

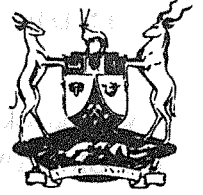
# OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA

# OFFICIAL GAZETTE

EXTRAORDINARY

OF SOUTH WEST AFRICA



UITGAWE OP GESAG

PUBLISHED BY AUTHORITY

10c      Woensdag 20 September 1978      WINDHOEK      Wednesday 20 September 1978      No. 3826

**INHOUD:**

*Bladsy*

**PROKLAMASIE:**

No. AG. 63 Grondwetgewende Vergadering- en Ver-  
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## PROKLAMASIE

van die

**ADMINISTRATEUR-GENERAAL VIR DIE  
GEBIED SUIDWES-AFRIKA**

*(Deur die Waarnemende Staatspresident goedgekeur op  
20 September 1978)*

No. AG. 63 ..... 1978

**VOORSIENING VIR DIE INSTELLING EN  
BEVOEGDHEDE VAN, EN 'N VERKIESING VIR,  
'N GRONDWETGEWENDE VERGADERING, EN  
VIR BYKOMSTIGE AANGELEENTHEDE**

Kragtens die bevoegdheid my verleë n by Proklamasie  
181 van 19 Augustus 1977, maak ek hierby die wette in  
die Bylae vervat.

M. T. STEYN

Administrateur-generaal

Windhoek, 20 September 1978

## PROCLAMATION

by the

**ADMINISTRATOR-GENERAL FOR THE  
TERRITORY OF SOUTH WEST AFRICA**

*(Approved by the Acting State President on 20 September  
1978)*

No. AG. 63 ..... 1978

**PROVISION FOR THE ESTABLISHMENT AND  
POWERS OF, AND AN ELECTION FOR, A CON-  
STITUENT ASSEMBLY, AND FOR INCIDENTAL  
MATTERS**

Under the powers vested in me by Proclamation 181  
of 19 August 1977, I hereby make the laws set out in the  
Schedule.

M. T. STEYN

Administrator-General

Windhoek, 20 September 1978

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*Woordomsrywings*

1. Tensy uit die samhang anders blyk, beteken in hierdie Proklamasie—

(i) "distrik", ook 'n deel van 'n distrik en, met betrekking tot 'n verkiesingsbeampte wat vir 'n bepaalde distrik aangestel is, en enigiets wat in of ten opsigte van daardie distrik gedoen moet word, ook 'n deel van 'n ander distrik wat by daardie distrik ingesluit is vir die doeleindes van die aanstelling van daardie verkiesingsbeampte; (v)

(ii) "gebied" die gebied Suidwes-Afrika; (xxv)

(iii) "geregistreerde adres", met betrekking tot 'n geregistreerde party, die adres deur hom ingevolge artikel 30 (d) verstrekk; (xvii)

(iv) "geregistreerde kieser" 'n persoon wat ingevolge die Registrasieproklamasie as kieser geregistreer is; (xix)

(v) "geregistreerde party" 'n politieke organisasie wat vir verkiesing geregistreer het deur aan die bepalings van artikel 30 te voldoen, en nie sy registrasie voor die sluiting van die registrasiehof ingevolge artikel 31 (7) teruggetrek het nie; (xviii)

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(i) "Assembly" means the Constituent Assembly referred to in section 2; (xxii)

(ii) "chief electoral officer" means the chief electoral officer appointed in terms of section 22 (1); (vi)

(iii) "controller" means a controller appointed under section 23 (1); (viii)

(iv) "counting officer" means a counting officer appointed under section 25 (3); (xxi)

(v) "district" includes a part of a district and, in relation to an electoral officer appointed for a particular district, and anything to be done in or in respect of that district, includes any part of another district included in that district for the purposes of the appointment of such electoral officer; (i)

(vi) "hoofverkiesingsbeampte" die hoofverkiesingsbeampte ingevolge artikel 22 (1) aangestel; (ii)

(vii) "kieser" iemand wat gestem het of iemand wat wil stem, na gelang van die samehang; (xxvi)

(viii) "kontroleur" 'n kontroleur kragtens artikel 23 (1) aangestel; (iii)

(ix) "lid" 'n lid van die Vergadering; (ix)

(x) "lys van *sine die*-uitgestelde besware" die lys wat ingevolge artikel 25 (3) en (4) van die Registrasieproklamasie opgestel is en wat besonderhede bevat van die uitstellings *sine die* van verhore van besware kragtens daardie Proklamasie ingedien teen die behoud van die name van geregistreerde kiesers op die register van kiesers; (viii)

(xi) "nominasie" nominasie kragtens artikel 6 of 9 as 'n verteenwoordiger, en het "nomineer" 'n ooreenstemmende betekenis; (x)

(xii) "*Offisiële Koerant*" die *Offisiële Koerant* van die gebied; (xi)

(xiii) "politieke organisasie" 'n politieke party of 'n vereniging van politieke partye of van 'n politieke party en enige ander vereniging van of groep persone; (xii)

(xiv) "President" die President van die Vergadering; (xv)

(xv) "register van kiesers" die duplikate van registrasiekaarte in artikel 15 (2) van die Registrasieproklamasie bedoel; (xx)

(xvi) "registrasiekaart" 'n registrasiekaart soos in die Registrasieproklamasie omskryf, en, met betrekking tot 'n geregistreerde kieser, die registrasiekaart wat by sy registrasie as 'n kieser ingevolge daardie Proklamasie aan hom uitgereik is; (xxi)

(xvii) "Registrasieproklamasie" die Proklamasie op die Registrasie van Kiesers (Grondwetgewende Vergadering), 1978 (Proklamasie AG. 37 van 1978); (xxii)

(xviii) "Sekretaris" die Sekretaris van die Vergadering in artikel 17 (1) bedoel; (xxiv)

(xix) "stemagent" 'n stemagent kragtens artikel 27 (4) aangestel; (xiii)

(xx) "stemopnemer" 'n stemopnemer kragtens artikel 25 aangestel; (xiv)

(xxi) "telbeampte" 'n telbeampte kragtens artikel 25 (3) aangestel; (iv)

(xxii) "Vergadering" die Grondwetgewende Vergadering in artikel 2 bedoel; (i)

(xxiii) "verkiesingsagent" 'n verkiesingsagent kragtens artikel 27 (1) aangestel; (vi)

(xxiv) "verkiesingsbeampte" 'n verkiesingsbeampte ingevolge artikel 24 (1) aangestel; (vii)

(xxv) "verteenwoordiger" 'n persoon wat lid van die Vergadering is of, na gelang van die samehang, deur nominasie lid moet word ingevolge artikel 7 (2) of 9 (4); (xxiii)

(xxvi) "voorsittende beampte" 'n voorsittende beampte kragtens artikel 25 aangestel. (xvi)

## DIE GRONDWETGEWENDE VERGADERING

### *Instelling en bevoegdhede van die Vergadering*

2. (1) Die persone ooreenkomstig die bepalinge van hierdie Proklamasie genomineer, is, behoudens daardie bepalinge, as verteenwoordigers van die mense van die gebied, 'n Grondwetgewende Vergadering met die bevoegdheid om 'n grondwet vir die gebied op te stel en aan te neem met die oog op die onafhanklikwording van die gebied as 'n soewereine staat op die datum van inwerkingtreding van daardie grondwet.

(vi) "election agent" means an election agent appointed under section 27 (1); (xxiii)

(vii) "electoral officer" means an electoral officer appointed in terms of section 24 (1); (xxiv)

(viii) "list of objections postponed *sine die*" means the list compiled in terms of section 25 (3) and (4) of the Registration Proclamation, and containing particulars of the postponements *sine die* of hearings of objections, lodged under that Proclamation, to the retention of the names of any registered voters on the register of voters; (x)

(ix) "member" means a member of the Assembly; (ix)

(x) "nomination" means nomination under section 6 or 9 as a representative, and "nominate" has a corresponding meaning; (xi)

(xi) "*Official Gazette*" means the *Official Gazette* of the territory; (xii)

(xii) "political organization" means a political party or any association of political parties or of any political party and any other association or group of persons; (xiii)

(xiii) "polling agent" means a polling agent appointed under section 27 (4); (xix)

(xiv) "polling officer" means a polling officer appointed under section 25; (xx)

(xv) "President" means the President of the Assembly; (xiv)

(xvi) "presiding officer" means a presiding officer appointed under section 25; (xxvi)

(xvii) "registered address", in relation to a registered party, means the address furnished by it in terms of section 30 (d); (iii)

(xviii) "registered party" means a political organization that has registered for election by complying with the provisions of section 30, and has not withdrawn its registration before the closing of the registration court in terms of section 31 (7); (v)

(xix) "registered voter" means a person registered as a voter in terms of the Registration Proclamation; (iv)

(xx) "register of voters" means the duplicates of registration cards referred to in section 15 (2) of the Registration Proclamation; (xv)

(xxi) "registration card" means a registration card as defined in the Registration Proclamation, and, in relation to a registered voter, the registration card issued to him on his registration as a voter in terms of that Proclamation; (xvi)

(xxii) "Registration Proclamation" means the Registration of Voters (Constituent Assembly) Proclamation, 1978 (Proclamation AG.37 of 1978); (xvii)

(xxiii) "representative" means a person who is, or, as the context may require, is by nomination to become, a member of the Assembly in terms of section 7 (2) or 9 (4); (xxv)

(xxiv) "Secretary" means the Secretary of the Assembly referred to in section 17 (1); (xviii)

(xxv) "territory" means the territory of South West Africa; (ii)

(xxvi) "voter" means a person who has voted or a person who wishes to vote, as the context may require. (vii)

## THE CONSTITUENT ASSEMBLY

### *Establishment and powers of the Assembly*

2. (1) The persons nominated in accordance with the provisions of this Proclamation shall, subject to those provisions, as representatives of the people of the territory be a Constituent Assembly with power to draw up and adopt a constitution for the territory with a view to its becoming independent as a sovereign state on the date of the coming into operation of such constitution.

## (2) Die Vergadering kan—

(a) aan die Administrateur-generaal versoeke, aanbevelings of voorstelle voorlê aangaande die gedragslyn wat die Vergadering verlang gevolg moet word of die stappe wat hy verlang gedoen moet word met die oog op die onafhanklikwording van die gebied as 'n soewereine staat;

(b) die Administrateur-generaal van raad dien of enige aanbeveling aan hom maak, op sy versoek of uit die beweging, aangaande die verordening, wysiging of herroeping van enige wet of die uitoefening van 'n regeringswerkzaamheid in of ten opsigte van die gebied deur die Administrateur-generaal of 'n ander gesag.

(3) Die Administrateur-generaal is nie verplig om aan enige versoek, aanbeveling, voorstel of advies deur die Vergadering kragtens subartikel (2) voorgelê of gegee, gevolg te gee nie.

*Samestelling van die Vergadering*

3. Die Vergadering bestaan uit 50 lede wat persone moet wees wat genomineer is deur die geregistreerde party vir dié doel deur geregistreerde kiesers gekies by die verkiesing ingevolge die bepalings van hierdie Proklamasie gehou.

*Kwalifikasies van lede van die Vergadering*

4. (1) Enige persoon wie se naam op die register van kiesers verskyn en wat een-en-twintig jaar oud of ouer is en nie aan 'n in subartikel (2) genoemde onbevoegdheid onderhewig is nie, is bevoeg om as verteenwoordiger genomineer te word en om lid van die Vergadering te wees.

(2) Niemand is bevoeg om as verteenwoordiger genomineer te word of om lid van die Vergadering te wees nie indien hy onderworpe is aan 'n hofbevel wat hom swak-sinnig of geestelik gekrenk of gebrekkig verklaar, of kragtens die een of ander wet as 'n geestesongestelde persoon aanghou word.

*Aantal verteenwoordigers wat deur 'n geregistreerde party genomineer kan word*

5. (1) Die aantal verteenwoordigers, indien daar is, wat deur 'n geregistreerde party genomineer kan word, hang af van die aantal stemme wat by die stemming in die verkiesing op daardie geregistreerde party uitgebring is en word ooreenkomstig die bepalings van hierdie artikel bereken.

(2) Vir die berekening van genoemde aantal verteenwoordigers, word 'n kwota vir een verteenwoordiger vasgestel ooreenkomstig die formule:

$$Y = \frac{B}{50}$$

waarin—

Y genoemde kwota voorstel;

B die totale aantal stemme voorstel wat by die stemming op alle geregistreerde partye uitgebring is, en 'n breuk wat by die berekening van die waarde van  $\frac{B}{50}$  verkry word, buite rekening gelaat word.

## (2) The Assembly may—

(a) submit to the Administrator-General requests, recommendations or proposals as to any course of action it desires to be followed or any steps it desires to be taken with a view to the attainment of independence by the territory as a sovereign state;

(b) advise or make any recommendation to the Administrator-General, at his request or of its own motion, as to the enactment, amendment or repeal of any law or the exercise of any governmental function in or in respect of the territory by the Administrator-General or any other authority.

(3) The Administrator-General shall not be obliged to give effect to any request, recommendation, proposal or advice submitted or given by the Assembly under subsection (2).

*Composition of the Assembly*

3. The Assembly shall be composed of fifty members who shall be persons nominated by the registered parties elected for that purpose by registered voters at the election held in accordance with the provisions of this Proclamation.

*Qualifications of members of the Assembly*

4. (1) Any person whose name appears on the register of voters and who is of or over the age of twenty-one years and is not subject to a disqualification mentioned in subsection (2) shall be qualified for nomination as a representative and to be a member of the Assembly.

(2) No person shall be qualified for nomination as a representative or to be a member of the Assembly if he is subject to an order of court declaring him to be of unsound mind or mentally disordered or defective, or is detained as a mentally ill person under any law.

*Number of representatives that may be nominated by a registered party*

5. (1) The number of representatives, if any, that may be nominated by any registered party shall depend upon the number of votes given to such registered party at the poll taken at the election and shall be calculated in accordance with the provisions of this section.

(2) For the purposes of calculating the said number of representatives, a quota for one representative shall be fixed in accordance with the formula:

$$Y = \frac{B}{50}$$

in which—

Y represents the said quota;

B represents the total number of votes given to all registered parties at the poll,

and any fraction obtained in calculating the value of  $\frac{B}{50}$  is disregarded.

(3) Genoemde aantal verteenwoordigers word bereken ooreenkomstig die formule:

$$X = \frac{A}{Y} + Z$$

waarin—

- X genoemde aantal voorstel;
- A die aantal stemme voorstel wat by die stemming op die betrokke geregistreerde party uitgebring is;
- Y die kwota voorstel wat ingevolge subartikel (2) vasgestel is;
- Z die waarde 1 verteenwoordig indien 'n verteenwoordiger ingevolge subartikel (4) aan die betrokke geregistreerde party toegewys word, en die waarde 0 verteenwoordig indien geen verteenwoordiger aldus aan die betrokke geregistreerde party toegewys word nie,

en 'n breuk wat by die berekening van die waarde van  $\frac{A}{Y}$  verkry word, buite rekening gelaat word behalwe by die toepassing van subartikel (4), waarin daar na sodanige breuk verwys word as nie-toegewysde stemme.

(4) Indien, wanneer die waarde van  $\frac{A}{Y}$  ingevolge sub-

artikel (3) vir elke geregistreerde party bepaal is, die aantal verteenwoordigers wat deur al sodanige waardes gesamentlik verteenwoordig word, minder as vyftig is, word die aantal wat die tekort verteenwoordig, op die grondslag van een verteenwoordiger elk toegeken aan 'n gelyke aantal geregistreerde partye, synde dié geregistreerde partye wat die grootste getalle nie-toegewysde stemme het.

#### *Nominasie van verteenwoordigers by aankondiging van uitslag van die stemming*

6. (1) 'n Geregistreerde party wat ingevolge die aankondiging van die uitslag van die stemming kragtens artikel 55 geregtig is om verteenwoordigers te nomineer, moet sonder versuim sy nominasies doen deur skriftelik, in die vorm deur die hoofverkiesingsbeampte voorgeskryf, aan die hoofverkiesingsbeampte voor te lê, ten opsigte van elke verteenwoordiger—

- (a) sy aanvaarding van die nominasie;
- (b) sy volle name en van;
- (c) sy geboortedatum; en
- (d) die nommer van die registrasiekaart aan hom uitgereik;

Met dien verstande dat 'n geregistreerde party, met verloop van die hoofverkiesingsbeampte, te eniger tyd voor die afkondiging van die kennisgewing in artikel 7 bedoel, enige nominasie kan terugtrek en 'n nuwe nominasie kan doen.

(2) Indien 'n geregistreerde party versuim om binne twee-en-sewentig uur na die aankondiging van die uitslag van die stemming ingevolge artikel 55 of binne die verdere tydperk wat die hoofverkiesingsbeampte in die algemeen of in 'n bepaalde geval toelaat, 'n nominasie te doen wat hy geregtig is om te doen, nomineer die Administrateur-generaal, na die oorlegpleging met enige ampsbekleder van die betrokke geregistreerde party wat hy goed ag, in plaas van die geregistreerde party enige persoon wat na die Administrateur-generaal se mening deur daardie geregistreerde party genomineer kon gewees het, en bedoelde persoon word by die toepassing van hierdie Proklamasie geag deur daardie geregistreerde party genomineer te wees.

(3) The said number of representatives shall be calculated in accordance with the formula:

$$X = \frac{A}{Y} + Z$$

in which—

- X represents the said number;
- A represents the number of votes given to the registered party concerned at the poll;
- Y represents the quota fixed in terms of subsection (2);
- Z represents the value 1 if a representative is allocated to the registered party concerned in terms of subsection (4), and the value 0 if no representative is so allocated to the registered party concerned,

and any fraction obtained in calculating the value of  $\frac{A}{Y}$  is disregarded except for the purposes of subsection (4), in which such fraction is referred to as unallocated votes.

(4) If, when the value of  $\frac{A}{Y}$  has been determined

in terms of subsection (3) for each registered party, the number of representatives represented by the aggregate of all such values is less than fifty, the number representing the shortfall shall be allocated on the basis of one representative each to an equal number of registered parties, being those registered parties having the greatest numbers of unallocated votes.

#### *Nomination of representatives upon announcement of result of the poll*

6. (1) A registered party which in terms of the announcement of the result of the poll under section 55 is entitled to nominate any representatives, shall make its nominations without delay by submitting to the chief electoral officer, in writing in the form prescribed by him, in respect of each representative—

- (a) his acceptance of the nomination;
- (b) his full names and surname;
- (c) the date of his birth; and
- (d) the number of the registration card issued to him:

Provided that a registered party may, with the permission of the chief electoral officer, withdraw any nomination and make a fresh nomination at any time before the publication of the notice referred to in section 7.

(2) If any registered party fails to make any nomination which it is entitled to make, within seventy-two hours after the announcement of the result of the poll in terms of section 55, or within such further period as may be allowed generally or in any particular case by the chief electoral officer, the Administrator-General, after such consultation with any office-bearer of the registered party concerned as he may think fit, shall in the stead of the registered party nominate any person who, in the opinion of the Administrator-General, might have been nominated by that registered party, and such person shall for the purposes of this Proclamation be deemed to have been nominated by that registered party.

*Publikasie van name van eerste lede van die Vergadering*

7. (1) Die hoofverkiegingsbeampte moet in die kennisgewing wat ingevolge artikel 56 in die *Offisiële Koerant* gepubliseer word, die vanne en voorname, in alfabetiese volgorde, van die verteenwoordigers wat ingevolge artikel 6 genomineer is en, ten opsigte van elke verteenwoordiger, die besonderhede wat ingevolge paragrawe (b) tot (d) van artikel 6 (1) verstrekk is en die naam van die geregistreerde party wat hom genomineer het, aangee.

