and shall perform the duties 15 and functions conferred upon or assigned to it by this Act or any other law.

(2) The Commission shall—

(a) assume responsibility for the administration, organization and conduct whether directly or indirectly, and the supervision of the administration, organization and conduct of any election; 20

(b) take such measures as it may consider necessary for the prevention of intimidation of voters, candidates and parties;

(c) be responsible for the education of voters concerning—

(i) democratic principles and values;

(ii) the electoral process and mechanisms; 25

(iii) the right to free political canvassing and campaigning;

(iv) secrecy of voting; and

(v) any other relevant matter,

by means of—

(aa) literature and the use of other media, including distribution and publication of suitable literature, advertisements and dissemination through radio, television and the public printed media, having due regard to the variety of languages spoken and varying levels of education throughout the Republic; and 35

(bb) workshops, seminars and meetings, as it may consider appropriate; and

(d) submit monthly reports in writing concerning its functions, which reports shall be delivered at the same time to the Transitional Council and the State President, and such reports shall be public documents. 40

(3) The Commission shall have power—

(a) to hear and determine appeals against decisions or actions of the Chief Directors: Administration and Monitoring in respect of prescribed matters, which decisions or actions may be confirmed, varied or set aside; 45

(b) to give instructions to the Chief Directors: Administration and Monitoring in respect of matters concerning their functions, which power may be exercised either upon request from the said Chief Directors or at its own initiative; and

(c) to establish such committees as it may consider necessary for the effective exercise and performance of its powers, duties and functions, and determine the composition, quorum for a meeting and a decision, procedure and functions thereof. 50

International Advisory Committee

14. (1) The State President shall upon the advice of the Transitional Council, 55 establish a committee to be known as the International Advisory Committee to advise the Commission on any matter regarding the performance of its functions as may be requested by it.

(2) The International Advisory Committee may consist of persons (not being citizens of the Republic) from the international community appointed in a non-representative capacity by the State President upon the advice of the Transitional Council.

(3) The International Advisory Committee may determine its own procedures to be followed at its meetings. 5

Administration and staff of Commission

15. The Commission shall, in addition to the other powers conferred upon it by this Act or any other law, for the purpose of achieving its objects, have the power to— 10

- (a) appoint staff to assist it or a Chief Director of a directorate or the Secretary in the performance of its or his or her functions, and after consultation with the Minister of State Expenditure determine their conditions of service, remuneration, allowances and other benefits, including those of— 15
 - (i) members of committees who are not members of the Commission;
 - (ii) the Chief Directors: Administration and Monitoring and the Secretary; and
 - (iii) other officials;
- (b) request the secondment to it of skilled personnel from any public service, subject to any law applicable to such personnel in that regard, to assist the Commission, the Chief Directors of the directorates or the Secretary in the performance of its, his or her functions; 20
- (c) open and maintain its own financial accounts; and
- (d) take such steps, including legal steps, as are necessary to give effect to this Act or any decision taken under this Act. 25

Expenditure of Commission and budget

16. (1) The expenditure in connection with the exercise of the Commission's powers and the performance of its duties and functions shall be paid out of money appropriated by Parliament for such purpose. 30

(2) The Commission shall budget for and be allocated the necessary resources or additional resources to enable it to exercise its powers and perform its duties and functions effectively.

Accountability and finance

17. (1) The Commission shall at its first meeting or as soon thereafter as possible appoint a person to the office of Chief Executive Officer, who— 35

- (a) shall be responsible for the management of and administrative control over the staff appointed or seconded in terms of section 15(a) or (b), respectively, in respect of the Commission; 40
- (b) shall, subject to the Exchequer Act, 1975 (Act No. 66 of 1975)—
 - (i) be charged with the responsibility of accounting for State money received or paid out for or on account of the Commission, the directorates and the Secretariat; and
 - (ii) cause the necessary accounting and other related records to be kept;
- (c) may exercise the powers and shall perform the duties and functions which the Commission may from time to time confer upon or assign to him or her in order to achieve the objects of this Act, and shall for the purposes thereof be accountable to the Commission. 45

(2) The records referred to in subsection (1)(b) shall be audited by the Auditor-General. 50

(3) The Chief Executive Officer, and the persons referred to in section 15(a) or (b), shall exercise their powers and perform their duties and functions in an impartial manner and shall, in so doing, be subject to such provisions of the laws governing the public service of the Republic as may be indicated by the Commission and to the extent so indicated by the Commission as well as the Exchequer Act, 1975, and the Auditor-General Act, 1989 (Act No. 52 of 1989). 55

Determination and certification of election results, or declaration

18. Upon completion of the ballot, the Commission shall as expeditiously as possible, but not sooner than 2 days and not later than 10 days after the close of the poll—

- (a) determine and certify the results of the election; and 5
- (b) either certify in respect of the National Assembly and each other legislature that the election was substantially free and fair; or
- (c) declare that it was unable to certify it as such.

CHAPTER III

Election Administration Directorate 10

Establishment of Election Administration Directorate

19. There shall be established on the date on which the Commission is constituted, a directorate to be known as the Election Administration Directorate.

Constitution of Election Administration Directorate 15

20. (1) The Administration Directorate shall consist of a Chief Director: Administration, one or more deputy directors and such other officials as the Commission may consider necessary and appoint to enable that Directorate effectively to perform its functions in terms of this Act and the Electoral Act.

(2) In effecting the appointment of the Chief Director: Administration and any deputy director, the Commission shall invite and, where given, consider, but shall not be bound by, the advice of the Transitional Council. 20

Powers, duties and functions of Chief Director: Administration

21. (1) The Chief Director: Administration shall have the powers, duties and functions conferred upon or assigned to him or her by or under this Act and the Electoral Act. 25

(2) Any decision or action taken by any functionary of any sub-structure of the Administration Directorate in any geographic district or region in respect of any prescribed matter may be appealed against to the Chief Director: Administration, who may confirm, vary or set aside any such decision or action. 30

(3) The Chief Director: Administration shall—

- (a) operate independently of the Chief Director: Monitoring and the Secretary;
- (b) be under the supervision of the Commission; and
- (c) carry out the instructions of the Commission, to which he or she shall be accountable. 35

(4) The Chief Director: Administration may delegate the power to hear and determine appeals in terms of subsection (2) to any deputy director appointed in terms of section 20(1), and may delegate any other power conferred upon him or her by or under this Act and the Electoral Act to any official of his or her 40 directorate as he or she may consider necessary.

CHAPTER IV

Election Monitoring Directorate

Establishment of Election Monitoring Directorate

22. There shall be established on the date on which the Commission is constituted, a directorate to be known as the Election Monitoring Directorate. 45

Constitution of Election Monitoring Directorate

23. (1) The Monitoring Directorate shall consist of a Chief Director: Monitoring and such other officials as the Commission may consider necessary and appoint to enable that Directorate effectively to perform its functions in terms of this Act. 5

(2) In effecting the appointment of the Chief Director: Monitoring, the Commission shall invite and, where given, consider, but shall not be bound by, the advice of the Transitional Council.

Powers, duties and functions of Chief Director: Monitoring

24. (1) The Chief Director: Monitoring shall— 10

- (a) appoint monitors and co-ordinate their functions to observe and report to him or her upon the electoral process, including political meetings, canvassing, advertising and other campaigns; 15
- (b) register observers and regulate their activities, and publish guidelines and, if he or she considers it necessary, a Code of Conduct binding upon all such observers; 15
- (c) facilitate the role of international observers and provide them with information and assistance as may be required to enable them to perform their duties;
- (d) investigate alleged infringements of the Electoral Code of Conduct, other alleged electoral offences and any other matters justiciable in terms of this Act and the Electoral Act and report to the Commission thereon; 20
- (e) issue and execute prescribed search warrants and subpoenas and seize items required in connection with the investigation of alleged infringements of the Electoral Code of Conduct, other alleged electoral offences and any other matters justiciable in terms of this Act and the Electoral Act, with the assistance of the National Peacekeeping Force as defined in section 1 of the Transitional Executive Council Act, 1993, the police or defence forces, as may be requested by the Commission; 25
- (f) initiate or co-ordinate meetings between the various registered parties participating in the election with a view to mediating and, if possible, resolving issues and disputes arising in the course of the election, by negotiation and mutual agreement; 30
- (g) issue prescribed warnings concerning alleged or threatened infringements of the Electoral Code of Conduct; 35
- (h) report to the Commission upon the electoral process as required by it;
- (i) operate independently of the Chief Director: Administration and the Secretary;
- (j) be under the supervision of the Commission; 40
- (k) carry out the instructions of the Commission, to which he or she shall be accountable; and
- (l) have such other powers, duties and functions as may be prescribed.

(2) Any decision or action taken by any functionary of any sub-structure of the Monitoring Directorate in any geographic district or region in respect of any prescribed matter may be appealed against to the Chief Director: Monitoring, who may confirm, vary or set aside any such decision or action. 45

(3) The Chief Director: Monitoring may delegate any power conferred upon him or her by or under this Act to any official of his or her directorate as he or she may consider necessary. 50

CHAPTER V

Election Adjudication Secretariat

Establishment of Election Adjudication Secretariat

25. There shall be established on the date on which the Commission is constituted a secretariat to be known as the Election Adjudication Secretariat. 55

Constitution of Election Adjudication Secretariat

26. (1) The Secretariat shall consist of a Secretary and such other officials as the Commission may consider necessary and appoint to enable the Secretariat effectively to perform its functions in terms of this Act.

(2) In effecting the appointment of the Secretary, the Commission shall invite and, where given, consider, but shall not be bound by, the advice of the Transitional Council. 5

Powers, duties and functions of Secretary

27. (1) The Secretary shall—

(a) co-ordinate the functions of the Electoral Tribunals, the Electoral Appeal Tribunals and the Special Electoral Court; 10

(b) perform the administrative work connected with the performance of the functions of those Tribunals and that Court;

(c) operate independently of the Chief Directors: Administration and Monitoring; 15

(d) be under the supervision of the Commission; and

(e) carry out the instructions of the Commission to which he or she shall be accountable.

(2) The Secretary shall have such other powers, duties and functions as may be prescribed. 20

CHAPTER VI

Electoral Tribunals

Establishment and constitution of Electoral Tribunals

28. (1) The Commission shall, subject to subsection (2), establish such number of Electoral Tribunals with jurisdiction in respect of prescribed geographic areas as it may consider necessary to adjudicate and decide prescribed matters concerning alleged electoral irregularities and alleged infringements of the Electoral Code of Conduct. 25

(2) An Electoral Tribunal shall consist of one person, who shall be an attorney, advocate, magistrate or academic lawyer at a university with not less than five years' experience in one or more such capacities appointed to that office by the Commission. 30

Powers, duties and functions of Electoral Tribunals

29. (1) An Electoral Tribunal hearing any matter falling within its jurisdiction, shall enquire into the matter in the prescribed manner, consider it and make such decision or give such order as in its opinion is fair and just. 35

(2) An Electoral Tribunal finding any person or party guilty of contravening or failing to comply with any prescribed matter or any provision of the Electoral Code of Conduct, may impose any such penalty or sanction as may be prescribed in terms of this Act and the Electoral Act as it may consider appropriate in the circumstances. 40

(3) An Electoral Tribunal shall have such other powers, duties and functions as may be prescribed.

CHAPTER VII

Electoral Appeal Tribunals

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Establishment and constitution of Electoral Appeal Tribunals

30. (1) The Commission shall, subject to subsection (2), establish such number of Electoral Appeal Tribunals as it may consider necessary to hear and determine appeals and to review decisions from the Electoral Tribunals.

- (2) An Electoral Appeal Tribunal shall consist of three persons appointed by the Commission, of whom—
 - (a) the Chairperson shall be a judge of the Supreme Court;
 - (b) one shall be an attorney, advocate or magistrate or academic lawyer at a university with not less than five years' experience in one or more such capacities; 5
 - (c) one shall be a suitable person, who may or may not be legally qualified or experienced.

Powers, duties and functions of Electoral Appeal Tribunals

- 31. (1) An Electoral Appeal Tribunal hearing any appeal or reviewing any decision shall enquire into the matter in the prescribed manner, consider it and confirm, vary or set aside the decision, order, penalty or sanction of the Electoral Tribunal, or make such other decision or give such other order or impose such other penalty or sanction as in its opinion the Electoral Tribunal ought to have made, given or imposed. 10 15
- (2) An Electoral Appeal Tribunal shall have such other powers, duties and functions as may be prescribed.

CHAPTER VIII

Special Electoral Court

Establishment and constitution of Special Electoral Court 20

- 32. (1) There is hereby established a court to be known as the Special Electoral Court with the powers, duties and functions referred to in section 33.
- (2) The Special Electoral Court shall consist of—
 - (a) a Chairperson, who shall be a judge of the Appellate Division of the Supreme Court, and two judges of the Supreme Court designated by the Chief Justice; and 25
 - (b) two other members, of whom—
 - (i) one shall be an attorney, advocate, magistrate or academic lawyer at a university with not less than five years' experience in one or more such capacities; and 30
 - (ii) one shall be a suitable person, who may or may not be legally qualified or experienced, appointed by the Transitional Council.

Powers, duties and functions of Special Electoral Court

- 33. (1) (a) Subject to section 36(6)(a), the Special Electoral Court shall have power to review any decision of the Commission. 35
- (b) Any such review shall be conducted on an urgent basis, and shall be disposed of as expeditiously as possible.
- (2) (a) Subject to section 36(6)(a), the Special Electoral Court shall have the power to hear and determine an appeal against any decision of the Commission only in so far as such decision relates to the interpretation of any law or any other matter for which an appeal is provided in the Electoral Act. 40
- (b) No such appeal shall be heard save with the prior leave of the Chairperson of the Special Electoral Court granted on application within the period and in the manner determined by that Court. 45
- (c) Such an appeal shall be heard, considered and summarily determined upon written submissions submitted within three days after leave to appeal was granted in terms of paragraph (b).
- (3) The Special Electoral Court shall have power to remove any member of the Commission from office under section 11. 50
- (4) Subject to section 36(7), the Special Electoral Court shall have power to hear appeals against and review decisions of any Appeal Tribunal.

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(5) The Special Electoral Court shall determine its own practice and procedures and make its own rules.

(6) The Special Electoral Court shall have such other powers, duties and functions as may be conferred upon or assigned to it by the Electoral Act, the Transitional Executive Council Act, 1993, or any other law.

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CHAPTER IX

General Provisions

Application of Act in event of conflict with other laws

34. In the event of a conflict between the provisions of this Act and those of any other law, the provisions of this Act shall prevail in so far as such provisions relate to the conduct and supervision of elections.

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Dissolution of directorates, Secretariat and tribunals

35. (1) The directorates and the Secretariat shall be dissolved on the date upon which the Commission is dissolved.

(2) The Electoral Tribunals and the Electoral Appeal Tribunals shall be dissolved on final determination of the issues placed before them.

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Appeal and review

36. (1) Any interested person, party or candidate who or which feels aggrieved by any decision or action taken by any functionary of a directorate in respect of any prescribed matter may, within the period and in the manner prescribed, appeal to the Chief Director of the relevant directorate against the decision or action in issue.

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(2) Any interested person, party or candidate who or which feels aggrieved by any decision or action taken by the Chief Director: Administration or Monitoring in respect of any prescribed matter other than a decision or action on appeal referred to in subsection (1) may, within the period and in the manner prescribed, appeal to the Commission against the decision or action in issue.

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(3) (a) Subject to section 33(2), there shall be no appeal against any decision of the Commission.

(b) Subject to section 33(1), any interested person, party or candidate may bring any decision of the Commission under review before the Special Electoral Court within the period and in the manner determined by that Court.

30

(4) Any interested person, party or candidate who or which feels aggrieved by any decision, order, penalty or sanction made, given or imposed by any Electoral Tribunal may, within the period and in the manner prescribed, appeal to the relevant Appeal Tribunal against the decision, order, penalty or sanction in issue.

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(5) Any interested person, party or candidate may bring any decision of any Electoral Tribunal under review before the relevant Appeal Tribunal within the period and in the manner prescribed.

(6) Any—

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(a) decision of the Commission in terms of section 18; and

(b) decision or order of the Special Electoral Court,

shall be final and not subject to appeal or review.

(7) No appeal against or review of a decision of an Appeal Tribunal shall be heard save with the prior leave of the Chairperson of the Special Electoral Court granted on application within the period and in the manner determined by that Court.

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Remuneration and allowances of members of tribunals and Special Electoral Court

37. (1) Subject to subsection (3), the Transitional Council may, after consultation with the Minister of State Expenditure, determine the remuneration and allowances payable to members of the Special Electoral Court.

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(2) Subject to subsection (3), the Commission may, after consultation with the Minister of State Expenditure, determine the remuneration and allowances payable to members of the Electoral and Appeal Tribunals.

(3) Different or no remuneration or allowances may be determined under subsections (1) and (2) in respect of different members of those Tribunals and that Court. 5

Secrecy

38. (1) Every member of the Commission and every person employed in the performance of the functions of the Commission, the directorates and the Secretariat shall aid in preserving secrecy in regard to any matter or information that may come to his or her knowledge in the performance of his or her duties in connection with the said functions, except in so far as the publication of such matter or information is authorized by law. 10

(2) Any person who, in the exercise of powers or the performance of duties in terms of this Act, has obtained knowledge regarding the affairs of any registered party, candidate or voter, shall, subject to section 6(2)(e), not disclose such knowledge to any person other than is required in the course and scope of his or her duties or in response to a question lawfully put under order of any court of law or tribunal contemplated in this Act or the Special Electoral Court. 15

Offences and penalties 20

39. Any person who—

- (a) wilfully hinders or obstructs the Commission, a Chief Director of a directorate or the Secretary or a member of its, his or her staff in the exercise of its or his or her powers or in the performance of its or his or her duties or functions; 25
- (b) wilfully interrupts the proceedings at a meeting of the Commission or a sitting of an Electoral or Appeal Tribunal or the Special Electoral Court or misbehaves in any other manner in the place where such meeting or sitting is held;
- (c) in connection with any meeting of the Commission or sitting of such Tribunal or Court does anything which, if such meeting or sitting were proceedings in a court of law, would have constituted contempt of court; 30
- (d) does anything calculated improperly to influence the Commission or any such Tribunal or Court in respect of any matter being or to be considered by the Commission or such Tribunal or Court in connection with any decision or order; 35
- (e) wilfully contravenes or fails to comply with any provision of section 38, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years.

Legal proceedings against Commission 40

40. (1) The State Liability Act, 1957 (Act No. 20 of 1957), shall apply *mutatis mutandis* in respect of the Commission.

(2) In such application a reference to a Minister of a department shall be construed as a reference to the Chairperson or Co-Chairperson of the Commission, as the case may be. 45

Regulations

41. (1) The Commission may make regulations regarding--

- (a) governing the permissible nature and content of political advertising, which shall be determined and enforced by the Commission in conjunction with the Independent Media Commission established by 50

- section 2 of the Independent Media Commission Act, 1993, and the Independent Broadcasting Authority established by section 3 of the Independent Broadcasting Authority Act, 1993;
- (b) the issue, contents, form, and the practice and procedure in connection with the execution, of search warrants, subpoenas and the seizure of items required in connection with the investigation of alleged infringements of the Electoral Code of Conduct, alleged electoral offences and matters justiciable in terms of this Act; 5
 - (c) the manner in which proceedings, and the nature of proceedings which, may be instituted in the Electoral and Appeal Tribunals; 10
 - (d) the time limits within and manner in which appeals may be noted or decisions may be brought under review in terms of this Act;
 - (e) electoral irregularities and other matters in respect of which contraventions or failures to comply shall constitute cause for proceedings to be instituted in the Electoral Tribunals; 15
 - (f) the issue, contents, form and use of process, and the practice and procedure in connection with the service and execution thereof;
 - (g) the manner of recording or noting evidence or proceedings and the disposal thereof;
 - (h) the appointment and functions of sworn interpreters; 20
 - (i) orders, penalties and sanctions which may be given or imposed by an Electoral or Appeal Tribunal, and the execution thereof;
 - (j) the manner in which a person, party or candidate may be summoned to appear in an Electoral Tribunal to face charges of contravening or failing to comply with a regulation contemplated in paragraph (e) or an infringement of the Electoral Code of Conduct, and the manner in which one or more persons may be selected to represent such party in such Tribunal; 25
 - (k) the procedures for investigating alleged infringements of the Electoral Code of Conduct, electoral offences or matters justiciable in terms of this Act in order to bring such investigations to an expeditious conclusion; 30
 - (l) the practice and procedure to be followed by the Chief Director: Administration and the Chief Director: Monitoring in hearing appeals against decisions or actions of functionaries of their directorates, due regard being had to the principles of natural justice; 35
 - (m) the practice and procedure to be followed by the Secretary in the performance of his or her functions;
 - (n) fees and costs and the recovery thereof in respect of legal proceedings in terms of this Act; 40
 - (o) representation or absence thereof in respect of legal proceedings in terms of this Act;
 - (p) the practice and procedure to be followed by the Electoral and Appeal Tribunals in the conduct of their proceedings in order to bring such proceedings to an expeditious conclusion, due regard being had to fairness and justice; 45
 - (q) the regulation of the conduct of all persons, parties and candidates in so far as such conduct may promote or inhibit the conduct of free and fair elections;
 - (r) any matter: required or permitted to be prescribed in terms of this Act; 50
and
 - (s) generally, all matters which in its opinion are necessary or expedient to be prescribed to achieve the objects of this Act.
- (2) A regulation under subsection (1) may prescribe penalties for any contravention of the provisions thereof or any failure to comply therewith of a fine or imprisonment for a period not exceeding two years. 55

(3) Regulations under subsection (1) affecting State expenditure shall be made only after consultation with the Minister of State Expenditure.

