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FINAL REPORT OF THE IADL LEGAL OBSERVER MISSIONS TO NAMIBIA

JULY - NOVEMBER 1989

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A Special Note of Appreciation

The IADL Legal Observer Missions to Namibia could not have functioned as they did without the material support of donors in the United States, who provided funds for delegates' land accommodations, local transportation, stipends for local coordinators in Namibia, orientation materials and duplication, copies and dissemination of reports.

In addition, the individual contribution of each delegate of food and personal expenses, costs of travel to Namibia and the precious time needed to participate must be noted with great appreciation.

In addition to many small and anonymous donations particular note should be made of the generous support of this project by:

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THE HARLEM INTERNATIONAL TRADE CENTER, UNDER THE LEADERSHIP OF THE REV. CARL MCCALL

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THE NATIONAL LAWYERS GUILD FOUNDATION

The delegates are also profoundly grateful for the courtesies and assistance extended them by colleagues in Namibia from SWAPO, UNTAG, church groups, the Namibia Communications Centre and the

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Respectfully Submitted,

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New York
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BACKGROUND TO THE IADL LEGAL OBSERVER MISSION TO NAMIBIA

In March, 1989, the Bureau of the International Association of Democratic Lawyers resolved to initiate efforts that would encourage teams of lawyers, jurists, and legal workers to travel to Namibia during the transitional period leading to Namibia's independence under United Nations Security Resolution 435 (UNSR 435 (1978)), to ensure that free and fair elections for a constituent assembly could be held early in November.

Under the coordination of Professor Lennox S. Hinds, permanent NGO representative to the United Nations for IADL, from late July to mid-November delegations travelled to Namibia for approximately two weeks each to focus on issues of significance to the implementation of UNSR 435 including voter eligibility and registration, repeal of discriminatory laws, freedom of political parties to campaign, the electoral system and the conduct of the election itself. Also of concern was the adequacy of the reduced United Nations Transitional Assistance Group (UNTAG) to monitor the process. Delegations traveled throughout the country to collect first-hand information and consulted with local lawyers, human rights groups, churches and trade unions which were also monitoring events as well as representatives of UNTAG. Each delegation prepared a report. This final report on the overall findings of the IADL Observer Missions will be disseminated and shared with policy makers, members of the media, the international legal community and the general public both in the United States and

throughout the world by the affiliate organizations of the International Association of Democratic Lawyers.

ABOUT THE INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS (IADL)

The IADL was founded in 1946 in Paris at an international gathering of lawyers who had fought in and survived the war against fascism and militarism. It was organized to promote the exchange of ideas and skills among lawyers and jurists throughout the world dedicated to the principles of the United Nations Charter.

Committed to the principle of equality between peoples, the right of all peoples to self-determination, the elimination of imperialism and colonialism and the peaceful settlement of international disputes, the IADL includes ever-increasing numbers of individual lawyers and affiliated lawyers and jurists associations in over eighty countries.

The IADL has consultative status with ECOSOC and UNESCO and is represented at the United Nations in New York and Geneva. it is a member of the Executive Board of the Congress of Non-Governmental Organizations (CONGO) of the United Nations.

In addition, IADL has long experience in organizing and coordinating international fact-finding, trial-observing and election monitoring delegations of lawyers and jurists to such countries as Chile, Sudan, Guinea-Bissau, Zimbabwe (Then Rhodesia), Turkey, Northern Ireland, Haiti, El Salvador, Nicaragua, and the occupied Palestinian territories. Reports of these delegations

have been distributed world-wide through IADL affiliates and United Nations-connected activities.

Since the 1960's, the affiliates of the IADL in the United States, the National Conference of Black Lawyers and the National Lawyers Guild have organized legal projects to assist voter registration efforts and have been active in the field of voter rights. In 1988, these affiliates sponsored a special project to monitor the primary elections in the southern United States, a region with a long record of racially discriminatory laws designed to prevent or discourage African-American citizens from voting.

IADL drew on these experiences in planning these international legal missions to observe the implementation of United Nations Security Resolution 435 [UNSR 435 (1978)] and Namibia's transition to independence.

THE LEGAL OBSERVER MISSIONS

Between late July and mid November 1989, under IADL auspices, the following individual and group delegations of jurists travelled to Namibia including: two delegates from the Federal Republic of Germany; two from Cuba; one from Spain; thirteen from the United States. Delegates from the Africa Bar Association and the National Association of Democratic Lawyers (South Africa)(NADEL) joined the final U.S. delegations in Namibia during the election period.

Most tragically, during the course of preparation for the IADL missions, advocate Anton Lubowski who had provided guidance, logistical assistance and advice during the planning stages, on

September 12 was brutally murdered after he had been selected for a leadership position in the SWAPO Directorate. His assassins have not been apprehended but his commitment to an independent Namibia under a freely elected constituent assembly continues to inspire those within and without the country.

IADL OBSERVER MISSION INTERIM REPORTS

In addition to this Final Report, four other formal reports of the findings of some of these delegations were released by the IADL and are available in their entirety from the International Headquarters of IADL in Brussels (263 Avenue Albert, 1180 Bruxelles, Belgium).

These Reports of the IADL Legal Observer Missions and their conclusion are adopted by specific reference with this Final Report as follows:

1. Report on a Visit to Namibia 1-25 July 1989
by Manfred O. Hinz, Professor, Public Law, Political Sociology of Law, Director, Centre for African Studies, University of Bremen (FRG), hereinafter Hinz Report.

2. Mission to Namibia 1-13 September 1989
by Professor Norman Paech, Professor at Hamburg, University (FRG); hereinafter Paech Report.

3. Legal Observer Mission to Namibia 12-25 October 1989
by U.S. attorneys Allan Botshon, NYC; Richard Dinkins, Nashville, TN; David Neigus, Washington, DC; Regina Snead, San Francisco, CA; hereinafter Interim Report.

4. Observations of the Cuban Delegation to Namibia, 1-10 August, 1989 provided by Victor Luis Kautzman Torres and Aristides Diaz Rovirosa , Union Nacional de Jurista de Cuba. (In Spanish)

This Final Report also relies on the draft reports and findings of Catalonian Lawyer Lidia Santos Arnau, (Associacion Catalona de Juristes Democrates), October 22-30, 1989; and the U.S. delegation which observed the election process between October 24 - November 8, 1989 whose participants were Michael Fahey, NYC; Deborah LaBelle, Detroit, MI; Paquetta Palmer, Ann Arbor, MI; Richard Soble, Detroit, Michigan. The findings and conclusion on observations during the election and the recommendations concerning the post election period discussed here, primarily rely on the report of the last IADL delegation (October 31 - November 16, 1989) which included Lennox S. Hinds, Vicki Erenstein, NYC; Audrey P. Seniors, NYC; Reggie Reddy and Enver Daniels of the National Association of Democratic Lawyers of South Africa.

HISTORICAL BACKGROUND TO THE ELECTION AND TERMS OF REFERENCE

In October 1966, the United Nation General Assembly decided to terminate South Africa's unrestricted sovereignty over Namibia which they had exercised since the League of Nations had granted South Africa a mandate to administer the territory on behalf of Great Britain as one of the spoils of the First World War; Germany having colonized the territory in the nineteenth century.

South Africa ignored the UN's determination to place Namibia under the United Nations Trusteeship systems leading to independence under an agreed timetable.

In June, 1971, the International Court of Justice, (ICJ) ruled in an advisory opinion that South Africa's continued administration of Namibia was illegal. The United Nations Security Council endorsed the Finding of the ICJ.

A number of national organizations developed in Namibia after the Second World War. Most significantly in August 1966, the South West Africa People's Organization (SWAPO) took up arms to wage the liberation struggle and was declared the sole authentic representative of the people of Namibia by the U.N. During the last decade and a half numerous other political parties have been formed either directly or as splinter groups from other established parties. Most recently, with the approach of the implementation of the United Nations plan for the independence of Namibia, some political parties have merged in order to form broad fronts to contest the recent elections for the Constituent Assembly. (See Appendix I for final list of parties competing in the elections.)

THE UNITED NATIONS PLAN FOR THE INDEPENDENCE OF NAMIBIA

Since the 1970s, the United Nations has tried to secure an internationally acceptable plan for the independence of Namibia. Such efforts had mainly been conducted under the auspices of the United Nations Security Council, the Western powers and the African frontline States and were unsuccessful until most recently.

In 1977, the three Western permanent members of the Security Council (France, the United Kingdom and the United States) joined with two non-permanent members at the time (Canada and the Federal Republic of Germany) to form a "contact group" to negotiate a settlement with South Africa and SWAPO in line with the provisions of Security Council resolution 385 (1976). By that resolution, adopted unanimously on January 30, 1976, the Security Council called, inter alia, for the release of all Namibian political prisoners, the abolition of all racially discriminatory and politically repressive laws and practices, the return of all Namibian exiles, the withdrawal of South Africa's administration from Namibia, and free elections for the whole of the territory as one political entity, under United Nations supervision and control.

Following approximately one year of talks between the members of the "contact group," South Africa and SWAPO, the Western powers formally submitted to the Security Council on April 10, 1978 a proposal for the settlement of the Namibian situation. The main features of this proposal, which was accepted by South Africa on April 25, 1978 and by SWAPO on July 12, 1978, were as follows:

1. Parties to the conflict would cease all hostile acts and the South African and SWAPO armed forces would be restricted to base. Thereafter a phased withdrawal from Namibia of all but 1,500 South African troops would take place. Other military arrangements would include the demobilization of the citizen forces, commandoes and "ethnic" forces, and the dismantling of their command structures.

2. Free and fair elections would be held for the whole of the territory as one political entity, in order to enable the people of

Namibia to determine their own future. The purpose of the electoral process would be to elect representatives to a Constituent Assembly which would draw up and adopt a Constitution for an independent Namibia.

3. The elections would be held under the supervision and control of the United Nations, and the Special Representative to be appointed by the Secretary-General would have to satisfy himself at each stage as to the fairness and appropriateness of all measures affecting the independence process before such measures took effect. In carrying out his responsibilities, the Special Representative (SR) would work together with the South African appointed Administrator-General (AG) in the transition to independence.

4. In order to meet the objective of free and fair elections, the Administrator-General would be required, prior to the beginning of the electoral campaign, to repeal all remaining discriminatory or restrictive laws which might abridge or inhibit that objective, and to make arrangements for the release of all political prisoners or detainees held by the South African authorities. Further, all Namibian refugees or Namibians detained or otherwise outside the country would be permitted to return and participate fully and freely in the electoral process.

5. The Security Council would establish a United Nations Transition Assistance Group (UNTAG), which would consist of a civilian component to assist the Special Representative in the performance of his duties, and a military component to ensure that the provisions of the settlement plan would be observed by all parties.

6. The Administrator-General would exercise the legislative and administrative authority in Namibia during the period of transition of independence. Primary responsibility for maintaining law and order during the transition period would rest with the existing police forces. However, the Administrator-General would have to ensure the good conduct of those forces to the satisfaction of the Special Representative, and the Special

> Representative would make arrangements, when appropriate, for United Nations personnel to accompany the local police forces in the discharge of their duties.

Following the acceptance by parties to the conflict of the settlement proposal, the Secretary-General appointed Martti Ahtisaari as his Special Representative in Namibia. In early August 1978, Mr. Ahtisaari conducted a survey mission in the territory and shortly afterwards the Secretary-General submitted to the Security Council a report containing detailed recommendations for the implementation of the settlement proposal. In his report, the Secretary-General emphasized that in performing its functions UNTAG would act with complete impartiality and that in order to ensure the effective and fair implementation of the settlement proposal, it was expected that the Administrator-General and all other officials from with the territory would exercise the same impartiality.

On September 29, 1978, the Security Council adopted resolution 435 (1978), which has constituted the basic legal framework for the settlement of the Namibian question. By this resolution, the Security Council approved the report of the Secretary-General on the implementation of the plan for the independence of the territory, and decided to establish UNTAG under its authority for a period of up to 12 months.

In the period following the adoption of resolution 435 (1978), agreement was also reached on numerous details relevant to the settlement plan. In particular, the representatives of the

"contact group" in a letter to the Secretary-General dated July 12, 1982 spelt out principles concerning the Constituent Assembly and the Constitution for an independent Namibia which had been accepted by all parties to the negotiations. These included the proposition that the Constituent Assembly would adopt the Constitution as a whole by a two-thirds majority of its total membership. In addition, in a letter dated November 29, 1985 to the Minister of Foreign Affairs of South Africa, the Secretary-General formally advised that agreement had been reached that the elections envisaged in resolution 435 (1978) would be conducted under a system of proportional representation.

IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 435 (1978)

Despite repeated efforts by the Secretary-General and his Special Representative to put into effect resolution 435 (1978) and the United Nations plan for the independence of Namibia, it took over 10 years for the various parties involved in the dispute to give their formal assent to the implementation of the plan.

In the aftermath of lengthy rounds of negotiations which took place during the last eight months of 1988, a tripartite agreement between Angola, Cuba and South Africa, and a bilateral agreement between Angola and Cuba, were signed at United Nations Headquarters in New York on December 22, 1988. These agreements committed the signatory states to a series of measures necessary to achieve peace in the region, and ushered in the implementation of the process designed to lead to the independence of Namibia.

On January 16, 1989 the Security Council, by its resolution 629 (1989), affirmed April 1, 1989 as the date on which implementation of resolution 435 (1978) would begin; and one month later, on February 16, 1989, it adopted resolution 632 (1989) which called for the implementation of resolution 435 (1978) in its original and definitive form. With the adoption of these resolutions and with the approval of the budget for the operation by the General Assembly of the United Nations on March 1, 1989, the Secretary-General finally decided to deploy UNTAG in the field.

The different provisions enshrined in resolution 435 (1978) and in other documents pertaining to the settlement plan began to be put in effect shortly thereafter. The formal withdrawal of South African forces from the country was completed on schedule. But as will be discussed, a continuous South African military and paramilitary presence threatened the process before and during the election. Within 12 weeks of the beginning of the transitional period, all but 1,500 troops were to have been withdrawn from Namibia, and those to 1,500 remain confined to two bases monitored by UNTAG at Grootfontein and Oshivelo. In addition, the South West African Territorial Forces were to be demobilized. However, as will be demonstrated below various ruses were undertaken by the South Africans to maintain their "shock troops" in Namibia. In early June, discriminatory and restrictive laws and regulations which could abridge or inhibit the conduct of free and fair elections were supposed to have been repealed, and a general amnesty was granted to Namibians living in exile. (See Hinz Report

for full details.) The repatriation programme, began on June 12 under the auspices of the United Nations High Commissioner for Refugees (UNHCR). Since then, over 41,000 Namibians living abroad have been reported as returned to the territory. With regard to the release of political prisoners and detainees, on May 24, 1989 UNTAG military observers stationed in southern Angola identified 201 former detainees released by SWAPO and on July 20, 25 Namibian prisoners were released by the South African authorities in Windhoek. But other Namibian political prisoners are still detained by South Africa.

OVERVIEW OF THE UN PLAN TO REGISTER VOTERS

This plan was finally promulgated after protracted discussion. It could be argued that only world opinion forced it to happen. The registration of voters was to be carried out, under the supervision and control of the Special Representative, by the Chief Registration Office appointed by the Administrator-General, and by Registration Officers working under the direction of the Chief Registration Officer. Supervision and control was to be exercised at each registration station by UNTAG Registration Supervisors. The registration of voters began on July 3, 1989 and ended on September 28, 1989,, 8 days after the date on which it was originally planned that registration would conclude.

Qualification for Registration as a Voter

Any person who on the date of his application for registration was aged 18 or older, or who turned 18 at any time during the registration period, and who:

1. was born in Namibia;

2. was ordinarily resident in Namibia as of that date and had been so resident immediately before that date for a continuous period of 4 year or more; or

3. was the natural child of a person born in Namibia,

was entitled to be registered as a voter.

Before being accepted as meeting the requirement laid down in paragraph 2 above a person who was a resident South African government official was required to declare in sworn statement that he intended to remain in the territory after independence.

A person subject to an order of a court declaring him to be of unsound mind or mentally disordered or defective, or detained as a mentally ill person under the provisions of any law was not entitled to register.

Documentary Evidence

To be registered as a voter an applicant was required to:

1. identify himself to the satisfaction of the Registration Officer;

2. prove that he was 18 years old or older or would turn 18 before the end of the registration period; and

3. submit documentary proof that he satisfied the prescribed qualifications for registration.

Identification

1. a passport;

2. a reference book;

3. a certificate of citizenship;

4. an identity document, issued by a sovereign state, which included an official photograph of the holder;

5. a voluntary repatriation document issued by UNHCR and endorsed by an immigration officer from Namibia, supported by a declaration in writing, made by a person who had already been identified and registered, attesting to the applicant's identity, set out in the prescribed form ("Affidavit to prove identify in support of application for registration as a voter in term of the Registration of Voter (Constituent Assembly) Proclamation, 1989");

6. a permit for permanent residence or temporary residence issued under section 4 or 5 of the Aliens Act, 1937 (Act 1 of 1937);

7. a driver's licence which included an official photograph of the holder; or

8. some other identity document which included a photograph of the applicant, such as one issued by the Central Government Service, Representative Authorities, Municipalities, the Peri-Urban Development Board, SWA Transportation Services and other institutions such as SWAWEC, FNDC, LANDBANK, SWABC, SWAAU, etc.

An applicant without any of the identity documents specified in the previous paragraph had the option of identifying himself "to the reasonable satisfaction of the registration officer" by providing a declaration in writing made by a person who had already been identified and registered, attesting to the applicant's identity.

Proof of Age

No fixed guidelines were laid down for determining the age of an applicant in the absence of documentary proof of age. It was instead made quite clear in the Manual issued to Registration Officers by the Chief Registration Officer that this was a matter on which they had to use their own good sense, but that in any case where there was reasonable doubt regarding an applicant's age, that applicant had to be given the benefit of the doubt and registered.

Procedure of Registration

A person born in Namibia was able to be registered on providing evidence of his place of birth to the Registration Officer. Documents which were able to use for this purpose were:

1. a South West African identity document; or
2. any other identity document accompanied by a birth certificate indicating the place of birth of the applicant.

A person who qualified for registration by virtue of residence was able to use, inter alia, the following documents to prove that he had resided in Namibia for the prescribed period:

1. a certificate of service;
2. a pension card;
3. a health certificate;
4. a deed of transfer;
5. a hire-purchase agreement;
6. an immunization card; or

7. an immigration document.

An applicant whose spouse had registered by virtue of meeting the residence qualification was able to be registered on producing the marriage certificate.

A natural child of a person who was born in Namibia was able to register as a voter on submitting a full birth certificate (ie containing particulars of both parents and the applicant) or a certified copy of a declaration of birth or an extract from the officials Register of Births.

A "returnee" (ie a person repatriated to Namibia by UNHCR) was able to register as a voter on producing the voluntary repatriation document issued by UNHCR, accompanied by a sworn declaration attesting to his identity made under oath by a registered voter in accordance with the prescribed form.

Completion of the Application for and the Registration Card

The Registration Officer was required, once he had satisfied himself that the applicant qualified to be registered as a voter, to:

1. ensure that an application form for the applicant was completed; and

2. have the applicant sign the application form in his presence, or place his left thumbprint (or if that was not possible, another fingerprint or make) on the form.

After its content had been confirmed by the applicant, the Registration Officer signed the application form and stamped it.

Thereafter, the Registration Officer completed two copies of a registration card, each of which both he and applicant signed (or if necessary marked with a thumbprint or fingerprint). The original of the registration card was handed to the registered voter and the duplicate kept by the Registration Officer. The attention of the registered voter was drawn to the need to ensure the safe custody of the registration card, and he was informed that he would only be entitled to be issued with a ballot paper during the polling on producing the registration card.

The duplicates of registration cards retained by Registration Officers were regularly sent to Windhoek, where they became part of the official "Register of Voters." The particulars recorded on those cards were entered into a computer system set up by the Chief Registration Officer, and from that computer system lists of registered voters were regularly compiled and published in the Official Gazette. It must be emphasized that those lists had no official status as far as the polling was concerned, and could not be used as a reference document for resolving questions surrounding a person's registration or right to vote.

Refusal of Registrations

In an exchange of letters between the Administrator-General and Special Representative relating to the registration of voters it was decided that an applicant for registration would only be refused registration by a Registration Team Leader, and then only with the concurrence of his UNTAG counterpart. It should be noted,

however, that the concurrence of the UNTAG counterpart with a decision to allow a particular applicant to register was not required.

Objections

Provision was made for the public display of all applications for registration, and for any registered voter to have the right to lodge, within a prescribed period, a formal objection to the registration of any other registered voter. Such objections were then to be dealt with by a magistrate, who could:

1. allow the objection (which would lead to the cancellation of the voter's registration);

2. reject the objection; or

3. if the voter did not appear at the hearing of the objection, apparently through no fault of his own, postpone the hearing sine die (i.e. indefinitely).

Administrative Structures Established for the Registration of Voters

For the purposes of the registration process, Namibia was divided into 23 electoral Districts, corresponding to the 23 magisterial Districts into which the territory had been divided for local administrative purposes. Each district was headed by an UNTAG District Supervisor. In each District there were to be established:

1. permanent registration centers, which were located in urban areas, and which remained open for business throughout the registration period;

2. temporary registration centers, also located in urban areas, which were open for only part of the registration period; and

3. mobile registrations teams.

Mobile registration teams were supposed to cover more than 2,000 registration points in the rural areas to Namibia. The mobile registration teams were supposed to have visited the registration points at fixed dates to have been determined beforehand in each District. These registration points were to be placed where there was expected to be a concentration of people. The days on which such points were to be visited by mobile registration teams were to be advertised locally. Notices indicating points to be visited in a District and dates and times of registration by mobile teams were to be published and itineraries and operational plans of the mobile teams appointed by the Administration-General were to be made available in advance to UNTAG Mobile Team Supervisors.

ORGANIZATION OF THE FINAL REPORT

This Final Report is divided into three main sections all of which rely on the Terms of Reference and will incorporate the Findings of all participants and Reports discussed above: The Pre-Balloting Period (Registration), Balloting, and Final Conclusions and Concerns. In each case the political climate and the specific roles played by South Africa and the United Nations Transition Assistance Group (UNTAG) will be considered as will how the

procedures developed advanced the goals of a "Free and Fair Election".

THE PRE-BALLOTING PERIOD

The Voter Registrations Process

The final draft of the registration law only became available to the public on Monday, July 3, which was the first day of the registration period established by the Registration of Voters proclamation, A.G. No. 19 of 1989. Between July 3 and September 15, 1989 all potential Namibian voters were to be registered to be permitted to vote during the election period initially scheduled for the first week of November. The actual last day of registration was extended to September 12, 1989.

Observers immediately expressed serious concerns concerning the lateness of the promulgation of the electoral law and the unnecessarily complex provisions especially those concerning appeals. (See Appendix II for a flow chart of the voting process).

As required, Namibia was divided into 23 registration districts with various registration offices within each district. The offices could be permanent (until September 15) temporary (through mid-August) or mobile (travelling teams setting in a particular area for a few days at a time).

The Special Representative (SR) appointed by the United Nations, Martti Ahtisaari, and the Administrator-General appointed by South Africa, Louis Pienaar, negotiated the administration of the Registration Process. They agreed that UNTAG personnel would

accompany all South African registration teams and both would have to be present for registration to take place. South African registrars were not supposed to cancel scheduled registration without UNTAG concurrence. Complaints were to be investigated by representatives of both. Registration cards and ballot materials were to be controlled jointly. The Hinz Report at pp. 8-10 discusses the impact of these complex procedures. Long queues formed in from of the Registration offices immediately.[1] After the first four days 8,000 had already registered and about 500,000 by the beginning of August. Professor Hinz reports the immediate emergence of serious problems in the registration process which he correctly predicts would threaten the integrity of the electoral process throughout the period and which are discussed again and again by other observers, most particularly in respect to the role of Koevoet, (see discussion below). Other problems included registration officers misspelling names and recording passport numbers, faulty procedures including the omission of fingerprints and confusion concerning the location of registration sites.

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[1]Professor Hinz reports the official South African estimate of the number of qualified voters was between 550,000 and 650,000 based on their assumption of 1.3 million inhabitants. The UN estimated 1.8 million inhabitants and approximately 900,000 voters. The UN reports that prior to the commencement of the registration process, the Chief Registration officer estimated that 685,276 persons over the age of 18 would qualify as voters, not including qualified persons residing in Walvis Bay or in South Africa, nor did it include persons to be repatriated by UNHCR. The actual number of persons who appeared on the final list of registered voters was 701,269.

These procedural problems could make registration cards invalid and prevent people from voting. The burden of the complex procedures outlined above on the majority of the population who can neither read nor write and from rural areas was very great but even literate urban residents were informed that their registration cards were incomplete.

Koevoet Intimidation During the Registration and Pre-Election Period

The Western settlement (SCDOC S/12636) outlines the responsibilities of the UN Special Representative and sets forth the requirements that "must be fulfilled to meet the objectives of free and fair elections " They provide inter alia that:

> primary responsibility for maintaining law and order in Namibia during the transition period shall rest with the existing police force. The Administrator General to the satisfaction of the United Nations Special Representation shall ensure the good conduct of the police force and shall take necessary action to ensure their suitability for continued employment during the transition period.

This provision was used by South Africa to integrate a substantial part of the notorious Koevoet[2] unit into the police force and to subvert the provisions of UNR 435.

Koevoet, officially renamed in 1985 "Counterinsurgency Unit"[3], has a documented and notorious record of human rights violations in Namibia. Established in 1978, Koevoet has been held responsible

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[2]Afrikaans for crowbar.

[3]COIN OR TIN in Afrikaans.

for about 80% of the atrocities committed in northern Namibia (Ovamboland - SWAPO's greatest stronghold). Koevoet's assignment was to apprehend opponents of South Africa, to interrogate them by any means including torture and to kill ("extinguish") the opposition. Prof. Hinz reports that they have been characterized as "programmed killers."

Despite internal and international opposition, and the provisions of 435, the South African Government decided to integrate Koevoet into SWAPOL (South West African Police). Of the 6,300 SWAPOL police, 3,000 were "Koevoeters" members. They cruised in Casspirs (armored vehicles associated with brutal attacks by South African forces on Namibians) in violation of Resolution 435 throughout the pre-election period and in some cases during the election.

The continuing intimidation by these forces were discussed in great detail by the U.S. delegates in the Interim Report. Their conclusions provided an excellent summary of the problems the people faced immediately before the start of the scheduled Election.

The founder and only head of Koevoet, General "Sterk" Hans Dreyers was promoted to chief of police in the North where South Africa kept on alleging there were to be invasions by SWAPO combatants. Investigations by UN officials, and representatives of the Frontline States produced no evidence of any kind to support these invasion rumors. From mid May, repeated and ineffectual efforts had failed to remove all former Koevoet members from

SWAPOL. Under the UN plan, South Africa's locally recruited army and paramilitary units were to have been disbanded by May 12. Their continued presence in SWAPOL created widespread distrust of Pretoria's intentions towards Namibia.

On October 6, UN Secretary General, Perez de Cuellar finally announced that the "many complaints of intimidation and unacceptable conduct by ex-Koevoet personnel" made them "unsuitable" for continued employment in SWAPOL, echoing a unanimous resolution of the Security Council which, on August 29, had reasserted the UN demand for the complete disbandment of Koevoet whose primary slated purpose was to hunt down SWAPO guerrillas and in the process intimidate the civilian population against supporting SWAPO.[4] Its members include white South African

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[4]The African Group issued a statement on the Secretary General's Report S/20883 of 6th October, 1989 bitterly denouncing the continued presence of these forces:

> The settlement Plan makes allowance for a certain number of SADF Personnel performing "essential civilian functions" to temporarily remain in Namibia, monitored by UNTAG. Although Resolution 435 is not specific as to the length of time the services of these personnel would be required, it was always understood that this temporary arrangement would take care of the situation in the first few weeks of the implementation process. Paragraphs 7 and 8 of the Secretary-General's Report reveals that, less than three weeks to the commencement of the elections, approximately 1,000 SADF officers, under this supposedly temporary arrangement, are still in Namibia. Furthermore there is no indication in the Report of any efforts, being made to find replacements for these SADF officers. It can therefore be concluded from the Report that the South African Defence personnel authorised under Resolution 435 as a temporary

officers, black Ovambo and Okavango special constables, as well as some former members of the FNLA and UNITA (movements on the losing side of the Angola war). Among them are many school drop-outs, some criminals and some who have joined for pecuniary reasons. There are also some 'turned' SWAPO combatants within Koevoet and a growing number who now secretly support SWAPO but are afraid to leave publicly after the killing by SWAPOL of Joseph Petrus, an ex-Koevoet member who became a prominent campaigner for SWAPO in the Kavango region.

Koevoet boasts of having killed 25 people to every one killed by SADF. Their wages have exceeded those of migrant workers in the south and, during the war, they were paid a bonus, or "kopgeld" (head money) for each killing. Evidence from court cases and from the Ovambo administration suggests that most of Koevoet's victims were defenseless civilians, including a family of eight massacred in their sleep at Oshikuku, school girls raped in their hostels and several youths tortured to death. Koevoet made sport of parading the corpses of alleged SWAPO guerrillas through villages in the

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measure are being allowed to remain in Namibia until the elections...

The Report further states that these officers include 229 medical personnel, 72 teachers and some veterinary officers etc. It is inexcusable that the implementation process is now being compromised by the failure to replace these military officers in good time with civilian personnel. We therefore call for the immediate and total withdrawal from Namibia of these so-called temporary South African military officers....

north. The UN Secretary General called Koevoet 'evil'.

Two weeks before the election, UNTAG had still not succeeded in obtaining South Africa's compliance with the UN Plan to demobilize Koevoet. The 1,200 ex-Koevoet members so far demobilized were to be paid, like the demobilized members of South Africa's local army (SWATF), until after the election results are announced. Many demobilized members from both Koevoet and SWATF acted as canvassers for the DTA during the election campaign. The constituent assembly will face a considerable security problem immediately it is convened. (See below)

Apart from Koevoet, South Africa's other special units, such as the Katutura-based Special Task Force and the Security Police, are seen by informed observers as inherently unsuitable for impartial civilian police duties. No mention has been made of these by either the UN or South Africa.

CONCLUSIONS CONCERNING THE PRE-ELECTION PROCESS FROM THE INTERIM REPORT

As of their departure on October 25, 1989, two weeks before the election, the final Constituent Assembly Law had not been promulgated, and the IADL delegates' concerns were borne out by subsequent events.