(2) Behoudens die bepalings van artikel 8 is die verteenwoordigers wie se name in die kennisgewing in subartikel (1) van hierdie artikel bedoel, gepubliseer is, lede van die Vergadering vanaf die datum van die publikasie van daardie kennisgewing.

*Ontruiming van setel deur lid van die Vergadering*

8. (1) 'n Lid ontruim sy setel—

(a) indien hy skuldig bevind word aan 'n misdryf ingevolge artikel 61 of artikel 62 (1) (a), (b), (c) of (d), of aan 'n misdryf ten opsigte waarvan hy tot gevangenisstraf sonder die keuse van 'n boete gevonnissen word;

(b) indien hy aan 'n onbevoegdheid in artikel 4 (2) genoem, onderhewig word;

(c) behoudens die reëls en orders van die Vergadering, indien hy van drie agtereenvolgende sittings van die Vergadering afwesig is sonder verlof van die Vergadering, en sy afwesigheid nie deur die Vergadering gekondoneer word nie;

(d) indien hy deur 'n bedankingsbrief, deur hom onderteken en aan die President gerig, vir sy setel bedank.

(2) Die geldigheid van 'n besluit van of verrigtinge in die Vergadering word nie deur die stem van of deelname deur 'n lid wat daarna sy setel ingevolge subartikel (1) ontruim het, of deur die feit dat daar ten tyde van sodanige besluit of verrigtinge 'n vakature in die Vergadering bestaan het, geraak nie.

*Vul van vakatures in die Vergadering*

9. (1) By die eerste gepaste sitting van die Vergadering nadat 'n vakature daarin ontstaan het, verklaar die President dat die vakature bestaan en sê hy die geregistreerde party wat die verteenwoordiger genomineer het wie se ontruiming van sy amp as lid van die Vergadering die vakature veroorsaak het, aan om te geleëner tyd 'n verteenwoordiger ten opsigte van die vakature te nomineer.

(2) Indien die betrokke geregistreerde party versuim om 'n nominasie te doen binne twee-en-sewentig uur nadat daar ingevolge subartikel (1) van hierdie artikel verklaar is dat die vakature bestaan of binne die verdere tydperk wat die President toelaat, is die bepalings van artikel 6 (2) *mutatis mutandis* van toepassing.

(3) 'n Nominasie van 'n verteenwoordiger ingevolge hierdie artikel word gedoen deur die aanvaarding deur die genomineerde persoon van die nominasie en, ten opsigte van daardie persoon, die besonderhede in paragrawe (b) tot (d) van artikel 6 (1) genoem, skriftelik aan die Sekretaris voor te lê in die vorm deur hom voorgeskryf.

(4) Die nominasie van 'n verteenwoordiger ingevolge hierdie artikel word deur die President in die Vergadering aangekondig, en daarop is bedoelde verteenwoordiger, behoudens die bepalings van artikel 8 en die reëls en orders van die Vergadering, 'n lid van die Vergadering.

*Aan lede van die Vergadering kan toelaes betaal word*

10. (1) Aan 'n lid van die Vergadering kan die toelaes betaal word en die geriewe verskaf word wat die Administrateur-generaal bepaal.

*Publication of names of first members of the Assembly*

7. (1) The chief electoral officer shall, in the notice published in the *Official Gazette* in terms of section 56, set out in alphabetical order the surnames and first names of the representatives nominated in terms of section 6, and, in respect of each representative, the particulars furnished in terms of paragraphs (b) to (d) of section 6 (1), and the name of the registered party by which he was nominated.

(2) Subject to the provisions of section 8, the representatives whose names are published in the notice referred to in subsection (1) of this section, shall be members of the Assembly as from the date of the publication of that notice.

*Vacating of seat by member of the Assembly*

8. (1) A member shall vacate his seat—

(a) if he is convicted of an offence in terms of section 61 or section 62 (1) (a), (b), (c) or (d), or of any offence in respect of which he is sentenced to imprisonment without the option of a fine;

(b) if he becomes subject to a disqualification mentioned in section 4 (2);

(c) subject to the rules and orders of the Assembly, if he is absent from three consecutive sittings of the Assembly without its leave, and his absence is not condoned by the Assembly;

(d) if he resigns his seat by writing under his hand addressed to the President.

(2) The validity of a decision of or any proceedings in the Assembly shall not be affected by the vote or participation of a member who subsequently vacated his seat in terms of subsection (1), or by the fact that a vacancy existed in the Assembly at the time of such decision or proceedings.

*Filling of vacancies in the Assembly*

9. (1) At the first convenient sitting of the Assembly after the occurrence of a vacancy therein, the President shall declare the existence of the vacancy and call upon the registered party which nominated the representative whose vacation of office as a member of the Assembly caused the vacancy, to nominate a representative in respect of the vacancy in due course.

(2) If the registered party concerned fails to make a nomination within seventy-two hours after the existence of the vacancy is declared in terms of subsection (1) of this section or within such further period as the President may allow, the provisions of section 6 (2) shall *mutatis mutandis* apply.

(3) A nomination of a representative in terms of this section shall be made by the submission to the Secretary, in writing in the form prescribed by him, of the acceptance by the person nominated of the nomination, and, in respect of that person, of the particulars mentioned in paragraphs (b) to (d) of section 6 (1).

(4) The nomination of a representative in terms of this section shall be announced by the President in the Assembly, and, subject to the provisions of section 8 and the rules and orders of the Assembly, such representative shall thereupon be a member of the Assembly.

*Members of the Assembly may be paid allowances*

10. (1) A member of the Assembly may be paid such allowances and may be afforded such facilities as may be determined by the Administrator-General.

(2) Die Administrateur-generaal kan verskillende toe- laes en geriewe bepaal ten opsigte van lede wat verskil- lende ampte in die Vergadering beklee.

#### *Setel van die Vergadering*

11. Windhoek is die setel van die Vergadering.

#### *Eerste byeenkoms van die Vergadering*

12. Die eerste byeenkoms van die Vergadering vind plaas op 'n tyd deur die Administrateur-generaal by proklamasie in die *Offisiële Koerant* bepaal.

#### *Verkieping van President*

13. (1) Op die eerste byeenkoms van die Vergadering lees die Sekretaris die proklamasie van die Administra- teur-generaal waarby die Vergadering byeengeroep word, en open die Administrateur-generaal die verrigtinge.

(2) Daarna gaan die Vergadering oor tot die verkieping van 'n lid as President van die Vergadering.

(3) Die Sekretaris tree as voorsitter op tot 'n President gekies is, en kan die byeenkoms van tyd tot tyd verdaag na vereiste van omstandighede.

(4) Die voorstel van 'n kandidaat vir verkieping as President moet deur 'n lid gedoen en deur minstens vyf ander lede geseondeer word.

(5) Indien slegs een kandidaat voorgestel en gesekon- deer word, word hy deur die Sekretaris as behoorlik ver- kies verklaar.

(6) Indien meer as een kandidaat voorgestel en gesekon- deer word, vind 'n stemming plaas waarby elke lid wat teenwoordig is een stem het en geen debat toegelaat word nie, en word die kandidaat ten gunste van wie 'n meer- derheid aangeteken word van al die stemme wat uitge- bring is, deur die Sekretaris as behoorlik verkies verklaar.

(7) Indien geen kandidaat 'n meerderheid verkry van al die stemme wat aldus uitgebring is nie, word die kandi- daat of kandidate wat die minste stemme gekry het, uit- geskakel en word 'n verdere stemming ten opsigte van die oorblywende kandidate gehou, en hierdie prosedure word herhaal so dikwels as wat nodig is.

(8) Indien daar slegs twee kandidate is, of indien slegs twee kandidate oorbly na die uitskakeling van 'n kandidaat ingevolge subartikel (7), en daar 'n staking van stemme tussen hulle is, word geeneen as verkies beskou nie, en verdaag die Sekretaris die byeenkoms tot op 'n tyd deur hom vasgestel.

(9) Op die voortgesette byeenkoms vra die Sekretaris nuwe voorstelle van kandidate vir verkieping as President en, totdat 'n President verkies is, is die bepalings van hierdie artikel, met uitsondering van subartikel (1), van toepassing asof die voortgesette byeenkoms of 'n verdere voortgesette byeenkoms die eerste byeenkoms was wat, soos in subartikel (2) beoog, tot die verkieping van 'n President oorgaan.

(10) Indien 'n lid in enige stadium van die verrigtinge kragtens hierdie artikel voorstel dat die stemming vir die verkieping van 'n President geheim moet wees, en die voor- stel deur minstens tien ander lede geseondeer word, vind die stemming in die geheim plaas op die wyse wat die Sekretaris goed ag.

(11) Tensy die Vergadering anders bepaal—

(a) beklee die lid wat ingevolge hierdie artikel as President verkies is, die amp van President vir solank as wat hy 'n lid is;

(b) word 'n vakature in die amp van President *mutatis mutandis* ooreenkomstig die bepalings van hier- die artikel gevul.

(2) The Administrator-General may determine different allowances or facilities in respect of members holding different offices in the Assembly.

#### *Seat of the Assembly*

11. Windhoek shall be the seat of the Assembly.

#### *First meeting of the Assembly*

12. The first meeting of the Assembly shall take place at a time determined by the Administrator-General by proclamation in the *Official Gazette*.

#### *Election of President*

13. (1) At the first meeting of the Assembly, the Secre- tary shall read the Administrator-General's proclamation summoning the Assembly, and the Administrator-General shall open the proceedings.

(2) Thereafter the Assembly shall proceed to elect a member as President of the Assembly.

(3) The Secretary shall act as chairman until a President is elected, and may adjourn the meeting from time to time as circumstances may require.

(4) A proposal of a candidate for election as President shall be moved by a member and seconded by at least five other members.

(5) If only one candidate is proposed and seconded, he shall be declared by the Secretary to be duly elected.

(6) If more than one candidate is proposed and secon- ded, a vote shall be taken, each member present having one vote and no debate being allowed, and the candidate in whose favour a majority of all the votes cast is recorded, shall be declared by the Secretary to be duly elected.

(7) If no candidate receives a majority of all the votes so cast, the candidate or candidates who received the smallest number of votes shall be eliminated and a further vote shall be taken in respect of the remaining candidates, this procedure being repeated as often as may be neces- sary.

(8) If there are only two candidates, or if only two candidates remain after the elimination of any candidate in terms of subsection (7), and there is an equality of votes between them, neither of them shall be regarded as elected, and the Secretary shall adjourn the meeting to a time fixed by him.

(9) At the resumed meeting the Secretary shall call for fresh proposals of candidates for election as President and, until a President is elected, the provisions of this section, with the exception of subsection (1), shall apply as if the resumed meeting or any further resumed meeting were the first meeting proceeding, as contemplated in sub- section (2), to elect a member as President.

(10) If at any stage of the proceedings under this section any member proposes that the voting for the elec- tion of a President be by secret ballot, and such proposal is seconded by at least ten other members, the vote shall be taken by secret ballot in such manner as the Secretary may think fit.

(11) Unless the Assembly determines otherwise—

(a) the member elected as President in terms of this section shall hold office as President for as long as he is a member;

(b) any vacancy in the office of President shall be filled *mutatis mutandis* in accordance with the provisions of this section.



(12) Die bepalings van hierdie artikel word nie so uitgelê dat dit die verkiesing of aanwysing op 'n ander wyse van 'n vise-president of waarnemende president of ander ampsbekleeder van die Vergadering verbied nie.

#### *Reëls en orders van die Vergadering*

14. (1) Die Vergadering kan reëls en orders aanneem in verband met die orde en reëling van sy werksaamhede en verrigtinge.

(2) Tensy en totdat die Vergadering by so 'n reël of order anders bepaal, en behoudens die bepalings van artikel 13—

(a) moet minstens twintig lede aanwesig wees om 'n sitting van die Vergadering vir die uitoefening van sy magte bevoeg te maak;

(b) sit die President of 'n lid deur hom aangewys op 'n sitting van die Vergadering voor en behartig hy die reëling van die werksaamhede en verrigtinge daarvan;

(c) word alle vrae in die Vergadering beslis deur 'n meerderheid van stemme van lede wat aanwesig is en stem met die uitsondering van die President of ander voorsittende lid wat egter by 'n staking van stemme 'n beslissende stem het en uitbring;

(d) kan die Vergadering komitees instel om die werksaamhede te verrig wat die Vergadering bepaal;

(e) laat die Sekretaris die aantekening van die verrigtinge van die Vergadering hou wat die President bepaal.

#### *Vryheid van spraak*

15. (1) Behoudens die reëls en orders van die Vergadering, is daar vryheid van spraak in die Vergadering en in 'n komitee van die Vergadering.

(2) Geen lid staan bloot aan 'n regsgeeding weens sy uitlatings of stem in die Vergadering of 'n komitee van die Vergadering nie.

#### *Verrigtinge vir publiek toeganklik*

16. Behoudens die reëls en orders van die Vergadering, is die verrigtinge van die Vergadering vir die publiek toeganklik.

#### *Sekretaris en ander beamptes van die Vergadering*

17. (1) Die Administrateur-generaal stel 'n persoon aan op die voorwaardes wat die Administrateur-generaal bepaal, of wys 'n persoon in die staatsdiens wat vir dié doel beskikbaar gestel is aan, as Sekretaris van die Vergadering, wat die werksaamhede en pligte verrig wat by hierdie Proklamasie of deur die Vergadering of die President aan hom opgedra word.

(2) Behoudens die wette op die beheer van staatsgeld, verrig die Sekretaris sy werksaamhede en pligte onder beheer van die President.

(3) Die Sekretaris word bygestaan deur beamptes van die Vergadering wat persone in die staatsdiens moet wees wat vir dié doel beskikbaar gestel is of persone moet wees wat deur die Sekretaris aangestel is op die voorwaardes wat hy behoudens die bepalings van subartikel (5) bepaal.

(4) Die Sekretaris kan die dienste van enige persoon, wat nie 'n in subartikel (3) bedoelde beampte van die Vergadering is nie, vir die doeleindes van die Vergadering verkry op die voorwaardes wat behoudens die bepalings van subartikel (5) by ooreenkoms met daardie persoon bepaal word.

(5) Geen voorwaarde wat uitgawe uit die in artikel 18 bedoelde gelde meebring, word sonder die voorafgaande goedkeuring van die Administrateur-generaal kragtens subartikel (3) of (4) van hierdie artikel bepaal nie.

(12) The provisions of this section shall not be construed as prohibiting the election or the designation in some other manner of any vice-president or acting president or other office-bearer of the Assembly.

#### *Rules and orders of the Assembly*

14. (1) The Assembly may make rules and orders with respect to the order and conduct of its business and proceedings.

(2) Unless and until the Assembly by any such rule or order provides otherwise, and subject to the provisions of section 13—

(a) the presence of at least twenty members shall be necessary to constitute a sitting of the Assembly for the exercise of its powers;

(b) the President or a member designated by him shall preside at any sitting of the Assembly and regulate the conduct of its business and proceedings;

(c) all questions in the Assembly shall be determined by a majority of votes of members present and voting other than the President or other presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes;

(d) the Assembly may establish committees to perform such functions as the Assembly may determine;

(e) the Secretary shall cause such record of the proceedings of the Assembly to be kept as the President may determine.

#### *Freedom of speech*

15. (1) Subject to the rules and orders of the Assembly, there shall be freedom of speech in the Assembly and in any committee of the Assembly.

(2) No member shall be liable to any legal proceedings by reason of his speech or vote in the Assembly or any committee of the Assembly.

#### *Proceedings open to public*

16. Subject to the rules and orders of the Assembly, the proceedings of the Assembly shall be open to the public.

#### *Secretary and other officers of the Assembly*

17. (1) The Administrator-General shall appoint a person on such conditions as the Administrator-General may determine, or designate a person in the public service made available for that purpose, as the Secretary of the Assembly, who shall perform the functions and duties assigned to him by this Proclamation or by the Assembly or the President.

(2) Subject to the laws governing the control of public moneys, the Secretary shall perform his functions and duties under the control of the President.

(3) The Secretary shall be assisted by officers of the Assembly who shall be persons in the public service made available for that purpose or persons appointed by the Secretary on such conditions as he may determine subject to the provisions of subsection (5).

(4) The Secretary may obtain the services of any person, not being an officer of the Assembly referred to in subsection (3), for the purposes of the Assembly on such conditions as may be determined, subject to the provisions of subsection (5), by agreement with such person.

(5) No condition involving expenditure from the moneys referred to in section 18 shall be determined under subsection (3) or (4) of this section without the prior approval of the Administrator-General.

*Finansies*

18. Die uitgawe in verband met die Vergadering en die verrigting deur hom van sy werksaamhede word betaal uit gelde wat die Administrateur-generaal vir dié doel bewillig.

*Misdrywe met betrekking tot die Vergadering*

19. Iemand wat—

(a) 'n lid wat op weg is na of van die Vergadering, of weens sy optrede in die Vergadering, dreig, belemmer of beledig, of poog om 'n lid deur geweld, belediging of bedreiging te dwing om hom ten gunste van of teen 'n voorstel of aangeleentheid te verklaar wat in die Vergadering aanhangig is of na verwagting aanhangig gemaak sal word; of

(b) terwyl die Vergadering in sitting is, 'n steurnis in of in die nabyheid van die Vergadering veroorsaak of daaraan deelneem, waardeur die verrigtinge van die Vergadering onderbreek word of waarskynlik onderbreek sal word; of

(c) hom skuldig maak aan 'n handeling of versuim wat ingevolge die reëls en orders van die Vergadering minagting van die Vergadering uitmaak,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyfhonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sowel daardie boete as daardie gevangenisstraf.

## GRONDWET DEUR DIE VERGADERING AANGENEEM

*Publikasie en inwerkingtreding van grondwet deur die Vergadering aangeneem*

20. (1) Die President laat 'n grondwet wat deur die Vergadering aangeneem is, in die *Offisiële Koerant* publiseer.

(2) Die aldus gepubliseerde grondwet tree in werking op 'n datum deur die Administrateur-generaal by proklamasie in die *Offisiële Koerant* bepaal.

(3) Verskillende datums kan kragtens subartikel (2) ten opsigte van die verskillende bepalings van bedoelde grondwet bepaal word.

*Ondertekening en registrasie van grondwet deur die Vergadering aangeneem*

21. (1) So gou doenlik nadat die Vergadering 'n grondwet aangeneem het, laat die President skoon eksemplare daarvan, een in die Engelse taal en een in die Afrikaanse taal en, indien 'n ander taal ingevolge bedoelde grondwet as 'n amptelike taal of die amptelike taal bepaal word, een in daardie ander taal (waarvan een eksemplaar deur die President onderteken moet wees), opneem in die register van die griffier van die Suidwes-Afrika-afdeling van die Hooggeregshof van Suid-Afrika.

(2) Sodanige eksemplare aldus opgeneem, is afdoende bewys van die bepalings van bedoelde grondwet, en in geval van teenstrydigheid in sodanige eksemplare, gee die eksemplaar wat deur die President onderteken is, die deurslag.

## ADMINISTRATIEWE BEPALINGS IN VERBAND MET DIE VERKIESING

*Hoofverkiesingsbeampte*

22. (1) Die Administrateur-generaal stel 'n hoofverkiesingsbeampte aan wat, onder beheer van die Administrateur-generaal, belas is met die organisasie en beheer van die verkiesing en die ander pligte en werksaamhede verrig wat by hierdie Proklamasie aan hom opgedra is.