Short title and commencement

42. This Act shall be called the Independent Electoral Commission Act, 1993, and shall come into operation on a date fixed by the State President, on the advice of the Transitional Council, by proclamation in the *Gazette*. 5

**MEMORANDUM ON THE OBJECTS OF THE INDEPENDENT
ELECTORAL COMMISSION BILL, 1993**

The Negotiating Council as part of the Multi-Party Negotiating Process has agreed to the contents of the above-mentioned Bill for the establishment of an Independent Electoral Commission to conduct, administer, organize and supervise the first elections for a democratically elected National Assembly and all other legislatures, excluding the Senate, contemplated in the so-called Interim Constitution Bill (which is being negotiated).

This Bill corresponds with a new Electoral Bill which is being negotiated and the said Interim Constitution Bill.

The Independent Electoral Commission



The Multi-party Negotiating Council has approved a bill to establish an Independent Electoral Commission (IEC). The IEC will be responsible for administering, monitoring, and certifying the election of the interim government. The IEC also will be responsible for administering, monitoring, and certifying any referendum declared by the State President on the advice of the Transitional Executive Council (TEC).

The IEC bill will not become effective and the IEC will not come into existence until the bill is approved by Parliament, and the Multi-party Forum as part of a package which includes the IEC bill, the TEC bill, the Independent Media Commission (IMC) bill, the Independent Broadcasting Authority (IBA) bill, and the Interim Constitution.

The IEC will be appointed by the State President on the advice of the TEC. It will consist of seven to eleven voting members from the ranks of eligible South African voters, and up to five non-voting members from the international community. Persons who "have a high party political profile" will not be eligible for appointment.

The IEC will be responsible for administering and monitoring the election, and certifying whether the election is free and fair. The IEC also will be responsible for educating voters about:

- * democratic principles and values;
- * the electoral process and mechanisms;
- * the right to free political canvassing and campaigning;
- * the secrecy of voting; and
- * any other relevant matter.

The IEC will have the power, in conjunction with the IMC, to make and enforce regulations governing the nature and content of political advertising.

The IEC bill provides for the establishment of certain subordinate structures: an Election Administration Directorate, an Election Monitoring Directorate, an Election Adjudication Secretariat, committees to be established at the discretion of the IEC, and a Chief Executive Officer responsible for the management of staff, finances and other such matters. The IEC also will have the power to second personnel from the public service to assist it in the performance of its functions.

In addition to the subordinate structures, the IEC bill provides for the establishment of an International Advisory Committee to provide advice to the IEC. The International Advisory Committee will be appointed by the State President on the advice of the TEC and will consist of members of the international community. The bill also provides for the establishment of Electoral Tribunals, Electoral Appeal Tribunals, and the Special Electoral Court.

The Election Administration Directorate (EAD) will be responsible for administering the first election. It will be appointed by the IEC and will consist of a Chief Director and other subordinate entities at the discretion of the IEC. The bill does not specify the duties of the EAD, but accords it considerable discretion and the power to promulgate regulations with respect to the administering of the first election.

The Election Monitoring Directorate (EMD) will be responsible for monitoring the first election. It will be appointed by the IEC and will consist of a Chief Director, monitors, and other subordinate entities at the discretion of the IEC. The EMD will register observers and regulate their activity, and facilitate the role of international observers. "International observer" is defined as any person appointed as a representative of the United Nations, the Organisation of African Unity, the European Community, the Commonwealth, and any other inter-governmental organisation or foreign government accredited for that purpose by the Sub-council on Foreign Affairs of the TEC. Other responsibilities of the EMD will include investigating alleged violations of the Electoral Code of Conduct for Political Parties included in the Electoral Act, and mediating disputes between political parties involving election issues.

The Election Adjudication Secretariat will be responsible for the administration of the Electoral Tribunals, the Electoral Appeal Tribunals, and the Special Electoral Court.

Each of the Electoral Tribunals will consist of one attorney, advocate, magistrate, or academic lawyer with not less than five years of experience, and will be appointed by the IEC. The function of the Electoral Tribunals will be to adjudicate alleged violations of the

Electoral Code of Conduct for Political Parties and alleged "electoral irregularities."

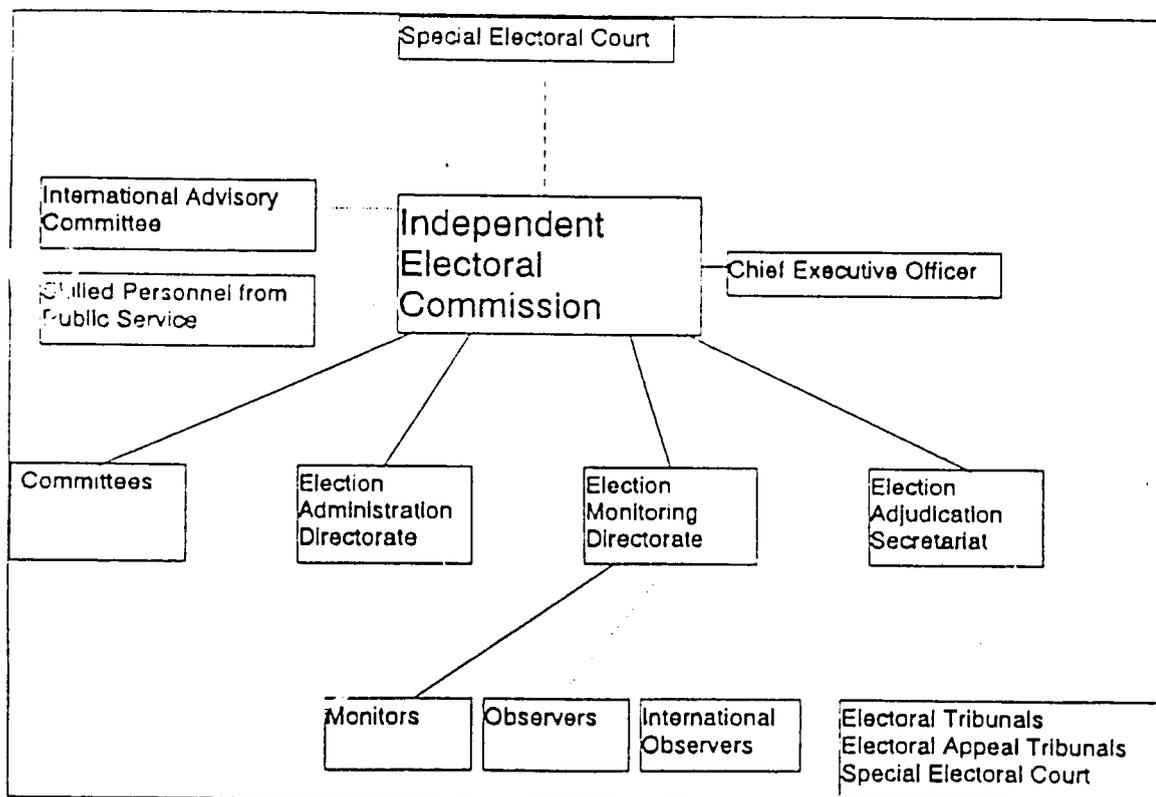
Each of the Electoral Appeal Tribunals, also appointed by the IEC, will consist of three persons, at least one of whom must be a Supreme Court judge, and one an attorney, advocate, magistrate, or academic lawyer with not less than five years of experience. The function of the Electoral Appeal Tribunals will be to hear appeals of decisions of the Electoral Tribunals.

Both Electoral Tribunals and Electoral Appeal Tribunals will have the power to impose sanctions.

The Special Electoral Court will be appointed by the TEC and will consist of five persons: a judge of the

Appellate Division of the Supreme Court, two Supreme Court judges, one attorney, advocate, magistrate, or academic lawyer with not less than five years of experience, and another person. The Special Electoral Court will have the power to review decisions of the IEC, review decisions and hear appeals of decisions of the Electoral Appeal Tribunals, and remove members from the IEC. The Special Electoral Court also will hear certain other cases as specified in the TEC bill.

The IEC bill provides for the complete independence of the IEC and the subordination of all other entities and laws as they relate to the first election.





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GOVERNMENT GAZETTE

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 85.

14 January 1994

No. 85.

14 Januarie 1994

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 202 of 1993: Electoral Act, 1993.

No. 202 van 1993: Kieswet, 1993.

94

ACT

To regulate the election for the National Assembly and all provincial legislatures to be elected in terms of the Constitution of the Republic of South Africa, 1993; and to provide for matters in connection therewith.

*(Afrikaans text signed by the State President.)
(Assented to 12 January 1994.)*

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

ARRANGEMENT OF SECTIONS

Section

	CHAPTER I	5
	<i>Interpretation and Application of Act</i>	
1.	Definitions	
2.	Application of Act	
3.	Act binding on State and State President	
	CHAPTER II	10
	<i>Administration</i>	
4.	Administration of Act	
5.	Party liaison committees	
6.	Functions of party liaison committees	
7.	Appointment of and control over electoral officers and staff	15
8.	Powers, duties and functions of provincial electoral officers	
9.	Powers, duties and functions of district electoral officers	
10.	Powers, duties and functions of presiding officers during voting	
11.	Powers, duties and functions of voting officers at voting stations	
12.	Powers, duties and functions of counting officers and enumerators	20
13.	Appointment and powers, duties and functions of party election and voting agents	
14.	Declaration of secrecy	
	CHAPTER III	
	<i>Franchise</i>	
		25
15.	Persons entitled to vote	
16.	Persons not entitled to vote	
17.	Temporary voters' cards	
	CHAPTER IV	
	<i>Registration of Participating Parties</i>	
		30
18.	Registration for purposes of election	
19.	Application for registration for purposes of election	
20.	Notice of registration in <i>Gazette</i>	

46

CHAPTER V*Proclamation of Election and Submission of Lists of Candidates*

- | | | |
|-----|--|---|
| 21. | Determination of voting days and hours of voting | |
| 22. | Determination of certain seats and submission of lists of candidates to Chief Director | 5 |
| 23. | Publication of lists of candidates | |

CHAPTER VI*Preparation for Voting*

- | | | |
|-----|---|----|
| 24. | Voting stations | |
| 25. | Foreign voting stations | 10 |
| 26. | Supplying of voting materials | |
| 27. | Voting compartment and ballot box | |
| 28. | Ballot box | |
| 29. | Ballot paper | |
| 30. | Commencement and closing of voting at voting stations | 15 |

CHAPTER VII*Voting at Voting Stations*

- | | | |
|-----|---|----|
| 31. | Place of voting | |
| 32. | Number of ballot papers | |
| 33. | Voting in secret | 20 |
| 34. | Identification | |
| 35. | Manner of voting | |
| 36. | Voters who cannot read or who are incapacitated by blindness or other physical disability from voting | |
| 37. | Objection to voting | 25 |
| 38. | Sealing of ballot boxes and other election material by presiding officer | |
| 39. | Special voters | |
| 40. | Procedure for casting special votes | |

CHAPTER VIII*Preparation for Counting, and Counting of Votes* 30

- | | | |
|-----|---|----|
| 41. | Notice of place and time of counting of votes | |
| 42. | Counting stations | |
| 43. | Verification of ballot paper statement by counting officer | |
| 44. | Counting of votes | |
| 45. | Alleged irregularities or inaccuracies, and challenges of tally | 35 |
| 46. | Formal objections | |
| 47. | Powers of Commission in event of serious voting irregularity | |

CHAPTER IX*Announcement of Results of Election, Determination of Number of Candidates of Registered Parties Duly Elected and Supplementation of Lists of Candidates, Subject to Schedule 2 to Constitution* 40

- | | | |
|-----|--|----|
| 48. | Declaration of support by one registered party of another | |
| 49. | Determination of results of election for National Assembly | |
| 50. | Determination of results of election for provincial legislatures | |
| 51. | Designation of representatives | 45 |
| 52. | Supplementation of lists of candidates | |
| 53. | Review of lists of candidates by registered party | |
| 54. | Vacancies | |

CHAPTER X

Offences and Penalties

55. Undue influence	
56. Bribery	
57. Personation	5
58. Infringement of voting secrecy	
59. Prohibition on interference with voting materials and election material	
60. Prohibition on unauthorized printing, manufacture and supply of voting materials and election material	
61. Prohibition on interference with free political canvassing and campaigning	10
62. Prohibition on non-compliance with lawful directions, instructions and orders, and obstruction of electoral officers and party election or voting agents	
63. Prohibition on making intentional false statements or publishing false information	15
64. Miscellaneous offences	
65. Penalties	

CHAPTER XI

General Provisions

66. Ownership of voting materials and election material	20
67. Forfeiture of deposit paid by registered party	
68. Destruction of election material	
69. Electoral Code of Conduct and implementation thereof	
70. Institution of proceedings by Chief Director: Monitoring in Electoral or Appeal Tribunal	25
71. Bills, placards, etc., to bear publisher's name	
72. Prohibition on publication of opinion polls	
73. Prohibition on certain political activities during certain period prior to and during voting period	
74. State Electoral Fund	30
75. Application of Act in event of conflict with other laws	
76. Regulations	
77. Repeal and amendment of laws, and savings	
78. Short title and commencement	

CHAPTER I

35

Interpretation and Application of Act

Definitions

1. In this Act, unless the context otherwise indicates—
 - (i) "Administration Directorate" means the Election Administration Directorate established by section 19 of the Commission Act; (viii) 40
 - (ii) "Appeal Tribunal" means an Electoral Appeal Tribunal established in terms of section 30(1) of the Commission Act; (iii)
 - (iii) "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; (xiii) 45
 - (iv) "ballot box" means any ballot box referred to in section 27; (xlix)
 - (v) "ballot paper" means any ballot paper referred to in section 29; (xlvii)
 - (vi) "candidate" means any person whose name appears on a list of nominations by any registered party to be a representative in the National Assembly or any provincial legislature in terms of the Constitution and this Act; (xxi) 50
 - (vii) "Chief Director" means the Chief Director: Administration appointed to that office by the Commission in terms of section 20(1) of the Commission Act; (xvii) 55

- (viii) "Chief Director: Monitoring" means the person appointed to that office by the Commission in terms of section 23(1) of the Commission Act; (xviii)
- (ix) "Commission" means the Independent Electoral Commission established by section 4(1) of the Commission Act; (xxiii) 5
- (x) "Commission Act" means the Independent Electoral Commission Act, 1993 (Act No. 150 of 1993); (xxiv)
- (xi) "Constitution" means the Constitution of the Republic of South Africa, 1993; (xv)
- (xii) "controlled area" means any controlled area contemplated in section 24(1)(c) or 42(1)(c); (iv) 10
- (xiii) "counting centre" means any counting centre contemplated in section 42(1)(a); (lviii)
- (xiv) "counting officer" means any counting officer appointed in terms of section 7(1)(b)(iii); (lv) 15
- (xv) "counting station" means any place determined by the Commission in terms of section 41 where the counting of votes is to take place; (lvi)
- (xvi) "deputy director" means any deputy director appointed in terms of section 20(1) of the Commission Act; (i) 20
- (xvii) "directorate" means the Administration Directorate or the Monitoring Directorate; (vii)
- (xviii) "district electoral officer" means any district electoral officer appointed in terms of section 7(1)(b)(i), and includes any deputy appointed in terms of that section designated by the former; (x) 25
- (xix) "election" means any election conducted in terms of this Act for the National Assembly or any provincial legislature; (lxii)
- (xx) "election centre" means any election centre contemplated in section 24(1)(a); (lxiv)
- (xxi) "election material" means any ballot papers, counterfoils, envelopes, statements and other documentation used in connection with the voting in the election; (lxvi) 30
- (xxii) "election period" means the period between the commencement and ending of the election contemplated in section 21(2); (lxviii)
- (xxiii) "Electoral Code of Conduct" means the Electoral Code of Conduct contained in Schedule 2; (lxv) 35
- (xxiv) "electoral district" means any electoral district demarcated by the Commission by regulation; (li)
- (xxv) "electoral officer" means any deputy director, any provincial or district electoral officer or his or her deputy, any presiding or voting officer or any counting officer or enumerator; (lxiii) 40
- (xxvi) "Electoral Tribunal" means an Electoral Tribunal established in terms of section 28(1) of the Commission Act; (lxvii)
- (xxvii) "enumerator" means any enumerator appointed in terms of section 7(1)(b)(iv); (lvii) 45
- (xxviii) "foreign voting station" means any foreign voting station established in terms of section 25; (vi)
- (xxix) "identification mark" means the mark approved by the Commission for the purpose of the identification of a voter in terms of section 35(4)(a)(i) before voting in the election; (xix) 50
- (xxx) "inner perimeter" means any inner perimeter contemplated in section 24(1)(b) or 42(1)(b); (v)
- (xxxi) "interim party liaison committee" means the interim party liaison committee established in terms of section 5(1)(a); (lx) 55
- (xxxii) "international observer" means any person appointed as a representative of the United Nations, the Organization of African Unity, the European Community, the Commonwealth or any other 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; (xx) 60
- (xxxiii) "monitor" means any person appointed as such in terms of section 24(1)(a) of the Commission Act; (xxv)

- (xxxiv) "Monitoring Directorate" means the Election Monitoring Directorate established by section 22 of the Commission Act; (ix)
- (xxxv) "National Assembly" means the National Assembly as contemplated in the Constitution; (xxvi)
- (xxxvi) "observer" means any observer registered as such with the Monitoring Directorate in terms of section 24(1)(b) of the Commission Act; (lxxii) 5
- (xxxvii) "official mark" means the mark determined by the Chief Director for the purpose of the identification of a ballot paper as having been officially issued in terms of section 35(6)(a) or 40(3); (ii) 10
- (xxxviii) "ordinarily resident", in relation to any person, means the home or place where he or she normally lives and to which he or she returns regularly after any period of temporary absence; (xiv)
- (xxxix) "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 the election; (xxviii) 15
- (xl) "party election agent" means any party election agent appointed in terms of section 13(1) or (3)(c); (xxxv)
- (xli) "party election district agent" means any party election district agent appointed in terms of section 13(1)(c); (xxix) 20
- (xlii) "party election national agent" means any party election national agent appointed in terms of section 13(1)(a), and includes any deputy appointed in terms of that section designated by the former; (xxx) 25
- (xliii) "party election provincial agent" means any party election provincial agent appointed in terms of section 13(1)(a) or (b); (xxxiii)
- (xliv) "party liaison national committee" means the party liaison national committee established in terms of section 5(3)(a); (xxx)
- (xlv) "party liaison provincial committee" means any party liaison provincial committee established in terms of section 5(3)(b); (xxxii) 30
- (xlvi) "party voting agent" means any party voting agent appointed in terms of section 13(5); (xxxiv)
- (xlvii) "prescribe" means prescribe by regulation in terms of this Act or under the Commission Act; (lxxi) 35
- (xlviii) "presiding officer" means any presiding officer appointed in terms of section 7(1)(b)(ii); (lxx)
- (xlix) "province" means any province of the Republic determined as such by or under the Constitution; (xxxviii)
- (l) "provincial electoral officer" means any provincial electoral officer appointed in terms of section 7(1)(a), and includes any deputy appointed in terms of that section designated by the former; (xxxvi) 40
- (li) "provincial legislature" means any legislature of a province as contemplated in the Constitution; (xxxvii)
- (lii) "provisionally defined area" means any area referred to in Part 2 of Schedule 1 to the Constitution; (lxix) 45
- (liii) "qualified person" means any person qualified in terms of the Constitution to serve as a member of the National Assembly or a provincial legislature, as the case may be; (xi)
- (liv) "registered party" means any party registered in terms of Chapter IV as a participant in the election; (xii) 50
- (lv) "regulations" means the regulations made in terms of section 76; (xxxix)
- (lvi) "Republic" means the Republic of South Africa, including the Republics of Transkei, Bophuthatswana, Venda and Ciskei; (xl) 55
- (lvii) "Senate" means the Senate as contemplated in the Constitution; (xli)
- (lviii) "Special Electoral Court" means the Special Electoral Court established by section 32(1) of the Commission Act; (xliv)
- (lix) "special vote" means any special vote contemplated in sections 39 and 40; (xlxiii) 60
- (lx) "special voter" means any voter entitled in terms of sections 39 and 40 to cast his or her vote as a special voter; (xlii)