The first Draft Constituent Assembly Proclamation (see Appendix III) was not issued until July 21, 1989. But even the lack of such a law at that critical stage seemed minor in comparison with other more pressing problems which, the Interim

Report indicated (p.7), must be confronted immediately. They accurately predict that

> The problems surrounding the implementation of the the Election Law and the intimidation of Namibian voters during the election campaign are examined in detail below.... An analysis of these problems, however, leads us to conclude that the process of holding free and fair elections is in grave jeopardy.
>
> THE FOLLOWING STEPS MUST BE TAKEN IMMEDIATELY IF THE ELECTION PROCESS IS TO BE RESCUED:
>
> First, the number of polling stations must be increased substantially. This applies especially to areas of high voter registration, especially in Owambo. In addition, the proportion of fixed or static polling stations must be increased, with the number of mobile stations being reduced to an absolute minimum.
>
> Second, the number of UNTAG election monitors and civilian police must be increased immediately to cope not only with the increased number of polling stations but also with police matters which take place away from the polling stations during the election period. If the vast majority of UNTAG civilian police are assigned to polling stations, SWAPOL, ex-Koevoet and former SWATF personnel will have virtually free reign to carry out acts of voter intimidation away from the polling stations.
>
> Third, the period for holding the elections must be increased from the current fice days to eight days as provided for in the Election Law. Only then could one even hope that the expected high turnout of voters would be accommodated. Furthermore, the announcement of the expected voting period should be announced publicly as soon as possible to allow for sufficient time for preparation.
>
> Fourth, we call on the United Nations to maintain a substantial post-election military and police presence in Namibia up until the

time of independence, even if independence is delayed past April 1, 1990.

Finally, in view of the cost of increased and possibly extended U.N. presence, we call on the United States and on other member nations to provide additional appropriations to the U.N. for UNTAG operations in Namibia.

Prof. Manfred Hinz submitted, as provided, "Comments" on the draft providing a juridicial analysis of the draft with particular reference to its compromise of the tenets of international law and the United Nations intentions for an independent Namibia in subordination of the maintenance and perpetration of South African legal order after the election and convening of the constituent assembly. The full text of his remarks are attached at Appendix IV.[5]

The Election Period October 24 - November 14, 1989

As discussed above, the two last IADL delegations including lawyers and legal workers from New York, California, Michigan, and South Africa covered the crucial last days leading to the actual balloting process on November 4-11, and the post electoral reactions.

Delegates were briefed by UNTAG representatives including members of the electoral division, the legal advisor to the Special Representative and Civilian Police Monitors, representatives of the

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[5]The final Election (Constituent Assembly) Proclamation, 1989 was not issued until October 13, 1989 just before the election was to begin (see Appendix V for the final version of the Proclamation, redrafted in response to the many criticisms filed in respect to the first draft).

Namibia Communication Center, the Organization of African Unity, the Church Information Monitors,[6] South West Africa People's Organization (SWAPO), representatives of the Democratic Turnhalle Alliance (DTA), Action Christian National (ACN), the United Democratic Front and attended daily UN and AG press briefings.

All four days of the election period were monitored by different teams visiting polling places and observing the conduct of the election in Windhoek, Katutura, and in the North in Ovamboland including trips to Ashakati, Tsumeb, and less charted areas, in search of mobile balloting facilities.

Staff members of The Lawyers Committee for Civil Rights Under Law Southern Africa project in Namibia, provided invaluable guidance. Most particularly, briefings by SWAPO representatives whose provision of guides and a driver during some of our observations in the North enabled us to participate in events in ways which would have been denied us without their assistance.

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[6]The Churches are the largest significant non-governmental institutions in Namibia; not only because 80% of Namibians identify themselves as Christians but because for over 50 years they have organized social assistance programs such as drought relief and assistance to detainees and education, including alternative schools and adult education. In 1967, Lutheran, Catholic, and Anglican churches working in Northern Namibia openly opposed the policy of torture of suspected SWAPO members, beginning the churches' public opposition to South African violations of human and legal rights in Namibia. Links between clergy and SWAPO were forged in the 70s especially the Council of Churches in Namibia (CCN). These churches have given full support to the implementation of Resolution 435. In early 1989, the CCN set up a Repatriation, Resettlement and Reconstruction Committee (RRR) to assist UNHCR with the return of refugees and also a Church Information and Monitoring Service to monitor the implementation of UNR 435.

Each morning of the election period, members of the IADL mission were briefed at a SWAPO election center in the North and were advised of emergent problems and the specific polling places and situations at which the presence of external observers could improve the possibilities of free and fair elections.

Examples of the issues to which the IADL observer missions were alerted by SWAPO during the days of the election were:

- UNTAG polling agents sitting so far from the polling place that they could not see and review the activities of the AG staff in respect to voters.
- In Elim and Onesi, voters were being refused fresh ballots if their first had been spoiled.
- In Omuthiya-Gwiipundi, there were no lights in the voting booths during night time voting.
- In Eshashete, election officials were not allowing disabled voters to use surrogates of their choice to place their marks.
- In Onatananga, and elsewhere in the North, there was a pattern of refusing voters on the pretense that they had previously voted although when investigations and protests were instituted, the denial was frequently invalid.

Swapo particularly kept us informed on the escalating violence and provocation of DTA (Koevoet) supporters throughout the days of the election.

In at least one instance IADL observers assisted a disenfranchised voter in presenting her exclusion from balloting to the Regional UNTAG officer who provided her relief.

THE ELECTORAL PROCESS

The Constituent Assembly Proclamation

As indicated above, after weeks of tense debate the Special Representative (SR) and the Administrator General (AG) had agreed on the final constituent Assembly proclamation. (See Appendix IV and V.)

Among the critical issues finally agree upon were:

1. That the Assembly will determine its own procedure rather than the AG which South Africa obviously preferred.

2. That the Assembly will elect its own President (the leader of the largest party will act in this capacity until the election) and will choose its own staff.

3. That the AG's proposed definition of Namibia which would have excluded Walvis Bay was rejected.

4. That the 1982 "Constitution Principles" agreed to by SWAPO would <u>not</u> be included in the Proclamation but a provision was included which requires that the constitution must be adopted by a two-thirds majority of the whole.

5. That Parties formally placed on the ballot were required to submit lists of candidates in order of preference for the Assembly (see Appendix I for approved parties on the ballot and Appendix II, "Electoral Alliances and Political Parties", for information on each party).

6. The Assembly was to convene one week after the certification of the election results pursuant to the Proclamation.

The Election

From November 7-11, 1989, the Namibian people, about 60% of whom are illiterate voted for a 72 member assembly that is to draft a constitution and declare independence for Namibia after seventy-two years of South African rule and after twenty-three years of armed struggle under the leadership of the Southwest Africa People's Organization (SWAPO).

Throughout this large and sparsely populated country, thousands of Namibians in every condition walked, marched, drove, were taken to polling places closest to where they lived; some walking ten miles or more, arriving at dawn and standing patiently for hours and in some cases days in raging heat. They included pregnant women with other babies on their backs, the very old, the ill and infirm, or those so handicapped that they had to be carried to the polling places.

At many, if not most polling places away from Windhoek, there were neither sanitary facilities, drinking water nor food supplies for the voters. Notwithstanding the extraordinary hardships most voters endured and in some cases, the technical difficulties that were encountered, official figures reported that over 96% of the eligible voters cast their ballots.

Despite the many efforts by South Africa to discredit SWAPO, to intimidate voters and to dilute the voting as will be more fully discussed below, SWAPO won 57.4% of the national vote (384,567 of 670,830 ballots cast) not including 96,281 tendered ballots. The

Democratic Turnhalle Alliance (DTA) finished second with 29 percent and other parties divided the balance.

SWAPO will hold 41 seats in the assembly, DTA 21, the United Democratic Front will have 4 seats followed by the arch-conservative all-white Action Christian National with 3. The Federal Convention of Namibia, the National Patriotic Front and the Namibia National Front each won a single seat. Assembly decisions must be ratified by at least 48 members.

Cheering crowds waving SWAPO flags, singing liberation songs poured into the streets all over the country rejoicing in the SWAPO victory.

Electoral Problems

In many areas despite the presence of teams of multi-national UN observers and civil servants along side South African representatives there were many examples of efforts by South Africa and its supporters to compromise the election and to manipulate the results.

In Kavango, groups of DTA supporters beat SWAPO supporters with sjamboks and clubs injuring some seriously. At Omega Station in Western Caprivi, one person accompanied one voter after another into the polling place, placing their thumbprint on the ballot though no assistance had been requested. The AG and UNTAG officials who permitted this process were ultimately recalled but the true impact of this ballot manipulation may never be known.

In Ovamboland at least one SWAPO supporter was stabbed to death and others severely beaten by DTA supporters. Also in

Ovamboland there were efforts to steal ballot boxes. But, most significantly in this SWAPO stronghold, IADL delegates observed, everywhere in the region there were widespread shortages of ballots, ballot boxes, fluorescent ink and other supplies that caused many polling places (at least 30) to close for periods ranging from several hours to more than a day.

More than one observer group found the pervasive shortages of electoral materials in Ovamboland suggestive of deliberate intent rather than accident.

There were also reports that some workers were fired for taking off more than the two hours authorized for voting. Such sanctions constituted clear harassment especially in the rural areas where most workers had to walk many miles to vote.

In Walvis Bay, drivers of buses hired by SWAPO to take local inhabitants to Swakpopmund to vote were fined for not having "a South African permit to carry passengers".

Most disturbingly, South Africans flew in to vote at the Windhoek airport polling station and jumped to the head of the lines so that they could vote as quickly as possible and return to South Africa without having to stand in line with Blacks.

In Northern Namibia, Angolan refugees and supporters of UNITA registered and voted, most certainly for DTA.

Appendix VIII provides some examples of the forged and false materials distributed during the course of the election intended to induce voters to support DTA and other South African surrogate parties. Fortunately SWAPO's educational campaigns had

unambiguously alerted voters to SWAPO's actual symbols and commitment to the liberation struggle.

Notwithstanding the concerted efforts discussed here and elsewhere in this report to undermine and manipulate the electoral process by South Africa, SWAPO's unchallengeable 57% of the vote is a clear and convincing victory. Fifty-seven percent of the popular vote is in fact a far greater "popular mandate" than U.S. presidents and British prime ministers generally enjoy.

SUMMARY OF CONCLUSIONS AND POST ELECTORAL CONCERNS

I. From the beginning of the process implementing resolution 435 leading to the election, the balance of power between the South African appointed Administrator-General who was permitted "to organize and implement" the elections under the "supervision and control" of the United Nations gave South Africa inordinate and unconscionable power to undermine, influence, control and distort the electoral process. The UNTAG Force, at best reactive rather than initiatory, was too small and arrived too late to provide the supervision which, in fact, might have ensured free and fair elections. Their final full force of 6,000 arrived in much delayed stages and was inadequate even in full force to monitor effectively an area twice the size of California.

Their late arrival also prevented UNTAG personnel from receiving thorough briefings and acclimatization to an alien environment, multiple languages and customs and familiarization with the political and social climate. United Nations personnel

appeared therefore, to underestimate until very close to the election, South Africa's concerted efforts to manipulate and subvert a free and fair electoral process.[7]

II. The UN's delayed arrival in force also prevented effective voter education of crucial and particular importance in a population that is at least 60% illiterate, most of whom have no or little experience with writing implements and who cannot read the attached extensive voting materials and instructions which in any case in Afrikaans and English, are not in any language spoken by the masses of the people.

III. The enfranchisement of 20,000 South Africans who most recently had just voted on September 6 in the apartheid election in South Africa and the 40,000 UNITA supporting Angolans seriously affected the outcome of the election and certainly influenced the number of DTA seats won.

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[7]One of the profound contradictions concerning the implementation of UNSR 435 was the granting of the power to issue entry visas to Namibia during the preelectoral period to the South African controlled AG's office so that admission to Namibia for concerned observers and United Nations personnel was in the control and at the discretion of South Africa. Many UN personnel were delayed in arriving for that reason.

IADL legal observers know from their own experiences the effect this discretion had upon organizing delegations and the participation of individuals to monitor the election. A number of persons, in the U.S. and elsewhere, were unable to participate since the delay in decision-making prevented them from being able to schedule their arrangements. Still others, as in the case of the Cuban delegates, had to wait for weeks for the actual issuance of visas presumably granted.

It should be noted in this context, that charter flights arrived in South Africa to facilitate voting by white South Africans who voted in air conditioned comfort. IADL delegates observed these commuter voters at the airport on November 8, whose credentials were checked by SWAPOL and not the UNTAG/AG Force. Credible reports also indicated that on the previous day, "commuters" were allowed to form a whites only line and, without notice to all political parties, a second polling station was opened to accommodate them.

It is further reported that registered Angolans were ferried into Namibia under armed guard by UNITA, delivered to DTA officials and were warned that their votes could be traced and that their families would suffer retribution, if they didn't vote for DTA.

This pollution of the voting poll is yet another aspect of the pervasive impact of South Africa's powers to control and to manipulate events throughout the process.

IV. The number of polling places provided was patently inadequate. 357 polling places were provided in a vast land, whose population is sparsely and broadly distributed. Ghana which is one-fifth the size of Namibia had 1,000 polling places in its independence elections. Observers attribute the election results and the size of the electorate not to the effectiveness of the UNTAG process but the unquenchable passion of the Namibian people to participate in and control their liberation process.

V. Other independent observers and the IADL delegations note that throughout the pre-ballot process and during the election the South West African Broadcasting Corporation, Namibia's state controlled TV and radio monopoly consistently violated universally accepted standards of impartiality by obviously favoring the AG and DTA at the expense of the UNTAG and SWAPO.

Namibia's Peace Plan 435, an independent organization of supporters of the UN plan, nonaligned with any political party monitored SWABC broadcasts throughout the process. Most recently, they issued a report on SWABC journalistic policies and reported that the station continued and intensified its disregard for its avowed policy of impartiality; that it promoted "certain economic policies at the expense of others" that "its reporting on SWAPO is overwhelmingly negative." Their report concluded that the breaches of impartiality "to the detriment of SWAPO and/or UNTAG ... are not inconsistent with the effects of a concerted plan to discredit the settlement process and polarize the Namibian population with a view to the destabilization of a future independent Namibia.

VI. As discussed throughout this report, the South African military, especially members of Koevoet, were permitted to operate throughout this period in their own right and by integration into the South West African Territorial Force (SWATF) although they should have been dismantled by May 15, 1989.

The November 3 SG report to the Security Council states that 1,207 Koevoet police from Ovamboland, and 418 from Opuwa

(Kaokoveld) and Rundu (Kavango) were finally disbanded at the end of October. He also reports that their command structures were "dismantled".

Immediately after this alleged disbanding, Koevoet members in Rundu, disgruntled at their loss of jobs, marched on SWAPO headquarters, armed with pangas and pistols, beat SWAPO supporters and ordered people to remove SWAPO flags from their roofs. Reliable observers know many Koevoet and SWATF members who worked as DTA organizers under their former officers.

UNTAG officials report that they do not know how many weapons ex-koevoet members have retained.

We cannot overstate concerns that in addition to compromising the results of the election, the continuing presence of this armed and racist force within Namibia can undermine and destabilize the liberation process in an effort to accomplish after the election what they could not accomplish before.

VII. The continued effort by the South African military to destabilize the election climate must also be noted which together with the Koevoet integrated into the civil service of Namibia is purported to be the infrastructure intended to destabilize Namibia after the election. Throughout the campaign rumors of invasion by PLAN (People's Liberation Army of Namibia) were used to threaten the institution of the election. For example, on November 1, South Africa precipitated a crisis in Namibia by placing its armed forces on alert preparing to invade Namibia to resist the alleged

incursion of PLAN.[8] This rumor was eventually revealed as a complete fabrication, but for 36 hours South Africa held Namibia hostage by the deployment of its troops.

VIII. For all the reasons stated and suggested above, the creation and survival of the sovereign state of Namibia free of the manipulation and control of South Africa and its destabilization campaign is at extreme risk.

It must be assumed that Namibia's efforts to create a viable post-colonial economy in which they renegotiate old agreements and seek new trading partners and equitable and democratic conditions for Namibian workers will be viewed as threatening to South Africa's interests.

The IADL delegation urges that the western powers insist that Namibia's territorial integrity and sovereignty be respected by South Africa; that its economic development predicated on democratic principles be encouraged and supported by developmental aid and grants; that the United Nations, if requested by the new government remain during the early days of the state to provide technical assistance and military defense as needed.

We further urge member states of the United Nations to reconsider its geopolitical interests and to sever economic relations with South Africa in favor of trading partnerships with

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[8]In early April, UNTAG permitted South Africa to deploy its troops in response to another alleged PLAN invasion and to slaughter 300 Namibians.

Namibia as providing a rare opportunity to integrate their own national interests to advance peace in the region and to support the development of a sovereign and independent Namibia.[9]

We also urge the NGO community and the world churches who have contributed so profoundly to this phase of Namibia's liberation struggle to continue their presence, influence and support in these critical early days in the life of the nation of Namibia.

Sam Nujoma, President of SWAPO of Namibia expressed in a public statement most clearly the task facing Namibia in the aftermath of the election on November 15, 1989. (The election was certified as Free and Fair by UN Special Representative Ahtisaari on the evening of November 14.)

> The Namibian people have spoken. They have given SWAPO the democratic mandate to lead Namibia to independence. For this mandate, I would like to express, on behalf of SWAPO, profound gratitude to the Namibian people for the trust and confidence they have expressed in our organization.
>
> I would like to state that the victory that SWAPO has won is not just a historic

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[9]The need for development was made very clear in a November 25 speech by Mr. Ahtisaari in which he presented some provisional statistics prepared by the UN Department of International Economic and Social Affairs. According to these initial estimates, approximately 45% pf the population is under 15. Blacks constitute 85% of the population, and whites 5%, with the latter contributing 71% of the Gross Domestic Product (GDP). The black population in the modern economic sector comprises 40% of total population and accounts for nearly 25% of GDP. The traditional economy employs 55% of the population and accounts for less than 4% of the GDP. On a per capita basis, GDP in U.S. dollars is $1,044 for total population, $14,560 for whites, $663 for blacks in the modern sector and $63 for blacks in the traditional economy. An overall economic report prepared by the UNDP and other development agencies is to be released.

achievement for SWAPO. It is a victory for the whole Namibian nation.

The Namibian nation has won its long-denied right to self-determination and independence. For this reason there are no losers. We are all victors, even those that did not gain seats will have the opportunity to enjoy the fruits of independence.

With the clear majority that it has in the form of a plurality, SWAPO now has a sovereign mandate to convene the Constituent Assembly within a matter of days, to lead the Assembly in its task of writing and adopting a Constitution for independent Namibia and to set the date for independence. In so doing, we are looking forward to the co-operation of all those other political parties which have gained seats in the Constituent assembly.

The collective mandate which we have received for this purpose imposes on us the responsibility to move speedily in our deliberations, and thereby to ensure that Namibia's independence is not delayed any further. Although we have not yet held consultations with other parties, it is SWAPO's expectation that none of the parties that has won seats has any interest in delaying the country's independence.

SWAPO has been giving considerable thought to the principles and ideas which should be included in the Constitution for an independent Namibia. However, these notwithstanding, we are prepared to give ample time to the other parties to put forth their views regarding the Constitution. We have no intention of imposing our views on others. And we anticipate no serious disagreements on this.

We stand ready to be guided by the democratic principle of open discussion and decision by majority. Our legitimate pre-occupation with writing the Constitution must not blind us to the pre-occupation of the Namibian people, namely, the early achievement of independence, and the establishment of a government which will address, at the earliest possible time, their pressing socio-economic problems.

> SWAPO wants to reassure the nation that it will stand by its policy of national reconciliation. In this connection, we re-state our readiness to co-operate with all sectors of our society, including those in business, the Public Service, the farmers and the workers, in moving our society forward.

Unfortunately post-election violence against SWAPO supporters in Northern Namibia has marred this period. Reports include arsons and shootings. SWAPO has estimated that in the 15 days following the election results 10 people have been murdered, 50 injured, and over 15 homes in the Caprivi have been burned down.

SWAPO, in a November 25 statement has called on "every Namibian, black and white, to remain and contribute to the task of national reconciliation, reconstruction and development."

On November 21, the 72 newly elected members of the Constituent Assembly held its first meeting. Their first act was to elect SWAPO election director Hage Geingob as chair of the Assembly by a 47 to 24 vote. (48 votes will be needed to adopt the constitution by a 2/3 vote.)

SWAPO on the first day moved to adopt the 1982 Constitutional Principles as guidelines for the Assembly. They include provisions defining Namibia as a sovereign, democratic state with a Fundamental Bill of Rights and the Constitution as the Supreme Law of the land, and stipulating the organization and powers of the various branches of government.

These constitutional principles drafted by the Western Contact Group in 1982 were considered incorporated into Resolution 435.

DTA wanted to debate the 1982 principles in plenary sessions, while SWAPO supported review by Committee. A compromise motion was adopted authorizing a standing Committee on Rules and Orders and Internal Arrangements to submit recommendations to the full Assembly for decision by December 12.

SWAPO's Secretary for Economic Affairs, Ben Amathila, announced the new government's economic development plans including agricultural development to establish self-sufficiency, industrial development, especially manufacturing, more equitable distribution of mining revenues, changes in fishing, and limited land reallocation. The international expression of joy at the victory of the Namibian people should not lull any concerned supporters of Namibian liberation to assume their job is done. Economic and social justice in a Free Namibia can only arise when an alert international community ensures the elimination of the minority government of South Africa which continues to hold the people of South Africa and Namibia hostage to its economic and political interests.

The challenges before the Namibian people and their representatives to the Constituent Assembly is formidable. Only the continued support and concern of the world community can provide them the opportunity to develop free of South African intervention and continuing economic exploitation.

APPENDIX I

Final List of Registered Parties competing in the Election pursuant to AG Government Notice 83, October 9, 1989

ANNEXURE AANHANGSEL

Teenblad
Counterfoil

No.

AKSIE CHRISTELIK NASIONAAL	ACN		
CHRISTIAN DEMOCRATIC ACTION FOR SOCIAL JUSTICE	CDA	CDA WE ARE ONE	
D.T.A. VAN NAMIBIË	DTA		
FEDERAL CONVENTION OF NAMIBIA	FCN		
NAMIBIA NATIONAL DEMOCRATIC PARTY	NNDP	NNDP	
NAMIBIA NATIONAL FRONT	NNF	NNF	
NATIONAL PATRIOTIC FRONT OF NAMIBIA	NPF		
SWAPO-DEMOCRATS	SWAPO-D		
SWAPO OF NAMIBIA	SWAPO		
UNITED DEMOCRATIC FRONT OF NAMIBIA	UDF		

Stem slegs vir een party

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

Vote for one party only

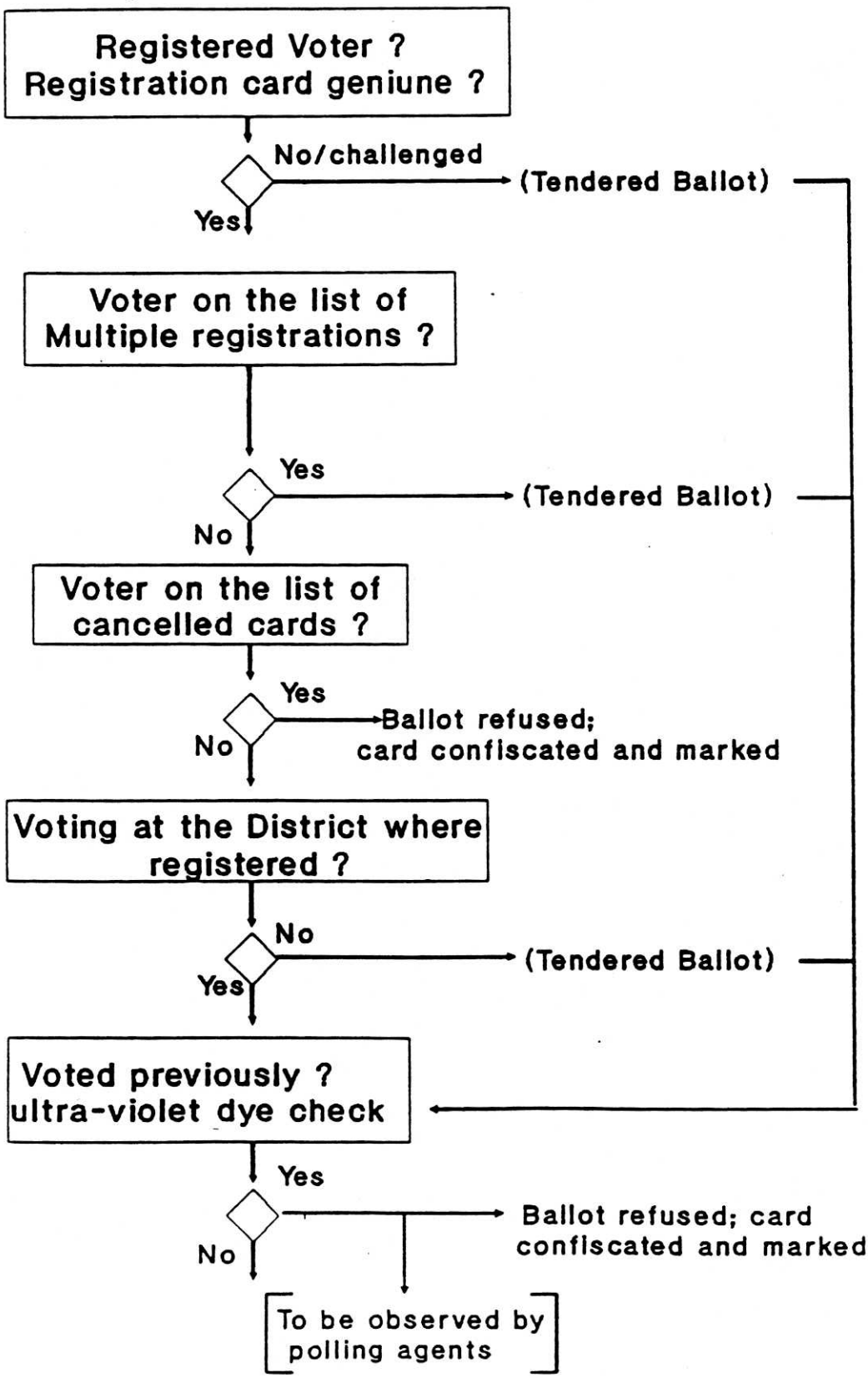
Record your vote by a X in the square opposite the symbol of the party for which you wish to vote.

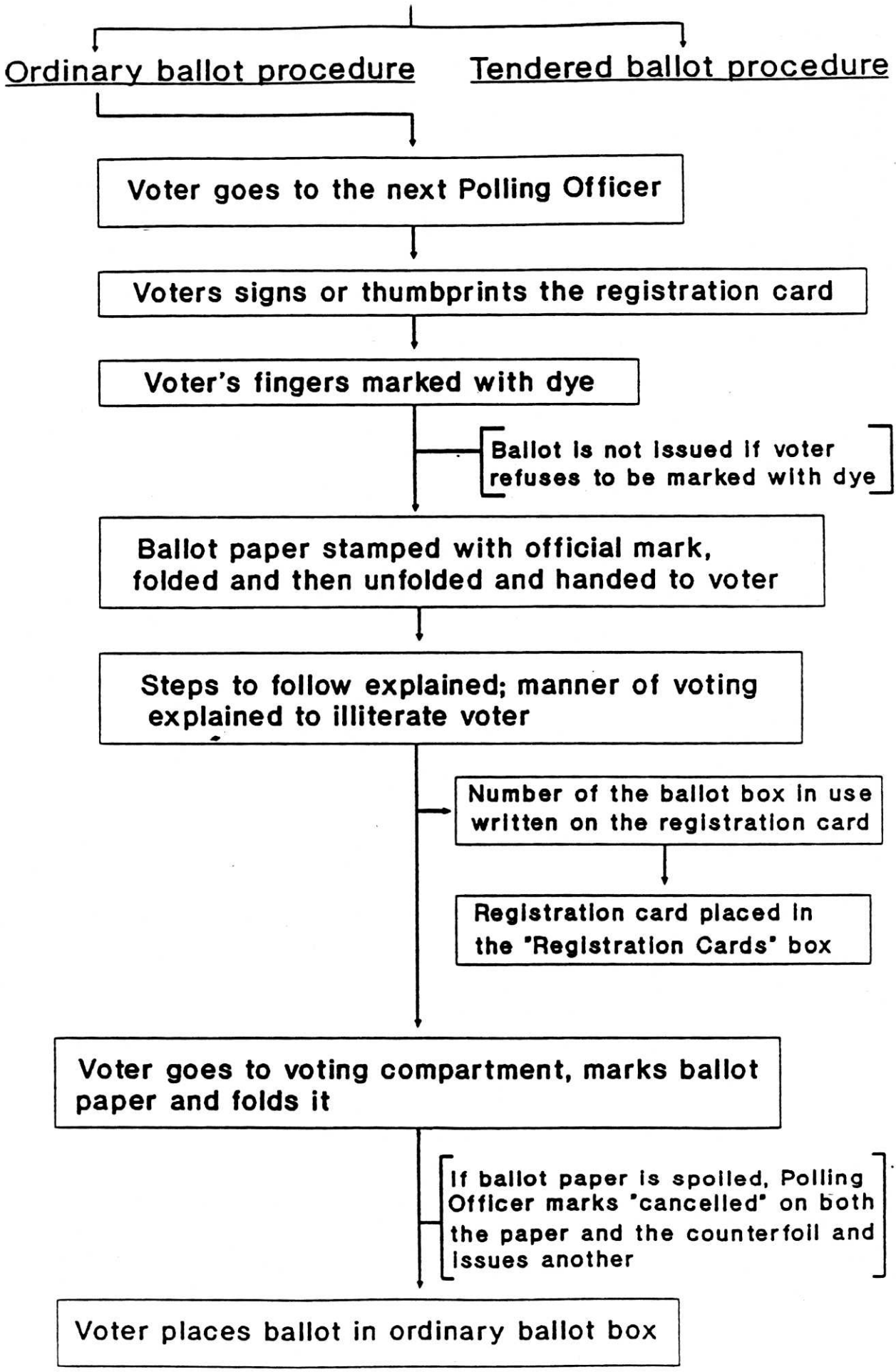
APPENDIX II

Voting Process Flow Chart

Voter with Registration Card and ID

(Registration Card and ID produced)




Ordinary ballot procedure
Tendered ballot procedure
Voter goes to the next Polling Officer
Voters signs or thumbprints the registration card
Voter's fingers marked with dye
Ballot is not issued if voter refuses to be marked with dye
Ballot paper stamped with official mark, folded and then unfolded and handed to voter
Steps to follow explained; manner of voting explained to illiterate voter
Number of the ballot box in use written on the registration card
Registration card placed in the "Registration Cards" box
Voter goes to voting compartment, marks ballot paper and folds it
If ballot paper is spoiled, Polling Officer marks "cancelled" on both the paper and the counterfoil and issues another
Voter places ballot in ordinary ballot box

Ordinary ballot procedure Tendered ballot procedure

Voter goes to Presiding Officer/Assistant Polling Officer

Voter signs or thumbprints the registration card

Voter's fingers marked with dye

Ballot is not issued if voter refuses to be marked with dye

Ballot paper stamped with official mark, folded and then unfolded and handed to voter together with "Tendered Ballot" envelope

Steps to follow explained; manner of voting explained to illiterate voter

Number of the tendered ballot box in use written on the registration card; card retained

