

## EXPLANATORY MEMORANDUM

### FIRST VERSION

DRAFT ELECTORAL BILL  
28 SEPTEMBER 1993

1. This Bill has been drafted to cover the electoral arrangements for the first election, that is for the election of the Constitutional Assembly and other legislatures. Accordingly it has been drafted so as to be in accordance with the provisions of the Independent Electoral Commission Act. Consequently many of the provisions of the draft Bill cannot be implemented without the operation of an Independent Electoral Commission.

2. The definitions are contained in Chapter 1. As presently drafted the definitions which are common to this Bill and the Independent Electoral Commission Act are incorporated by reference. Attention should also be given to certain definitions, in particular "region", which is defined as any portion of the territory of the Republic determined by the Delimitation Commission in terms of the Constitution.

3. Chapter II covers the administration of the Bill; in particular provision is made for the appointment of electoral officers and staff, such appointments being made by the Chief Director. Attention is drawn to Clause 4(4) which provides that in the appointment of staff an endeavour should be made to appoint a broad cross section of the population including women. This provision is an attempt to ensure that appointments take account of the demography of the country.

4. Clause 5 provides for the appointment of regional electoral officers who shall assume responsibility for the administration and conduct of the election in a region as defined and as such, will also become the chief electoral officers for the other legislature in the regions as defined.

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5. Clause 9 provides for the appointment of counting officers. The Bill allows the Commission to decide where the counting of votes should take place. In other words it is not envisaged that the automatic venue for the counting of votes will be at each voting station, the reason being that given intimidation or fear thereof, it might be considered prudent to have fewer counting stations. This

would then obviate reprisals in the event that a particular district or voting area produces a result different from that expected by one or other of the parties.

6. Chapter 111 deals with the question of franchise. Clause 12 provides that any person who is eligible to vote in terms of the Constitution and is the holder of an acceptable identity document shall be entitled to vote. Clause 13 excludes certain categories of persons from voting. The major difference between this provision and that contained in the present Electoral Act of 1979 is the absence of criminality as a bar from voting. In short, the Committee has adopted the view that prisoners shall be entitled to vote. This view is based upon the premise that prisoners should only be denied the minimum of rights necessary for their incarceration. As voting is not so necessary it has been decided to delete the bar to voting grounded on the principle of criminality.

7. The Commission is empowered if it deems it necessary to issue voter's cards which cards shall constitute adequate proof of the holder's entitlement to vote. In other words it is possible that the Commission might deem it necessary to issue such cards if it is of the view that the present forms of identity documents have not been issued to a sufficient number of people of the population for whatsoever reason.

8. Chapter IV deals with the registration of parties. No party shall be entitled to contest the election unless it is registered in accordance with the Act. The provisions for the application for registration are contained in Clause 16. Attention is drawn to Clause 16(2)(c) in which the application form shall include as a requirement a photograph of the leader of the party. This provision has been inserted because it might well be that the Commission considers it necessary to have a photograph of the leader of each party on the

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ballot paper. There are members of the Committee who consider this to be both an impractical and unsuitable suggestion and guidance is sought from the Council in this regard. The various time limits prescribed in Clause 16 are shorter than those which were suggested by the South African government in its submissions to the Committee. The reason for reducing the time limits relate to the possibility of a second election as provided in the draft Constitution. In terms thereof, the State President can proclaim an election within 90 days of such proclamation. In order for such an election to be administratively viable, the process of registration will have to be completed in the shortest possible time; hence the various dates contained in Clause 16.

9. Chapter V sets out the provisions for the announcement of the election and the submission of the lists of candidates. In terms of Clause 20 the Committee has left open the possibility that the election take place over one or more voting days.

10. In terms of Clause 21 each party is required to provide a deposit of R50 000 in the event that it contests the election for the National Assembly and R20 000 for contesting representation in each of any other legislature. The names of the list of candidates shall appear in the order which the party so determines. It should also be noted that in terms of Clause 21(3) each list of candidates shall be accompanied by a declaration signed by an office bearer of the party that each person appearing on the list has accepted nomination as a candidate, is a qualified person to serve as a member of the National Assembly or other legislature and a copy of the signed acceptance of such nomination by the candidate and a declaration that he or she commits and subjects himself/herself to the Electoral Code of Conduct. In terms of Clause 21(7) the Committee has provided that if a candidate's name appears on more than one list the Chief Director shall delete the name of the candidate from all the lists on which such candidate's name appears. Guidance is sought from the Council as to whether the Council favours this particular approach.

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Chapter VI concerns the preparation for voting. In terms of Clause 22 the regional electoral officer shall determine the number and location of the voting stations in the region for which he or she is responsible. In terms of Clause 22(2) no voting station shall be located at any premises ordinarily occupied by or under the control of defence or police force or a non-governmental military force as defined save where the Commission declares otherwise. In terms of Clause 23(3) an area with a radius of not greater than 500 meters around any voting station shall be deemed to be part of the voting station although the district electoral officer is empowered to declare a lesser area for particular election purposes including for example the perimeter within which persons who are gathered prior to the closing of the polls might vote.

12. Clause 24 empowers the Commission to establish foreign voting

stations for those persons eligible to vote who are temporarily outside the Republic.

13. Clause 28 provides for the nature of the ballot paper. Attention is drawn to the matters which should be printed on such ballot paper and guidance is sought from the Council as to whether this is an appropriate list.

14. Chapter VII deals with voting at voting stations. Clause 34(7) provides that a voter can indicate the party for which he or she desires to vote by placing a cross or any other mark which denotes as clear choice for a particular party.

15. Clause 35 makes provision for voters who cannot read or who are incapacitated by blindness or other physical disability from voting.

16. Clause 36 provides for any election voting agent to object to any voter on the grounds listed in this section. In the event that an objection is lodged, a voter shall cast a tendered ballot vote in terms of the provisions laid out in Clause 37.