- (lxi) "State" means the Republic; (xlv)
- (lxii) "temporary voter's card" means any temporary voter's card issued in terms of section 17; (lxi)
- (lxiii) "this Act" includes the regulations; (xvi)
- (lx'v) "Transitional Council" means the Transitional Executive Council established by section 2 of the Transitional Executive Council Act, 1993 (Act No. 151 of 1993); (xxvii) 5
- (lxv) "Tribunal" means an Electoral or Appeal Tribunal; (lix)
- (lxvi) "voter" means any eligible voter as contemplated in sections 15 and 16; (xxii) 10
- (lxvii) "voter's eligibility document" means—
- (a) an identity document or a temporary identity certificate issued in terms of the Identification Act, 1986 (Act No. 72 of 1986), or any other applicable law of the Republic, as the case may be;
- (b) a temporary voter's card; 15
- (c) 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); or
- (d) an identity document referred to in section 13 of the Population Registration Act, 1950 (Act No. 30 of 1950); and 20
- (e) for the purpose of voting at any foreign voting station, also a valid South African passport; (lii)
- (lxviii) "voting compartment" means any voting compartment referred to in section 27, (liii)
- (lxix) "voting day or days" or "voting period" means the voting day or days or period determined in terms of section 21; (l) 25
- (lxx) "voting materials" means voting compartments, ballot boxes, ballot papers, instruments, seals and other requisites for the purposes of conducting the election; (liv)
- (lxxi) "voting officer" means any voting officer appointed in terms of section 7(1)(c); (xlvi) and 30
- (lxxii) "voting station" means any place determined by the Chief Director in terms of section 24(2) where voting is to take place. (xlviii)

Application of Act

2. The provisions of this Act shall apply in respect of the elections held in terms of the Constitution for the National Assembly and all provincial legislatures. 35

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. 40

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. 45

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 50

- (b) appoint a chairperson for such committee, who may or may not be a person contemplated in subsection (2), and 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. 5
- (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 the publication of the notice contemplated in section 20 the Commission shall— 10
- (a) establish a party liaison national committee consisting of all party election national agents or other authorized representatives of all registered parties participating in the election whether in respect of the National Assembly or any provincial legislature; and
- (b) establish party liaison provincial and local committees consisting of all party election provincial and district agents concerned, as the case may be, of all registered parties participating in the election whether in respect of the National Assembly or any provincial legislature. 15
- (4) The Commission shall appoint—
- (a) a chairperson for each of the committees contemplated in subsection (3), who shall determine the procedures to be followed at the meetings thereof; and 20
- (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. 25

Functions of party liaison committees

6. The functions of any party liaison committee contemplated in section 5 shall be— 30
- (a) to establish liaison between the Commission and the parties represented thereon and between such parties regarding election matters, including— 35
- (i) the administration of the electoral arrangements 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; and
- (b) to be a forum in which the parties represented on any such committee may— 40
- (i) discuss matters of concern with a view to obviating the incidence of infringements of the Electoral Code of Conduct and, if possible, resolving the 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. 45

Appointment of and control over 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 called in terms of this Act, in consultation with the Commission, appoint— 50
- (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 electoral district;

- (ii) a presiding officer in respect of each voting station; and
 (iii) a counting officer in respect of each counting station,
 or, subject to such consultation, authorize any such appointment by any provincial electoral officer;
- (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; and
- (d) one or more enumerators in respect of each counting station as he or she may consider necessary for the effective administration of the counting of votes, 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 or 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 submissions from the interim party liaison committee or the party liaison national committee, as the case may be, on a proposal regarding any such appointment, and, where such submissions are received within 48 hours, consider, but shall not be bound by, the advice of any such committee.
- (6) No appointment made in terms of subsection (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 in this Act or any other law contained, any presiding, voting or counting officer or enumerator may be removed from office by the Chief Director on account of—
- (a) misconduct;
- (b) inability or failure to perform the duties connected with his or her office efficiently;
- (c) absence from duty without the prior permission of the Chief Director or his or her delegate;
- (d) incompetence;
- (e) displaying bias; or
- (f) unsuitability for office.
- (8) Subject to subsection (6), in the event of a removal from office under subsection (7), compensation shall be the only remedy available.
- (9) Subject to subsection (5), 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 the provincial or district electoral officer, 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 provincial 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.

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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 10
- (b) exclude from the election centre and the inner perimeter all persons except—
 - (i) members and representatives of the Commission and employees of the Commission in the course of their official duties;
 - (ii) the Chief Director and any electoral officer concerned; 15
 - (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 20 may allow;
 - (vi) any interpreters and any such staff and other persons as may be necessarily admitted by the presiding officer; and
 - (vii) any person casting 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. 25

(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 cast his or her vote. 30

(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. 35

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 under or 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. 40

Powers, duties and functions of counting officers and enumerators

12. (1) The counting officer at a counting station shall have power to—

- (a) take such steps as may be necessary for the orderly conduct of the counting of the votes; and 45
- (b) exclude from the counting centre all persons except—
 - (i) members and representatives of the Commission and employees of the Commission in the course of their official duties;
 - (ii) the Chief Director and any electoral officer concerned; 50
 - (iii) any party voting agent entitled in terms of section 13(5) to be present at a counting 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 counting officer may allow; and
- (vi) any such staff and other persons as may necessarily be admitted by the counting officer. 5

(2) The counting 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 counting station.

(3) 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 respect of the area concerned. 10

(4) 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. 15

(5) The enumerator shall have such powers, duties and functions as may be prescribed.

Appointment and powers, duties and functions of party election and voting agents 20

13. (1) Upon registration in terms of section 19 the registered party concerned shall by written notice to the Chief Director—

- (a) if such 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; 25
- (b) if such party is contesting the election for any provincial legislature only, appoint a party election provincial agent and his or her deputy in respect of each province in respect of which it is contesting the election, and furnish the names and business addresses of such party election agents; 30 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 district agent. 35

(2) The party election national agent or other authorized representative or party provincial election agent shall attend and represent the registered party concerned at meetings of the party liaison national or provincial committee, as the case may be, and every other forum which the Commission, a Chief Director of a directorate or the provincial electoral officer in its, his or her discretion may convene in respect of the election. 40

(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 concerned shall forthwith inform the Chief Director or the provincial electoral officer concerned in writing of such revocation, resignation, incapacity or death. 45

(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 business 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. 50 55

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

(5) A party election provincial agent shall in the prescribed manner appoint the prescribed number of party voting agents for the purposes of monitoring voting at a voting station and the counting of votes at a counting station 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 sections 15 and 16. 5

Declaration of secrecy

14. Before assuming or performing any of the duties or functions assigned to him or her by or under this Act, any 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. 10

CHAPTER III

Franchise

Persons entitled to vote

15. (1) Any person of the age of 18 years or older who is a citizen of or permanently resident in the Republic and who is in possession of a voter's eligibility document shall, in accordance with and subject to the provisions of this Act, be entitled to vote at the election. 15

(2) For the purposes of this section a person shall be permanently resident in the Republic if he or she— 20

(a) holds a permit for permanent residence in the Republic in terms of section 25 of the Aliens Control Act, 1991 (Act No. 96 of 1991); or

(b) has been exempted from the requirement of holding a permit for permanent residence in terms of section 28(2) of the Aliens Control Act, 1991. 25

(3) For the purposes of this section a person shall be deemed to be permanently resident in the Republic if such person—

(a) is a former South African citizen, and, notwithstanding any requirement for the exercise of a discretion by the Minister of Home Affairs in terms of section 25bis of the South African Citizenship Act, 1949 (Act No. 44 of 1949), qualifies for the restoration of South African citizenship in terms of the said Act; 30

(b) was born to or is a spouse of a South African citizen or former South African citizen and has entered the Republic with the intention of residing permanently therein; 35

(c) establishes, to the satisfaction of the Commission, in the prescribed manner that he or she—

(i) entered the Republic on or before 31 December 1978;

(ii) has been ordinarily resident in the Republic since the date of his or her entry into the Republic; and 40

(iii) is not a prohibited person in terms of the Aliens Control Act, 1991; or

(d) is a child of a person who satisfies the criteria referred to in paragraph (c) and who establishes, to the satisfaction of the Commission, in the prescribed manner that he or she was born in the Republic and has been ordinarily resident therein since the date of his or her birth. 45

(4) Any person who satisfies the criteria referred to in paragraph (a), (b), (c) or (d) of subsection (3) shall be deemed to fulfil the requirements of section 4 of the Identification Act, 1986 (Act No. 72 of 1986), for the purposes of obtaining an identity document in terms of section 8 or a temporary identity certificate in terms of section 9 of the said Act or a temporary voter's card. 50

Persons not entitled to vote

16. Notwithstanding the provisions of section 15, no person shall be entitled to vote in the 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 of the Republic, as the case may be; 5
- (c) detained under the Prevention and Treatment of Drug Dependency Act, 1992 (Act No. 20 of 1992), or any other applicable law of the Republic, as the case may be; or
- (d) serving a sentence of imprisonment without the option of a fine in respect of any of the following specified offences involving violence or dishonesty: 10
 - (i) Murder, culpable homicide, rape, indecent assault, childstealing, kidnapping, assault with intent to do grievous bodily harm, robbery, malicious injury to property and breaking or entering any premises with intent to commit an offence; 15
 - (ii) fraud, corruption and bribery; or
 - (iii) any attempt to commit any offence referred to in subparagraph (i) or (ii).

Temporary voters' cards

17. (1) If the Commission considers the issuing of temporary voters' cards 20 necessary for the purposes of the election, the Commission may—
- (a) upon receipt of an application in the prescribed manner, including—
 - (i) the information therein being given under oath or affirmation; and
 - (ii) the taking of a set of fingerprints of the applicant; and
 - (b) upon verification to the satisfaction of the Commission of the informa- 25 tion furnished in the application with—
 - (i) the source information at the disposal of the Department of Home Affairs; and
 - (ii) such other information as may be furnished by any person, institution or organization at the request of the Commission, 30
- issue to such applicant who 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. 35
- (3) A temporary voter's card shall be in the prescribed form and shall contain the following particulars in respect of the applicant to whom it is issued:
- (a) The identity number referred to in section 5 of the Identification Act, 1986 (Act No. 72 of 1986), or, if such number has not yet been allocated, the date of birth or the age; 40
 - (b) the full name; and
 - (c) a passport size photograph with a recognizable image.
- (4) An applicant shall qualify for the issuing of a temporary voter's card only if he or she is entitled to vote in terms of sections 15 and 16, but does not possess any other valid voter's eligibility document identifying him or her as such. 45

CHAPTER IV

Registration of Participating Parties

Registration for purposes of election

18. (1) No party shall be entitled to contest the election unless such party is 50 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 remain of effect 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 73 of the Constitution, whichever may occur first. 55

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 of the election in terms of section 21.

(2) The application referred to in subsection (1) shall— 5

(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 provincial legislature, be accompanied by a deposit of R5 000 in respect of each such election it wishes to contest. 10

(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 29 is required to appear on the ballot paper;

(b) the distinguishing mark or symbol of the party in colour; 15

(c) such photographs as may be prescribed for the purposes of the ballot paper;

(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; 20

(f) the constitution of the party;

(g) the names and addresses of—

(i) the national leader or leaders;

(ii) the regional leaders, if any;

(iii) the members constituting the national executive body; and 25

(iv) the members of the regional executive bodies, if any, of the party; and

(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. 30

(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 and its office-bearers, officials and candidates (including the office-bearers and officials of parties which are constituent members of a group of parties jointly functioning as a single party for the purposes of the election) to the Electoral Code of Conduct. 35

(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. 40

(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 inspection by the public, and anyone who desires to inspect such a document, may do so free of charge during office hours. 45

(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. 50

(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 55

(ii) contains anything which in the opinion of the Commission portrays the propagation of or incitement to violence or hatred or which may 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. 60

(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, abbreviated name, distinguishing mark or symbol, as the case may be, for the longest period, should *prima facie* be entitled thereto; 5
 - (ii) may, for the purposes of subparagraph (i)—
 - (aa) afford 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 10
 - (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). 15
- (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 20
 - (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 of the election in terms of section 21(1). 25
- (11) The Commission shall at the request of any authorized person who is investigating any 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. 30

Notice of registration in *Gazette*

20. The Chief Director shall within three days after the expiry of the 28 day period referred to in section 19(10)(b) cause to be published in the *Gazette* a notice containing— 35
- (a) the full name and business address of the registered party;
 - (b) the distinguishing mark or symbol of the registered party;
 - (c) the abbreviated name, if any, of the registered party; and
 - (d) the address at which a copy of the original application and supporting documents shall be available for public inspection. 40

CHAPTER V

Proclamation of Election and Submission of Lists of Candidates

Determination of voting days and hours of voting

21. (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 the 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 but not later than 90 days after the date of such proclamation. 45
- (2) The election shall, for the purposes of this Act and any other law, be deemed to have commenced on the date of the proclamation of the election in terms of subsection (1) and to have ended on the date of the certification of the results of the election or the declaration that it was unable so to certify by the Commission in terms of section 18 of the Commission Act. 50
- (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. 55

Determination of certain seats and submission of lists of candidates to Chief Director

22. (1) The Commission shall as soon as practicable, with due regard to the proposed determinations of seats contemplated in items 2(a) and 10 of Schedule 2 to the Constitution and the criteria mentioned therein, determine a fixed number of seats—

- (a) for each province in respect of the National Assembly; and
(b) for each provincial legislature.

and cause such determination to be published in the *Gazette* forthwith.

(2) 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 provincial legislatures in which such party wishes to be represented as contemplated in Schedule 2 to the Constitution, within 30 days after the date of the proclamation of the election in terms of section 21(1).

(3) Subject to section 23(2), the names on the lists of candidates referred to in subsection (2) shall appear in such fixed order of preference as the registered party may determine with a view to the designation of representatives in that order in terms of item 16 of Schedule 2 to the Constitution.

(4) A list or lists of candidates submitted by a registered party for election—

- (a) to the National Assembly, shall together contain the names of not more than 400 candidates; and
(b) to any provincial legislature, shall contain the names of not more than the number of seats being contested.

(5) 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 concerned that each person whose name appears on the list is a qualified person together with the signed acceptance of such nomination by the candidate, a declaration that he or she commits and subjects himself or herself to the Electoral Code of Conduct and, if any such candidate is—

- (a) not a member of such registered party; or
(b) in addition to being a member of such registered party, also a member of any other party,

the name of the party, if any, of which such candidate is a member, or, as the case may be, also a member.

(6) No documents contemplated in subsections (2) and (5) shall be received after 16:30 on the last day of the 30 day period referred to in subsection (2).

(7) The name of a candidate—

- (a) shall not appear on a list of candidates of more than one registered party in respect of a particular legislature; and
(b) may appear on lists of candidates in respect of the National Assembly and one provincial legislature.

(8) If a candidate's name appears on more lists of candidates than is provided for in subsection (7)(a) and that candidate has signed acceptances of nomination in respect of such lists of candidates, the Chief Director shall, in consultation with the registered parties concerned, delete the name of the candidate from all the lists on which it appears.

(9) The registration of any party in terms of section 19 and consequently its right to participate in the election shall lapse automatically if it fails to submit a list of candidates in accordance with the provisions of this section.

(10) For the purposes of this Act, and notwithstanding anything to the contrary in any law contained, any person employed or serving in—

- (i) any civil service, excluding a member of any police force, defence force or prison service or any judicial officer, public prosecutor in any superior or lower court, state attorney, family advocate or any other officer whose services are essential for the functioning of the courts; or
(ii) any pre-primary, primary, secondary or tertiary educational institution; or
(iii) any hospital or other medical or health institution,

shall not be disqualified from being nominated by a registered party on a list of candidates or from being designated as a representative in the National Assembly or any provincial legislature if that person has taken leave of absence (whether paid or unpaid) from the date on which he or she has been so nominated until and including the date of the publication of the lists of names of representatives in all legislatures in terms of item 16(c) of Schedule 2 to the Constitution.

Publication of lists of candidates

23. (1) The Chief Director shall within five days after the 30 day period referred to in section 22(2), cause to be published in the *Gazette* a notice in respect of the National Assembly and each of the provincial legislatures setting out—

- (a) in alphabetical order the names of all the registered parties; and 5
- (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 22, and declaring that the persons whose names appear on the lists have been nominated as the candidates of the registered party concerned for the election and that such candidates have accepted their nominations. 10

(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 the first 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 22(5). 15

(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. 20

(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 legislature for which he or she had initially been a candidate. 25

(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***

30

Voting stations

24. (1) A voting station shall comprise—

- (a) an election centre, representing that area of the voting station consisting of an area bounded by a circumference with a radius of 100 metres, or such lesser area as practical circumstances may necessitate, so designated by the provincial electoral officer within which a voter shall be allowed to cast his or her vote; 35
- (b) an inner perimeter, representing that area of the voting station consisting of an area around the election centre bounded by a circumference with a radius of 600 metres, or such lesser area as practical circumstances may necessitate, so designated by the provincial electoral officer— 40
 - (i) within which persons shall be allowed for the purposes of voting;
 - (ii) within which all political activity other than voting shall be prohibited; 45
 - (iii) from which persons other than those provided for in section 10(1) and (2) shall be excluded; and
- (c) a controlled area, representing that area of the voting station consisting of an area around the election centre bounded by a circumference with a radius of 1 100 metres, or such lesser area as practical circumstances may necessitate, so designated by the provincial electoral officer in respect of which a presiding officer may exercise such powers of control as may be prescribed. 50

(2) (a) 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.

(b) In the application of paragraph (a) due regard shall be had to the requirement to have separate counts of votes in respect of provincial legislatures and provisionally defined areas. 5

(3) No voting station shall be located at any premises ordinarily occupied by or under the control of any defence or police or armed force, or any political organization, save where the Commission may consider such premises to be a necessary location for the purposes of conducting a free and fair election. 10

(4) The Chief Director shall, at least 45 days before the first voting day, cause to be published 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, cause to be published such additional and alternative locations of voting stations as may be necessary. 15

(5) If the Commission considers that there cannot be a free and fair election in the area in which any voting station is located due to intimidation or violence or that free and safe access by the candidates, election agents or office-bearers of any registered party or any electoral officer to such area is impeded by reason thereof, the Commission may— 20

(a) before the commencement of the voting period, relocate any such voting station; or

(b) after the commencement of the voting period, close any such voting station. 25

(6) The district electoral officer, acting on the authorization of the provincial electoral officer, may provide one or more mobile voting stations in any electoral district for the purposes of voting.

(7) 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 the electoral district concerned. 30

(8) The district electoral officer shall in the prescribed manner make known the locations and estimated times at which a mobile voting station shall function during voting day.

(9) The presiding officer of a mobile voting station, any other electoral officer and any prescribed number of party voting agents may enter upon any land or building with such mobile voting station for the purposes of voting. 35

Foreign voting stations

25. (1) The Commission shall—

(a) 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 the casting of votes by voters who are outside the Republic during the voting period; 40

(b) designate a presiding officer, a monitor and such other persons as it may consider necessary in respect of each foreign voting station; and 45

(c) make provision for the appointment of one or more international observers in respect of each foreign voting station.

(2) Any registered party may designate such number of party voting agents as may be prescribed to monitor voting at each foreign voting station.

(3) Any voter who exercises a right to vote at any foreign voting station shall be required to make a declaration under oath or affirmation in the prescribed form at the time of voting regarding the province in respect of which his or her vote shall be counted in the election. 50

(4) The voting at any foreign voting station shall be conducted *mutatis mutandis* in accordance with the provisions of this Act in respect of voting stations, save as otherwise provided by this Act. 55

(5) The sealed ballot box shall be returned to the Republic and delivered into safe-keeping in the prescribed manner.

(6) The powers, duties and functions conferred or imposed on any electoral officer by or under this Act shall in respect of a foreign voting station be exercised or performed by the Chief Director or any person designated by him or her, save 60

as otherwise provided by this Act or the Commission.

(7) Unless the Commission otherwise directs, all votes cast at foreign voting stations shall be counted at one counting station in the Republic.

