PART II

ELECTORAL COMMISSION ACT 51 OF 1996

ARRANGEMENT OF SECTIONS

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ELECTORAL COMMISSION ACT 51 OF 1996

[ASSENTED TO 27 SEPTEMBER 1996]
[DATE OF COMMENCEMENT: 17 OCTOBER 1996]
(Unless otherwise indicated)
(Afrikaans text signed by the President)

as amended by

Local Government: Municipal Structures Act 117 of 1998
Local Government: Municipal Electoral Act 27 of 2000
Electoral Laws Amendment Act 34 of 2003
Electoral Commission Amendment Act 14 of 2004

ACT

To make provision for the establishment and composition of an Electoral Commission to manage elections for national, provincial and local legislative bodies and referenda; and to make provision for the establishment and composition and the powers, duties and functions of an Electoral Court; and to provide for matters in connection therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

CHAPTER 1
INTERPRETATION AND APPLICATION OF ACT (ss 1-2)

1 Definitions

(1) In this Act, unless the context otherwise indicates—

'chairperson' means the chairperson designated in terms of section 8 (1);

'chief electoral officer' means the chief electoral officer appointed in terms of section 12 (1);

'Commission' means the Electoral Commission established by section 3 (1);

'election' means any election for a national, provincial or local legislative body in terms of any law;

'Electoral Court' means the Electoral Court established by section 18;

'party' means any registered party, and includes any organisation or movement of a political nature which publicly supports or opposes the policy, candidates or cause of any registered party, or which propagates non-participation in any election;

'political office' means any executive appointment or elected office, including any elected or nominated public representative of a party, whether involving remuneration or not, or any other paid office, in the service of a party;

'prescribe' means prescribe by regulation;

'registered party' means any party registered in terms of section 15;

'regulation' means a regulation made under section 23; and

'this Act' includes the regulations.

(2) For the purposes of this Act, unless clearly inconsistent with the context, any reference therein to an election, shall be construed as to include a referendum declared by the President under section 2 (2).

2 Application of Act

(1) This Act applies in respect of any election for national, provincial and local legislative bodies, and any referendum referred to in subsection (2).

(2) Notwithstanding anything to the contrary in any other law contained, the President may, after consultation with the Commission, by proclamation in the Gazette—

(a) declare that a referendum shall be held in order to ascertain the views of voters on a matter specified in the proclamation;

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(b) determine that the referendum shall be held in the Republic, or in a part of the Republic specified in the proclamation, on a day or consecutive days and, subject to this Act, during the hours so specified;
(c) determine who shall be entitled, in accordance with this Act, to vote at the referendum; and
(d) determine what question or questions to ascertain the views of voters, must appear on the ballot paper.

CHAPTER 2
ELECTORAL COMMISSION (ss 3-11)

3 Establishment of Commission

(1) There is an Electoral Commission for the Republic, which is independent and subject only to the Constitution and the law.

(2) The Commission shall be impartial and shall exercise its powers and perform its functions without fear, favour or prejudice.

4 Objects of Commission

The objects of the Commission are to strengthen constitutional democracy and promote democratic electoral processes.

5 Powers, duties and functions of Commission

(1) The functions of the Commission include to—
(a) manage any election;
(b) ensure that any election is free and fair;
(c) promote conditions conducive to free and fair elections;
(d) promote knowledge of sound and democratic electoral processes;
(e) compile and maintain voters' rolls by means of a system of registering of eligible voters by utilising data available from government sources and information furnished by voters;
(f) compile and maintain a register of parties;
(g) establish and maintain liaison and co-operation with parties;

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(h) undertake and promote research into electoral matters;
(i) develop and promote the development of electoral expertise and technology in all spheres of government;
(j) continuously review electoral legislation and proposed electoral legislation, and to make recommendations in connection therewith;
(k) promote voter education;
(l) promote co-operation with and between persons, institutions, governments and administrations for the achievement of its objects;
(m) .....
[Para *(m)* deleted by s. 94 of the Act 117 of 1998.]
(n) declare the results of elections for national, provincial and municipal legislative bodies within seven days after such elections;
(o) adjudicate disputes which may arise from the organisation, administration or conducting of elections and which are of an administrative nature; and
(p) appoint appropriate public administrations in any sphere of government to conduct elections when necessary.

(2) The Commission shall, for the purposes of the achievement of its objects and the performance of its functions—
(a) acquire the necessary staff, whether by employment, secondment, appointment on contract or otherwise;
(b) establish and maintain the necessary facilities for collecting and disseminating information regarding electoral matters;
(c) co-operate with educational or other bodies or institutions with a view to the provision of instruction to or the training of persons in electoral and related matters; and
(d) generally, perform any act that is necessary for or conducive to that.

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6 Composition of Commission and appointment of commissioners

(1) The Commission shall consist of five members, one of whom shall be a judge, appointed by the President in accordance with the provisions of this section.

(2) No person shall be appointed as a member of the Commission unless he or she—

(a) is a South African citizen;

(b) does not at that stage have a high party-political profile;

(c) has been recommended by the National Assembly by a resolution adopted by a majority of the members of that Assembly; and

(d) has been nominated by a committee of the National Assembly, proportionally composed of members of all parties represented in that Assembly, from a list of recommended candidates submitted to the committee by the panel referred to in subsection (3).