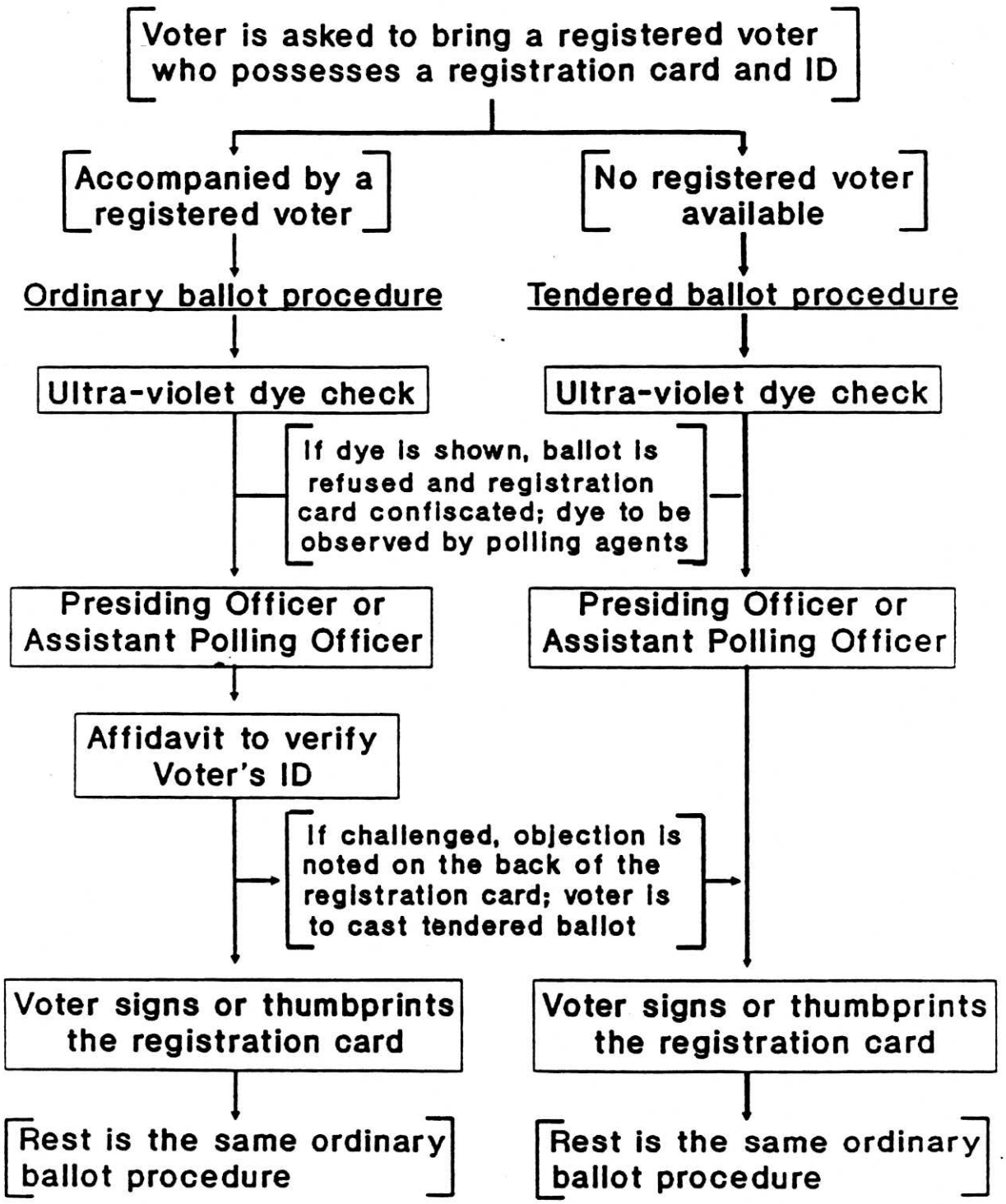
Voter goes to voting compartment, marks ballot paper folds it, places it in the "Tendered Ballot" envelope and seals it

If ballot paper is spoiled, Presiding Officer/Assistant Polling Officer marks "cancelled" on both the paper and the counterfoil and issues another

Voter brings the envelope to Presiding Officer/ Assistant Polling Officer

Presiding Officer/Assistant Polling Officer places the envelope and the registration card in the covering envelope and places it in "Tendered Ballot" box

Voter without ID



Voter without Registration Card

(Voter's registration card is lost, damaged or illegible)

↓

Tendered ballot procedure

↓

Ultra-violet dye check

If dye is shown, ballot is refused and registration card confiscated; dye to be observed by polling agents

↓

Voter goes to the Presiding Officer/ Assistant Polling Officer

↓

Voter fills out the Special application form to vote without registration card

↓

((Rest is the same tendered ballot procedure))

- except -

Special application form is placed in the covering envelope together with sealed tendered ballot envelope

APPENDIX III

Draft Constituent Assembly Proclamation,

21 July 1989

OFFICIAL GAZETTE
EXTRAORDINARY
OF SOUTH WEST AFRICA

BUITENGEWONE
OFFISIËLE KOERANT
VAN SUIDWES-AFRIKA

PUBLISHED BY AUTHORITY — UITGAWE OP GESAG

R1.20 Friday 21 July 1989 WINDHOEK Vrydag 21 Julie 1989 No. 5755

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General Notice

DRAFT CONSTITUENT ASSEMBLY PROCLAMATION

No. 91 1989

The following Draft Constituent Assembly Proclamation is hereby published for general information and comment. Any comment or representations thereanent should be lodged in writing and in duplicate, with the Secretary: Department of Civic Affairs and Manpower, Private Bag 13200, Windhoek, 9000, or at Room 3, Ground Floor, Cohen Building, cor. Kaiser and Kasino Streets, Windhoek, within 21 days from the date of publication of this notice.

DRAFT PROCLAMATION

PROVISION FOR THE ESTABLISHMENT AND POWERS OF A CONSTITUENT ASSEMBLY FOR THE TERRITORY OF SOUTH WEST AFRICA, AND FOR INCIDENTAL MATTERS

Algemene Kennisgewing

KONSEPPROKLAMASIE OP DIE GRONDWETGEWENDE VERGADERING

No. 91 1989

Die volgende Konsepproklamasie op die Grondwetgewende Vergadering word hierby vir algemene inligting en kommentaar gepubliseer. Enige kommentaar of vertoë daaromtrent moet binne 21 dae vanaf die datum van publikasie van hierdie kennisgewing skriftelik en in duplikaat by die Sekretaris: Departement van Burgersake en Mannekrag, Privaatsak 13200, Windhoek, 9000, of Kamer 3, Grondvloer, Cohengebou, h/v Kaiser- en Kasinostraat, Windhoek, ingedien word.

KONSEPPROKLAMASIE

VOORSIENING VIR DIE INSTELLING EN BEVOEGDHEDE VAN 'N GRONDWETGEWENDE VERGADERING VIR DIE GEBIED SUIDWES-AFRIKA, EN VIR BYKOMSTIGE AANGELEENTHEDE

Definitions

1. In this Proclamation, unless the context indicates otherwise —

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

(ii) "Election Proclamation" means the Election (Constituent Assembly) Proclamation, 1989; (x)

(iii) "member" means an elected member of the Assembly; (iv)

(iv) "President" means the President of the Assembly; (v)

(v) "registered party" means a political organization that has registered for an election by complying with the provisions of the Election Proclamation, and has not withdrawn its registration before the closing of the registration court; (iii)

(vi) "register of voters" means the register of voters referred to in section 15(2) of the Registration Proclamation; (vii)

(vii) "registered voter" means a person registered as a voter in terms of the registration Proclamation; (ii)

(viii) "Registration Proclamation" means the Registration of Voters (Constituent Assembly) Proclamation, 1989 (Proclamation AG. 19 of 1989); (vi)

(ix) "Secretary" means the Secretary of the Assembly referred to in section 14(1); (viii)

(x) "territory" means the territory of of South West Africa. (1)

Establishment and powers of Constituent Assembly

2. (1) The persons elected with due regard to the provisions of section 3 of this Proclamation in accordance with the provisions of section 36 of the Election Proclamation shall, subject to the provisions of this Proclamation, be a Constituent Assembly with power to draw up and adopt, subject to the provisions of subsection (2), a consti-

Woordomskrywings

1. In hierdie Proklamasie, tensy uit die samehang anders blyk, beteken —

(i) "gebied" die gebied Suidwes-Afrika; (x)

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

(iii) "geregistreerde party" 'n politieke organisasie wat vir verkiesing geregistreer het deur aan die bepalings van die Verkiesingsproklamasie te voldoen, en nie sy registrasie voor die sluiting van die sitting van die registrasiehof teruggetrek het nie; (v)

(iv) "lid" 'n verkose lid van die Vergadering; (iii)

(v) "President" die President van die Vergadering; (iv)

(vi) "Registrasieproklamasie" die Proklamasie op die Registrasie van Kiesers (Grondwetgewende Vergadering), 1989 (Proklamasie AG. 19 van 1989); (viii)

(vii) "register van kiesers" die register van kiesers in artikel 15(2) van die Registrasieproklamasie bedoel; (vi)

(viii) "Sekretaris" die Sekretaris van die Vergadering in artikel 14(1) bedoel; (ix)

(ix) "Vergadering" die Grondwetgewende Vergadering in artikel 2 bedoel; (1)

(x) "Verkiesingsproklamasie" die Verkiesingsproklamasie (Grondwetgewende Vergadering), 1989, (ii)

Instelling en bevoegdhede van Grondwetgewende Vergadering

2. (1) Die persone wat met inagneming van die bepalings van artikel 3 van hierdie Proklamasie ooreenkomstig die bepalings van artikel 36 van die Verkiesingsproklamasie verkies word, is, behoudens die bepalings van hierdie Proklamasie, 'n Grondwetgewende Vergadering met die bevoegdheid om, behoudens die bepalings

tution for the territory with a view to its becoming independent as a unitary, sovereign and democratic state in accordance with the provisions of that constitution.

(2) The constitution contemplated in subsection (1) shall —

(a) contain provisions by virtue of which —

(i) the territory will be a unitary, sovereign and democratic state;

(ii) the constitution will be the supreme law of the State;

(b) make provision —

(i) for the establishment of a legislative authority which will be elected by all adult citizens of the territory without discrimination and free from fear of intimidation from any source by way of regular periodic secret ballot and in which the legislative powers of the territory will vest;

(ii) for the election of an executive authority which will in repect of the exercise or performance of its powers, duties or functions be responsible to the legislative authority;

(iii) for the recognition of an independent judiciary which will be responsible for the interpretation of the provisions of the constitution and will ensure the supremacy of the constitution and the authority of law, including the fundamental rights of aggrieved individuals;

(c) contain a declaration of fundamental rights which will include —

(i) the right to life;

(ii) the right to personal freedom and freedom of movement;

(iii) the right to freedom of conscience;

(iv) the right to freedom of expression, including the right of freedom of speech and a free press;

van subartikel (2), 'n grondwet vir die gebied op te stel en aan te neem met die oog op die onafhanklikwording van die gebied ooreenkomstig die bepalings van daardie grondwet as 'n soewereine en demokratiese eenheidstaat.

(2) Die grondwet in subartikel (1) beoog, moet —

(a) bepalings bevat uit hoofde waarvan —

(i) die gebied 'n soewereine en demokratiese eenheidstaat sal wees;

(b) voorsiening maak —

(i) vir die instelling van 'n wetgewende gesag wat deur alle volwasse burgers van die gebied sonder diskriminasie en vry van enige vrees vir intimidasie vanuit enige bron by wyse van gereëlde periodieke geheime stemmings verkies sal word en by wie die wetgewende bevoegdheid van die gebied sal berus;

(ii) vir die verkiesing van 'n uitvoerende gesag wat ten opsigte van die uitoefening of verrigting van sy bevoegdhede, pligte en werksaamhede teenoor die wetgewende gesag verantwoordelik sal wees;

(iii) vir die erkenning van 'n onafhanklike regsprekende gesag wat vir die vertolking van die bepalings van die grondwet verantwoordelik sal wees en die oppergesag daarvan en die gesag van die reg, met inbegrip van die fundamentele regte van verontregte individue, sal verseker;

(c) 'n verklaring van fundamentele regte bevat wat sal insluit —

(i) die reg om te lewe;

(ii) die reg op persoonlike vryheid en op vryheid van beweging;

(iii) die reg op vrye uiting van gewete;

(iv) die reg op vrye meningsuiting, met inbegrip van die reg op vryheid van spraak en van 'n vrye pers;

(v) the right to free assembly and association, including the right to establish trade unions and political parties;

(vi) the right to equality before the law, without discrimination on the ground of race, ethnic origin, religion or sex;

(vii) the right to protection against arbitrary deprivation of private property without due compensation;

(d) contain a prohibition to create offences with retrospective effect or to increase penalties with retrospective effect;

(e) make provision for the establishment of a balanced structure of the public service, police service and defence services and for equal opportunites for all to be appointed therein and for the establishment of independent bodies which will ensure a fair administration personnel policy in relation to those services;

(f) make provision for the establishment of elected bodies which will be charged with the administration of matters on a local or regional basis or on a local as well as a regional basis;

(g) determine a procedure by virtue of which the constitution may be amended, whether by the legislative authority alone or by virtue of a majority decision of all enfranchised citizens determined by way of a referendum.

(3) The Assembly may 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.

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

Constituent of Assembly

3. The Assembly shall consist of 72 members

(v) die reg om vryelik te vergader en op vrye assosiasie, met inbegrip van die reg om vakverenigings en politieke partye te stig;

(vi) die reg op gelykheid voor die reg, sonder diskriminasie op grond van ras, etniese afkoms, godsdiens of geslag;

(vii) die reg op beskerming teen willekeurige ontneming van private eiendom sonder behoorlike vergoeding;

(d) 'n verbod om misdrywe met terugwerkende krag in te stel of strawwe met terugwerkende krag te verhoog;

(e) voorsiening maak vir die instelling van 'n gebalanseerde struktuur van die regeringsdiens, polisiediens en verdedigingsdienste en vir gelyke geleenthede vir almal om daarin aangestel te word en vir die instelling van onafhanklike liggame wat 'n billike administrasie van personeelbeleid met betrekking tot daardie dienste sal verseker;

(f) voorsiening maak vir die instelling van verkose liggame wat die administrasie van aangeleenthede op plaaslike of streekgrondslag of op plaaslike sowel as streekgrondslag sal behartig;

(g) 'n prosedure bepaal uit hoofde waarvan die grondwet gewysig kan word, hetsy deur die wetgewende gesag alleen of op grond van 'n meerderheidsbesluit van alle stemgeregtigde burgers by wyse van 'n referendum bepaal.

(3) Die Vergadering kan 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.

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

Samestelling van Vergadering

3. Die Vergadering bestaan uit 72 lede wat

who shall be persons nominated on a list of candidates by the registered parties elected for that purpose by registered voters at the election held in accordance with the provisions of the Election Proclamation and declared as duly elected in terms of the said Proclamation.

Qualification of members of 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 qualification mentioned in subsection (2), shall be qualified to be elected as or to be a member of, the Assembly.

(2) No person shall be qualified to be elected as or to be a member of, the Assembly if he —

(a) has been convicted of an offence referred to in Schedule 1 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or

(b) has been convicted of an offence and sentenced to a period of imprisonment of more than twelve months without the option of a fine or ordered to be detained in a rehabilitation centre under any law and such period has not finally ceased to be operative at least three years before the date of the completion of his application to be registered; or

(c) has been convicted of any corrupt or illegal practice under any electoral law or has been declared unqualified of being registered as a voter or of voting at an election during any period and the said period has not expired; or

(d) is subject to an order of court declaring him to be of unsound mind or mentally disordered or defective or is lawfully detained as mentally disordered or defective.

(3) For the purposes of paragraphs (a) and (b) of subsection (2) —

(a) a person who has been granted a free pardon shall be deemed not to have been convicted of the offence in respect of which he has been pardoned; and

persone moet wees wat genomineer is op 'n lys van kandidate deur die geregistreerde partye vir dié doel deur geregistreerde kiesers gekies by die verkiesing ooreenkomstig die bepalings van die Verkiesingsproklamasie gehou en wat ingevolge die bepalings van genoemde Proklamasie as verkose verklaar is.

Kwalifikasies van lede van 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 lid van die Vergadering verkies te word of dit te wees.

(2) Niemand is bevoeg om as lid van die Vergadering verkies te word of dit te wees nie, indien hy —

(a) veroordeel is weens 'n misdryf in Bylae 1 van die Strafproseswet, 1977 (Wet 51 van 1977), bedoel; of

(b) veroordeel is weens enige misdryf en gevonnis is tot gevangenisstraf vir 'n tydperk van meer as twaalf maande sonder die keuse van 'n boete of gelas is om aangehou te word in 'n rehabilitasiesentrum kragtens enige wet en sodanige tydperk nie ten minste drie jaar voor die datum van voltooiing van sy aansoek om geregistreer te word finaal ten einde geloop het nie; of

(c) veroordeel was weens enige korrupte of onwettige handeling kragtens enige kieswet of onbevoeg verklaar is om as kieser geregistreer te word of om te stem tydens 'n verkiesing gedurende enige tydperk en sodanige tydperk nog nie verstryk het nie; of

(d) onderhewig is aan 'n hofbevel wat hom as geestelik gekrenk of verstandelik versteurd of onstabiel verklaar of wettiglik aangehou word as verstandelik versteurd of onstabiel.

3. Vir die doeleindes van paragrawe (a) en (b) van subartikel (2) —

(a) word 'n persoon wat begenadig is, geag nie veroordeel te gewees het ten opsigte van die misdryf waarvoor hy begenadig was nie; en

(b) a period of imprisonment means the full term of a sentence of imprisonment notwithstanding any suspension or remission of the whole or any portion of such sentence.

(4) Any person who is disqualified to sit as a member and who, while so disqualified and knowing or having reasonable grounds for knowing that he is so disqualified, sits or votes as a member, shall be liable to a penalty of R500 for each day on which he so sits or votes, which may be recovered on behalf of the Treasury of the territory by action in the Supreme Court of South West Africa.

Vacation of seat by member of Assembly

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

(a) if he is convicted of an offence in terms of section 16;

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

(c) subject to the rules and options 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 in writing under his hand addressed to the President;

(e) if he no longer represents the political party in the Assembly by which he was nominated as a candidate at the election or by which he was nominated in terms of section 6.

(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.

(3) When a member vacates for any reason his seat in the Assembly the Assembly shall consist of the remaining members of the Assembly until such time as another person is declared a member in his place in accordance with the provisions of section 6.

(b) beteken 'n tydperk van gevangenisstraf die volle duur van 'n vonnis van gevangenisstraf ongeag enige opskorting of kwytskelding van die geheel of enige gedeelte van sodanige vonnis.

(4) 'n Persoon wat onbevoeg is om as lid sitting te neem en wat, terwyl hy aldus onbevoeg is en weet of redelike gronde het om te weet dat hy aldus onbevoeg is, as lid sitting neem of stem, strafbaar met 'n boete van R500 vir elke dag waarop hy aldus sitting het of stem, wat ten behoewe van die Tesourie van die gebied by wyse van aksie in die Hooggeregshof van Suidwes-Afrika verhaal kan word.

Ontruiming van setel deur lid van Vergadering

5. (1) 'n Lid ontruim sy setel —

(a) indien hy skuldig bevind word aan 'n misdryf ingevolge artikel 16;

(b) indien hy aan 'n bevoegdheid in artikel 4(2) bedoel, 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;

(e) indien hy nie meer die party wat hom as kandidaat by die verkiesing of, wat hom ingevolge artikel 6 genomineer het, in die Vergadering verteenwoordig nie.

(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.

(3) Wanneer 'n lid om die een of ander rede sy setel in die Vergadering ontruim bestaan die Vergadering uit die oorblywende lede van die Vergadering tot tyd en wyl 'n ander persoon in sy plek ooreenkomstig die bepalings van artikel 6 as lid verklaar word.

Filling of casual vacancies in Assembly

6. (1) A casual vacancy in the Assembly shall be filled in the manner referred to in subsection (2) within 14 days after it has occurred or within such further period as the Administrator-General may approve from time to time.

(2) A vacancy in the Assembly shall, notwithstanding anything to the contrary in any law contained, be filled by the chief electoral officer declaring to be a duly elected member of the Assembly with effect from the date of the declaration, any qualified person who —

(a) has been nominated in writing for that purpose by the registered party of which the vacating member was a candidate at the election in respect of the Assembly or which had nominated the vacating member under this section; and

(b) has accepted his nomination in writing.

(3) The chief electoral officer shall forthwith by notice in the *Official Gazette* make known particulars of any declaration referred to in subsection (2).

Members of Assembly may be paid remuneration and allowances

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

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

Seat in Assembly

8. Windhoek shall be the seat of the Assembly.

First meeting of Assembly

9. (1) The first meeting of the Assembly shall take place on a day and at a time determined by the Administrator-General by proclamation in the *Official Gazette*.

(2) Every member shall, before taking his seat, at the first meeting of the Assembly make

Vul van toevallige vakatures in Vergadering

6. (1) 'n Toevallige vakature in die Vergadering moet binne 14 dae nadat dit ontstaan het of binne die verdere tydperk wat van tyd tot tyd deur die Administrateur-generaal goedgekeur word, gevul word op die wyse in subartikel (2) bedoel.

(2) 'n Vakature in die Vergadering word, ondanks andersluidende wetsbepalings, gevul deur die verklaring deur die hoofverkiesingsbeampte, tot behoorlik verkose lid van die Vergadering, met ingang van die datum van die verklaring, van 'n bevoegde persoon wat —

(a) vir dié doel skriftelik genomineer is deur die geregistreerde party waarvan die uittredende lid 'n kandidaat by die verkiesing ten opsigte van die Vergadering was of wat die uittredende lid kragtens hierdie artikel genomineer het; en

(b) sy nominasie skriftelik aanvaar het.

(3) Die hoofverkiesingsbeampte maak besonderhede van 'n in subartikel (2) bedoelde verklaring onverwyld by kennisgewing in die *Offisiële Koerant* bekend.

Aan lede van Vergadering kan besoldiging en toelaes betaal word

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

(2) Die Administrateur-generaal kan verskillende besoldiging, toelaes en geriewe bepaal ten opsigte van lede wat verskillende ampte in die Vergadering beklee.

Setel van Vergadering

8. Windhoek is die setel van die Vergadering.

Eerste byeenkoms van Vergadering

9. (1) Die eerste byeenkoms van die Vergadering vind plaas op 'n dag en tyd deur die Administrateur-generaal by proklamasie in die *Offisiële Koerant* bepaal.

(2) Elke lid moet, voordat hy sy sitplek inneem, op die eerste byeenkoms van die Verga-

and subscribe before the Judge President or any other judge of the Supreme Court of South West Africa, and thereafter before the president an oath or solemn affirmation in the following form:

I, A.B., do swear/solemnly affirm to be faithful to the inhabitants of the territory and solemnly promise to perform my duties as a member of the Constituent Assembly to the best of my ability.
(In case of an oath)

So help me God.

Election of President

10. (1) At the first meeting of the Assembly, the Administrator-General shall read the 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 Administrator-General 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 in writing 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 Administrator-General to be duly elected.

(6) If more than one candidate is proposed and seconded, 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 Administrator-General 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 necessary.

dering voor die Regter-president of 'n ander regter van die Hooggeregshof van Suidwes-Afrika, en daarna voor die President 'n eed of plegtige verklaring in die volgende vorm aflê en onderteken:

Ek, A.B., sweer/beloof plegtig trou aan die inwoners van die gebied en onderneem plegtig om my pligte as lid van die Grondwetgewende Vergadering na my beste vermoë uit te voer.
(In die geval van 'n eed)

So help my God.

Verkiesing van President

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

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

(3) Die Administrateur-generaal 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 verkiesing as President moet deur 'n lid skriftelik gedoen en deur minstens vyf ander lede gesekondeer word.

(5) Indien slegs een kandidaat voorgestel en gesekondeer word, word hy deur die Administrateur-generaal as behoorlik verkies verklaar.

(6) Indien meer as een kandidaat voorgestel en gesekondeer 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 meerderheid aangeteken word van al die stemme wat uitgebring is, deur die Administrateur-generaal as behoorlik verkies verklaar.

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

(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 Administrator-General shall adjourn the meeting to a time determined by him.

(9) At the resumed meeting the Administrator-General 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 subsection (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 election 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 Administrator-General 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) 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.

(13) For the purposes of the filling of any vacancy in the office of President in accordance with the provisions of subsection 11(b) and without derogating from the provisions of that subsection, a reference to the Administrator-General in this section shall be construed as a reference to the Secretary.

Rules and orders of Assembly

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

(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 Administrateur-generaal die byeenkoms tot op 'n tyd deur hom vasgestel.

(9) Op die voortgesette byeenkoms vra die Administrateur-generaal nuwe voorstelle van kandidate vir verkiesing 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 voortgesete byeenkoms die eerste byeenkoms was wat, soos in subartikel (2) beoog, tot die verkiesing van 'n President oorgaan.

(10) Indien 'n lid in enige stadium van die verrigtinge kragtens hierdie artikel voorstel dat die stemming vir die verkiesing van 'n President geheim moet wees, en die voorstel deur minstens tien ander lede gesekondeer word, vind die stemming in die geheim plaas op die wyse wat die Administrateur-generaal 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 hierdie artikel gevul.

(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 ampsbekleder van die Vergadering verbied nie.

(13) Vir die doeleindes van die vul van 'n vakature vir die amp van President ooreenkomstig die bepalings van subartikel (11)(b), en sonder om afbreuk te doen aan die bepalings van daardie subartikel, word 'n verwysing in hierdie artikel na die Administrateur-generaal uitgelê as 'n verwysing na die Sekretaris.

Reëls en orders van Vergadering

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

appoint a person on such conditions as the Administrator-General may determine, or designate a person in the government 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 provisions of the State Finance Act, 1982 (Act 1 of 1982), 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 government 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 15 shall be determined under subsection (3) or (4) of this section without the prior approval of the Administrator-General.

Finance

15. 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 Assembly

16. Any person who —

(a) threatens, obstructs or insults a member proceeding to or from the Assembly 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 pending or expected to be brought before the Assembly; or

persoon aan op die voorwaardes wat die Administrateur-generaal bepaal, of wys 'n persoon in die regeringsdiens 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 bepalings van die Wet op Staatsfinansies, 1982 (Wet 1 van 1982), 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 regeringsdiens moet wees wat vir dié doel beskikbaar 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 15 bedoelde gelde meebring, word sonder die voorafgaande goedkeuring van die Administrateur-generaal kragtens subartikel (3) of (4) van hierdie artikel bepaal nie.

Finansies

15. 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 Vergadering

16. 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) while the Assembly is in sitting, creates or joins in any disturbance or in the vicinity of the Assembly, whereby the proceedings of the Assembly are or are likely to be interrupted, obstructed or disturbed; 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; or

(d) on days when the Assembly is in sitting, uses any form of loudspeaker, otherwise than for official purposes, or who organizes or takes part in any procession of or demonstration by persons, within a radius of two kilometres from the Assembly,

shall be guilty of an offence and liable on conviction to a fine not exceeding R6 000 or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

Short title

17. This Proclamation shall be called the Constituent Assembly Proclamation, 1989.

(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, belemmer of versteur word of waarskynlik onderbreek, belemmer of versteur 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; of

(d) op dae wat die Vergadering in sitting is, uitgesonderd vir amptelike doeleindes, enige vorm van luidspreker gebruik of wat enige optog van of betoging deur persone reël of daaraan deelneem binne 'n radius van twee kilometer vanaf die Vergadering,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R6 000 of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar of met sowel daardie boete as daardie gevangenisstraf.

Kort titel

17. Hierdie Proklamasie heet die Proklamasie op die Grondwetgewende Vergadering, 1989.

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APPENDIX IV

Text of Professor Manfred Hinz' Comments on the Draft Constituent Assembly Proclamation, of 21 July 1989

To the Secretary
Department of Civic Affairs and Manpower
Private Bag 13200
Windhoek 9000
Namibia

Comments on the Draft Constituent Assembly Proclamation, GN 91 of 1989, hereinafter referred to as "the Draft".

The following comments are offered in response to the invitation for "comment or representations" expressed in the introductory remarks of the Draft.

1 Sub-sections (1) and (2) of section 2 of the Draft undertake to transform the content of SC Doc S/15287 of 7 December 1982, Part B "Principles for a Constitution for an Independent Namibia" into the domestic South West African/Namibian law. These Principles already form part of the UNSCR 435 (1978) framework. They are supplementary elements to Res 435, accepted by all parties concerned and formally integrated into the UN settlement plan (see eg sec 35 (c) of the Report of the UN Secretary General concerning the implementation of SCR 435 (1978) of 23 January 1989). Hence, the Principles are legally binding in terms of international law.

Sub-sections (1) and (2) of section 2 provide a field of operation of the Constituent Assembly. Upon analysis these provisions appear juridically illogical. Sub-section (2) says that the constitution (to be "formulated" and "adopted" by the Constituent Assembly) "will be the supreme

law of the state." However, the transformation of the Principles into domestic law makes this very "supreme" law (even before it attains this quality) subordinate to the existing South African legal order. (The transformation even opens ways for challenging the Constituent Assembly before the courts as they exist under South African law)

It is the United Nations who have to guarantee that the Principles are to be respected in the future constitution of an independent Namibia. The UN (and the various bodies created to secure the implementation of the UN independence plan) have to function as fora for complaints in case the Principles are not respected in any way.

2 Sec 2 (3) of the Draft concedes to the Assembly the right to submit to the AG "requests, recommendations or proposals... with a view to the attainment of independence by the territory as a sovereign state." Sub-section (4) of the same section states that the AG "shall not be obliged to give effect" to these presentations.

This provision needs clarification before it is allowed to become law. On the one hand it is obvious that the legal framework in which the Constituent Assembly has to operate does not contain any arrangement to force the acting administration to anything. But on the other, the task assigned to the Constituent Assembly, ie formulating and adopting a constitution, must include the power to deal with the ruling authority as it is. Part and parcel of formulating and adopting a constitution must be making provisions on how the present transitional period shall come to end and how the government of an independent Namibia shall be established. In terms of sub-section (3)

of sec 2 of the Draft the presentations of the Assembly are mere "requests", and as such at the discretion of the AG. Consequently, the whole "purpose" of the electoral process (see sec 3 of the Western Proposal, SC Doc S/12636 of 10 April 1978) would be handed back to the power the UN decolonisation operation is intended to overcome.

Sec 14 (d) SC Doc S/12827 of 29 August 1978 (Report of the Secretary General) leaves no doubt that the "entry into force of the constitution and the consequent achievement of independence of Namibia" is the last stage of the implementation of the UN independence plan for Namibia. The Western Proposal (see above, sec 11) says more specifically that the Constituent Assembly "will conclude its work as soon as possible so as to permit whatever additional steps may be necessary prior to the installation of an independent Government of Namibia...."

"Whatever additional steps" can therefore be only those provided for in the constitution. Once the constitution is adopted the competence of the AG is zeroed down to procedural acts of handing over the administration; the role of the UN is to guarantee the execution of this act without delay.

