



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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WINDHOEK - 24 August 2018

No. 6684

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Government Notice

OFFICE OF THE JUDICIARY

No. 191

2018

RULES OF THE ELECTORAL TRIBUNAL OF NAMIBIA: ELECTORAL ACT, 2014

Under section 206 of the Electoral Act, 2014 (Act No. 5 of 2014) after consultation with the Magistrates Commission, I have made the rules for the conduct of proceedings of the electoral tribunal as set out in the Schedule.

P. T. DAMASEB
CHAIRPERSON
ELECTORAL COURT

Windhoek, 5 June 2018

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PART 1

INTRODUCTORY PROVISIONS

Definitions

1. In these regulations a word or expression to which a meaning has been assigned in the Act has that meaning and unless the context indicates otherwise -

“affidavit” means a written statement, signed by the deponent under oath or by affirmation, administered by a Commissioner of Oaths in terms of the Justices of the Peace and Commissioner of Oaths Act, 1963 (Act No. 16 of 1963);

“appellant” means a person referred to in section 29(1) of the Act;

“applicant” means a person who is entitled to bring an election application, election appeal or election objection in terms of the Act;

“chairperson” means the person who presides, at the electoral tribunal, over the hearing of an election application, election appeal or an election objection;

“clerk” means a clerk referred to in rule 2;

“contact details” means -

- (a) in the case of a natural person, his or her full names, identity number, his or her physical address and where available, his or her telephone or cellular phone number or both, workplace telephone number, facsimile number and personal or workplace email address or both; and
- (b) in the case of a registered political party or registered organisation, its name, postal address and office referred to in section 136(2)(e)(v) of the Act and the particulars referred to in paragraph (a) of its authorized representative contemplated in section 136(2)(e)(v) of the Act;

“deliver” means to serve copies on all parties and file the original with the clerk;

“document” includes a handwritten or typed document, a computer print-out, a print-out from any equipment or device capable of generating a print-out, a pleading, photograph, film, recording of sound, plan, record of a permanent or semi-permanent character and information recorded or stored electronically or by means of any equipment or device;

“election appeal” means an appeal referred to in section 29(1) of the Act;

“election objection” means an objection referred to in section 32 of the Act;

“flexible radius” is the area within a local authority area where the electoral tribunal is situated;

“legal practitioner” means a legal practitioner as defined in section 1 of the Legal Practitioners Act, 1995 (Act No. 15 of 1995) -

- (a) who practices for personal gain;
- (b) who is in the service of a “law centre” as defined in section 1 of that Act; or
- (c) who is in the service of the State;

“legal year” means a calendar year;

“Magistrates’ Courts Act” means the Magistrates’ Courts Act, 1944 (No. 32 of 1944);

“messenger of the court” means a messenger of the magistrate’s court appointed under section 14 of the Magistrates’ Courts Act and includes a deputy messenger of that court appointed under that section;

“notice” means a notice in writing;

“party” means the applicant or the respondent including the representative of the applicant or respondent;

“process” includes any official document of the electoral tribunal, including witness statements and documents attached to the statements;

“public holiday” means a public holiday referred to in or declared under section 1 of the Public Holidays Act, 1990 (Act No. 26 of 1990);

“record” includes all papers, print-outs, documents, correspondence, notices and evidence presented to the Commission and any decision taken by the Commission and the record of proceedings conducted by electoral tribunals;

“recording” includes a sound track, film, magnetic tape, record or any other material on which visual images, sound or other information can be recorded;

“representative” means a legal practitioner including a person who represents a party to proceedings as contemplated in section 169(3) of the Act;

“serve” means to serve in accordance with rule 5;

“set down” means the set down of a hearing in terms of rule 3(7); and

“the Act” means the Electoral Act, 2014 (Act No. 5 of 2014).

PART 2 GENERAL ADMINISTRATIVE RULES

Office hours of clerk of electoral tribunal

2. (1) A clerk of the magistrate court appointed under section 13 of the Magistrates’ Courts Act, including a person appointed as an assistant clerk under that section must act as a clerk or assistant clerk of the electoral tribunal.

(2) The offices of the clerk must, except on Saturdays, Sundays and public holidays, be open from 09h00 to 13h00 and from 14h00 to 16h00 for the purpose of issuing process or filing a document.

- (3) Despite subrule (2), the clerk -
 - (a) may in exceptional circumstances issue process or accept documents at any day and time and in that case the clerk must record in writing the exceptional circumstances and place the record on the file in question; and
 - (b) must issue process or accept documents at any time when directed to do so by the chairperson of the electoral tribunal.

Lodging of election applications, appeals and objections

3. (1) The clerk must number election applications, election appeals and election objections consecutively within each legal year and must enter the particulars in the electoral tribunal register in the form substantially corresponding with Form 1 set out in Annexure A.

