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## GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 794 OF 1998

ELECTORAL COURT

RULES REGULATING THE **CONDUCT** OF THE PROCEEDINGS OF THE  
ELECTORAL COURT

The **Electoral** Court has, under section 20(3) of the Electoral Commission Act, 1996 (Act no. 51 of 1996), made the rules in the Schedule.

## SCHEDULE

### Definitions

1. In these rules, a word to which a meaning has been assigned in the Act has that meaning and, unless the context otherwise indicates -
  - "Chairperson" means the Chairperson of the Court appointed in terms of section 19(1) of the Act;
  - "Court" means the Electoral Court established in terms of section 18 of the Act;
  - "day" means any day other than a Saturday, Sunday or public holiday;
  - "lodge" means serve copies on all parties and file the **original** with the Secretary
  - "Secretary" means the Secretary of the Court, care of the registrar of the Supreme Court of Appeal, **Bloemfontein**; and
  - "the Act" means the Electoral Commission Act, 1996 (Act No. 51 of 1996).

### Conduct of business

2. The Court conducts its business in the manner determined by the Court and at the times and places determined by the Chairperson with due regard to the need for the expeditious disposal of matters.

### Composition of Court

3. The Court is constituted by all its members: Provided that if a member of the Court is unable to perform the duties of his or her office or if there is a vacancy in the membership of the Court, the Court will be constituted by those members who are able to perform the duties of their office: Provided further that the Court will not be constituted by fewer than three of its members.

### Decisions of Court

4.
  - (1) The decision of a majority of the members of the Court is the decision of the court.
  - (2) If a member of the Court dies, resigns or becomes unable to perform his or her duties at any stage during the hearing of a matter, the remaining members, subject to rule 3, determine the matter.

**Appeal proceedings**

5. (1) An application for leave to appeal against a decision of the Commission must be made in writing and lodged within three days after the decision has been made.
- (2) The application in terms of subrule (1) must set out succinctly, fairly and clearly the points of law concerned and the information necessary to enable the Chairperson to consider the application.
- (3) The Secretary must inform the party who made the application and the Commission of the decision of the Chairperson regarding the application without delay.
- (4) If leave to appeal has been granted, the party who made the application and the Commission must lodge with the Secretary comprehensive written submissions within three days after being informed in terms of subrule (3).
- (5) The party that lodges an appeal must -
  - (a) set out fully in its written submission -
    - (i) the findings of law and fact, where appropriate;
    - (ii) the order or orders against which the appeal is directed;  
and
    - (iii) the grounds on which its contentions are based; and
  - (b) attach, if possible, any relevant record or minutes of the proceedings concerned.

**Review proceedings**

6. (1) A party who is entitled to and wants to take a decision of the Commission on review must lodge a comprehensive written submission with the Secretary within three days after the decision has been made.
- (2) The Commission must lodge a comprehensive written submission with the Secretary within three days of receipt of a submission referred to in subrule (1).
- (3) The party who takes a matter on review must -
  - (a) set out fully in its written submission -
    - (i) the decision or decisions which it requires to be reviewed; and
    - (ii) the grounds **therefor**; and
  - (b) attach, if possible, any relevant record or minutes of the proceedings concerned.

**Referral of a matter relating to interpretation of law**

7. (1) A referral of a matter by the Commission relating to the interpretation of law in terms of section 2(3(6) of the Act must be in writing and lodged with the Secretary, who must submit it to the Court without delay.
- (2) The Commission must -
- (a) set out fully in its written submission -
    - (i) the provision or provisions of the law which need to be interpreted;
    - (ii) the facts of the matter, where appropriate;
    - (iii) its arguments and interpretation of such law and the arguments and interpretation of any party having an interest in the matter; and
  - (b) attach, if possible, any documents necessary to enable the Court to determine the matter.
- (3) Upon receipt of the written submission of the Commission, the matter must be dealt with in accordance with the directives of the Court.
- (4) The Secretary must inform the Commission in writing of the finding of the Court within three days thereof.

**Investigation of misconduct, incapacity or incompetence of a member of the Commission**

8. (1) An allegation of misconduct, incapacity or incompetence on the part of a member of the Commission must be -
- (a) in writing and, if possible, accompanied by supporting evidence; and
  - (b) lodged with the Secretary.
- (2) **The member concerned must respond** in writing to the allegations within the time prescribed by the Court.
- (3) Upon receipt of the response of the member concerned or after the expiry of the time prescribed by the Court in terms of subrule (2), the investigation must be dealt with in accordance with the directives of the Court.
- (4) The Secretary must submit the written recommendation of the Court and any other documents which the Court may deem fit to the National Assembly without delay.

**Written submissions**

9. **Written submissions** in terms of these rules maybe prepared by a party or a person duly authorised by such a party.

**Failure to comply with time limits or directives of Court**

10. Failure to comply with the prescribed time limits or directives of the Court will, by the mere fact thereof, result in a party being barred, unless the Court, on good cause shown, directs otherwise.

**Departure from rules**

11. (1) The Court may, when it deems necessary, depart from these rules and give appropriate alternative directives.
- (2) In conducting its business the Court may, whenever it deems appropriate, *inter alia* -
- (a) request further written submissions;
  - (b) allow oral argument by a party or by a person duly authorised by such a party;
  - (c) request records or minutes of proceedings;
  - (d) shorten or extend prescribed periods;
  - (e) direct that oral evidence be heard on specified issues; or
  - (f) refer a matter to trial.

**Procedure to apply when rules are silent**

12. (1) A party who wishes to refer a matter to the Court and who is of the view that the rules do not address or adequately address a particular aspect must inform the Secretary accordingly without delay.
- (2) The Secretary, after having obtained the Court's directives, must inform the party concerned and other interested parties thereof without delay.
- (3) This rule does not affect the Court's authority to determine its own practice and procedures and make its own rules.
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