(3) The panel shall, subject to subsection (6), consist of—

(a) the President of the Constitutional Court, as chairperson;

(b) a representative of the Human Rights Commission established by section 115 (1) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993);

(c) a representative of the Commission on Gender Equality established by section 119 (1) of the said Constitution; and

(d) the Public Protector established by section 110 (1) of the said Constitution.

(4) The panel shall submit a list of no fewer than eight recommended candidates to the committee of the National Assembly referred to in subsection (2) *(d)*.

(5) The panel shall act in accordance with the principles of transparency and openness and make its recommendations with due regard to a person's suitability, qualifications and experience.

(6) If any person referred to in subsection (3) *(b)* to *(d)* should for any reason not be available to serve on the panel, the

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chairperson shall, after consultation with the remaining members of the panel, designate any other person as a member of the panel.

7 Terms of office, conditions of service, removal from office and suspension of commissioners

(1) The term of office of a member of the Commission is seven years unless—

(a) he or she resigns or dies at an earlier date;

(b) he or she is removed from office in terms of subsection (3); or

(c) the President, on the recommendation of the National Assembly, extends the member's term of office for a specified period.

[Sub-s. (1) substituted by s. 1 of Act 14 of 2004.]

(2) The conditions of service, remuneration, allowances and other benefits of commissioners shall from time to time be determined by the President after consultation with the Commission on Remuneration of Representatives established by section 2 of the Commission on the Remuneration of Representatives Act, 1994 (Act 37 of 1994), and a distinction may be made between commissioners appointed in a full-time and part-time capacity.

(3) A commissioner may—

(a) only be removed from office by the President—

(i) on the grounds of misconduct, incapacity or incompetence;

(ii) after a finding to that effect by a committee of the National Assembly upon the recommendation of the Electoral Court; and

(iii) the adoption by a majority of the members of that Assembly of a resolution, calling for that commissioner's removal from office;

(b) be suspended from office by the President at any time after the start of the proceedings of the committee contemplated in paragraph *(a)* (ii);

(c) be reappointed, but only for one further term of office.

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8 Chairperson of Commission

(1) The President shall designate a chairperson and vice-chairperson from among the members of the Commission.

(2) In the absence of both the chairperson and vice-chairperson, the remaining members shall elect an acting chairperson from their number.

9 Conduct of commissioners

(1) Every member of the Commission shall—

(a) serve impartially and independently and perform his or her functions as such in good faith and without fear, favour or prejudice;

(b) if appointed in a full-time capacity, serve as such to the exclusion of any other duty or obligation arising out of any other employment or occupation or the holding of any other office, unless specifically authorised thereto by the President.

(2) No member of the Commission—

(a) shall during his or her term of office be eligible for appointment or nomination to any political office;

(b) may, whether directly or indirectly, in any manner give support to, or oppose, any party or candidate participating in an election, or any of the issues in contention between parties or candidates;

(c) may, by his or her membership, association, statement, conduct or in any other manner place in jeopardy his or her perceived independence, or in any other manner harm the credibility, impartiality, independence or integrity of the Commission;

(d) may make private use of or profit from any confidential information gained as a result of his or her appointment and functions as such member;

(e) may divulge any such information to any third party save in the course and scope of his or her official functions;

(f) shall during his or her term of office be eligible to serve as a member of Parliament, a provincial legislature or a

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local government body, and such ineligibility shall continue for a period of 18 months reckoned from the date upon which such term of office has terminated.

10 Disclosure of conflicting interests

(1) Subject to subsection (2), a member may not at any meeting of the Commission during the discussion of any matter before such meeting in respect of which he or she has any financial or other interest which might preclude him or her from performing his or her functions in a fair, impartial and proper manner—

(a) be present;

(b) cast a vote; or

(c) in any other manner participate in the proceedings thereof.

(2) If at any stage during the course of any proceedings before the Commission it appears that any member has or may have an interest which may cause such a conflict of interests to arise on his or her part—

(a) such member shall forthwith and fully disclose the nature of his or her interest and leave the meeting so as to enable the remaining members to discuss the matter and determine whether such member is precluded from participating in such meeting by reason of a conflict of interests; and

(b) such disclosure and the decision taken by the remaining members regarding such determination, shall be recorded in the minutes of the meeting.

(3) If any member fails to disclose any interest as required by subsection (2) or, subject to that subsection, is present at a meeting of the Commission or in any manner whatsoever participates in the proceedings of the Commission in relation to such matter, such proceedings may be reviewed and varied or set aside by the Commission.

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11 Meetings of Commission

(1) The Commission may meet at any place in the Republic determined by the chairperson for the purpose of performing its functions.

(2) Meetings may be convened at any time by the chairperson at such intervals as circumstances may require and he or she shall convene a special meeting when requested to do so by any two other members of the Commission.

(3) A quorum for a meeting of the Commission is the majority of the total number of the members.

(4) A decision by the majority of the members present at a meeting of the Commission is a decision of the Commission.

(5) The Commission may determine its own procedures to be followed at its meetings.

CHAPTER 3
ADMINISTRATION, STAFF AND ACCOUNTABILITY OF COMMISSION (ss 12-14)

12 Administration and staff of Commission

(1) As soon as possible after the composition of the Commission and whenever necessary thereafter, the Commission shall appoint a suitably qualified and experienced person as chief electoral officer.

(2) The chief electoral officer—

(a) shall be the head of the administration of the Commission;

(b) shall be the accounting officer of the Commission for the purposes of the Exchequer Act, 1975 (Act 66 of 1975), and shall cause the necessary accounting and other related records to be kept; and

(c) may exercise all such powers and shall perform all such duties and functions as may be entrusted or assigned to him or her by the Commission or this Act or any other law.