3 The number of the members of the Constituent Assembly (see sec 3 of the Draft) should be analysed in light of the electoral system, particulary sec 36 of the Election (Constituent Assembly) Proclamation Draft, GN 90 of 1989. But such analysis is beyond the scope of this commentary.

4 Sec 4 (2) (a) of the Draft disqualifies a person from becoming a member of the Constitutuent Assembly if a person "has been convicted of an offence referred to in Schedule 1 of the Criminal Procedure Act" (No 51 of 1977) Schedule 1 of the said act lists as offences among others "treason" and "public violence". Although sub-section (3) (a) of the Draft states that a person "who has been granted a free pardon" should be exempted from the provision of sub-section (2) (a), there is a need for further clarification in respect of political prisoners released in accordance with the dictates of the UN independence plan for Namibia. (See eg sec 7 B SC Doc S/12636 - Western Proposal) The release of political prisoners cannot be interpreted as a case of "granting pardon" as the release is a fulfilment of an obligation assumed by South Africa in terms of international law.

5 Sec 5 of the Draft contains a number of procedural rules for the Constituent Assembly. But such rules should be left to the discretion of the Assembly. This is notwithstanding that some of the rules in the Draft (like sec 5 (1) (a) or (b) might be quite acceptable, although others (like sec 5 (1) (e)) are politically disputable. As the Constituent Assembly is the result of an internationally negotiated settlement and to that extent internationally accepted expression of the right to self-determination as laid down in the UN Charter, it should be part of the sovereignty of the Constituent Assembly to determine its own procedural rules. The Draft reflects this approach in sec 11 (1), but even this appears to be unnecessary; the power to "make rules and orders with respect to the order and conduct of its business and proceedings" is inherent in the Assembly's competence to

formulate and adopt a constitution; it does not need to be formulated by the AG.

Regarding complaints that may arise, what has been expressed under 1 applies here mutatis mutandis.

6 A comment on sec 7 of the Draft ("remuneration and allowances") will be included in a special paragraph on the provisions dealing with financial matters.

7 For reasons already explained (see under 5) it seems unacceptable that the AG is the one who determines the first meeting of the Constituent Assembly as stated in sec 9 (1) of the Draft. The task of convening the first meeting could be assigned to the UN Special Representative and/or a quorum of the members of the Constituent Assembly.

Nothing in the provisions of the UNSCR 435 (1978) framework dealing with the role and powers of the UN in the implementation process precludes a proposal to give the UN Special Representative the right to convene the first meeting of the Constituent Assembly. Convening the Constituent Assembly is not a matter of "law and order" reserved to the AG. Also convening the Constituent Assembly does not fall within a formula like that in sec 5 SC Doc S/12636 (Western Proposal) which describes the role of the UN as one of supervising and controlling and restricts that of the Special Representative to exercising a kind of a veto in case he is not satisfied with a certain measure of the AG. This restriction deals only with the "electoral process, the elections themselves, and the certification of their results." The stages of formulating (and adopting)

the constitution and of bringing it into force (sec 14 (c) and (d) SC Doc S/12827) have to be seen as matters not covered by the provisions of the 435 framework. They relate to the direct responsibility of the United Nations for the decolonisation of Namibia; they are aspects of the process involved in the realisation of the right to self-determination. The indisputable basis of the implementation process of Res 435 is international law. And therefore the only body to guarantee the correctness of the procedure of the Constituent Assembly is the UN.

8 The provision for an "oath of solemn affirmation" in sec 9 (2) of the Draft should be deleted. Again, it is not consistent with the basis of the Constituent Assembly in international law to force the Assembly members to any solemn affirmation before a South West African judge of whatever personal and professional quality. The fact remains that every judge of this kind has been appointed by the South African Government and to that extent represents its legal system.

Moreover, comparative constitutional law shows that a reference to the conscience of a member of parliament is widely accepted as sufficient; a formula like that in the Draft (and in sec 57 of the South African Constitution, No 110 of 1983) is more of an exception.

10 There is no reason to have the AG "act as chairman until a President (of the Constitutuent Assembly) is elected." (Sec 10 (3) of the Draft) The reasons are the same as under 5. Reflecting the basis of the Constituent Assembly in international law, the UN Special Representative should be the right person to open the first

meeting of the Assembly and function as chairperson until the Assembly has elected its President. What has been said under 7 applies here mutatis mutandis.

11 The provisions of sec 11 (3) (a) and (b) of the Draft are not in accordance with the UNSCR 435 (1978) framework. The Constitutional Principles prescribe a 2/3 majority only for the adoption of the constitution. (Sec 2 SC Doc S/15287) It cannot be up to the AG to extend this rule to other matters. Unless the Constituent Assembly decides otherwise, the usual rule of decisions by simple majority applies.

12 As to sec 14 (1) of the Draft there is no reason why the AG shall appoint (and this "on such conditions as .. (he) may determine") the Secretary of the Constituent Assembly. The Constituent Assembly itself or its President can appoint the Secretary. There is also no reason why the Secretary should be a person "in the government service made available for that purpose."

13 Sec 7, sec 14 (2) and (5) and sec 15 of the Draft reflect an understanding that the Constituent Assembly should function in the financial framework of the AG and to that extent be dependent on him and the financial rules set by him or other previous bodies established by South Africa. Such an understanding is wrong and unacceptable.

It should be up to the Constituent Assembly itself to decide whether and how much money allocated to the constitutional process should be spent as remuneration or

allowances. It cannot be within the powers of the AG to determine the remunerations and other benefits of the members of the Constituent Assembly and accord different treatments to those "members holding different offices in the Assembly." (Sec 7 (1) and (2)

The money allocated to the Constituent Assembly, be it from the budget still administered by the AG, or from the United Nations, should be directly submitted to the Constituent Assembly. It should be controlled by the Assembly, possibly by an Assembly committee representing the various groups of the Assembly in the same manner as they are represented in the Assembly. This would avoid any need for the prior approval of the AG in cases of appointments like those under sec 14 (3) and (4).

Any reference to the State Finance Act (No 1 of 1982) should be deleted. As can be seen for instance from sec 21 of the Act there are many possibilities to intervene in the content of a matter by using budget regulations. It should be enough to subject money allocation by the Constituent Assembly to an audit by a chartered accountant. Details could be worked out in a special agreement between the AG and the UN Special Representative.

14 Two final remarks may conclude the comment:

It would be very much in line with a new approach of drafting legislation if the use of "he" was complemented by an additional "she". The "person" in the Draft may appear neutral at first glance, but becomes male when substituted by "he". (See G C Thornton, The avoidance of sexist language, in: Commonwealth Law Bulletin 1988:415ff)

Although 21 July 1989 is stated as the day of publication, the Official Gazette No 5755 which contains the Constituent Assembly Draft was made available only on Monday 24 July 1989. Nevertheless the 21-day period within which comments were allowed had already started on 21 July.

Bremen, 8 August 1989

Prof Dr Manfred O Hinz
University of Bremen
Faculty of Law
D 2800 Bremen 33

APPENDIX V

Election (Constituent Assembly) Proclamation

13 October 1989

OFFICIAL GAZETTE

EXTRAORDINARY

OF SOUTH WEST AFRICA

BUITENGEWONE

OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA

PUBLISHED BY AUTHORITY — UITGAWE OP GESAG

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INHOUD:

Bladsy

PROKLAMASIE

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Proclamation

by the

ADMINISTRATOR-GENERAL FOR THE TERRITORY OF SOUTH WEST AFRICA

(Approved by the State President on 9 October 1989)

No. AG. 49 1989

PROVISION FOR HOLDING AN ELECTION FOR A CONSTITUENT ASSEMBLY, AND FOR INCIDENTAL MATTERS

WHEREAS a constituent assembly is to be established in the territory of South West Africa by way of free and fair elections under the supervision and control of the United Nations pursuant to Security Council Resolution 435 (1978);

AND WHEREAS I am called upon to make provision for holding such an election in the territory for such purpose;

AND WHEREAS the methods of supervision and control of the United Nations in regard to the said election are to be set out in an exchange of letters between myself and the Special Representative appointed by the Secretary-General of the United Nations and made known in the *Official Gazette*;

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

L. A. PIENAAR
Administrator-General — Windhoek, 9 October 1989

Proklamasie

van die

ADMINISTRATEUR-GENERAAL VIR DIE GEBIED SUIDWES-AFRIKA

(Deur die Staatspresident goedgekeur op 9 Oktober 1989)

No. AG. 49 1989

VOORSIENING VIR DIE HOU VAN 'N VERKIESING VIR 'N GRONDWETGEWENDE VERGADERING, EN VIR BYKOMSTIGE AANGELEENTHEDE

NADEMAAL 'n grondwetgewende vergadering ingestel moet word in die gebied Suidwes-Afrika by wyse van vrye en regverdige verkiesings onder die toesig en beheer van die Verenigde Nasies ingevolge Veiligheidsraadresolusie 435 (1978);

EN NADEMAAL ek geroepe is om voorsiening te maak vir die hou van sodanige verkiesing in die gebied vir sodanige doel;

EN NADEMAAL die metodes van toesig en beheer van die Verenigde Nasies met betrekking tot genoemde verkiesing uiteengesit word in 'n verwisseling van briewe tussen die Spesiale Verteenwoordiger aangewys deur die Sekretaris-generaal van die Verenigde Nasies en ekself, en wat bekend gemaak word in die *Offisiële Koerant*;

DERHALWE maak ek, kragtens die bevoegdheid my verleen by Proklamasie 181 van 19 Augustus 1977, hierby die wette in die Bylae vervat.

L. A. PIENAAR
Administrateur-generaal — Windhoek, 9 Oktober 1989

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48. Uitgee vir 'n ander
49. Korrupte verkryging of terugtrekking van kandidatuur
50. Trakteerdery
51. Misdrywe met betrekking tot stemprosedure en stemburo's en- uitrusting
52. Drukwerk moet naam van uitgewer dra

GENERAL

53. Jurisdiction in respect of penalties
54. Voter not required in legal proceedings to disclose his vote
55. Evidence of election
56. Submissions in writing by registered parties

ALGEMEEN

53. Regsbevoegdheid ten opsigte van strawwe
54. In geregtelike verrigtinge word nie van kieser vereis om sy stem bekend te maak nie
55. Bewys van verkiesing
56. Skriftelike voorleggings deur geregistreerde partye

57. Sundays and public holidays
58. Instructions and forms
59. Saving
60. Short title

Definitions

1. In this Proclamation, unless the context indicates otherwise —

(i) "Assembly" means the constituent assembly about to be established in the territory in terms of and subject to laws to be introduced pursuant to Security Council Resolution 435 (1978); (xxiii)

(ii) "chief electoral officer" means the chief electoral officer appointed under section 2(1) of the Registration of Political Organizations (Constituent Assembly) Proclamation, 1989 (Proclamation AG. 43 of 1989); (vii)

(iii) "controller" means a controller appointed under section 3(1); (x)

(iv) "counting agent" means a counting agent referred to in section 7(7); (xxi)

(v) "counting officer" means a counting officer appointed under section 5(3); (xxii)

(vi) "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; (ii)

(vii) "election agent" means an election agent appointed under section 7(1); (xxiv)

(viii) "electoral officer" means an electoral officer appointed under section 4(1); (xxv)

(ix) "identity document" means an identity document issued in terms of section 3 of the Identification of Persons Act, 1979 (Act 2 of 1979), or any passport, reference book, certificate of citizenship or official document of identity or any other document of proof of identity

57. Sondae en openbare vakansiedae
58. Voorskrifte en vorms
59. Voorbehoud
60. Kort titel

Woordomskrywings

1. In hierdie Proklamasie, tensy uit die samehang anders blyk, beteken —

(i) "bevoegde persoon", met betrekking tot die Vergadering, 'n persoon wat ingevolge artikel 37, bevoeg is om as lid van die Vergadering verkies te word; (xvii)

(ii) "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; (vi)

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

(iv) "geregistreerde adres", met betrekking tot 'n geregistreerde party, die adres deur hom ingevolge artikel 3(1)(d) van die Proklamasie op die Registrasie van Politieke Organisasies (Grondwetgewende Vergadering), 1989 (Proklamasie AG. 43 van 1989), verstrek; (xviii)

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

(vi) "geregistreerde party" 'n politieke organisasie wat beskou word vir die verkiesing geregistreer te wees ingevolge artikel 4 van die Proklamasie op die Registrasie van Politieke Organisasies (Grondwetgewende Vergadering), 1989 (Proklamasie AG. 43 van 1989); (xix)

(vii) "hoofverkiesingsbeampte" die hoofverkiesingsbeampte kragtens artikel 2(1) van die Proklamasie op die Registrasie van Politieke Organisasies (Grondwetgewende Vergadering), 1989 (Proklamasie AG. 43 van 1989), aangestel; (ii)

issued by or on authority of the government of the territory or the government of the Republic of South Africa or any foreign country or any organ of the United Nations, and on which the name and a photograph of the bearer of such passport, book, certificate or document appear, or any document of proof of identity issued by any institution, board, council or other body established by or under any law, and on which the name and a photograph of the bearer of such document appear; (viii)

(x) "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 postponement *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; (xiii)

(xi) "member" means an elected member of the Assembly; (xi)

(xii) "member of the United Nations Transition Assistance Group" means any member of a section referred to in paragraph 2(b) or (c) of Annexure 1 of the Schedule to the Status of the United Nations Transition Assistance Group in South West Africa Proclamation, 1989 (Proclamation 49 of 1989), of the State President of the Republic of South Africa, and including locally recruited personnel; (xii)

(xiii) "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; (xiv)

(xiv) "polling agent" means a polling agent appointed under section 7(5); (xix)

(xv) "polling officer" means a polling officer appointed under section 5; (xx)

(xvi) "presiding officer" means a presiding officer appointed under section 5; (xxvi)

(xvii) "qualified person" in relation to the Assembly, means any person who is in

(viii) "identiteitsdokument" 'n identiteitsdokument ingevolge artikel 3 van die Wet op die Identifikasie van Persone, 1979 (Wet 2 van 1979), uitgereik, of enige paspoort, bewysboek, sertifikaat vir burgerskap of amptelike identiteitsdokument of 'n ander dokument van bewys van identiteit uitgereik deur of op gesag van die regering van die gebied of die regering van die Republiek van Suid-Afrika of 'n vreemde land of 'n liggaam van die Verenigde Nasies met die naam en foto van die draer van sodanige paspoort, boek, sertifikaat of dokument daarop, of 'n dokument van bewys van identiteit uitgereik deur 'n instelling, raad of ander liggaam ingestel by of kragtens 'n wet met die naam en foto van die draer van sodanige dokument daarop; (ix)

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

(x) "kontroleur" 'n kontroleur kragtens artikel 3(1) aangestel; (iii)

(xi) "lid" 'n verkose lid van die Vergadering; (xi)

(xii) "lid van die Verenigde Nasies Oorgangsbystandsgroep" 'n lid van 'n afdeling bedoel in paragraaf 2(b) of (c) van Aanghangsel 1 van die Bylae by die Proklamasie op die Status van die Verenigde Nasies Oorgangsbystandsgroep in Suidwes-Afrika, 1989 (Proklamasie 49 van 1989), van die Staatspresident van die Republiek van Suid-Afrika, en met inbegrip van plaaslik gewerfde personeel; (xii)

(xiii) "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 uitstelling *sine die* van verhore van besware kragtens daardie Proklamasie ingedien teen die behoud van die name van geregistreerde kiesers op die register van kiesers; (x)

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

terms of section 37 qualified to be elected as a member of the Assembly; (i)

(xviii) "registered address", in relation to a registered party, means the address furnished by it in terms of section 3(1)(d) of the Registration of Political Organizations (Constituent Assembly) Proclamation, 1989 (Proclamation AG. 43 of 1989); (iv)

(xix) "registered party" means any political organization regarded as registered for the election in terms of section 4 of the Registration of Political Organizations (Constituent Assembly) Proclamation, 1989 (Proclamation AG. 43 of 1989); (vi)

(xx) "registered voter" means any person registered as a voter in terms of the Registration Proclamation; (v)

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

(xxii) "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)

(xxiii) "registration number" or "number", in relation to a registration card, means the distinctive serial number appearing in accordance with the provisions of section 1(3) of the Registration Proclamation on the registration form used for that registration card; (xvii)

(xxiv) "Registration Proclamation" means the Registration of Voters (Constituent Assembly) Proclamation, 1989 (Proclamation AG. 19 of 1989); (xviii)

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

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

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

(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; (xxii)

(xvii) "registrasienommer" of "nommer", met betrekking tot 'n registrasiekaart, die onderskeidende reeksnommer wat ooreenkomstig artikel 1(3) van die Registrasieproklamasie op die registrasievorm verskyn wat vir daardie registrasiekaart gebruik is; (xxiii)

(xviii) "Registrasieproklamasie" die Proklamasie op die Registrasie van Kiesers (Grondwetgewende Vergadering), 1989 (Proklamasie AG. 19 van 1989); (xxiv)

(xix) "stemagent" 'n stemagent kragtens artikel 7(5) aangestel; (xiv)

(xx) "stemopnemer" 'n stemopnemer kragtens artikel 5 aangestel; (xv)

(xxi) "telagent" 'n telagent bedoel in artikel 7(7); (iv)

(xxii) "telbeampte" 'n telbeampte kragtens artikel 5(3) aangestel; (v)

(xxiii) "Vergadering" die grondwetgewende vergadering wat, ingevolge Veiligheidsraadresolusie 435 (1978), in die gebied ingestel staan te word ingevolge en behoudens wette wat ingevoer word; (i)

(xxiv) "verkiesingsagent" 'n verkiesingsagent kragtens artikel 7(1) aangestel; (vii)

(xxv) "verkiesingsbeampte" 'n verkiesingsbeampte kragtens artikel 4(1) aangestel; (viii)

(xxvi) "voorsittende beampte" 'n voorsittende beampte kragtens artikel 5 aangestel. (xvi)

ADMINISTRATIVE PROVISIONS IN CONNECTION WITH THE ELECTION

Chief electoral officer

2. (1) The chief electoral officer, shall, subject to the control of the Administrator-General, be charged with the organization and control of the election and perform the other duties and functions assigned to him by this Proclamation in an impartial manner.

(2) Without derogating from the generality of the provisions of subsection (1), the chief electoral officer shall, to the best of his ability, ensure that every person referred to in section 3, 4 or 5 performs his duties and functions under this Proclamation in an impartial manner.

Controllers

3. (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.

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

Electoral officers

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

ADMINISTRATIEWE BEPALINGS IN VERBAND MET DIE VERKIESING

Hoofverkiesingsbeampte

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

(2) Sonder om afbreuk te doen aan die algemeenheid van die bepalings van subartikel (1), moet die hoofverkiesingsbeampte, na die beste van sy vermoë, seker maak dat elke persoon bedoel in artikel 3, 4 of 5 sy pligte en werksaamhede kragtens hierdie Proklamasie op 'n onpartydige wyse verrig.

Kontroleurs

3. (1) Die hoofverkiesingsbeampte 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 hoofverkiesingsbeampte gemagtig, 'n plig of werksaamheid verrig wat aan die hoofverkiesingsbeampte opgedra is en 'n bevoegdheid uitoefen wat aan hom verleen is;

(b) in 'n distrik optree in die plek van en namens die verkiesingsbeampte vir daardie distrik, na 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.

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

Verkiesingsbeamptes

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

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

Presiding officers, polling officers and counting officers

5. (1) The chief electoral officer shall appoint for each polling station in a district —

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

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

(2) Notwithstanding the provisions of subsection (1), a presiding officer or a polling officer for a polling station in any district may, in a case of urgency, be appointed by 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 shall 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.

(4) A notice of any appointment made under subsection (1) or (3), shall promptly be published in the *Official Gazette*.

Conditions of appointment

6. (1) Any person appointed under section 3, 4 or 5 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 3, 4 and 5, 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.

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

Voorsittende beamptes, stemopnemers en telbeamptes

5. (1) Die hoofverkiesingsbeampte stel vir elke stemburo in 'n 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, in die geval van dringendheid, deur 'n kontroleur aangestel word, en kan 'n stemopnemer vir 'n stemburo deur die voorsittende beampte vir daardie stemburo aangestel word.

(3) Die hoofverkiesingsbeampte kan as telbeampte 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.

(4) 'n Kennisgewing van 'n aanstelling kragtens subartikel (1) of (3) gedoen, word spoedig in die *Offisiële Koerant* gepubliseer.

Voorwaardes van aanstelling

6. (1) 'n Persoon kragtens artikel 3, 4 of 5 aangestel, is 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 3, 4 en 5 voorsiening gemaak word, of ten opsigte van persone in sodanige ampte aangestel wat in die heeltydse diens van die Staat is en persone aldus aangestel wat nie in die heeltydse diens van die Staat is nie, of ten opsigte van werk onder verskillende omstandighede of in verskillende gebiede verrig.

(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 3, 4 or 5 may be withdrawn, without prior notice to any person and without any person being entitled to a hearing, 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 3, 4 or 5 otherwise than in writing shall be confirmed in writing as soon as circumstances permit.

(6) No person who —

(a) is employed by a political organization or registered party, whether or not such person receives or is entitled to receive any remuneration for such services, or has openly identified himself with any party politics; or

(b) is a serving member of any military force or police force in the territory; or

(c) was a serving member of any military force or police force or any unit thereof demobilized after 1 April 1989,

shall be appointed under section 3, 4 or 5 or be in such office.

Agents of registered parties

7. (1) A registered party may appoint election agents for any district, and shall advise the electoral officer of the district concerned not later than 3 days before the first polling day referred to in section 9(1), 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 the district concerned.

(3) An electoral officer may at his discretion consult with any election agent appointed under

(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 3, 4 of 5 kan sonder kennisgewing vooraf aan enigiemand en sonder dat enigiemand geregtig is om aangehoor te word, 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 3, 4 of 5 wat nie in skrif is nie, moet skriftelik bevestig word sodra omstandighede dit toelaat.

(6) Niemand wat —

(a) deur 'n geregistreerde party in diens geneem is hetsy sodanige persoon enige vergoeding ontvang of geregtig is om te ontvang vir sodanige dienste of nie, of homself openlik met partypolitiek geïdentifiseer het; of

(b) 'n diensdoende lid van 'n militêre mag of polisiemag in die gebied is; of

(c) 'n diensdoende lid was van 'n militêre mag of polisiemag of 'n eenheid daarvan wat gedemobiliseer is na 1 April 1989,

word kragtens artikel 3, 4 of 5 aangestel of mag in sodanige amp wees nie.

Agente van geregistreerde partye

7. (1) 'n Geregistreerde party kan verkiesingsagente vir 'n distrik aanstel, en moet die verkiesingsbeampte vir die betrokke distrik nie later nie as 3 dae voor die eerste stemdag bedoel in artikel 9(1), 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 hoofbuitedeur van die landdroskantoor van die betrokke distrik opplak.

(3) 'n Verkiesingsbeampte kan na goeddunke met enige verkiesingsagent wat kragtens subartikel

subsection (1) for his district who is readily available, about any matter connected with the taking of the poll in that district.

(4) (a) A registered party may at any time revoke the appointment of any election agent.

(b) When a registered party revokes the appointment of any election agent under paragraph (a) or if any election agent dies or becomes incapacitated, the registered party shall inform the electoral officer concerned in writing of such revocation, death or incapacity, and the registered party may appoint any other person as election agent in his place and shall forthwith notify in writing the electoral officer concerned of the name and address of the person so appointed.

(5) A registered party may, subject to the provisions of paragraph (b), appoint polling agents for any polling station and shall advise the electoral officer concerned in writing of the name of any polling agent so appointed.

(b) One polling agent for a particular polling station shall be entitled to attend, at any time, at that polling station as the representative and observer of the registered party which appointed him as its agent.

(6) (a) No polling agent shall interfere with the voting in the polling station concerned, except as provided in this Proclamation, or to do any canvassing at that polling station or carry on him or have with him anything which indicates that he is a representative of a particular registered party, and such agent shall be obliged to carry on him such identification as determined by the chief electoral officer.

(b) The presiding officer may, notwithstanding any provisions to the contrary contained in section 17(2)(a), order any agent referred to in paragraph (a) of this subsection to leave the polling station concerned until such time as he complies with the provisions of that paragraph, and the provisions of section 17(2)(b) shall *mutatis mutandis* apply in respect of any such agent who fails to leave the polling station when so ordered.

(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) (a) 'n Geregistreerde party kan te eniger tyd die aanstelling van 'n verkiesingsagent intrek.

(b) Wanneer 'n geregistreerde party die aanstelling van 'n verkiesingsagent kragtens paragraaf (a) intrek of indien 'n verkiesingsagent te sterwe kom of onbekwaam raak, moet die geregistreerde party die betrokke verkiesingsbeampte skriftelik in kennis stel van sodanige intrekking, dood of onbekwaamheid en die geregistreerde party kan 'n ander persoon as verkiesingsagent in sy plek aanstel en moet onverwyld die betrokke verkiesingsbeampte skriftelik in kennis stel van die naam en adres van die persoon aldus aangestel.

(5) (a) 'n Geregistreerde party kan, behoudens die bepalings van paragraaf (b), stemagente vir 'n stemburo aanstel en moet die betrokke verkiesingsbeampte skriftelik in kennis stel van die naam van 'n aldus aangestelde stemagent.

(b) Een stemagent vir 'n bepaalde stemburo is geregtig om te eniger tyd in daardie stemburo teenwoordig te wees as verteenwoordiger en waarnemer van die geregistreerde party wat hom as sy agent aangestel het.

(6) (a) 'n Stemagent mag hom nie bemoei met die stemming in die betrokke stemburo of die werwing van stemme by daardie stemburo doen of enigiets op hom dra of by hom hê wat aandui dat hy 'n verteenwoordiger van die geregistreerde party is wat hom as sy agent aangestel het nie, en sodanige agent is verplig om sodanige identifikasie as wat die hoofverkiesingsbeampte bepaal op hom te dra.

(b) Die voorsittende beampte kan, ondanks andersluidende bepalings in artikel 17(2)(a) vervat, 'n agent bedoel in paragraaf (a) van hierdie subartikel, gelas om die betrokke stemburo te verlaat totdat hy aan die bepalings van daardie paragraaf voldoen en die bepalings van artikel 17(2)(b) is *mutatis mutandis* van toepassing ten opsigte van enige sodanige agent wat versuim om die stemburo te verlaat wanneer hy daartoe gelas word.

(7) A registered party shall be entitled to be represented at any place where the determination of the result of the poll and any related verification occurs as hereinafter provided, by not more than four counting agents.

(8) No person shall be appointed under this section as an election agent or a polling agent or a counting agent for a registered party unless he is a registered voter in respect of the election.

(9) When any officer is in terms of this Proclamation required to seal any thing, any election agent, polling agent or counting agent who is entitled to be present, and is present, shall be entitled to place the seal of the registered party which appointed him on that thing, and before any thing that has been sealed may be opened, any such agent shall be entitled to inspect such seals.

Declaration of secrecy

8. Every controller, electoral officer, presiding officer, polling officer or counting officer and every agent appointed under section 7, shall make in a form prescribed by the chief electoral officer, and before assuming his duties or performing any function or attending at any polling station or, attending at the place where the result of the election is determined as hereinafter provided, a declaration of secrecy by affirmation or on an 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 any affirmation or administer any oath which is to be made under this Proclamation.

DETERMINATION OF POLLING DAYS AND SUBMISSION OF LISTS OF CANDIDATES

Determination of polling days

9. (1) The Administrator-General shall by proclamation in the *Official Gazette* determine the days upon which the poll in respect of the election shall take place.

(2) The Administrator-General may by further proclamation in the *Official Gazette* amend any proclamation promulgated under subsection (1), and may by any such amendment alter the period of the poll in respect of the territory or any part of the territory or any polling station.

(7) 'n Geregistreerde party is geregtig om by enige plek waar die vasstelling van die uitslag van die stemming en enige aanverwante verifikasie plaasvind, verteenwoordig te wees deur hoogstens vier persone deur hom as sy telagente aangestel.

(8) Niemand word kragtens hierdie artikel as 'n verkiesingsagent of 'n stemagent of 'n telagent vir 'n geregistreerde party aangestel nie, tensy hy 'n geregistreerde kieser ten opsigte van die verkiesing is.

(9) Wanneer 'n beampte by 'n stemburo iets ingevolge hierdie Proklamasie moet verseël, is 'n verkiesingsagent, stemagent of telagent wat geregtig is om teenwoordig te wees en wat teenwoordig is, geregtig om die seël van die geregistreerde party wat hom aangestel het, daarop aan te bring, en voordat iets wat geseël is, geopen mag word, is enige sodanige agent geregtig om sodanige seëls te inspekteer.

Verklaring van geheimhouding

8. Elke kontroleur, verkiesingsbeampte, voorsittende beampte, stemopnemer of telbeampte en elke agent kragtens artikel 7 aangestel 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 daarin teenwoordig is, 'n bevestiging of 'n beëdigde verklaring van geheimhouding maak of aflê voor 'n vrederegter 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 enige bevestiging of eed wat kragtens hierdie Proklamasie afgelê moet word, af te neem.

BEPALING VAN STEMDAE EN VOORLEGGING VAN LYSTE VAN KANDIDATE

Bepaling van stemdae

9. (1) Die Administrateur-generaal moet by proklamasie in die *Offisiële Koerant* die dae bepaal waarop die stemming ten opsigte van die verkiesing moet plaasvind.

(2) 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 stemtydperk ten opsigte van die gebied of 'n deel van die gebied of 'n stemburo verander.

List of candidates to be submitted to the chief electoral officer

10. (1) A registered party shall take part in the election by submitting to the chief electoral officer a list of candidates in writing at any time, but not later than a day determined by the chief electoral officer by notice in the *Official Gazette*, and which shall contain the names of at least twenty-four candidates with a view to the filling of any seats in the Assembly to which that registered party may become entitled in accordance with the provisions of section 38, and shall further comply with the provisions of subsections (2), (3), (4), (5) and (6).

(2) The names on a list of candidates shall appear in such order as the registered party may determine with a view to the provisions of section 39(1)(b).

(3) Every candidate shall be a qualified person in relation to the Assembly.

(4) The registration number of each candidate shall be stated on the list after his name.

(5) A list of candidates shall be accompanied by a declaration that each person whose name appears on the said list of candidates has accepted his nomination as a candidate of the registered party submitting the list and that he is a qualified person in relation to the Assembly.

(6) Any person whose name appears on more than one list of candidates shall be deemed not to be a candidate for any registered party.

(7) No documents shall be received as aforesaid after 11h00 on the day determined by the chief electoral officer under subsection (1).