(2) 'n Kennisgewing van 'n aanstelling kragtens subartikel (1) word in die *Offisiële Koerant* gepubliseer.

*Finance*

18. The expenditure in connection with the Assembly and the performance by it of its functions shall be defrayed out of moneys appropriated by the Administrator-General for that purpose.

*Offences relating to the Assembly*

19. Any person who—

(a) threatens, obstructs or insults a member proceeding to or from the Assembly or on account of his conduct in the Assembly, or endeavours by force, insult or menace to compel a member to declare himself in favour of or against any proposition or matter depending or expected to be brought before the Assembly; or

(b) while the Assembly is sitting, creates or joins in any disturbance in or in the vicinity of the Assembly, whereby the proceedings of the Assembly are or are likely to be interrupted; or

(c) is guilty of an act or omission which in terms of the rules and orders of the Assembly constitutes contempt of the Assembly,

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

## CONSTITUTION ADOPTED BY THE ASSEMBLY

*Publication and coming into operation of constitution adopted by the Assembly*

20. (1) The President shall cause a constitution adopted by the Assembly to be published in the *Official Gazette*.

(2) The constitution so published shall come into operation on a date determined by the Administrator-General by proclamation in the *Official Gazette*.

(3) Different dates may be determined under subsection (2) in respect of the different provisions of such constitution.

*Signature and enrolment of constitution adopted by the Assembly*

21. (1) As soon as may be after the Assembly has adopted a constitution, the President shall cause fair copies thereof, one in the English language and one in the Afrikaans language and, if any other language is in terms of such constitution determined as an official language or the official language, one in such other language (one of which copies shall have been signed by the President), to be enrolled of record in the office of the registrar of the South West Africa Division of the Supreme Court of South Africa.

(2) Such copies so enrolled shall be conclusive evidence as to the provisions of such constitution, and in the case of conflict between such copies, the copy signed by the President shall prevail.

## ADMINISTRATIVE PROVISIONS IN CONNECTION WITH THE ELECTION

*Chief electoral officer*

22. (1) The Administrator-General shall appoint a chief electoral officer who, subject to the control of the Administrator-General, shall be charged with the organization and control of the election and perform the other duties and functions assigned to him by this Proclamation.

(2) A notice of any appointment made under subsection (1) shall be published in the *Official Gazette*.

*Kontroleurs*

23. (1) Die hoofverkiegingsbeampte kan as kontroleurs die aantal persone aanstel wat hy nodig ag om hom by die verrigting van sy pligte en werksaamhede by te staan.

(2) 'n Kontroleur kan—

(a) in die mate deur die hoofverkiegingsbeampte gemagtig, 'n plig of werksaamheid verrig wat aan die hoofverkiegingsbeampte opgedra is en 'n bevoegdheid uitoefen wat aan hom verleen is;

(b) in 'n distrik optree in die plek van en namens die verkiegingsbeampte vir daardie distrik, na die oorlegpleging met laasgenoemde wat onder die omstandighede doenlik is;

(c) by 'n stemburo enige plig of werksaamheid verrig, of enige bevoegdheid uitoefen, van 'n voorsittende beampte of 'n stembeampte vir daardie stemburo.

*Verkiegingsbeamptes*

24. (1) Die hoofverkiegingsbeampte stel vir elke distrik in die gebied 'n verkiegingsbeampte aan wat onder beheer van die hoofverkiegingsbeampte die uitvoering van die bepalings van hierdie Proklamasie ten opsigte van die distrik waarvoor hy aangestel is, beheer, organiseer en daarvoor toesig hou.

(2) 'n Kennisgewing van 'n aanstelling kragtens subartikel (1) gedoen, word in die *Offisiële Koerant* gepubliseer.

(3) Indien die bekleder van 'n pos in die staatsdiens as sodanig ingevolge so 'n kennisgewing aangestel is as die verkiegingsbeampte vir 'n distrik, is die dienende bekleder van daardie pos die verkiegingsbeampte vir daardie distrik.

*Voorsittende beamptes, stemopnemers en telbeamptes*

25. (1) 'n Verkiegingsbeampte stel vir elke stemburo in sy distrik—

(a) 'n voorsittende beampte aan, wat beheer het oor die betrokke stemburo; en

(b) soveel stemopnemers aan as wat nodig is om die stemming by die betrokke stemburo te vergemaklik.

(2) Ondanks die bepalings van subartikel (1), kan 'n voorsittende beampte of 'n stemopnemer vir 'n stemburo in enige distrik deur die hoofverkiegingsbeampte of 'n kontroleur aangestel word, en kan 'n stemopnemer vir 'n stemburo deur die voorsittende beampte vir daardie stemburo aangestel word.

(3) Die hoofverkiegingsbeampte kan as telbeamptes die aantal persone, met inbegrip van persone wat handskrifdeskundiges of vingerafdrukdeskundiges is, aanstel wat hy nodig ag om hom by die vasstelling van die uitslag van die stemming by te staan.

*Voorwaardes van aanstelling*

26. (1) 'n Persoon kragtens artikel 22, 23, 24 of 25 aangestel, op besoldiging of toelaes of sowel besoldiging as toelaes geregtig onder die omstandighede of op die grondslag of ten opsigte van die dienste deur hom gelewer, en teen die tariewe, wat die Administrateur-generaal bepaal.

(2) (a) Verskillende omstandighede, grondslae, dienste of tariewe kan kragtens subartikel (1) bepaal word ten opsigte van die verskillende ampte waarvoor daar in artikels 22, 23, 24 en 25 voorsiening gemaak word, of ten opsigte van persone in sodanige ampte aangestel wat in die heelydse diens van die Staat is en persone aldus aangestel wat nie in die heelydse diens van die Staat is nie, of ten opsigte van werk onder verskillende omstandighede of in verskillende gebiede verrig.

*Controllers*

23. (1) The chief electoral officer may appoint as controllers such number of persons as he may deem necessary for the purpose of assisting him in the performance of his duties and functions.

(2) A controller may—

(a) to the extent authorized by the chief electoral officer, perform any duty or function assigned to, and exercise any power conferred upon, the chief electoral officer;

(b) in any district act in the place and on behalf of the electoral officer for such district after such consultation with the latter as may be practicable under the circumstances;

(c) at any polling station perform any duty or function or exercise any power of a presiding officer or a polling officer for that polling station.

*Electoral officers*

24. (1) The chief electoral officer shall appoint for each district in the territory an electoral officer, who shall, subject to the chief electoral officer's control, organize and supervise the carrying out of the provisions of this Proclamation in relation to the district for which he is appointed.

(2) A notice of any appointment made under subsection (1) shall be published in the *Official Gazette*.

(3) If in terms of such notice the occupier, as such, of a post in the public service has been appointed as the electoral officer for a district, the occupier for the time being of such post shall be the electoral officer for that district.

*Presiding officers, polling officers and counting officers*

25. (1) An electoral officer shall appoint for each polling station in his district—

(a) a presiding officer, who shall be in charge of the polling station concerned; and

(b) as many polling officers as may be necessary to facilitate the taking of the poll at that polling station.

(2) Notwithstanding the provisions of subsection (1), a presiding officer or a polling officer for a polling station in any district may be appointed by the chief electoral officer or any controller, and a polling officer for any polling station may be appointed by the presiding officer for such polling station.

(3) The chief electoral officer may appoint as counting officers such number of persons, including persons who are handwriting experts or fingerprint experts, as he may deem necessary for the purpose of assisting him in the determination of the result of the poll.

*Conditions of appointment*

26. (1) Any person appointed under section 22, 23, 24 or 25 shall be entitled to remuneration or allowances or both remuneration and allowances, under such circumstances or on such basis or in respect of such services rendered by him, and at such tariffs, as may be determined by the Administrator-General.

(2) (a) Different circumstances, bases, services or tariffs may be determined under subsection (1) in respect of the different offices provided for in sections 22, 23, 24 and 25, or in respect of persons appointed to such offices who are in the full-time service of the State and persons so appointed who are not in the full-time service of the State, or in respect of work done under different circumstances or in different areas.

(b) In hierdie subartikel beteken "Staat" ook enige owerheid deur die Administrateur-generaal bepaal.

(3) Die besoldiging of toelaes wat ingevolge subartikel (1) aan iemand betaal word, word by die toepassing van 'n wet wat 'n belasting op inkomste hef, nie as inkomste beskou nie.

(4) Die aanstelling van iemand kragtens artikel 22, 23, 24 of 25 kan sonder kennisgewing vooraf ingetrek word deur enige persoon of owerheid wat by die betrokke artikel gemagtig word om 'n aanstelling van die betrokke aard te doen.

(5) 'n Aanstelling kragtens artikel 22, 23, 24 of 25 wat nie in skrif is nie moet skriftelik bevestig word sodra omstandighede dit toelaat.

(6) Niemand wat deur 'n geregistreerde party in verband met of vir die doeleindes van die verkiesing in diens geneem is, word kragtens artikel 22, 23, 24 of 25 aangestel nie.

#### *Agente van geregistreerde partye*

27. (1) 'n Geregistreerde party kan verkiesingsagente vir 'n distrik aanstel, en moet die verkiesingsbeampte vir die betrokke distrik skriftelik in kennis stel van die naam en adres van 'n verkiesingsagent aldus aangestel.

(2) Die verkiesingsbeampte moet die kennisgewing met betrekking tot die aanstelling van 'n verkiesingsagent aan die buitekant van die hoofbuite deur van die landdroskantoor van sy distrik opplak.

(3) 'n Verkiesingsbeampte kan na goeë dunske met enige verkiesingsagent wat kragtens subartikel (1) vir sy distrik aangestel is en wat geredelik beskikbaar is, oorleg pleeg oor enige aangeleentheid wat met die stemming in daardie distrik in verband staan.

(4) 'n Geregistreerde party kan stemagente vir 'n stemburo aanstel, en moet die voorsittende beampte vir die betrokke stemburo skriftelik in kennis stel van die naam van 'n aldus aangestelde stemagent.

(5) Een stemagent vir 'n bepaalde stemburo en een verkiesingsagent vir die distrik waarin daardie stemburo is, is geregtig om in daardie stemburo teenwoordig te wees as die verteenwoordigers van die geregistreerde party wat hulle as sy agente aangestel het.

(6) 'n Geregistreerde party is geregtig om by die vasstelling van die uitslag van die stemming soos hieronder bepaal, verteenwoordig te wees deur vyf persone deur hom as sy agente aangestel, of, na goeë dunske van die hoofverkiesingsbeampte, deur die groter aantal aldus aangestelde persone wat die hoofverkiesingsbeampte toelaat.

(7) Wanneer die voorsittende beampte by 'n stemburo iets ingevolge hierdie Proklamasie moet verseël, is 'n verkiesingsagent of stemagent wat geregtig is om in daardie stemburo teenwoordig te wees en wat teenwoordig is, geregtig om sy eie seël daarop aan te bring.

#### *Verklaring van geheimhouding*

28. Elke kontroleur, verkiesingsbeampte, voorsittende beampte, stemopnemer of telbeampte, elke agent kragtens artikel 27 aangestel, en elke persoon wat spesiaal gemagtig is soos in artikel 38 (1) beoog, moet, in die vorm deur die hoofverkiesingsbeampte voorgeskryf, en voordat hy by 'n stemburo of by die plek waar die uitslag van die stemming vasgestel word soos hieronder bepaal, sy pligte aanvaar of 'n werksaamheid verrig, of, in die geval van so 'n agent of 'n aldus gemagtigde persoon, daarin teenwoordig is, 'n bevestiging of 'n beëdigde verklaring van geheimhouding maak of aflê voor 'n vrede-regter of kommissaris van ede of, indien hy nie 'n kontroleur of 'n verkiesingsbeampte is nie, voor 'n kontroleur, verkiesingsbeampte of voorsittende beampte, wat hierby gemagtig word om so 'n bevestiging of eed af te neem.

(b) In this subsection "State" includes any authority determined by the Administrator-General.

(3) The remuneration or allowances paid to any person in terms of subsection (1) shall not be regarded as income for the purposes of any law imposing a tax on income.

(4) The appointment of any person under section 22, 23, 24 or 25 may be withdrawn, without prior notice, by any person or authority empowered by the relevant section to make an appointment of the nature in question.

(5) An appointment made under section 22, 23, 24 or 25 otherwise than in writing shall be confirmed in writing as soon as circumstances permit.

(6) No person employed by a registered party in connection with or for any of the purposes of the election shall be appointed under section 22, 23, 24 or 25.

#### *Agents of registered parties*

27. (1) A registered party may appoint election agents for any district, and shall advise the electoral officer for the district concerned in writing of the name and address of any election agent so appointed.

(2) The electoral officer shall post the advice relating to the appointment of any election agent outside the principal outer door of the magistrate's office of his district.

(3) An electoral officer may at his discretion consult with any election agent appointed under subsection (1) for his district who is readily available, about any matter connected with the taking of the poll in that district.

(4) A registered party may appoint polling agents for any polling station, and shall advise the presiding officer for the polling station concerned in writing of the name of any polling agent so appointed.

(5) One polling agent for a particular polling station and one election agent for the district in which that polling station is, shall be entitled to attend at that polling station as the representatives of the registered party which appointed them as its agents.

(6) A registered party shall be entitled to be represented at the determination of the result of the poll as hereinafter provided, by five persons appointed by it as its agents, or, at the discretion of the chief electoral officer, by such greater number of persons so appointed as the chief electoral officer may permit.

(7) When the presiding officer at a polling station is in terms of this Proclamation required to seal any thing, any election agent or polling agent who is entitled to attend at such polling station and who is present shall be entitled to place his own seal on that thing.

#### *Declaration of secrecy*

28. Every controller, electoral officer, presiding officer, polling officer or counting officer, every agent appointed under section 27, and every person specially authorized as contemplated in section 38 (1), shall make in a form prescribed by the chief electoral officer, and before assuming his duties or performing any function, or, in the case of such an agent or a person so authorized, attending, at any polling station or at the place where the result of the election is determined as hereinafter provided, a declaration of secrecy by affirmation or on oath before a justice of the peace or a commissioner of oaths, or, if he is not a controller or an electoral officer, before a controller, electoral officer or presiding officer who is hereby authorized to take such affirmation or administer such oath.

## VERKIESINGSPROKLAMASIE EN REGISTRASIE VAN POLITIEKE ORGANISASIES

### *Uitvaardiging van verkiesingsproklamasie*

29. (1) Die Administrateur-generaal moet by proklamasie in die *Offisiële Koerant*—

(a) 'n dag en 'n plek bepaal waarop 'n registrasiehof sitting sal hou om die registrasiestukke te ontvang van politieke organisasies wat wil registreer soos in artikel 30 beoog;

(b) die dae bepaal waarop die stemming ten opsigte van die verkiesing sal plaasvind, en die ure waarop die stemming, behoudens die bepalings van hierdie Proklamasie, op elke aldus bepaalde dag 'n aanvang neem en sluit.

(2) Afsonderlike proklamasies kan ten opsigte van die verskillende aangeleenthede in subartikel (1) vermeld, uitgevaardig word, en die Administrateur-generaal kan 'n proklamasie wat kragtens daardie subartikel uitgevaardig is, by verdere proklamasie in die *Offisiële Koerant* wysig, en kan deur so 'n wysiging die stemydperk of die stemydperk ten opsigte van die gebied of 'n deel van die gebied of 'n stemburo verander.

### *Registrasie van politieke organisasies*

30. 'n Politieke organisasie wat deur verkiesing ingevolge die bepalings van hierdie Proklamasie geregtig wil word om verteenwoordigers te nomineer, moet vir verkiesing registreer deur te eniger tyd maar behoudens die bepalings van artikel 31 (8), aan die hoofverkiesingsbeampte skriftelik voor te lê—

(a) die naam van die politieke organisasie, wat op die stembrief moet verskyn, slegs in een taal;

(b) 'n afkorting van daardie naam, wat op die stembrief moet verskyn;

(c) 'n kenteken deur die politieke organisasie gebruik, wat op die stembrief moet verskyn;

(d) die adres van die hoofkantoor van die politieke organisasie in die gebied;

(e) die konstitusie van die politieke organisasie of die ooreenkoms of ander stuk waarby dit gestig is; en

(f) tensy bedoelde konstitusie, ooreenkoms of ander stuk openbaar dat die politieke organisasie gestig is met die oogmerk om aan die verkiesing deel te neem, 'n besluit of ander magtiging om aan die verkiesing deel te neem, wat ooreenkomstig sodanige konstitusie, ooreenkoms of ander stuk geneem is.

### *Registrasiehof*

31. (1) Op die dag en plek ingevolge artikel 29 (1) (a) bepaal, hou die hoofverkiesingsbeampte 'n openbare hofsitting, wat om 10h00 begin, vir die registrasie van politieke organisasies soos in artikel 30 beoog.

(2) Die hoofverkiesingsbeampte moet in die ope hof—

(a) aankondig of enige politieke organisasies voor die hofsitting geregistreer het en, indien wel, die naam van elke politieke organisasie wat aldus geregistreer het;

(b) verdere registrasies aanvra; en

(c) registrasiestukke ontvang wat aan hom voorgelê word.

(3) Geen registrasiestukke word na 11h00 soos voormeld ontvang nie: Met dien verstande dat indien daar op daardie uur 'n verteenwoordiger van 'n politieke organisasie in die hof aanwesig is en gereed is om registrasiestukke ten opsigte van daardie politieke organisasie voor te lê, die hoofverkiesingsbeampte hom 'n geleentheid moet gee om dit te doen.

## ELECTION PROCLAMATION AND REGISTRATION OF POLITICAL ORGANIZATIONS

### *Issue of election proclamation*

29. (1) The Administrator-General shall by proclamation in the *Official Gazette*—

(a) fix a day on which and a place at which a registration court will sit to receive the registration documents of political organizations desiring to register as contemplated in section 30;

(b) fix the days upon which the poll in respect of the election shall be taken, and the hours at which, subject to the provisions of this Proclamation, the poll shall commence and shall close on each of the days so fixed.

(2) Separate proclamations may be issued in respect of the different matters referred to in subsection (1), and the Administrator-General may by further proclamation in the *Official Gazette* amend any proclamation published under that subsection, and may by any such amendment alter the period or the times of the poll in respect of the territory or any part of the territory or any polling station.

### *Registration of political organizations*

30. A political organization that wishes to become entitled by election in terms of the provisions of this Proclamation to nominate representatives, shall register for election by submitting to the chief electoral officer in writing at any time but subject to the provisions of section 31 (8)—

(a) the name of such political organization, which is to appear on the ballot paper, in one language only;

(b) an abbreviation of that name, which is to appear on the ballot paper;

(c) a distinctive symbol used by such political organization, which is to appear on the ballot paper;

(d) the address of the main office of such political organization in the territory;

(e) the constitution of such political organization or the agreement or other instrument by which it was established; and

(f) unless such constitution, agreement or other instrument discloses that such political organization was established with the object of taking part in the election, a resolution or other authorization to take part in the election, taken or granted in accordance with such constitution, agreement or other instrument.

### *Registration court*

31. (1) Upon the day and at the place fixed in terms of section 29 (1) (a), the chief electoral officer shall hold a public court, commencing at 10h00, for the registration of political organizations as contemplated in section 30.