(8) (a) Before the votes cast at foreign voting stations are counted, the ballot papers concerned shall be sorted according to the provinces in respect of which the votes were cast in accordance with subsection (3). 5

(b) The provisions of sections 44, 45, 46 and 47 shall *mutatis mutandis* apply to the counting of votes referred to in paragraph (a), and in such application of section 44(2), the Chief Director shall be informed in the prescribed manner of the number of votes to have been cast in favour of each registered party in respect of each province concerned. 10

Supplying of voting materials

26. (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. 15

(2) Each district electoral officer shall be responsible for obtaining voting materials from the provincial electoral officer, and supplying to the presiding officers of the voting stations in his or her electoral district, a sufficient quantity of such materials to ensure the proper conduct of the election. 20

Voting compartment and ballot box

27. 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 25

28. (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 such international and other observers as are permitted by the Commission in respect of any voting station; 30
- (c) immediately thereafter close and seal all such ballot boxes in accordance with the instructions issued by the Chief Director; and
- (d) allow any 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. 35

(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. 40

(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 voting on each voting day close and seal the openings of the ballot boxes in accordance with the instructions issued by the Chief Director. 45

(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) A presiding officer shall be responsible for the safe-keeping of all ballot boxes used at the voting station concerned in the prescribed manner until they are delivered to the district electoral officer or any person provided for in section 38(1). 50

Ballot paper

29. (1) (a) Every ballot paper shall be substantially in the form prescribed by Schedule 1, save that the Commission may determine whether the printing thereon shall be in a vertical or horizontal form.

(b) There shall be printed on every ballot paper in the prescribed manner the names of all the registered parties participating in the election, the distinguishing mark or symbol in colour, the abbreviated name and a photograph of the leader of each such party or such other candidate as the party may determine, which, in the discretion of the Commission, may be in colour. 5

(c) The ballot paper shall be in the languages determined by the Commission and shall make provision for the official mark to be placed on the back of the ballot paper as provided in section 35(6)(a) and the cross or mark referred to in section 35(7)(b) or writing referred to in section 44(4) to appear on the front of the ballot paper. 10

(2) The order of the registered parties as they appear on the ballot paper shall be alphabetical, save that the commencing letter of the alphabet shall be determined by lot. 15

(3) The manner in which the serial number shall be printed on the counterfoils of the ballot papers and on the ballot paper books shall be determined by the Commission.

Commencement and closing of voting at voting stations 20

30. The voting shall commence and close on the hours determined in terms of section 21(1) in respect of each voting day: Provided that the presiding officer shall permit every voter who at the closing hour has presented himself or herself in the prescribed manner to vote, to cast a vote.

CHAPTER VII 25*Voting at Voting Stations***Place of voting**

31. Subject to the provisions of sections 25 and 39(7), a voter shall be entitled to vote at any voting station, and such vote shall be counted in respect of the province where it has been cast. 30

Number of ballot papers

32. A voter shall for the purposes of the first election for the National Assembly and provincial legislatures to be held after the commencement of this Act be issued with one ballot paper only.

Voting in secret 35

33. A voter shall cast his or her vote in secret, and no person shall in any way interfere with a voter in connection with the casting of his or her vote.

Identification

34. No voter shall be permitted to vote unless he or she has presented to the presiding or voting officer his or her voter's eligibility document. 40

Manner of voting

35. (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 voter eligibility—

(a) by examining the voter's eligibility document to establish whether— 45

(i) 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

- (ii) such document has not been previously marked in the prescribed manner in accordance with subsection (4)(b); and
- (b) in the manner provided in subsection (3) and, subject to the provisions of paragraph (c) of that subsection, by establishing that the voter has not already voted at the election. 5
- (3) (a) A voter shall not be given a ballot paper if he or she bears the identification mark or his or her voter's eligibility document bears the mark contemplated in subsection (4)(b).
- (b) Each party voting agent shall have the right to observe the procedure of establishing whether— 10
- (i) a voter bears the identification mark; and
- (ii) the voter's eligibility document bears the mark contemplated in subsection (4)(b).
- (c) The provisions of subsections (2)(b) and (4)(a)(i) 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. 15
- (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— 20
- (i) be marked by means of the identification mark on the right hand; or
- (ii) where that is impracticable, 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)(a)(ii), a voter who refuses— 25
- (a) to have the identification mark administered to him or her in accordance with subsection (4)(a)(i); or
- (b) to have his or her voter's eligibility document marked in the prescribed manner,
- 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. 30
- (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 35
- (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 wishes 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; 40
- (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 45
- (d) place the ballot paper in the ballot box.
- (8) In the event that a voter—
- (a) spoils any ballot paper inadvertently; or
- (b) casts 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. 50
- (9) The Commission shall make such provision 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. 55

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

36. (1) Subject to the provisions of section 35, the presiding officer, on the application in person of any voter who is unable to read or who is incapacitated by 60

blindness or other physical disability from voting in the manner prescribed by the other provisions of this Act, shall then and there, before at least two party voting agents, mark the vote of that voter on the ballot paper in the manner directed by the voter, and place the ballot paper in the ballot box.

(2) Subject to the provisions of section 35, the presiding officer, on the application in person of any voter who is incapacitated by blindness or other physical disability from voting in the manner prescribed by the other provisions of this Act, who has not applied to have his or her vote marked by the presiding officer in terms of subsection (1), and who is accompanied by another person, shall, if such presiding officer is satisfied that such person has attained the age of 18 years, permit such voter to vote with the assistance of the person accompanying him or her, 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 casting of his or her vote may be done to or with the assistance of the person accompanying him or her.

(3) (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 consider relevant in respect of voting by blind persons.

(b) Any vote contemplated in paragraph (a) shall be deemed to be a special vote which shall be cast on the day prescribed by section 39 and otherwise in accordance with the provisions of section 40.

(4) The secrecy of the voting as contemplated in section 33 shall *mutatis mutandis* be preserved in the application of this section.

Objection to voting

37. (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

38. (1) Immediately after the closing of the voting on each voting day, the presiding officer shall, in the presence of such party 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 35(8)(a) and (b); and
- (d) the counterfoils of used and the said 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 electoral 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 the 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
- (5) The district electoral officer shall in the prescribed manner deliver into safe-keeping all the packets received by him or her in terms of subsection (1). 10

Special voters

39. (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 any day for general voting, shall be entitled, subject to subsection (2), to cast a special vote as provided in section 40. 15
- (2) A presiding officer shall at all times on the day before the first day for general voting, during the hours determined in terms of section 21(1) on the said day, take the necessary steps to enable special voters to cast their votes at the place where the office of the presiding officer is situated.
- (3) A presiding officer— 20
- (a) may 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 that subsection at any address in order to enable that voter to cast his or her vote as a special voter; and 25
- (b) shall, at some time on the day and during the hours referred to in subsection (2), 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 that 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. 30
- (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 casting of special votes. 35
- (5) A place where special voters may cast their special votes under this section shall, for the purposes of this Act, be deemed to be a voting station.
- (6) The Chief Director shall as soon as practicable cause a notice to be published in the *Gazette* indicating the places, except the places referred to in subsection (3), where voters referred to in subsection (1) may cast their votes. 40
- (7) (a) Any convicted prisoner or person awaiting trial being detained who is not excluded from voting in terms of section 16(d) may only vote by special vote under this section: Provided that such a vote shall be taken— 45
- (i) at the prison or place where he or she is detained; and
- (ii) on the date determined for the casting of special votes.
- (b) No personal party political canvassing shall be allowed in respect of persons referred to in paragraph (a).

Procedure for casting special votes

40. (1) A special voter shall, when he or she intends to cast his or her special vote, by means of a declaration under oath or affirmation in the prescribed form convince the presiding officer that he or she— 50
- (a) will not be able to attend a voting station at any time during voting hours on any day for general voting; and

- (b) is entitled to cast his or her vote as a special voter as provided in section 39, and shall at the same time submit his or her voter's eligibility document.
- (2) The provisions of section 35(2) to (5), inclusive, shall *mutatis mutandis* apply to a special voter casting his or her special vote. 5
- (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. 10
- (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; 15
- (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. 20
- (5) The presiding officer shall take the covering envelope into 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, transmit the sealed ballot box in the prescribed manner to the district electoral officer for the electoral district concerned after the closing hour for special votes.
- (6) The provisions of section 36 shall apply *mutatis mutandis* to special voters who cannot read or are incapacitated by blindness or other physical disability. 25

CHAPTER VIII

Preparation for Counting, and Counting of Votes

• Notice of place and time of counting of votes

41. (1) The Commission shall determine the places where and the date on and time at which the counting of votes is to be commenced and inform the party liaison national committee accordingly not later than seven days before the first voting day: Provided that the Commission may alter such determination or date of notification, in which event it shall notify all the registered parties accordingly whenever it may consider it appropriate. 30 35
- (2) In the application of subsection (1) due regard shall be had to the requirement to have separate counts of votes in respect of provincial legislatures and provisionally defined areas.

Counting stations

42. (1) A counting station shall comprise— 40
- (a) a counting centre, representing that area of the counting station consisting of an area bounded by a circumference with a radius of 100 metres, or such lesser area as practical circumstances may necessitate, so designated by the provincial electoral officer, within which the counting of the votes cast at the election shall take place; 45
- (b) an inner perimeter, representing that area of the counting station consisting of an area around the counting centre bounded by a circumference with a radius of 600 metres, or such lesser area as practical circumstances may necessitate, so designated by the provincial electoral officer, in respect of which access and other permitted activities may be prescribed; and 50
- (c) a controlled area, representing that area of the counting station consisting of an area around the counting centre bounded by a circumference with a radius of 1 100 metres, or such lesser area as practical circumstances may necessitate, so designated by the provincial electoral officer, in respect of which access and other permitted activities may be prescribed. 55

(2) No counting station shall be located at any premises ordinarily occupied by or under the control of any defence or police or armed force, or any political organization, save where the Commission may consider such premises to be a necessary location for the purposes of conducting a free and fair election.

Verification of ballot paper statement by counting officer

5

43. (1) After the provisions of section 38 have been complied with, the counting officer in the presence of the district electoral officer concerned shall examine whether the seals of the packets referred to in section 38 are intact and afford the district electoral officer concerned and any party voting agents who are present and such monitors and international and other observers as may be permitted by the Commission to be present, an opportunity to do likewise and shall thereafter open all the packets. 10

(2) The counting officer shall separately verify each presiding officer's ballot paper statement referred to in section 38(2) by comparing it with the contents of the packets received from a voting station concerned, and shall for that purpose open all the ballot boxes from that voting station and cause the ballot papers contained therein to be counted. 15

(3) The counting officer or enumerator shall examine each ballot paper to ascertain whether it bears the official mark.

(4) If there appears to be any— 20

(a) irregularity in respect of the seals;

(b) discrepancy in the verification of the ballot paper statement referred to in subsection (2); or

(c) ballot paper which does not bear the official mark,

the matter shall be recorded, the Chief Director shall be informed forthwith and the counting officer shall deal with the matter in the prescribed manner. 25

Counting of votes

44. (1) After the provisions of sections 38 and 43 have been complied with, the counting officer shall forthwith cause—

(a) the ballot papers to be sorted with due regard to the provisions of subsections (3) and (4) on the basis of the individual votes cast for each registered party; and 30

(b) the votes cast to be counted in respect of each registered party.

(2) The counting officer shall, as soon as practicable, after all the votes at such counting station have been counted and the number of votes in favour of each registered party has been determined, inform the Chief Director in the prescribed manner of the number of votes so determined to have been cast in favour of each registered party. 35

(3) The counting officer shall reject and not count any ballot paper—

(a) on which is cast votes for more than one registered party; 40

(b) in respect of which he or she has reasonable grounds to believe that it has not been officially issued to a voter in terms of this Act;

(c) which is unmarked or on which it is impossible to determine with certainty in favour of which registered party the vote is cast; or

(d) which does not bear the official mark on the back thereof. 45

(4) Subject to subsection (3), the counting officer shall not reject and shall cause to be counted any ballot paper on which there is a mark or writing by means of which a voter has clearly indicated his or her choice otherwise than by a cross on the ballot paper concerned.

(5) In the event that the acceptance or rejection of a ballot paper by the counting officer, as the case may be, is disputed by any party voting agent, the counting officer shall endorse thereon the word "disputed" and shall reflect such ballot paper on a form and in a manner prescribed, and shall keep separately the accepted and rejected ballot papers disputed.

(6) The counting officer shall endorse the word "rejected" on any ballot paper rejected in terms of subsection (3). 50

(7) When the counting officer has complied with the provisions of this section and section 45 he or she shall, as soon as practicable, enclose in separate packets—

(a) all counted ballot papers; 55

- (b) all rejected ballot papers;
- (c) all disputed ballot papers rejected;
- (d) all disputed ballot papers accepted;
- (e) all unused ballot papers with their counterfoils;
- (f) all ballot papers discarded in terms of section 35(8)(a) and (b); and 5
- (g) all counterfoils of ballot papers issued.

and shall seal such packets and cause them to be delivered to the Chief Director in the prescribed manner.

(8) On receipt of the packets referred to in subsection (7) the Chief Director shall take charge of them, cause to be examined whether the seals are intact and afford any party voting agent and, in the discretion of the Commission, any international and other observers who are present an opportunity to do likewise. 10

Alleged irregularities or inaccuracies, and challenges of tally

45. (1) Before the determination of the result at any counting station a party voting agent shall have the right to bring to the attention of the counting officer, forthwith any alleged irregularity or inaccuracy, and the counting officer shall record such allegation in the prescribed manner, determine such measures as he or she may consider necessary in order to deal therewith, and report such allegation and determination to the Chief Director in the prescribed manner. 15

(2) Upon the completion of the counting process the counting officer shall forthwith advise the voting agents of the tally, whereupon any such agent shall have the right to challenge the tally determined. 20

(3) If no challenge is made forthwith, all party voting agents present at the counting station shall be required to sign the tally indicating that no irregularity was identified during the counting process, and the tally shall be deemed to be accepted by all registered parties concerned and shall not be subject to appeal: Provided that such acceptance shall not preclude any interested party from lodging a formal objection in terms of section 46. 25

(4) If a challenge is duly made, the registered party concerned shall state the grounds for such challenge, and the counting officer shall make a determination as to whether a recount is to be ordered. 30

(5) Upon refusal by the counting officer of a recount, any registered party shall be entitled to lodge an appeal to the Commission, which shall make such order thereon as it may consider appropriate, which order shall not be subject to appeal.

Formal objections 35

46. (1) Any interested party shall have the right to object in the prescribed manner within 48 hours after the closing of the voting to any aspect of the election which is relevant to the certification of the results thereof, save for such aspects as are provided for in section 45.

(2) The Commission shall investigate any objection referred to in subsection (1) and shall make a final determination thereon, which shall not be subject to appeal. 40

Powers of Commission in event of serious voting irregularity

47. (1) In the event of the Commission making a determination that a serious irregularity has occurred in the voting at any voting station, whether in consequence of any allegation or challenge made in terms of section 45 or objection made in terms of section 46, or as a result of any other reason, including— 45

- (a) the cause for the closure of a voting station under section 24(5); or
- (b) violence, intimidation, fraud or any other irregularity of a material nature in the voting process, 50

the Commission may on good cause shown make such order in respect of the counting of votes as it may consider appropriate in the circumstances, including an order declaring—

- (i) that the votes cast at a particular voting station shall not count in whole or in part; or 55

- (ii) that any such deduction as it may determine shall be effected in whole or in part to the votes counted in favour of any registered party or parties concerned in respect of any particular voting station.
- (2) Any order made by the Commission under subsection (1) shall not be subject to appeal or review. 5

CHAPTER IX

Announcement of Results of Election, Determination of Number of Candidates of Registered Parties Duly Elected and Supplementation of Lists of Candidates, Subject to Schedule 2 to Constitution

Declaration of support by one registered party of another 10

48. Any registered party that wishes to make a declaration of support of another registered party as contemplated in item 15 of Schedule 2 to the Constitution, shall do so in the prescribed manner at the time of submission of its lists of candidates in terms of section 22(1).

Determination of results of election for National Assembly 15

49. (1) After 48 hours of the closing of the voting and after all alleged irregularities, challenges or objections, if any, have been dealt with in accordance with sections 45, 46 and 47, the Commission shall cause the tallies received from all counting stations to be combined in the following manner:

- (a) Add the tallies of votes cast in each province in favour of the respective registered parties contesting the election for the National Assembly; 20
- (b) attribute votes cast in a province in favour of a registered party not contesting the election for the National Assembly and which has made a declaration of support in accordance with item 15(1) of Schedule 2 to the Constitution, as contemplated in that item; and 25
- (c) discard votes cast in favour of any registered party not contesting the election for the National Assembly and which has not made a declaration of support in accordance with item 15(1) of Schedule 2 to the Constitution.

(2) The number of seats to be awarded to a registered party in respect of the election for the National Assembly, shall be determined by the Commission in accordance with items 5 to 9, inclusive, read with item 25 of Schedule 2 to the Constitution. 30

Determination of results of election for provincial legislatures

50. (1) After the provisions of section 49 have been complied with, the Commission shall cause the tallies received from the counting stations concerned to be combined in the following manner: 35

- (a) Add the tallies of votes cast in respect of each province in favour of the respective registered parties contesting the election for the provincial legislature concerned; 40

- (b) attribute votes cast in a province in favour of a registered party not contesting the election for the provincial legislature concerned and which has made a declaration of support in accordance with item 15(2) and (3) of Schedule 2 to the Constitution, as contemplated in that item; and 5
- (c) discard votes cast in favour of any registered party not contesting the election for the provincial legislature concerned and which has not made a declaration of support in accordance with item 15(2) or (3) of Schedule 2 to the Constitution.
- (2) The number of seats to be awarded to a registered party in respect of the election for any provincial legislature, shall be determined by the Commission in accordance with items 13 and 14 read with item 25 of Schedule 2 to the Constitution. 10

Designation of representatives

51. After the counting of votes has been concluded, the number of seats to which each registered party is entitled has been determined and the election has been certified by the Commission as having been substantially free and fair, the Commission shall designate the representatives of each registered party in each legislature in accordance with item 16 of Schedule 2 to the Constitution. 15

Supplementation of lists of candidates

52. Items 17, 18, 19 and 20 of Schedule 2 to the Constitution shall apply to the supplementation of the lists of candidates of a registered party. 20

Review of lists of candidates by registered party

53. Item 21 of Schedule 2 to the Constitution shall apply to the review of the lists of candidates by a registered party. 25

Vacancies

54. Item 23 of Schedule 2 to the Constitution shall apply in the event of a vacancy occurring in the representation of a registered party in any legislature.

CHAPTER X

Offences and Penalties

30

Undue influence

55. (1) Any person who, directly or indirectly, uses or procures the use of, or threatens to use or procure the use of, any force, violence or sexual harassment, or inflicts or threatens to inflict any injury, damage, loss or disadvantage to or upon any other person or property— 35

(a) with intent thereby to compel, induce or influence any person—

(i) to vote or refrain from voting, either at all, or for any particular registered party, or in any other manner; or

- (ii) to attend or participate in, or to refrain from attending or participating in, any political meeting, march, demonstration, or other event of a political nature, or in some other manner lending support to or for any registered party or any candidate; or
- (b) on account of any person having— 5
- (i) voted, attempted to vote or having refrained from voting, either at all, or for any particular registered party, or in any other manner; or
- (ii) attended or participated in, or having refrained from attending or participating in, any such political meeting, march, demonstration, or other event of a political nature, or from lending support as aforesaid. 10
- shall be guilty of an offence.
- (2) Any person who induces, influences or procures any other person to vote in the election, in the knowledge that such other person is not entitled to vote in the election concerned, shall be guilty of an offence. 15
- (3) Any person who, directly or indirectly, by duress or intimidation—
- (a) impedes or prevents or threatens to impede or prevent the free exercise of the franchise by any voter; or
- (b) in any manner influences the result of any election, 20
- shall be guilty of an offence.
- (4) Any person who, directly or indirectly, by duress, intimidation or otherwise, compels or induces any voter who has already voted at the election—
- (a) to inform such or any other person of the name of the registered party for which the voter has voted; or
- (b) to display the ballot paper on which such voter has marked his or her 25
- vote, in such a manner as to make known to such or any other person the name of the registered party for which the voter has voted,
- shall be guilty of an offence.