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(3) Whenever the chief electoral officer is for any reason absent or unable to perform his or her functions, or whenever a vacancy in the office of chief electoral officer occurs, the Commission may designate a member of its staff to act in that capacity until the chief electoral officer resumes his or her functions, or a chief electoral officer is appointed in terms of subsection (1), and that member has, while so acting, such powers and shall perform such functions of the chief electoral officer as may be delegated or assigned to him or her by the Commission.

(4) The chief electoral officer shall in consultation with the Commission appoint such officers and employees of the Commission as he or she may consider necessary to enable the Commission to exercise its powers and to perform its duties and functions effectively.

(5) The conditions of service, remuneration, allowances, subsidies and other benefits of the chief electoral officer, an acting chief electoral officer and the other administrative staff of the Commission shall be prescribed by the Commission.

(6) Notwithstanding the provisions of the Government Employees Pension Law, 1996 (Proclamation 21 of 1996)—

(a) any person appointed in terms of this section who, immediately before the date of such appointment was a member of the Government Employees Pension Fund referred to in section 2 of that Law, may remain such member notwithstanding such appointment; and

(b) any person so appointed who is not a member of the said fund may become a member of that fund as from the date of such appointment and, if applicable, shall contribute thereto.

13 Finances and auditing

(1) The expenditure in connection with the exercise of the Commission's powers and the performance of its duties and functions shall be defrayed out of money appropriated by Parliament for that purpose or received by the Commission from any other source.

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(2) The Commission shall budget for the necessary resources or additional resources to enable it to exercise its powers and perform its duties and functions effectively.

(3) The records referred to in section 12 (2) *(b)* shall be audited by the Auditor-General in terms of the Auditor-General Act, 1995 (Act 12 of 1995).

14 Reports by Commission

(1) The Commission shall annually, as soon as possible after the end of each financial year, submit to the National Assembly an audited report of all money received from other sources as contemplated in section 13 (1), as well as the audited statement on income and expenditure and a report in regard to the functions, activities and affairs of the Commission in respect of such financial year.

(2) The Commission shall furnish the President with such information and particulars as he or she may from time to time in writing require in connection with the activities of the Commission.

(3) The Commission shall as soon as possible after the end of an election publish a report thereon.

(4) The Commission may, if it deems it necessary, publish a report on the likelihood or otherwise that it will be able to ensure that any pending election will be free and fair.

CHAPTER 4
REGISTRATION OF PARTIES (ss 15-17)

15 Registration of parties

(1) The chief electoral officer shall, upon application by a party in the prescribed form, accompanied by the items mentioned in subsection (3), register such party in accordance with this Chapter.

[Sub-s. (1) substituted by s. 26 of Act 34 of 2003.]

(2) The form shall, *inter alia*, make provision for the following:

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(a) the name of the party;
(b) the distinguishing mark or symbol of the party in colour; and
(c) the abbreviation, if any, of the name of the party consisting of not more than eight letters.

[Sub-s. (2) substituted by s. 26 of Act 34 of 2003.]

(3) The application shall be accompanied by—
(a) that party's deed of foundation which has been adopted at a meeting of, and has been signed by the prescribed number of persons who are qualified voters;
(b) the prescribed amount, if any; and
(c) .....
(d) that party's constitution.

[Sub-s. (3) substituted by s. 26 of Act 34 of 2003.]

(4) The party's deed of foundation shall contain the prescribed particulars.

(5) After a party has been registered the chief electoral officer shall issue that party with a registration certificate in the prescribed form and publish the prescribed particulars of such registration in the *Gazette*.

(6) Every registered party not represented in a legislative body shall annually renew its registration in the prescribed manner and at the prescribed time.

15A Registration of parties for municipal elections

(1) The chief electoral officer shall, upon application by a party in the prescribed form, and if the application is accompanied by the items mentioned in subsection (2), register such party in respect of a particular municipality.

[Sub-s. (1) substituted by s. 27 of Act 34 of 2003.]

(2) The application shall be accompanied by—
(a) that party's deed of foundation which has been adopted at a meeting of, and has been signed by, the prescribed number of persons who are qualified voters;
(b) the prescribed amount, if any; and
(c) .....

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(d) that party's constitution.

[Sub-s. (2) substituted by s. 27 of Act 34 of 2003.]

(3) A party registered for a particular municipality or municipalities, may under such registration only participate in elections for councils for those municipalities.

(4) Subsections (1), (2), (3) and (4) of section 15 do not apply to a registration under this section.

[S. 15A inserted by s. 93 of Act 27 of 2000.]

16 Prohibition on registration of party under certain circumstances

(1) The chief electoral officer may not register a party in terms of section 15 or 15A, if—

(a) fourteen days have not elapsed since the applicant has submitted to the chief electoral officer proof of publication of the prescribed notice of application in the *Gazette* in the case of an application referred to in section 15 or in a newspaper circulating in the municipal area concerned in the case of an application referred to in section 15A.

(b) a proposed name, abbreviated name, distinguishing mark or symbol mentioned in the application resembles the name, abbreviated name, distinguishing mark or symbol, as the case may be, of any other registered party to such an extent that it may deceive or confuse voters; or

(c) a proposed name, abbreviated name, distinguishing mark or symbol mentioned in the application or the constitution of the party or the deed of foundation mentioned in section 15 or 15A contains anything—

(i) which portrays the propagation or incitement of violence or hatred or which causes serious offence to any section of the population on the grounds of race, gender, sex, ethnic origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or language; or

(ii) which indicates that persons will not be admitted to

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membership of the party or welcomed as supporters of the party on the grounds of their race, ethnic origin or colour.