17. Chapter VIII provides for the determination of the result of the poll and the announcement of the result of an election. Attention is drawn to Clause 41 which deals with the counting of votes. Clause

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41(3) sets out the circumstances in which the counting officer shall reject and not count any ballot paper. Clause 41(5) provides that in the event that the counting officer accepts a ballot paper against which an objection has been lodged he/she shall endorse the word "disputed" on the ballot paper and shall reflect such ballot paper on a form and in a manner prescribed by the Commission. Similarly provision is made for ballot papers which are rejected against which an objection is lodged. Both the disputed rejected and disputed accepted ballot papers are kept separately. This provision allows the Commission to deal with disputed ballot papers at a later stage.

18. In terms of Clause 43 the Commission is empowered to determine whether the number of tendered ballot papers issued could have a material affect on the result of the election. In the event that the Commission so decides, it is empowered to determine procedures for the verification and

counting of such tendered ballot papers. The intention in short is to simplify the system such that if tendered ballot papers will have no material affect on the outcome of the election whether for the National Assembly or any other legislature such ballot papers can be ignored. In the event that they could have a material affect on the outcome of the election provisions are set out in Clauses 44 and 45 for the verification and counting thereof.

19. Attention is drawn to the note in the draft Bill as to why the determination and number of candidates of registered parties to be declared duly elected has not yet been completed.

20. Chapter X deals essentially with ancillary matters and offences. In addition, attention is drawn to the prohibition on publication of opinion polls in terms of Clause 52 which provides that no person shall during a period of three weeks prior to the first voting day publish the results of any opinion poll purporting to reflect the level of support enjoyed by registered parties etc. The clause does not prohibit the conducting of opinion polls provided that they are not published nor does it prohibit the obtaining of opinions in the course of canvassing votes on behalf of registered parties etc.

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21. Clause 53 sets out a range of offences and penalties. Essentially these represent the Committee's thinking as to the electoral offences which need to be criminalised. The Committee has, however, not completed its arrangement of the principles contained in Clause 53 and will in its next draft ensure that the list of offences contained in Clause 53 are broken up into more coherent themes.

22. Provision is made for an Electoral Code of Conduct (see Clause 49). The Code of Conduct has not been discussed in the Committee and is not included in this First Version of the draft Electoral Bill.

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FIRST VERSION

OF THE DRAFT ELECTORAL BILL

BY THE

TECHNICAL COMMITTEE ON THE ELECTORAL BILL

1 29 SEPTEMBER .

B I L L

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

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

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## CHAPTER I

### Interpretation

#### Definitions

1. In this Act any expression defined in the Independent Electoral Commission Act, 1993, and used in this Act shall have the meaning so defined, and unless the context otherwise indicates -

"acceptable identity document" means a valid passport, an identity document or a temporary identity certificate of the Republic or a voter's card;

"ballot box" means any ballot box referred to in section 27;

"ballot paper" means any ballot paper referred to in section 28;

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

"counting officer" means any counting officer appointed in terms of section 4(1)(b)(iii); "counting station" means any place determined by the Chief Director in terms of section 39 where the counting of votes is to take place;

"district" means a portion of the territory of a region as determined by the Commission; "district election agent" means any district election agent appointed in terms of section 10(1)(c);

"district electoral officer" means any district electoral officer appointed in terms of section 4(1)(b)(i);

"election agent" means any election agent appointed in terms of section 10(1) or (3)(c); "election material" means any ballot papers, counterfoils, envelopes, statements and other documentation used in connection with the voting in an election;

"electoral officer" means any deputy director appointed in terms of section 20 of the Commission Act, any regional or district electoral officer or deputy, any counting officer or any voting officer;

"identification mark" means the mark approved by the Commission for the purpose of the identification of a voter who has voted in the election in terms of section 34(4); "non-governmental military force" means any defence force or armed force, other than the defence force of any government established by or under any law and any policing agency of any government established by or under any law; "official mark" means the mark determined by the Chief Director, for the

purpose of the identification of a ballot paper having been officially issued in terms of section 34(6)(a); "party" means any party, organization, or movement of a political nature; "prescribe" means prescribe by regulation under this Act or the Commission Act; "presiding officer" means any presiding officer appointed in terms of section 4(1)(b)(ii); "qualified person" means any person in terms of section 21 who is an eligible voter and is not serving a current term of imprisonment; "region" means any portion of the territory of the Republic determined by the Delimitation Commission in terms of the Constitution; "regional election agent" means any regional election agent appointed in terms of section 10(1)(b);

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"regional electoral officer" means any regional electoral officer appointed in terms of

section 4(1)(a);

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

"regulations" means the regulations made under section 54;

"tendered ballot paper" means any tendered ballot paper referred to in section 37; "this Act" includes the regulations;

"voter's card" means any voter's card issued in terms of section 14; "voting agent" means any voting agent appointed in terms of section 10(5); "voting compartment" means any voting compartment referred to in section 26; "voting day" means the voting day or days fixed in terms of section 20(1); "voting materials" means voting compartments, ballot boxes, ballot papers, instruments, seals and other requisites for the purposes of conducting an election; "voting officer" means any voting officer appointed in terms of section 4(1)(c); and "voting station" means any voting station referred to in section 23.

## CHAPTER 11

### Administration

#### Application of Act

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

## Administration of Act

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

## Appointment and control of electoral officers and staff

4. (1) Subject to section 20 of the Commission Act, the Chief Director shall, in respect of any election called in terms of the Constitution appoint -

- (a) a regional electoral officer and one or more deputies in respect of each region;
- (b) or authorize the appointment by any regional electoral officer of -
  - (i) a district electoral officer and one or more deputies in respect of each district;
  - (ii) a presiding officer in respect of each voting station;
  - (iii) one or more counting officers in respect of each counting station; and
- (c) or authorize the appointment by any regional or district electoral officer of 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.

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(2) Subject to section 15 of the Commission Act, the Chief Director, any regional and district electoral officer and 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.