Publication of lists of candidates

11. (1) The chief electoral officer shall as soon as possible after the provisions of section 10 have been complied with, publish a notice in the *Official Gazette* —

(a) stating, in alphabetical order, the names of all the registered parties;

(b) setting out the list of candidates of each such registered party for the election, as drawn up by the registered party in terms of section 10 and declaring that the persons

Lys van kandidate voorgelê te word aan hoofverkiesingsbeampte

10. (1) 'n Geregistreerde party neem deel aan die verkiesing deur 'n lys van kandidate te eniger tyd, maar nie later nie as 'n dag deur die hoofverkiesingsbeampte by kennisgewing in die *Offisiële Koerant* bepaal, aan die hoofverkiesingsbeampte skriftelik voor te lê, en wat die name van ten minste vier-en-twintig kandidate bevat met die oog op die vul van enige setels in die Vergadering waarop daardie geregistreerde party geregtig mag word ooreenkomstig die bepalings van artikel 38, en wat verder voldoen aan die bepalings van subartikels (2), (3), (4), (5) en (6).

(2) Die name op 'n lys van kandidate moet in die volgorde verskyn wat die geregistreerde party met die oog op die bepalings van artikel 39(1)(b) bepaal.

(3) Elke kandidaat moet 'n bevoegde persoon wees met betrekking tot die Vergadering.

(4) Die registrasienommer van elke kandidaat moet na sy naam op die lys aangegee word.

(5) 'n Lys van kandidate moet vergesel gaan van 'n verklaring dat elke persoon wie se naam op genoemde lys van kandidate verskyn, sy nominasie as 'n kandidaat van die geregistreerde party wat die lys voorlê, aanvaar het en 'n bevoegde persoon is met betrekking tot die Vergadering.

(6) 'n Persoon wie se naam op meer as een lys van kandidate verskyn, word geag nie 'n kandidaat vir enige geregistreerde party te wees nie.

(7) Geen dokumente word na 11h00 soos voormeld, op die dag deur die hoofverkiesingsbeampte kragtens subartikel (1) bepaal, ontvang nie.

Publikasie van lyste van kandidate

11. (1) Die hoofverkiesingsbeampte moet so gou doenlik nadat aan die bepalings van artikel 10 voldoen is, 'n kennisgewing in die *Offisiële Koerant* publiseer waarin —

(a) die name van al die geregistreerde partye, in alfabetiese volgorde, aangegee word;

(b) die lys van die kandidate van elke sodanige geregistreerde party vir die verkiesing, soos deur die geregistreerde party ingevolge artikel 10 opgestel, aangegee word, en ver-

whose names appear on the list have been nominated as the candidates of the registered party concerned for the election.

(2) If any person whose name appears on a list of candidates in a notice published in terms of subsection (1), dies or is found not to be a qualified person in relation to the Assembly or withdraws his candidature, at any time before the last polling day, the chief electoral officer shall amend such notice by further notice in the *Official Gazette* by the deletion from that list of the name and registration number of such person and by the addition at the end of that list of the name and registration number of a qualified person who has been nominated in writing by the registered party whose list of candidates it is and who has accepted his nomination in writing.

(3) A person whose name has in terms of a notice under subsection (2) —

(a) been deleted from the list of candidates of a registered party for the election, shall cease to be a candidate for the election;

(b) been added to the list of candidates of a registered party for the election, shall thereby become a candidate of such registered party for the election.

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

(5) A notice published under subsection (1) shall, on the mere production of a copy of the *Official Gazette* in which it is published, and in the absence of proof to the contrary, be conclusive evidence that the requirements of this Proclamation relating to the submission of lists of candidates by registered parties and to matters precedent or incidental thereto have been complied with in respect of any registered party whose name is set out therein, and that any candidates on that list of candidates are the candidates nominated in respect of that registered party, but subject to the provisions of section 39(1)(b).

klaar word dat die persone wie se name op die lys verskyn, as die kandidate van die betrokke geregistreerde party vir die verkiesing genomineer is.

(2) Indien 'n persoon wie se naam op 'n lys van kandidate in 'n ingevolge subartikel (1) gepubliseerde kennisgewing verskyn, te eniger tyd voor die laaste stemdag van die verkiesing te sterwe kom of bevind word nie 'n bevoegde persoon met betrekking tot die Vergadering te wees nie, of sy kandidatuur terugtrek, kan die hoofverkiesingsbeampte daardie kennisgewing by verdere kennisgewing in die *Offisiële Koerant* wysig deur die skrapping van die naam en registrasienommer van daardie persoon van daardie lys en die byvoeging aan die einde van daardie lys, van die naam en registrasienommer van 'n bevoegde persoon wat skriftelik deur die geregistreerde party wie se lys van kandidate dit is, genomineer is en wat sy nominasie skriftelik aanvaar het.

(3) 'n Persoon wie se naam ingevolge 'n kennisgewing kragtens subartikel (2) —

(a) geskrap is van die lys van kandidate van 'n geregistreerde party vir die verkiesing, hou op om 'n kandidaat vir die verkiesing te wees;

(b) bygevoeg is tot die lys van kandidate van 'n geregistreerde party vir die verkiesing, word daardeur 'n kandidaat van die geregistreerde party vir die verkiesing.

(4) 'n Verwysing in hierdie Proklamasie na 'n kennisgewing ingevolge subartikel (1) gepubliseer, word, met betrekking tot 'n kennisgewing wat kragtens subartikel (2) gewysig is, uitgelê as 'n verwysing na daardie kennisgewing soos aldus gewysig.

(5) 'n Kennisgewing kragtens subartikel (1) gepubliseer, is, by blote voorlegging van 'n eksemplaar van die *Offisiële Koerant* waarin dit gepubliseer is, en in die afwesigheid van bewys tot die teendeel, afdoende bewys dat aan al die vereistes van hierdie Proklamasie met betrekking tot die voorlegging van lyste van kandidate deur geregistreerde partye en aangeleenthede wat dit voorafgaan of daarmee verband hou, voldoen is ten opsigte van 'n geregistreerde party waarvan die naam daarin aangegee word, en dat enige kandidate op daardie lys van kandidate die kandidate is wat ten opsigte van daardie geregistreerde party genomineer is, maar behoudens die bepalings van artikel 39(1)(b).

(6) The provisions of subsection (5) shall not apply in relation to the question whether a particular candidate is a qualified person.

PRELIMINARY ARRANGEMENTS FOR THE TAKING OF THE POLL

Polling stations

12. (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, subject to the provisions of subsection (2), 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) No polling station shall be established —

(a) in or at any police station;

(b) in or at any military base;

(c) in or at any residence of any traditional chief or headman;

(d) in or at any office of any political organization or registered party; or

(e) in any place where any intoxicating liquor is sold as contemplated in the Liquor Ordinance, 1969 (Ordinance 2 of 1969).

(3) Every electoral officer shall post outside the magistrate's office of his district a notice of the places in his 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.

(4) 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.

(5) A mobile polling station shall be under the general control of the electoral officer for a district designated by the chief electoral officer and shall for the purposes of this Proclamation, except subsections (2) and (3) of this section, be regarded as a polling station in that district.

(6) The electoral officer referred to in section 4,

(6) Die bepalings van subartikel (5) is nie met betrekking tot die vraag of 'n bepaalde kandidaat 'n bevoegde persoon is, van toepassing nie.

VOORAFGAANDE REËLINGS VIR DIE STEMMING

Stemburo's

12. (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 hoofverkiesingsbeampte of deur 'n kontroleur of die verkiesingsbeampte vir daardie distrik handelende op gesag van die hoofverkiesingsbeampte, behoudens die bepalings van subartikel (2), bepaal word.

(2) Geen stemburo word ingestel nie —

(a) in of by enige polisiestasie;

(b) in of by enige militêre basis;

(c) in of by enige woning van 'n tradisionele kaptein of hoofman;

(d) in of by enige kantoor van enige politieke organisasie of geregistreerde party; of

(e) in enige plek waar enige sterk drank verkoop word soos beoog in die Drankordonnansie 1969 (Ordonnansie 2 van 1969).

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

(4) Die hoofverkiesingsbeampte of 'n kontroleur of verkiesingsbeampte 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.

(5) 'n Mobiele stemburo val onder die algemene beheer van die verkiesingsbeampte vir 'n distrik deur die hoofverkiesingsbeampte aangewys en word by die toepassing van hierdie Proklamasie, behalwe subartikels (2) en (3) van hierdie artikel, as 'n stemburo in daardie distrik beskou.

(6) Die verkiesingsbeampte in artikel 4 bedoel,

shall, 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 shall visit such places.

(7) The presiding officer in control of, any polling officer and polling agent 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 that land, or for the purposes of ascertaining whether there are any registered voters on that land.

(8) Additional polling stations may be established in any district at any time after the commencement of the poll and any election agent for that district shall be notified thereof as soon as practicable.

Furnishing of electoral material and equipment

13. (1) The chief electoral officer shall furnish 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 those polling stations.

(3) (a) The chief electoral officer shall cause copies to be made of —

(i) the list of objections postponed *sine die*;

(ii) a list compiled by the chief electoral officer of cancelled registration cards including registration cards which in terms of the Registration Proclamation ceased to be valid but have not yet been cancelled; and

(iii) a list compiled by the chief electoral officer of the numbers and particulars of registration cards issued to a voter who has registered more than once.

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.

(7) Die voorsittende beampte in beheer van, 'n stemopnemer en stemagent 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.

(8) Addisionele stemburo's kan te eniger tyd na die begin van die stemming in 'n distrik ingestel word en 'n verkiesingsagent vir daardie distrik moet so gou doenlik daarvan in kennis gestel word.

Verskaffing van verkiesingsingsmateriaal en uitrusting

13. (1) Die hoofverkiesingsbeampte verskaf stembusse, stembriewe, stembriefkoeverte, werktuie, seëls en ander benodigdhede en verrig die ander handelinge en tref die reëlings ter vergemakliking van die hou van die stemming wat raadsaam geag word om die verkiesing doeltreffend te voer.

(2) Elke verkiesingsbeampte is daarvoor verantwoordelik om 'n genoegsame hoeveelheid van die in subartikel (1) bedoelde benodigdhede van die hoofverkiesingsbeampte 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 hoofverkiesingsbeampte laat afskrifte maak van —

(i) die lys van *sine die*-uitgestelde besware;

(ii) 'n lys saamgestel deur die hoofverkiesingsbeampte van gekanselleerde registrasiekaarte met inbegrip van registrasiekaarte wat ingevolge die Registrasieproklamasie opgehou het om geldig te wees, maar wat nog nie gekanselleer is nie; en

(iii) 'n lys saamgestel deur die hoofverkiesingsbeampte van registrasiekaarte uitgereik aan 'n kieser wat meer as een keer geregistreer het.

(b) Each copy of each 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 each such list.

The voting compartment

14. (1) The voting compartment in or at any polling station shall be arranged so as to permit a voter to mark his vote in secrecy and shall be in a position where a person can neither enter nor leave 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 the voting compartment while a voter is in 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 the voter may record his vote in secret.

The ballot box

15. (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 all ballot boxes to be used at such polling station are empty;

(b) permit the inspection of the interior of all such empty ballot boxes by such persons entitled in terms of section 17(1) to attend at the polling station, and as are present; and

(c) immediately thereafter close and seal all such ballot boxes 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 made available for inspection, closed and sealed *mutatis mutandis* in accordance

(b) Elke afskrif van elke sodanige lys word deur of namens die hoofverkiesingsbeampte gesertifiseer as 'n juiste afskrif.

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

Die stemkompartement

14. (1) Die stemkompartement in of by 'n stemburo word ingerig ten einde 'n kieser in staat te stel om sy stem in die geheim te merk en word op 'n plek geplaas waar 'n persoon dit nie kan binnegegaan of verlaat sonder om deur die voorsittende beampte of 'n stemopnemer deur hom aangewys, gesien te word nie, en die voorsittende beampte of bedoelde stemopnemer moet toesien, dat, terwyl 'n kieser daarin is ten einde sy stem uit te bring, niemand anders die stemkompartement binnegaan 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.

Die stembus

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

(a) homself oortuig dat al die stembusse wat by daardie stemburo gebruik gaan word, leeg is;

(b) die inspeksie van die binnekant van al sodanige leë stembusse deur die persone wat ingevolge artikel 17(1) geregtig is om in die stemburo teenwoordig te wees en wat aanwesig is, toelaat; en

(c) onmiddellik daarna al sodanige stembusse toemaak en verseël ooreenkomstig die voorskrifte deur die hoofverkiesingsbeampte 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* ooreenkomstig die bepalings van subartikel (1) vir inspeksie beskikbaar

with the provisions of subsection (1), before being made available for the deposit of ballot papers.

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

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

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

(b) break the seal and open the said aperture at the commencement of the poll on the following 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 17(1) to attend at the polling station, and as are present.

(5) All sealed ballot boxes used in or at a polling station shall be placed in a position where they can be seen at all times during polling hours at that polling station by the presiding officer or a polling officer designated by him.

(6) The presiding officer and a police officer shall be responsible for the safe-keeping of all ballot boxes used at his polling station until they are delivered to the electoral officer concerned or chief electoral officer, as the case may be.

Commencement and closing of the poll at polling stations

16. (1) The poll shall commence at 07h00 and shall close at 19h00 of each polling day: 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, is present at the polling station although not

gestel, 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 onder die omstandighede in hierdie Proklamasie beoog.

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

(a) by die sluiting van die stemming op elke stemdag, 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 stemdag,

ooreenkomstig die voorskrifte deur die hoofverkiesingsbeampte uitgereik en in die teenwoordigheid van sodanige persone wat geregtig is om in die stemburo teenwoordig te wees ingevolge artikel 17(1), en wat aanwesig is.

(5) Alle verseëlde stembusse wat in of by 'n stemburo gebruik word, moet op 'n plek geplaas word waar hulle te alle tye gedurende die stemure by daardie stemburo deur die voorsittende beampte of 'n stemopnemer deur hom aangewys, gesien kan word.

(6) Die voorsittende beampte en 'n polisiebeampte is vir die veilige bewaring van alle stembusse wat by sy stemburo gebruik word, verantwoordelik totdat hulle aan die betrokke verkiesingsbeampte of hoofverkiesingsbeampte, na gelang van die geval, afgelewer word.

Aanvang en sluit van stemming by stemburo's

16. (1) Die stemming begin om 07h00 en sluit om 19h00 van elke stemdag: Met dien verstande dat die voorsittende beampte —

(a) voordat hy die stemming op die aldus voorgeskrewe uur op 'n stemdag 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 stemdag, by die stemburo aanwesig is alhoewel nie binne ge-

inside the said room or enclosure, to record his vote.

(2) Notwithstanding any provisions to the contrary contained in subsection (1) of this section, voters may, after 07h00 of 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.

Powers of presiding officers at polling stations

17. (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 and any polling agent entitled in terms of section 7 to attend at the polling station, and any other person authorized by or on the authority of the Administrator-General or the chief electoral officer.

(2) (a) The presiding officer may order any person, excluding the persons referred to in subsection (1) and any person recording his vote, to leave the polling station.

(b) Any person who fails to leave the polling station when so ordered in accordance with paragraph (a), shall be guilty of an offence and may, by order of the presiding officer, be arrested without a warrant.

(3) The presiding officer, after consultation with the police officials on duty (if any), may take any steps that he deems necessary for the protection of himself and other officials or for stopping or preventing any violence or disturbance 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 entitled to vote, from having an opportunity to record his vote.

(5) In the application of this section in respect of a mobile polling station, the expression "polling station" shall include an area indicated or demar-

noemde vertrek of afsluiting nie, kan toelaat om sy stem uit te bring.

(2) Ondanks andersluidende bepalings van subartikel (1) van hierdie artikel, kan kiesers na 07h00 van die eerste stemdag toegelaat word om hulle stemme by 'n mobiele stemburo uit te bring te eniger tyd op enige stemdag 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.

Bevoegdhede van voorsittende beamptes by stemburo's

17. (1) Die voorsittende beampte en ander beamptes by 'n stemburo hou daar orde, reël die aantal kiesers wat tegelyk binnegelaat word, en hou alle ander persone buite, behalwe die hoofverkiesingsbeampte, 'n kontroleur, die verkiesingsbeampte vir die distrik, die stemopnemers en 'n stemagent wat geregtig is om in 'n stemburo teenwoordig te wees ingevolge artikel 7, en enige ander persoon wat deur of op gesag van die Administrateur-generaal of die hoofverkiesingsbeampte gemagtig is om teenwoordig te wees.

(2) (a) Uitgesonderd die persone in subartikel (1) bedoel en 'n persoon wat sy stem uitbring, kan die voorsittende beampte by 'n stemburo enigeen gelas om die stemburo te verlaat.

(b) Enigeen wat versuim om 'n stemburo te verlaat wanneer hy ingevolge paragraaf (a) daartoe gelas word, is aan 'n misdryf skuldig en 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 enige geweldpleging of steuring 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 geregtig is om te stem, die geleentheid ontneem word om sy stem uit te bring.

(5) By die toepassing van hierdie artikel ten opsigte van 'n mobiele stemburo, beteken die uitdrukking "stemburo" ook 'n gebied wat deur

cated by the presiding officer at any place where such mobile polling station is stationary for the purpose of taking a poll thereat, or at any place where a voter is permitted in terms of section 16(2), to record his vote.

VOTING AT POLLING STATIONS

Franchise

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

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

Place of voting

19. (1) A voter should normally vote in the district where he is registered.

(2) A voter who wishes to vote in any district other than where he is registered, shall vote in accordance with the provisions of section 24(1).

Voting to be by secret ballot

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

(2) Every ballot paper shall contain the names, abbreviations and distinctive symbols of the registered parties taking part in the election as set out in the Annexure to this Proclamation.

Manner of voting

21. (1) The voting at any polling station shall be conducted substantially and as nearly as possible in accordance with the provisions of this section and, under the relevant circumstances contemplated in sections 22, 23 and 24.

(2) No voter shall be entitled or permitted to vote, unless he —

(a) subject to the provisions of section 24(3), produces and surrenders his registration card to the presiding officer or a polling officer; and

(b) has produced to the presiding officer or a polling officer in proof of his identity, his identity document or, if he is unable to so

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 16(2) toegelaat word om sy stem uit te bring.

STEMMING BY STEMBURO'S

Stemreg

18. (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.

Plek van stemming

19. (1) 'n Kieser behoort normaalweg te stem in die distrik waar hy geregistreer is.

(2) 'n Kieser wat wil stem in 'n ander distrik as waar hy geregistreer is, moet ooreenkomstig die bepalings van artikel 24(1) stem.

Stemming vind per geheime stembrief plaas

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

(2) Elke stembrief moet die name, afkortings en kentekens van die geregistreerde partye wat aan die verkiesing deelneem, bevat soos uiteengesit in die Aanhangsel by hierdie Proklamasie.

Wyse waarop gestem word

21. (1) Stemming by 'n stemburo vind in wese en sover doenlik plaas ooreenkomstig die bepalings van hierdie artikel en, onder die betrokke omstandighede in artikels 22, 23 en 24 beoog.

(2) Geen kieser is geregtig en word nie toegelaat om te stem nie tensy hy —

(a) behoudens die bepalings van artikel 24(3), sy registrasiekaart voorlê en oorgee aan die voorsittende beampte of 'n stemopnemer: en

(b) sy identiteitsdokument as bewys van sy identiteit aan die voorsittende beampte of 'n stemopnemer voorlê of, indien hy nie in

produce any identity document, any other voter who is registered and who has identified himself by producing his identity document to the presiding officer or to a polling officer designated by the presiding officer for that purpose, and makes before the presiding officer or such polling officer an affidavit in a form prescribed by the chief electoral officer in which proof of the identity of the first-mentioned voter is furnished.

staat is om 'n identiteitsdokument aldus voor te lê nie, 'n ander kieser wat geregistreer is en wat homself deur sy identiteitsdokument voor te lê aan die voorsittende beampte of aan 'n stemopnemer vir dié doel deur die voorsittende beampte aangewys, geïdentifiseer het, voor die voorsittende beampte of so 'n stemopnemer 'n beëdigde verklaring in 'n vorm voorgeskryf deur die hoofverkiesingsbeampte aflê waarin bewys van identiteit van eersgenoemde kieser gelewer word.

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

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

(a) by examining, and by putting relevant questions relating to the particulars appearing on, the registration card and identity document or affidavit, produced to him by the voter as contemplated in subsection (2) that —

(a) deur die ondersoek van, en deur tersaaklike vrae te stel wat betrekking het op die besonderhede wat verskyn op die registrasiekaart en identiteitsdokument of beëdigde verklaring wat, soos in subartikel (2) beoog, deur die kieser aan hom voorgelê is, dat —

(i) the voter is the person whose name appears on the registration card; and

(i) die kieser die persoon is wie se naam op daardie registrasiekaart verskyn; en

(ii) the registration card is a registration card officially issued in terms of the Registration Proclamation;

(ii) die registrasiekaart 'n registrasiekaart is wat amptelik ingevolge die Registrasieproklamasie uitgereik is;

(b) in the manner prescribed in subsection (4) of this section and subject to the provisions of paragraph (c) of that subsection, that the voter has not already voted at the election; and

(b) op die wyse in subartikel (4) van hierdie artikel voorgeskryf en behoudens die bepalings van paragraaf (c) van daardie subartikel, dat die kieser nie reeds by die verkiesing gestem het nie; en

(c) that the number and relevant particulars of the registration card do not appear —

(c) dat die nommer en tersaaklike besonderhede van daardie registrasiekaart —

(i) on the list of objections postponed *sine die*;

(i) nie op die lys van *sine die*-uitgestelde besware verskyn nie;

(ii) on the list of cancelled registration cards contemplated in section 13(3)(a)(ii); or

(ii) nie op die lys van gekanselleerde registrasiekaarte beoog in artikel 13(3)(a)(ii) verskyn nie; of

(iii) on the list contemplated in section 13(3)(a)(iii).

(iii) nie op die lys beoog in artikel 13(3)(a)(iii) verskyn nie.

(4) (a) In this subsection and in subsection (7) "identification mark" shall mean the mark approved by the chief electoral officer for the purpose of the identification of a voter who has voted at the election.

(4) (a) In hierdie subartikel en in subartikel (7) beteken "identifikasiemerk" die merk wat deur die hoofverkiesingsbeampte goedgekeur is vir die identifisering van 'n kieser wat by die verkiesing gestem het.

(b) The presiding officer or a polling officer

(b) Die voorsittende beampte of 'n stemop-

shall require the voter, and the voter when so required, is obliged to cause his fingers to be examined by the presiding officer or such polling officer, and if upon examination no one of the fingers of the voter displays the identification mark, he shall be presumed not to have already voted at the election.

(c) If upon such examination, any of the fingers of the voter displays the identification mark, the presiding officer shall give to every polling agent who is present an opportunity to observe such identification mark, and shall not permit the voter to vote.

(d) If any person has in terms of paragraph (c) 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.

(e) The provisions of paragraph (b) of subsection (3) and of paragraph (b) of this subsection and of subsection (7) shall not apply in the case of a voter who suffers from a physical defect which, in the opinion of the presiding officer, makes the application of the said provisions impossible.

(5) Having ascertained in terms of subsection (3) that the number and relevant particulars of a registration card appear on the list of cancelled registration cards, the presiding officer or a polling officer shall not permit the voter to vote, and shall retain the registration card produced to him and endorse it to that effect.

(6) The matters referred to in subsection (3) 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;

(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

nemer 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 geeneen 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 elke stemopnemer wat teenwoordig is 'n geleentheid gee om daardie identifikasiemerk waar te neem, en moet hy die kieser nie toelaat om te stem nie.

(d) Indien 'n persoon ingevolge paragraaf (c) verbied is om te stem, moet die voorsittende beampte die registrasiekaart behou wat deur hom voorgelê is, en dit endosseer ten effekte dat bedoelde persoon aldus verbied is.

(e) Die bepalings van paragraaf (b) van subartikel (3) en van paragraaf (b) van hierdie subartikel en van subartikel (7), 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 van bedoelde bepalings onmoontlik maak.

(5) Wanneer ingevolge subartikel (3) vasgestel is dat die nommer en relevante besonderhede van 'n registrasiekaart op die lys van gekanselleerde registrasiekaarte verskyn, moet die voorsittende beampte of 'n stemopnemer die kieser nie toelaat om te stem nie, en word die registrasiekaart wat aan hom voorgelê is, behou en te dien effekte geëndosseer.

(6) Wanneer die in subartikel (3) bedoelde aangeleenthede vasgestel is, moet die kieser, in die teenwoordigheid 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;

(b) indien daar op genoemde registrasiekaart die afdruk van enige vinger of vingers verskyn van die persoon aan wie dit uitgereik

corresponding finger or fingers of the voter on that registration card;

(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.

(7) When the provisions of subsection (6) have been complied with, the voter shall in the presence and in accordance with the instructions of the presiding officer or a polling officer 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, except as provided in subsection (4)(e).

(8) If a voter refuses that the prescribed identification mark be applied to his fingers, he shall not be issued with a ballot paper and shall be ordered to leave the polling station.

(9) When the voter has complied with the provisions of subsection (7), the presiding officer or a polling officer shall —

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

(b) hand that ballot paper to the voter; and

(c) retain the said registration card, endorse thereon the number of the ballot box in use and keep it in a safe place.

(10) When the voter has received the ballot paper, 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;

is, die afdruk van die ooreenstemmende vinger of vingers van die kieser op daardie registrasiekaart plaas;

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

(7) Wanneer aan die bepalings van subartikel (6) voldoen is, moet die kieser in die teenwoordigheid en ooreenkomstig die voorskrifte van die voorsittende beampte of 'n stemopnemer, die identifikasiemerk op die vingers van sy linkerhand of van sy regterhand plaas of deur die voorsittende beampte of bedoelde stemopnemer daarop laat plaas, behalwe soos bepaal in subartikel (4)(e).

(8) Indien 'n kieser weier dat die voorgeskrewe identifikasiemerk aan sy vingers aangebring word, word 'n stembrief nie aan hom oorhandig nie en moet hy versoek word om die stemburo te verlaat.

(9) Wanneer die kieser aan die bepalings van subartikel (7) voldoen het, moet die voorsittende beampte of 'n stemopnemer —

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

(b) daardie stembrief aan die kieser oorhandig; en

(c) genoemde registrasiekaart behou, die nommer van die stembus in gebruik daarop aanteken en dit op 'n veilige plek bewaar.

(10) Wanneer die kieser die stembrief 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) fold the ballot paper in such manner 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) display the ballot paper in such manner that the presiding officer or a polling officer designated by him may recognize the official mark; and

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

(11) 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 (4)(b), and the vote recorded by any voter shall not be invalid merely because the provisions of subsection (3)(b) were not complied with in his case because of such defect.

(12) The registration card produced and surrendered by a voter to whom a ballot paper is issued under the circumstances contemplated in subsection (11), shall be endorsed or marked in accordance with the instructions issued by the chief electoral officer.

Voter who cannot read or is incapacitated

22. (1) Any voter who is not able to read shall, in the presence of any member of the United Nations Transition Assistance Group, be instructed by the presiding officer or any polling officer designated by him, in accordance with the instructions of the chief electoral officer, in the manner of voting as prescribed in section 21(10).

(2) If the registration card produced by a voter to the presiding officer or a polling officer does not bear a signature of the person to whom it was issued, the presiding officer or such polling officer may ask the voter whether he desires to be instructed in the manner of voting, and if the voter replies in the affirmative, such voter shall for the purposes of subsection (1) be deemed to be a voter who is not able to read as is contemplated in that subsection.

(c) die stembrief op so 'n wyse 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 op so 'n wyse vertoon dat die voorsittende beampte of 'n stemopnemer deur hom aangewys die amptelike merk kan herken;

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

(11) Die stemming by 'n stemburo word nie deur 'n defek wat ontstaan in 'n werktuig wat vir die doeleindes van subartikel (4)(b) by daardie stemburo gebruik word, onderbreek nie, en die stem deur 'n kieser uitgebring is nie ongeldig bloot omdat die bepalings van subartikel (3)(b) in sy geval weens sodanige defek nie nagekom is nie.

(12) Die registrasiekaart voorgelê en oorgegee deur 'n kieser aan wie 'n stembrief onder die in subartikel (11) beoogde omstandighede uitgereik is, word geëndosseer of gemerk ooreenkomstig die voorskrifte deur die hoofverkiesingsbeampte uitgereik.

Kieser wat nie kan lees nie of onbekwaam is

22. (1) 'n Kieser wat nie kan lees nie, moet, in die teenwoordigheid van 'n lid van die Verenigde Nasies Oorgangsbystandsgroep, deur die voorsittende beampte of 'n stemopnemer deur hom aangewys, ooreenkomstig die voorskrifte van die hoofverkiesingsbeampte ingelig word oor die wyse van stemming soos voorgeskryf in artikel 21(10).

(2) Indien daar op die registrasiekaart wat deur 'n kieser aan die voorsittende beampte of 'n stemopnemer voorgelê word, nie 'n handtekening verskyn van die persoon aan wie dit uitgereik is nie, kan die voorsittende beampte of bedoelde stemopnemer die kieser vra of hy verlang dat hy deur die voorsittende beampte ingelig word oor die wyse van stemming, en as die kieser bevestigend antwoord, word sodanige kieser by die toepassing van subartikel (1) geag 'n kieser wat nie kan lees nie soos in daardie subartikel beoog, te wees.

(3) At request in person of a voter who is incapacitated by blindness or other physical cause from voting, the presiding officer may permit such voter to vote with the assistance of any person of his choice, and upon such permission being granted anything which by section 21(10) is required to be done by the voter, may be done with the assistance of such person.

(4) The secrecy of the voting shall as far as possible be preserved in the application of the provisions of this section.

Objection by polling agent

23. Any polling agent present at a polling station may, in the manner prescribed by, and in accordance with the instructions of the chief electoral officer, object to any voter who wishes to vote, on the ground thereof that —

(a) the registration card produced by the voter is not a registration card officially issued in terms of the Registration Proclamation; or

(b) the voter is not the person whose name appears on the registration card.

Tendered ballot papers

24. (1) If —

(a) any voter wishes to vote in any other district than the district in which he was registered as a voter;

(b) in the case of a list referred to in section 21(3)(c)(iii), the number and relevant particulars of the registration card produced by any voter are found to appear on that list; or

(c) any presiding officer or polling officer is satisfied, taking into account any objection made by a polling agent, that —

(i) the registration card produced by any voter is not a registration card officially issued in terms of the provisions of the Registration Proclamation; or

(3) Op persoonlike versoek van 'n kieser wat weens blindheid of ander liggaamlike oorsaak nie in staat is om sy stem uit te bring nie, kan die voorsittende beampte daardie kieser toelaat om met die hulp van 'n persoon van sy keuse te stem en nadat bedoelde verlof verleen is, kan enigiets wat ingevolge artikel 21(10) deur die kieser gedoen moet word, gedoen word met die hulp van daardie persoon.

(4) Die geheimhouding van die stemming moet, so ver as moontlik, by die toepassing van die bepalings van hierdie artikel, behou word.

Beswaar deur stemagent

23. 'n Stemagent wat in 'n stemburo teenwoordig is, kan, op die wyse voorgeskryf deur, en ooreenkomstig die voorskrifte van die hoofverkiesingsbeampte, beswaar maak teen enige kieser wat wil stem, op grond daarvan dat —

(a) die registrasiekaart deur die kieser voorgelê, nie 'n registrasiekaart is wat amptelik ingevolge die bepalings van die Registrasieproklamasie uitgereik is nie; of

(b) die kieser nie die persoon is wie se naam op die registrasiekaart verskyn nie.