- (2) The clerk must keep a separate register for -
 - (a) election applications in the form substantially corresponding with Form 2 set out in Annexure A and the numbers allocated to cases under this register must bear the acronym “ETA”;
 - (b) election appeals in the form substantially corresponding with Form 3 set out in Annexure A and the numbers allocated to cases under this register must bear the acronym “ETR”; and
 - (c) election objections in the form substantially corresponding with Form 4 set out in Annexure A and the numbers allocated to cases under this register must bear the acronym “ETO”.
- (3) Election applications, election appeals or election objections are considered properly issued when the clerk -
 - (a) applies his or her signature to it;
 - (b) date-stamps it with the official electoral tribunal stamp;
 - (c) uniquely numbers it for identification purposes on the original and all copies presented for issuance;
 - (d) enters it into the relevant electoral tribunal register; and
 - (e) opens a separate file for it bearing the same numbers referred to in paragraph (c).
- (4) The clerk may not receive a document which is delivered or filed in respect of an election application, election appeal or election objection if the document does not bear the number and acronym contemplated in subrule (2).
- (5) An election application, election appeal or election objection must -
 - (a) be in writing and be signed by the applicant;
 - (b) bear a physical address where service of all processes and notices will be received in terms of rule 5; and

(c) include all supporting documents and witness statements.

(6) Before service is effected the applicant must present to the clerk in the geographical area where the cause of the application arose the original and a copy of the process for each respondent and an additional copy for the clerk.

(7) The clerk must simultaneously with the issuance of each process determine the place, date and time for the hearing of the election application, election appeal or election objection, which date must not be less than five days and not more than 12 days from the date of filing of the application, appeal or objection.

(8) The clerk must give notice of the hearing to the applicant in the form substantially corresponding with Form 5 set out in Annexure A.

(9) The applicant must cause a copy of the election application, election appeal or election objection and the notice of hearing referred to in subrule (8) to be served on every respondent.

Hearing dates and times

4. (1) The electoral tribunal must hear election applications, election appeals and election objections on every Friday unless the Friday is a public holiday.

(2) Despite subrule (1), urgent applications may be set down for hearing on any day of the week at 8h30 or if circumstances so require and on good cause shown at any other day or time.

(3) The chairperson may schedule further hearings relating to election applications, election appeals and election objections at any time or date if the circumstances so require.

Service of process

5. (1) Service of process in terms of these rules may be effected -

(a) by delivery of the process by the applicant, respondent or a person 16 years of age or older designated by the applicant or respondent, personally to the respondent or applicant;

(b) by delivery of the process, by the applicant, respondent, messenger of the court or a person 16 years of age or older designated by the applicant or respondent, where the applicant or respondent is a company, a close corporation, partnership, a Commission, a Forum, a political party or an organization referred to in section 86(1) of the Act, to a responsible person in the service of the company, close corporation, partnership, the Commission, a Forum, a political party or organization referred to in section 86(1) of the Act, at its local office, place of business or at its main office; or

(c) by delivery of the process, by the messenger of the court or a member of the Namibia Police Force by leaving it at the place of residence of the person contemplated in section 197(2)(b) of the Act.

(2) Where service of process is effected in a foreign country, service must be effected by -

(a) the head of any Namibian diplomatic or consular mission in that foreign country authorised to serve the process;

- (b) any foreign diplomatic or consular officer of the foreign country to Namibia who attends to service of process on behalf of Namibia in that foreign country; or
 - (c) an official signing as or on behalf of the head of the department dealing with the administration of justice in that foreign country and who is authorised under a law of that country to serve the process.
- (3) Where service is effected in accordance with subrule (1)(a) or (b), proof of service must be by -
- (a) filing a copy bearing the signature of the respondent;
 - (b) in the case of a company, a close corporation, partnership, the Commission, a Forum, a political party or organization referred to in section 86(1) of the Act, the signature of the person upon whom service was effected; or
 - (c) filing an affidavit of service in the form substantially corresponding to Form 6 set out in Annexure A, in case of a refusal to sign the proof of service.
- (4) Where service is effected in accordance with subrule (1)(c), the return of service of the messenger or a member of the Namibian Police Force is proof of service.
- (5) Where service is effected in accordance with subrule (2), service is proved by a certificate duly authenticated in terms of the laws of the country of the person effecting service in which the person -
- (a) identifies himself or herself that he or she is authorised under the law of that country to serve the process or document;
 - (b) states that the process or document in question has been served as required by the law of that country and states the manner and the date of service; and
 - (c) confirms that the law of the country concerned permits him or her to serve process of the court or documents or that there is no law in that country prohibiting the service and that the authorities of that country have not interposed any objection to the service.
- (6) Service of an election application, election objection or election appeal and all supporting documents as well as the notice of hearing may not be effected on a date which is less than four days before the date of hearing, unless otherwise provided for in these rules.

Postponement

6. (1) The chairperson and the clerk must ensure that there is no avoidable delay in the hearing of election applications, election appeals and election objections.

(2) The chairperson may not grant a postponement of a hearing unless notice of the application for postponement has been given to the other party not less than three days before the hearing or the parties at any time agree in writing to the postponement.

Settlement

7. The parties may at any time prior to a judgment or order being given agree in writing to settle a matter with or without the entry of a judgment or order and the parties must give notice that the settlement or any part of the settlement be recorded, by delivering in terms of rule 5(1), to all other parties a notice of set down for that purpose on any date and at any time.

Judgment or order of electoral tribunal to be delivered within a certain period

8. (1) Unless otherwise provided for in the Act or these rules, the chairperson must not later than seven days after the hearing, in an open court, deliver the judgment with supporting reasons and make an order as the chairperson considers appropriate.

(2) The chairperson must, not later than two days after delivery of an order or judgment, provide all parties with a written copy of the judgment and order and reasons for the judgment or order.