## Powers, duties and functions of regional electoral officers

5. (1) The regional electoral officer shall, subject to the control of the Chief Director, assume responsibility for the administration, organization, supervision and conduct of the election in the region in respect of which he or she was appointed.

(2) The regional electoral officer shall have such other powers, duties and functions as may be prescribed.

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

6. (1) The district electoral officer shall, subject to the control of the regional electoral officer, 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 district in respect of which he or she was appointed.

(2) The district electoral officer shall have such other powers, duties and functions as may be prescribed.

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

7. (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;

(b) regulate the number of voters to be admitted at a time; and

(c) exclude all other persons except -

(i) the Chief Director and any electoral officer concerned;

(ii) any voting agent entitled in terms of section 10(5) to be present at a voting station;

(iii) any other person authorized by the Commission to be present as a monitor or observer;

and

(iv) any such staff as the presiding officer may allow.

(2) The presiding officer may, if he or she deems it necessary for the effective administration of the election, order any person, subject to subsection (1) and excluding any person recording his or her vote, to leave the voting station.

(3) The presiding officer shall take all reasonable steps for the protection of persons and property, at the voting station, 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

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person who is entitled to vote, from having an opportunity to record his or her vote. (5) The presiding officer shall have such other powers, duties and functions as may be prescribed.

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

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

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

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

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

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

#### Appointment and powers, duties and functions of agents of registered parties

10. (1) Upon registration in terms of section 16 the party concerned shall by written notice to the Chief Director -

(a) in respect of an election for the National Assembly, appoint a chief election agent and a deputy and shall furnish the names and addresses of such election agents;

(b) in respect of an election for any other legislature in which it is participating, appoint a regional election agent and a deputy and furnish the names and addresses of such election agents; and

(c) in respect of both elections referred to in paragraphs (a) and (b), when so required by the Commission, appoint a district election agent in respect of any district within 10 days after notification of such requirement and furnish the name and address of such election agent.

(2) The chief election agent or the regional election agent, as the case may be, shall represent the registered party at all fora which the Commission, a directorate or the regional electoral officer in its, his or her discretion may constitute in respect of an election.

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

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

(c) A registered party shall as soon as practicable but within five days fill any vacancy occurring in terms of paragraph (a) or (b) by appointing any other person as election agent and, shall forthwith notify the Chief Director or the regional electoral officer concerned

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in writing of the name and address of the person so appointed: Provided that in the case of a chief election agent, such appointment shall be made within 48 hours of the vacancy having occurred.

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

(5) A regional election agent shall appoint, in the manner prescribed by the regional electoral officer, such number of voting agents as the regional electoral officer may stipulate for the purposes of monitoring voting at a voting station and counting of votes.

(6) No person shall be appointed as election or voting agent unless he or she is a person entitled to vote in terms of section 12.

Declaration of secrecy

I 1. Before assuming or performing any of the duties or functions assigned to him or her by or under this Act, every officer or agent referred to in this Chapter shall make a declaration of secrecy, under oath or affirmation, in the prescribed form.

CHAPTER 111

Franchise

Persons entitled to vote



12. Any person who -
- (a) is eligible to vote in terms of the Constitution; and
  - (b) is the holder of an acceptable identity document, shall, in accordance with and subject to the provisions of this Act, be entitled to vote at an election.

#### Persons not entitled to vote

13. Notwithstanding the provisions of section 12, no person shall be entitled to vote in an election, if that person is -
- (a) subject to an order of court declaring him or her to be of unsound mind or mentally disordered or affected;
  - (b) detained as a mentally ill patient under the Mental Health Act, 1973 (Act No. 18 of 1973), or any other applicable law, as the case may be;
  - (c) detained under the Prevention and Treatment of Drug Dependency Act, 1992 (Act No. 20 of 1992), or any other applicable law, as the case may be.

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#### Voters' cards

14. (1) The Commission may, if in its discretion it is deemed necessary issue voters' cards in the prescribed manner, which cards shall constitute adequate proof of the holder's entitlement to vote.
- (2) Entitlement for voters' cards shall be in accordance with the grounds of eligibility to vote in terms of the Constitution.

#### CHAPTERIV Registration of Parties Registration for purposes of election

15. No party shall be entitled to contest an election unless such party is registered in accordance with, and subject to, the provisions of this Chapter.

## Application for registration for purposes of election

16. (1) An application for the registration of a party shall be submitted in the prescribed form to the Chief Director within 10 days after the proclamation in the Gazette of the election in terms of section 20.

(2) The application referred to in subsection (1) shall be accompanied by a registration fee of R10 000.

(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 28 is required to appear on the ballot paper;

(b) the distinguishing mark or symbol and designated colours of the party;

(c) a photograph of the leader of the party;

(d) the abbreviation, if any, of the name of the party, consisting of not more than 8 letters;

(e) the business address of the party;

(f) the constitution of the party; and

(g) the names, addresses and telephonic or other means of contact of the chief election agent and the regional election agents of the party and their respective deputies.

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

(5) The Commission shall, after the period prescribed in subsection (1) cause to be published in the Gazette a complete list of applications for registration in which objections are invited by interested parties.

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

(i) contains a portrayal of any arms, ammunition, uniform or other object normally used in or associated with military operations, whether in time of war or peace;

(ii) resembles the proposed name, abbreviated name, distinguishing mark, symbol or colours, as the case may be, of any other party to such extent that in the opinion of the Commission, it may deceive or confuse; or

(iii) contains anything which portrays the propagation of or incitement to violence or which might cause serious offence to any section of the population on the grounds of race, sex, ethnic origin, colour, sexual orientation, age, disability, religion, conscience, creed, culture or language.

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

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

(ii) may, for the purposes of subparagraph (i) -

- (aa) grant the party concerned an opportunity to deliver such proof, including oral evidence or sworn statements by any person which in the opinion of the Commission, could be of assistance in the expeditious determination of the matter; and
- (bb) administer an oath or affirmation to any person appearing to testify before it.
- (7) (a) The Chief Director shall refer each application submitted to him or her to

the Commission so that it may determine within seven days of the receipt by it of the application, whether the application complies with the provisions of this section, and if it finds that any application does not so comply, it shall return the application and party's deposit forthwith to the party with a written indication of the reasons for its finding.