Aangebode stembriewe

24. (1) Indien —

(a) 'n kieser in 'n ander distrik wil stem as die distrik waarin hy as kieser geregistreer is;

(b) in die geval van 'n lys bedoel in artikel 21(3)(c)(iii), dit bevind word dat die naam en relevante besonderhede van die registrasiekaart deur 'n kieser voorgelê, op daardie lys verskyn; of

(c) 'n voorsittende beampte of stemopnemer van oordeel is, terwyl hy 'n beswaar gemaak het deur 'n stemagent in ag neem, dat —

(i) die registrasiekaart wat deur 'n kieser voorgelê word, nie 'n registrasiekaart is wat amptelik ingevolge die bepalings van die Registrasieproklamasie uitgereik is nie; of

(ii) a voter is not the person whose name appears on the registration card,

that voter shall be entitled to vote in the same manner and subject to the same requirements as any other voter except that the ballot paper (hereinafter referred to as a tendered ballot paper) shall be sealed in an envelope marked "tendered ballot paper" or "aangebode stembrief" and that envelop containing the tendered ballot paper on which his vote is marked, shall be handed to the presiding officer or polling officer designated by the presiding officer who shall place that envelop together with the registration card of the voter concerned and any record or an objection by a polling agent in a covering envelope which shall be closed and placed in a ballot box or container marked "tendered ballot box" or "aangebode stembus".

(2) (a) If, on a list of objections postponed *sine die* referred to in section 21(3)(c), the number and relevant particulars of the registration card produced by a voter are found to appear, the voter concerned shall be entitled to vote by way of tendered ballot paper in the same manner and subject to the same requirements as contemplated in subsection (1), except that the covering envelope containing the registration card and the tendered ballot paper on which his vote is marked, and sealed in the tendered ballot paper envelope, shall not be placed in a tendered ballot box, but in a separate packet.

(b) The presiding officer or a polling officer shall inform the voter that his vote shall be rejected and may not be counted if the magistrate who postponed the relevant objection *sine die* allows the objection, 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 desires 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.

(ii) 'n kieser nie die persoon is wie se naam op sodanige registrasiekaart verskyn nie,

is daardie kieser geregtig om op dieselfde wyse en onderworpe aan dieselfde vereistes as enige ander kieser te stem, behalwe dat die stembrief (hierna 'n aangebode stembrief genoem) in 'n koevert gemerk "aangebode stembrief" of "tendered ballot paper" verseël moet wees en daardie koevert wat die stembrief bevat waarop sy stem gemerk is, moet aan die voorsittende beampte of stemopnemer deur die voorsittende beampte aangewys, oorhandig word wie daardie koevert tesame met die registrasiekaart van die betrokke kieser en enige aantekening van 'n beswaar deur 'n stemagent, in 'n omslagkoevert plaas wat toegemaak en in 'n stembus of houer gemerk "aangebode stembus" of "tendered ballot box" geplaas moet word.

(2) (a) Indien, op 'n lys van *sine die*-uitgestelde besware bedoel in artikel 21(3)(c), gevind word dat die nommer en relevante besonderhede van die registrasiekaart deur 'n kieser voorgelê, verskyn, is die betrokke kieser geregtig om by wyse van aangebode stembrief op dieselfde wyse en onderworpe aan dieselfde vereistes soos beoog in subartikel (1), te stem, behalwe dat die omslagkoevert wat die registrasiekaart en die aangebode stembrief waarop sy stem gemerk is, en verseël in 'n stembriefkoevert, nie in die aangebode stembus geplaas word nie, maar in 'n aparte pakket.

(b) Die voorsittende beampte of 'n stemopnemer moet die kieser meedeel dat sy stem verwerp sal word en nie getel sal word nie indien die landdros wat die betrokke beswaar *sine die* uitgestel het die beswaar handhaaf voordat die tel van die stemme afgehandel is, en moet die kieser 'n skriftelike kennisgewing in 'n deur die hoofverkiesingsbeampte 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.

(c) 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.

(c) 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 hoofverkiesingsbeampte 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.

(d) The provisions of sections 22 and 23 of the Registration Proclamation shall not apply in respect of an objection allowed under the circumstances contemplated in paragraph (c) of this subsection.

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

(3) (a) When any voter wishes to vote at any polling station and he cannot produce and surrender his registration card to the presiding officer on the ground thereof that the voter concerned has lost his registration card or because it has been destroyed or if he so produces and surrenders his registration card, it is illegible, the voter concerned may, notwithstanding anything to the contrary contained in this Proclamation or the Registration Proclamation, apply to the said presiding officer to vote without a registration card in the form of an affidavit prescribed by the chief electoral officer.

(3) (a) Wanneer 'n kieser by 'n stemburo in die gebied wil stem en hy nie sy registrasiekaart kan voorlê en oorgee aan die voorsittende beampte nie, op grond daarvan dat die betrokke kieser sy registrasiekaart verloor het of dat dit vernietig is, of indien hy wel sy registrasiekaart aldus voorlê en oorgee, dit onleesbaar is, kan die betrokke kieser, ondanks andersluidende bepalings van hierdie Proklamasie of die Registrasieproklamasie, by die voorsittende beampte aansoek doen om sonder 'n registrasiekaart te stem in die die vorm van 'n beëdigde verklaring voorgeskryf deur die hoofverkiesingsbeampte.

(b) When any voter has so applied to vote, that voter shall be entitled to vote by way of tendered ballot paper in the same manner and subject to the same requirements as contemplated in subsection (1), except that the affidavit referred to in paragraph (a) of this subsection shall be placed in the covering envelope, instead of a registration card.

(b) Wanneer 'n kieser aldus aansoek doen om te stem is daardie kieser geregtig om te stem by wyse van aangebode stembrief op dieselfde wyse en onderworpe aan dieselfde vereistes soos beoog in subartikel (1), behalwe dat die beëdigde verklaring bedoel in paragraaf (a) van hierdie subartikel, in plaas van 'n registrasiekaart, in die omslagkoevert geplaas moet word.

(c) The provisions of section 24 of the Registration Proclamation shall not be construed so as to prohibit any registered voter who wishes to apply for the replacement of his registration card as contemplated in that section to so apply after the period referred to in section 2 of that Proclamation: Pro-

(c) Die bepalings van artikel 24 van die Registrasieproklamasie word nie so uitgelê dat 'n geregistreerde kieser wat wil aansoek doen vir die vervanging van sy registrasiekaart soos beoog in daardie artikel, belet is om aldus aansoek te doen na die tydperk bedoel in artikel 2 van daardie Proklamasie

vided that such voter shall not be entitled to so apply for such replacement later than a date determined by the chief electoral officer by notice in the *Official* Gazette.

nie geregtig is nie om aldus aansoek te doen vir sodanige vervanging later as op 'n datum deur die hoofverkiesingsbeampte by kennisgewing in die *Offisiële Koerant* bepaal.

Spoiled ballot papers

25. If a voter spoils any ballot paper inadvertently, he may return it to the polling officer concerned who, if satisfied of such inadvertence, shall —

(a) give such voter another ballot paper;

(b) retain the spoiled ballot paper which he shall immediately cancel and endorse with the word "spoiled"; and

(c) forthwith record on the counterfoil of the spoiled ballot paper the fact that it has been cancelled in terms of paragraph (b).

Bedorwe stembriewe

25. Indien 'n kieser onopsetlik 'n stembrief bederf, kan hy dit aan die betrokke stemopnemer teruggee, wat, indien hy daarvan oortuig is dat dit onopsetlik bederf is —

(a) aan sodanige kieser 'n ander stembrief gee;

(b) die bedorwe stembrief hou wat hy onmiddellik kanselleer en met die woord "bederf" endosseer; en

(c) die feit dat die bedorwe stembrief ingevolge paragraaf (b) gekanselleer is, onverwyld op die teenblad daarvan aanteken.

Registration cards to be delivered to chief electoral officer by presiding officer of designated polling station

26. (1) Immediately after the closing of the poll on every polling day at any polling station designated by the chief electoral officer, the presiding officer shall, in the presence of any polling officer and any polling agent who may be present, make up into boxes or containers, sealed with his own seal, the registration cards in respect of which ballot papers were issued and placed in a ballot box (excluding any tendered ballot box), and he shall mark each box or container and deliver it to the electoral officer for the district concerned without delay, or cause it to be so delivered, in accordance with the instructions of the chief electoral officer.

Aflewering van registrasiekaarte aan hoofverkiesingsbeampte deur voorsittende beampte van aangewese stemburo

26. (1) Onmiddellik na die sluiting van die stemming op elke stemdag by 'n stemburo deur die hoofverkiesingsbeampte aangewys, moet die voorsittende beampte in die teenwoordigheid van 'n stemopnemer en 'n stemagent wat aanwesig is, in pakkette of houers, verseël met sy eie seël, maak van die registrasiekaarte ten opsigte waarvan stembriewe uitgereik is en in 'n stembus (uitgesonderd 'n aangebode stembus) geplaas is, en hy moet elke pakket of houer merk en dit aan die verkiesingsbeampte vir die betrokke distrik sonder versuim aflewer of laat aflewer ooreenkomstig die voorskrifte van die hoofverkiesingsbeampte.

(2) When any electoral officer receives any boxes or containers referred to in subsection (1), he shall deliver such boxes or containers to the chief electoral officer without delay, or cause them to be so delivered, in accordance with the instructions of the chief electoral officer.

(2) Wanneer 'n verkiesingsbeampte enige pakkette of houers bedoel in subartikel (1), ontvang, moet hy sodanige pakkette of houers sonder versuim aan die hoofverkiesingsbeampte aflewer of dit laat aflewer ooreenkomstig die voorskrifte van die hoofverkiesingsbeampte.

Verification of registration cards received by the chief electoral officer from a district

27. (1) On receiving the boxes or containers referred to in section 26 from a district, the chief electoral officer shall take charge of them, examine whether the seals are in order and give any counting agents of the registered parties who are present, an opportunity to do the same, and shall thereafter open all the boxes or containers and record the number of registration cards so received.

(2) The chief electoral officer shall verify the registration cards so received by examining and comparing them with the register of voters or any extract of that register prepared for that purpose.

(3) If upon such examination and comparison any irregularity in respect of any registration card is found, or the chief electoral officer is of the opinion that any irregularity took place which may affect the voting at a polling station or in a district, the chief electoral officer shall record such matter and inform the Administrator-General in writing thereof.

(4) At any time during the poll or thereafter, the Administrator-General may, if he deems it advisable, direct the chief electoral officer to discontinue with the verification of the registration cards as contemplated in subsection (2).

(5) The provisions of this section shall not be construed so as to prevent the Administrator-General to direct that a complete verification of all registration cards or of affidavits submitted in lieu of registration cards in terms of section 24(3), shall take place after the polling period.

Sealing of ballot boxes and other election material by presiding officer

28. (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 polling agents as may be in attendance, make up into separate packets, sealed with his own seal —

(a) each ballot box entrusted to him, unopened;

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

Verifikasie van registrasiekaarte deur die hoofverkiesingsbeampte ontvang vanaf 'n distrik

27. (1) By ontvangs van die in artikel 26 bedoelde pakkette of houers van 'n distrik, neem die hoofverkiesingsbeampte dit in sy bewaring, ondersoek hy of die seëls in orde is en gee hy aanwesige telagente van geregistreerde partye 'n geleentheid om dieselfde te doen en maak hy daarna al die pakkette of houers oop, en teken hy die getal registrasiekaarte aldus ontvang aan.

(2) Die hoofverkiesingsbeampte moet die registrasiekaarte aldus ontvang verifieer deur dit te ondersoek en te vergelyk met die register van kiesers of enige uittreksel van daardie register vir daardie doel gemaak.

(3) Indien by sodanige ondersoek en vergelyking daar enige onreëlmatigheid ten opsigte van enige registrasiekaart gevind word of die hoofverkiesingsbeampte is van oordeel dat enige onreëlmatigheid plaasgevind het wat die stemming by 'n stembus of in 'n distrik kan beïnvloed, moet die hoofverkiesingsbeampte sodanige aangeleentheid aanteken en die Administrateur-generaal daarvan skriftelik in kennis stel.

(4) Die Administrateur-generaal kan te eniger tyd gedurende die stemming of daarna, indien hy dit nodig vind, die hoofverkiesingsbeampte gelas om die verifikasie van registrasiekaarte soos beoog in subartikel (2), te staak.

(5) Die bepalings van hierdie artikel word nie so uitgelê dat die Administrateur-generaal die geleentheid ontneem word om te gelas dat 'n volledige verifikasie van al die registrasiekaart of beëdigde verklarings in die plek van registrasiekaarte voorgelê ingevolge artikel 24(3), na die stemtydperk moet plaasvind nie.

Verseëling van stembusse en ander verkiesingsmateriaal deur voorsittende beampte

28. (1) Onmiddellik na die sluiting van die stemming by 'n stemburo op die laaste stemdag, moet die voorsittende beampte in die teenwoordigheid van stemagente wat aanwesig is, afsonderlike pakkette, verseël met sy eie seël, maak van —

(a) elke stembus aan hom toevertrou, ongeopen;

(b) die ongebruikte of bedorwe stembriewe, en die teenblaaie van gebruikte of bedorwe stembriewe;

(c) the registration cards in respect of which ballot papers were issued and placed in a ballot box and which were not required to be delivered in terms of section 26(1);

(d) the registration cards in respect of which no ballot papers were issued and which were retained under section 21(4)(d) and (5);

(e) each packet containing tendered ballot papers issued in respect of registration cards of which the numbers and particulars appear on the list of objections postponed *sine die*; and

(f) each tendered ballot box containing the tendered ballot papers and relevant registration cards or affidavits in lieu of registration cards which were not previously delivered, unopened,

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 separate statements in a form prescribed by the chief electoral officer in which the presiding officer accounts for —

(a) 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;

(b) the number of tendered ballot papers issued in respect of voters and the number of affidavits made and registration cards produced, and accompanying the tendered ballot paper envelopes containing tendered ballot papers.

(3) The electoral officer shall deliver the packets referred to in paragraphs (c), (d), (e) and (f) of subsection (1), and accompanied by the statement referred to in paragraph (b) of subsection (2), 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.

(c) die registrasiekaarte ten opsigte waarvan stembriewe uitgereik en in die stembus geplaas is en wat nie ingevolge die voorskrifte van artikel 26(1) afgelewer is nie;

(d) die registrasiekaarte ten opsigte waarvan geen stembriewe uitgereik is nie en wat kragtens artikel 21(4)(d) en (5) behou is,

(e) elke pakket wat aangebode stembriewe uitgereik ten opsigte van registrasiekaarte waarvan die nommers en besonderhede op die lys van *sine die*-uitgestelde besware verskyn, bevat; en

(f) elke aangebode stembus wat die aangebode stembriewe en relevante registrasiekaarte of beëdigde verklarings in die plek van registrasiekaarte wat nie voorheen afgelewer is nie, bevat, ongeopen,

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 afsonderlike verslae in 'n vorm deur die hoofverkiesingsbeampte voorgeskryf, waarin die voorsittende beampte rekenskap gee van —

(a) 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;

(b) die aantal aangebode stembriewe uitgereik ten opsigte van kiesers en die aantal beëdigde verklarings gemaak en registrasiekaarte voorgelê, en wat die aangebode stembriefkoeverte wat aangebode stembriewe bevat, vergesel.

(3) Die verkiesingbeampte moet die pakkette bedoel in paragrawe (c), (d), (e) en (f) van subartikel (1), en vergesel deur die verslag bedoel in paragraaf (b) van subartikel (2), aan die hoofverkiesingsbeampte sonder versuim 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.

DETERMINATION OF RESULT OF THE POLL AND ANNOUNCEMENT OF RESULT OF THE ELECTION

Notice of place and time for determining result of the poll

29. The chief electoral officer shall inform each registered party at its registered address of any place (including the places in all the districts) where the result of the poll or any part thereof will be determined and on the day upon which and the time at which the determination is to be commenced.

Verification of ballot paper account by electoral officer

30. (1) After the provisions of section 28(3) have been complied with, the electoral officer or any counting officer designated for a district by the chief electoral officer shall examine whether the seals of the packets referred to in paragraphs (a) and (b) of section 28(1) are in order and give any counting agents of registered parties who are present on opportunity to do the same, and shall thereafter open all the packets.

(2) The electoral officer or such counting officer shall separately verify each presiding officer's ballot paper account referred to in section 28(2)(a) by comparing it with the contents of the packets received from a polling station concerned, and shall for that purpose open all the ballot boxes from that polling station and cause the ballot papers contained in them to be counted.

(3) If there appears to be any discrepancy in the verification of the ballot paper account referred to in subsection (2), the chief electoral officer shall in writing be informed accordingly.

Counting of votes in district

31. (1) After the provisions of section 30 have been complied with in respect of a particular polling station, the electoral officer or the counting officer for a district referred to in that section shall in respect of the ballot papers from that polling station —

(a) sort the ballot papers, with regard to the provisions of subsection (3), on the basis of the registered parties in respect of which the votes were recorded; and

(b) count the votes recorded in respect of each registered party.

BEPALING VAN UITSLAG VAN DIE STEMMING EN AANKONDIGING VAN UITSLAG VAN DIE VERKIESING

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

29. Die hoofverkiesingsbeampte stel elke geregistreerde party by sy geregistreerde adres in kennis van die plek (met inbegrip van die plekke in al die distrikte) waar die uitslag van die stemming, of enige gedeelte daarvan, bepaal word en van die dag en tyd waarop die bepaling begin.

Verifikasie van stembriefverslag deur verkiesingsbeampte

30. (1) Nadat aan die bepalings van artikel 28(3) voldoen is, moet die verkiesingsbeampte of 'n telbeampte aangewys vir 'n distrik deur die hoofverkiesingsbeampte ondersoek of die seëls van die pakkette bedoel in paragrawe (a) en (b) van artikel 28(1), in orde is en gee hy aanwesige telagente van geregistreerde partye 'n geleentheid om dieselfde te doen en maak hy daarna al die pakkette oop.

(2) Die verkiesingsbeampte of sodanige telbeampte verifieer afsonderlik elke voorsittende beampte se stembriefverslag bedoel in artikel 28(2)(a) deur dit met die inhoud van die pakkette wat van 'n betrokke stemburo ontvang is, te vergelyk, en maak vir dié doel al die stembusse van daardie stemburo oop en laat tel die stembriewe wat daarin is.

(3) Indien daar enige verskil voorkom in die verifikasie van die stembriefverslag bedoel in subartikel (2), moet die hoofverkiesingsbeampte skriftelik dienooreenkomstig in kennis gestel word.

Tel van stemme in distrik

31. (1) Nadat aan die bepalings van artikel 30 voldoen is ten opsigte van 'n bepaalde stemburo, moet die verkiesingsbeampte of telbeampte vir 'n distrik bedoel in daardie artikel ten opsigte van die stembriewe van daardie stemburo —

(a) die stembriewe sorteer, met inagneming van die bepalings van subartikel (3), op die grondslag van die geregistreerde partye vir wie die stemme uitgebring is; en

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

(2) When all the votes in respect of all the polling stations in the district have so been counted and the number of votes recorded for a registered party has been determined in the district concerned, the electoral officer or such counting officer shall as soon as practicable and in accordance with the instructions of the chief electoral officer, inform the chief electoral officer of the number of votes recorded in that district for each registered party, and shall thereupon announce outside the principal outer door of the premises in which the counting of the votes took place, the number of votes so recorded for each registered party and also the number of tendered ballots that had been cast in that district.

(3) (a) The electoral officer or such counting officer shall reject and not count any ballot paper —

(i) which records votes to more than one registered party; or

(ii) which does not bear the official mark and in respect of which he has reasonable grounds to believe that it has not been officially issued to a voter in terms of section 21(6); or

(iii) which is unmarked or on which it is impossible to determine with certainty for which registered party the ballot is cast.

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

(4) The rejection or acceptance of any ballot paper by the electoral officer or such counting officer under the provisions of subsection (3), shall be final, and no court of law shall have jurisdiction to pronounce upon the validity thereof.

(5) The electoral officer or such counting officer shall endorse the word "rejected" or "verwerp" on any ballot paper finally rejected in terms of this Proclamation.

(6) When the electoral officer or such counting officer has complied with the provisions of this section, he shall as soon as practicable enclose in separate packets —

(2) Wanneer al die stemme ten opsigte van al die stemburo's in die distrik aldus getel is en die aantal stemme wat op 'n geregistreerde party uitgebring is vir die betrokke distrik bepaal is, moet die verkiesingsbeampte of sodanige telbeampte so gou doenlik en ooreenkomstig die voorskrifte van die hoofverkiesingsbeampte, die hoofverkiesingsbeampte in kennis stel van die aantal stemme wat op elke geregistreerde party in daardie distrik uitgebring is, en kondig hy die aantal stemme wat op elke geregistreerde party aldus uitgebring is, buitekant die hoofbuitedeur van die perseel waarin die tel van stemme plaasgevind het, aan en ook die aantal aangebode stembriewe wat in die distrik uitgebring is.

(3) (a) Die verkiesingsbeampte of sodanige telbeampte moet 'n stembrief verwerp en nie tel nie —

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

(ii) wat nie die amptelike merk dra nie en ten opsigte waarvan hy gegronde rede het om te glo dat dit nie amptelik ingevolge artikel 21(6) aan 'n kieser uitgereik is nie; of

(iii) wat ongemerk is of waarop dit onmoontlik is om met sekerheid te bepaal vir watter geregistreerde party die stem uitgebring is.

(b) Die verkiesingsbeampte of sodanige telbeampte verwerp nie, maar tel 'n stembrief met 'n merk of skrif daarop waardeur 'n kieser sy keuse duidelik aangedui het op 'n ander wyse as deur 'n kruis op die betrokke stembrief.

(4) Die verwerping of aanvaarding van 'n stembrief deur die verkiesingsbeampte of sodanige telbeampte kragtens die bepalings van subartikel (3) is finaal, en geen geregshof is bevoeg om uitspraak oor die geldigheid daarvan te doen nie.

(5) Die verkiesingsbeampte of sodanige telbeampte endosseer die woord "verwerp" of "rejected" op 'n stembrief wat finaal ingevolge hierdie Proklamasie verwerp is.

(6) Wanneer die verkiesingsbeampte of sodanige telbeampte aan die bepalings van hierdie artikel voldoen het, moet hy so gou doenlik in afsonderlike pakkette toemaak —

(a) all counted ballot papers;

(b) all rejected ballot papers; and

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

and shall seal such packets and cause them to be delivered to the chief electoral officer.

Verification of tendered ballot paper account

32. (1) On receiving the packets referred to in section 28(3) from any district, the chief electoral officer shall take charge of them, examine whether the seals are in order and give any agents of 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 tendered ballot paper account by comparing it with the contents of the packets, and shall for that purpose open each tendered ballot box and cause the covering envelopes contained in it to be counted.

(3) If there appears to be any discrepancy in the verification of the tendered ballot paper account, the chief electoral officer shall in writing inform the Administrator-General accordingly.

(4) When the preceding provisions of this section have been complied with, the chief electoral officer shall cause the covering envelopes containing the tendered ballot paper envelopes and accompanying registration cards or affidavits in lieu of registration cards to be replaced into the tendered ballot box from which they were taken and shall close and seal such ballot box.

(5) (a) Notwithstanding the provisions of section 28, the chief electoral officer may, if he deems it practicable, direct that the tendered ballot boxes together with any tendered ballot paper accounts as contemplated in that section, be delivered to him *mutatis mutandis* in accordance with the provisions of section 26 after the closing of the poll on every polling day at a polling station designated by the chief electoral officer in terms of that section.

(b) When any such tendered ballot boxes and accounts have been received by the chief electoral officer, he shall deal therewith in accordance with the provisons of this section and section 33.

(a) alle getelde stembriewe;

(b) alle verworpe stembriewe; en

(c) die ongebruikte of gekanselleerde stembriewe en die teenblaaie van gebruikte of gekanselleerde stembriewe,

en moet sodanige pakkette verseël en dit aan die hoofverkiesingsbeampte laat aflewer.

Verifikasie van aangebode stembriefverslag

32. (1) By ontvangs van die pakkette bedoel in artikel 28(3) van 'n distrik, 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 aangebode stembriefverslag deur dit met die inhoud van die pakkette te vergelyk, en maak vir dié doel elke aangebode stembus oop en laat tel die omslagkoeverte wat daarin is.

(3) Indien enige verskil in die verifikasie van die aangebode stembriefverslag voorkom, moet die hoofverkiesingsbeampte die Administrateur-generaal dienooreenkomstig skriftelik in kennis stel.

(4) Wanneer die voorafgaande bepalings van hierdie artikel nagekom is, laat die hoofverkiesingsbeampte die omslagkoeverte wat die aangebode stembriefkoeverte en meegaande registrasiekaarte of beëdigde verklarings in die plek van registrasiekaarte bevat, terugplaas in die aangebode stembus waaruit hulle gehaal is en maak hy sodanige stembus toe en verseël hy dit.

(5) (a) Ondanks die bepalings van artikel 28, kan die hoofverkiesingsbeampte, indien hy dit doenlik ag, gelas dat die aangebode stembusse tesame met enige aangebode stembriefverslae beoog in daardie artikel, aan hom afgelewer word *mutatis mutandis* ooreenkomstig die bepalings van artikel 26, na die sluiting van die stemming op elke stemdag by 'n stemburo wat deur die hoofverkiesingsbeampte aangewys is ingevolge daardie artikel.

(b) Wanneer sodanige aangebode stembusse en verslae deur die hoofverkiesingsbeampte ontvang word, moet hy ooreenkomstig die bepalings van hierdie artikel en artikel 33 daarmee handel.

(c) The chief electoral officer may, if he deems it necessary, direct that the delivery of any such tendered ballot boxes and accounts be discontinued at any time during the polling period in respect of any or all the districts or any designated polling station.

Examination of registration cards accompanying tendered ballot papers

33. (1) As soon as practicable after the provisions of section 32 have been complied with, the chief electoral officer shall open the tendered ballot boxes and remove the registration card or affidavit in lieu of any registration card from each covering envelope containing the ballot paper envelope unopened, and shall cause the covering envelope to be destroyed and the registration card or the particulars in such affidavit to be examined and to be compared with the register of voters or any extract of that register prepared for that purpose.

(2) If, upon such examination and comparison

(a) It is found that —

(i) the duplicate of the registration card has been cancelled under any provision of the Registration Proclamation;

(ii) no duplicate registration card in respect of a voter who voted by affidavit in lieu of a registration card, is to be traced;

(iii) any voter who had been issued with more than one registration card, had voted more than once; or

(b) the chief electoral officer is satisfied that —

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

(ii) the person to whom that tendered ballot paper was issued in respect of that registration card, is not the person to whom that registration card was issued under the said provisions,

(c) Die hoofverkiesingsbeampte kan indien hy dit nodig ag, gelas dat die aflewering van sodanige aangebode stembusse en verslae te eniger tyd gedurende die stemtydperk ten opsigte van enige of al die distrikte of 'n aangewese stemburo, gestaak word.

Ondersoek van registrasiekaarte wat aangebode stembriewe vergesel

33. (1) So gou doenlik nadat die bepalings van artikel 32 nagekom is, moet die hoofverkiesingsbeampte die aangebode stembusse oopmaak en die registrasiekaart of beëdigde verklaring in die plek van 'n registrasiekaart, uit elke omslagkoevert wat die stembriefkoevert ongeopen bevat, haal, en laat die omslagkoevert vernietig en die registrasiekaart of die besonderhede in sodanige beëdigde verklaring ondersoek en vergelyk met die register van kiesers of enige uittreksel van daardie register wat hy vir daardie doel gemaak het.

(2) Indien, by sodanige ondersoek en vergelyking —

(a) daar gevind word dat —

(i) die duplikaat van die registrasiekaart kragtens die een of ander bepaling van die Registrasieproklamasie gekanselleer is

(ii) geen duplikaat van die registrasiekaart ten opsigte van 'n kieser wat by wyse van beëdigde verklaring in die plek van 'n registrasiekaart gestem het, opgespoor kan word nie;

(iii) 'n kieser aan wie meer as een registrasiekaart uitgereik is, meer as een keer gestem het; 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 aangebode stembrief op grond van daardie registrasiekaart uitgereik is, nie die persoon is aan wie daardie registrasiekaart kragtens genoemde bepalings uitgereik is nie,

the ballot paper contained in the tendered ballot paper envelope accompanying that registration card shall be rejected and not be counted.

(3) Any decision under subsection (2)(b)(ii) that the signature or any fingerprint of the person to whom a ballot paper was issued in respect 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 vote shall be 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 for that purpose the chief electoral officer may take into consideration, and make enquiries as to, any information or any circumstances, occurrence or fact which in his opinion is relevant to the decision of that question.

(5) Each tendered ballot paper envelope containig a ballot paper which is not rejected in terms of this section shall be replaced in the tendered ballot box from which it was taken.

(6) All registration cards or affidavits in lieu of a registration card accompanying those envelopes referred to in subsection (5) shall be removed.

(7) The tendered ballot box containing ballot paper envelopes shall be sealed and be kept in a safe place until it shall be opened in terms of this Proclamation.

Circumstances under which a tendered ballot paper issued in respect of registration cards on which the numbers and particulars appear on the list of objections postponed sine die *is to be rejected*

34. (1) Upon receiving from a magistrate an advice contemplated in section 24(2)(c), the chief

word die stembrief in die aangebode stembriefkoevert wat daardie registrasiekaart vergesel, verwerp en nie getel nie.

(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 oorlegpleging, 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 stem 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 vir daardie doel kan die hoofverkiesingsbeampte enige inligting, of enige omstandigheid, gebeure of feit wat na sy oordeel by die beslissing van sodanige vraag ter sake is, in ag neem en daaroor navraag doen.

(5) Elke aangebode stembriefkoevert wat 'n stembrief bevat wat nie ingevolge hierdie artikel verwerp is nie, moet in die aangebode stembus waaruit dit gehaal is, teruggeplaas word.

(6) Alle registrasiekaarte of beëdigde verklarings in die plek van 'n registrasiekaart wat daardie koeverte bedoel in subartikel (5) vergesel, moet verwyder word.

(7) Die aangebode stembus wat die stembriefkoeverte bevat, moet verseël word en in 'n veilige plek gehou word totdat dit oopgemaak moet word ingevolge hierdie Proklamasie.

Omstandighede waaronder 'n aangebode stembrief uitgereik ten opsigte van registrasiekaarte waarop die nommers en besonderhede op 'n lys van sine die-*uitgestelde besware verskyn, verwerp moet word*

34. (1) By ontvangs van 'n in artikel 24(2)(c) beoogde kennisgewing van 'n landdros, endosseer

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 removed from the covering envelope and if the objection to which the decision relates was allowed by the magistrate, remove that envelope from the packet concerned.

(2) If, after the provisions of section 33 have been complied with in respect of all registration cards received under section 28(3) from a particular district, there remains in any packet so received from that district, a 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 upon and, if so, whether it was dismissed or allowed or, if it has not been decided upon, to immediately decide upon the objection, and if any such objection was allowed, remove such tendered ballot paper envelope from the packet concerned.

