

**MINUTES OF THE MEETING OF THE AD HOC COMMITTEE ON THE  
INDEPENDENT ELECTORAL COMMISSION ACT HELD AT 13H20 ON  
WEDNESDAY 11 AUGUST 1993 AT THE WORLD TRADE CENTRE**

**Present:** K M Andrew (Convenor)

B Desai  
P Maduna  
S G Mothibe  
A Tredoux

M Cilliers (Minutes)

**1. Welcome**

All members were welcomed and Mr Andrew introduced Mr Tredoux, attending as substitute for Mr Schutte, to the other Committee members.

**2. Minutes**

The minutes of the meetings held on 3 and 10 August respectively were ratified.

**3. The draft proposals for amending Clauses 16 and 17 of the Second Draft of the Independent Electoral Commission Act**

The proposals as drawn up by Mr Andrew were discussed, amended and agreed to, as per Annexure A.

**4. Elections Appeal Tribunal**

The draft document as prepared by Mr Tredoux was discussed by the Committee.

4.1 It was noted that the Committee had decided on a previous occasion to change the name to the **Electoral Appeals Tribunal**.

4.2 It was agreed that:

4.2.1 The membership of the Electoral Appeals Tribunal should consist of -

- (a) a chairperson, who shall be a judge of the Appellate Division of the Supreme Court; and
- (b) four other members, one member who shall be a judge of the Supreme Court, two members who shall be persons fit to be members of the tribunal through experience as an advocate or attorney or as a lecturer in law at any university, for a period not less than 5 years, and one other suitable person who may or may not be legally qualified and experienced;

appointed by the Chief Justice.

(The Committee was undecided as to whether all the members should be legally qualified or whether one person not so qualified should be eligible for appointment.)

4.2.2 The Electoral Appeals Tribunal should prescribe the manner in which appeals may be lodged at the tribunal.

4.2.3 Any finding of the Electoral Appeals Tribunal should be binding and should not be subject to appeal or review by any Court of Law.

## **5. General**

It was agreed that the final report will be compiled by Mr Andrew and that the sections from the minutes of the meetings of the Committee would be consolidated word for word in the report. Two copies of the report will be distributed to each member of the Committee and should there be agreement, each member should sign one copy of the report and return it to Melanie Cilliers.

## **6. Next Meeting**

It was agreed that there will not be any more meetings of this Committee, unless there is a difference of opinion on the report.

## **7. Closure**

The meeting closed at 14h10.

## **ANNEXURE A**

### **AMENDMENTS TO CLAUSES 16 AND 17 OF THE SECOND DRAFT OF THE INDEPENDENT ELECTORAL COMMISSION ACT**

3.1 Replace Sub-Section 16.1 with the following: "**Objects of the Commission**

The objects of the Commission shall be -

- (a) to organize and supervise free and fair elections as may from time to time be conducted in the Republic or any part thereof in terms of the Constitution and in accordance with the Electoral Act and the provisions of this Act;
- (b) to supervise and co-ordinate the directorates entrusted with the conducting, monitoring and adjudication of such elections, throughout the duration of its term;
- (c) to promote conditions conducive to free and fair elections;
- (d) to educate the voter public regarding -
  - (i) democratic principles and values;
  - (ii) the electoral process and mechanisms;
  - (iii) the right to free political canvassing and campaigning;
  - (iv) secrecy of voting and other relevant matters,

by means of literature and the use of other media as it may deem appropriate, including distribution and publication of suitable literature, advertisements, and dissemination through radio, television and the public print media; having due regard to the variety of languages spoken throughout the Republic;

(e) to certify the election, after the conclusion of the process, as having been free and fair, or not" -

3.2 Replace Sub-Section 16.2.1 with the following:

"An Election Administration Directorate, which shall consist of a Chief Electoral Officer, two deputies and such other officials as the Commission may deem fit, to conduct the election in terms of the provisions of the Electoral Act".

3.3 After Sub-Section 16.2.3 to insert:

"The members of each of the directorates referred to in sub-section 16.2 shall be appointed by the Commission after it has invited and considered written submissions from members of the Transitional Executive Council'.

3.4 Replace Sub-Section 16.4 with the following:

"Each such Directorate shall operate independently of the others and the Commission; provided that they shall all be accountable and provide regular progress reports to the Commission".

In terms of the appeals provisions, the Commission would retain certain powers to issue directives and to review, rescind and vary some of the decisions taken by the Directorates or their functional sub-structures.

3.5 Replace Section 17 with the following:

**“17. Responsibilities of the Election Administration Directorate**

The Election Administration Directorate shall carry out the responsibilities allotted to it by the Electoral Act as well as those responsibilities allocated to it by the Commission".