(3) A judgment or order of the electoral tribunal must specify the period within which the judgment or order must be complied with and the chairperson must allow the extension of time for compliance as he or she considers reasonable in the circumstances of the case.

(4) The chairperson may correct any patent administrative, clerical or typographical errors in a judgment or order within a reasonable time on notice to all parties and the correction is not subject to an appeal.

Non-compliance with rules

9. The chairperson may on application and on good cause shown -

- (a) condone any non-compliance with these rules; or
- (b) extend or abridge any period prescribed by these rules, whether before or after the expiry of the prescribed period.

Language to be used in proceedings

10. (1) Every process must be in the official language and all proceedings of the electoral tribunal must be recorded in the official language.

(2) A document which is not in the official language must be translated by a sworn translator into the official language.

Interpretation of oral evidence into official language

11. (1) Where oral evidence in electoral tribunal proceedings is given in a language other than the official language that evidence must be interpreted by a competent interpreter sworn to interpret faithfully and to the best of his or her ability into the official language.

(2) Before a person is appointed as an interpreter the electoral tribunal may, if in its opinion it is expedient to do so or if a party on reasonable grounds so desires, satisfy itself as to the competence and integrity of that person after hearing evidence.

(3) Where the services of an interpreter is used in electoral tribunal proceedings the costs, if any, of the interpretation are costs in the cause unless the electoral tribunal orders otherwise.

Public access to records and custody of records

12. (1) Subject to these rules, the records of an electoral tribunal are accessible to the public under supervision of the clerk at reasonable times and on payment of the fees indicated in Annexure B.

(2) The clerk and the electoral tribunal must preserve the records of the electoral tribunal in the same way that evidence in a civil matter is preserved and dealt with in the magistrates' court.

Application of Rules of Magistrates' Court

13. Subject to the Act and these rules, where these rules do not make provision for the procedure to be followed in a matter before the electoral tribunal, the rules applicable to civil proceedings in magistrates' courts and made in terms of section 25 of the Magistrates' Courts Act apply to proceedings before an electoral tribunal with necessary changes as the chairperson considers necessary in the interest of administration of justice.

PART 3 ELECTION APPEALS AND ELECTION OBJECTIONS

Election appeals in terms of section 29 of the Act

14. (1) A person entitled to register as a voter for an election or referendum as referred to in section 22(1) of the Act, whose application has been refused by the Registration Officer under section 28 of the Act may lodge an appeal to an electoral tribunal.

(2) An election appeal under subrule (1) must be noted by the appellant not later than two days after the date of refusal, by delivery of a notice of appeal in the form substantially corresponding with Form 7 set out in Annexure A, to -

- (a) the clerk in the case of an election or a referendum referred to in section 22 of the Act; or
- (b) a staff member referred to in section 21(1)(b) of the Act, in the case of a person referred to in section 23 of the Act and the staff member must deliver the notice to the clerk together with the documents referred to in subrule (4).

(3) The notice of appeal referred to in subrule (2) must indicate whether the appeal relates to an election referred in section 22(1)(a), (b) or (c) or a referendum referred to in section 22(1)(d) of the Act.

(4) The notice of appeal referred to in subrule (2) must set out concisely and distinctly the grounds of appeal and must be accompanied by the -

- (a) documents referred to in section 28(2) of the Act; and
- (b) all other documents in support of the appeal.

(5) On the lodging of an appeal in terms of subrule (1), the clerk must in the form substantially corresponding to Form 5 set out in Annexure A inform the appellant of the place, date and time of the hearing of the appeal and the date must not be later than seven days after the refusal referred to in subrule (1).

(6) In the case of an appeal referred to in section 29(1)(b) of the Act, the staff member who receives the notice of appeal must -

- (a) enter the contact details of the appellant in terms of section 29 in the appeal register referred to in rule 3(2)(b); and
- (b) forward the notice of appeal and all documents referred to in section 28(2)(b) and any documents delivered in support of the appeal to the clerk.

- (7) On receipt of the notice of appeal in terms of subrule (6)(b), the clerk must -
- (a) issue the appeal and assign a date for the hearing of the appeal; and
 - (b) serve or cause to be served a copy of the notice of appeal and the notice of set down of the hearing in the form substantially corresponding to Form 5 set out in Annexure A on the appellant and the respondent.

(8) The hearing of an election appeal must be conducted in the manner prescribed by section 29 of the Act and the appellant may call witnesses in support of the election appeal.

(9) If the appellant fails to appear at the hearing of an election appeal, the electoral tribunal must dismiss the election appeal.

(10) The electoral tribunal must deliver its judgment on an election appeal with reasons not later than five days after the conclusion of the hearing.

Election objections in terms of section 32 of Act

15. (1) A person referred to in section 32 of the Act, a registered political party or a registered political organisation may lodge with the electoral tribunal an election objection, referred to in section 32 of the Act, to the -

- (a) inclusion of the name of any person on the voter's register;
- (b) the spelling of any name or the incorrectness of any other data which appears on the voter's register; or
- (c) the registration of a person as a voter whose name appear more than once on the voter's register.

(2) An election objection in terms of subrule (1) must be -

- (a) in writing;
- (b) closely worded to the form substantially corresponding with Form 8 set out in Annexure A;
- (c) accompanied by an affidavit containing concise and distinct reasons in support of the grounds of the objection referred to in section 32(1)(c) of the Act;
- (d) accompanied by all supporting documents; and
- (e) accompanied by the contact details of the objector.