(b) Upon receipt of the reasons for the Commission's finding in terms of paragraph (a) a party shall have three days in which to rectify and resubmit the application.

(c) The Commission shall determine whether the rectified application complies with the provisions of this section and it shall make its determination within three days of receipt of the rectified application.

(8) If the Commission is of the opinion, taking into account any objections received, that the application of a party submitted complies with the provisions of this section, it shall register that party and issue to it a registration certificate in the prescribed form.

(9) The Commission shall at the request of any authorized person who is investigating an alleged offence or any other matter in terms of this Act or the Commission Act, furnish such person with a certified copy of any registration certificate or written confirmation of the registration referred to in subsection (8), which shall for all purposes serve as prima facie proof of such registration.

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

17. The Chief Director shall publish in the first available Gazette following the date upon which a party is registered, a notice containing -
- (a) the full name and business address of that party; and

- (b) the address at which a copy of the original application and supporting documents shall be available for public inspection and lodging of written objections, if any, in terms of section 19.

### **Perusal of documents**

18. (1) A copy of each document submitted to the Chief Director for the purposes of the registration of a party shall be kept at the address referred to in section 17(b) for perusal by the public, and anyone who desires to inspect such a document, may do so free of charge during office hours.

(2) The Chief Director shall, upon payment of the prescribed fees, provide a copy of any document referred to in subsection (1) to any person applying therefor.

### **Objection against registration and adjudication by Commission**

19 . (1) Any objection against the registration of a party, together with the reasons therefor, shall be lodged in writing with the Chief Director within five days after the date of the publishing of the notice referred to in section 17.

(2) The Commission shall examine and consider such objection and may confirm or set aside the registration of the party concerned.

(3) In the event of the registration of the party being set aside by the Commission under subsection (2) the party shall forthwith -

- (a) be notified in writing of the decision; and
- (b) be afforded a period of three days to rectify and resubmit its application to the satisfaction of the Commission.

(4) The application rectified and resubmitted in terms of subsection (3) shall be the final application for registration of the party.

## **CHAPTER V**

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

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

20. (1) The State President shall, upon the advice of the Transitional Council, by proclamation in the Gazette determine the voting day or days of an election as well as the hours during which the voting shall take place.

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

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

21. (1) A registered party may participate in the election for seats in the National Assembly and any other legislature by submitting, on the prescribed form, to the Chief Director, the required lists of candidates for the National Assembly and each of the other legislatures in which such party wishes to be represented, within 21 days after the date of

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publication of the proclamation referred to in section 20(1), together with a deposit of R50 000,00 for representation in the National Assembly and R20 000,00 each for representation in any other legislature.

(2) The names on such list of candidates shall appear in such order as the party may determine with a view to the allocation of representatives in that order in terms of the Constitution, subject to the provisions of section 22(1)(b).

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

(4) No documents shall be received as aforesaid after 16:30 on the last day of the twenty one day period referred to in subsection (1).

(5) For the purposes of election to the National Assembly such lists shall not contain more names of candidates than the total number of seats available for election for the National Assembly.

(6) For the purposes of election to any other legislature a list shall not contain more names of candidates than the total number of seats available for election to such legislature and a further 10 names.

(7) If a candidate's name appears on more than one list referred to in this section in respect of which he or she has signed an acceptance of nomination, the Chief Director shall delete the name of the candidate from all the lists on which such candidate's name appears.

(8) The registration of any party in terms of section 16 shall lapse automatically if such party fails to submit a list of candidates in terms of the provisions of this section.

### **Publication of lists of candidates**

22. (1) The Chief Director shall within five days after the provisions of section 21 have been complied with publish a notice in the Gazette in respect of the National Assembly and each of the other legislatures setting out -

- (a) in alphabetical order the names of all the registered parties; and
- (b) each list of candidates of each such registered party in the order of their nomination, compiled by the registered party in terms of section 21;

and declaring that the persons whose names appear on the lists have been nominated as the candidates of the party concerned for the election and that such candidates have accepted their nominations of candidature.

(2) If any person whose name appears on a list of candidates in the notice published in terms of subsection (1)(b) is disqualified or incapacitated, withdraws his or her candidature or dies before voting day, the Chief Director shall amend such notice by a further notice in the Gazette by deletion from that list of the name of such person, and by the addition at any place on the list of the name of a qualified person who has been nominated in writing by the registered party concerned and who has accepted his or her nomination in terms of section 21(3): Provided that the Chief Director receives such nomination by the registered party concerned not later than 72 hours before voting day,

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(3) A person whose name has in terms of a notice under subsection (2) been deleted from the list of candidates of a registered party shall cease to be eligible as a candidate for

the election.

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

## CHAPTER VI

### Preparation for Voting

#### **Voting stations**

23. (1) Each regional electoral officer shall under the authority of the Chief Director determine the number and locations of voting stations in the region concerned.

(2) No voting station shall be located at any premises ordinarily occupied by or under the control of any defence or police force or of a non-governmental military force, save where the Commission in its discretion, considers such premises to be a necessary location for the purposes of conducting a free and fair election.

(3) An area within a radius of not greater than 500 metres around any voting station shall be deemed to be part of the voting station, unless in the opinion of the district electoral officer practical circumstances necessitate a lesser area for a particular election purpose.

(4) The Chief Director shall, at least 45 days before voting day, publish in the Gazette a list of the locations of all voting stations determined in terms of subsection (1).

(5) The district electoral officer, acting on the authorization of the regional electoral officer, may provide one or more mobile voting stations in any district for the purpose of

taking a poll.

(6) A mobile voting station shall be under the general control of the district electoral officer and shall, for the purposes of this Act, be deemed to be a voting station in that district.