Bribery

56. (1) Any person who, directly or indirectly— 30
- (a) accepts or contracts for any valuable consideration, for himself or herself or for any other person, in order that he or she or such other person votes or agrees to vote, or refrains or agrees to refrain from voting, either at all or for any particular registered party or in any other manner; or
- (b) after the election, accepts any valuable consideration, for himself or herself, or for any other person, on account of having induced or influenced any person to vote or refrain from voting as aforesaid; 35
- (c) gives, lends or procures, or agrees, offers or promises to give, lend or procure, any valuable consideration to or for any voter, or to or for any other person, in order to induce or influence any person— 40
- (i) to vote or refrain from voting, either at all or for any particular registered party or in any other manner; or
- (ii) to attend or participate in, or refrain from attending or participating in, any political meeting, march, demonstration, or other event of a political nature, or in some other manner lending support to or for 45
- any registered party or candidate; or
- (d) on account of any person having voted or refrained from voting, either at all or for any particular registered party or in any other manner, gives, lends or procures, or agrees, offers or promises to give, lend or procure, any valuable consideration to or for any other voter, or to or for any 50
- other person,
- shall be guilty of an offence.

(2) Any person who, in consequence of his or her acceptance of any valuable consideration, votes or refrains from voting, either at all or for any particular registered party or in any other manner, shall be guilty of an offence.

Personation

57. Any person who, at the election— 5
- (a) applies for a ballot paper in the name of any other person, whether living, dead or fictitious;
 - (b) applies for a temporary voter's card in the name of any other person, whether living, dead or fictitious;
 - (c) save as provided in section 36, casts a vote in the name of any other person; 10
 - (d) having voted in the manner provided in this Act, again votes or applies for a ballot paper in the same election; or
 - (e) votes in the knowledge that he or she is not entitled to vote in the election concerned, 15
- shall be guilty of an offence.

Infringement of voting secrecy

58. Any person who—
- (a) obtains any information relating to voting at any voting station, or counting of votes at any counting station, and, save as permitted by or under this Act or any other law, discloses such information to any other person; 20
 - (b) save as authorized by or under this Act or the Commission Act, opens or breaks the seal of any packet, envelope or ballot box sealed in terms of this Act; or 25
 - (c) interferes with a voter in contravention of section 33.
- shall be guilty of an offence.

Prohibition on interference with voting materials and election material

59. Any person who removes, destroys, conceals or mutilates or assists the removal, destruction, concealment or mutilation of any voting materials or election material, save on the authority of the Commission or under the provisions of this Act, shall be guilty of an offence. 30

Prohibition on unauthorized printing, manufacture and supply of voting materials and election material

60. Any person who, directly or indirectly, prints, manufactures or supplies or procures the printing, manufacture or supply of any voting materials or election material in connection with the election, save on the authority of the Commission, shall be guilty of an offence. 35

Prohibition on interference with free political canvassing and campaigning

61. Any person who— 40
- (a) directly or indirectly, by the use or threat of force, violence, sexual harassment or otherwise, prevents the conduct of any political meeting, march, demonstration or other event of a political nature, or any other person from attending or participating therein;
 - (b) creates a material disruption with the intention of preventing a registered party from holding a public political meeting; 45
 - (c) impedes or prevents or threatens to impede or prevent the right of any representative of any registered party to gain access, in the manner and during the hours prescribed, to voters in any particular area, whether public or private, for the purposes of conducting political canvassing and campaigning, and of soliciting membership and support; or 50

(d) impedes or prevents or threatens to impede or prevent any member of the Commission, any representative of the Commission or any other person or organization engaged in voter education to gain access, in the manner and during the hours prescribed, to voters in any particular area, whether public or private, for the purposes of conducting voter education, 5
shall be guilty of an offence.

Prohibition on non-compliance with lawful directions, instructions and orders, and obstruction of electoral officers and party election or voting agents

62. Any person who— 10
(a) refuses or fails to give effect to any direction, instruction or order lawfully issued by or on behalf of the Commission, the Chief Director or any electoral officer;
(b) refuses or fails to leave an election or counting centre or inner perimeter when so ordered in terms of section 10(1)(b), 12(1)(b) or 35(5); 15
(c) enters or remains in an election centre or inner perimeter in contravention of section 10(2); or
(d) obstructs or hinders any electoral officer or party election or voting agent in the execution of his or her lawful duties, 20
shall be guilty of an offence. 20

Prohibition on making intentional false statements or publishing false information

63. Any person who—
(a) makes a false statement or furnishes false particulars in any statement which is required in terms of this Act in the knowledge of such statement or particulars being false or without reasonable grounds for believing the same to be true; or 25
(b) publishes, repeats or disseminates in any manner whatsoever false information with the intention of—
(i) disrupting or preventing the election;
(ii) creating hostility or fear in order to influence the process or 30
outcome of the election; or
(iii) otherwise influencing the process or outcome of the election,
shall be guilty of an offence.

Miscellaneous offences

64. Any person who contravenes or fails to comply with any provision of section 71, 72 or 73, shall be guilty of an offence. 35

Penalties

65. Any person convicted of any of the offences referred to in this Chapter shall, if convicted of a contravention of any provision of—
(a) section 55(1), (3) or (4) or 57, 60, 61(a) or 63(b), be liable to a fine not exceeding R100 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment; 40
(b) section 56, be liable to a fine not exceeding R80 000 or to imprisonment for a period not exceeding four years, or to both such fine and such imprisonment; 45
(c) section 55(2), 58, 59 or 61(b), (c) or (d), be liable to a fine not exceeding R60 000 or to imprisonment for a period not exceeding three years, or to both such fine and such imprisonment;
(d) section 62(d) or 63(a), be liable to a fine not exceeding R40 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment; 50
(e) section 62(a), (b) or (c) or 64, be liable to a fine not exceeding R20 000 or to imprisonment for a period not exceeding 12 months, or to both such fine and such imprisonment.

CHAPTER XI

*General Provisions***Ownership of voting materials and election material**

66. In any indictment, summons or charge sheet for any offence in relation to any voting materials or election material, the property in such voting materials or election material, as well as the property in the counterfoils thereof, if any, may be stated to be vested in the Commission or the Chief Director or any other electoral officer, as the case may be, in respect of such election. 5

Forfeiture of deposit paid by registered party

67. (1) The deposit paid in terms of section 19(2) shall be forfeited to the State by any registered party in respect of each election which it contested if it was unsuccessful in obtaining sufficient support for the allocation of at least one representative in such election. 10

(2) Save as is in this section and section 69(2)(a)(iii) expressly provided, the sum deposited in terms of section 19(2) shall be refunded to the depositor. 15

Destruction of election material

68. The Commission shall be responsible for the destruction of all election material, which shall be effected as soon as possible after 30 days of the date of the certification of the results of the election or the declaration that it was unable so to certify by the Commission in terms of section 18 of the Commission Act, save where the Special Electoral Court determines, on application by any interested party, that any part of such material may be relevant to a justiciable dispute relating to the election: Provided that in the latter case such destruction shall commence as soon as possible after the final determination of such dispute. 20

Electoral Code of Conduct and implementation thereof 25

69. (1) The Electoral Code of Conduct (hereinafter in this section and in section 70 referred to as "the Code") set out in Schedule 2—

(a) shall be subscribed to by—

(i) every party registered in terms of section 19; and 30

(ii) every candidate nominated in terms of section 22, as a condition of their respective rights to be so registered or nominated; and

(b) shall, in so far as it is applicable, be binding on any party or on the leader or any office-bearer, member or supporter of such party or candidate.

(2) Subject to section 70, any party referred to in subsection (1) which, or the leader or any office-bearer, member or supporter of such party or candidate so referred to who, infringes any provision of the Code shall, upon a finding that any such provision has been so infringed, be liable— 35

(a) in the case of any party which has infringed the provisions of the Code, to one or more of the following penalties or sanctions, of which any or all may be suspended on specified conditions: 40

(i) A formal warning;

(ii) a fine not exceeding R100 000;

(iii) the forfeiture of any deposit paid by such party in terms of section 19 or any part thereof; 45

(iv) an order prohibiting such party, whether permanently or for a specified period, from utilizing any media time, including any such television or broadcasting services as have been or may be made available to such party for electoral purposes by the Independent

- Media Commission established by section 2 of the Independent Media Commission Act, 1993 (Act No. 148 of 1993);
- (v) an order prohibiting such party—
- (a) from holding particular public meetings, demonstrations or marches, or any kind of such meetings, demonstrations or marches; 5
- (b) from entering any specified electoral district or area for purposes of canvassing for membership, or for any other electoral purpose;
- (c) from erecting placards or banners, or from publishing and distributing campaign literature; 10
- (d) from publishing or distributing campaign literature and electoral advertising, or limiting such party's rights to do so;
- (vi) an order prohibiting such party from receiving, whether wholly or partly, State or foreign funding contemplated in section 74, including an order requiring the repayment, within a specified period, of any such funding or any part of such funding already received; 15
- (b) in the case of a party which has infringed the provisions of the Code— 20
- (i) by any act or omission involving violence or intimidation or a gross or systematic violation of the rights of any registered party, candidate or voter, an order cancelling the registration of a party in terms of section 19, and consequently its right to participate in the election concerned; 25
- (ii) by any fraudulent act by virtue of which votes have been obtained, an order reducing the number of votes counted in favour of that party by a specified number of votes;
- (iii) by any act by virtue of which free and safe access by any other registered party has been prevented, an order excluding such party from any voting station situated in the area where such other registered party has been prevented free and safe access; 30
- (c) in the case of the leader or any office-bearer, member or supporter of such party or of any candidate—
- (i) who has infringed the provisions of the Code, to one or more of the penalties or sanctions referred to in paragraph (a)(i), (ii) or (iii); 35
- (ii) who has infringed the provisions of the Code by any act or omission involving violence or intimidation or a gross or systematic violation of the rights of any registered party, candidate or voter, an order disqualifying, in the case of a person who is a candidate, such person from being a candidate or deleting the name of such candidate from the list or lists of candidates concerned. 40

Institution of proceedings by Chief Director: Monitoring in Electoral or Appeal Tribunal

70. (1) The Chief Director: Monitoring may, either on his or her own motion or in consequence of any report made to him or her at any time, institute proceedings in— 45

- (a) in the case of an alleged infringement of the Code which in his or her opinion is of such a serious nature that it may be subject to a penalty or sanction referred to in paragraph (a)(iv), (v) or (vi), (b) or (c)(ii) of subsection (2) of section 69, the Appeal Tribunal in whose area of jurisdiction such infringement has allegedly been committed; 50
- (b) in the case of any other alleged infringement of the Code or any alleged prescribed electoral irregularity or contravention of, or failure to comply with, any provision of this Act, the Electoral Tribunal in whose area of jurisdiction such infringement, irregularity, contravention or failure has allegedly occurred. 55

(2) An Electoral Tribunal adjudicating an alleged infringement of the Code in terms of subsection (1)(b) may only impose a penalty or sanction contemplated in section 69(2)(a)(i), (ii) or (iii): Provided that such Tribunal may in the prescribed manner refer a matter which in its opinion may warrant a penalty or sanction in 60

excess of its jurisdiction, to an Appeal Tribunal for consideration and a recommendation of the appropriate penalty or sanction to be imposed by the Commission.

(3) An Appeal Tribunal adjudicating an alleged infringement of the Code in terms of subsection (1)(a) or (2) may only impose a penalty or sanction contemplated in section 69(2)(a)(i), (ii) or (iii) in respect thereof, or recommend to the Commission in the prescribed manner the imposition of any other penalty or sanction contemplated in section 69(2).

(4) (a) Upon the recommendation of the Appeal Tribunal in accordance with subsection (3), the Commission may impose the recommended penalty or sanction or impose any other penalty or sanction contemplated in section 69(2) which it may consider appropriate.

(b) There shall be no appeal from an order of the Commission imposing a penalty or sanction under paragraph (a), save for a power of review of such order, which shall lie with the Special Electoral Court.

(5) In making its decision regarding appropriate penalties or sanctions, the relevant Tribunal or the Commission, as the case may be, shall have regard to any other legal consequence that may result from civil or criminal proceedings instituted by reason of the same occurrence.

Bills, placards, etc., to bear publisher's name 20

71. During the election period—

- (a) every bill, placard, poster, pamphlet, circular or other printed matter having reference to the election shall bear upon the face thereof the name and address of the printer and publisher thereof;
- (b) no person shall print, publish or post or cause to be printed, published or posted or in any other manner disseminate any such printed matter which fails to bear upon the face thereof the name and address of the printer and publisher;
- (c) the proprietor and publisher of every newspaper shall cause the word "advertisement" to be printed as a headline to each article or paragraph in his or her newspaper which originated from a registered party or its agents or supporters, the insertion of which is, or is to be, paid for, or for which any reward or compensation, or promise of reward or compensation, is or is to be made;
- (d) the articles or paragraphs referred to in paragraph (c) shall include all such text as may *prima facie* appear to be intended or calculated to affect the result of the election, and shall include any paid advertisement or report of the speech of a candidate, if the insertion thereof is, or is to be, paid for;
- (e) every report, letter, article, bill, placard, poster, pamphlet, circular, cartoon or other printed matter (hereinafter in this section referred to as an "election article") which, *prima facie*, is intended or calculated to affect the result of the election, is inserted in any newspaper or otherwise produced and is published in the Republic, shall bear at the foot thereof the full name and address of the person or persons by whom such election article was written or produced: Provided that—
- (i) any such election article which is inserted in any newspaper as aforesaid and which has been altered materially by the editor of such newspaper, shall also bear the full name of the editor;
- (ii) in the case of any such election article which is written jointly by two or more persons, it shall be sufficient for the purposes of this paragraph if the report as a whole bears the full names and addresses of the persons by whom it was written; and
- (iii) in the case of headlines to any election article which is inserted in any newspaper as aforesaid, and of bills, placards or posters having reference thereto and which are issued in the ordinary practice of a newspaper, it shall be sufficient for the purposes of this paragraph if the full names and addresses of the persons by whom such headlines, bills, placards and posters were written, are published in the issue of the newspaper in which such election article is inserted; and

- (f) subject to the provisions of subparagraph (iii) of the proviso to paragraph (e), no person shall print or publish any newspaper or other printed matter in which is inserted or produced any election article which fails to comply with the provisions of paragraph (e).

Prohibition on publication of opinion polls

5

72. (1) No person shall during the period commencing 21 days prior to the voting period until the end of the election period publish in the electronic or printed media the results of any opinion poll purporting to reflect the level of support enjoyed by registered parties or candidates or the policies they advocate.

(2) The provisions of subsection (1) shall not prohibit the conduct of opinion polls by registered parties for the purposes of their election campaign, the obtaining of opinions in the course of canvassing for votes on behalf of such registered parties or candidates or the publishing in the electronic or printed media of the results so obtained after the election period. 10

Prohibition on certain political activities during certain period prior to and during voting period

15

73. No person shall—

- (a) during the period 48 hours prior to until the end of the voting period hold or take part in any public demonstration or march; or
 (b) during the period 12 hours prior to until the end of the voting period hold or take part in any public meeting or rally of a political nature. 20

State Electoral Fund

74. (1) There is hereby established a fund to be known as the "State Electoral Fund", which shall be under the administration of the Commission and which shall comply with the following requirements: 25

- (a) The capital of the said Fund shall be constituted by—
 (i) money appropriated by Parliament for that purpose, the amount of which is to be determined by the Transitional Council in consultation with the Minister of State Expenditure; and
 (ii) such further amounts, if any, as may be contributed by donors, including foreign governments, inter-governmental and non-governmental organizations. 30
- (b) The object of the said Fund shall be to provide registered parties with financial assistance for the purposes of conducting their electoral campaigns: Provided that no such assistance shall be utilized for the purposes of entertainment or for the purchasing of any immovable property. 35
- (c) The Chief Executive Officer of the Commission shall be the accounting officer charged with the responsibility of accounting for all money received by the said Fund and the utilization thereof. 40
- (d) The said accounting officer shall cause such records of account to be kept as are necessary to present fairly the state of affairs of the said Fund and to explain the transactions and financial position thereof.
- (e) The Auditor-General shall audit the books of account, accounting statements and annual financial statements of the said Fund. 45
- (f) Subject to the provisions of the Exchequer Act, 1975 (Act No. 66 of 1975), the Commission may invest any unexpended portion of the money in the said Fund.
- (g) The Commission may utilize the interest on investments referred to in paragraph (f) in pursuance of the object mentioned in paragraph (b). 50
- (h) If a person who is or was in the employment of the Commission caused

- the said Fund any loss or damage, the said accounting officer shall determine the amount of such loss or damage and order the recovery thereof in accordance *mutatis mutandis* with section 34 of the Exchequer Act, 1975.
- (i) In the event of the Commission or the said Fund being dissolved all remaining assets of the said Fund shall be utilized in accordance with the recommendation of the Commission for the purposes of the encouragement and promotion of democratic values. 5
- (2) The Commission shall at regular intervals report to the Transitional Council on all income and expenditure in respect of the State Electoral Fund. 10
- (3) The Commission shall make the following forms of financial assistance available to any registered party which qualifies therefor:
- (a) An initial grant payable to all registered parties on an equal basis and without discrimination, on the basis provided in subsection (4); and
- (b) a grant payable to such registered parties after the results of the election have been determined, on the basis provided in subsection (5). 15
- (4) (a) The initial grant referred to in subsection (3)(a) shall only be payable to a registered party if an independent opinion poll recognized and accepted by the Commission for that purpose shows that such a party has—
- (i) in respect of an application for financial assistance to contest the election for the National Assembly, the potential support of at least two per cent of the voters for that legislature; or 20
- (ii) in respect of an application for financial assistance to contest the election for any provincial legislature or legislatures, the potential support of at least two per cent of the voters for the legislature or legislatures concerned. 25
- (b) The requirements for the acceptance of an opinion poll contemplated in paragraph (a), shall be prescribed by the Commission: Provided that no such poll may have been conducted earlier than six months before the final date on which parties have to submit their lists of candidates in terms of section 22: Provided further that the Commission may have an opinion poll conducted for the purposes of this section. 30
- (c) (i) A party may, when applying for registration as a participant in the election in terms of section 19, furnish the prescribed information in respect of the opinion poll on which that party intends to base its application for a grant. 35
- (ii) The Commission shall not later than seven days after the application has been submitted to it notify the party concerned whether the poll is accepted by the Commission or not.
- (d) If the opinion poll referred to in paragraph (c) is rejected by the Commission, or if a registered party so decides of its own accord, such a party may prove its potential support by voters by submitting a list containing— 40
- (i) 10 000 signatures of voters, of which at least 1 000 signatures shall be by voters from each of at least five provinces, if that party applies for a grant to contest the election for the National Assembly; or
- (ii) 3 000 signatures by voters from each such province in respect of which such party applies for a grant with a view to contesting the election in such province or provinces. 45
- (e) (i) Subject to subparagraph (ii), the procedures for the collection of signatures referred to in paragraph (d) and the circumstances under which a party may be disqualified from receiving a grant, shall be prescribed by the Commission. 50
- (ii) A voter—
- (aa) may only sign the support list of one party;
- (bb) may sign both the lists referred to in paragraph (d) of a party;
- (cc) shall state his full names, home address and identity number on the list or lists; and 55

- (dd) shall, if he or she cannot sign or write his or her name, place his or her mark on the said list or lists, which mark shall be witnessed by a voter by placing his or her signature next to that mark.
- (f) (i) The initial grant referred to in subsection (3)(a) shall be payable from the money referred to in subsection (1)(a)(i): Provided that only 50 per cent of that money shall be utilized for that purpose. 5
- (ii) A registered party who is contesting an election for one provincial legislature only, may, notwithstanding the provisions of subparagraph (i), only receive one quarter of the amount of the grant payable to a registered party contesting the election for the National Assembly. 10
- (g) A registered party making use of the method provided for in paragraph (d) in its application, may only receive 50 per cent of the amount of a grant payable to a registered party referred to in paragraph (a) of this subsection.
- (h) No party shall be allowed to apply for assistance under this subsection unless it has submitted the list or lists of candidates referred to in section 22, and no registered party shall be eligible for a grant if its qualifying application has not been received by the Commission before the expiry of the period of 30 days referred to in section 22(2). 15
- (5) The grant referred to in subsection (3)(b) shall be payable from the remainder of the said Fund referred to in subsection (1)(a) in the following manner: 20
- (a) 50 per cent shall be distributed equally among those registered parties which in terms of the total number of votes cast, are entitled to at least one seat in the National Assembly or any provincial legislature: Provided that a party which contested the election for one provincial legislature only, may only receive one quarter of the amount of the grant payable to a party which contested the election for the National Assembly; and 25
- (b) the other 50 per cent shall be payable to each such registered party proportional to the number of votes cast nationally and provincially in favour of such party. 30
- (6) With a view to ensuring that the object as set out in subsection (1)(b) is pursued by registered parties, it shall be a precondition for the payment of the grants that—
- (a) registered parties which are recipients of the grants shall be obliged to deposit such funds in an account specially opened for that purpose, and to keep separate books, accounts, financial statements and vouchers of all financial assistance received and so deposited and expenditure incurred from that account; 35
- (b) the Commission shall prescribe a requirement for audit in respect of the said account, and may further require that the books, accounts, financial statements and vouchers relating to that account be submitted for scrutiny and audit by the Auditor-General, who shall have full and unrestricted access to such documentation as may be considered relevant by him or her. 40 45