(2) The chief electoral officer shall in open court—

(a) announce whether any political organizations have registered before the sitting of the court and, if so, the name of every political organization that has so registered;

(b) call for further registrations; and

(c) receive any registration documents submitted to him.

(3) No registration documents shall be received as aforesaid after 11h00: Provided that, if at that hour a representative of a political organization is present in the court and ready to submit registration documents in respect of that political organization, the chief electoral officer shall give him an opportunity to do so.

(4) Die hoofverkiegingsbeampte moet registrasiestukke deur 'n politieke organisasie voorgelê en nie voorheen deur hom ondersoek nie, ondersoek om vas te stel of dit aan die bepalinge van artikel 30 voldoen, en moet aan die betrokke politieke organisasie 'n geleentheid gee om enige onreëlmatigheid reg te stel wat nie voorheen reggestel is nie, en kan die hofsitting van tyd tot tyd vir dié doel verdaag.

(5) Die hoofverkiegingsbeampte moet registrasiestukke wat te eniger tyd aan hom voorgelê is en wat na sy oordeel nie aan die bepalinge van artikel 30 voldoen nie en nie binne die tyd deur hom bepaal, reggestel is nie, in die ope hof verwerp, en die politieke organisasie wat die registrasiestukke aldus verwerp, voorgelê het, word nie beskou as vir die doeleindes van hierdie Proklamasie geregistreer te wees nie.

(6) Die hoofverkiegingsbeampte kondig in die ope hof die naam aan van elke politieke organisasie wat behoorlik geregistreer het soos in artikel 30 beoog.

(7) Die sitting van die registrasiehof eindig onmiddellik na die aankondiging in subartikel (6) beoog.

(8) Na die einde van die sitting van die registrasiehof is geen politieke organisasie geregtig, en word geen politieke organisasie toegelaat, om te registreer of sy registrasie terug te trek nie.

#### *Publikasie van name en besonderhede van geregistreerde partye*

32. (1) So gou doenlik na die einde van die sitting van die registrasiehof, publiseer die hoofverkiegingsbeampte in die *Offisiële Koerant* 'n kennisgewing—

(a) waarin verklaar word dat die geregistreerde partye wie se name en besonderhede daarin aangegee word, die politieke organisasies is wat na behore vir die doeleindes van die verkiesing geregistreer is;

(b) waarin die name van die geregistreerde partye ten opsigte waarvan ingevolge artikel 31 (6) aangekondig is dat hulle na behore geregistreer het, in alfabetiese volgorde aangegee word, en na elke naam die besonderhede wat ingevolge artikel 30 (b), (c) en (d) ten opsigte van die betrokke geregistreerde party verstrekk is.

(2) Sodanige kennisgewing is, by blote voorlegging van 'n eks-emplaar van die *Offisiële Koerant* waarin dit gepubliseer is, en in die afwesigheid van bewys van bedrog, afdoende bewys dat aan al die vereistes van hierdie Proklamasie met betrekking tot die registrasie van politieke organisasies en aangeleenthede wat dit voorafgaan of daarmee verband hou, voldoen is ten opsigte van 'n politieke organisasie waarvan die naam en besonderhede daarin aangegee word, en dat so 'n politieke organisasie 'n geregistreerde party is.

#### VOORAFGAANDE REËLINGS VIR DIE STEMMING

##### *Stemburo's*

33. (1) Ten einde die stemming deur geregistreerde kiesers in 'n distrik te vergemaklik, moet daar soveel stemburo's op sodanige plekke in die betrokke distrik wees as wat deur die hoofverkiegingsbeampte of deur 'n kontroleur of die verkiesingsbeampte vir daardie distrik handelende op gesag van die hoofverkiegingsbeampte, bepaal word.

(2) Elke verkiesingsbeampte moet aan die buitekant van die hoofbuite-deur van die landdroskantoor van sy distrik 'n kennisgewing oplak van die plekke in daardie distrik waar stemburo's ingestel sal word of ingestel is, en die hoofverkiegingsbeampte kan die verdere kennis van genoemde plekke op die wyse laat gee wat hy goed ag.

(4) The chief electoral officer shall examine the registration documents submitted by a political organization and not previously examined by him, to ascertain whether they comply with the provisions of section 30, and shall give the political organization concerned an opportunity to rectify any irregularity not previously rectified, and may adjourn the sitting of the court for that purpose from time to time.

(5) The chief electoral officer shall reject in open court any registration documents submitted to him at any time which in his opinion do not comply with the provisions of section 30 and have not been rectified within a time determined by him, and the political organization which submitted the registration documents so rejected shall not be regarded as registered for the purposes of this Proclamation.

(6) The chief electoral officer shall in open court announce the name of every political organization which has duly registered as contemplated in section 30.

(7) The sitting of the registration court shall end immediately after the announcement contemplated in subsection (6).

(8) After the close of the sitting of the registration court no political organization shall be entitled or permitted to register or to withdraw its registration.

#### *Publication of names and particulars of registered parties*

32. (1) As soon as possible after the close of the sitting of the registration court, the chief electoral officer shall publish in the *Official Gazette* a notice—

(a) declaring that the registered parties whose names and particulars are set out in the notice, are the political organizations duly registered for the purposes of the election; and

(b) setting out in alphabetical order the names of the registered parties which were announced in terms of section 31 (6) as having duly registered, each name followed by the particulars furnished in terms of section 30 (b), (c) and (d) in respect of the registered party concerned.

(2) Such notice shall, on the mere production of a copy of the *Official Gazette* in which it is published, and in the absence of proof of fraud, be conclusive evidence that the requirements of this Proclamation relating to the registration of political organizations and to matters precedent or incidental thereto have been complied with in respect of any political organization whose name and particulars are set out therein, and that any such political organization is a registered party.

#### PRELIMINARY ARRANGEMENTS FOR THE TAKING OF THE POLL

##### *Polling stations*

33. (1) For the purpose of conveniently taking a poll of registered voters in any district there shall be as many polling stations at such places in the district concerned as may be determined by the chief electoral officer, or by any controller or the electoral officer for that district acting under the authority of the chief electoral officer.

(2) Every electoral officer shall post outside the principal outer door of the magistrate's office of his district a notice of the places in that district where polling stations will be established or are established, and the chief electoral officer may cause further notice of the said places to be given in such manner as he may think fit.

(3) Die hoofverkiegingsbeampte of 'n kontroleur of verkiegingsbeampte deur hom gemagtig, kan een of meer mobiele stemburo's in 'n distrik of ander gebied voorsien vir die opneem van die stemme van geregistreerde kiesers wat nie in staat is om by 'n ander stemburo te stem nie of om 'n ander rede nie by 'n ander stemburo gestem het nie.

(4) 'n Mobiele stemburo val onder die algemene beheer van die verkiegingsbeampte vir 'n distrik deur die hoofverkiegingsbeampte aangedui en word by die toepassing van hierdie Proklamasie, behalwe subartikel (2) van hierdie artikel, as 'n stemburo in daardie distrik beskou.

(5) Die verkiegingsbeampte in subartikel (4) bedoel, kan op die wyse wat hy goed ag en vir sover dit prakties is om dit te doen, die plekke wat gedurende die stemtydperk deur 'n mobiele stemburo besoek sal word en die tye waarop dit sodanige plekke sal besoek, bekend maak.

(6) Die voorsittende beampte in beheer van, en 'n stemopnemer vir, 'n mobiele stemburo kan enige grond met daardie mobiele stemburo en die nodige uitrusting betree om die stemme van geregistreerde kiesers op daardie grond op te neem of om vas te stel of daar geregistreerde kiesers op daardie grond is.

(7) Addisionele stemburo's kan te eniger tyd na die begin van die stemming in 'n distrik ingestel word.

#### *Verskaffing van uitrusting*

34. (1) Die hoofverkiegingsbeampte verskaf stembusse, stembriewe, stembrieffkoeverte, werktuie, seëls en ander benodigdhede en verlaat die ander handlinge en tref die reëlings ter vergemakliking van die hou van die stemming wat raadsaam geag word om die verkiesing doeltreffend te voer.

(2) Elke verkiegingsbeampte is daarvoor verantwoordelik om 'n genoegsame hoeveelheid van die in subartikel (1) bedoelde benodigdhede van die hoofverkiegingsbeampte te verkry en aan die voorsittende beamptes vir die stemburo's in sy distrik te verskaf ten einde die doeltreffende hou van die stemming by daardie stemburo's te verseker.

(3) (a) Die hoofverkiegingsbeampte laat afskrifte maak van die lys van *sine die*-uitgestelde besware.

(b) Elke afskrif van bedoelde lys word deur of namens die hoofverkiegingsbeampte gesertifiseer as 'n juiste afskrif.

(c) Elke voorsittende beampte vir 'n stemburo word van minstens een gesertifiseerde afskrif van bedoelde lys voorsien.

#### *Die stemkompartement*

35. (1) Die stemkompartement in of by 'n stemburo word op 'n plek geplaas of ingerig waar niemand dit kan binnegaan of verlaat, of na vereiste van die omstandighede, dit kan gebruik nie sonder om deur die voorsittende beampte of 'n stemopnemer deur hom aangewys, gesien te word, en die voorsittende beampte of bedoelde stemopnemer moet toesien dat, terwyl 'n kieser daarin is of dit gebruik ten einde sy stem uit te bring, niemand anders die stemkompartement binnegaan of dit gebruik nie behalwe ooreenkomstig die bepalings van hierdie Proklamasie.

(2) By die toepassing van hierdie Proklamasie beteken die uitdrukking "stemkompartement" ook enige plek of oppervlakte in of by 'n stemburo wat tot bevrediging van die voorsittende beampte op so 'n wyse afgeskort is dat 'n kieser sy stem in die geheim daarop kan uitbring.

(3) The chief electoral officer or any controller or electoral officer authorized by him may provide one or more mobile polling stations in any district or other area for the purpose of taking a poll of registered voters who are not able to vote at any other polling station or who for some other reason have not voted at any other polling station.

(4) A mobile polling station shall be under the general control of the electoral officer for a district indicated by the chief electoral officer and shall for the purposes of this Proclamation, except subsection (2) of this section, be regarded as a polling station in that district.

(5) The electoral officer referred to in subsection (4), may, in such manner as he thinks fit and in so far as it may be practicable to do so, make known the places to be visited by a mobile polling station during the polling period and the times at which it will visit such places.

(6) The presiding officer in charge of, and any polling officer for, a mobile polling station may enter upon any land with such mobile polling station and the necessary equipment for the purpose of taking a poll of registered voters on such land, or for the purpose of ascertaining whether there are any registered voters on such land.

(7) Additional polling stations may be established in any district at any time after the commencement of the poll.

#### *Provision of equipment*

34. (1) The chief electoral officer shall provide ballot boxes, ballot papers, ballot paper envelopes, instruments, seals and other requisites and shall do such other acts and make such arrangements to facilitate the taking of the poll as may be deemed advisable for effectually conducting the election.

(2) Each electoral officer shall be responsible for obtaining from the chief electoral officer, and supplying to the presiding officers for the polling stations in his district, a sufficient quantity of the requisites referred to in subsection (1) to ensure the effectual taking of the poll at such polling stations.

(3) (a) The chief electoral officer shall cause copies to be made of the list of objections postponed *sine die*.

(b) Each copy of such list shall be certified by or on behalf of the chief electoral officer as a true copy.

(c) Each presiding officer for a polling station shall be furnished with at least one certified copy of such list.

#### *The voting compartment*

35. (1) The voting compartment in or at any polling station shall be placed or arranged in a position where no person can enter or leave it or, as the circumstances may require, use it without being seen by the presiding officer or a polling officer designated by him, and the presiding officer or such polling officer shall take care that no other person shall, except in accordance with the provisions of this Proclamation, enter or use the voting compartment while a voter is in it or using it for the purpose of recording his vote.

(2) For the purposes of this Proclamation the expression "voting compartment" shall include any place or surface in or at a polling station, that is screened off, to the satisfaction of the presiding officer, in such a manner that any voter may record his vote thereat or thereon in secret.

*Die stembus*

36. (1) Hoogstens dertig minute voor die aanvang van die stemming by 'n stemburo op die eerste stembusdag, moet die voorsittende beampte—

(a) hom oortuig dat die stembus wat by daardie stemburo gebruik gaan word, leeg is;

(b) die binnekant van die leë stembus aan die persone toon wat ingevolge artikel 38 (1) geregtig is om in die stemburo teenwoordig te wees en wat aanwesig is; en

(c) onmiddellik daarna die stembus toemaak en verseël ooreenkomstig die voorskrifte deur die hoofverkiesings-beampte uitgereik.

(2) Indien dit te eniger tyd gedurende die stemtydperk nodig word om 'n addisionele stembus by 'n stemburo te gebruik, word daardie addisionele stembus *mutatis mutandis* volgens voorskrif van subartikel (1) getoon, toegemaak en verseël voordat dit vir die deponering van stembriewe beskikbaar gestel word.

(3) 'n Stembus wat soos voormeld toegemaak en verseël is, word nie oopgemaak nie, en die seël word nie gebreek nie, behalwe soos in artikel 48 (2) bepaal.

(4) Die voorsittende beampte by 'n stemburo moet—

(a) by die sluit van die stemming op elke stembusdag, die opening in die stembus wat by daardie stemburo gebruik word, toemaak en verseël; en

(b) die seël breek en genoemde opening oopmaak slegs by die begin van die stemming op die eersvolgende stembusdag.

ooreenkomstig die voorskrifte deur die hoofverkiesings-beampte uitgereik, en in die teenwoordigheid van die persone wat ingevolge artikel 38 (1) geregtig is om in die stemburo teenwoordig te wees en wat aanwesig is.

(5) Die stembus wat in of by 'n stemburo gebruik word, moet op 'n plek geplaas word waar dit te alle tye gedurende die voortsetting van die stemming deur die voorsittende beampte of 'n stemopnemer deur hom aangewys, gesien kan word.

(6) Die voorsittende beampte is vir die veilige bewaring van 'n stembus wat by sy stemburo gebruik word, verantwoordelik totdat dit aan die betrokke verkiesings-beampte afgelewer word.

*Aanvang en sluit van stemming by stemburo's*

37. (1) Die stemming neem 'n aanvang en sluit by elke stemburo op elke stembusdag op die ure ingevolge artikel 29 (1) (b) voorgeskryf: Met dien verstande dat die voorsittende beampte—

(a) voordat hy die stemming op die aldus voorgeskrewe uur op 'n stembusdag sluit, elke kieser wat op daardie uur binne die vertrek of ander afsluiting is waar die stembus is, moet toelaat om sy stem uit te bring;

(b) na goeddunke enige kieser wat op genoemde uur op enige stembusdag behalwe die laaste stembusdag, by die stemburo aanwesig is alhoewel nie binne genoemde vertrek of afsluiting nie, kan toelaat om sy stem uit te bring.

(2) Ondanks die bepalings van subartikel (1) van hierdie artikel, kan kiesers na die uur wat ingevolge paragraaf (b) van artikel 29 (1) vir die aanvang van die stemming op die eerste stembusdag voorgeskryf is, toegelaat word om hulle stemme by 'n mobiele stemburo uit te bring te eniger tyd op enige stembusdag en op enige plek waar die mobiele stemburo is of op enige plek wat deur die voorsittende beampte in beheer van die mobiele stemburo as gerieflik beskou word: Met dien verstande dat geen kieser toegelaat word om sy stem op die laaste stembusdag, na die uur

*The ballot box*

36. (1) Not more than thirty minutes before the commencement of the poll on the first polling day at any polling station, the presiding officer shall—

(a) satisfy himself that the ballot box to be used at such polling station is empty; and

(b) display the interior of the empty ballot box to such persons entitled in terms of section 38 (1) to attend at the polling station as are present; and

(c) immediately thereafter close and seal the ballot box in accordance with the instructions issued by the chief electoral officer.

(2) If for any reason it becomes necessary at any time during the polling period to use any additional ballot box at any polling station, such additional ballot box shall be displayed, closed and sealed *mutatis mutandis* as provided in subsection (1) before being made available for the deposit of ballot papers.

(3) A ballot box closed and sealed as aforesaid shall not be opened, and the seal shall not be broken, except as provided in section 48 (2).

(4) The presiding officer at a polling station shall—

(a) at the close of the poll on each polling day, close and seal the aperture in the ballot box used at such polling station; and

(b) break the seal and open the said aperture only at the commencement of the poll on the next succeeding polling day,

in accordance with the instructions issued by the chief electoral officer, and in the presence of such persons entitled in terms of section 38 (1) to attend at the polling station as are present.

(5) The ballot box used in or at a polling station shall be placed in a position where it can be seen by the presiding officer or a polling officer designated by him, at all times during the continuance of the poll.

(6) The presiding officer shall be responsible for the safekeeping of any ballot box used at his polling station, until it is delivered to the electoral officer concerned.

*Commencement and closing of the poll at polling stations*

37. (1) The poll shall commence and close at every polling station on each polling day at the hours prescribed in terms of section 29 (1) (b): Provided that the presiding officer—

(a) before closing the poll on any polling day at the hour so prescribed, shall permit every voter who at that hour is inside the room or other enclosure where the ballot box is, to record his vote;

(b) may at his discretion permit any voter who, at the said hour on any polling day other than the last polling day, is present at the polling station although not inside the said room or enclosure, to record his vote.

(2) Notwithstanding the provisions of subsection (1) of this section, voters may, after the hour prescribed in terms of paragraph (b) of section 29 (1) for the commencement of the poll on the first polling day, be permitted to record their votes at a mobile polling station at any time on any polling day and at any place where such mobile polling station is, or at any place considered convenient by the presiding officer in charge of such mobile polling station: Provided that no voter shall be permitted to record his vote at a mobile polling station on the last polling day



wat ingevolge genoemde paragraaf vir die sluit van die stemming voorgeskryf is, by 'n mobiele stemburo uit te bring nie, tensy hy sy registrasiekaart voor daardie uur op 'n plek soos voornoemd vir die uitreiking aan hom van 'n stembrief, aan die voorsittende beampte of 'n stemopnemer voorgelê en oorgegee het.

#### *Bevoegdheid van voorsittende beamptes by stemburo's*

38. (1) Die voorsittende beampte en ander beamptes by 'n stemburo hou daar orde, reël die aantal kiesers wat tegelyk binnege laat word, en hou alle ander persone buite, behalwe die hoofverkiegingsbeampte, 'n kontroleer, die verkiesingsbeampte vir die distrik, die stemopnemers, 'n verkiesingsagent of stemagent wat ingevolge artikel 27 geregtig is om in die stemburo teenwoordig te wees, diensdoende polisiebeamptes, en enige ander persoon wat deur of op gesag van die Administrateur-generaal of die hoofverkiegingsbeampte spesiaal gemagtig is om teenwoordig te wees.

(2) Behalwe soos in subartikel (1) bepaal, kan die voorsittende beampte enige persoon, behalwe 'n persoon wat sy stem uitbring, aansê om die stemburo te verlaat, en 'n persoon wat versuim om die stemburo te verlaat wanneer aldus aangesê, kan op bevel van die voorsittende beampte sonder lasbrief in hegtenis geneem word.

(3) Die voorsittende beampte kan, na oorlegpleging met die diensdoende polisiebeamptes (indien daar is), die stappe doen wat hy nodig ag ter beskerming van homself en ander beamptes of ter beëindiging of voorkoming van geweldpleging in of in die nabyheid van die stemburo.

(4) Die bevoegdhede wat by hierdie artikel verleen word, word nie so uitgeoefen nie dat 'n kieser wat andersins geregtig is om te stem, die geleentheid ontnem word om sy stem uit te bring.