(3) An objection in terms of subrule (1) must within the period referred to in section 31(1)(b)(ii) of the Act -

- (a) be filed with the clerk; or
- (b) in the case of a person referred to in section 23, be filed with a staff member contemplated in section 29(1)(b), who must immediately deliver the objection to the clerk.

(4) On receipt of an objection under this rule the clerk must within two days of receipt of the objection present the objection with the supporting documents to the chairperson for a decision in chambers, as contemplated in section 32(3) of the Act.

(5) The chairperson must, not later than five days from the day referred to in subrule (4), give the written decision referred to in section 32(3)(a) and (b) of the Act to the clerk.

(6) A notice referred to in section 32(3)(b) of the Act must be -

(a) in the form substantially corresponding with Form 9 set out in Annexure A; and

(b) accompanied by all documents filed by the objector in terms of this rule.

(7) The person whose registration is objected to in terms of subrule (1) must within 15 days from the date of receipt of the notice referred to in subrule (6), file with the clerk an affidavit with supporting documents containing concise and distinct reasons why the objection should not be allowed.

(8) The chairperson must within five days of receipt of the supporting documents referred to in subrule (7) determine, in chambers, the objection as contemplated in section 32(4) of the Act.

(9) The clerk must not later than 14 days from the date of the decision by the chairperson, serve or cause to be served the decision of the electoral tribunal on the -

(a) person or registered political party or organization that lodged the objection;

(b) person whose registration was objected to in terms of subrule (1); and

(c) Chief Electoral Officer.

PART 4

ELECTION APPLICATIONS AND RELATED APPLICATIONS

Notice of election application

16. (1) A person who wishes to lodge an election application to the electoral tribunal must do so on a form substantially corresponding with Form 10 set out in Annexure A.

(2) An election application must -

(a) contain the name, address and contact details of each applicant;

(b) contain the name and address of each respondent;

(c) contain concise and distinct terms of the order applied for;

(d) where relief is claimed, contain information to inform the respondent of the grounds upon which the claim is made, the date on which the cause of the claim arose and the geographical area in which the claim arose;

(e) contain all supporting documents and witness statements;

(f) state if criminal sanctions should be imposed, if appropriate;

- (g) appoint an address within the flexible radius from the electoral tribunal at which the applicant will accept notice and service of documents; and
- (h) contain the notice of the hearing in the form substantially corresponding with Form 5 set out in Annexure A.

Respondent's reply

17. (1) A respondent who wishes to oppose an application referred to in rule 16 must serve a copy of a reply, in the form substantially corresponding with Form 11 set out in annexure A, to the applicant in the manner referred to in rule 5(1) or (2) within five days of service of the application and must file the original of the reply together with proof of service as contemplated in rule 5(3) or (4) with the clerk.

(2) If the respondent wishes to raise a question of law only, he or she must deliver the notice of the intention to do so within the time limit stated in subrule (1) and the notice must clearly and concisely set out the question of law.

(3) The respondent's reply in terms of subrule (1) must -

- (a) be signed by the respondent under oath or by affirmation;
- (b) contain particulars sufficient to inform the applicant of the grounds of opposing;
- (c) include all supporting documents and witness statements; and
- (d) be accompanied by the contact details of the respondent.

(4) The respondent must appoint an address within the flexible radius of the electoral tribunal where the application was issued and at which the respondent will accept notice and service of all documents in the proceedings of the electoral tribunal.

(5) A respondent who has not served a reply in accordance with this rule may not take part in the proceedings of the electoral tribunal concerned, except with leave of the chairperson on good cause shown.

Counter application

18. (1) These rules apply to counter applications and applications opposing counter applications with any necessary changes as the chairperson may consider necessary and in addition to that -

- (a) a counter application must be delivered together with the respondent's reply in the form substantially corresponding with Form 12 set out in Annexure A, unless the chairperson allows it to be delivered at a later stage;
- (b) the respondent does not need to repeat in the reply the names and addresses of the parties to the electoral tribunal proceedings in question and the date of hearing; and
- (c) any period which, in the case of an application, runs from the date of service of the application, will, in the case of a counter application, run from the date of delivery of the counter application.

(2) A counter application may be heard either together with or separately from the election application, as the chairperson may consider necessary.

Hearing of election applications

19. (1) The chairperson may conduct the hearing of an election application in a manner that the chairperson considers appropriate in order to determine the matter fairly and quickly and with minimum legal formalities.

(2) A party may appear in person or be represented by his or her legal practitioner or by any other person authorised by the Act.

(3) An election application must be argued on the papers filed on record unless the chairperson on good cause shown refers the matter for oral evidence.

(4) An applicant in respect of an election application must present his or her case first unless the chairperson directs otherwise.

(5) If the applicant in respect of an election application fails to appear at the hearing or fails to serve a reply, the chairperson must dismiss the application.

(6) If the applicant in respect of an election application appears for the hearing and the respondent who has served a reply fails to appear, the chairperson may if in his or her opinion the facts relating to the application are sufficiently established make any order authorised by the Act, despite the respondent's failure to reply or to appear.