Application of Act in event of conflict with other laws

75. This Act, including the regulations and the orders, directions and decisions of the Commission in terms thereof, shall prevail in the event of any conflict with the provisions of any other law, including statute law, common law, subordinate legislation and customary or indigenous law, in so far as the conduct and supervision of the election within the Republic are concerned. 50

Regulations

76. (1) The Commission shall make regulations regarding—
- (a) voting and counting stations, including access and activities permitted in— 55

- (i) a voting or counting centre;
- (ii) an inner perimeter; and
- (iii) a controlled area,
which regulations may differ according to the part of the voting or
counting station involved; 5
- (b) foreign voting stations, including—
- (i) the hours during and day or days during the voting period on which
votes may be cast;
- (ii) the procedures regulating the casting of votes;
- (iii) the issuing of a ballot paper envelope to a voter on which the name 10
of the province referred to in section 25(3) shall be indicated; and
- (iv) the counting of votes cast;
in respect of foreign voting stations;
- (c) special votes and voters, including the counting of votes cast by special
voters; 15
- (d) voting stations for and the procedures regulating the casting of votes by
prisoners and persons awaiting trial being detained, and who are not
excluded from voting in terms of section 16(d), and the counting of such
votes;
- (e) the manner in which and conditions under which the canvassing of votes 20
of persons referred to in paragraph (d) by registered parties may be
permitted;
- (f) State and foreign funding of registered parties as contemplated in section
74;
- (g) the application *mutatis mutandis* of the provisions of section 71 to the 25
electronic media, including any television or radio broadcasting service;
- (h) the safe-keeping and transportation of voting materials and election
material, including—
- (i) security during the production of voting materials;
- (ii) safe-keeping of voting materials after printing or manufacturing and 30
during distribution thereof to voting stations;
- (iii) distribution of voting materials prior to and during the voting
period;
- (iv) safe-keeping of voting materials after distribution to voting stations;
- (v) safe-keeping during the course of the voting period, including the 35
safe-keeping of election material pending the counting of votes;
- (vi) safe-keeping of voting materials and election material after the
voting period, including the transportation to counting stations and
the provision of security during the counting period;
- (vii) security of voting stations and staff employed therein; 40
- (viii) security of voting materials and election material at foreign voting
stations; and
- (ix) security of voting materials and election material in respect of
special votes and special voters;
- (i) the rights and duties of party voting and election agents; 45
- (j) the demarcation of the Republic in electoral districts for the purposes of
the election with due regard to the requirement to have separate counts
of votes in respect of provincial legislatures and provisionally defined
areas;
- (k) the procedures to be followed and manner in which a voter shall be 50
marked if the provisions of section 35(4)(a)(ii) apply;
- (l) the procedures to be followed and manner in which a voter's eligibility
document shall be marked in terms of section 35(4)(b);
- (m) voting and counting of votes in respect of provisionally defined areas,
including, subject to the Constitution— 55
- (i) the counting procedure in order to have separate counts of votes in
respect of provincial legislatures and provisionally defined areas;
- (ii) the manner in which the votes cast within each such provisionally
defined area may be required to be deducted from the votes cast for

- the legislature of the province in which such area is situated and may require to be added to the votes cast for the legislature of the province in which such area may be incorporated;
- (iii) if necessary, the manner in which the seats and representatives for each provisionally defined area shall be determined; and 5
- (iv) such matters as may be necessary to implement the provisions of the Constitution in respect of any provisionally defined area;
- (n) any matter required or permitted to be prescribed in terms of this Act; and
- (o) generally, all matters which in its opinion are necessary or expedient to be prescribed to achieve the objects of this Act. 10
- (2) A regulation in terms of subsection (1) may prescribe penalties for any contravention of the provisions thereof, or any failure to comply therewith, of a fine not exceeding R40 000 or imprisonment for a period not exceeding two years.
- (3) Regulations in terms of subsection (1) affecting State expenditure shall be made only after consultation with the Minister of State Expenditure. 15
- (4) The Commission shall make such provision as it may consider necessary in order to ensure the widest possible publicity of the regulations.

Repeal or amendment of laws, and savings

77. (1) The laws specified in Schedule 3 are hereby repealed or amended to the extent set out in the third column thereof. 20
- (2) Notwithstanding the repeal of the Filling of Casual Vacancies in Parliament Act, 1992 (Act No. 148 of 1992), by subsection (1), the said Act shall, for the purposes of the filling of casual vacancies in Parliament, be applicable as if it had not been so repealed until the first National Assembly has been validly constituted in terms of the Constitution. 25

Short title and commencement

78. This Act shall be called the Electoral Act, 1993, and shall come into operation on a date fixed by the State President, on the advice of the Transitional Council, by proclamation in the *Gazette*. 30

SCHEDULE 1

(Section 29)

MAKE YOUR MARK NEXT TO THE PARTY YOU CHOOSE

PARTY NAME	PARTY SYMBOL	PARTY ACRONYM	PHOTO OF LEADER(S)	
OPO PARTY				
RST PARTY				
UVW PARTY				
XYZ PARTY				
ABC PARTY				
DEF PARTY				
GHI PARTY				
JKL PARTY				
MNO PARTY				
PQR PARTY				
STU PARTY				

SCHEDULE 2

(Sections 69 and 70)

ELECTORAL CODE OF CONDUCT

1. The object of this Code shall be to promote conditions conducive to the conduct of a free and fair election, and a climate of democratic tolerance, in which political activity may take place without fear of coercion, intimidation or reprisals.
2. All registered parties and other persons bound by this Code shall endeavour to promote its object in order to enable free political campaigning and open public debate to take place in all parts of the Republic throughout the election period.
3. Registered parties and candidates further commit themselves—
 - (a) to give wide publicity to this Code;
 - (b) to promote voter education campaigns;
 - (c) to condemn violence and intimidation;
 - (d) to instruct their candidates, office-bearers, members and supporters accordingly; and
 - (e) generally, to affirm the rights of all participants in the election—
 - (i) to express divergent political opinions;
 - (ii) to debate and contest the policies and programmes of other parties;
 - (iii) to canvass freely for membership and support from voters;
 - (iv) to hold public meetings;
 - (v) to attend public meetings convened by others;
 - (vi) to distribute electoral literature and campaign materials;
 - (vii) to publish and distribute notices and advertisements;
 - (viii) to erect banners, placards and posters; and
 - (ix) to promote free electoral campaigns by all lawful means.
4. All those bound by this Code in terms of subsection 69(1)(b); shall throughout the election period give effect to the following undertakings and stipulations:
 - (a) To publicly and repeatedly condemn violence and intimidation, and to avoid the use of language or any kind of action which may lead to violence or intimidation, whether to demonstrate party strength, gain any kind of political advantage, or for any other reason;
 - (b) to refrain from any action involving violence or intimidation;
 - (c) to ensure that no arms or weapons of any kind are carried or displayed at political meetings or in the course of any march, demonstration or other event of a political nature;
 - (d) to refrain from publishing or repeating false, defamatory or inflammatory allegations concerning any person or party in connection with the election;
 - (e) to co-operate and liaise in good faith with other parties to avoid, in so far as possible, arrangements involving public meetings, demonstrations, rallies or marches taking place at the same time and venue as similar political events organized by other parties;
 - (f) to do nothing to impede the democratic right of any party, through its candidates, canvassers and representatives, to have reasonable access to voters for the purposes of conducting voter education, fund raising, canvassing membership and soliciting support;
 - (g) to avoid plagiarizing the symbols, colours or acronyms of other parties; and to discourage and, if possible, prevent the removal, disfigurement or destruction of political campaign materials of any party;
 - (h) to refrain from offering any inducement or reward to any person in consideration of such person either joining or not joining any party; attending or not attending any political event; voting or not voting (either at all, or in any particular manner); or accepting, refusing or withdrawing such person's nomination as a candidate in the election;
 - (i) to refrain from any attempt to abuse a position of power, privilege or influence, including parental, patriarchal or traditional authority, for political purposes, including any offer of reward or threat of penalty;
 - (j) to avoid any discrimination based on race, sex, ethnicity, class, gender or religion, in connection with the election and political activity;
 - (k) in relation to the role of women—
 - (i) to facilitate full participation by women in political activities on the basis of equality;
 - (ii) to ensure free access by women to all public political meetings, facilities and venues;
 - (iii) to respect the right of women to communicate freely with political parties and organizations; and
 - (iv) generally, to refrain from forcing women to adopt a particular political position or to engage in, or to refrain from engaging in, any political activity otherwise than in accordance with their free choice;

- (l) in relation to the Commission—
 - (i) to acknowledge its authority in the conduct of the election;
 - (ii) to ensure the attendance and participation of representatives at meetings of any party liaison committee and other forums convened by or on behalf of the Commission;
 - (iii) to implement its orders and directions;
 - (iv) to facilitate its right of access through official monitors or other representatives to all public political meetings or other electoral activities;
 - (v) to co-operate in the official investigation of issues and allegations arising during the election period; and
 - (vi) to take all reasonable steps to ensure the safety of monitors and other representatives of the Commission from exposure to insult, hazard or threat in the course of their official duties;
- (m) to reassure voters with regard to the impartiality of the Commission, the secrecy and integrity of the ballot, and furthermore, that no one will know how any other person has voted;
- (n) to take reasonable steps to discipline and restrain their party office-bearers, employees, candidates, members and supporters from—
 - (i) infringing this Code;
 - (ii) committing any offence in terms of this Act or any other law;
 - (iii) committing any prescribed electoral irregularity; and
 - (iv) contravening or failing to comply with any provision of this Act;
- (o) to establish and maintain effective lines of communication with the Commission, and with other registered parties, at national, provincial and local level, including the exchange of names, addresses and contact telephone and facsimile numbers of party election agents and of other relevant office-bearers and representatives; and
- (p) to accept the final outcome of the election, and the Commission's declaration and certification of the results thereof.

SCHEDULE 3

(Section 77)

LAWS REPEALED OR AMENDED

NO. AND YEAR OF LAW	TITLE	EXTENT OF REPEAL
Act No. 45 of 1979	Electoral Act, 1979	Repeal of the whole.
Act No. 89 of 1980	Electoral Amendment Act, 1980	Repeal of the whole.
Act No. 35 of 1981	Electoral Amendment Act, 1981	Repeal of the whole.
Act No. 104 of 1982	Elections Amendment Act, 1982	Repeal of so much as has not been repealed.
Act No. 41 of 1983	Electoral Amendment Act, 1983	Repeal of the whole.
Act No. 103 of 1984	Population Registration and Elections Amendment Act, 1984	Repeal of so much as has not been repealed.
Act No. 36 of 1985	Electoral and Related Affairs Amendment Act, 1985	Repeal of section 1.
Act No. 92 of 1989	Elections and Identification Amendment Act, 1989	Repeal of sections 1 to 115, inclusive.
Act No. 112 of 1990	Application of Certain Laws to Namibia Abolition Act, 1990	Repeal of the amendment of the Electoral Act, 1979 (Act No. 45 of 1979), in the Schedule to the Act.
Act No. 129 of 1992	Electoral Amendment Act, 1992	Repeal of the whole.
Act No. 148 of 1992	Filling of Casual Vacancies in Parliament Act, 1992	Repeal of the whole.
Act No. 150 of 1993	Independent Electoral Commission Act, 1993	Amendment of section 1 by the substitution for the definition of "international observer" of the following definition: " 'international observer' means any person appointed as a representative of the United Nations, the Organization of African Unity, the European Community, the Commonwealth or 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: "



REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 455.

3 Maart 1994

No. 455.

3 March 1994

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet, wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act, which is hereby published for general information:—

No. 1 van 1994: Wysigingswet op die Kleinwet, 1994.

No. 1 of 1994: Electoral Amendment Act, 1994.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Electoral Act, 1993, so as to make provision for the late registration or amendment of the registration of participating parties in the elections for the National Assembly and provincial legislatures; to further regulate the qualifications of a candidate; to make provision for two separate ballot papers in respect of the said elections; to further regulate the payment of grants to participating parties in the elections; to effect consequential amendments; and to amend the text; to make provision for the application of the said Act as amended by this Act to the said elections; to empower the State President to amend certain Acts by proclamation in the *Gazette*; and to make provision for matters in connection therewith.

*(Afrikaans text signed by the State President.)
(Assented to 2 March 1994.)*

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

Amendment of section 5 of Act 202 of 1993

- 1 Section 5 of the Electoral Act, 1993 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the substitution for the words preceding paragraph (a) of subsection (3) of the following words:
- “Upon the publication of the first notice contemplated in section 20 the Commission shall—”; and
- 10 (b) by the addition of the following subsection:
- “(6) Every party—
- (a) which was registered late; or
- (b) the registration of which was amended,
- 15 as contemplated in the proviso to section 19(1) shall likewise be represented on the applicable party liaison committees contemplated in this section.”

Amendment of section 13 of Act 202 of 1993

- 2 Section 13 of the principal Act is hereby amended—
- (a) by the substitution in the Afrikaans text in paragraph (b) of subsection (1) for the expression “provinsiale party-verkiesingsagent” of the expression “party provinsiale verkiesingsagent”; and
- (b) by the substitution in subsection (2) for the expression “party provincial election agent” of the expression “party election provincial agent”.
- 20

Amendment of section 19 of Act 202 of 1993

3. Section 19 of the principal Act is hereby amended—

(a) by the addition to subsection (1) of the following proviso:

5 “: Provided that in respect of the first election for the National Assembly and provincial legislatures to be held after the commencement of this Act, an application for late registration or amendment of registration may be so submitted not later than 30 days after such proclamation.”;

(b) by the substitution for subsection (5) of the following subsection:

10 “(5) The Commission shall—

(a) within three days after the 10 day period referred to in subsection (1) has expired; and

(b) within one day after the 30 day period referred to in the proviso to subsection (1) has expired,

15 cause to be published in the Gazette a notice containing a complete list of applications received in terms of that subsection or proviso, as the case may be, 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.”;

(c) by the substitution for subsection (9) of the following subsection:

20 “(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—

25 (a) within 10 days after the date of the publishing of the list referred to in subsection (5)(a); or

(b) within two days after the date of the publishing of the list referred to in subsection (5)(b).”;

(d) by the substitution for paragraph (b) of subsection (10) of the following paragraph:

30 “(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 of the election in terms of section 21(1) or, in respect of a late registration or amendment of registration contemplated in the proviso to subsection (1),
35 not later than 34 days after such date.”; and

(e) by the addition of the following subsection:

40 “(12) Any amendment of registration contemplated in the proviso to subsection (1) shall only be allowed in relation to the National Assembly or the provincial legislature or legislatures in respect of which the election is being contested.”.

Amendment of section 20 of Act 202 of 1993

4. Section 20 of the principal Act is hereby amended by the substitution for the

45 words preceding paragraph (a) of the following words:

“The Chief Director shall within three days after the expiry of the 28 or 34 day period referred to in section 19(10)(b), as the case may be, cause to be published in the Gazette a notice containing—”.

Amendment of section 22 of Act 202 of 1993

5. Section 22 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) 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 provincial legislatures in which such party

wishes to be represented as contemplated in Schedule 2 to the Constitution, within [30] 35 days after the date of the proclamation of the election in terms of section 21(1).";

(b) by the substitution for subsection (6) of the following subsection:

"(6) No documents contemplated in subsections (2) and (5) shall be received after 16:30 on the last day of the [30] 35 day period referred to in subsection (2)."; and

(c) by the substitution for subsection (10) of the following subsection:

"(10) For the purposes of this Act, and notwithstanding anything to the contrary in any law contained—

(a) any person employed or serving in—

- (i) any civil services, excluding a member of any police force, defence force or prison service or any judicial officer, public prosecutor in any superior or lower court, state attorney, family advocate or any other officer whose services are essential for the functioning of the courts; or
- (ii) any pre-primary, primary, secondary or tertiary educational institution; or

(iii) any hospital or other medical or health institution, shall not be disqualified from being nominated by a registered party on a list of candidates [or from being designated as a representative in the National Assembly or any provincial legislature] if that person has taken leave of absence (whether paid or unpaid) from the date on which he or she has been so nominated until and including the date of the publication of the lists of names of representatives in all legislatures in terms of item 16(3) of Schedule 2 to the Constitution; or

(b) any other person who holds an office of profit under the Republic, shall not be disqualified from being nominated by a registered party on a list of candidates."

Amendment of section 23 of Act 202 of 1993

6. Section 23 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

"The Chief Director shall within five days after the [30] 35 day period referred to in section 22(2) cause to be published in the *Gazette* a notice in respect of the National Assembly and each of the provincial legislatures setting out—"

Amendment of section 27 of Act 202 of 1993

7. Section 27 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

"(2) Separate ballot boxes shall be provided in respect of the elections for the National Assembly and provincial legislatures."

Amendment of section 29 of Act 202 of 1993

8. Section 29 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) (a) Subject to section 32, every ballot paper shall be substantially in the form prescribed by Schedule 1, save that the Commission may determine whether the printing thereon shall be in a vertical or horizontal form.

(b) There shall be printed on every ballot paper in the [prescribed] manner determined by the Commission the names of all the registered parties participating in the election concerned, the distinguishing mark or symbol in

colour, the abbreviated name and a photograph of the leader of each such party or such other candidate as the party may determine, which, in the discretion of the Commission, may be in colour.

- 5 (c) The ballot ~~[paper]~~ papers shall be in the languages determined by the Commission and shall make provision for the official mark to be placed on the back of the ballot paper as provided in section 35(6)(a)(i) and the cross or mark referred to in section ~~[35(7)(b)]~~ 35(6)(b)(ii) or writing referred to in section 44(4) to appear on the front of the ballot paper."

Substitution of section 32 of Act 202 of 1993

- 10 9. The following section is hereby substituted for section 32 of the principal Act:

"Number of ballot papers

- 15 32. A voter shall ~~[for the purposes of the first section for the National Assembly and provincial legislatures to be held after the commencement of this Act]~~ be issued with one ballot paper ~~[only]~~ in respect of the National Assembly and one ballot paper in respect of the provincial legislature concerned; Provided that a voter shall not be issued with two ballot papers simultaneously."

Amendment of section 35 of Act 202 of 1993

- 20 10. Section 35 of the principal Act is hereby amended by the substitution for subsections (6) and (7) of the following subsections:

"(6) ~~(a)~~ When the provisions of subsection (4) have been complied with, the presiding officer or a voting officer shall—

- 25 ~~[(a)]~~ (i) tear out a ballot paper from the ballot paper book in respect of the election for the National Assembly and another voting officer shall mark that ballot paper on the back with the official mark; and

[(b)] (ii) hand that ballot paper to the voter.

~~[(7)]~~ (b) When the voter has received the ballot paper, he or she shall—

- 30 [(a)] (i) take it to the voting compartment;
- [(b)] (ii) indicate the registered party for which he or she wishes 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;
- 35 [(c)] (iii) display the ballot paper at the ballot box concerned in such a manner that the presiding officer or a voting officer designated by him or her may recognize the official mark; and
- [(d)] (iv) place the ballot paper in the ballot box concerned.

- 40 (7) When the provisions of subsection (6) have been complied with, the issuing and the marking of the ballot paper in respect of the election for the provincial legislature concerned shall be done in the prescribed manner."

Amendment of section 36 of Act 202 of 1993

11. Section 36 of the principal Act is hereby amended by the substitution in subsection (1) for the expression "party voting agents" of the expression "monitors".

45 Amendment of section 38 of Act 202 of 1993

12. Section 38 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (2) of the following words:

- 50 "The packets shall, in respect of both the elections for the National Assembly and the provincial legislature concerned, be accompanied by a statement in the form prescribed [by the Chief Director] in which the presiding officer accounts for—".

Amendment of section 40 of Act 202 of 1993

13. Section 40 of the principal Act is hereby amended by the substitution for subsections (3), (4) and (5) of the following subsections:

- 5 “(3) (a) 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 hook in respect of the election for the National Assembly 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.
- 10 “(4)(b) When the special voter who wishes to vote has received the ballot paper, he or she shall—
- “(a) (i) mark it in secret in accordance with his or her choice;
- “(b) (ii) fold the ballot paper so that the official [stamp] mark is visible and the manner in which he or she has marked his or her ballot paper is not visible;
- 15 “(c) (iii) 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) (iv) hand the covering envelope to the presiding officer.
- 20 “(4) When the provisions of subsection (3) have been complied with, the issuing and the marking of the ballot paper in respect of the election for the provincial legislature concerned shall be done in the prescribed manner.
- “(5) The presiding officer shall take the covering [envelope] envelopes into his or her custody, place [it] them in [a] separate sealed ballot [box] boxes as soon as possible and, if he or she is not the district electoral officer, transmit the sealed ballot [box] boxes in the prescribed manner to the district electoral officer for the electoral district concerned after the closing hour for special votes.”