(5) By die toepassing van hierdie artikel op 'n mobiele stemburo, beteken die uitdrukking "stemburo" ook 'n gebied wat deur die voorsittende beampte aangewys of afgemerk is op 'n plek waar die mobiele stemburo stilstaande is vir die opneem van stemme daarby, of op 'n plek waar 'n kieser ingevolge artikel 37 (2) toegelaat word om sy stem uit te bring.

### STEMMING BY STEMBURO'S

#### *Stemreg*

39. (1) Elke geregistreerde kieser is geregtig om by die verkiesing te stem, onderworpe aan en by nakoming van die bepalings van hierdie Proklamasie.

(2) 'n Kieser is geregtig om by die verkiesing een stem op slegs een geregistreerde party uit te bring.

#### *Kieser kan by enige stemburo stem*

40. 'n Kieser kan by enige stemburo in die gebied stem maar is nie geregtig en word nie toegelaat om te stem nie tensy hy sy registrasiekaart voorlê en oorgee aan die voorsittende beampte of 'n stemopnemer by die stemburo waar hy stem.

#### *Stemming vind per geheime stembrief plaas*

41. (1) Stemming by die verkiesing vind per geheime stembrief plaas.

(2) Elke stembrief moet in die vorm wees wat in die Aanhangsel aangegee word, en die name van al die geregistreerde partye moet in alfabetiese volgorde daarop gedruk wees, elke naam in die taal waarin dit ingevolge paragraaf (a) van artikel 30 verstrekk is en gevolg deur die afkorting daarvan ingevolge paragraaf (b) van daardie artikel verstrekk en daarna deur die kenteken van die betrokke geregistreerde party ingevolge paragraaf (c) van daardie artikel verstrekk.

after the hour prescribed in terms of the said paragraph for the closing of the poll, unless he has produced and surrendered his registration card to the presiding officer or a polling officer at any such place as aforesaid before that hour, for the purposes of the issue to him of a ballot paper.

#### *Powers of presiding officers at polling stations*

38. (1) The presiding officer and other officers at a polling station shall keep order thereat, shall regulate the number of voters to be admitted at a time, and shall exclude all other persons except the chief electoral officer, a controller, the electoral officer for the district, the polling officers, any election agent or polling agent entitled in terms of section 27 to attend at the polling station, any police officials on duty, and any other person specially authorized by or on the authority of the Administrator-General or the chief electoral officer to attend.

(2) Save as provided in subsection (1), the presiding officer may order any person, other than a person recording his vote, to leave the polling station, and any person who fails to leave the polling station when so required, may be arrested without a warrant on the order of the presiding officer.

(3) The presiding officer, after consultation with the police officials on duty (if any), may take any steps that he deems advisable for the protection of himself and other officials or for stopping or preventing violence in or in the vicinity of the polling station.

(4) The powers conferred by this section shall not be exercised so as to prevent any voter who is otherwise entitled to vote, from having an opportunity to record his vote.

(5) For the purposes of the application of this section to a mobile polling station, the expression "polling station" shall include an area indicated or demarcated by the presiding officer at any place where such mobile polling station is stationary for the purposes of taking a poll thereat, or at any place where a voter is permitted, in terms of section 37 (2), to record his vote.

### VOTING AT POLLING STATIONS

#### *Franchise*

39. (1) Every registered voter shall be entitled to vote at the election subject to and on compliance with the provisions of this Proclamation.

(2) A voter shall be entitled to give at the election one vote for one registered party only.

#### *Voter may vote at any polling station*

40. A voter may vote at any polling station in the territory but shall not be entitled or permitted to vote unless he produces and surrenders his registration card to the presiding officer or a polling officer at the polling station where he votes.

#### *Voting to be by secret ballot*

41. (1) The voting at the election shall be by secret ballot.

(2) Every ballot paper shall be in the form set out in the Annexure, and the names of all the registered parties shall be printed on it in alphabetical order, each name in the language in which it was furnished in terms of paragraph (a) of section 30 and followed by its abbreviation furnished in terms of paragraph (b) of that section and then by the distinctive symbol of the relevant registered party furnished in terms of paragraph (c) of that section.

(3) Die name van die geregistreerde partye en die afkortings van daardie name moet in hoofletters van gelyke grootte op die stembrief gedruk word.

(4) Die kentekens word op die stembrief gedruk volgens 'n grootte wat, indien elke kenteken in 'n vierkant met vaste afmetings omsluit word, dit moontlik sou maak dat die vertikale uiterste punte of die horisontale uiterste punte of sowel die vertikale as die horisontale uiterste punte teenoorgestelde sye van die vierkant raak.

#### Wyse waarop gestem word

42. (1) Stemming by 'n stemburo vind in wese en sover doenlik plaas volgens voorskrif van hierdie artikel en, onder die betrokke omstandighede, artikels 43, 44 en 45.

(2) Die voorsittende beampte of 'n stemopnemer moet vasstel—

(a) deur tersaaklike vrae te stel wat betrekking het op die besonderhede wat verskyn op die registrasiekaart wat soos in artikel 40 beoog deur die kieser aan hom voorgelê is, dat die kieser die persoon is wie se naam op daardie registrasiekaart verskyn;

(b) op die wyse in subartikel (3) van hierdie artikel voorgeskryf en behoudens die bepalings van paragraaf (e) van daardie subartikel, dat die kieser nie reeds by die verkiesing gestem het nie; en

(c) dat die nommer en tersaaklike besonderhede van daardie registrasiekaart nie op die lys van *sine die*-uitgestelde besware verskyn nie.

(3) (a) In hierdie subartikel en in subartikel (4) beteken "identifikasiemerk" 'n merk wat deur die hoofverkiesings-beampte goedgekeur is vir die identifisering van 'n kieser wat by die verkiesing gestem het.

(b) Die voorsittende beampte of 'n stemopnemer moet die kieser aansê, en die kieser, wanneer aldus aangesê, is verplig, om sy vingers deur die voorsittende beampte of bedoelde stemopnemer te laat ondersoek, en indien geen- een van die kieser se vingers by sodanige ondersoek die identifikasiemerk toon nie, word vermoed dat hy nie reeds by die verkiesing gestem het nie.

(c) Indien enige van die kieser se vingers by sodanige ondersoek die identifikasiemerk toon, moet die voorsittende beampte aan elke verkiesingsagent en elke stemagent wat aanwesig is, 'n geleentheid gee om daardie identifikasiemerk waar te neem, of, indien daar nie so 'n agent aanwesig is nie, elke stemopnemer by die stemburo aansê om daardie identifikasiemerk waar te neem, en moet hy die kieser nie toelaat om te stem nie tensy hy die voorsittende beampte oortuig dat die aanwesigheid van die identifikasiemerk op sy vinger of vingers nie daaraan te wyte is dat hy reeds by die verkiesing gestem het nie.

(d) Indien 'n persoon ingevolge paragraaf (b) verbied is om te stem, moet die voorsittende beampte die registrasiekaart behou wat deur hom voorgelê is, en dit endorseer ten effekte dat bedoelde persoon aldus verbied is en, indien 'n verkiesingsagent of stemagent teen die verbod beswaar gemaak het, dat die beswaar gemaak is.

(e) Die bepalings van paragraaf (b) van subartikel (2) en van paragraaf (b) van hierdie subartikel is nie van toepassing nie in die geval van 'n kieser wat aan 'n liggaamlike gebrek ly wat na die oordeel van die voorsittende beampte die toepassing daarvan onmoontlik maak.

(3) The names of the registered parties and the abbreviations of those names shall be printed on the ballot paper in capital letters of equal size.

(4) The distinctive symbols shall be printed on the ballot paper to a size which, if each symbol were enclosed in a square of fixed dimensions, would permit the vertical extremities or the horizontal extremities or both the vertical and the horizontal extremities to touch opposite sides of the square.

#### Manner of voting

42. (1) The voting at any polling station shall be conducted in substance and as nearly as possible in the manner prescribed in this section and, under the relevant circumstances, in sections 43, 44 and 45.

(2) The presiding officer or a polling officer shall ascertain—

(a) by putting relevant questions relating to the particulars appearing on the registration card produced to him by the voter as contemplated in section 40, that the voter is the person whose name appears on that registration card;

(b) in the manner prescribed in subsection (3) of this section and subject to the provisions of paragraph (e) of that subsection, that the voter has not already voted at the election; and

(c) that the number and relevant particulars of that registration card do not appear on the list of objections postponed *sine die*.

(3) (a) In this subsection and in subsection (4) "identification mark" means a mark approved by the chief electoral officer for the purpose of the identification of a voter who has voted at the election.

(b) The presiding officer or a polling officer shall require the voter, and the voter when so required shall be obliged, to cause his fingers to be examined by the presiding officer or such polling officer, and if upon such examination none of the voter's fingers displays the identification mark, he shall be presumed not to have already voted at the election.

(c) If upon such examination, any of the voter's fingers displays the identification mark, the presiding officer shall give to every election agent and every polling agent who is present, an opportunity to observe such identification mark, or, if no such agent is present, shall require every polling officer at the polling station to observe such identification mark, and shall not permit the voter to vote unless he satisfies the presiding officer that the presence of the identification mark on his finger or fingers is not due to his having already voted at the election.

(d) If any person has in terms of paragraph (b) been prohibited from voting, the presiding officer shall retain the registration card produced by him, and endorse it to the effect that such person was so prohibited and, if any election agent or polling agent objected to the prohibition, that the objection was made.

(e) The provisions of paragraph (b) of subsection (2) and of paragraph (b) of this subsection shall not apply in the case of a voter who suffers from a physical defect which, in the opinion of the presiding officer, makes their application impossible.

(4) Wanneer die in subartikel (2) bedoelde aangeleent-hede vasgestel is, moet die kieser, in die teenwoordig-heid en ooreenkomstig die voorskrifte van die voorsittende beampte of 'n stemopnemer—

(a) indien daar op die registrasiekaart deur hom soos voormeld voorgelê, die handtekening verskyn van die persoon aan wie dit uitgereik is, daardie registrasiekaart teken en die identifikasiemerk op die vingers van sy linkerhand of van sy regterhand plaas of deur die voorsittende beampte of bedoelde stemopnemer daarop laat plaas;

(b) indien daar op genoemde registrasiekaart die afdruk van enige vinger of vingers verskyn van die per-son aan wie dit uitgereik is, die afdruk van die oor-eenstemmende vinger of vingers van die kieser op daardie registrasiekaart plaas, en die identifikasiemerk op die vingers van sy linkerhand of van sy regterhand plaas of deur die voorsittende beampte of bedoelde stemop-nemer daarop laat plaas;

(c) indien daar op genoemde registrasiekaart, in stede van die handtekening of 'n vingerafdruk van die per-son aan wie dit uitgereik is, 'n merk verskyn wat deur daardie persoon gemaak is, 'n soortgelyke merk op daardie registrasiekaart plaas.

(5) Wanneer die kieser aan die bepalinge van subartikel (4) voldoen het, moet die voorsittende beampte of 'n stemopnemer—

(a) die nommer van genoemde registrasiekaart op 'n stembriefkoevert inskryf;

(b) 'n stembrief uit die stembriefboek skeur en daardie stembrief agterop merk met die amptelike merk;

(c) daardie stembrief met daardie stembriefkoevert aan die kieser oorhandig; en

(d) genoemde registrasiekaart behou en dit op 'n veilige plek bewaar.

(6) Wanneer die kieser die stembrief met die stembriefkoevert ontvang het, moet hy—

(a) dit na die stemkompartement neem;

(b) die geregistreerde party waarvoor hy wil stem, aandui deur in die geheim 'n kruis op die stembrief te maak teenoor die inskrywing daarop van die naam, afkorting en kenteken van daardie geregistreerde party;

(c) die stembrief so opvou dat die amptelike merk sigbaar is en die name, afkortings en kentekens van die geregistreerde partye en die kruis deur hom gemaak nie sigbaar is nie;

(d) die stembrief so ophou dat die voorsittende beampte of 'n stemopnemer deur hom aangewys die amptelike merk kan herken;

(e) die stembrief, opgevou soos voormeld, in die stembriefkoevert plaas en die koevert toemaak; en

(f) die stembriefkoevert in die stembus laat val wat voor die voorsittende beampte of bedoelde stemopnemer staan.

(7) Indien die kieser sy naam op die stembrief teken of 'n merk maak of woord skryf waardeur sy stembrief uitgeken sou kon word, word daardie stembrief, wanneer die stemme getel word, as oningevul beskou en buite rekening gelaat.

(8) Ten einde vas te stel of 'n stuk papier wat 'n kieser in 'n stembriefkoevert wil plaas soos in subartikel (6) (e) beoog, 'n amptelik uitgereikte stembrief is, moet die voorsittende beampte of 'n stemopnemer deur hom aangewys die kieser aansê om die agterkant van die stuk papier op

(4) The matters referred to in subsection (2) having been ascertained, the voter shall, in the presence and in accordance with the instructions of the presiding officer or a polling officer—

(a) if the registration card produced by him as aforesaid bears the signature of the person to whom it was issued, sign that registration card and place the identification mark on the fingers of his left hand or of his right hand or cause it to be placed thereon by the presiding officer or such polling officer;

(b) if the said registration card bears the imprint of any finger or fingers of the person to whom it was issued, place the imprint of the corresponding finger or fingers of the voter on that registration card and place the identification mark on the fingers of his left hand or of his right hand or cause it to be placed thereon by the presiding officer or such polling officer;

(c) if the said registration card bears, instead of the signature or any fingerprint of the person to whom it was issued, any mark made by that person, place a similar mark on that registration card.

(5) When the voter has complied with the provisions of subsection (4), the presiding officer or a polling officer shall—

(a) enter the number of the said registration card on a ballot paper envelope;

(b) tear out a ballot paper from the ballot paper book and mark that ballot paper on the back with the official mark;

(c) hand that ballot paper with that ballot paper envelope to the voter; and

(d) retain the said registration card and keep it in a safe place.

(6) When the voter has received the ballot paper with the ballot paper envelope, he shall—

(a) take it to the voting compartment;

(b) indicate the registered party for which he desires to vote by secretly placing a cross on the ballot paper opposite the entry on it of the name, abbreviation and distinctive symbol of that registered party;

(c) fold the ballot paper so that the official mark is visible and the names, abbreviations and distinctive symbols of the registered parties and the cross made by him are not visible;

(d) hold up the ballot paper so that the presiding officer or a polling officer designated by him can recognize the official mark;

(e) place the ballot paper, folded as aforesaid, into the ballot paper envelope and close the envelope; and

(f) drop the ballot paper envelope into the ballot box placed in front of the presiding officer or such polling officer.

(7) If the voter signs his name on the ballot paper or makes any mark or writes any word by which his ballot paper would become recognizable, that ballot paper shall, when the votes are counted, be considered blank and not be taken into account.

(8) For the purposes of ascertaining whether a paper which any voter is about to place into a ballot paper envelope as contemplated in subsection (6) (e) is a ballot paper officially issued, the presiding officer or a polling officer designated by him shall require the voter to show

so 'n wyse aan hom te toon dat, indien die stuk papier 'n amptelik uitgereikte stembrief is, die nommer en die amptelike merk daarop sigbaar sou wees en die kruis deur die kieser gemaak nie sigbaar sou wees nie.

(9) Die stemming by 'n stemburo word nie deur 'n defek wat ontstaan in 'n werktuig wat vir die doeleindes van subartikel (3) (b) by daardie stemburo gebruik word, onderbreek nie, en die stem deur 'n kieser uitgebring is nie ongeldig bloot omdat die bepalings van subartikel (2) (b) in sy geval weens sodanige defek nie nagekom is nie.

(10) Die registrasiekaart voorgelê en oorgegee deur 'n kieser aan wie 'n stembrief onder die in subartikel (9) beoogde omstandighede uitgereik is, word geëndosseer of gemerk ooreenkomstig die voorskrifte deur die hoof-verkiesingsbeampte uitgereik.

*Kieser wat nie kan lees nie of onbekwaam is*

43. (1) (a) Op persoonlike versoek van 'n kieser wat nie kan lees nie of wat weens blindheid of ander liggaamlike oorsaak nie in staat is om sy stem op die wyse in artikel 42 (6) voorgeskryf, uit te bring nie, moet die voorsittende beampte, behoudens die bepalings van subartikel (2) van hierdie artikel, die stem van daardie kieser op die stembrief merk op die wyse deur die kieser verlang, dit in die stembriefkoevert plaas, die koevert toemaak en daardie koevert in die stembus plaas.

(b) Indien daar op die registrasiekaart wat deur 'n kieser aan die voorsittende beampte of 'n stemopnemer voorgelê word, 'n vingerafdruk verskyn van die persoon aan wie dit uitgereik is, kan die voorsittende beampte of bedoelde stemopnemer die kieser vra of hy sy stembrief deur die voorsittende beampte wil laat merk, en as die kieser bevestigend antwoord, word daardie antwoord by die toepassing van paragraaf (a) geag 'n versoek soos in daardie paragraaf beoog, te wees.

(c) Indien die opdrag van die kieser oor die wyse waarop sy stem deur die voorsittende beampte op die stembrief gemerk moet word, nie duidelik genoeg is om die voorsittende beampte in staat te stel om die stem te merk sonder om nadere opdrag van die kieser te verkry nie, kan die voorsittende beampte die vrae aan die kieser stel wat na sy oordeel nodig is om sodanige nadere opdrag te verkry.

(2) (a) Indien een of meer verkiesingsagente of stem-agente in die stemburo teenwoordig is wanneer 'n versoek ingevolge subartikel (1) aan die voorsittende beampte gerig word, moet die voorsittende beampte, voordat hy aan die versoek voldoen, die kieser vra of hy toestem dat sy stembrief gemerk word in die teenwoordigheid van bedoelde agent of, indien daar twee of meer sodanige agente is, in die teenwoordigheid van almal of enige van hulle.

(b) Indien die kieser soos voormeld toestem, moet die voorsittende beampte aan bedoelde versoek voldoen in die teenwoordigheid van elke sodanige agent tot wie se teenwoordigheid die kieser toestem en wat teenwoordig wil wees.

(c) Indien die kieser nie soos voormeld toestem nie, of indien daar geen verkiesingsagent of stemagent in die stemburo teenwoordig is nie, moet die voorsittende beampte aan bedoelde versoek voldoen in die teenwoordigheid van minstens een stemopnemer.

(3) Op persoonlike versoek van 'n in subartikel (1) (a) bedoelde kieser wat nie versoek dat sy stem ingevolge daardie subartikel deur die voorsittende beampte gemerk word nie en wat deur 'n volwasse persoon vergesel is, kan die voorsittende beampte, indien hy oortuig is dat daardie volwasse persoon die vader, moeder, broer, suster, man, vrou, seun, dogter of vriend van die kieser is,

him the back of the paper in such a manner that, if the paper were a ballot paper officially issued, the number and the official mark on it would be visible and the cross made by the voter would not be visible.

(9) The voting at a polling station shall not be interrupted by any defect occurring in any instrument used at such polling station for the purposes of subsection (3) (b), and the vote recorded by any voter shall not be invalid merely because the provisions of subsection (2) (b) were not complied with in his case because of such defect.

(10) The registration card produced and surrendered by a voter to whom a ballot paper is issued under the circumstances contemplated in subsection (9), shall be endorsed or marked in accordance with the instructions issued by the chief electoral officer.