[Sub-s. (1) substituted by s. 28 of Act 34 of 2003.]

(2) Any party which is aggrieved by a decision of the chief electoral officer to register or not to register a party, may within 30 days after the party has been notified of the decision, appeal against the decision to the Commission in the prescribed manner.

(3) The Commission shall in the case of such an appeal enquire into or consider the matter and may, subject to subsection (4), confirm or set aside the decision of the chief electoral officer.

(4) In considering such an appeal against the refusal to register a party in terms of subsection (1) *(a)* the Commission—

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

(b) may, for the purposes of paragraph *(a)*—

(i) afford the parties concerned an opportunity to offer such proof, including oral evidence or sworn or affirmed statements by any person which, in the opinion of the Commission, could be of assistance in the expeditious determination of the matter; and

(ii) administer an oath or affirmation to any person appearing to testify orally before it.

[Sub-s. (4) amended by s. 29 of Act 34 of 2003.]

16A Change of party's name

(1) A party may submit an application in the prescribed form to the chief electoral officer to change its registered name, abbreviated name, distinguishing mark or symbol.

(2) Such an application shall be accompanied by proof of publication in the *Gazette* of the prescribed notice of application.

(3) Section 16, with the changes required by the context, applies to the chief electoral officer's consideration of the application and

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decision to change, or not to change, the party's registered name, abbreviated name, distinguishing mark or symbol in accordance with the application.

(4) If the registered name, abbreviated name, distinguishing mark or symbol is changed as a result of the application, the chief electoral officer shall withdraw the registration certificate issued in terms of section 15 and issue the party with a new registration certificate reflecting the change.

[S. 16A inserted by s. 30 of Act 34 of 2003.]

17 Cancellation of registration of party

(1) The Commission may cancel the registration of a party if—

(a) after due notice in writing to that party and an inquiry into the matter, the Commission is satisfied that the party no longer functions or has no intention to participate in an election;

(b) it is notified by that party in the prescribed manner that the party has dissolved or is intending to dissolve on a specified date;

(c) that party is not represented in the National Assembly, a provincial legislature or a municipal council and it has not participated in a national, provincial or municipal general election that took place after the date of its registration or after the date when it was last so represented; or

(d) that party has changed its deed of foundation or constitution and the Commission is satisfied that change has resulted in that deed of foundation or constitution containing anything—

(i) which portrays the propagation or incitement of violence or hatred or which causes serious offence to any section of the population on grounds of race, gender, sex, ethnic origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or language; or

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(ii) which indicates that persons will not be admitted to membership of the party or welcomed as supporters of the party on the grounds of their race, ethnic origin or colour.

(2) The Commission may not cancel the registration of a party on the grounds set out in subsection (1) *(d)* unless it has served a notice on the party giving it an opportunity to withdraw or change the offending amendment or part of the amendment and the party has not done so to the Commission's satisfaction within three months.

(3) A registered party shall within two months after having changed its deed of foundation or constitution submit a copy of the changed deed of foundation or constitution to the chief electoral officer.

[S. 17 substituted by s. 31 of Act 34 of 2003.]

CHAPTER 5
ELECTORAL COURT (ss 18-20)

18 Establishment of Electoral Court

There is an Electoral Court for the Republic, with the status of the Supreme Court.

19 Composition of Electoral Court

(1) The Electoral Court shall consist of the following members appointed by the President upon the recommendation of the Judicial Service Commission:

(a) A chairperson, who is a judge of the Appellate Division of the Supreme Court, and two other judges of the Supreme Court; and

(b) two other members who are South African citizens.

(2) The terms of office of the members of the Electoral Court, their conditions of service, remuneration, leave and other benefits, shall be determined by the President.

20 Powers, duties and functions of Electoral Court

(1) *(a)* The Electoral Court may review any decision of the Commission relating to an electoral matter.

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(b) Any such review shall be conducted on an urgent basis and be disposed of as expeditiously as possible.

(2) *(a)* The Electoral Court may hear and determine an appeal against any decision of the Commission only in so far as such decision relates to the interpretation of any law or any other matter for which an appeal is provided by law.
(b) No such appeal may be heard save with the prior leave of the chairperson of the Electoral Court granted on application within the period and in the manner determined by that Court.
(c) Such an appeal shall be heard, considered and summarily determined upon written submissions submitted within three days after leave to appeal was granted in terms of paragraph *(b)*.

(3) The Electoral Court may determine its own practice and procedures and make its own rules.

(4) The Electoral Court shall—

(a) make rules in terms of which electoral disputes and complaints about infringements of the Electoral Code of Conduct as defined in section 1 of the Electoral Act, 1993 (Act 202 of 1993), and appeals against decisions thereon may be brought before courts of law; and

(b) determine which courts of law shall have jurisdiction to hear particular disputes and complaints about infringements, and appeals against decisions arising from such hearings.

(5) The hearings and appeals referred to in subsection (4) shall enjoy precedence in the courts of law determined in accordance with that subsection.

(6) The Electoral Court may hear and determine any matter that relates to the interpretation of any law referred to it by the Commission.

(7) The Electoral Court may investigate any allegation of misconduct, incapacity or incompetence of a member of the Commission and make any recommendation to a committee of the National Assembly referred to in section 7 (3) *(a)* (ii).