(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.

(4) The provisions of section 24(2)(d) shall *mutatis mutandis* apply to any decision taken by a magistrate when required to do so by the chief electoral officer as contemplated in subsection (2).

Counting of votes in respect of tendered ballot papers and determination of result of the poll in the election

35. (1) When the provisions of the preceding sections have been complied with in respect of all the tendered ballot boxes and packets in respect of objections postponed *sine die* received from any district, the chief electoral officer shall —

(a) remove from the tendered ballot boxes and relevant packets all 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;

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

die hoofverkiesingsbeampte die beslissing waarop die kennisgewing betrekking het op die duplikaat van die betrokke registrasiekaart en op die betrokke aangebode stembriefkoevert wat verwyder is uit die omslagkoevert en, indien die beswaar waarop die beslissing betrekking het deur die landdros gehandhaaf is, verwyder hy daardie koevert uit die betrokke pakkie.

(2) Indien daar, nadat die bepalings van artikel 33 nagekom is ten opsigte van alle registrasiekaarte ontvang kragtens artikel 28(3) vanaf 'n bepaalde distrik, in enige pakket 'n aangebode stembriefkoevert oorbly wat nie ingevolge subartikel (1) van hierdie artikel geëndosseer is nie, doen die hoofverkiesingsbeampte by die landdros wat die betrokke beswaar *sine die* uitgestel het navraag, en endosseer hy op die betrokke registrasiekaart en op daardie aangebode stembriefkoevert, of die beswaar uitgewys is, of, indien dit nie uitgewys is nie, om onmiddellik die beswaar uit te wys, en indien enige sodanige beswaar gehandhaaf is, verwyder hy daardie aangebode stembriefkoevert uit die pakket waarin dit is.

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

(4) Die bepalings van artikel 24(2)(d) is *mutatis mutandis* van toepassing op enige besluit deur 'n landdros geneem wanneer hy deur die hoofverkiesingsbeampte gevra word om dit te doen soos beoog in subartikel (2).

Tel van stemme ten opsigte van aangebode stem briewe en bepaling van die uitslag van die stemming in die verkiesing

35. (1) Nadat die bepalings van die voorafgaande artikels nagekom is ten opsigte van al die aangebode stembusse en pakkette ten opsigte van *sine die*-uitgestelde besware ontvang van 'n distrik, moet die hoofverkiesingsbeampte —

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

(b) elke sodanige koevert oopmaak en die stembrief daarin uithaal;

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

(d) sort the ballot papers, with regard to the provisions of subsection (3), on the basis of the registered parties in respect of which the votes were recorded;

(e) count the votes recorded in respect of each registered party; and

(f) determine the result of the poll in any district by adding —

(i) the number of votes received from the district; and

(ii) the number of tendered ballot paper votes,

recorded in respect of each registered party.

(2) When the provisions of subsection (1) have been complied with in respect of all the districts in the territory the chief electoral officer shall determine the result of the poll in the election by adding the numbers of the votes recorded in all the districts in respect of a registered party.

(3) (a) The chief electoral officer shall reject and not count any tendered ballot paper —

(i) which records votes to more than one registered party; or

(ii) which does not bear the official mark and in respect of which he has reasonable grounds to believe that it has not been officially issued to a voter in terms of section 21(6); or

(iii) which is unmarked or on which it is impossible to determine with certainty for which registered party the ballot is cast.

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

(4) The rejection or acceptance of any tendered ballot paper by the chief electoral officer under any provisions of this Proclamation shall be final, and no court of law shall have jurisdiction to pronounce upon the validity thereof.

(d) die stembriewe sorteer, met inagneming van die bepalings van subartikel 3, op die grondslag van die geregistreerde partye vir wie die stemme uitgebring is;

(e) die stemme tel wat op elke geregistreerde party uitgebring is; en

(f) die uitslag van die stemming in 'n distrik bepaal deur —

(i) die aantal stemme ontvang van 'n distrik; en

(ii) die aantal aangebode stembriefstemme,

uitgebring ten opsigte van elke geregistreerde party, bymekaar te tel.

(2) Nadat die bepalings van subartikel (1) nagekom is ten opsigte van al die distrikte in die gebied, moet die hoofverkiesingsbeampte die uitslag van die stemming in die verkiesing bepaal deur die getalle van die stemme in al die distrikte ten opsigte van 'n geregistreerde party uitgebring, bymekaar te tel.

(3) (a) Die hoofverkiesingsbeampte moet 'n aangebode stembrief verwerp en nie tel nie —

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

(ii) wat nie die amptelike merk dra nie en ten opsigte waarvan hy gegronde rede het om te glo dat dit nie amptelik ingevolge artikel 21(6) aan 'n kieser uitgereik is nie; of

(iii) wat ongemerk is of waarop dit onmoontlik is om met sekerheid te bepaal vir watter geregistreerde party die stem uitgebring is.

(b) Die hoofverkiesingsbeampte verwerp nie, maar tel 'n aangebode stembrief met 'n merk of skrif daarop waardeur 'n kieser sy keuse duidelik aangedui het op 'n ander wyse as deur 'n kruis op die betrokke stembrief.

(4) Die verwerping of aanvaarding van 'n aangebode stembrief deur die hoofverkiesingsbeampte kragtens die bepalings van hierdie Proklamasie is finaal, en geen geregshof is bevoeg om uitspraak oor die geldigheid daarvan te doen nie.

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

Constitution of Assembly

36. The Assembly shall consist of 72 members who shall be persons nominated by the registered parties elected for that purpose at the election held in accordance with the provisions of this Proclamation, and declared as duly elected in terms of section 39(1)(b).

Qualifications of members of Assembly

37. Any person whose name appears on the register of voters and who is of or over the age of twenty-one years shall be qualified to be elected as a member of the Assembly.

Determination of number of candidates of registered party to be declared duly elected

38. (1) When all the votes have been counted and the number of votes recorded for a registered party at the election has been determined, the chief electoral officer shall determine in the manner hereinafter provided, the number of candidates of that registered party, if any, to be declared in terms of section 39(1)(b) to be duly elected as members of the Assembly.

(2) For the purpose of calculating the said number of candidates, a quota of votes for one candidate shall be determined by dividing the total number of votes recorded for all the registered parties at the election, by the number seventy-two (that number being the number of seats in the Assembly required to be filled by means of the election as contemplated in section 36), while any remainder obtained in calculating the value of the quota in question shall be disregarded.

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

$$X = (A \div B) + C$$

in which —

X represents the said number;

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

Samestelling van Vergadering

36. Die Vergadering bestaan uit 72 lede wat persone moet wees wat genomineer is deur die geregistreerde partye wat vir daardie doel verkies is by die verkiesing gehou ooreenkomstig die bepalings van hierdie Proklamasie, en wat behoorlik as verkose verklaar is ingevolge artikel 39(1)(b).

Kwalifikasies van lede van Vergadering

37. Enige persoon wie se naam op die register van kiesers verskyn en wat een-en-twintig jaar oud of ouer is, is bevoeg om as lid van die Vergadering verkies te word.

Bepaling van aantal kandidate van geregistreerde party wat verkose verklaar moet word

38. (1) Wanneer al die stemme getel is en die aantal stemme bepaal is wat by die verkiesing op 'n geregistreerde party uitgebring is, bepaal die hoofverkiesingsbeampte, op die wyse hieronder voorgeskryf, die aantal kandidate van daardie geregistreerde party, indien daar is, wat ingevolge artikel 39(1)(b) tot behoorlik verkose lede van die Vergadering verklaar moet word.

(2) Vir die berekening van genoemde aantal kandidate word 'n kwota stemme vir een kandidaat vasgestel deur die totale aantal stemme wat op al die geregistreerde partye by die verkiesing uitgebring is, te deel deur die getal twee-en-sewentig (daardie getal synde die aantal setels in die Vergadering wat deur middel van die verkiesing gevul moet word soos beoog in artikel 36), terwyl 'n breuk wat by die berekening van die waarde van die betrokke kwota verkry word, buite rekening gelaat word.

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

$$X = (A \div B) + C$$

waarin —

X genoemde aantal voorstel;

A represents the number of votes recorded for the registered party concerned;

B represents the appropriate quota determined in terms of subsection (2);

C represents the value 1 if a candidate is allocated to the registered party concerned in terms of subsection (4), and the value 0 if no candidate is so allocated to the registered party concerned,

and any remainder obtained in calculating the value of (A ÷ B) is disregarded except for the purposes of subsection (4), in which such remainder shall be referred to as unallocated votes.

(4) If, when the value of (A ÷ B) has been determined in terms of subsection (3) for each registered party, the number of candidates represented by the aggregate of all such values is less than the number of seats required to be filled as aforesaid, the number representing the shortfall shall be allocated on the basis of one candidate each to an equal number of registered parties, being those registered parties having the greatest numbers of unallocated votes.

(5) If, in the applicaiton of the provisions of subsection (4), only one seat remains to be allocated and two or more registered parties have an equal number of unallocated votes, and such registered parties have more unallocated votes than any other registered party that has not been allocated a seat under that subsection, the remaining seat shall be allocated to that registered party with the equal number of unallocated votes that has received the lowest total number of votes in the election.

Announcement of result of election

39. (1) As soon as possible after the provisions of section 38 have been complied with in respect of all the registered parties, the chief electoral officer shall thereupon announce, outside the principal outer door of the premises in which the counting of the votes took place, the result of the election by —

(a) making known the total number of votes counted and the appropriate quota determined in terms of that section and, in

A die aantal stemme voorstel wat op die betrokke geregistreerde party uitgebring is;

B die toepaslike kwota voorstel wat ingevolge subartikel (2) vasgestel is;

C die waarde 1 voorstel indien 'n kandidaat ingevolge subartikel (4) aan die betrokke geregistreerde party toegewys word, en die waarde 0 voorstel indien geen kandidaat aldus aan die betrokke geregistreerde party toegewys word nie,

en 'n breuk wat by die berekening van die waarde van (A ÷ B) 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 (A ÷ B) ingevolge subartikel (3) vir elke geregistreerde party bepaal is, die aantal kandidate wat deur al sodanige waardes gesamentlik verteenwoordig word, minder is as die aantal setels wat soos voormeld gevul moet word, word die aantal wat die tekort verteenwoordig, op die grondslag van een kandidaat elk toegeken aan 'n gelyke aantal geregistreerde partye, synde dié geregistreerde partye wat die grootste getalle nie-toegewysde stemme het.

(5) Indien, by die toepassing van die bepalings van subartikel (4), daar slegs een setel oorbly om toegeken te word en twee of meer geregistreerde partye het 'n gelyke aantal nie-toegewysde stemme, en sodanige geregistreerde partye het meer nie-toegewysde stemme as enige ander geregistreerde party wat nie 'n setel kragtens daardie subartikel toegeken is nie, word die oorblywende setel toegeken aan daardie geregistreerde party met die gelyke aantal nie-toegewysde stemme wat die minste totale aantal stemme in die verkiesing verkry het.

Aankondiging van uitslag van verkiesing

39. (1) So gou doenlik, nadat daar ten opsigte van al die geregistreerde partye aan die bepalings van artikel 38 voldoen is, kondig die hoofverkiesingsbeampte die uitslag van die verkiesing buitekant die hoofbuitedeur van die perseel waarin die tel van stemme plaasgevind het, aan deur —

(a) die totale aantal stemme getel en die toepaslike kwota ingevolge daardie artikel vasgestel en, met betrekking tot elke geregis-

respect of each registered party, the number of votes recorded for it and the number of candidates, if any, determined in its case in terms of that section; and

(b) declaring —

(i) the candidates on the list of candidates of each registered party in whose case a number of candidates has been determined as aforesaid, in the order (starting with the name at the top of the list) in which their names appear on the list and up to the number determined in the case concerned; and

(ii) if the number of candidates determined as aforesaid is more than the candidates available on the said list, a qualified person who has been nominated in writing for that purpose by the said registered party and who has in writing accepted his nomination,

to be duly elected as members of the Assembly with effect from the last polling day determined in respect of the election.

(2) If there appears on any list of candidates the name of a person who died or was found not to be a qualified person in relation to the Assembly on or before the date of the declaration contemplated in subsection (1)(b), that name shall for the purposes of that paragraph be deemed not to appear on the list in question.

(3) If the seat of a member who has in terms of subsection (1)(b) been declared to be a duly elected member becomes vacant before the day the Assembly is first convened, the vacancy shall be filled by the chief electoral officer declaring to be a duly elected member with effect from the date of the declaration —

(a) the person, if any, who at the election was a candidate of the registered party of which the person who vacated the seat was such a candidate, and whose name is the next available name on the list of such candidates published in terms of section 11(1); or

(b) if the name of no such person is available on the said list, a qualified person who has been nominated in writing for that purpose by the said registered party and who has in writing accepted his nomination.

treerde party, die aantal stemme op hom uitgebring en die aantal kandidate, indien daar is, ingevolge daardie artikel in sy geval bepaal, bekend te maak; en

(b) (i) die kandidate op die lys van kandidate van elke geregistreerde party in wie se geval 'n aantal kandidate bepaal is soos voormeld, in die volgorde (met die naam bo-aan die lys as begin) waarin hul name op die lys verskyn en tot die aantal in die betrokke gevai bepaal; en

(ii) indien die aantal kandidate vasgestel soos voormeld meer is as die kandidate wat op genoemde lys beskikbaar is, 'n bevoegde persoon wat skriftelik genomineer is vir daardie doel deur genoemde geregistreerde party en wat sy nominasie skriftelik aanvaar het,

te verklaar as behoorlik verkies tot lede van die Vergadering met ingang van die laaste stemdag ten opsigte van die verkiesing bepaal.

(2) Indien daar op 'n lys van kandidate die naam verskyn van 'n persoon wat op of voor die verklaring in subartikel (1)(b) beoog, te sterwe gekom het of bevind is nie 'n bevoegde persoon met betrekking tot die Vergadering te wees nie, word daardie naam by die toepassing van daardie paragraaf geag nie op die betrokke lys te verskyn nie.

(3) Indien die setel van 'n lid wat ingevolge subartikel (1)(b) tot behoorlik verkose lid verklaar is, vakant word voordat die Vergadering vir die eerste maal vergader, word die vakature gevul deur die verklaring, deur die hoofverkiesingsbeampte, tot behoorlik verkose lid met ingang van die datum van die verklaring, van —

(a) die persoon, indien daar een is, wat by die verkiesing 'n kandidaat was van die geregistreerde party waarvan die persoon wat bedoelde setel ontruim het so 'n kandidaat was, en wie se naam die volgende beskikbare naam is op die ingevolge artikel 11(1) gepubliseerde lys van sodanige kandidate; of

(b) indien die naam van geen persoon aldus op genoemde lys beskikbaar is nie, 'n bevoegde persoon wat vir dié doel skriftelik deur genoemde geregistreerde party genomineer is en wat sy nominasie skriftelik aanvaar het.

Jurisdiction in respect of setting aside announcement of result of election

40. The announcement of the result of the election made by the chief electoral officer in terms of section 39 shall not be set aside by any court of law.

Publication of result of election

41. (1) The chief electoral officer shall cause a notice of the announcement made by him in terms of section 39 and the particulars contained in the announcement, to be published in the *Official Gazette*.

(2) Such notice shall on its mere production in any legal proceedings be *prima facie* evidence of the announcement to which it relates and the particulars thereof.

Sealing and safe-keeping of election material

42. (1) The chief electoral officer shall as soon as practicable after the announcement of the result of the election enclose in separate packets —

(a) all counted tendered ballot papers;

(b) all rejected tendered ballot papers;

(c) all registration cards together with the register of voters; and

(d) all lists of voters and ballot paper accounts,

and shall seal such packets and cause them, together with the packets referred to in section 31(6), to be delivered to the Registrar of the Supreme Court of South West Africa.

(2) The said Registrar shall be responsible for the safe-keeping of all the packets received in terms of this Proclamation, and shall retain them until such time any competent authority directs otherwise.

(3) Subject to the provisions of subsection (4), no person shall open, or inspect the contents of the packets referred to in subsection (2), 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 under the

Regsbevoegdheid ten opsigte van die tersydestelling van aankondiging van uitslag van verkiesing

40. Die aankondiging van die uitslag van die verkiesing deur die hoofverkiesingsbeampte ingevolge artikel 39 gedoen, word nie deur 'n geregshof tersyde gestel nie.

Publikasie van uitslag van verkiesing

41. (1) Die hoofverkiesingsbeampte laat 'n kennisgewing van die aankondiging deur hom ingevolge artikel 39 gedoen, en die besonderhede in die aankondiging vervat, in die *Offisiële Koerant* publiseer.

(2) Sodanige kennisgewing is by blote voorlegging in geregtelike verrigtinge *prima facie*-bewys van die aankondiging waarop dit betrekking het en van die besonderhede daarvan.

Verseëling en bewaring van verkiesingsmateriaal

42. (1) Die hoofverkiesingsbeampte moet so gou doenlik na die aankondiging van die uitslag van die verkiesing in afsonderlike pakkette toemaak —

(a) alle getelde stembriewe;

(b) alle verworpe stembriewe; en

(c) alle registrasiekaarte tesame met die register van kiesers; en

(d) alle lyste van kiesers en stembriefverslae,

en sodanige pakkette verseël en hulle, tesame met die pakkette bedoel in artikel 31(6) aan die Griffier van die Hooggeregshof van Suidwes-Afrika laat aflewer.

(2) Genoemde Griffier is verantwoordelik vir die veilige bewaring van die pakkette ontvang ingevolge hierdie Proklamasie en behou hulle totdat 'n bevoegde gesag anders gelas.

(3) Behoudens die bepalings van subartikel (4), mag niemand die pakkette bedoel in subartikel (2) 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 getuienis 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 Registrasieproklamasie in te stel of voort

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 a competent authority may determine, shall be entitled to open and inspect any packet containing registration cards or the register of voters, in order to ascertain for the purposes of any provision of this Proclamation that the name of any person appears on the register of voters: Provided that such packet shall be closed and sealed after every such inspection.

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

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 Administrateur-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.

OFFENCES AND PENALTIES

Infringement of secrecy

43. (1) Every officer or agent to the extent determined by this Proclamation, present 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 determined by 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.

(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) (a) Every person present at the determination of the result of the poll shall maintain, and aid in maintaining, the secrecy of the

MISDRYWE EN STRAWWE

Skending van geheimhouding

43. (1) Elke beampte of agent in die mate by hierdie Proklamasie bepaal 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 bywet gemagtigde doel, enige inligting meedeel wat die geheimhouding van die stemming waarskynlik sal verydel nie.

(2) Behalwe soos by hierdie Proklamasie bepaal, 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.

(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) (a) Elkeen wat teenwoordig is by die bepaling van die uitslag van die stemming moet die geheimhouding van die stemming hand-

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.

(b) No person present at the counting of votes shall communicate to any other person any information obtained at such counting about the registered party in respect of which a vote has been recorded in any spoiled ballot paper.

(5) Except under the provisions of section 22, no person shall attempt to ascertain, or directly or indirectly assist in ascertaining, for which registered party any voter has recorded his vote.

(6) Any person who, in the carrying out of his duties under this Proclamation, has obtained any knowledge as to the registered party for which any person has recorded his vote, shall not disclose such knowledge.

(7) No person shall, except upon the order of any court or as authorized by this Proclamation, break the seal of a sealed packet or open such a packet.

(8) 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 R6 000 or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

haaf 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 daaroor wat by sodanige bepaling verkry is, oordra nie.

(b) Niemand wat by die tel van stemme teenwoordig is, mag aan iemand anders enige inligting oordra nie wat by sodanige tel van stemme verkry is oor die geregistreerde party ten opsigte waarvan 'n stem op 'n bedorwe stembrief uitgebring is.

(5) Behalwe kragtens die bepalings van artikel 22, mag niemand poog om vas te stel, of regstreeks of onregstreeks help om vas te stel, op watter geregistreerde party 'n kieser sy stem uitgebring het nie.

(6) 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.

(7) Niemand mag, behalwe op bevel van 'n hof of ingevolge magtiging by hierdie Proklamasie verleen, die seël van 'n verseëlde pakket breek of so 'n pakket oopmaak nie.

(8) Iemand wat 'n bepaling van hierdie artikel oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R6 000 of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar of met sowel daardie boete as daardie gevangenisstraf.

Neglect of duty

44. Any controller, electoral officer, presiding officer, polling officer or counting officer, who after having accepted an 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 derogating from any other provision of this Proclamation, be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

Pligsversuim

44. 'n Kontroleur, verkiesingsbeampte, voorsittende beampte, stemopnemer of telbeampte wat, nadat hy 'n aanstelling as sodanige 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 daarkragtens uitgereik, moet verrig, is, sonder om afbreuk te doen aan enige ander bepaling van hierdie Proklamasie, aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R2 000 of met gevangenisstraf vir 'n tydperk van hoogstens een jaar of met sowel

Disturbance of proceedings and obstruction of officers

45. Any person who —

(a) wilfully obstructs or disturbs any proceedings under this Proclamation at a polling station 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; or

(b) on any polling day does any canvassing for votes or erects any poster or structure, other than for official purposes, nearer than 500 metres from the polling station; or

(c) on any polling day uses any form of loudspeaker, excluding for official purposes, or organizes any procession of or demonstration by persons or participates therein,

shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

Undue influence

46. 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 bodily or psychological injury, damage, hazard or loss, upon or against, or does or threatens to do anything to the disadvantage of, any person or his next of kin 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 to vote in favour of a particular registered party, or impedes, hinders or prevents the

Onderbreking van verrigtinge en belemmering van beamptes

45. Iemand wat —

(a) enige verrigtinge kragtens hierdie Proklamasie by 'n stemburo opsetlik belemmer, onderbreek 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

(b) op 'n stemdag enige stemme werf of 'n plakkaat of struktuur oprig buiten vir amptelike doeleindes nader as 500 meter aan die stemburo; of

(c) op 'n stemdag, uitgesonderd vir amptelike doeleindes, enige vorm van luidspreker gebruik of wat enige optog van of betoging deur persone reël of daaraan deelneem,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R10 000 of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met sowel daardie boete as daardie gevangenisstraf.

Onbehoorlike beïnvloeding

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

(a) op of teen enige persoon of sy naasbestaandes geweld of dwang gebruik of dreig om dit te gebruik, of enige persoon of sy naasbestaandes enige liggaamlike of psigiese leed, skade, kwaad of verlies aandoen of berokken of dreig om dit te doen, of iets tot nadeel van enige persoon of sy naasbestaandes 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

free exercise of the franchise by any voter at the election,

shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

Bribery

47. (1) Any person who, whether himself or through an intermediary and whether directly or indirectly —

(a) corruptly gives, lends or procures, or agrees to give, lend or procure, or offers, promises, or promises to procure, or promises to endeavour to procure, any money or any other thing, to or for any voter, or to or for any person on behalf of any voter, or to or for any other person —

(i) for the purpose of inducing such voter to record or abstain from recording his vote in the election; or

(ii) on account of the fact that such voter has recorded or abstained from recording his vote in the election; or

(b) corruptly gives, lends or agrees to give or lend, or offers, or promises to procure, or promises to endeavour to procure, any money or any other thing to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, for acting or joining in any procession or demonstration before, during or after the election; or

(c) makes any such gift, loan, offer or promise or effect for him any such procurement or enters into any such agreement to or for or with any other person for the purpose of inducing such person to vote for any particular registered party; or

(d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures, or engages or promises or endeavours to procure the vote of any voter in the election; or

van sy stemreg by die verkiesing belemmer, verhinder of belet,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R20 000 of met gevangenisstraf vir 'n tydperk van hoogstens tien jaar of met sowel daardie boete as daardie gevangenisstraf.

Omkopery

47. (1) Iemand wat, hetsy self of deur 'n ander persoon en hetsy regstreeks of onregstreeks —

(a) op korrupte wyse aan of vir 'n kieser, of aan of vir 'n persoon ten behoewe van 'n kieser, of aan of vir 'n ander persoon, geld of enigiets anders skenk, leen of verkry of ooreenkom om dit te gee, te leen of te verkry of dit aanbied of beloof of beloof om dit te verkry of beloof om te probeer om dit te verkry —

(i) met die doel om sodoende 'n kieser te beweeg om sy stem by die verkiesing uit te bring of hom van stemming te onthou; of

(ii) vanweë die feit dat sodanige kieser sy stem by die verkiesing uitgebring het of hom van stemming onthou het; of

(b) op korrupte wyse aan of vir 'n kieser, of aan of vir 'n persoon ten behoewe van 'n kieser, of aan of vir 'n ander persoon, geld of enigiets anders skenk of leen, of ooreenkom om dit te gee of te leen, of dit aanbied of beloof om dit te verkry of beloof om te probeer om dit te verkry, vir optrede in of deelname aan enige optog of betoging voor, gedurende of na die verkiesing; of

(c) aan 'n ander persoon sodanige skenking maak of aanbod of belofte doen of vir hom sodanige lening gee, of vir hom sodanige verkryging bewerkstellig of met hom sodanige ooreenkoms aangaan met die doel om sodanige persoon te beweeg om vir 'n bepaalde geregistreerde party te stem; of

(d) ten gevolge van sodanige skenking, lening, aanbod, belofte, verkryging of ooreenkoms, die stem van 'n kieser by die verkiesing verkry of onderneem, beloof of probeer om dit te verkry; of

(e) advances or pays, or causes to be advanced or paid, any money, to, or for the use of, any other person with the intention that such money, or any part thereof, is to be expended in bribery in the election, or who knowingly pays, or causes to be paid, any money to any other person in discharge or repayment of any money which has in full or in part been expended in bribery in the election; or

(f) before or during the election, receives or negotiates any payment or loan on his own behalf or on behalf of any other person in consideration for his voting or his agreeing to vote in such election or his abstaining from voting, or his agreeing to abstain from voting, in such election; or

(g) after the election has received any money on account of the fact that any other person —

(i) has recorded his vote or has abstained from recording his vote in such election; or

(ii) has induced any further person to record or to abstain from recording his vote in such election,

shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(2) Nothing —

(a) in subsection (1)(a) contained shall be construed as applying to any transportation rendered to any voter for the purpose of recording his vote;

(b) in this section contained shall be construed as applying to any money paid or agreed to be paid for or on account of any electoral expenditure *bona fide* and lawfully incurred.

Impersonation

48. Any person who —

(a) in the election applies for a ballot paper in

(e) aan of vir die gebruik van 'n ander persoon geld voorskiet of betaal, of laat voorskiet of betaal, met die bedoeling dat sodanige geld of 'n deel daarvan by die verkiesing aan omkopery bestee moet word, of wat willens en wetens aan 'n ander persoon enige geld betaal of laat betaal ter vereffening of terugbetaling van geld wat ten volle of ten dele by 'n verkiesing aan omkopery bestee is; of

(f) voor of gedurende die verkiesing, vir homself of ten behoewe van 'n ander persoon, enige betaling of lening ontvang of beding as teenprestasie daarvoor dat hy by sodanige verkiesing gestem het of ooreengekom het om by sodanige verkiesing te stem, of dat hy hom by sodanige verkiesing van stemming onthou het of ooreengekom het om hom van stemming te onthou; of

(g) na die verkiesing geld ontvang het vanweë die feit dat 'n ander persoon —

(i) by sodanige verkiesing sy stem uitgebring het of hom van stemming onthou het; of

(ii) by sodanige verkiesing 'n verdere persoon beweeg om sy stem uit te bring of hom van stemming te onthou,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R20 000 of met gevangenisstraf vir 'n tydperk van hoogstens tien jaar of met sowel daardie boete as daardie gevangenisstraf.

(2) Geen bepaling —

(a) van subartikel (1)(a) word uitgelê as sou dit van toepassing wees op enige vervoer verskaf aan 'n kieser ten einde sy stem te kan uitbring nie;

(b) van hierdie artikel word uitgelê as sou dit van toepassing wees op geld wat vir of weens *bona fide* en wettige aangegane verkiesingskoste betaal is of volgens ooreenkoms betaal moet word nie.

Uitgee vir 'n ander

48. Iemand wat —

(a) by die verkiesing in die naam van 'n ander

the name of some other person living or dead or of a fictitious person and who records a vote in the name of any such person; or

(b) having voted once in the election, in such election applies again for a ballot paper; or

(c) submits any affidavit required in terms of this Proclamation containing any information or allegation which he knows to be false,

shall be guilty of an offence and liable on conviction to a fine not exceeding R6 000 or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

Corrupt procurement or withdrawal of candidature

49. Any person who —

(a) corruptly induces or procures any other person to become a candidate or to withdraw as a candidate in the election in consideration of any payment or promise of any nature; or

(b) becomes a candidate or withdraws as a candidate in the election as a result of inducement or procurement provided in paragraph (a); or

(c) for the purpose of promoting or securing the election of another candidate or registered party, before or during the election, publishes a false statement of the withdrawal of a registered party or the death or withdrawal of a candidate from such election, knowing such statement to be false,

shall be guilty of an offence and liable on conviction to a fine not exceeding R6 000 or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

Treating

50. Any person who —

(a) corruptly, whether himself or through an

persoon, hetsy lewend of afgestorwe, of van 'n denkbeeldige persoon, om 'n stembrief aansoek doen en in die naam van sodanige persoon 'n stem uitbring; of

(b) nadat hy een maal by die verkiesing gestem het, by sodanige verkiesing weer om 'n stembrief aansoek doen; of

(c) ingevolge die voorskrifte van hierdie Proklamasie 'n beëdigde verklaring voorlê wat enige inligting of bewering bevat wat hy weet vals is,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R6 000 of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar of met sowel daardie boete as daardie gevangenisstraf.

Korrupte verkryging of terugtrekking van kandidatuur

49. Iemand wat —

(a) 'n ander persoon op korrupte wyse beweeg of verkry om, as teenprestasie vir 'n betaling of belofte van watter aard ookal, by die verkiesing 'n kandidaat te word of hom as kandidaat terug te trek; of

(b) as gevolg daarvan dat hy beweeg of verkry is soos in paragraaf (a) bedoel, by 'n verkiesing 'n kandidaat word of hom as kandidaat terugtrek; of

(c) met die doel om die verkiesing van 'n ander kandidaat of geregistreerde party te bevorder of te bewerkstellig voor of gedurende die verkiesing 'n valse verklaring dat 'n geregistreerde party of kandidaat by sodanige verkiesing teruggetrek het, publiseer wetende dat sodanige verklaring vals is,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R6 000 of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar of met sowel daardie boete as daardie gevangenisstraf.