*Voter who cannot read or is incapacitated*

43. (1) (a) At the request in person of a voter who cannot read or who is incapacitated by blindness or other physical cause from voting in the manner prescribed in section 42 (6), the presiding officer shall, subject to the provisions of subsection (2) of this section, mark the vote of that voter on the ballot paper in the manner directed by the voter, place it in the ballot paper envelope, close the envelope and place that envelope in the ballot box.

(b) If the registration card produced by a voter to the presiding officer or a polling officer bears any fingerprint of the person to whom it was issued, the presiding officer or such polling officer may ask the voter whether he wishes to have his ballot paper marked by the presiding officer, and if the voter replies in the affirmative, such reply shall for the purposes of paragraph (a) be deemed to be such a request as is contemplated in that paragraph.

(c) If the instructions of the voter as to the manner in which the presiding officer is to mark his vote on the ballot paper are not sufficiently clear to enable the presiding officer to mark the vote without obtaining further instructions from the voter, the presiding officer may put such questions to the voter as in his opinion are necessary to elicit such further instructions.

(2) (a) If one or more election agents or polling agents are in attendance at the polling station when a request is made to the presiding officer in terms of subsection (1), the presiding officer, before complying with such request, shall ask the voter whether he consents to the marking of his ballot paper taking place in the presence of such agent or, if there are two or more such agents, in the presence of all or any of them.

(b) If the voter consents as aforesaid, the presiding officer shall comply with such request in the presence of every such agent to whose presence the voter consents and who wishes to be present.

(c) If the voter does not consent as aforesaid, or if there is no election agent or polling agent in attendance at the polling station, the presiding officer shall comply with such request in the presence of at least one polling officer.

(3) At the request in person of a voter referred to in subsection (1) (a) who does not request to have his vote marked by the presiding officer in terms of that subsection and who is accompanied by an adult person, the presiding officer may, if he is satisfied that such adult person is the father, mother, brother, sister, husband, wife, son, daughter or friend of the voter, permit such voter to

daardie kieser toelaat om met die hulp van daardie volwasse persoon te stem, en nadat bedoelde verlof verleë is, kan enigiets wat ingevolge artikel 42 (6) deur die kieser gedoen moet word, gedoen word met die hulp van daardie volwasse persoon.

#### *Aangebode stembriewe*

44. (1) Indien, by verwysing ingevolge artikel 42 (2) (c) na die lys van *sine die*-uitgestelde besware, dit gevind word dat die nommer en relevante besonderhede van die registrasiekaart deur 'n kieser voorgelê op daardie lys verskyn, is die betrokke kieser geregtig om op dieselfde wyse en onderworpe aan dieselfde vereistes as enige ander kieser te stem behalwe dat die koevert wat die stembrief bevat waarop sy stem gemerk is nie in die stembus geplaas word nie maar oorhandig word aan die voorsittende beampte of 'n stemopnemer, wat die woorde "aangebode stembrief" of "tendered ballot paper" op daardie koevert moet endosseer en dit tesame met die kieser se registrasiekaart in 'n aparte houer moet plaas.

(2) 'n Verseëelde koevert wat 'n aangebode stembrief bevat (hieronder 'n aangebode stembriefkoevert genoem) word nie oopgemaak nie behalwe ingevolge die bepalings van artikel 51 (1) (b) of 54.

(3) Die voorsittende beampte of 'n stemopnemer moet die kieser meedeel dat sy stem verwerp sal word en nie getel sal word nie tensy die landdros wat die betrokke beswaar *sine die*-uitgestel het die beswaar na aanhoor van die kieser verwerp voordat die tel van die stemme afgehandel is, en moet aan die kieser 'n skriftelike kennisgewing in 'n deur die hoofverkiegingsbeampte voorgeskrewe vorm oorhandig waarin die kieser aangesê word om indien hy die beswaar wil bestry, voor genoemde landdros te verskyn en die kennisgewing aan hom voor te lê, die besonderhede aangegee word wat in verband met die betrokke beswaar op die lys van *sine die*-uitgestelde besware aangeteken is, en die feit genoem word dat die betrokke registrasiekaart aan die voorsittende beampte oorgegee is.

(4) Genoemde landdros moet, wanneer die kieser voor hom verskyn en die kennisgewing aan hom voorlê, ooreenkomstig die bepalings van artikel 19 (4) (c) van die Registrasieproklamasie handel, en moet die hoofverkiegingsbeampte sonder versuim van sy besluit kragtens daardie Proklamasie ten opsigte van die beswaar in kennis stel en, indien sodanige kennisgewing nie in skrif is nie, dit so gou doenlik skriftelik bevestig.

(5) Die bepalings van artikels 22 en 23 van die Registrasieproklamasie is nie met betrekking tot 'n beswaar wat onder die in subartikel (4) van hierdie artikel beoogde omstandighede gehandhaaf word, van toepassing nie.

#### *Bedorwe stembriewe*

45. Indien 'n kieser 'n stembrief onopsetlik bederf, kan hy dit teruggee aan die voorsittende beampte wat, indien hy oortuig is dat dit onopsetlik gebeur het, aan hom 'n ander stembrief gee en die bedorwe stembrief behou, waarna die bedorwe stembrief gekanselleer en die kansellering op die teenblad daarvan aangeteken word.

#### *Verseëling van stembus en ander verkiesingsmateriaal*

46. (1) Onmiddellik na die sluit van die stemming by 'n stemburo op die laaste stemdag, moet die voorsittende beampte in die teenwoordigheid van die verkiesingsagente en stemagente wat aanwesig is, afsonderlike pakkette, verseël met sy eie seël en met die seëls van diegene van genoemde agente wat hulle seëls wil aanheg, maak van—

- (a) elke stembus aan hom toevertrou, ongeopen;
- (b) die aangebode stembriefkoeverte, elk met die bygaande registrasiekaart;

vote with the assistance of such adult person, and upon such permission being granted, anything which by section 42 (6) is required to be done by the voter may be done with the assistance of such adult person.

#### *Tendered ballot papers*

44. (1) If, on reference in terms of section 42 (2) (c) being made to the list of objections postponed *sine die*, the number and relevant particulars of the registration card produced by a voter are found to appear on that list, the voter concerned shall be entitled to vote in the same manner and subject to the same requirements as any other voter, except that the envelope containing the ballot paper on which his vote is marked shall not be placed in the ballot box but shall be handed to the presiding officer or a polling officer, who shall endorse the words "tendered ballot paper" or "aangebode stembrief" on that envelope and place it together with the voter's registration card in a separate container.

(2) An envelope containing a tendered ballot paper (hereinafter referred to as a tendered ballot paper envelope) shall not be opened except in terms of the provisions of section 51 (1) (b) or 54.

(3) The presiding officer or a polling officer shall inform the voter that his vote will be rejected and not be counted unless the magistrate who postponed the relevant objection *sine die* dismisses the objection, after hearing the voter, before the counting of the votes is finalized, and shall hand the voter a notice in writing in a form prescribed by the chief electoral officer, requiring the voter to appear before and produce the notice to the said magistrate if he wishes to oppose the objection, setting out the particulars recorded on the list of objections postponed *sine die* in connection with the relevant objection, and stating the fact that the registration card concerned has been surrendered to the presiding officer.

(4) The said magistrate shall, upon the voter appearing before him and producing such notice to him, act in accordance with section 19 (4) (c) of the Registration Proclamation, and shall advise the chief electoral officer without delay of his decision under that Proclamation in respect of the objection, and, if such advice is not in writing, confirm it in writing as soon as possible.

(5) The provisions of sections 22 and 23 of the Registration Proclamation shall not apply with reference to an objection allowed under the circumstances contemplated in subsection (4) of this section.

#### *Spoiled ballot papers*

45. If a voter inadvertently spoils a ballot paper, he may return it to the presiding officer who, if satisfied of the inadvertence, shall give him another ballot paper and retain the spoiled ballot paper, whereupon the spoiled ballot paper shall be cancelled and the cancellation noted on its counterfoil.

#### *Sealing of ballot box and other election material*

46. (1) Immediately after the close of the poll on the last polling day at any polling station, the presiding officer shall, in the presence of such election agents and polling agents as may be in attendance, make up into separate packets, sealed with his own seal and with the seals of such of the said agents as may wish to affix their seals—

- (a) each ballot box entrusted to him, unopened;
- (b) the tendered ballot paper envelopes, each with the accompanying registration card;

(c) die ongebruikte en bedorwe stembriewe, en die teenblaaië van gebruikte of bedorwe stembriewe;

(d) die registrasiekaarte ten opsigte waarvan stembriewe uitgereik en in die stembus geplaas is;

(e) die registrasiekaarte ten opsigte waarvan geen stembriewe uitgereik is nie en wat kragtens artikel 42 (3) (d) behou is,

en moet hy elke pakket merk en die pakkette aan die verkiesingsbeampte vir die betrokke distrik aflewer of laat aflewer ooreenkomstig die voorskrifte van die hoofverkiesingsbeampte.

(2) Die pakkette moet vergesel gaan van 'n verslag in 'n vorm deur die hoofverkiesingsbeampte voorgeskryf, waarin die voorsittende beampte rekenskap gee van die aantal stembriewe wat aan hom toevertrou is en die aantal registrasiekaarte wat gedurende die stemtydperk voorgelê is aan en behou is deur hom of die stemopnemers by die stemburo.

(3) Die verkiesingsbeampte moet die pakkette tesame met genoemde verslag sonder versuim aan die hoofverkiesingsbeampte aflewer of laat aflewer ooreenkomstig die voorskrifte van die hoofverkiesingsbeampte, en moet terselfdertyd aan die hoofverkiesingsbeampte 'n verslag verstrek waarin hy rekenskap gee van die aantal stembriewe wat aan hom toevertrou is.

(4) Met die verkiesingsmateriaal wat nie in subartikel (1) genoem word nie, word gehandel ooreenkomstig die voorskrifte van die hoofverkiesingsbeampte.

#### BEPALING VAN UITSLAG VAN DIE STEMMING EN VERKLARING VAN UITSLAG VAN DIE VERKIESING

##### *Kennisgewing van plek en tyd vir bepaling van uitslag van die stemming*

47. Die hoofverkiesingsbeampte stel elke geregistreerde party by sy geregistreerde adres in kennis van die plek waar die uitslag van die stemming bepaal sal word en van die dag en tyd waarop die bepaling sal begin.

##### *Verifikasie van stembriefverslag*

48. (1) By ontvangs van die in artikel 46 (1) bedoelde pakkette van 'n stemburo, neem die hoofverkiesingsbeampte dit in sy bewaring, ondersoek hy of die seëls in orde is en gee hy aanwesige agente van geregistreerde partye 'n geleentheid om dieselfde te doen en maak hy daarna al die pakkette oop.

(2) Die hoofverkiesingsbeampte verifieer die voorsittende beampte se stembriefverslag deur dit met die inhoud van die pakkette te vergelyk, en maak vir dié doel elke stembus oop en laat tel die stembriefkoeverte wat daarin is.

(3) Indien die totaal van die stembriefkoeverte in die stembus of stembusse en van die aangebode stembriefkoeverte nie ooreenstem nie met die aantal registrasiekaarte ten opsigte waarvan stembriewe uitgereik is, en die verskil nie op 'n ander wyse uit die weg geruim kan word nie, identifiseer die hoofverkiesingsbeampte 'n oortollige stembriefkoevert of aangebode stembriefkoevert, of, na gelang van die geval, 'n oortollige registrasiekaart, deur die nommers van genoemde registrasiekaarte te vergelyk met die registrasiekaartnummers op genoemde koeverte aangeteken, en moet hy—

(a) 'n oortollige stembriefkoevert of aangebode stembriefkoevert wat aldus geïdentifiseer is, verwyder uit die stembus of pakket waarin dit is; of

(c) the unused and spoiled ballot papers, and the counterfoils of used or spoiled ballot papers;

(d) the registration cards in respect of which ballot papers were issued and placed in the ballot box;

(e) the registration cards in respect of which no ballot papers were issued and which were retained under section 42 (3) (d),

and shall mark each packet and deliver the packets to the electoral officer for the district concerned without delay, or cause them to be so delivered, in accordance with the instructions of the chief electoral officer.

(2) The packets shall be accompanied by a statement in a form prescribed by the chief electoral officer, in which the presiding officer accounts for the number of ballot papers entrusted to him and the number of registration cards produced to and retained by him or the polling officers at the polling station during the polling period.

(3) The electoral officer shall deliver the packets accompanied by the said statement to the chief electoral officer without delay, or cause them to be so delivered, in accordance with the instructions of the chief electoral officer, and shall at the same time furnish the chief electoral officer with a statement in which he accounts for the number of ballot papers entrusted to him.

(4) The electoral material not mentioned in subsection (1) shall be dealt with in accordance with the instructions of the chief electoral officer.

#### DETERMINATION OF RESULT OF THE POLL AND DECLARATION OF RESULT OF THE ELECTION

##### *Notice of place and time for determining result of the poll*

47. The chief electoral officer shall inform each registered party at its registered address of the place where the result of the poll will be determined and of the day upon which and the time at which the determination will commence.

##### *Verification of ballot paper account*

48. (1) On receiving the packets referred to in section 46 (1) from a polling station, the chief electoral officer shall take charge of them, examine whether the seals are in order and give any agents of the registered parties who are present, an opportunity to do the same, and shall thereafter open all the packets.

(2) The chief electoral officer shall verify the presiding officer's ballot paper account by comparing it with the contents of the packets, and shall for that purpose open each ballot box and cause the ballot paper envelopes contained in it to be counted.

(3) If the total of the ballot paper envelopes in the ballot box or ballot boxes and of the tendered ballot paper envelopes does not correspond with the number of the registration cards in respect of which ballot papers were issued, and the discrepancy cannot be cleared up in any other manner, the chief electoral officer shall identify any excess ballot paper envelope or tendered ballot paper envelope or, as the case may be, any excess registration card, by comparing the numbers of the said registration cards with the registration card numbers entered upon the said envelopes, and shall—

(a) remove from the ballot box or packet in which it is contained, any excess ballot paper envelope or tendered ballot paper envelope so identified; or

(b) 'n gepaste endossement aanbring op 'n oortollige registrasiekaart wat aldus geïdentifiseer is, en dit by die registrasiekaarte plaas ten opsigte waarvan geen stembriewe uitgereik is nie en wat ingevolge artikel 42 (3) (d) behou is.

(4) 'n Stembrief in 'n koevert wat ingevolge subartikel (3) (a) uit 'n stembus of 'n pakket verwyder is, word verwerp en nie getel nie.

(5) Wanneer die voorafgaande bepalings van hierdie artikel nagekom is, laat die hoofverkiesingsbeampte die stembriefkoeverte en aangebode stembriefkoeverte waarin daar stembriewe is wat nie ingevolge subartikel (4) verwerp is nie, terugplaas in die stembus of pakket waaruit hulle gehaal is, en maak hy daardie stembus of pakket toe en verseël hy dit.

#### *Ondersoek van registrasiekaarte*

49. (1) So gou doenlik nadat die bepalings van artikel 48 nagekom is met betrekking tot 'n registrasiekaart ten opsigte waarvan 'n stembrief uitgereik is, laat die hoofverkiesingsbeampte die registrasiekaart ondersoek en vergelyk met die register van kiesers of 'n uittreksel uit daardie register wat hy vir vergelyking met registrasiekaarte gemaak het.

(2) Indien, by sodanige ondersoek en vergelyking—

(a) daar gevind word dat die duplikaat van die registrasiekaart kragtens die een of ander bepaling van die Registrasieproklamasie gekanselleer is; of

(b) die hoofverkiesingsbeampte van oordeel is—

(i) dat die registrasiekaart nie 'n registrasiekaart is wat amptelik kragtens die bepalings van die Registrasieproklamasie uitgereik is nie; of

(ii) dat die persoon aan wie 'n stembrief op grond van daardie registrasiekaart uitgereik is, nie die persoon is aan wie daardie registrasiekaart kragtens genoemde bepalings uitgereik is nie,

word die stembrief in die koevert waarop die nommer van daardie registrasiekaart geëndosseer is, verwerp en nie getel nie, en word daardie koevert verwyder uit die stembus of pakket waarin dit is.

(3) 'n Beslissing kragtens subartikel (2) (b) (ii) dat die handtekening of 'n vingerafdruk van die persoon aan wie 'n stembrief op grond van 'n bepaalde registrasiekaart uitgereik is, nie die handtekening of vingerafdruk is nie van die persoon aan wie daardie registrasiekaart uitgereik is, word deur die hoofverkiesingsbeampte gegee na oorlegging, in die geval van 'n handtekening, met minstens twee telbeamptes wat handskrifdeskundiges is, en, in die geval van 'n vingerafdruk, met minstens twee telbeamptes wat vingerafdrukdeskundiges is.

(4) By die beslissing van 'n vraag wat uit die toepassing van die bepalings van subartikel (2) (b) voortspruit, oefen die hoofverkiesingsbeampte die diskresie wat by hom berus op so 'n wyse uit dat, sover moontlik, geen stembrief verwerp word nie bloot omdat iemand wat 'n aanstelling of amp kragtens hierdie Proklamasie of die Registrasieproklamasie hou of beklee of te eniger tyd gehou of beklee het, versuim het om 'n plig of werksaamheid te verrig of na behore te verrig, wat hy ingevolge 'n bepaling van die betrokke Proklamasie moes verrig het, en te dien

(b) make a suitable endorsement on any excess registration card so identified and place it with the registration cards in respect of which no ballot papers were issued and which were retained in terms of section 42 (3) (d).

(4) A ballot paper contained in an envelope removed from a ballot box or a packet in terms of subsection (3) (a) shall be rejected and not be counted.

(5) When the preceding provisions of this section have been complied with, the chief electoral officer shall cause the ballot paper envelopes and tendered ballot paper envelopes containing ballot papers not rejected in terms of subsection (4) to be put back into the ballot box or packet from which they were taken, and shall close and seal such ballot box or packet.

#### *Examination of registration cards*

49. (1) As soon as practicable after the provisions of section 48 have been complied with in relation to a registration card in respect of which a ballot paper was issued, the chief electoral officer shall cause the registration card to be examined and to be compared with the register of voters or any extract from that register prepared by him for the purpose of comparison with registration cards.

(2) If upon such examination and comparison—

(a) it is found that the duplicate of the registration card has been cancelled under any provision of the Registration Proclamation; or

(b) the chief electoral officer is of the opinion—

(i) that the registration card is not a registration card officially issued under the provisions of the Registration Proclamation; or

(ii) that the person to whom a ballot paper was issued on the strength of that registration card is not the person to whom that registration card was issued under the said provisions;

the ballot paper contained in the envelope on which the number of that registration card is endorsed shall be rejected and not be counted, and that envelope shall be removed from the ballot box or packet in which it is contained.

(3) Any decision under subsection (2) (b) (ii) that the signature or any fingerprint of the person to whom a ballot paper was issued on the strength of a particular registration card is not the signature or fingerprint of the person to whom that registration card was issued, shall be taken by the chief electoral officer after consultation, in the case of a signature, with at least two counting officers who are handwriting experts, and, in the case of a fingerprint, with at least two counting officers who are fingerprint experts.

(4) In deciding any question that arises in the application of the provisions of subsection (2) (b), the chief electoral officer shall exercise the discretion vested in him in such a manner that, as far as possible, no ballot paper is rejected merely because a person who holds or at any time held any appointment or office under this Proclamation or the Registration Proclamation failed to perform or properly to perform any duty or function which he was required to perform in terms of any provision of the relevant Proclamation, and to this end the chief electoral

einde kan die hoofverkiegingsbeampte enige inligting, of enige omstandigheid, gebeurde of feit wat na sy oordeel by die beslissing van sodanige vraag ter sake is, in ag neem en daarvoor navraag doen.