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(8) The Director-General: Justice shall provide the necessary accommodation, administration and financial support for the Electoral Court.

CHAPTER 6
GENERAL PROVISIONS (ss 21-25)

21 Offences and penalties

(1) Any person commits an offence who—

(a) wilfully hinders or obstructs the Commission, the chief electoral officer or a member of the staff of the Commission in the exercise of its or his or her powers or in the performance of its or his or her duties or functions;

(b) wilfully interrupts the proceedings of a meeting of the Commission or a sitting of the Electoral Court or misbehaves in any other manner in the place where such meeting or sitting is held;

(c) does anything calculated improperly to influence the Commission or that Court in respect of any matter being or to be considered by the Commission or that Court in connection with any decision or order.

(2) Any person convicted of any offence referred to in subsection (1), may be sentenced to a fine or to imprisonment for a period not exceeding five years.

22 Legal proceedings against Commission

(1) The State Liability Act, 1957 (Act 20 of 1957), applies with the necessary changes in respect of the Commission.

(2) In such application a reference to a Minister of a department shall be construed as a reference to the chairperson of the Commission.

23 Regulations

(1) The Commission may make regulations regarding—

(a) the time limits within and manner in which appeals may be noted or decisions may be brought under review by the Commission in terms of this Act;

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(b) the compiling and maintaining of voters' rolls;
(c) the registration of parties in terms of this Act;
(d) the regulation of the conduct of all persons, parties and candidates in so far as such conduct may promote or inhibit the conduct of a free and fair election;
(e) any matter required or permitted to be prescribed in terms of this Act;
(f) the holding of a referendum declared under section 2; and
(g) generally, all matters which are necessary or expedient to be prescribed in order to achieve the objects of this Act.

(2) A regulation may prescribe penalties for any contravention thereof, or any failure to comply therewith, of a fine or imprisonment for a period not exceeding two years.

(3) Any regulation which affects state expenditure, shall be made with the concurrence of the Minister of Finance.

24 Repeal of laws, legal succession and transitional provision

(1) The laws mentioned in the Schedule are hereby repealed.

(2) The Commission is the successor in title to the Independent Electoral Commission established by section 4 of the Independent Electoral Commission Act, 1993 (Act 150 of 1993), and is empowered to control all electoral equipment and material held by any organ of state in any sphere of government.

(3) The Special Electoral Court established by section 32 of the Independent Electoral Commission Act, 1993, shall, notwithstanding the repeal of that Act by subsection (1), dispose of any matter pending before it as if this Act had not been passed.

[Date of commencement of s. 24: to be proclaimed.]

25 Short title and commencement

This Act shall be called the Electoral Commission Act, 1996, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

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SCHEDULE
LAWS REPEALED

Number and year of law	Title
Act 150 of 1993	Independent Electoral Commission Act, 1993
Act 193 of 1993	Independent Electoral Commission Amendment Act 1993
Act 5 of 1994	Independent Electoral Commission Amendment Act, 1994
Proclamation 46 of 1994	Independent Electoral Commission Amendment Proclamation, 1994

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REGULATIONS ON PARTY LIAISON COMMITTEES, 1998

Published under

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SCHEDULE

1 Definitions

In these Regulations, any word or expression to which a meaning has been assigned in section 1 of the Act, shall have that meaning and, unless the context otherwise indicates—

'the Act' means the Electoral Commission Act, 1996 (Act 51 of 1996); and

'registered party' means a party registered in terms of Chapter 4 of the Act;

'Commission' means the Electoral Commission established in terms of the Act.

2 Establishment of party liaison committees

The Electoral Commission establishes the following party liaison committees:

2.1 A party liaison committee in the national sphere with not more than two representatives from every registered party represented in the National Assembly.

2.2 A provincial party liaison committee for each province with—

2.2.1 not more than two representatives from every registered party represented in the legislature of the province concerned; and

2.2.2 not more than two representatives from every registered party represented in the party liaison

committee in the national sphere but not represented in the provincial party liaison committee concerned.

2.3 Municipal party liaison committees for a single municipality or a group of municipalities with—

2.3.1 not more than two representatives from every registered party represented in the municipal council or councils concerned; and

2.3.2 not more than two representatives from every registered party represented in the party liaison committee in the relevant province, but not represented in the municipal party liaison committee concerned; and

2.3.3 not more than one representative of every independent councillor represented in the municipal council or councils concerned.

3 Additional members

The Commission may co-opt any person or representative onto any specific party liaison committee.

4 After the date of promulgation of an election, in terms of any legislation, until the date of that election, any registered party which, or independent candidate who, has complied with the requirements for contesting that election shall be entitled to representation on the party liaison committee established in respect of the legislature for which that election is promulgated.

5 Chairperson and convenors

The Commission shall designate a person as its representative for every party liaison committee and that person shall act as convenor of and chairperson at meetings of the party liaison committee.

6 Functions of party liaison committees

Party liaison committees will serve as vehicles for consultation and co-operation between the Commission and the registered parties concerned on all electoral matters, aimed at the delivery of free and fair elections.

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7 Travelling and accommodation expenditure

Parties are responsible for all expenses incurred by their representatives in respect of their participation in party liaison committees in all spheres of government:

7.1 Should a party be unable to send a representative to attend a meeting of the national or provincial party liaison committee because it does not have the means to pay his or her necessary travel and accommodation expenditure, the Commission may, on application, endeavour to assist that party by way of a contribution towards such expenses from funds voted by Parliament for this purpose or from funds that may have been made available by donors for this purpose.