(7) Subject to subrule (3), during the hearing of an election application -

(a) a party or any witness may amplify his or her witness statement with oral evidence, which evidence must be under oath or by affirmation administered by the chairperson;

(b) a party may cross-examine any person called by the other party and re-examine his or her own witnesses and the chairperson may curtail cross-examination of witnesses, if the chairperson considers the examination to be irrelevant, repetitive or time-wasting; and

(c) the chairperson must have due regard to the position of unrepresented parties and may put to the party and his or her witnesses any questions as the chairperson considers appropriate.

(8) An electoral tribunal must provide its decision on an election application or related application within five days from date of the conclusion of the hearing and where oral evidence is allowed the decision must be delivered within 14 days from the date of the conclusion of the hearing.

Urgent applications

20. (1) In respect of an urgent application relating to an election application the electoral tribunal may dispense with the prescribed time limits and may substitute it with time limits which the electoral tribunal considers fair and appropriate.

(2) An urgent application must be accompanied by a certificate of urgency in the form substantially corresponding with Form 13 set out in Annexure A, signed by the applicant or a legal practitioner, if represented by a legal practitioner and if no certificate accompanies the application the time limits prescribed for applications in these rules must apply.

(3) In an affidavit filed in support of an application under subrule (1), the applicant must in the form substantially corresponding with Form 13 set out in Annexure A set out the circumstances which renders the matter urgent.

(4) Where an urgent application is opposed the chairperson may at the date stated on the notice for the first appearance fix dates for the exchange of further affidavits and notices or proceed to hear the matter.

Discovery

21. (1) If a party to an election application, election appeal or an election objection or the chairperson believes that there are in addition to the documents, diagrams or digital recordings accompanying the papers filed of record, other documents, diagrams or digital recordings which may be relevant to the proceedings and are in the possession of any party or third person -

- (a) that party may by notice to the other parties at any time prior to the hearing of the matter, request the submission to the electoral tribunal of the document, diagram or digital recording as specified in the notice; or
- (b) the chairperson may by notice to the requesting party or third person, at any time prior to the hearing of the matter, request the submission to the electoral tribunal of the requested document, diagram or digital recording as specified in the notice.

(2) The chairperson may give any direction as he or she considers reasonable and fair including an order that the party believed to have a document, diagram or digital recording, referred to in subrule (1) in his or her possession -

- (a) deliver the document, diagram or digital recording within the specified time; or
- (b) state under oath or by affirmation within the period specified in the order that the document, diagram or digital recording is not in his or her possession and if known, state its whereabouts.

(3) The chairperson may inspect the document, diagram or digital recording referred to in subrule (1) to determine whether it is relevant to the election application or is protected from discovery.

(4) If a party or other person who has been requested to make discovery of the document, diagram or digital recording referred to in subrule (1) fails or refuses to do so, the chairperson may make an order to compel that party or person to comply with the request.

(5) If the party or other person ordered in terms of subrule (4) fails to comply with the order, the chairperson may make an order granting or dismissing the matter of the application.

PART 5 FEES AND COSTS

Fees

22. (1) The electoral tribunal fees to be paid to the clerk in terms of these rules are as indicated in Annexure B.

(2) The payment of the electoral tribunal fees must be indicated by the use of adhesive revenue stamps or be stamped within the meaning of the definition of “stamp” in the Stamp Duties Act, 1993 (Act No. 15 of 1993) and the revenue stamp must be affixed or stamped on the original of the applicable document.

(3) Where a party is unable to pay the electoral tribunal fees by reason of indigence, the clerk must upon the written decision of the chairperson waive payment of the fees and endorse the waiver on the appropriate process.

(4) The fees chargeable and allowed for the messenger of the court are those prescribed by the Magistrates' Courts Rules made in terms section 25 of the Magistrates' Courts Act.

Costs

23. Despite any other law, an electoral tribunal may not make an order as to costs against a party unless that party has acted frivolously in bringing an election application, election appeal, election objection or in instituting an appeal to the Electoral Court or in continuing with or defending those proceedings.

ANNEXURE A

FORM 1

ELECTION TRIBUNAL REGISTER

(Rule 3(2))

Serial Number:

Date Filed:

Complainant/Respondent

ETA number:

ETR number:

ETO number:

Checking Officer:

FORM 2

ETA REGISTER: APPLICATIONS

(Rule 3(2))

Serial Number:

ETA number:

Date Filed:

Complainant Name and address:

Respondent Name and address:

Date Received:

Date of Hearing:

Outcome of Hearing:

Checking Officer:

FORM 3

ETR REGISTER: APPEALS IN TERMS OF SECTION 29 OF THE ACT

(Rule 3(2))

Serial number:

ETR number:

Date Filed:

Complainant Name and address:

Respondent Name and address:

Date Received:

Date of Hearing:

Outcome of Hearing:

Checking Officer:

FORM 4

ETO REGISTER: OBJECTIONS BROUGHT IN TERMS OF SECTION 32 OF THE ACT

(Rule 3(2))

Serial Number:

ETO number:

Date Filed:

Complainant name and address:

Respondent name and address:

Date Received:

Date of Hearing:

Outcome of Hearing:

Checking Officer:

FORM 5

ELECTORAL TRIBUNAL: NOTICE OF HEARING

(Rule 3(8), Rule 14(5) and Rule 16(2))

Case No.

In the Electoral Tribunal for the district of held at
..... in the matter between:

.....

Applicant/Appellant*

and

.....