(7) The district electoral officer may, as he or she may consider necessary and practicable, make known the locations and estimated times at which a mobile voting station shall function during voting day.

(8) The presiding officer of a mobile voting station, any other electoral officer and any voting station for or election agent may enter upon any land or building with such mobile voting the purpose of voting.

#### **Foreign voting stations**

24. (1) The Commission may at its discretion establish one or more voting stations outside the Republic (hereinafter referred to as "foreign voting stations") as it may deem appropriate in order to facilitate voting by persons eligible to vote, who are temporarily outside the Republic.

- (2) In relation to any foreign voting station the Commission shall, by regulation, determine -
- (a) the categories of eligible voters who shall be permitted to record their

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- (b) votes at a foreign voting station;  
the manner in which, and the procedures regulating the implementation of the provisions of this Act, including the counting of votes, at any foreign voting station.
- (3) Any person who exercises a right to vote at any foreign voting station, shall be required to make a sworn declaration or affirmation at the time of voting as to the region within which such person is ordinarily resident, which shall be the region within which his or her vote shall be counted in the election.

### **Supplying of voting materials**

25. (1) The Chief Director shall supply such voting materials to a regional electoral officer as may be necessary for the proper conduct of the election in the region concerned. (2) Each district electoral officer shall be responsible for obtaining voting materials from the regional electoral officer, and supplying to the presiding officers for the voting stations in his or her district, a sufficient quantity of such materials to ensure the proper conduct of the election.

### **Voting compartment**

26. The Chief Director shall determine the nature and style of the voting compartments which he or she deems suitable for the proper conduct of the election.

### **Ballot box**

27. (1) Not more than one hour before the commencement of the voting on the first 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 voting agents and international observers; and
- (c) immediately thereafter close and seal all such ballot boxes in accordance with the instructions issued by the Chief Director.

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

(3) The presiding officer at a voting station shall in the presence of the voting agents at the closing of the poll on each voting day, close and seal the openings of the ballot boxes in accordance with instructions issued by the Chief Director.

(4) A ballot box closed and sealed as aforesaid may not be opened, and the seal shall not be broken, except under the circumstances contemplated in section 40.

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

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

(7) For the purposes of this section "seal" means the seal of the presiding officer and any voting agent entitled to be in the voting station who wishes to attach his or her seal to the ballot box.

## **Ballot paper**

28. (1) Every ballot paper shall be in the prescribed form, and there shall be printed on every ballot paper in the manner prescribed the names of all the registered parties participating in the election and the distinguishing mark or symbol, the abbreviated name, and if deemed appropriate by the Commission the colours and a photograph of the leader of such party: Provided that the ballot paper shall be prefolded in such a manner that the official mark appears on the outside of the ballot paper and the cross or mark referred to in section 34(7)(b) or writing referred to in section 41(4) or 45(2) appears on the inside of such ballot paper.

(2) The order of the parties as they appear on the ballot paper shall be determined by lot in the prescribed manner.

(3) The ballot paper shall be in such languages as the Commission in its discretion, shall determine.

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

29. The vote shall commence and close on the hours determined in terms of section 20(1) in respect of each voting day: Provided that the presiding officer shall permit every voter who at the closing hour is inside that area of the voting station determined for this purpose by the presiding officer, to record his or her vote.

## CHAPTER VII

### Voting at **Votiig** Stations

#### **Place of voting**

30. Subject to the provisions of sections 24 and 53(1)(a), a voter shall be entitled to vote at any voting station and for the purposes of an election for any other legislature such vote shall be counted where it has been recorded.

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

31. A voter shall be entitled to record one vote in the election for the National Assembly and one vote in the election for any one other legislature.

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

32. A voter shall record his or her vote in secret, and no person may in any way

interfere with a voter in connection with the recording of his or her vote.

## Identification

33. No voter shall be permitted to vote unless he or she has presented to the presiding or voting officer an acceptable identity document.

## Manner of voting

34. (1) The voting at any voting station shall be conducted in accordance with the provisions in this Chapter.

(2) The presiding or voting officer shall ascertain -

- (a) by examining the acceptable identity document that the voter is the person described therein; and
- (b) in the manner prescribed in subsection (3) and subject to the provisions of paragraph (c) of that subsection, that the voter has not already voted at the election.

(3) (a) Unless a voter satisfies a presiding officer that he or she bears an identification mark, he or she shall not be given a ballot paper.

(b) Each voting agent shall have a right to examine the identification mark of

a voter. (c) The provisions of paragraph (b) of subsection (2) and of paragraph (b) of this subsection and of subsection (4) 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, in respect of whom the Commission shall promulgate regulations prescribing alternative arrangements.

(4) Where the provisions of subsection (3)(a) have been complied with the voter shall in the presence and in accordance with the instructions of the presiding officer or a voting officer be marked by means of an identification mark.

(5) If a voter refuses to have the identification mark administered to him or her, he or she shall not be issued with a ballot paper and shall be ordered by the presiding officer to leave the voting station forthwith.

(6) When the voter has complied with the provisions of subsection (4), the presiding officer or a voting officer shall -

- (a) tear out a ballot paper from the ballot paper book and mark that ballot paper on the back with the official mark; and
- (b) hand that ballot paper to the voter.

(7) When the voter has received the ballot paper, he or she shall -

- (a) take it to the voting compartment;
- (b) indicate the party for which he or she desires to vote by placing a cross or any other mark which denotes a clear choice for a particular party;
- (c) display the ballot paper at the ballot box in such manner that the presiding officer or a voting officer designated by him or her may recognize the official mark; and
- (d)** place the ballot paper in the ballot box.

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- (8) In the event that a voter -
- (a) spoils any ballot paper inadvertently; or
  - (b) records a vote by mistake for a party which is not of his or her choice, he or she shall return it to the presiding officer, who shall, if he or she is satisfied that the circumstances described in paragraph (a) or (b) have occurred, provide the voter with another ballot paper and cancel the spoiled ballot paper which shall be kept separately.