Amendment of section 43 of Act 202 of 1993

30 14. Section 43 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) The counting officer shall separately verify each presiding officer's ballot paper statement in respect of both the elections for the National Assembly and the provincial legislature concerned referred to in section 38(2) by comparing it with the contents of the packets received from a voting station concerned, and shall for that purpose open all the ballot boxes from that voting station and cause the ballot papers contained therein to be counted.”

Amendment of section 44 of Act 202 of 1993

40 15. Section 44 of the principal Act is hereby amended—

- (a) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:
- 45 “After the provisions of sections 38 and 43 have been complied with, the counting officer shall in respect of both the elections for the National Assembly and the provincial legislature concerned, forthwith cause—”;
- (b) by the substitution for subsection (2) of the following subsection:
- 50 “(2) The counting officer shall, as soon as practicable, after all the votes at such counting station have been counted and the number of votes in favour of each registered party has been determined, inform the Chief Director in the prescribed manner of the number of votes so determined to have been cast in favour of each registered party in respect of both the elections for the National Assembly and the provincial legislature concerned.”; and
- 55 (c) by the substitution for the words preceding paragraph (a) of subsection (7) of the following words:

"When the counting officer has complied with the provisions of this section and section 45 he or she shall, in respect of both the elections for the National Assembly and the provincial legislature concerned, as soon as practicable, enclose in separate packets—".

5 Repeal of section 48 of Act 202 of 1993

16. Section 48 of the principal Act is hereby repealed.

Amendment of section 49 of Act 202 of 1993

17. Section 49 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- 10 "1) After 45 hours of the closing of the voting and after all alleged irregularities, challenges or objections, if any, have been dealt with in accordance with sections 45, 46 and 47, the Commission shall [cause the tallies received from all counting stations to be combined in the following manner:
- 15 (a)] add the tallies of votes cast in each province in favour of the respective registered parties contesting the election for the National Assembly;
- (b) attribute votes cast in a province in favour of a registered party not contesting the election for the National Assembly and which has made a declaration of support in accordance with item 15(1) of Schedule 2 to the Constitution, as contemplated in that item; and
- 20 (c) discard votes cast in favour of any registered party not contesting the election for the National Assembly and which has not made a declaration of support in accordance with item 15(1) of Schedule 2 to the Constitution]."

Amendment of section 50 of Act 202 of 1993

23 18. Section 50 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- "1) After the provisions of section 49 have been complied with, the Commission shall [cause the tallies received from the counting stations concerned to be combined in the following manner:
- 30 (a)] add the tallies of votes cast in respect of each province in favour of the respective registered parties contesting the election for the provincial legislature concerned;
- (b) attribute votes cast in a province in favour of a registered party not contesting the election for the provincial legislature concerned and which has made a declaration of support in accordance with item 15(2) and (3) of Schedule 2 to the Constitution, as contemplated in that item; and
- 35 (c) discard votes cast in favour of any registered party not contesting the election for the provincial legislature concerned and which has not made a declaration of support in accordance with item 15(2) or (3) of Schedule 2 to the Constitution]."
- 40

Amendment of section 74 of Act 302 of 1993

19. Section 74 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (4) of the following paragraph:
- 45 "(a) The initial grant referred to in subsection (3)(a) shall only be payable to a registered party if an independent opinion poll recognized and accepted by the Commission for that purpose shows that such a party has in respect of an application for financial assistance to contest the election—
- 50 (i) for the National Assembly or the National Assembly and any provincial legislature or legislatures, the potential support of at least two per cent of the voters for [that legislature] the National Assembly; or

- (ii) [In respect of an application for financial assistance to contest the election] for any provincial legislature or legislatures, the potential support of at least two per cent of the voters for the legislature or legislatures concerned.”;
- 5 (b) by the substitution for paragraph (f) of subsection (4) of the following paragraph:
- “(f) (i) The initial grant referred to in subsection (3)(a) shall be payable from the money referred to in subsection [(1)(e)(i)] (1)(a): Provided that only 50 per cent of that money shall be utilized for that purpose.
- 10 (ii) A registered party which is contesting the election for any provincial legislature or legislatures may, notwithstanding the provisions of subparagraph (i), receive one quarter of the amount of the grant payable to a registered party contesting the election for the National Assembly in respect of each provincial legislature being contested, which grant shall be in addition to any grant which may be payable to such party for contesting the election for the National Assembly.”; and
- 15 (c) by the substitution for paragraph (h) of subsection (4) of the following paragraph:
- “(h) No party shall be allowed to apply for assistance under this subsection unless it has submitted the list or lists of candidates referred to in section 22, and no registered party shall be eligible for a grant if its qualifying application has not been received by the Commission before the expiry of the period of [30] 35 days referred to in section 22(2).”.
- 20
- 25

Amendment of section 76 of Act 202 of 1993

20. Section 76 of the principal Act is hereby amended by the substitution for subparagraph (i) of paragraph (a) of subsection (1) of the following subparagraph:
- 30 “(i) [a voting] an election or counting centre”.

Application of Act

21. The election proclaimed by Proclamation No. 17 of 1994, published in *Government Gazette* No. 15490 of 2 February 1994, shall be conducted in terms of the Electoral Act, 1993 (Act No. 202 of 1993), as amended by this Act.

35 Amendment of certain Acts by State President

22. (1) The State President may by proclamation in the *Gazette* in consultation with the Transitional Executive Council established by section 2 of the Transitional Executive Council Act, 1993 (Act No. 151 of 1993)—

- 40 (a) amend the Independent Media Commission Act, 1993 (Act No. 148 of 1993);
- (b) and in consultation with the Independent Electoral Commission established by section 4 of the Independent Electoral Commission Act, 1993 (Act No. 150 of 1993), amend—
- 45 (i) the said Independent Electoral Commission Act, 1993; and
- (ii) the Electoral Act, 1993 (Act No. 202 of 1993);
- (c) amend the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), in respect of—
- 50 (i) the granting, the issuing and the regulation of temporary community broadcasting licences; and
- (ii) temporary broadcasting licences issued by the Postmaster-General in terms of section 7 of the Radio Act, 1952 (Act No. 3 of 1952).
- (2) The provisions of subsection (1) shall lapse at the commencement of the first session of the National Assembly in terms of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993).

55 Short title and commencement

23. This Act shall be called the Electoral Amendment Act, 1994, and shall, save for sections 21 and 22, be deemed to have commenced on 14 January 1994.

The Electoral Act



The Multi-party Negotiating Process negotiated and Parliament approved the Electoral Act, containing the guidelines for the election of the interim government and Constitutional Assembly. The Electoral Act will be administered by the Independent Electoral Commission established in accordance with the Independent Electoral Commission Act of 1993. The Electoral Act should be read in conjunction with the IEC Act. The Electoral Act provides that its provisions, and regulations, orders, decisions, and directives of the IEC shall be superior to all other laws of whatever nature with respect to the election. The Act will become effective on a date to be determined by the State President on the advice of the TEC.

Election Administration Personnel

The Electoral Act provides for the establishment of election personnel with certain responsibilities to serve in the Administration Directorate of the IEC. The Chief Director of the Administration Directorate, who is to be appointed by the IEC, will appoint the following personnel.

- * Provincial Electoral Officers and Deputies for each Province
- * District Electoral Officers and Deputies for each District
- * Presiding Officers and Voting Officers for each voting station
- * Counting Officers and Enumerators for each counting station
- * Other necessary staff

Provincial Electoral Officers will be responsible for the administration of the election in the Provinces in which they are appointed. District Electoral Officers will be responsible for the administration of the election in the Districts in which they are appointed. Presiding Officers will be responsible for the administration of the voting in the voting stations to which they are appointed. Voting Officers will assist the Presiding Officers. Counting Officers will be responsible for the administration of the counting of the votes in the counting stations to which they are appointed. Enumerators will assist the Counting Officers. The Presiding Officers and Counting Officers will have the power and discretion to take necessary steps to insure the orderly conduct of voting and counting of the votes and to protect the voting and counting stations and persons therein.

Political Party Election Personnel

The Electoral Act provides for the establishment of National, Provincial, and Local Party Liaison Committees made up of representatives of the political parties to liaise with the IEC and one another.

- * The Party Liaison National Committee will consist of Party Election National Agents appointed by each registered party.
- * The Party Liaison Provincial Committees will consist of Party Election Provincial Agents appointed by each registered party.
- * The Party Liaison Local Committees will consist of Party Election District Agents appointed by each registered party.

The committees will liaise on matters including electoral arrangements, IEC staffing, voting and counting stations, and electoral districts. In addition, the committees will work to avoid infringements of the Electoral Code of Conduct. The Party Election Provincial Agents will appoint Party Voting Agents for the purpose of monitoring the voting at the voting stations and the counting of the votes at the counting stations on behalf of registered parties.

The Franchise

The Electoral Act provides that an eligible voter is any person who is

- (1) at least of the age of 18 and
- (2) is either

- (a) a citizen of or
- (b) permanently resident in

the Republic of South Africa (including the Republics of Transkei, Bophuthatswana, Venda, and Ciskei).

Permanently resident persons includes

- * permanent resident permit holders,
- * persons who have been exempted from the requirement of holding permanent resident permits,
- * former citizens who qualify for restoration of citizenship,
- * persons who are born to a citizen or former citizen and have entered South Africa with the intention of being permanently resident,
- * persons who are married to a citizen or former citizen and have entered South Africa with the intention of being permanently resident,

- * persons who entered South Africa before 31 December 2 1978 and have since been ordinarily resident, and
- * persons who are born to a person who entered South Africa before 31 December 1978 and has since been ordinarily resident, and have been ordinarily resident in South Africa since birth.

Persons meeting the requirements of the franchise nevertheless cannot vote if they are

- * of unsound mind or mentally disordered as determined by a court,
- * detained as a mentally ill patient,
- * detained under the Prevention and Treatment of Drug Dependency Act, or
- * serving a prison sentence for an offence involving violence or dishonesty.

Voter's Eligibility Documents

Persons who satisfy the franchise and are not otherwise prohibited from voting, only will be able to vote upon presentation of a voter's eligibility document. A voter's eligibility document includes

- * a South African (or Transkei, Bophuthatswana, Venda, or Ciskei) identity document or temporary identity certificate,
- * a reference book (old identity document),
- * a green card (old identity document),
- * a temporary voter's card (if the IEC determines it necessary to issue them), and
- * in the case of persons voting in foreign voting stations, a passport.

Registration of Political Parties

The Electoral Act provides rules for the registration of political parties to contest the election. Parties must register in a form to be prescribed by the IEC within 10 days after the proclamation of the voting period is published in the Government Gazette. Such proclamation will be between 60 and 90 days prior to the first day of voting. The registration application must be accompanied by a deposit of R25000 for the national legislature election and R5000 for each provincial legislature election that the party chooses to contest. The deposit will be forfeited for a legislature if the party fails to receive votes sufficient to obtain at least one seat in that legislature. The application also must be accompanied by a declaration committing and subjecting the party to the Electoral Code of Conduct. The registration applications will be available for public inspection and objection. The IEC will issue registration certificates to parties complying with the requirements of the electoral legislation. Such parties' names, addresses, symbols, and abbreviations will be published in the Gazette.

The Electoral Act also provides for rules to govern the submission of candidate lists. Within 30 days after the

proclamation of the voting period is published in the Gazette, registered parties must submit ordered candidate lists for the elections of the separate legislatures which they are contesting. The lists must be accompanied by a declaration that such candidates are qualified, and acceptances and declarations by the candidates committing and subjecting themselves to the Electoral Code of Conduct. Such lists will be published in the Gazette. At the same time candidate lists are submitted, if a party (party A) has not registered for the election of a particular legislature, it may declare its support to another party (party B) registered for such legislature so that votes cast for party A for such legislature will be counted for Party B. If party A does not declare its support to another party registered for the election of a particular legislature, votes cast for party A for such legislature will not be counted.

Voting

The Electoral Act provides that the TEC will decide how many and on which days voting will take place. Voting will be held over either one or two days, one of which will be a public holiday. Special votes will be cast the day before general voting begins. The official beginning of the election will be the day the TEC announcement of the voting days is published in the Gazette.

The Electoral Act establishes guidelines for voting procedures. The number and locations of voting stations, including mobile voting stations and foreign voting stations, will be determined by the IEC and communicated to the public through the Gazette and the media. The IEC also will determine the nature and style of the voting compartments and ballot boxes, and the exact form of the ballot paper, which will include the names, symbols, abbreviations, and photographs of the leaders of the political parties.

For this election, one will be permitted to vote at any voting station regardless of where one is resident. Also for this election, there will be only one ballot paper - to be used for the national election and provincial elections. Therefore, one cannot choose to vote for separate parties for the national legislature and the provincial legislature.

Prior to opening the voting stations at the prescribed time, the Presiding and Voting Officers will appropriately set up the voting stations, and in the presence of Party Voting Agents will seal the empty ballot boxes. Voting will be conducted in the following manner.

1. The election officials will examine the voter's eligibility document to insure that the person is the person identified, is eligible to vote, and has not already voted.
2. The election officials will examine the person's right hand to insure that the person has not already voted.

3. The election officials will mark the voter's eligibility document and will mark the voter's right hand.
4. The election officials will give the voter an officially marked ballot paper.
5. The voter will take the ballot paper to the voting compartment where she or he will mark her or his choice and then fold the ballot paper.
6. The voter will take the ballot paper to the ballot box, show the election official the official mark (on the outside of the ballot paper), and place the ballot paper in the ballot box.

After the voting closes, the openings of the ballot boxes will be sealed and all ballot papers accounted for.

Interpreters will be provided where necessary. Illiterate, disabled, and blind voters will be assisted when such assistance is requested. Special votes will be cast the day before general voting by those who cannot make it to a voting station because of illness or physical infirmity. On the day before general voting, mobile voting stations will visit registered hospitals and old age homes, and prisons, for the purpose of allowing eligible voters to vote. Blind voters may be able to cast special votes on a ballot papers printed in braille.

The Act provides for the IEC to determine the time and locations where the counting of the votes will take place. Before counting begins all ballot papers again will be accounted for. Thereafter, the ballots will be sorted and counted with regard to votes cast for each political party. Counting, like voting, will take place under the monitoring and observing of Party Voting Agents and observers.

Offences and Penalties

The Electoral Act sets out criminal offences applicable to all persons including

- * unduly influencing a voter or voters with respect to the election campaign or voting,
- * making or accepting bribes with respect to the election campaign or voting,
- * impersonating an eligible voter or attempting to vote more than once,
- * disclosing information about a voter's vote,
- * interfering with or counterfeiting election materials,
- * interfering with a political party's campaign,
- * disobeying directions of the IEC or election officials, and
- * printing or making false statements that disrupt the election.

The Act contains rules to apply to the publication of posters, pamphlets, and other such printed campaign materials and to advertisements, which if violated,

constitute an offence. The Act makes it an offence to publish opinion polls within 21 days of the voting period. The Act also makes it an offence to hold political demonstrations and marches within the 48 hours prior to voting and during voting, and political meetings and rallies within the 12 hours before voting and during voting.

Penalties include fines and imprisonment in varying degrees depending on the severity of the offence.

The Electoral Code of Conduct

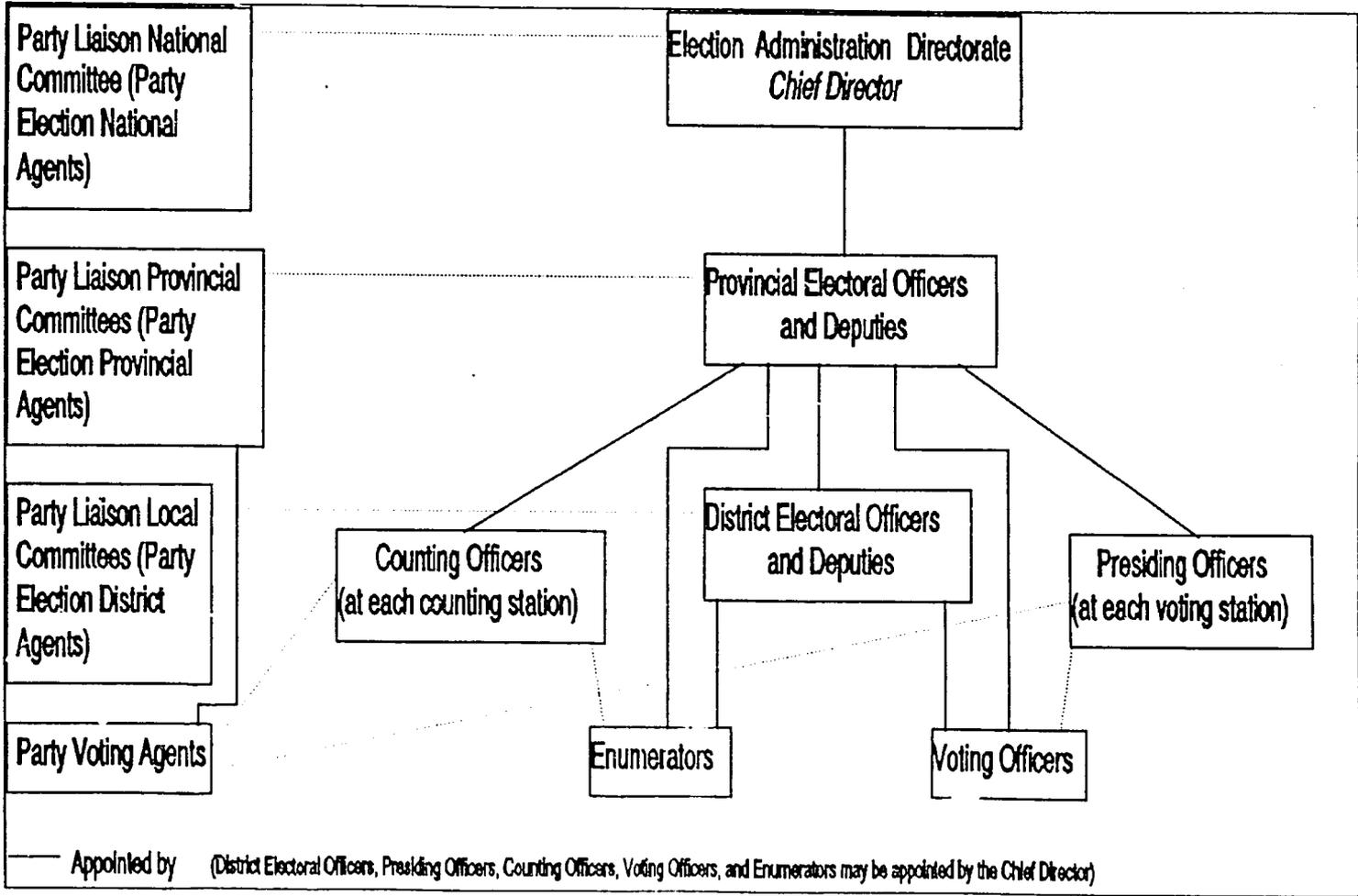
The Electoral Act includes an Electoral Code of Conduct applicable to all registered parties, and candidates, leaders, officers, members, and supporters of political parties. The Electoral Code of Conduct is a set of guidelines to be used by political parties to help insure that the election is free and fair - that all eligible voters have an opportunity to vote for whom they want without threat of reprisal and every party contesting the election has the opportunity to canvass eligible voters for support. The code places an affirmative duty on the political parties to support and engage in activities that are conducive to a free and fair election, including accepting the outcome of the election. The code also places a duty on the political parties to not engage in certain activities that would be detrimental to a free and fair election, including violence and intimidation. Violations of the code of conduct may be prosecuted in accordance with the Electoral Act and penalties, including the cancellation of the party's registration for contesting the election, may be imposed.

If one believes the Electoral Code of Conduct or any offence has been violated, an allegation should be made to the Monitoring Directorate of the IEC. The Chief Director of the Monitoring Directorate will determine whether the code has been violated or an offence has been committed, and if so, refer the matter for trial by the appropriate electoral tribunal. The Chief Director also may refer matters on his or her own accord.

Public Campaign Funding

The Electoral Act provides for state and international funding assistance for election campaigning. The IEC will administer a fund established from state and international money. The fund will be distributed to political parties contesting the election, half on the basis of opinion polls before the election and half after the election based on the outcome of the election.