Respondent**

Kindly take note that the hearing in the above matter is scheduled as follows:

Time

Date

Court room

Issued by Date Stamp

*Notice to Applicant/Appellant: You are required to appear before the Tribunal on date and time stipulated. Should you fail to attend the hearing the appeal/application will be dismissed in terms of Section 29 of the Act.

**Notice to Respondent: if you intend opposing this application you are required

- (a) to serve a copy of the reply as per Form on the Applicant in this matter within FIVE (5) days of service of the Application and file the original thereof together with the proof of service with the Clerk of the electoral tribunal;
- (b) the reply must be signed by the respondent under oath/by affirmation and same should contain sufficient particulars so as to inform the Applicant of the grounds of opposition (including if you only intend to raise an question of law) and must include all supporting documents and witness statement;
- (c) You must appoint an address within a flexible radius not further than 30 km from the seat of the electoral tribunal in your notice of intention to oppose at which you will accept notice and service of all process in these proceedings. If no such reply is filed in accordance with the Rules you will not be entitled to take any part in the proceedings, except as provided in rule 16(4) with leave of the chairperson upon good cause shown.

FORM 6

RETURN OF SERVICE OF PROCESS IN THE ELECTORAL TRIBUNAL

(Rule 5(3))

Case No.

In the Electoral Tribunal for the district of held at

In the matter between:

.....

Applicant

and

.....

Respondent

AFFIDAVIT OF SERVICE

I,.....,

do hereby certify that on the day of..... 20 at : (time) I duly served the following document(s)

.....
.....
.....
.....

Part A: On

(full name)

The respondent/a responsible person employed at the respondent's place of business local/main office at

Part B.

By handing a copy to

(full name of the person served) the applicant/appellant/respondent/a person apparently not less than 16 years of age and employed at the applicant's/appellant's/respondent's place of business/registered office and he/she* refused to sign for receipt of the copy thereof.

(delete what is not applicable)

.....

Date

Signature of Deponent

Before administering the prescribed oath/affirmation, I put the following questions to the deponent and noted his/her reply in his/her presence.

a) Do you know and understand the contents of this affidavit?

Reply

b) Do you have any objection to taking the oath? Reply

c) Do you regard the prescribed oath as binding on your conscience?

Reply

This affidavit was duly sworn to or affirmed before me and the deponent signed in my presence at

..... on the day of

Commissioner of Oaths Date Stamp

Full name

Designation

Address

.....

FORM 7

ELECTORAL TRIBUNAL:
NOTICE OF APPEAL TO TRIBUNAL IN TERMS OF SECTION 29 AND RULE 14(2)

In the Electoral Tribunal for the district of held at.....

DATE OF HEARING:

Case No. ETR.....

.....

Clerk of Electoral Tribunal

In the matter between:

.....

Appellant

and

.....

Respondent

TAKE NOTICE that..... (hereinafter called the Appellant) intends to appeal to the electoral tribunal pursuant to the following section of Electoral, 2014 (Act No. 5 of 2014):

(delete which is not applicable)

- (a) Section 22 (1)(a): an election of the President, or of members of the National Assembly;
- (b) Section 22 (1)(b): an election of any member of a regional council;
- (c) Section 22 (1)(c): an election of any member of a local authority council, subject to Article 111(3) of the Namibian Constitution;
- (d) Section 22 (1)(d) : any referendum to be held under this Act or the Namibian Constitution.

Appellant appeals the decision or order of the Respondent made on or about the day of..... 20 and at or near. on the following grounds:

- (a)
- (b)
- (c)

(state the decision or part thereof appealed against) and the Appellant will ask this Tribunal

.....
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.....
.....
.....
.....
.....

(state the relief sought) and that the accompanying affidavit of

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

will be used in support of the application.

AND FURTHER TAKE NOTICE that the applicant has appointed

.....
.....

(state the Applicant’s address for service) at which he or she will accept notice and service of all process in these proceedings.

AND FURTHER TAKE NOTICE that if you intend opposing this application you are required

- (a) to serve a copy of the reply as per Form xxx on the Applicant in this matter within FIVE (5) days of service of the Application and file the original thereof together with the proof of service with the Clerk of the electoral tribunal;
- (b) the reply must be signed by the respondent under oath/affirmation and same should contain sufficient particulars so as to inform the Applicant of the grounds of opposition (including if you only intend to raise an question of law) and must include all supporting documents and witness statement;
- (c) You must appoint an address within a flexible radius of the Clerk of the electoral tribunal in your notice of intention to oppose at which you will accept notice and service of all process in these proceedings; If no such reply is filed in accordance with the Rules you will not be entitled to take any part in the proceedings, except as provided in rule 16(4) with leave of the Chair Person upon good cause shown, and such judgment may be given or order made against or in relation to you as the court may consider just and expedient.

Signed and dated at this day of.....20.....

Applicant or legal practitioner

(address)

To: (1)

RESPONDENT

(address) _____

(2) The Clerk of Electoral Tribunal

(address) _____

FORM 8

OBJECTION IN TERM OF SECTION 32

(Rule 15(2))

In the Electoral Tribunal for the district of held at

DATE OF HEARING:

Case Nr. ETO:

.....