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

35. (1) At the request in person by a voter who is incapacitated by blindness or other physical disability from voting in the manner prescribed by the other provisions of this Act, the presiding officer may permit such voter to vote with the assistance of a voting officer, or, if the presiding officer considers it appropriate, of any person chosen by the voter, and upon such permission being granted, anything to be done in terms of this Act by the voter in connection with his or her vote, may be done with the assistance of such voting officer or person.

(2) At the request in person by a voter who cannot read or who is incapacitated by blindness or other physical disability from voting in the manner prescribed by the other provisions of this Act, the presiding officer or a voting officer shall immediately, in the presence of at least two agents of different registered parties, mark the vote of that voter on the ballot paper as requested by the voter, and place the ballot paper in the ballot box.

(3) The secrecy of the voting as contemplated in section 32 shall mutatis mutandis be preserved in the application of the provisions of this section.

**Objection to voting**

36. (1) Any 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 acceptable identity 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 in terms of subsection (1) the presiding officer shall deal with the objection in terms of section 37.

### **Tendered ballot papers**

37. (1) In the event that a person claims to be entitled to vote but -
- (a) cannot produce an acceptable identity document; or
  - (b) if the presiding officer is satisfied that there are prima facie grounds for an objection in terms of section 36,
- the presiding officer shall require the voter to record a tendered ballot.
- (2) The presiding officer shall not permit a tendered ballot to be recorded if the person does not challenge the objection lodged in terms of section 36.

- (3) The presiding or voting officer shall record on the prescribed form the voter's particulars and the voter shall place his or her signature or prescribed mark thereon.
- (4) The ballot paper (hereinafter referred to as a "tendered ballot paper") shall be sealed in a plain envelope by the voter.
- (5) The plain envelope referred to in subsection (4) shall be placed in an envelope marked "tendered ballot paper envelope" by the presiding officer (hereinafter referred to as the "tendered ballot paper envelope") on which the presiding or voting officer shall write the particulars of the voting station.
- (6) The presiding or voting officer shall -
- (a) place the tendered ballot paper in a tendered ballot paper envelope;
  - (b) seal the envelope; and
  - (c) keep separate the tendered ballot paper envelopes and retain them in safe custody.

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

38. (1) Immediately after the close of the poll on each voting day, the presiding officer shall, in the presence of such election or voting agents as may be in attendance, make up into separate packets, sealed with his own seal and the seal of any voting agent 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 tendered ballot paper envelopes;
- (d) the spoiled ballot papers; and
- (e) the counterfoils of used and spoiled ballot papers, and shall in accordance with the instructions of the Commission mark each sealed packet and deliver the sealed packets to the district electoral officer for the district concerned without delay, or cause them to be so delivered, in accordance with the instructions of the regional electoral officer.

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

- (a) the number of ballot papers and tendered ballot papers entrusted to him or her;
- (b) the number of ballot papers and tendered ballot papers issued; and
- (c) the number of ballot papers and tendered 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.

(4) The district electoral officer shall furnish to the regional 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 and tendered ballot papers entrusted to him or her.

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

## **CHAPTER VIII**

### **Determination of Results of Poll**

#### **Notice of place and time of counting of votes**

39. The Chief Director shall, upon the advice of the Commission, inform each party of the place where (including the places in all the regions) and the day and time upon which the counting of votes is to be commenced.

#### **Verification of ballot paper count by counting officer**

40. (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 give the district electoral officer concerned and any agents of registered parties who are present an opportunity to do the same, and shall thereafter open all the packets.

(2) The counting officer shall separately verify each presiding officer's ballot paper account 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 in them to be counted.

(3) If there appears to be any irregularity in respect of the seals or any discrepancy in the verification of the ballot paper account referred to in subsection (2), the Chief Director shall be informed immediately in the prescribed manner, and the counting officer shall deal with the matter in accordance with the instructions of the Chief Director.

## **Counting of votes**

41. (1) After the provisions of sections 38 and 40 have been complied with, the counting officer shall cause -

- (a) the ballot papers, excluding the tendered ballot papers, to be sorted with regard to the provisions of subsections (3) and (4) on the basis of the registered parties in respect of individual votes recorded; and
- (b) the votes recorded to be counted in respect of each registered party.

(2) The counting officer shall, as soon as practicable, after all the votes in respect of the voting stations in the region have been counted and the number of votes recorded for each registered party have been determined in the region concerned, inform the Chief Director in the prescribed manner of the number of votes so determined to have been recorded in that region for each registered party.

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

- (a) which records votes for more than one registered party;
- (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 section 34;
- (c) which is unmarked or on which it is impossible to determine with certainty for which registered party the ballot is recorded; or

- (d) which contains a mark or statement made by the voter which tends to identify the voter.

(4) 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 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).

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

- (a) all counted ballot papers;
- (b) all rejected ballot papers;
- (c) all disputed rejected ballot papers;
- (d) all disputed accepted ballot papers;
- (e) all unused or spoilt ballot papers with their counterfoils; and
- (f) all tendered ballot papers,

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

(8) On receipt of the packets referred to in subsection (7) the Chief Director shall take charge of them, examine whether the seals are intact and give any agents of registered parties who are present an opportunity to do the same.

### **Alleged irregularities or inaccuracies, and challenges of tally**

42. (1) Before the determination of the result at any counting station a voting agent shall have the right to bring to the attention of the counting officer 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 Commission.

(2) Upon 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.

(3) If no such challenge is made, the tally shall be deemed to be accepted by all registered parties concerned and shall not be subject to appeal.

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

(5) Upon refusal by the counting officer of an application for 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 be final.



### **Determination of materiality of tendered ballot papers**

43. (1) The counting officer shall submit to the Commission a statement of the number of tendered ballot papers issued.

(2) The Commission shall determine whether the number of tendered ballot papers issued could have a material effect on the result of the election.

(3) If the Commission determines that such tendered ballot papers issued could have a material effect on the election for the National Assembly or any other legislature, it shall determine such procedures for the verification and counting of such of the tendered ballot papers as it may consider material to the election for the National Assembly or other legislature, as the case may be.