7.2 The Commission will consider such applications on the basis of transparency, equity and even-handedness.

7.3 A record of such contributions shall be kept by the Chief Electoral Officer and shall be available for inspection by anyone during normal office hours at the office of the Chief Electoral Officer.

8 Short title and commencement

These regulations shall be called the Regulations on Party Liaison Committees, 1998, and shall commence on 19 June 1998.

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REGULATIONS FOR THE REGISTRATION OF POLITICAL PARTIES, 2004

Published under

GN R13 in *GG* 25894 of 7 January 2004
as amended by
GenN 1204 in *GG* 31452 of 22 September 2008

1 Definitions

In these Regulations—

(a) any word or expression to which a meaning has been assigned in section 1 of the Electoral Commission Act, 1996 (Act 51 of 1996), shall have that meaning; and

(b) unless the context otherwise indicates, **'Act'** means the Electoral Commission Act, 1996 (Act 51 of 1996) as amended.

2 Applications for registration

(1)*(a)* Every application referred to in section 15(1) and 15A(1) of the Act must be submitted to the Chief Electoral Officer in a form substantially similar to Annexure 1.

(b) The notice of application referred to in section 16(1)*(a)* of the Act must be in a form substantially similar to Annexure 2.

(c) Anyone wishing to raise an objection against the intended registration must do so by written notice in which is set out the grounds for the objection and which must be delivered at the office of the Chief Electoral Officer in Pretoria within fourteen days after the notice has been published as required by section 16(1)*(a)* of the Act.

(d) The Chief Electoral Officer must reject an application—

(i) for any of the reasons contemplated in section 16(1) of the Act; or

(ii) if the application does not comply with the provisions of the Act or Regulations.

(2) The constitution of a party, contemplated in sections 15(3)*(d)* and 15A(2)*(d)* of the Act, that applies to register in terms of sections 15 or 15A of the Act, should, as far as possible, also contain the following—

(a) The executive structure of the party;
(b) The election procedure for the executive of the party;
(c) The decision making process and functions of the office bearers within the party;
(d) The minimum requirements for membership of the party;
(e) The internal disciplinary procedures of the party; and
(f) The requirements for audited financial statements.

[Subreg (2) added by GenN 1204 of 22 September 2008.]

(3) A party that applies to be registered in terms of sections 15 or 15A of the Act must ensure that its proposed name, abbreviated name, distinguishing mark or symbol does not—

(a) in any way contravene the provisions of any other relevant Act of Parliament; and
(b) infringe upon a name, mark or symbol registered in terms of any applicable legislation in the Republic, or any of the rights associated thereto.

[Subreg (3) added by GenN 1204 of 22 September 2008.]

3 Deed of Foundation

(1)*(a)* The deed of foundation referred to in section 15 of the Act must be signed by 500 registered voters, whose full names and identity numbers must be reflected against their signatures.
(b) The deed of foundation referred to in section 15A of the Act must be signed by 50 registered voters, whose full names and identity numbers must be reflected against their signatures.

(2) A party that is registered in terms of section 15A of the Act and which subsequently applies to register in terms of section 15 of the Act must comply with subregulation (1)*(a)*.

(3) The voters referred to in regulation 3(1)*(a)* and *(b)* above

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must sign the deed of foundation on a form substantially similar to Annexure 6 to these Regulations.

[Reg 3 substituted by GenN 1204 of 22 September 2008.]

4 Registration fees

(1) The amount referred to in section 15(3)*(b)* of the Act shall be R500 and the amount referred to in section 15A(2)*(b)* of the Act shall be R200 in respect of each municipality.

(2) The amounts referred to in subregulation (1) are not refundable.

5 Registration certificate

The registration certificate referred to in section 15(5) of the Act shall be in a form substantially similar to Annexure 3.

6 Notification of registration in *Gazette*

The particulars which must be published in the *Gazette* in terms of section 15(5) of the Act shall be the following, namely—

(a) name and abbreviated name of the party;
(b) symbol of the party;
(c) that the party has been registered only in respect of a particular municipality, if that is the case;
(d) date of registration of the party; and
(e) a reference number.

7 Register of parties and registration of documents

(1) The Chief Electoral Officer must keep a register of parties in which is recorded all registrations, renewals of registrations, failures to renew registrations, changes of the registered names, abbreviated names, distinguishing marks or symbols of parties and cancellations of registrations.

(2) The register of parties and a copy of every document lodged with the Chief Electoral Officer for the purposes of the registration of a party, or the renewal of the registration of a party, the changes of the registered name, abbreviated name, distinguishing mark or symbol of a party or the cancellation of the

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registration of a party, shall be kept for inspection by the public at the office of the Chief Electoral Officer and any person may inspect the register and if requested a copy of the register to be made available free of charge during office hours.

(3) The Chief Electoral Officer must furnish a copy of a document referred to in subregulation (2) to any person applying for it after a person has paid a fee of one rand (R1,00) per page.

8 Effect of registration of a party

A party registered under these Regulations shall—

(a) be entitled to be represented on a party liaison committee as contemplated in the regulations on Party Liaison Committees;

(b) have free access to any voter's roll compiled and maintained by the Commission; and

(c) be entitled to protection by the Commission of its name, abbreviation of its name and distinguishing mark or symbol.