*Omstandighede waaronder 'n aangebode stembrief verwerp moet word*

50. (1) By ontvangs van 'n in artikel 44 (5) beoogde kennisgewing van 'n landdros, endosseer die hoofverkiegingsbeampte die beslissing waarop die kennisgewing betrekking het op die duplikaat van die betrokke registrasiekaart en op die betrokke aangebode stembrieffkoevert en, indien die beswaar waarop die beslissing betrekking het deur die landdros gehandhaaf is, verwyder hy daardie koevert uit die pakkie waarin dit is.

(2) Indien daar nadat die bepalings van artikel 49 nagekom is ten opsigte van alle registrasiekaarte, of, na gelang die hoofverkiegingsbeampte besluit, alle registrasiekaarte wat ingevolge artikel 46 (3) vanaf 'n bepaalde distrik ontvang is, in enige pakket of, na gelang van die geval, in 'n pakket aldus vanaf daardie distrik ontvang, 'n aangebode stembrieffkoevert oorbly wat nie ingevolge subartikel (1) van hierdie artikel geëndosseer is nie, doen die hoofverkiegingsbeampte by die landdros wat die betrokke beswaar *sine die* uitgestel het navraag, en endosseer hy op die betrokke registrasiekaart en op daardie aangebode stembrieffkoevert, of die beswaar uitgewys is en, indien wel, of dit verwerp of gehandhaaf is, en, indien dit nie uitgewys is nie of gehandhaaf is, verwyder hy daardie aangebode stembrieffkoevert uit die pakket waarin dit is.

(3) Die stembrief in 'n aangebode stembrieffkoevert wat ingevolge subartikel (1) of (2) uit 'n pakket verwyder is, word verwerp en nie getel nie.

*Tel van stemme*

51. (1) Nadat die bepalings van artikel 50 nagekom is, moet die hoofverkiegingsbeampte—

(a) alle stembrieffkoeverte en aangebode stembrieffkoeverte waarin daar stembriewe is wat nie ingevolge die voorafgaande bepalings van hierdie Proklamasie verwerp is nie, uit die stembusse en betrokke pakkette verwyder;

(b) elke sodanige koevert oopmaak en die stembrief daarin uithaal sonder om die stembrief oop te vou;

(c) al die aldus oopgemaakte koeverte verwyder en vernietig;

(d) al die stembriewe op so 'n wyse deurmekaar maak dat dit onmoontlik is om te bepaal uit watter stembus of koevert 'n bepaalde stembrief geneem is;

(e) die aldus deurmekaargemaakte stembriewe oopvou en hulle sorteer op die grondslag van die geregistreerde partye vir wie die stemme uitgebring is; en

(f) die stemme tel wat op elke geregistreerde party uitgebring is.

(2) Die hoofverkiegingsbeampte tref alle behoorlike voorsorgmaatreëls om te verhinder dat iemand die wyse waarop 'n stembrief gemerk is, te wete kom terwyl die stembrief uit sy koevert gehaal word en voordat daardie koevert verwyder en vernietig is.

(3) By voldoening aan die bepalings van subartikel (1) kan die hoofverkiegingsbeampte, indien en vir sover hy dit dienstig ag, afsonderlik handel met die stembusse, aangebode stembrieffkoeverte en stembriewe wat van verskillende distrikte ontvang is.

officer may take into consideration, and make enquiries as to, any information or any circumstance, occurrence or fact which in his opinion is relevant to the decision of that question.

*Circumstances under which a tendered ballot paper is to be rejected*

50. (1) On receiving from a magistrate an advice contemplated in section 44 (5), the chief electoral officer shall endorse the decision to which the advice relates on the duplicate of the relevant registration card and on the relevant tendered ballot paper envelope and, if the objection to which the decision relates was allowed by the magistrate, remove that envelope from the packet in which it is contained.

(2) If, after the provisions of section 49 have been complied with in respect of all registration cards, or, as the chief electoral officer may decide, all registration cards received under section 46 (3) from a particular district, there remains in any packet, or, as the case may be, in any packet so received from that district, any tendered ballot paper envelope that has not been endorsed in terms of subsection (1) of this section, the chief electoral officer shall enquire from the magistrate who postponed the relevant objection *sine die*, and shall endorse on the relevant registration card and on such tendered ballot paper envelope, whether the objection has been decided and, if so, whether it was dismissed or allowed, and, if it has not been decided or was allowed, remove such tendered ballot paper envelope from the packet in which it is contained.

(3) The ballot paper contained in a tendered ballot paper envelope removed from any packet in terms of subsection (1) or (2) shall be rejected and not be counted.

*Counting of votes*

51. (1) After the provisions of section 50 have been complied with, the chief electoral officer shall—

(a) remove from the ballot boxes and relevant packets all ballot paper envelopes and tendered ballot paper envelopes containing ballot papers not rejected in terms of the preceding provisions of this Proclamation;

(b) open each such envelope and take out the ballot paper contained in it, without unfolding the ballot paper;

(c) remove and destroy all the envelopes so opened;

(d) mix together all the ballot papers in such manner that it is impossible to determine from which ballot box or envelope any particular ballot paper was taken;

(e) unfold the ballot papers so mixed and sort them on the basis of the registered parties to which the votes were given; and

(f) count the votes given for each registered party.

(2) The chief electoral officer shall take all proper precautions for preventing any person from discovering the manner in which any ballot paper is marked while such ballot paper is being taken out of its envelope and before such envelope is removed and destroyed.

(3) In complying with the provisions of subsection (1) the chief electoral officer may, if and in so far as he deems it expedient, deal separately with the ballot boxes, tendered ballot paper envelopes and ballot papers received from different districts.



*Stembriewe wat verwerp moet word*

52. (1) Die hoofverkiegingsbeampste moet 'n stembrief verwerp en nie tel nie wat—

(a) stemme op meer as een geregistreerde party uitbring; of

(b) wat nie die amptelike merk dra nie en ten opsigte waarvan hy gegronde rede het om te glo dat dit nie amptelik ingevolge artikel 42 (5) aan 'n kieser uitgereik is nie; of

(c) ongemerk of weens onsekerheid kragteloos is.

(2) Die hoofverkiegingsbeampste verwerp nie maar tel 'n stembrief met 'n ander merk of skrif daarop as die handtekening van die kieser, waardeur 'n kieser sy keuse duidelik aangedui het op 'n ander wyse as deur 'n kruis.

*Beswaar teen, en afdoendheid van, besluite met betrekking tot stembriewe*

53. (1) Behoudens die bepalings van subartikel (2), is die verwerping of aanvaarding van 'n stembrief kragtens 'n bepaling van hierdie Proklamasie deur die hoofverkiegingsbeampste afdoende, en geen geregshof is bevoeg om uitspraak oor die geldigheid daarvan te doen nie.

(2) Indien 'n agent van 'n geregistreerde party beswaar maak teen die verwerping of aanvaarding van 'n stembrief deur die hoofverkiegingsbeampste kragtens artikel 49 (2) (b) of artikel 52 en daardie agent of 'n ander agent van 'n geregistreerde party die hoofverkiegingsbeampste versoek om die aangeleentheid na 'n kragtens subartikel (3) van hierdie artikel ingestelde verwysingsraad te verwys, verval die hoofverkiegingsbeampste se besluit om daardie stembrief te verwerp of, na gelang van die geval, te aanvaar, en verwys die hoofverkiegingsbeampste die aangeleentheid na so 'n verwysingsraad.

(3) (a) Die Administrateur-generaal kan soveel verwysingsrade instel as wat hy goed ag.

(b) 'n Verwysingsraad bestaan uit drie lede deur die Administrateur-generaal aangestel behoudens die bepalings van paragraaf (c).

(c) 'n Regter van die Hooggeregshof van Suid-Afrika, 'n landdros, iemand wat te eniger tyd die amp van so 'n regter of van landdros beklee het, en 'n advokaat van genoemde Hof met 'n beroepstydperk van minstens tien jaar kan as lid van 'n verwysingsraad aangestel word.

(d) Die Administrateur-generaal wys een van die lede van 'n verwysingsraad aan as die voorsitter van daardie raad.

(e) Die bepalings van artikel 26 is *mutatis mutandis* van toepassing op die lede van 'n verwysingsraad.

(4) Die besluit van twee lede van 'n verwysingsraad is die besluit van daardie raad.

(5) 'n Verwysingsraad kom, op die tye wat die voorsitter van daardie raad bepaal, vir die verrigting van sy werksaamhede byeen in of by die perseel waar die uitslag van die stemming bepaal word en handel summier met enige aangeleentheid wat ingevolge subartikel (2) na hom verwys word.

(6) Vir die oorweging en beslissing van 'n aangeleentheid wat ingevolge subartikel (2) na hom verwys is, is 'n verwysingsraad beklee met die bevoegdhede, pligte en werksaamhede wat hy enige bepaling van artikel 49 of artikel 52, na gelang van die geval, met betrekking tot daardie aangeleentheid aan die hoofverkiegingsbeampste verleen of opgedra is, en die beslissing van daardie verwysingsraad oor daardie aangeleentheid word by die toepassing van die betrokke bepaling geag die beslissing van die hoofverkiegingsbeampste te wees. Met dien verstande dat die beslissing van die verwysingsraad afdoende is en vir alle agente van geregistreerde partye bindend is, en dat geen geregshof bevoeg is om uitspraak oor die geldigheid daarvan te doen nie.

*Ballot papers that are to be rejected*

52. (1) The chief electoral officer shall reject and not count any ballot paper which—

(a) gives votes to more than one registered party; or

(b) does not bear the official mark and in respect of which he has reasonable grounds to believe that it was not officially issued to a voter in terms of section 42 (5); or

(c) is unmarked or void for uncertainty.

(2) The chief electoral officer shall not reject but shall count any ballot paper on which there is a mark or writing, other than the signature of the voter, by means of which a voter has clearly indicated his choice otherwise than by a cross.

*Objection to, and finality of, decisions relating to ballot papers*

53. (1) Subject to the provisions of subsection (2), the rejection or acceptance of a ballot paper by the chief electoral officer under any provision of this Proclamation shall be final, and no court of law shall have jurisdiction to pronounce upon the validity thereof.

(2) If an agent of a registered party objects to the rejection or the acceptance of a ballot paper by the chief electoral officer under section 49 (2) (b) or section 52 and such agent or any other agent of a registered party requests the chief electoral officer to refer the matter to a reference board established under subsection (3) of this section, the chief electoral officer's decision to reject or, as the case may be, to accept such ballot paper shall lapse and the chief electoral officer shall refer the matter to such a reference board for decision.

(3) (a) The Administrator-General may establish as many reference boards as he thinks fit.

(b) A reference board shall consist of three members appointed by the Administrator-General subject to the provisions of paragraph (c).

(c) Any judge of the Supreme Court of South Africa, any magistrate, any person who at any time held office as such a judge or as a magistrate, and any advocate of the said Court of at least ten years' standing may be appointed as a member of a reference board.

(d) The Administrator-General shall designate one of the members of a reference board as the chairman of such board.

(e) The provisions of section 26 shall apply *mutatis mutandis* to the members of a reference board.

(4) The decision of two members of a reference board shall be the decision of that board.

(5) A reference board shall for the performance of its functions meet, at such times as the chairman of such board may determine, in or at the premises where the result of the poll is being determined and shall deal summarily with any matter referred to it in terms of subsection (2).

(6) A reference board shall for the purpose of considering and deciding any matter referred to it in terms of subsection (2) be vested with the powers, duties and functions conferred upon or assigned to the chief electoral officer in relation to that matter by any provision of section 49 or section 52, as the case may be, and the decision of such reference board on that matter shall for the purpose of any such provision be deemed to be the decision of the chief electoral officer: Provided that the decision of such reference board shall be final, and shall be binding on all agents of registered parties, and that no court of law shall have jurisdiction to pronounce upon the validity thereof.

*Endossering van stembriewe wat verwerp is*

54. Die hoofverkiegingsbeampte endosseer die woord "verwerp" of "rejected" op 'n stembrief wat finaal ingevolge hierdie Proklamasie verwerp is, en vir dié doel moet hy elke koevert wat so 'n stembrief bevat, oopmaak, die stembrief uithaal sonder om dit oop te vou, en die koevert verwyder en vernietig.

*Aankondiging van uitslag van die stemming*

55. Wanneer die uitslag van die stemming ingevolge artikel 51 bepaal is, bereken die hoofverkiegingsbeampte die aantal verteenwoordigers wat elke geregistreerde party ingevolge artikel 5 geregtig is om te nomineer, en kondig hy daarop buitekant die hoofbuite deur van die perseel waarin die tel van stemme plaasgevind het, aan—

- (a) die totale aantal stemme getel;
- (b) die aantal stemme op elke geregistreerde party uitgebring; en
- (c) die aantal verteenwoordigers (indien daar is) wat elke geregistreerde party geregtig is om soos voormeld te nomineer.

*Verklaring van uitslag van die verkiesing*

56. (1) Die hoofverkiegingsbeampte verklaar te geleëner tyd die uitslag van die verkiesing by kennisgewing in die *Offisiële Koerant*, waarin die besonderhede ingevolge artikel 55 aangekondig en, met inagneming van die bepalings van artikel 7 (1), die name en besonderhede van die verteenwoordigers wat ingevolge artikel 6 deur geregistreerde party genomineer is, aangegee word.

(2) Die verklaring van die hoofverkiegingsbeampte kragtens subartikel (1) word nie deur 'n geregshof tersyde gestel nie behalwe by bewys van bedrog wat die uitslag van die stemming soos ingevolge artikel 55 aangekondig weselik raak.

*Verseëling en bewaring van verkiesingsmateriaal*

57. (1) Die hoofverkiegingsbeampte moet so gou doenlik na die verklaring van die uitslag van die verkiesing in afsonderlike pakkette toemaak—

- (a) alle getelde stembriewe;
- (b) alle verworpe stembriewe;
- (c) alle teenblaaie van gebruikte of gekanselleerde stembriewe, tesame met die gekanselleerde stembriewe en alle stembriefverslae; en
- (d) alle registrasiekaarte tesame met die register van kiesers,

en sodanige pakkette verseël en hulle aan die registrateur van die Suidwes-Afrika-afdeling van die Hooggeregshof van Suid-Afrika laat aflewer.

(2) Genoemde registrateur is verantwoordelik vir die veilige bewaring van genoemde pakkette en behou hulle vir 'n tydperk van ses maande, en, tensy die hof anders beveel, handel hy daarna met hulle soos die Administrateur-generaal gelas.

(3) Behoudens die bepalings van subartikel (4), mag niemand genoemde pakkette oopmaak of die inhoud daarvan insien nie behalwe kragtens 'n bevel van genoemde hof, wat verleen kan word wanneer die hof op grond van beëdigde getuïenis oortuig is dat insae in of voorlegging van 'n stuk in so 'n pakket bevat, vereis word ten einde 'n vervolging met betrekking tot die verkiesing of met betrekking tot die registrasie van kiesers kragtens die Registra-

*Endorsement of rejected ballot papers*

54. The chief electoral officer shall endorse the word "rejected" or "verwerp" on any ballot paper finally rejected in terms of this Proclamation, and shall for that purpose open every envelope containing such a ballot paper, take out the ballot paper without unfolding it, and remove and destroy such envelope.

*Announcement of result of the poll*

55. When the result of the poll has been determined in terms of section 51, the chief electoral officer shall calculate the number of representatives which each registered party is in terms of section 5 entitled to nominate, and shall thereupon announce outside the principal outer door of the premises in which the counting of the votes took place—

- (a) the total number of votes counted;
- (b) the number of votes given to each registered party; and
- (c) the number of representatives (if any) which each registered party is entitled to nominate as aforesaid.

*Declaration of result of the election*

56. (1) The chief electoral officer shall in due course declare the result of the election by notice in the *Official Gazette*, setting out the particulars announced in terms of section 55 and, with due regard to the provisions of section 7 (1), the names and particulars of the representatives nominated by registered parties in terms of section 6.

(2) The declaration of the chief electoral officer under subsection (1) of this section shall not be set aside by any court of law except upon proof of fraud materially affecting the result of the poll as announced in terms of section 55.

*Sealing and safe-keeping of election material*

57. (1) The chief electoral officer shall as soon as possible after the declaration of the result of the election enclose in separate packets—

- (a) all counted ballot papers;
- (b) all rejected ballot papers;
- (c) all counterfoils of used or cancelled ballot papers, together with such cancelled ballot papers and all ballot paper accounts; and
- (d) all registration cards together with the register of voters,

and shall seal such packets and cause them to be delivered to the registrar of the South West Africa Division of the Supreme Court of South Africa.

(2) The said registrar shall be responsible for the safe custody of the said packets and shall retain them for a period of six months and thereafter, unless the court orders otherwise, deal with them as directed by the Administrator-General.

(3) Subject to the provisions of subsection (4), no person shall open, or inspect the contents of, the said packets except by order of the said court, which may be granted on the court being satisfied by evidence on oath that the inspection or production of any document contained in such packet is required for the purposes of instituting or maintaining a prosecution for an offence in relation to the election or in relation to the registration of voters

sieproklamasie in te stel of voort te sit, en so 'n bevel kan onderworpe gestel word aan die voorwaardes aangaande persone en tyd, plek en wyse van insae of voorlegging wat die hof goed ag.

(4) Die hoofverkiesingsbeampte, of die ander persoon wat die Aministrateur-generaal bepaal, is geregtig om 'n pakket wat registrasiekaarte of die register van kiesers bevat, oop te maak en in te sien ten einde vir die doeleindes van die een of ander bepaling van hierdie Proklamasie vas te stel dat die naam van 'n persoon op die register van kiesers verskyn: Met dien verstande dat bedoelde pakket na elke sodanige insae toegemaak en verseël moet word.

(5) 'n Bevoegdheid by hierdie artikel aan die hof verleen, kan deur enige regter van die hof in kamers uitgeoefen word.

## MISDRYWE EN STRAWWE

### *Skending van geheimhouding*

58. (1) Elke beampte, agent of gemagtigde persoon wat in 'n stemburo teenwoordig is, moet die geheimhouding van die stemming in daardie stemburo handhaaf en help om dit te handhaaf, en mag aan niemand, behalwe vir 'n by wet gemagtigde doel, enige inligting meedeel wat die geheimhouding van die stemming waarskynlik sal verrydel nie.

(2) Behoudens die bepalings van hierdie Proklamasie, mag niemand hom met 'n kieser, wanneer hy sy stem merk, bemoei of poog te bemoei nie, of op 'n ander wyse poog om by 'n stemburo inligting te verkry aangaande die geregistreerde party waarvoor 'n kieser by daardie stemburo gaan stem of gestem het nie, of te eniger tyd aan enigiemand inligting meedeel nie wat by 'n stemburo verkry is aangaande die geregistreerde party waarvoor 'n kieser by daardie stemburo gaan stem of gestem het, of aangaande die nommer agter op die stembrief wat aan 'n kieser by daardie stemburo gegee is.

(3) Niemand mag 'n kieser regstreeks of onregstreeks beweeg om sy stembrief, nadat hy dit gemerk het, op so 'n wyse te vertoon dat iemand die naam van die geregistreerde party waarvoor die kieser sy stem gemerk het, te wete kom nie.

(4) Niemand mag op 'n stembrief 'n merk of skrif aanbring waardeur iemand wat met daardie stembrief stem, geïdentifiseer kan word nie.