### **Verification of material tendered ballot papers**

44. (1) Upon instructions by the Commission the counting officer shall open the packets of tendered ballot papers which the Commission determined to be material in terms of section

43.

(2) The counting officer shall determine the admissibility of a tendered ballot paper in accordance with the procedures determined by the Commission.

(3) After verifying the admissibility of each material tendered ballot paper in terms of subsection (2), the counting officer shall remove from the tendered ballot paper envelopes the sealed unmarked envelopes containing admissible tendered ballot papers and place them in the ballot box.

### **Counting of tendered ballot papers**

45. (1) After the provisions of sections 43 and 44 have been complied with in respect of all tendered ballots recorded, the counting officer shall -

- (a) remove from the sealed ballot boxes all envelopes containing tendered ballot papers not rejected in terms of section 44 which were recorded by voters;
- (b) open each such envelope and take out the ballot paper contained therein;
- (c) remove and destroy all the envelopes so opened;
- (d) sort the ballot papers with regard to the provisions of section 40(3) on the basis of the registered parties in respect of which the votes are recorded;

- (e) count the votes recorded in respect of each registered party; and
  - (f) determine on the basis of that count the number of votes recorded in respect of each registered party in each region.
- (2) The counting officer shall not reject, but shall count, 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.
- (3) The procedures in respect of the counting of tendered ballot papers and any appeal in respect thereof shall be mutatis mutandis as provided in sections 41 and 42.

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## CHAPTER IX

### Announcement of Result of Election and Determination of Number of Candidates of Registered Parties Duly Elected

46. Note: The Electoral Act must provide for a particular formula in terms of which the Commission can announce the duly elected candidates. At present there is a suggested formula provided for in the Constitution Bill (Schedule 5 thereof) but as this has not yet been settled this Chapter of the Act has not been drafted pending greater certainty in respect of the system of proportional representation to be provided in the Constitution. The procedures for regional elections to be conducted on the same day will likewise be inserted upon determination of the formula provided in the Constitution Bill.

#### **CHAPTER X General Provisions Forfeiture of deposit paid by registered party**

47. The deposit paid in terms of section 21(1) shall be forfeited to the State by any registered party if it was unsuccessful in obtaining sufficient support for the allocation of at least one representative, in either the National Assembly, or any other legislature in respect of which it submitted a list of candidates in terms of the said section.

#### **Safe-keeping of election material**

48. The Chief Director shall be responsible for the safe-keeping of all election material referred to in sections 38 and 41 and shall retain those packets until such time as the Commission orders their destruction or other disposal.

## **Electoral Code of Conduct**

49. The Electoral Tribunals and the Electoral Appeal Tribunals established by the Commission in terms of the Commission Act, shall be responsible for the enforcement of the Electoral Code of Conduct and the imposition of such penalties and sanctions as they may deem appropriate in respect of infringements thereof, as are provided for therein.

### **Bills, placards, etc., to bear publisher's name**

50. (1) Every bill, placard, poster, pamphlet, circular or other printed matter having reference to an election shall bear upon the face thereof the name and address of the printer

and publisher thereof.

(2) No person shall print, publish or post or cause to be printed published or posted any such printed matter which fails to bear upon the face thereof, the name and address of the printer and publisher.

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(3) 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 to be made.

(4) The articles or paragraphs referred to in subsection (3) shall include all such text as may prima facie appear to be intended or calculated to affect the result of an election, and shall include any paid advertisement or report of the speech of a listed candidate, if the insertion thereof is, or is to be, paid for.

(5) Every report, letter, article, bill, placard, poster, pamphlet, circular, cartoon or other printed matter (hereinafter in this subsection called a "newspaper article") which, on the face of it, is intended or calculated to affect the result of an election, is inserted in any newspaper or otherwise produced and is published in the Republic on or after the

date of commencement of an election, shall bear at the foot thereof the full name and address of that person by whom such newspaper article was written or produced: Provided that -

- (a) any such newspaper article which is inserted in any newspaper as aforesaid and which has been altered materially by the editor of such newspaper, may also be signed by the editor;
  - (b) in the case of a report of a public meeting which is written jointly by two or more persons, it shall be sufficient for the purposes of this subsection if the report as a whole bears the full names and addresses of the persons by whom it was written; and
  - (c) in the case of headlines to any newspaper article which is inserted in any newspaper as aforesaid, and 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 subsection if the full names and addresses of the persons by whom such headlines, bills, placards or posters were written, and a statement that such headlines, bills, placards or posters were written by such persons, are published in the issue of the newspaper in which such newspaper article is inserted.
- (6) Subject to the provisions of paragraph (c) of the proviso to subsection (5), no person shall print or publish any newspaper or other printed matter in which is inserted or produced any newspaper article which fails to comply with the provisions of subsection (5).

### **Prohibition on publication of opinion polls**

51. (1) No person shall, during a period of three weeks prior to the first voting day, publish the results of any opinion poll purporting to reflect the level of support enjoyed by registered parties, listed candidates, or the policies they advocate, until after the election results have been certified by the Commission **iii** terms of the Commission Act.

(2) The provisions of subsection (1) shall not prohibit the conduct of opinion polls, or the obtaining of opinions in the course of canvassing for votes on behalf of registered parties, or candidates, or the publishing of the results so obtained after the election results have been certified by the Commission in terms of the Commission Act.