Clerk of Electoral Tribunal

Objector's Particulars:

A. Full Names and Surname:

Address:

Identity number:

B. Registered Political Party:

C. Registered Political Organisation:

(Delete which is not applicable)

INSTRUCTIONS TO COMPLETION OF FORM:

MARK WITH A TICKMARK TO INDICATE APPROPRIATE OBJECTION AND COMPLETE THE ACCOMPANYING AFFIDAVIT

PART A: OBJECTION TO INCLUSION OF NAME OF ANY PERSON ON
VOTERS REGISTER

My objection(s) are as follows: (mark correct option with an 'x')

- the inclusion of the names of a person not entitled or qualified or under section 22 to be registered as a voter
- the inclusion of the names of a person on the voters register is not complying with the requirements in relation to residence as contemplated in section 29(1)

PART B: OBJECTION TO ANY NAME OR CORRECTNESS OF ANY OTHER DATA WHICH APPEARS IN VOTERS REGISTER

PART C: OBJECTION TO REGISTRATION OF A PERSON AS A VOTER WHICH APPEAR MORE THAN ONCE ON THE VOTER'S REGISTER

AND FURTHER TAKE NOTICE that in amplification of the Objector's objection he/she states as follows:

I,.....
do hereby states under oath/ affirmation that
.....
.....
.....*

(use annexures if space is not sufficient.)

- *(Part A: concise and distinct reasons to support the grounds of objection;
- Part B: Statement furnishing correct spelling of name of person concerned and correct data;
- Part C: Statement containing name and identity number and date of birth of person appearing more than once on the voter's register)

AND FURTHER TAKE NOTICE that the following supporting affidavits are attached hereto.
.....
.....
.....

AND FURTHER TAKE NOTICE that the following supporting documents are attached hereto:**

** (Part B: Supporting documents indicating correct spelling of name or containing correct data, i.e. identity document, Namibian Passport; valid driver's license containing photograph;

Part C: A certified document confirming that the person concerned appears more than once on the voter's register)

.....
.....
.....

Dated at this day of.....20.....

..... Signature of deponent

Before administering the prescribed oath/affirmation, I put the following questions to the deponent and noted his/her reply in his/her presence.

a) Do you know and understand the content of this affidavit?

Reply

b) Do you have any objection to taking the oath?

Reply

c) Do you regard the prescribed oath as binding on your conscience?

Reply

This affidavit was duly sworn to or affirmed before me and the deponent signed in my presence at

..... on the day of 20.....

Commissioner of Oaths Date Stamp

Full name

Designation

Address

FORM 9

NOTICE OF OBJECTION IN TERM OF SECTION 32(3)(b)

(Rule 15(6))

In the Electoral Tribunal for the district of held at

DATE OF HEARING:

Case Nr. ETO:

TO:

.....

.....

.....

TAKE NOTICE that:

Objector's Particulars:

A. Full Names and Surname:

Address:

Identity number:

B. Registered Political Party:

C. Registered Political Organisation:

(hereinafter called the Objector) lodged an objection to the electoral tribunal against the name of

.....
..... being included in provisional voter's register.

AND FURTHER TAKE NOTICE that the following supporting affidavits are attached hereto for your information:

.....

.....

.....

AND WHEREAS the electoral tribunal is satisfied that the objection is a ground on which the name can be excluded from the register. You are hereby called upon to dispatch to the Clerk of the electoral tribunal, within fifteen (15) days after service upon you of this notice, written representation relating to the above matter. Upon expiration of the period the Tribunal will determine the objection. (See date of hearing)

Issued by Date Stamp

Clerk of Electoral Tribunal

FORM 10

NOTICE OF APPLICATION IN TERM OF SECTION 29

(Rule 16(1))

In the Electoral Tribunal for the district of held at

DATE OF HEARING:

Case Nr. ETA

.....

Clerk of Electoral Tribunal

In the matter between:

..... Applicant

and

..... Respondent

TAKE NOTICE that (hereinafter called the applicant) intends to apply to this Tribunal for an order

(a)

(b)

(c)

(state the relief sought)

and that the accompanying affidavit of..... will be used in support of the application.

FURTHER TAKE NOTICE that the applicant has appointed

.....
.....

(state the applicant's address for service) at which he or she will accept notice and service of all process in these proceedings.

AND FURTHER TAKE NOTICE that if you intend opposing this application you are required

- (a) to serve a copy of the reply as per Form 11 on the Applicant in this matter within FIVE (5) days of service of the application and file the original thereof together with the proof of service with the Clerk of the electoral tribunal;

- (b) the reply must be signed by the respondent under oath/by affirmation and same should contain sufficient particulars so as to inform the applicant of the grounds of opposition (including if you only intend to raise an question of law) and must include all supporting documents and witness statement;
- (c) You must appoint an address within a flexible radius not further than 30 km from the seat of the electoral tribunal in your notice of intention to oppose at which you will accept notice and service of all process in these proceedings. If no such reply is filed in accordance with the Rules you will not be entitled to take any part in the proceedings, except as provided in rule 16(4) with leave of the chairperson upon good cause shown and judgment may be given or order made against or in relation to you as the court may consider just and expedient.

DATED AND SIGNED AT.....this.....day of..... 20.....

Applicant or his or her legal practitioner

(address)

To: (1) _____

RESPONDENT

(address)

(2) The Clerk of Electoral Tribunal

FORM 11

NOTICE OF INTENTION TO OPPOSE APPLICATION

(Rule 17)

In the Electoral Tribunal for the district of held at

Case No.