(5) Elkeen wat teenwoordig is by die bepaling van die uitslag van die stemming moet die geheimhouding van die stemming handhaaf en help om dit te handhaaf, en mag nie by sodanige bepaling poog om die wyse waarop 'n besondere persoon sy stembrief gemerk het, vas te stel nie, of inligting daarvoor wat by sodanige bepaling verkry is, oordra nie.

(6) Behoudens die bepalings van artikel 43, mag niemand poog om vas te stel, of regstreek of onregstreeks help om vas te stel, op watter geregistreerde party 'n kieser sy stem uitgebring het nie.

(7) Iemand wat by die verrigting van sy pligte ingevolge hierdie Proklamasie te wete gekom het op watter geregistreerde party iemand sy stem uitgebring het, mag daardie kennis nie openbaar nie behalwe in antwoord op 'n vraag wat wettig aan hom gestel is in die loop van verrigtinge in 'n hof.

(8) Niemand mag, behalwe op bevel van 'n hof of ingevolge magtiging by hierdie Proklamasie verleen, die seël van 'n in artikel 46 of 57 bedoelde verseëelde pakket breek of so 'n pakket oopmaak nie.

under the Registration Proclamation, and any such order may be made subject to such conditions as to persons and time, place and manner of inspection or production as the court may deem fit.

(4) The chief electoral officer, or such other person as the Administrator-General may determine, shall be entitled to open and inspect, in order to ascertain for the purpose of any provision of this Proclamation that the name of any person appears on the register of voters, any packet containing registration cards and the register of voters: Provided that such packet shall be closed and sealed after every such inspection.

(5) Any power conferred on the court by this section may be exercised by any judge of the court in chambers.

## OFFENCES AND PENALTIES

### *Infringement of secrecy*

58. (1) Every officer, agent or authorized person in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting at that polling station, and shall not communicate, except for some purpose authorized by law, to any person any information likely to defeat the secrecy of the voting.

(2) Except as provided in this Proclamation, no person shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain at a polling station information as to the registered party for which any voter at that polling station is about to vote or has voted, or communicate at any time to any person any information obtained at a polling station as to the registered party for which any voter at such polling station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such polling station.

(3) No person shall directly or indirectly induce any voter to display his ballot paper, after he has marked it, in such a manner as to make known to any person the name of the registered party for which the voter has marked his vote.

(4) No person shall place upon any ballot paper any mark or writing whereby a person who gives his vote on that ballot paper may be identified.

(5) Every person in attendance at the determination of the result of the poll shall maintain, and aid in maintaining, the secrecy of the voting, and shall not attempt to ascertain at such determination, or communicate any information obtained at such determination as to, the manner in which any particular person marked his ballot paper.

(6) Subject to the provisions of section 43, no person shall attempt to ascertain, or directly or indirectly assist in ascertaining, for which registered party any voter has given his vote.

(7) A person who, in the carrying out of his duties under this Proclamation, has obtained knowledge as to the registered party for which any person has voted, shall not disclose such knowledge except in answer to a question lawfully put to him in the course of proceedings in any court.

(8) No person shall, except upon the order of any court or as authorized by this Proclamation, break the seal of, or open, any sealed packet referred to in section 46 or 57.

(9) Iemand wat 'n bepaling van hierdie artikel oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyfhonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande.

#### *Pligsversuim*

59. 'n Kontroleur, verkiesingsbeampte, voorsittende beampte, stemopnemer of telbeampte wat, nadat hy 'n aanstelling as sodanig aanvaar het, opsetlik versuim om enige van die pligte te verrig wat hy ingevolge die bepalings van hierdie Proklamasie of die voorskrifte deur die hoofverkiesingsbeampte daarkragens uitgereik, moet verrig, is, sonder om afbreuk te doen aan enige ander bepaling van hierdie Proklamasie, aan 'n misdryf skuldig en strafbaar met 'n boete van hoogstens tweehonderd rand.

#### *Belemmering van verrigtinge en beamptes*

60. Iemand wat enige verrigtinge kragtens hierdie Proklamasie by 'n stemburo of by 'n vergadering van 'n in artikel 53 bedoelde verwysingsraad, opsetlik belemmer of versteur, of wat die hoofverkiesingsbeampte of 'n kontroleur, verkiesingsbeampte, voorsittende beampte, stemopnemer of telbeampte by die uitoefening van sy bevoegdhede of die verrigting van sy pligte of werksaamhede ingevolge hierdie Proklamasie, belemmer of hom met hom bemoei, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens eenduisend rand of met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande of met sowel daardie boete as daardie gevangenisstraf.

#### *Onbehoorlike beïnvloeding en omkoperij*

61. Iemand wat regstreeks of onregstreeks, self of deur 'n ander—

(a) op of teen enige persoon geweld of dwang gebruik of dreig om dit te gebruik, of enige persoon enige wêreldlike of geestelike leed, skade, kwaad of verlies aandoen of berokken of dreig om dit te doen, of iets tot nadeel van enige persoon doen of dreig om dit te doen, ten einde enige persoon te beweeg of te dwing om by die verkiesing te stem of nie te stem nie, of omdat enige persoon by die verkiesing gestem het of nie gestem het nie; of

(b) op 'n wyse soos voormeld of deur enige bedrieglike middel of plan 'n kieser beweeg, dwing of oorhaal om by die verkiesing of ten gunste van 'n bepaalde geregistreerde party te stem of nie aldus te stem nie, of die vrye uitoefening deur 'n kieser van die stemreg by die verkiesing belemmer of belet; of

(c) aan of vir 'n kieser of ander persoon enige geld of ander vergoeding gee, leen of verkry, of ooreenkom om dit aldus te gee, te leen of te verkry, of dit aldus aanbied of beloof, ten einde daardie kieser of 'n ander kieser te beweeg om by die verkiesing of ten gunste van 'n bepaalde geregistreerde party te stem of nie aldus te stem nie; of

(d) vir homself of vir 'n ander persoon enige geld of ander vergoeding ontvang of beding omdat hy by die verkiesing of ten gunste van 'n bepaalde geregistreerde party gestem het of ooreengekom het om aldus te stem, of nie aldus gestem het nie of ooreengekom het om nie aldus te stem nie.

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens drieduisend rand of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar of met sowel daardie boete as daardie gevangenisstraf.

(9) Any person who contravenes, or fails to comply with, any provision of this section, shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months.

#### *Neglect of duty*

59. Any controller, electoral officer, presiding officer, polling officer or counting officer who, after having accepted appointment as such, wilfully fails to perform any of the duties which he is required to perform in terms of the provisions of this Proclamation or the instructions issued under it by the chief electoral officer, shall, without prejudice to any other provision of this Proclamation, be guilty of an offence and liable to a fine not exceeding two hundred rand.

#### *Obstruction of proceedings and officers*

60. Any person who wilfully obstructs or disturbs any proceedings under this Proclamation at a polling station or at a meeting of a reference board referred to in section 53, or obstructs or interferes with the chief electoral officer or any controller, electoral officer, presiding officer, polling officer or counting officer in the exercise of his powers or the performance of his duties and functions under this Proclamation, shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

#### *Undue influence and bribery*

61. Any person who, directly or indirectly, by himself or by any other person—

(a) makes use or threatens to make use of any violence, force or restraint, or inflicts or threatens to inflict any temporal or spiritual injury, damage, harm or loss, upon or against, or does or threatens to do anything to the disadvantage of, any person in order to induce or compel any person to vote or to refrain from voting at the election, or on account of any person having voted or refrained from voting at the election; or

(b) by any such means as aforesaid or any fraudulent device or contrivance induces, compels or prevails upon any voter to vote or refrain from voting at the election or in favour of a particular registered party, or impedes or prevents the free exercise of the franchise by any voter at the election; or

(c) gives, lends or procures, or agrees to give, lend or procure, or offers or promises, any money or other reward to or for any voter or any other person, in order to induce such voter or any other voter to vote or to refrain from voting at the election or in favour of a particular registered party; or

(d) receives or contracts for any money or other reward for himself or for any other person, on account of voting or agreeing to vote, or refraining or agreeing to refrain from voting, at the election or in favour of a particular registered party;

shall be guilty of an offence and liable on conviction to a fine not exceeding three thousand rand or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

*Misdrywe met betrekking tot stemprosedure en stemburo's en -uitrusting*

## 62. (1) Iemand wat—

(a) wetens 'n registrasiekaart wat aan of op die naam van 'n ander lewende of afgestorwe persoon of 'n denkbeeldige persoon uitgereik is of 'n registrasiekaart wat verander is met die opset om te bedrieg, of 'n stuk wat heet 'n registrasiekaart te wees maar dit nie is nie, aan 'n voorsittende beamppte of stemopnemer voorlê vir die uitreik aan hom van 'n stembrief; of

(b) terwyl hy voorheen by die verkiesing gestem het, weer stem, of 'n registrasiekaart, hetsy dit aan hom of aan of op die naam van 'n ander lewende of afgestorwe persoon of 'n denkbeeldige persoon uitgereik is, of 'n stuk wat heet 'n registrasiekaart te wees maar dit nie is nie, aan 'n voorsittende beamppte of stemopnemer voorlê vir die uitreik aan hom van 'n stembrief; of

(c) 'n stembrief of die amptelike merk op 'n stembrief vernies of namaak of op bedrieglike wyse vernietig; of

(d) sonder behoorlike magtiging 'n stembrief aan enigiemand verskaf; of

(e) op bedrieglike wyse 'n ander stuk papier as 'n stembriefkoevert wat 'n stembrief bevat wat ingevolge hierdie Proklamasie aan hom uitgereik is, in 'n stembus plaas of 'n ander stuk papier as 'n stembrief aldus aan hom uitgereik in 'n aangebode stembriefkoevert plaas; of

(f) op bedrieglike wyse 'n stembrief of stembriefkoevert uit 'n stemburo wegneem; of

(g) sonder behoorlike magtiging 'n stembus, stemkompartement, werktuig, vorm, stuk of ander uitrusting wat gebruik word of bestem is vir gebruik by 'n stemburo, vernietig, neem, oopmaak, gebruik of hom op 'n ander wyse daarmee bemoei; of

(h) 'n steurnis by 'n stemburo veroorsaak, of 'n wettige bevel wat deur die voorsittende beamppte by 'n stemburo gegee word, veronagsaam,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar—

(i) in die geval van 'n misdryf ingevolge paragraaf (a) of (b), met 'n boete van hoogstens drieduisend rand of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar of met sowel daardie boete as daardie gevangenisstraf; en

(ii) in enige ander geval met 'n boete van hoogstens eenduisend rand of met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande of met sowel daardie boete as daardie gevangenisstraf.

(2) Indien daar by 'n vervolging ingevolge paragraaf (a) of (b) van subartikel (1) bewys word dat die beskuldigde 'n registrasiekaart of stuk in die betrokke paragraaf bedoel, aan 'n voorsittende beamppte of stemopnemer by 'n stemburo voorgelê het terwyl daardie voorsittende beamppte of stemopnemer besig was om sy pligte en werksaamhede kragtens artikel 42 te verrig, of dat 'n registrasiekaart aldus voorgelê verander was, word vermoed, tensy die teendeel bewys word, dat die beskuldigde daardie registrasiekaart of stuk voorgelê het vir die uitreik aan hom van 'n stembrief, en, in die geval van 'n vervolging ingevolge genoemde paragraaf (a), dat hy die registrasiekaart aldus voorgelê het wetende dat dit aan of op die naam van 'n ander persoon of denkbeeldige persoon uitgereik was, of dat die registrasiekaart verander was met die opset om te bedrieg en dat hy dit aldus voorgelê het wetende dat dit aldus verander was, of dat hy bedoelde stuk aldus voorgelê het wetende dat dit nie 'n registrasiekaart was nie, na gelang van die geval.

*Offences relating to voting procedures and polling stations and equipment*

## 62. (1) Any person who—

(a) for the purposes of the issue to him of a ballot paper, knowingly produces to any presiding officer or polling officer a registration card issued to or in the name of some other person, living or dead, or a fictitious person, or a registration card which has been altered with intent to deceive, or any document purporting to be but not being a registration card; or

(b) having previously voted at the election, votes again or produces to any presiding officer or polling officer, for the purposes of the issue to him of a ballot paper, a registration card, whether issued to him or to or in the name of some other person, living or dead, or a fictitious person, or any document purporting to be but not being a registration card; or

(c) forges or counterfeits or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(d) without due authority supplies any ballot paper to any person; or

(e) fraudulently places into any ballot box any paper other than a ballot paper envelope containing a ballot paper issued to him in terms of this Proclamation or into any tendered ballot paper envelope any paper other than a ballot paper so issued to him; or

(f) fraudulently takes out of any polling station any ballot paper or ballot paper envelope; or

(g) without due authority destroys, takes, opens, uses or otherwise interferes with any ballot box, voting compartment, instrument, form, document or other equipment used or intended for use at any polling station; or

(h) causes a disturbance at any polling station, or disobeys any lawful order given by the presiding officer at any polling station,

shall be guilty of an offence and liable on conviction—

(i) in the case of an offence in terms of paragraph (a) or (b), to a fine not exceeding three thousand rand or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment; and

(ii) in any other case, to a fine not exceeding one thousand rand or imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

(2) If, in any prosecution in terms of paragraph (a) or (b) of subsection (1), it is proved that the accused produced a registration card or document referred to in the relevant paragraph to a presiding officer or polling officer at a polling station while such presiding officer or polling officer was performing his duties and functions under section 42, or that a registration card when so produced had been altered, it shall be presumed, unless the contrary is proved, that the accused produced such registration card or document for the purposes of the issue to him of a ballot paper, and, in the case of a prosecution under the said paragraph (a), that he so produced the registration card knowing it to have been issued to or in the name of some other person or a fictitious person, or that the registration card was altered with intent to deceive and that he so produced it knowing it to have been so altered, or that he so produced such document knowing it not to be a registration card, as the case may be.

(3) Indien daar by 'n vervolging kragtens paragraaf (b) van subartikel (1) van hierdie artikel bewys word dat 'n vinger van die beskuldigde by die ondersoek daarvan soos in paragraaf (b) van subartikel (3) van artikel 42 beoog, die identifikasiemerk soos in paragraaf (a) van genoemde subartikel (3) omskryf, getoon het en dat die bepalings van paragraaf (c) van genoemde subartikel (3) met betrekking tot die waarneming van sodanige identifikasiemerk nagekom is, word vermoed, tensy die teendeel bewys word, dat die beskuldigde voorheen by die verkiesing gestem het.

### ALGEMEEN

*In geregtelike verrigtinge word nie van kieser vereis om sy stem bekend te maak nie*

63. Van niemand wat by die verkiesing gestem het, word in enige geregtelike verrigtinge vereis dat hy verklaar vir watter geregistreerde party hy gestem het nie.

### *Bewys van verkiesing*

64. Op 'n aanklag van 'n misdryf ingevolge hierdie Proklamasie wat na bewering by of in verband met die verkiesing gepleeg is, is die sertifikaat van die hoofverkiezingsbeampte dat die verkiesing besig was om gehou te word of gehou is, voldoende bewys van die feit dat die verkiesing besig was om gehou te word of gehou is.

### *Skryftelike voorleggings deur politieke organisasies en geregistreerde partye*

65. Waar 'n politieke organisasie of 'n geregistreerde party ingevolge die een of ander bepaling van hierdie Proklamasie iets skryftelik moet voorlê, word vermoed, tensy die teendeel bewys word, dat die geskryf wat vir die doeleindes van sodanige bepaling voorgelê word, deur die betrokke politieke organisasie of geregistreerde party voorgelê word indien dit onder die handtekening van die sekretaris van daardie politieke organisasie of geregistreerde party voorgelê word of onder 'n handtekening wat heet dié te wees van 'n persoon wat namens daardie politieke organisasie of geregistreerde party handel.

### *Sondae en openbare feesdae*

66. Wanneer enigiets volgens voorskrif van hierdie Proklamasie op 'n bepaalde datum begin, voltooi of gedoen moet word en daardie datum op 'n Sondag val of op 'n dag wat by of kragtens 'n wet tot 'n openbare feesdag verklaar is, moet dit begin, voltooi of gedoen word op die eersvolgende dag na daardie Sondag of openbare feesdag of, as laasbedoelde dag ook 'n Sondag of openbare feesdag is, dan op die eersvolgende dag na daardie Sondag of openbare feesdag.

### *Voorskrifte en vorms*

67. Die hoofverkiezingsbeampte kan voorskrifte uitreik wat nie onbestaanbaar met die bepalings van hierdie Proklamasie is nie, vir die meer doeltreffende uitvoering van daardie bepalings, en kan die vorm voorskryf van 'n stuk wat vir dié doel gebruik moet word en wat nie by daardie bepalings voorgeskryf word nie.

### *Kort titel*

68. Hierdie Proklamasie heet die Grondwetgewende Vergadering- en Verkiezingsproklamasie, 1978.

(3) If, in any prosecution under paragraph (b) of subsection (1) of this section, it is proved that any finger of the accused, upon being examined as contemplated in paragraph (b) of subsection (3) of section 42, displayed the identification mark as defined in paragraph (a) of the said subsection (3), and that the provisions of paragraph (c) of the said subsection (3) relating to the observing of such identification mark were complied with, it shall be presumed, unless the contrary is proved, that the accused had previously voted at the election.

### GENERAL

#### *Voter not required in legal proceedings to disclose his vote*

63. No person who voted at the election shall be required in any legal proceedings to state for which registered party he voted.

#### *Evidence of election*

64. Upon any charge of an offence in terms of this Proclamation alleged to have been committed at or in connection with the election, the certificate of the chief electoral officer that the election was being or had been held, shall be conclusive evidence of the fact that the election was being or had been held.

#### *Submissions in writing by political organizations or registered parties*

65. Where a political organization or a registered party is by any provision of this Proclamation required to submit anything in writing, such writing submitted for the purposes of such provision shall be presumed, unless the contrary is proved, to be submitted by the political organization or registered party concerned if it is submitted under the signature of the secretary of such political organization or registered party or under a signature purporting to be that of a person acting on behalf of such political organization or registered party.

#### *Sundays and public holidays*

66. When under this Proclamation anything is required to be commenced, concluded or done on a particular date, and that date falls on a Sunday or a day declared by or under any law to be a public holiday, such thing shall be commenced, concluded or done on the date next succeeding such Sunday or public holiday or, if the last-mentioned date is also a Sunday or a public holiday, then on the date next succeeding such Sunday or public holiday.

#### *Instructions and forms*

67. The chief electoral officer may issue instructions, not inconsistent with the provisions of this Proclamation, for the better carrying out of those provisions, and may prescribe the form of any document to be used for that purpose which is not prescribed by those provisions.

#### *Short title*

68. This Proclamation shall be called the Constituent Assembly and Election Proclamation, 1978.

AANHANGSEL/ANNEXURE

*Vorm van voorkant van stembrief/Form of front of ballot paper*

Teenblad  
Counterfoil  
No.


**Stem slegs vir een party**

Stem deur 'n X te maak in die vierkant teenoor die kenteken van die party vir wie u wil stem.


**Vote for one party only**

Record your vote by a X in the square opposite the symbol of the party for which you wish to vote.

*Vorm van agterkant van stembrief/Form of back of ballot paper*

No.



**Verkiesing vir 'n Grondwetgewende Vergadering vir Suidwes-Afrika**  
**Election for a Constituent Assembly for South West Africa**