9 Notification of change in registration particulars

Any change in the particulars furnished in Annexure 1 must be notified to the Chief Electoral Officer in writing within 30 days after such change by the registered contact person or the leader of the party.

10 Renewal of registration

Every registered party not represented in a legislative body, as referred to in section 15(6) of the Act shall, before the last day of January of every year after the year in which the party has been registered, renew its registration by submitting to the Chief Electoral Officer a written declaration made by an executive officer of the party, duly instructed by the party to make such declaration, to the effect that the party has not dissolved and that it is continuing to operate as a party, if that is indeed the case.

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11 Appeal against decision of the Chief Electoral Officer to register or not to register a party

An appeal against the decision of the Chief Electoral Officer to register or not to register a party as contemplated in section 16(2) of the Act shall—

(a) be in writing and signed by an executive officer of the appealing party, duly instructed thereto by that party; and

(b) fully set out the reasons for the appeal.

12 Change of party's name, distinguishing mark or symbol

(1) An application to change the registered name, abbreviated name, distinguishing mark or symbol in terms of section 16A(1) of the Act shall be in a form substantially similar to Annexure 4 and the notice of application referred to in section 16A(2) of the Act shall be in a form substantially similar to Annexure 5.

(2) The notice of application must be published in the *Gazette* on a date thirty days before the application is submitted to the Chief Electoral Officer.

13 Cancellation of registration of party

The notification referred to in section 17(1)*(b)* of the Act shall be in the form of a declaration by an executive officer of the party, duly instructed thereto by the party, to the effect that the party has dissolved or intends to dissolve on a date specified in the declaration.

14 Inquiry by the Commission

In any inquiry in terms of section 17(1) of the Act, the Commission may—

(a) investigate the factual basis of the issue;

(b) afford interested parties an opportunity to make written or oral submissions;

(c) call for written or oral submissions from other persons or parties;

(d) conduct a hearing; or

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(e) take any one or more or all of the above actions.

15 Offences and penalties

Any person who makes a false statement or furnishes false particulars in any application or other document required by these Regulations shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

16 Repeal of Regulations

The Regulations for the Registration of Political Parties, 2000, published in Government Notice R712 of 13 July, 2000 are hereby repealed.

17 Short title

These regulations are called the Regulations for the Registration of Political Parties, 2004.

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ANNEXURE 1

ELECTORAL COMMISSION

APPLICATION FOR REGISTRATION BY A PARTY IN TERMS OF SECTION 15 OR 15A OF THE ELECTORAL COMMISSION ACT, 1996 (ACT 51 OF 1996)

1 Name of the party .....

(Name may not consist of more than 60 letters)

2 Abbreviated name, if any, of the party .....

(The abbreviated name may not consist of more than eight letters)

3 *(a)* Distinguishing mark or symbol of the party (two identical samples are required):

(b) A5 size logo for ballot paper printing purposes must be submitted together with this application.

4 Business address of party:

.....

.....

.....

5 The party's deed of foundation and its constitution are attached.

Date of submission

Time

NB: Areas shaded in grey

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6 * We are applying in terms of section 15A of the Act for registration in respect of the following municipality/municipalities
.....
.....
.....

7 Name and address of leader of the party
.....
.....

8 Names and addresses of members constituting the executive body of the party:

	Name	Address	Designation
(i)			
(ii)			
(iii)			
(iv)			
(v)			
(vi)			
(vii)			
(viii)			
(ix)			
(x)			

9 Particulars of the contact person of the party:
Name.....
Address .....
.....
Telephone number (.....) .....
Cell number (.....) .....
Fax number (.....) .....
E-mail .....

Reference Number:

NB: Areas shaded in grey are for IEC official use only

* Delete if not applicable.

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DECLARATION

10 I, ..., the undersigned, in my capacity as ..... on behalf of the ..... party, duly instructed by the party to take charge of the registration—

(a) declare that the information furnished above is true and correct in every respect;

(b) solemnly commit and subject the party, its office bearers, officials and candidates (if any) to any electoral code of conduct prescribed by law; and

(c) declare that the party will function primarily as a political party.

.....

(*Signature*)

Date.....

Designation.....

Address.....

.....

Telephone No. (.....) .....

Cell No. (.....) .....

Fax No. (.....) .....

Reference Number:

NB: Areas shaded in grey are for IEC official use only

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ANNEXURE 2

ELECTORAL COMMISSION
NOTICE OF APPLICATION FOR
REGISTRATION OF A PARTY IN TERMS
OF SECTION 16(1)*(a)* OF THE
ELECTORAL COMMISSION ACT,
1996 (ACT 51 OF 1996)

1 Notice is hereby given that the ..... (name of party) is applying for registration in terms of the Electoral Commission Act, 1996 (Act 51 of 1996).

2 Date on which the application will be or has been submitted to the Chief Electoral Officer: .....

3 The abbreviation of the name of the party is: .....
There is no abbreviation of the name of the party.
(*Delete that which is not applicable*).

4 The distinguishing mark or symbol of the party is printed underneath.

5 Anyone wishing to raise an objection against the intended registration must do so by written notice in which are set out the grounds for the objections and which must be delivered at the office of the Chief Electoral Officer within fourteen days after the publication of this notice.

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ANNEXURE 3

ELECTORAL COMMISSION
CERTIFICATE OF REGISTRATION AS A PARTY IN TERMS OF THE ELECTORAL COMMISSION ACT, 1996
(ACT 51 OF 1996)

It is hereby certified that the party of which the details are furnished below, has been registered as a party in terms of section 15 of the Electoral Commission Act, 1996 (Act 51 of 1996).