### **Offences and penalties**

52. (1) Any person who in the course of any election -

- (a) directly or indirectly, uses or procures the use of, or attempts or threatens to use procure the use of, any force, violence, sexual harassment, or psychological pressur or inflicts or causes to be inflicted or threatens any injury, damage, loss disadvantage, to or upon any other person or property -
  - (i) with intent thereby, to induce or influence any person, to vote or refrain fro voting, either at all, or for any particular registered party, or in any oth manner; or
  - (ii) on account of such other person having voted, attempted to vote or havi refrained from voting as aforesaid;
- (b) votes, or attempts to vote, or induces, influences or procures, or attempts to induc influence or procure any other person to vote in any election, in the knowledge th such person, or such other person, is not eligible to vote in that election;
- (c) directly or indirectly -
  - (i) impedes or prevents, or attempts or threatens to impede or prevent, the fre and voluntary exercise of a vote by any voter;
  - (ii) commits or attempts to commit any act which is calculated or intended t defeat the free choice of any voter in any election;
  - (iii) knowingly makes or publishes any false statement of fact in relation to registered party, or the personal character or conduct of a candidate; or
  - (iv) impedes or prevents, or attempts or threatens to impede or prevent, the righ of representatives of any registered party to gain access to voters an particular areas for the purpose of conducting political canvassing and fo soliciting membership and support;
  - (v) in any unlawful manner, influences or attempts to influence the result of an election;
- (d)** directly or indirectly -
  - (i) receives or contracts for any money, benefit, loan, consideration or othe advantage, 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 t refrain from voting, either at all or for any particular registered party or in any other manner;
  - (ii) after such election, receives any payment, loan, benefit or other consideration or advantage, for himself or herself, or for any other person, on account of having induced or influenced, or ittempted to induce or influence, any voter to vote or refrain from voting as aforesaid;
  - (iii) gives, lends or procures, or agrees, offers, promises or attempts to give, lend or procure, or causes to be given, lent or procured, any payment, loan, benefit or other consideration or advantage, to or for any voter, or to or for any other person, in order to induce or influence any voter to vote or refrain from voting as aforesaid,

- (iv) on account of any voter having voted or refrained from voting, gives, lends or procures, or agrees, offers, promises or attempts to give, lend or procure, or causes to be given, lent or procured, any payment, loan, benefit or other valuable consideration or advantage, to or for any voter, or to or for any other person;
  - (v) votes or refrains from voting, in consequence of his or her acceptance of any payment, loan, benefit or other consideration or advantage, or the promise thereof;
  - (e) at any election, applies for a ballot paper in the name of some other person, whether living, dead or fictitious;
  - (f) save as is provided in section 35 records a vote in the name of any other person;
  - (g) having voted once at any election for the National Assembly, or any other legislature, again votes or attempts to vote or applies for a ballot paper in respect of the same election for the National Assembly or such other legislature, as the case may be;
  - (h) directly or indirectly, uses or procures the use of, or attempts or threatens to use or procure the use of any force, violence, sexual harassment or psychological pressure, or inflicts or causes to be inflicted or threatens any injury, damage, loss or disadvantage to or upon any other person or property -
    - (i) with intent thereby to induce or influence any person 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 any registered party or listed candidate;
    - (ii) on account of such person having attended or participated in, or having refrained from attending or participating in any such political meeting, march, demonstration, or other event or from lending support as aforesaid;
  - (i) directly or indirectly, compels or induces any voter who has already voted to display the ballot paper on which he or she has marked his or her 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 so marked his or her vote;
- obtains any information relating to voting at any voting station, or counting of votes at any counting station, and discloses such information to any other person, if such disclosure defeats or is calculated to defeat the secrecy of the ballot or the vote count;
- (k) except as authorized by or under this Act or by the Commission breaks the seal of, or opens any packet, envelope or ballot box sealed in terms of this Act;
  - (1) for the purpose of invalidating or affecting the result of any election, removes, destroys, conceals, or mutilates, or attempts to remove, destroy, conceal or mutilate, or assists the removal, destruction, concealment or mutilation of, any election or voting material;
  - (m) without lawful authority, prints manufactures or supplies, or attempts to print, manufacture or supply, or causes to be printed, manufactured or supplied, any election or voting material;
  - (n) contravenes or fails to comply with any provision of section 50 or 51;

- (o) creates a material disturbance or disruption at any public meeting, with the intention of preventing any registered party, candidate or representative of any registered party from instructing or addressing supporters, or from canvassing support, or from engaging in voter education;

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- (p) directly or indirectly, by the use or threat of any force, violence, sexual harassment or psychological pressure, or in any other unlawful manner prevents or attempts to prevent the conduct of a political meeting, march, demonstration or other event of a political nature;
- (q) being an officer or agent referred to in Chapter 2, after having accepted his or her position as such, wilfully refuses or fails to perform any of the duties or functions assigned to him or her by or under this Act, the Commission Act, or the regulations prescribed thereunder;
- (r) makes a false statement or furnishes false particulars in an application form referred to in section 16(1), knowing such statement or particulars to be false or without reasonable grounds for believing the same to be true;
- (s) refuses or fails to leave a voting station when so ordered in terms of section 7(2) or 34(5);
- (t) interferes with a voter as contemplated in section 32; or
- (u) refuses or wilfully 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,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years.

(2) In any indictment, summons or charge sheet for any offence in relation to voting or election material referred to in paragraph (1) of subsection (1), the property in such voting or election material, as well as the property in the counterfoils thereof, if any, may be stated to be vested in the district or regional electoral officer, counting officer, or Chief Director, or the Commission, as the case may be, in such election.

(3) The establishment of evidence that a greater or lesser number of ballot papers has been found in a ballot box or has been returned as having been received at a voting station, than the number of voters who voted at that voting station, shall be prima facie proof that the presiding officer of such voting station is guilty of a contravention of subsection (1) of this section.

## Regulations

53. (1) The Commission shall make regulations regarding -
- (a) voting stations and procedures of voting by sentenced and awaiting trial prisoners;

- (b) any matter required or permitted to be prescribed in terms of this Act; and
- (c) 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.

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

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### **Repeal of laws and savings**

54. (1) Subject to the provisions of subsection (2), the laws specified in Schedule 2 are hereby repealed to the extent set out in the third column of that Schedule.

(2) Anything done under any provision of a law repealed by subsection (1), shall be deemed to have been done under the corresponding provision of this Act.

### **Short title and commencement**

55. 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.