In the matter between:

..... Applicant

and

..... Respondent

TAKE NOTICE that

..... (hereinafter called the respondent) (if more than one respondent is cited state whether first, second, etc. Respondent, as the case may be), intends to oppose this application and that the accompanying affidavit of will be used in support of the application.

AND FURTHER TAKE NOTICE that the respondent has appointed

.....

(state the respondent's address for service within flexible radius not further than 30 km from the seat of the Electoral Tribunal) at which he or she will accept notice and service of all process in these proceedings.

AND FURTHER TAKE NOTICE that in amplification of the Respondent's opposition to the Application/Appeal the Respondent states as follows:

I,..... do hereby states under oath/by affirmation that..... (use annexures if space is not sufficient)

(sufficient particulars so as to inform the Applicant/Appellant of grounds for opposition including any question of law)

Dated at this day of.....20.....

.....

Signature of deponent

Before administering the prescribed oath/affirmation, I put the following questions to the deponent and noted his/her reply in his/her presence.

a) Do you know and understand the content of this affidavit?

Reply

b) Do you have any objection to taking the oath?

Reply

c) Do you regard the prescribed oath as binding on your conscience?

Reply

This affidavit was duly sworn or affirmed to before me and the deponent signed in my presence at on the day of

Commissioner of Oaths Date Stamp

Full name

Designation

Address

.....

FORM 12

ELECTORAL TRIBUNAL: COUNTER APPLICATION

(Rule 18)

Case No.

In the Electoral Tribunal for the district of held at

TAKE NOTICE that the respondent (if more than one respondent is cited, state whether first, second, etc. Respondent as the case may be) intends to apply to this Tribunal for an order

(a)

(b)

(c)

(state the relief sought)

and that the accompanying Replying affidavit of the Respondent and supporting affidavits of

.....

..... will be used in support of this Counter application.

AND FURTHER TAKE NOTICE that if you intend opposing this application you are required -

- (a) to inform the Clerk of the electoral tribunal at Magistrates' Court and the respondent or his or her legal practitioner, if any, on Form 11 within five days after service upon you of this notice, not counting the day of service, of your intention to oppose;
- (b) the reply must be signed by the respondent under oath/by affirmation and same should contain sufficient particulars so as to inform the applicant of the grounds of opposition (including if you only intend to raise a question of law) and must include all supporting documents and witness statement; and
- (c) to appoint an address within a flexible radius not further than 30 km from the seat of the electoral tribunal in your notice of intention to oppose at which you will accept notice and service of all process in these proceedings. If no such notice of intention to oppose is given you will not be entitled to take any part in the proceedings in so far as they relate to this counter application, except as provided in rule 5 and such judgment may be given or order made against or in relation to you as the court may consider just and expedient.

.....

Respondent or his or her legal practitioner

To: (1) The Applicant

Address:.....

(2) The Clerk of the Electoral Tribunal

FORM 13

URGENT APPLICATION

(Rule 20(2) and Rule 20(3))

In the Electoral Tribunal for the district of held at

Case Nr:

In the matter between:

..... Appellant

and

..... Respondent

CERTIFICATE OF URGENCY

I, the undersigned..... hereby certify that I have read the papers in this matter and that I am of the view that the matter is of sufficient urgency to warrant it being placed before the electoral tribunal on at :

AND FURTHER TAKE NOTICE that the following affidavit(s) are attached hereto in support of this application:

.....
.....
.....

Dated at on this day of20.....

.....

Appellant or his or her legal practitioner

(address)

To: (1)

(address) RESPONDENT

(2) The Clerk of the Electoral Tribunal

ANNEXURE B

TABLE OF ELECTORAL TRIBUNAL FEES

Item 1.	On every original initial document whereby an appeal in terms of section 29, an objection or an application is made	N\$25.00
Item 2.	On every power of attorney to be filed with the registrar to appeal to the Electoral Court	N\$5.00
Item 3.	On every notice of appeal against a judgment of the tribunal to the Electoral Court	N\$25.00
Item 4.	For the clerk's certificate on each copy of a document, certifying such document as a true copy of the original, including a certificate certifying a court document as a duplicate original	N\$5.00
Item 5.	For each copy of an order of the tribunal or judgment made by the clerk, for each A4-size page or part of it	N\$5.00
Item 6.	For each copy of a document, notice, affidavit or part of a tribunal record made by the clerk, for each A4-size page or part of it	N\$5.00
Item 7.	On a request to inspect a tribunal record made within five days after judgment was delivered	N\$5.00
Item 8.	On a request to inspect a tribunal record made five days or more after judgment was delivered	N\$25.00
Item 9.	For each electronic sound or video file of any recorded session of any proceedings digitally recorded, per session, irrespective of whether the file is provided on a separate disk, copied onto any other external device provided to the clerk or transmitted via e-mail	N\$150.00
Item 10.	For each copy of any document, notice, process, affidavit, judgment or part of a transcribed court record provided by the clerk in electronic format, irrespective whether the document, notice, process, affidavit, judgment or part of the tribunal record is provided on a separate disk, copied onto any other external device provided to the registrar or transmitted via e-mail	N\$150.00
Item 11.	For each copy of any document, notice or process or affidavit submitted to the registrar for purpose of scanning, for each A4-size of part of it	N\$5.00