OR

It is hereby certified that the party of which the details are furnished below, has been registered as a party in terms of section 15A of the Electoral Commission Act, 1996 (Act 51 of 1996) in respect of the following municipality(ies) only:

.....

.....

....

(Chief Electoral Officer) *Date:*

PARTICULARS OF PARTY

Name:.....

Abbreviated name:.....

Distinguishing mark or symbol:

Business address ..... *Reference Number*

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ANNEXURE 4

ELECTORAL COMMISSION

APPLICATION BY A PARTY IN TERMS OF SECTION 16A OF THE ELECTORAL COMMISSION ACT, 1996 (ACT 51 OF 1996)

We, the .....(registered name of party) whose registered abbreviated name is .....and whose registered distinguishing mark or symbol is—

hereby apply in terms of section 16A of the Electoral Commission Act, 1996, to change our registered name/abbreviated name/distinguishing mark or symbol to the following:

Name of the party.....

(*Name may not consist of more than 60 letters*)

Abbreviated name.....

(*The abbreviated name may not consist of more than eight letters*)

Distinguishing mark or symbol (two identical samples are required):

Attached is proof of publication in the *Gazette* of the prescribed notice of application.

....

Signature of person submitting the application on behalf of the party *Date*

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DECLARATION

I, ..., the undersigned, declare that I have been duly authorised by a resolution of the .....of the applying party to bring this application. A certified copy of the resolution dated .....is attached.

.....

(Signature)

ID no.....

Date.....

Designation.....

Address

.....

.....

.....

Telephone No. (.....) .....

Cell No. (.....) .....

Fax No. (.....) .....

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ANNEXURE 5

ELECTORAL COMMISSION
NOTICE OF APPLICATION FOR THE CHANGE OF A PARTY'S NAME, ABBREVIATED NAME, OR DISTINGUISHING MARK OR SYMBOL IN TERMS OF SECTION 16A OF THE ELECTORAL COMMISSION ACT, 2003

Notice is hereby given that the .....(name of party) intends applying to the Chief Electoral Officer for the change of—

1 its registered name to.....
.....

2 its registered abbreviated name to.....

3 its registered mark or symbol to:

Anyone wishing to raise an objection against the application must do so by delivering to the office of the Chief Electoral Officer, within thirty days after the publication of this notice, a written objection, setting out fully the grounds for the objection.

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ANNEXURE 6

ELECTORAL COMMISSION
DEED OF FOUNDATION OF A PARTY
[Annexure 6 added by GenN 1204 of 22 September 2008.]

The founding meeting of the party mentioned hereunder, was held at ..... on the ..... day of ..... 20 .....; and

We, the undersigned, being registered voters, confirm that we support the founding of the ..... (FULL NAME OF THE PARTY).

	Name and Surname	Signature	Identity Number												
1															
2															
3															
4															
5															
6															
7															
8															
9															
10															
11															
12															
13															
14															
15															
16															
17															
18															
19															
20															

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Note: Copies of this form may be reproduced to allow for the submission of the minimum number of names, ID numbers and signatures.

(a) In the case of a party applying to register in terms of section 15, a minimum of 500 registered voters must support the founding of the party.

(b) In the case of a party applying to register in terms of section 15A, a minimum of 50 registered voters must support the founding of the party.

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REGULATIONS RELATING TO ACTIVITIES PERMISSIBLE OUTSIDE VOTING STATIONS ON VOTING DAY

Published under

GenN 1205 in *GG* 31453 of 22 September 2008

The Electoral Commission has, in terms of section 23(1)*(d)* of the Electoral Commission Act, 1996 (Act 51 of 1996), made the regulations set out in the Schedule.

SCHEDULE

Preamble

It is in the interest of free and fair elections that contesting parties should be allowed to continue with lawful and legitimate election related activities immediately outside voting stations. It is however also necessary that voters must not feel intimidated or inhibited by certain activities in the proximity of entrances to voting stations they are obliged to use when proceeding to cast their votes in elections.

1 Definitions

In this Schedule, unless the context indicates otherwise—

'the Act' means the Electoral Commission Act, 1996 (Act 51 of 1996);

'the Regulations' means the Regulations for the Registration of Political Parties published under Government Notice R13 of 07 January 2004; and

'voting day' means the day on which voting in an election takes or is to take place.

2 Areas of Application

These Regulations apply to vacant areas immediately adjacent to the boundaries of voting stations in national, provincial and municipal elections.

3 Location of Party Facilities

A party or independent candidate, where applicable, may not place or position its temporary operational facility, which may include but [is] not limited to a tent, table, or caravan, in a manner that is likely to impede voters' free and direct access to the entrance of a voting station.

4 If, in the opinion of the presiding officer, a facility is likely to impede voters' access, the presiding officer may instruct the party to move the temporary operational facility elsewhere.

5 If parties cannot agree amongst themselves on the positioning of their facilities, the presiding officer may be called upon to decide the dispute and issue instructions accordingly to the parties.

6 The presiding officer may instruct any person who acts in contravention of regulations 3 and 4 to move his or her facility from the designated area and where necessary, request any available security officer to remove any person not in compliance and his or her temporary operational facility, from such area.

7 Offences

Anyone who fails to carry out a lawful instruction of the presiding officer or a security officer is guilty of an offence punishable by a fine or a period of imprisonment not exceeding one year.

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