247



— Appointed by (District Electoral Officers, Presiding Officers, Counting Officers, Voting Officers, and Enumerators may be appointed by the Chief Director)

Electoral Code of Conduct

- * Publicly condemn violence and intimidation.
 - * Do not engage in violence or intimidation.
 - * Do not allow weapons to be displayed at political activities.
 - * Do not publish or repeat defamatory allegations about political opponents.
 - * Cooperate with other political parties in scheduling political activities.
 - * Do not impede access to eligible voters by political opponents.
 - * Do not destroy or remove other political parties' campaign materials.
 - * Do not plagiarise other political parties' names or symbols.
 - * Do not bribe eligible voters in respect of the election campaign or voting.
 - * Do not abuse positions of power, influence, or privilege in respect of the election campaign or voting.
 - * Do not discriminate on the basis of race, sex, ethnicity, class, gender, or religion.
 - * Facilitate the equal participation of women.
 - * Accept the role of the IEC as established in the electoral legislation and implement its decisions and directives.
 - * Participate in all meetings held by the IEC and facilitate communication with the IEC.
 - * Facilitate access to political activities by IEC officials
 - * Cooperate with IEC investigations of alleged violations.
 - * Promote voter education and reassure voters of the secrecy of the ballot and the impartiality of the IEC.
 - * Accept the outcome of the election as declared by the IEC.
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QUESTIONS AND ANSWERS ABOUT ELECTIONS AND VOTING

Version date: March 16, 1994

Important note: The answers to some of these questions will be finalised by the regulations made by the Independent Electoral Commission.

A. WHO CAN VOTE?

- ▶ Every South African citizen and permanent resident who is the age of 18 or older will be permitted to vote.
1. **Who is a permanent resident?**
 - ▶ One is considered a permanent resident for voting purposes if the person
 - *holds a permanent resident certificate,
 - *is exempt from holding a permanent resident certificate,
 - *is a former South African citizen and qualifies for restoration of citizenship,
 - *is born of a SA citizen or former citizen and intends to be permanently resident in SA,
 - *is the spouse of a SA citizen or former citizen and intends to be permanently resident in SA,
 - *has been ordinarily resident in SA since 31 Dec. 1978, or
 - *is a child of one who has been ordinarily resident in SA since 31 Dec. 1978 and who has been ordinarily resident in SA since birth.
 2. **Can citizens and permanent residents of the independent homelands (Bophuthatswana, Venda, Ciskei, and Transkei) vote?**
 - ▶ All citizens and permanent residents of the independent homelands will be permitted to vote.
 3. **Can South African citizens and permanent residents who are also citizens of another country vote?**
 - ▶ Persons who hold dual citizenship will be permitted to vote.
 4. **Can persons in prison or persons convicted of crimes vote?**
 - ▶ Persons in prison who have not yet been convicted of a crime will be permitted to vote. Persons who have been convicted of a crime and have already served their sentences will be permitted to vote. Persons convicted of crimes and still serving their sentences also will be permitted to vote, except certain categories proposed by the IEC.

5. Can blind and physically disabled persons vote?

- ▶ Blind and physically disabled persons will be permitted to vote. Such voters will be able to request assistance from the Presiding Officer or from another person at least the age of 18. Blind persons may be able to request to vote using a braille ballot paper if the Independent Electoral Commission determines it appropriate to print braille ballot papers.

6. Can illiterate persons vote?

- ▶ Yes, illiterate persons will be permitted to vote. The ballot paper will include the symbols of the parties making it easier for illiterate people will be able to vote. Illiterate persons also will be able to request assistance from the Presiding Officer.

7. Can persons in hospitals and old age homes vote?

- ▶ Yes. If such persons cannot travel to a voting station on a general voting day, they will be able to vote on a day of special voting, the day before general voting begins, when a presiding officer visits all registered hospitals and old age homes for the purpose of taking such votes.

8. Can mentally disabled persons vote?

- ▶ Persons declared mentally disabled will not be permitted to vote.

9. Can persons who are not in the country on the day or days of the voting, vote?

- ▶ Yes. The Independent Electoral Commission will make rules so that persons who are out of South Africa on the day or days of the voting will have access to special voting stations, at South African embassies and other locations.

10. Will election officials, observers, and security personnel be permitted to vote?

- ▶ If the individual is a South African citizen or permanent resident and is of the age of 18 or over, she or he will be permitted to vote.

B. WHAT DOES ONE NEED TO VOTE?

- ▶ One will need some form of identification that proves South African citizenship or permanent resident status and age, either
 - * a South African identity document or temporary identity certificate,
 - * an independent homeland identity document or temporary identity certificate,
 - * a reference book,
 - * an old green card identity document, or
 - * a temporary voter's card.

Those who do not have identification should obtain an identity document as soon as possible.

Persons voting outside South Africa will also be able to use a passport.

1. **If one does not have proper identification or if one has no identification, will one be permitted to vote?**
 - ▶ No. Someone who presents himself or herself to vote without the proper identification or without any identification will not be permitted to vote.
2. **Will one need to register to vote or be placed on a voters' roll?**
 - ▶ There will not be voter registration or the preparation of a voters' roll for the election.
3. **Will one need to obtain a voter's card to vote?**
 - ▶ No. However, the Independent Electoral Commission may establish procedures to issue temporary voter's cards to those who do not have other acceptable identification to be used as identification for voting purposes. Even if the Independent Electoral Commission establishes procedures for issuing temporary voter's cards, other forms of identification, including identity documents, also will be permitted as identification for voting purposes.
4. **Will one need a pencil or pen to vote?**
 - ▶ All utensils necessary to vote - including the writing utensil and the ballot paper - will be provided by the Independent Electoral Commission. The writing utensil probably will be a blunt crayon type utensil.

C. WHERE WILL VOTING TAKE PLACE?

- ▶ Citizens will be able to vote at any voting station. The Independent Electoral Commission will determine the exact locations and the number of voting stations. Generally, the voting stations will be located in community centres, churches, schools, etc. and will be spread throughout the country.

1. Where will prisoners vote?

- ▶ The Independent Electoral Commission will establish special voting stations at prisons so that prisoners who are eligible to vote will be able to vote.

2. Will one be permitted to vote by mail?

- ▶ There will not be a system of postal votes in this election.

D. WHEN WILL VOTING TAKE PLACE?

- ▶ Voting will take place on April 27 and April 28 from 7:00 am to 7:00 pm on each day. Special votes will be cast on April 26. April 27 will be a public holiday.

1. Will the voting day or days be a public holiday?

- ▶ One of the voting days will be a public holiday.

2. At what times will one be allowed to vote?

- ▶ One will be allowed to vote only during the open hours of the voting stations.

3. If one is in the queue at the closing time of the voting station, will one be allowed to vote?

- ▶ Everyone who has properly presented themselves to vote by closing time will be allowed to vote.

E. ARE THERE RESTRICTIONS ON POLITICAL CAMPAIGNING?

- ▶ The Independent Media Commission Act restricts campaigning on television and radio. The Electoral Act restricts public demonstrations and marches within 48 hours of the voting period and throughout the voting period, and political meetings and rallies within 12 hours of the voting period and throughout the voting period. The Electoral Code of Conduct in the Electoral Act governs the conduct of political campaigning.

1. Is campaigning permitted on television?

- ▶ No. The Independent Media Commission Act will prohibit political advertisements and party election broadcasts on television. However, election issues can be covered in news programmes.

2. Is campaigning permitted on radio?

Yes, but only during a specified period. The Independent Media Commission Act will prohibit political advertisements and party election broadcasts (but not news programming) on radio except during the election period, which begins on a date to be set by the TEC. The Independent Media Commission Act also will prohibit party election broadcasts and political advertisements forty-eight hours prior to the start of the voting.

3. Is campaigning permitted in newspapers?

- ▶ Yes. However, the Electoral Act places some restrictions on such campaigning.

4. Is campaigning permitted in cinemas?

- ▶ Yes. There are currently no restrictions on campaigning in cinemas.

5. Is there a limit to how much money a political party can spend on campaigning?

- ▶ There are currently no restrictions on the amount of money a political party can spend on campaigning.

6. Is there a limit to how much money a person or organization can contribute to a political campaign?

- ▶ There are currently no restrictions on the amount of money a person or organization can contribute to a political campaign.

F. WHAT HAPPENS AT THE VOTING STATIONS?

- ▶ Generally, when one arrives at the voting station one will need to stand in a queue behind the others who have already arrived to vote. The Independent Electoral Commission will determine the exact voting procedure. However, the procedure will include

- (1) presenting identification to prove citizenship or permanent resident status, age, and that one has not previously voted in the election;
- (2) having one's hands checked to see that one has not previously voted in the election;
- (3) having one's identification and hand marked to indicate that one has voted;
- (4) being handed an officially marked ballot paper;
- (5) marking the ballot paper in a private voting compartment; and
- (6) placing the folded, marked ballot paper in a locked ballot box.

Voters will receive the ballot paper for the National Assembly first and then when they have voted and placed this ballot paper in a ballot box, they will receive the ballot paper for the Provincial Legislature.

1. What will the ballot papers look like?

- ▶ The Independent Electoral Commission will determine the exact design of the ballot paper. The ballot paper will include the parties' names, abbreviations, symbols, photographs of party leaders, and a blank space for marking the party of one's choice. There will be different lists of parties on each ballot paper depending on which parties registered in the Province and in the National elections.

2. How will one mark the ballot paper?

- ▶ One will take the ballot paper into a private compartment where one will find a blunt writing instrument with which to mark the ballot paper. One should place a mark in the empty space provided next to the party of one's choice. It is important to make a mark **only for one party**, otherwise the vote cannot be counted.

3. What happens if one inadvertently marks a party for which he or she does not want to vote?

- ▶ The voter will be allowed to return the spoiled ballot paper to the presiding officer and receive another ballot paper.

4. What mark must one make on the ballot paper?

- ▶ Any mark that is unambiguous, including an X and a ✓.

5. Will there be a separate ballot paper for provincial elections?

- ▶ No. There will be one ballot paper - to be used for the national election and for provincial elections.

6. Can one vote more than once?

- ▶ No. Each voter will be allowed to vote only once.

7. How do the electoral officials know when someone has already voted in the election?

- ▶ When one votes, the voter's identification and hand will be marked with a clear, harmless, quick-drying ink that can only be seen under a special light. The ink will stay on the hands one to two weeks.

8. Who will have access to the ballot box?

- ▶ The ballot box will be locked and sealed so that only those with Independent Electoral Commission authorization will have access to the

ballot box. However, it is anticipated that observers and party voting agents will have the right to have the box in view at all times.

G. IN ADDITION TO VOTERS, WHO WILL BE AT THE VOTING STATIONS?

- ▶ Generally, voters can expect to see the following people at voting stations:

- (1) Independent Electoral Commission officials, including
 - (a) a presiding officer,
 - (b) other voting officers, and
 - (c) monitors (although it is unlikely that Independent Electoral Commission monitors will be present at every voting station);
- (2) party voting agents;
- (3) observers, including
 - (a) international governmental observers,
 - (b) international independent observers, and
 - (c) local independent observers;
- (4) interpreters and persons assisting blind and disabled persons;
- (5) security personnel; and
- (6) the media.

1. Who will police the voting stations?

- ▶ The Independent Electoral Commission will determine what security personnel are to be located at the voting stations. It is anticipated that the National Peacekeeping Force established by the Transitional Executive Council will assist the SAP in policing the elections.

2. Who are monitors?

- ▶ Monitors are employees or representatives of the Independent Electoral Commission. They will monitor and report to the Independent Electoral Commission on the electoral process - including political meetings, canvassing, advertising, and other campaigning, as well as the voting and the counting of the votes.

3. Who will be permitted to be an observer?

- ▶ The Independent Electoral Commission will register independent observers - including independent international observers and independent local observers. In addition, the Subcouncil on Foreign Affairs of the Transitional Executive Council will accredit governmental international observers. Only those observers registered by the Independent Electoral Commission or accredited by the Subcouncil on Foreign Affairs will be permitted to observe the election.

4. Who are party voting agents?

- ▶ Party voting agents are representatives of political parties chosen by those parties to monitor the election.

5. What are the rights of the Party Voting Agents if they believe that a free and fair election is being threatened?

The rights of the Party Voting Agents will include the right to object to a person voting if he or she believes that the person is not eligible to vote, has already voted, or is not the person described in the identification presented. Party Voting Agents will enjoy other rights of intervention where a free and fair election is likely to be threatened. Some rights are established in the Electoral Act. Others will be determined by the IEC.

6. What are the rights of the observers if they believe that a free and fair election is being threatened?

- ▶ Some rights are established in the Electoral Act. The Independent Electoral Commission will determine other rights of the observers. It is anticipated that the observers will enjoy some rights of protest should they believe that a free and fair election is being threatened.

7. Will the media be permitted at the voting stations?

- ▶ The Independent Electoral Commission will determine whether to restrict access to the voting stations by the media.

H. WHAT HAPPENS AFTER THE VOTING?

- ▶ After the close of the voting stations, the votes will be counted by Independent Electoral Commission personnel. The Independent Electoral Commission will certify whether the election was free and fair and announce the results of the election between two and ten days after the election. Soon thereafter, the candidates on the lists of the political parties receiving sufficient votes will take office.
1. **Will the Party Voting Agents be allowed to observe the counting of the votes?**
 - ▶ Yes. Party Voting Agents will monitor the counting of the votes and have the right to object to any irregularities or inaccuracies.
 2. **Will the observers be allowed to observe the counting of the votes?**
 - ▶ Yes. Observers will be allowed to observe the counting of the votes.
 3. **Will the media be allowed to observe the counting of the votes?**
 - ▶ The Independent Electoral Commission will determine whether to restrict access to the counting of the votes by the media.
 4. **How does a voter complain if she or he believes that the election has not been free and fair?**
 - ▶ A voter who believes that the election has not been free and fair should report evidence supporting his or her belief to the Independent Electoral Commission as soon as possible - on the same or next day if possible - or if that is not possible, to his or her political party.

I. WHAT IS A FREE AND FAIR ELECTION?

- ▶ An election is free and fair when eligible voters have an opportunity to vote for whom they want without threat of reprisal, and every person or group contesting the election has the opportunity to canvass eligible voters for support.
1. **Who determines if the election is free and fair?**
 - ▶ The Independent Electoral Commission will determine whether the election was free and fair. However, other individuals and organizations including parties and observers will have the opportunity to provide input to the IEC within two days of the last day of counting if they think the election was not free and fair.

2. Who is responsible for insuring a free and fair election?

- ▶ The Independent Electoral Commission is ultimately responsible for insuring that the election is free and fair. The political parties and the people of South Africa, however, must cooperate with the IEC.

3. How will the Independent Electoral Commission insure that the election is free and fair?

- ▶ The IEC will try to insure that the election is free and fair by enforcing the electoral legislation including the Electoral Code of Conduct.

4. How will others help insure that the election is free and fair?

- ▶ The political parties should help insure that the election is free and fair by adhering to the Electoral Code of Conduct and other electoral legislation. The party voting agents should help insure that the election is free and fair by observing the voting and counting of the votes and intervening in accordance with the electoral legislation where appropriate. IEC monitors will help insure that the election is free and fair by monitoring the election, including the election campaign. Local observers and international observers should help insure that the election is free and fair by observing the election.

5. What is intimidation?

- ▶ Intimidation involves many activities all of which are a violation of the electoral legislation. Examples include physical violence or the threat of physical violence, telling someone she will lose her job if she does not vote for a certain party, and paying someone for voting for a particular party.

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TRAINING OF PARTY AGENTS

A non-partisan programme in preparation for the South African national elections

1. BACKGROUND TO THE PROPOSAL

Idasa was requested by the Swedish International Liberal Centre (SILC) to convene and chair a consultation with representatives from all the political parties and organisations regarding the need to train party election agents, what shape that training would take and how the process of training would happen in preparation for South Africa's first democratic elections.

Three meetings have taken place during which this project has been refined by the representatives of political parties and organisations listed below. This proposal is, therefore, a description of the negotiated and agreed multi-party commitment to non-partisan training.

2. PROGRAMME PARTICIPANTS

The following parties and organisations have participated in, and support the proposal:

African National Congress (ANC)
Azanian People's Organisation (AZAPO)
African Democratic Movement
Afrikaner Volksunie
Democratic Party (DP)
Dikwankwetla Party
Intando Yesizwe Party
Inyandza National Movement
Inkatha Freedom Party
Labour Party
Natal Indian Congress
National Party (NP)
Pan African Congress (PAC)
Solidarity
United People's Front
Ximoko Progressive Party.

3. DEVELOPING THE PROGRAMME PROPOSAL

The programme was developed in a series of meetings. The initial meeting of April 26 was followed by two further meetings on May 24 and June 15. At these meetings, IDASA, on behalf of SILC and at the request of the parties/organisations, continued to facilitate discussion around the objectives of the training programme, the training content, participation of parties/organisations and time scales.

Idasa has now been formally requested by the parties/organisations to facilitate the training process.

4. DECISION MAKING

The programme will be facilitated by IDASA which will act as the responsible organisation. In implementing the programme, decisions will be taken by the plenary meeting comprising two representatives of each participating party. This plenary will meet as regularly as necessary and IDASA will be accountable to it for the tasks outlined in the previous paragraph.

The guiding principles of the process will be:

- multi-party design and management of the process and
- multi-party design and approval of the training content.

5. PROGRAMME OBJECTIVES

The purpose of this programme is to train party officials so that they can exercise their responsibility as party agents or voting station watchers on the election days.

In particular the training of party election agents should aim to achieve the following:

- A common understanding of the new Electoral Act, the structures, resources available to political parties, access to voter registration, the electoral process, the rules governing it and the code of conduct that all parties should adhere to.
- Knowledge of electoral malpractice; what constitutes electoral fraud, vote rigging, intimidation and how to avoid this .
- An understanding of the role of monitoring in reducing political tension and skills training in conflict resolution.
- Practical skills for monitoring the electoral process.
- The ability to train others in their organisation to be effective election monitors.
- To build up equal knowledge and a common interpretation of the rules, which will promote acceptance of the notion that the election result, however unpopular for a particular party, has to be accepted if the election has been deemed to be free and fair.
- To contribute towards the creation of an atmosphere of political tolerance within communities to ensure free and fair elections.

The training programme should be implemented according to the following guidelines:

- All parties should have equal access to training.
- To build confidence and trust among political players, training should be based on a joint design and programme so that whether it is offered jointly (preferably) or individually the training content is standardised.
- Training should be provided at national, regional and possibly local level. The level of training would depend on the resources and funding of the facilitating and funding agencies. Where parties had limited resources (those historically disadvantaged) provision could be made for more down the line training, subject to resources.
- Training should be undertaken in both urban and rural areas and, where possible, in appropriate languages.
- Should parties/organisations appoint disabled people as party election monitors the training should be sensitive to their requirements and problems of access
- Trainers should make use of comparative research to support their training content.

Facilitation of the training programme would be undertaken by IDASA and the trainers should be independent. The appointment of trainers would be subject to multi-party sanction according to the following criteria:

- competency
- independence (acceptable to all parties)

- ability to communicate with local communities

6. PROGRAMME OUTLINE

The programme outline has been prepared so that it contains four phases. Each of these phases can be planned independently. The programme will be concluded before the election date, but a final post election plenary will be convened for evaluation.

6.1 Phase one: Curriculum development

The curriculum will be developed by a local team of experts in a series of workshops. It will be submitted in draft form to the parties in mid-July and will be revised following the National Training Event.

There will be subsequent revisions and amendments as the electoral procedures become more fixed and the final Pre-election voting stations agents orientation will ensure that all party agents receive the necessary final information about procedures.

6.2 Phase two: National Training Event

On July 30 and 31 an event for four representatives of each party will take place at which the curriculum will be tested. A plenary review will also take place. At this meeting, potential trainers would also be introduced and orientated to the curriculum so that regional events can take place without additional training of trainers.

6.3 Phase three: Training of party trainers/organisers

In October and November there will be training events in various parts of the country. By this time the Electoral Act will be known, if not passed into law. The persons trained from each party will have the dual tasks of engaging themselves in organising party agents for their parties and arranging local level training for them based on the principles they receive and the materials prepared by the curriculum group.

6.4 Phase four: Local training and pre-election briefings

Local level training will be left in the hands of parties. As an encouragement to joint training a supplementary fund has been established for the Plenary Meeting to disburse some subsidies for local joint training, where possible. In addition, materials will be developed and distributed for these workshops by the programme.

In the final run up to the election days, large gatherings of voting station agents will be drawn together to receive final briefings. While it may not be possible to reach every agent, we estimate that some 10 000 could be given this final briefing.

At these briefings, agents would be introduced to electoral officials, independent monitoring agencies, election paraphernalia and a map of voting station placements.

Personal & Party Notes