Trakteerdery

50. Iemand wat —

(a) op korrupte wyse, hetsy voor, gedurende of

after the election and whether directly or indirectly, gives or provides, or pays in full or in part the expense of giving or providing, any food, drink, entertainment, lodging or provisions to or for any other person —

(i) for the purpose of corruptly influencing such other person or any further person to record or abstain from recording his vote in such election; or

(ii) on account of the fact that such other person or any further person has recorded or has abstained from recording or is about to record or to abstain from recording his vote in such election; or

(b) being a voter, corruptly accepts or takes any food, drink, entertainment, lodging or provisions referred to in paragraph (a),

shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

Offences relating to voting procedures and polling stations and equipment

51. (1) Any person who —

(a) for the purpose to have a ballot paper issued to him, 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 purpose to have a ballot paper issued to him, a registration card, whether issued to him 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

tussenpersoon en hetsy regstreeks of onregstreeks aan 'n ander persoon voedsel, drank, vermaak, inwoning of lewensmiddele gee of verskaf of die koste om dit te gee of te verskaf, ten volle of ten dele betaal —

(i) met die doel om sodanige ander persoon of 'n verdere persoon op korrupte wyse te beïnvloed om sy stem by sodanige verkiesing uit te bring of hom van stemming te onthou; of

(ii) vanweë die feit dat sodanige ander persoon of 'n verdere persoon sy stem by sodanige verkiesing uitgebring het of hom van stemming onthou het of sy stem gaan uitbring of hom van stemming gaan onthou; of

(b) 'n kieser is en wat op korrupte wyse voedsel, drank, vermaak, inwoning of lewensmiddele in paragraaf (a) bedoel, ontvang of neem,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R10 000 of met gevangenisstraf van 'n tydperk van hoogstens vyf jaar of met sowel daardie boete as daardie gevangenisstraf.

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

51. (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, of 'n stuk wat heet 'n registrasiekaart te wees maar dit nie is nie, aan 'n voorsittende beampte of stemopnemer voorlê met die doel dat 'n stembrief aan hom uitgereik word; 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 beampte of stemopnemer voorlê met die doel dat 'n stembrief aan hom uitgereik word; of

(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 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; or

(i) without lawful authority destroys, mutilates, defaces or removes any notice exhibited under this Proclamation,

shall be guilty of an offence and liable on conviction —

(i) in the case of an offence in terms of paragraph (a), (b) or (c), to a fine not exceeding R6 000 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 R2 000 or to imprisonment for a period not exceeding one year 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 21, or that a registration card when so produced has been altered, it shall be presumed, unless the contrary is proved, that the accused has produced

(c) 'n stembrief of die amptelike merk op 'n stembrief vervals 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 stembrief 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 beampte by 'n stemburo gegee word, verontagsaam;

(i) sonder wettige magtiging, 'n kennisgewing wat kragtens hierdie Proklamasie vertoon is vernietig, beskadig, onleesbaar maak of verwyder,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar —

(i) in die geval van 'n misdryf ingevolge paragraaf (a), (b) of (c), met 'n boete van hoogstens R6 000 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 R2 000 of met gevangenisstraf vir 'n tydperk van hoogstens een jaar of met sowel daardie boete as daardie gevangenisstraf.

(2) Indien daar by 'n vervolging ingevolge para graaf (a) of (b) van subartikel (1) bewys word dat die beskuldigde 'n registrasiekaart of stuk in die betrokke paragraaf bedoel, aan 'n voorsittende beampte of stemopnemer by 'n stemburo voorgelê het terwyl daardie voorsittende beampte of stemopnemer besig was om sy plig en werksaamhede kragtens artikel 21 te verrig, of dat 'n registrasiekaart aldus voorgelê verander was, word vermoed, tensy die teendeel bewys word, dat die beskuldigde

to have a ballot paper issued to him, 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 has been 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) 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 (4) of section 21, displays the identification mark as defined in paragraph (a) of the said subsection (4), and that the provisions of paragraph (c) of the said subsection (4) relating to the observing of such identification mark were complied with, shall be presumed, unless the contrary is proved, that the accused had previously voted at the election.

Printed matter to bear publisher's name

52. (1) Every bill, placard, poster, pamphlet and circular and all other printed matter related to the election, shall contain the name and address of the printer and publisher thereof in a clearly legible form.

(2) No person shall print, publish or post up, or cause to be printed, published or posted up, any printed matter contemplated in subsection (1), failing to contain the name and address of the printer and publisher thereof in a clearly legible form.

(3) The proprietor and publisher of every newspaper shall cause the word "advertisement" to be printed in his newspaper as a headline to each article or paragraph —

(a) which contains electoral matter; and

(b) (i) the insertion of which has been or is to be paid for; or

(ii) for the insertion of which any reward or compensation has been or is to be given or any promise of reward or compensation has been or is to be made.

(4) For the purposes of subsection (3), the word "electoral matter" shall mean all matter which on the face of it is intended or calculated to affect the

die doel dat 'n stembrief aan hom uitgereik word, 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.

(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 (4) van artikel 21 beoog, die identifikasiemerk soos in paragraaf (a) van genoemde subartikel (4) omskryf, getoon het en dat die bepalings van paragraaf (c) van genoemde subartikel (4) 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.

Drukwerk moet naam van uitgewer dra

52. (1) Elke biljet, plakkaat, aanplakbiljet, pamflet, omsendbrief en alle ander drukwerk wat op die verkiesing betrekking het, moet die naam en adres van die drukker en uitgewer daarvan in 'n duidelik leesbare vorm bevat.

(2) Niemand mag drukwerk in subartikel (1) beoog wat nie die naam en adres van die drukker en uitgewer in 'n duidelik leesbare vorm bevat nie, druk, uitgee of aanplak of laat druk, uitgee of aanplak nie.

(3) Die eienaar en uitgewer van elke nuusblad moet in sy nuusblad die woord "advertensie" as 'n opskrif laat druk by elke artikel of paragraaf —

(a) wat verkiesingstof bevat; en

(b) (i) vir die opneming waarvan betaal is of gaan word; of

(ii) vir die opneming waarvan 'n beloning of vergoeding gegee is of gaan word of 'n belofte van beloning of vergoeding gedoen is of gaan word.

(4) By die toepassing van subartikel (3) beteken "verkiesingstof" alles wat, na die uiterlike geoordeel, bedoel of daarop bereken is om die uitslag

result of the election, including any report of a speech of a candidate or representative of a political organization or registered party, if the insertion of such report has been or is to be paid for.

(5) Every report, letter, article, bill, placard, poster, pamphlet, circular and cartoon and all other printed matter, hereinafter in this subsection referred to as a newspaper article, which, on the face of it, is intended or calculated to affect the result of the election which is inserted in any newspaper or otherwise produced, shall contain at the foot thereof the full name and address of the person by whom such newspaper article has been written or produced: Provided that —

(a) any newspaper article which is inserted in a newspaper as aforesaid and which has been altered substantially by the editor of the newspaper, may be signed by the editor;

(b) in the case of a report of any public meeting written jointly by two or more persons, it shall be sufficient for the purposes of this subsection if such report as a whole contains on the front page thereof the full names and addresses of the persons by whom it has been written; and

(c) in the case of a headline to any newspaper article which is inserted in any issue of a newspaper as aforesaid, and in the case of any bill, placard or poster referred to in such headline and published in the ordinary practice of such newspaper, it shall be sufficient for the purposes of this subsection if the full names and addresses of the persons by whom such headline, bill, placard or poster has been written, together with a statement that the said headline, bill, placard or poster has been written by the said persons, is published in such issue of the said newspaper.

(6) The provisions of this section shall not apply to any printed matter printed, published or posted up before the date of commencement of this Proclamation.

(7) 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

van die verkiesing te beïnvloed, asook enige verslag van 'n toespraak van 'n verteenwoordiger van 'n politieke organisasie of geregistreerde party, indien daar vir die opneming van sodanige verslag betaal is of gaan word.

(5) Elke verslag, brief, artikel, biljet, plakkaat, aanplakbiljet, pamflet, omsendbrief en spotprent en alle ander drukwerk, hierna in hierdie subartikel 'n nuusbladartikel genoem, wat, na die uiterlike geoordeel, bedoel of daarop bereken is om die uitslag van die verkiesing te beïnvloed, wat in 'n nuusblad opgeneem word of op 'n ander wyse geproduseer word, moet onderaan die volle naam en adres bevat van die persoon deur wie sodanige nuusbladartikel geskryf of geproduseer is: Met dien verstande dat —

(a) 'n nuusbladartikel wat soos voormeld in 'n nuusblad opgeneem word en wat wesenlik deur die redakteur van die nuusblad verander is, deur die redakteur onderteken mag word;

(b) in die geval van 'n verslag van 'n openbare vergadering wat deur twee of meer persone gesamentlik geskryf is, dit by die toepassing van hierdie subartikel voldoende is as sodanige verslag in sy geheel op die voorbladsy daarvan die volle name en adresse bevat van die persone deur wie dit geskryf is; en

(c) in die geval van 'n opskrif by 'n nuusbladartikel wat soos voormeld in enige uitgawe van 'n nuusblad opgeneem is, en in die geval van 'n biljet, plakkaat of aanplakbiljet wat op sodanige opskrif betrekking het en wat volgens die gewone gebruik van sodanige nuusblad uitgegee word, dit by die toepassing van hierdie subartikel voldoende is as die volle name en adresse van die persone deur wie sodanige opskrif, biljet, plakkaat of aanplakbiljet deur genoemde persone geskryf is, gepubliseer word in sodanige uitgawe van genoemde nuusblad.

(6) Die bepalings van hierdie artikel is nie van toepassing nie op enige drukwerk gedruk, gepubliseer of aangeplak voor die datum van inwerkingtreding van hierdie Proklamasie.

(7) Iemand wat 'n bepaling van hierdie artikel oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar

for a period not exceeding five years or to both such fine and such imprisonment.

gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met sowel daardie boete as daardie gevangenisstraf.

GENERAL

Jurisdiction in respect of penalties

53. Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Proclamation.

Voter not required in legal proceedings to disclose his vote

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

Evidence of election

55. 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 registered parties

56. Where a registered party is in terms of 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 registered party concerned if it is submitted under the signature of the secretary of such registered party or under a signature of a person purporting to act on behalf of that registered party.

Sundays and public holidays

57. Whenever under this Proclamation anyting is required to be commenced, concluded or done on a particular date, and that date happens to fall upon 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 day next succeeding such Sunday or public holiday or, if the last-mentioned day is also a Sunday or a public holiday, then on the day next succeeding such

ALGEMEEN

Regsbevoegdheid ten opsigte van strawwe

53. Ondanks andersluidende wetsbepalings, is 'n landdroshof bevoeg om enige by hierdie Proklamasie voorgeskrewe straf op te lê.

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

54. 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

55. 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 hoofverkiesingsbeampte 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.

Skriftelike voorleggings deur geregistreerde partye

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

Sondae en openbare vakansiedae

57. 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 vakansiedag verklaar is, moet dit begin, voltooi of gedoen word op die eersvolgende dag na daardie Sondag of openbare vakansiedag of, as laasbedoelde dag ook 'n Sondag of openbare vakansiedag is, dan op die eersvolgende dag na

Instructions and forms

58. 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 and which is not prescribed by those provisions.

Saving

59. No decision taken by the chief electoral officer, any electoral officer, presiding officer, polling officer or counting officer under any power conferred or duty imposed upon him by any provision of this Proclamation shall be justiciable in any court of law on the ground thereof that such power or duty was exercised or performed by such person in concurrence with the Special Representative of the United Nations or any member of the United Nations Transition Assistance Group.

Short title

60. This Proclamation shall be called the Election (Constituent Assembly) Proclamation, 1989.

Voorskrifte en vorms

58. Die hoofverkiesingsbeampte 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.

Voorbehoud

59. Geen beslissing deur die hoofverkiesingsbeampte, 'n verkiesingsbeampte, voorsittende beampte, stemopnemer of telbeampte geneem kragtens 'n bevoegdheid of 'n plig hom verleen of opgelê deur enige bepaling van hierdie Proklamasie is op grond daarvan dat sodanige bevoegdheid of plig uitgeoefen of verrig is deur sodanige persoon met die instemming van die Spesiale Verteenwoordiger van die Verenigde Nasies of 'n lid van die Verenigde Nasies Oorgangsbystandsgroep, in enige hof beregbaar nie.

Kort titel

60. Hierdie Proklamasie heet die Verkiesingsproklamasie (Grondwetgewende Vergadering), 1989.

ANNEXURE/AANHANGSEL

Teenblad
Counterfoil

No.

AKSIE CHRISTELIK NASIONAAL	ACN		
CHRISTIAN DEMOCRATIC ACTION FOR SOCIAL JUSTICE	CDA	CDA WE ARE ONE	
D.T.A. VAN NAMIBIË	DTA		
FEDERAL CONVENTION OF NAMIBIA	FCN		
NAMIBIA NATIONAL DEMOCRATIC PARTY	NNDP	NNDP	
NAMIBIA NATIONAL FRONT	NNF	NNF	
NATIONAL PATRIOTIC FRONT OF NAMIBIA	NPF		
SWAPO-DEMOCRATS	SWAPO-D		
SWAPO OF NAMIBIA	SWAPO		
UNITED DEMOCRATIC FRONT OF NAMIBIA	UDF		

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.

APPENDIX VI

SWAPO Letter of Introduction of the IADL Legal Observer Team

[Andimba Toivo Ja Toivo to Mzee Kaukunga,

Election Centre Oshakati, 6 November 1989]

SWAPO of Namibia

Directorate of Elections

[redacted]

P. O. Box 1071 Windhoek Namibia 9000 Tel: 38364 Telex: 724 Telefax: 32368

Office of Legal Services

Comrade Mzee Kaukungua
Head of Centre
P.O. Box 461
Oshakati

6 November 1989

Dear Comrade Kaukungua,

We are writing to inform you that a team of International Association of Democratic Lawyers is coming to observe the election process in Owambo. They will be in the region from today November 6, up to November 11, 1989.

The International Association stated above is an association of progressive lawyers, they came in reply to SWAPO's call for International Observers to come and observe the elections.

Attached hereto is a list of names of the delegates:

1. Lennox Heins
2. Vicki Erenstein
3. Audrey Seniors
4. Reggie Reddy
5. Selba

Please give them the necessary assistance.

Comradely yours,

Andimba Toivo Ja Toivo

SWAPO ELECTIONS DIRECTORATE
Telex: 724 - Telefax: 32368
9000 WINDHOEK, Namibia
06 NOV 1989

SWAPO ELECTIONS DIRECTORATE
Telex: 724 - Telefax: 32368
9000 WINDHOEK, Namibia

APPENDIX VII

Electoral Alliances and Political Parties,

prepared by the Namibia Communications Centre

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NEWS FROM AFRICA'S LAST COLONY...

NAMIBIA COMMUNICATIONS CENTRE

8. ELECTORAL ALLIANCES AND POLITICAL PARTIES

Most observers have agreed that there is little doubt that SWAPO is bound to win a majority in any reasonably fair political contest in Namibia. Despite this fact, recognised by SWAPO's opponents as well as its supporters, Namibian political parties presenting themselves as alternatives to the nationalist movement have proliferated. Some 50 political parties have been recorded, and nearly half of them intend to contest the election, the smaller parties by joining together in alliances or fronts. Some, such as the DTA, have participated in South Africa's appointed internal governments. Others represent various small interest groups, often with regional or communal orientations. The hope of those who wish to perpetuate South African domination of Namibia is that together these non-SWAPO political groups will be able to muster one third of the country's votes, and band together to prevent a SWAPO majority in the Constituent Assembly. Below is a list of the political parties and fronts intending to contest the election (see Section 7 for SWAPO):

Aksie Christelike Nasional-Action Christian National (ACN)

Action Christian National was formed by the National Party of SWA/Namibia in March 1989. Chaired by Mr. Jan De Wet, its orientation is specifically towards white voters, the majority of whom support the right wing National Party, an offshoot of South Africa's ruling party. This party has accepted Resolution 435 only under protest, but is now determined to seek representation in government.

Christian Democratic Action for Social Justice (CDA)

This party, founded in 1982, is led by Peter Kalangula, one of the office-bearers of the colonial bantustan administrations. Kalangula had been a member of the DTA, but quit, professing support for Resolution 435. Kalangula's limited support is drawn exclusively from his Ovamboland constituency.

Democratic Turnhalle Alliance (DTA)

The DTA was established as a federal alliance of ethnic parties in November 1977 by the participants in South Africa's Turnhalle Constitutional Conference. (see Section 5) These participants were chosen to represent separate "ethnic population groups" defined by South Africa. The DTA has drawn its leadership from white defectors from the SWA National Party, the most notable being Dirk Mudge, as well as from "coloured" and tribal leaders appointed or sanctioned by the administration. It was installed in a powerless Ministers' Council in 1980 following the fraudulent 1978 election, but resigned en mass in 1983 to protest Pretoria's failure to remove petty apartheid legislation. Some of the ethnic administrations run by DTA officials, including its President, Paramount Chief Kuaima Riruako, were linked to various corruption scandals exposed by the Thirion Commission in the mid-1980s. In November 1983 the DTA joined the Pretoria-backed Multi

Party Conference and was then appointed to South Africa's 'interim government' in June 1985.

The DTA is seen by observers as the main challenge to SWAPO, but its formal ethnic structure, previous financial dependence on South Africa and its record of collaboration with Pretoria will lose it support. Press reports of DTA rallies indicate a much lower average turn-out by comparison with those held by SWAPO, despite the DTA's practice of bussing in supporters from different parts of the country and offering free soft drinks and canned foods at major rallies. Through its close involvement in South Africa's administration, the DTA has much support amongst members of the police, especially Koevoet (see Section 11), and demobilised members of the local army (SWATF), especially Battalion 101 whose members, wearing DTA emblems, have been waging a campaign to intimidate SWAPO supporters in the north.

Federal Convention of Namibia (FCN)

Founded this year, the National Convention is reportedly made up of 13 parties. Its President, Kaptein Hans Diergaardt, represents the Rehoboth Basters' Liberation Front, demanding a separate Basters' republic. Diergaardt is also a director of the newly established Namib Foundation (see below). Also included is Mburumba Kerina, a veteran politician. The National Convention is said to have sponsors in South Africa and is strongly anti-SWAPO. But its following is reported to be not very widespread outside Rehoboth. The National Party of SWA (leader J.W. Pretorius) is reported to have observer status with the Convention.

Namibia National Democratic Party (NNDP)

The NNDP was formed by former DTA members, Tara Imbili and Paul Helmuth, the latter having been a founder member of SWAPO and collaborator of Mburumba Kerina. Imbili and Helmuth were leaders in the DTA's Ovambo party, the National Democratic Party. The NNDP appears to have little support and recently Imbili announced that he had joined SWAPO.

Namibia National Front (NNF)

The NNF was formed in March 1989 and is led by Vekuii Rukoro, leader of the 'progressive' wing of the Herero-based South West Africa National Union (SWANU). Rukoro and his supporters split with the right wing of SWANU in 1985, refusing to participate in South Africa's 'interim government'. The NNF also includes the small Namibia Independence Party, the Rehoboth Volksparty, Mmabatho People's Party and the United Namibia People's Party. It claims to oppose corruption and foreign intervention and to stand for preserving human rights and redistributing wealth.

National Patriotic Front of Namibia (NPF)

The NPF is made up of Action National Settlement, a pressure

group founded in 1987 by Eben van Zyl, a former leader in the SWA National Party; the right wing of the Herero-based South West Africa National Union (SWANU), led by Moses Katjiongua, and the Caprivi National Union (CANU). From 1985, these parties participated in South Africa's 'interim government'. The NPF claims to stand for a mixed economy. Although less militant, it has shown that it has a greater level of support than the NNF.

South West Africa People's Organisation-Democrats (SWAPO-D)

SWAPO-D was formed by ex-SWAPO Information Secretary, Andreas Shipanga, in 1978 when, with a handful of ex-SWAPO officials, he returned to Namibia. They had been detained in Zambia in 1976 accused of plotting against the SWAPO leadership and then released from Tanzanian custody in 1977. SWAPO-D has no links with SWAPO. Shipanga participated in South Africa's 'interim government' when it was appointed in 1985. SWAPO-D has never demonstrated much popular support, even in Shipanga's home area in the north.

SWAPO = See Section 7.

United Democratic Front (UDF)

The UDF was set up early in 1989 by Justus Garoeb, the leader of the Damara Council which has frequently aligned itself with SWAPO since 1984. The UDF reportedly comprises eleven small parties, including the "coloured" Labour Party, the Damara Council and the Kavango-based Namibia National Independence Party. Its leaders, such as Justus Garoeb, can be distinguished from the DTA on the basis of their willingness, in the past, to criticise South Africa's repressive rule. However, its base is limited. In August 1989, the newly formed Patriotic Unity Movement (PUM) joined the UDF. The PUM was formed by some former SWAPO officials who were detained by SWAPO in Angola and then released in May. The very small Workers Revolutionary Party is also reported to have joined th UDF. Currently, the UDF is reported to be seeking further alliances with non-DTA and non-SWAPO parties.

*** *** ***

The situation among the non-SWAPO groups is fluid, and there are still some parties, such as Namibia People's Liberation Front, which have yet to attach themselves to electoral alliances. Given the South African desire to prevent SWAPO securing over 66% of the vote, Pretoria is likely to tolerate , if not support, any non-SWAPO party. Hence the establishment, by right-wing forces, of the Namib Foundation. It has a fund of R30 million, set up to help any political party standing for 'democracy, capitalism and group/minority rights', and its directors are vehemently opposed to both SWAPO. Some commercial interests and groups in Western countries are also likely to provide considerable support to opponents of SWAPO, whereas SWAPO is well placed to draw support from the Non-Aligned Movement nations and the international anti-apartheid movement.

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NEWS FROM AFRICA'S LAST COLONY...

NAMIBIA COMMUNICATIONS CENTRE

7. THE NATIONALIST MOVEMENT: SWAPO

Roots among migrant workers

SWAPO grew out of a body of migrants working in the Cape, who, in 1957, formed the Ovamboland People's Congress(OPC).The OPC later became the OPO and in 1960 was renamed the South West Africa People's Organisation. SWAPO was concerned not simply with the improvement of working conditions, but with ending of South African rule altogether, through the intervention of the United Nations. The illegality of the South African regime in Namibia became the focus of SWAPO's campaigns. SWAPO activists were involved in organising the general strike of migrant workers, which paralysed Namibia from December 1971 to March 1972. From 1986, Namibia's trade union movement blossomed, drawing upon the same history and culture. The National Union of Namibian Workers,reflecting the political leanings of its members, is aligned to SWAPO .

Armed struggle

SWAPO was formed at a time when several nationalist groups in Africa, after decades of peaceful protest, had concluded that armed struggle was a necessary evil. On 10th December 1959 eleven Namibians among a crowd of protestors against forced removals from Windhoek were shot dead and 54 more injured by South African police. By 1962 SWAPO, under the exiled leadership of Sam Nujoma, was committed to armed struggle as part of its strategy.

The first military clashes did not take place until August 1966, at a time when Namibians were despairing of processes at the United Nations and World Court. As a result of these clashes, 37 SWAPO members were taken to Pretoria, systematically tortured, and eventually in 1967 put on trial under retrospective legislation. Speaking from the dock for the 34 convicted, Andimba Ya Toivo and Eliajir Tuhadeleni made defiant statements rejecting South Africa's jurisdiction and right to be in Namibia. These utterances were to inspire a generation of Namibians.

With the fall of the Portuguese dictatorship in 1974, larger numbers of Namibians were able to escape into Angola and Zambia, contributing to the establishment of guerilla networks in rural northern Namibia. The number of clashes between SWAPO's military wing, the People's Liberation Army of Namibia (PLAN) and the South African army rose from 176 for the whole of 1986 to 118 in the first three months of 1987, according to the authorities, but more accurate data is not available.

SWAPO has offered to forgive those Namibians who were either conscripted into the South African armed forces or who joined through economic need, and has said that they could be considered for inclusion in Namibia's future army. The movement has also promised not to invite any foreign forces to an inde-

pendent Namibia.

Ethnicity and equity

The SWAPO leadership includes members from most linguistic groups in Namibia. However, because of the population density in northern Namibia and the effects of the war in that region, the majority of the movement's leaders and members come from the north. Generally, SWAPO has preferred that sympathetic parties with an ethnic base should dissolve and join SWAPO, as happened with several Herero and Nama groups in the mid 1970s. Alliances with other groups, as in the Namibia National Convention in the 1970s and /Ai//Gams in 1985/6 have so far proved temporary.

One of SWAPO's strongest cards will be its offer to Namibian women of legal equality, an attraction where customary law (upheld by South Africa) can leave a wife with no inheritance when her husband dies. Women are organised under the SWAPO Women's Council and represented in the leadership of SWAPO, although not yet in sufficient numbers to reflect the movement's gender composition.

Education and health

Decades of caring for exiled Namibians have enabled SWAPO to develop alternative health and education policies. Institutions have also been established, in co-operation with the United Nations and other international agencies, for the training of artisans and civil servants. An estimated 5,000 Namibians have been sent abroad by SWAPO for study.

Internal strife

SWAPO's first internal conflict arose in 1975, following the unexpected arrival of thousands of exiles in Zambia. Members of the militant SWAPO Youth League expected to be taken up in SWAPO structures and called for a congress. Simultaneously, a military base demanded more arms and food. Fearing a take-over bid, SWAPO leaders called in the Zambian army. Most of the detained combatants eventually rejoined SWAPO, but one of the leaders, Andreas Shipanga, was not released until 1978. Shipanga then returned to Namibia, founding his own political party, which later collaborated with the regime's 'interim government'.

The second episode followed the SWAPO leadership's claim to have uncovered a spy network, in 1984. In 1986 the leadership admitted having detained some 100 suspects, one of whom was reported to have died in detention. In accordance with Resolution 435, at least 233 SWAPO detainees were reported released in Angola during May 1989, amidst allegations of mistreatment, torture and wrongful arrest. By August, 169 were known to have returned to Namibia, but others may have done so anonymously. Some of the movement's ex-detainees have formed a new political organisation called the Patriotic Unity Movement (PUM).

APPENDIX VIII

Examples of Voter Disinformation Materials disseminated during the Election

Note for the Special Representative

Re: Imitation of ballot papers

1. Reference is made to the attached imitation of ballot papers alleged to have been circulated by agents of a political party.

2. Though the symbols on the imitation ballot papers are placed in such a way as to create the impression at first glance that these are actual party symbols, it is clear that they do not represent the symbols of registered parties except the DTA symbol which is correctly reproduced.

3. The names of the parties are not a correct reflection of existing party names except that of the DTA.

4. It would appear that the objective of this paper is to confuse voters rather than to enlighten them about party symbols except those of the DTA.

5. An examination of the provisions relating to offences in the Election (Constituent Assembly) Proclamation 1989, AG 49 leads to the conclusion that a possible basis of action against the printers and publishers of the paper would be sections 52 (1) and (2).

6. Section 52 (1) provides that every bill, placard, poster, pamphlet and all printed matter related to the election, shall contain the name and address of the printer and publisher thereof in a clearly legible form. This has not been done in the case of the attached paper.

7. Section 52 (2) provides that no person shall print, publish or post up or cause to be printed, published or posted up, any printed material contemplated in sub-section (1) failing to contain the name and address of the printer and publisher thereof.

8. Section 52 (5) also requires that such pamphlet or circular which is intended to affect the result of the election shall also contain the name and address of the person by whom such a paper was published.

9. It can be considered that there is enough basis in the law for the Administrator-General to act on this imitation of ballot paper.

Kwame Opoku
2 November 1989

NAMIBIAN PATRIOTIC PEOPLE	NPP		
FEDERAL CHRISTIAN PARTY OF NAMIBIA	FCPN		
O.T.A. VAN NAMIBIË	OTA		
UNITED PEOPLE OF NAMIBIA	UPN		
NAMIBIA PEOPLES ORGANISATION	NPO		
NAKOH OF NAMIBIA	NAKOH		
NAMIBIA UNITED PARTY	NUP		
CHRISTIAN SOCIAL ACTORS	CSA		
AHO OF NAMIBIA	AHO		
NAMIBIAN NATION CONVENTION	NNC		

THE SWAPO RUSH FOR PASSPORTS

WHY ARE SO MANY SWAPO SUPPORTERS RUSHING FOR PASSPORTS TO RUSH OUT OF THE COUNTRY?

ABOUT 3 000 OF THOSE SWAPO PEOPLE WHO RETURNED ONLY A FEW MONTHS AGO ALREADY HAVE BRAND-NEW PASSPORTS TO LEAVE AGAIN -- WHY?

THEY WILL PROBABLY VOTE AND FLY AWAY AS SOON AS THEY HEAR THAT THE DTA HAS BEATEN SWAPO.

THERE ARE EVEN STRONG RUMOURS HERE IN OWAMBO THAT SWAPO LEADERS SUCH AS SAM NUJOMA HIMSELF AND THEO-BEN GURIRAB WILL BE THE FIRST TO LEAVE.

THEY DO NOT WANT TO BE HERE WHEN SWAPO LOSE. THEY FEAR THAT:

* SWAPO WILL NOT WIN OUTRIGHT

* SWAPO WILL NOT EVEN GET A SIMPLE MAJORITY
  IN FACT, SWAPO WILL BE DEFEATED - BY DEMOCRACY

AND THE LEADER OF DEMOCRACY IN THIS COUNTRY IS THE DTA OF
NAMIBIA!

DO NOT VOTE FOR LOSERS, VOTE FOR THE ONLY WINNERS...
VOTE FOR THE DTA

OUR LEADERS ARE STAYING TO BUILD ONE NAMIBIA, ONE NATION!!!

OVANASWAPO VAHAPU OTAVAKONGO EEPASPORTA

OMOLWASHIKE OVAYAMBIDIDI VAHAPU VO SWAPO TAVA KONGO EEPASPORTA OPO VAYE KONDJE YOSHILONGO?

OILYO YOSWAPO YIFIKE LOPOMAYUVI ATATU EYI YA ALUKILA KEUMBO EEMWEDI DISHONA DAPITA OYA MONA NALE EEPASPORTA DIPE OPO VASHUNE NATANGO KONDJE YOSHILONGO?

OTWELINEKELA KUTYA OTAVA HOOLOLA OSHIVIKE ESHI TASHIWUYA, NOKUKALA VASHUNA DIVA KONDJE YOSHILONGO UUNA VA UDA KUTYA ODTA OYAFINDANA.

OSHA HOVELA NALE MOWAMBO KUTYA, OILYO YAKULA YOSWAPO NGAASHI SAM NUJOMA NOSHOYO THEO-BEN GURIRAB OVO TAVA KAKALA VAFIYAPO TETE NAMIBIA.

INAVA HALA NOKULI OKUMONA SWAPO AKANA. OVA TILA OSHINIMA ESHI:

* NOSHITWA SHOTETE OSHAYELA NALE KUTYA SWAPO KENA NANDE
  OKUKALA AFINDANA

* SWAPO ITAKA MONA NANDE OMAKE MAHAPU
  ESHI OSHAYELA KUTYA SWAPO OKUNA OKUKALA ADENGWA PAUDEMOKOLI!
  NA OILYO YAKULA YOUDEMOKOLI MOSHILONGO ESHI OYO ODTA YA NAMIBIA.

INO HOOLOLA OMUKANI, HOOLOLA OMUFINDANI.

HOOLOLA ODTA

OVAYAMBIDIDI VETU OVAFIKAMAPO OKUTUNGA ONAMIBIA ONGO OSHILONGO SHIMWE!!!