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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1194.

9 June 1989

No. 1194.

9 Junie 1989

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 92 of 1989: Elections and Identification Amendment Act, 1989.

No. 92 van 1989: Wysigingswet op Verkiesings en Identifikasie, 1989.

Act No. 92, 1989

ELECTIONS AND IDENTIFICATION AMENDMENT ACT, 1989

GENERAL EXPLANATORY NOTE:

[**]** Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Electoral Act, 1979, so as to insert, replace or delete certain definitions; to delete all references to provincial councils; to replace or delete certain obsolete provisions; to further regulate the compilation, printing and supplying of voters' lists; to make provision for particulars of changes in respect of voters in the population register to be supplied to local authorities free of charge; to make provision for those cases in which it appears that a person is not entitled to vote in a specific division; to revise certain provisions with respect to nomination day, polling day and the manner of nomination; to make new provision for the administration of certain provisions of the said Act; to replace the system to vote as an absent voter with a system to vote as a voter by post; to further regulate the system to vote as a special voter; to further regulate the procedures of identification of voters; to make further provision with respect to the counting of votes; to restrict the inspection of certain documents; to delete the compulsory notification of the names and addresses of election agents and sub-agents; to delete certain provisions regarding the provision of liquor; to further regulate the consequences of corrupt and illegal practices; and to further regulate offences and increase fines; and to amend the Identification Act, 1986, so as to involve local authorities in obtaining certain particulars; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 1 June 1989.)

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

Amendment of section 1 of Act 45 of 1979, as amended by section 8 of Act 103 of 1984

1. Section 1 of the Electoral Act, 1979 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the deletion of the definition of "absent voter";
- (b) by the deletion of the definition of "administrator";
- (c) by the deletion of the definition of "assistant returning officer";
- (d) by the substitution for the definition of "competent witness" of the following definition:
 - “competent witness”[—
 - (a) means a person whose name appears on a list which at the time when he acts as a witness is a valid voters' list; [and
 - (b) includes, in relation to any person having his home in an independent State, a judicial officer of the independent State in question or an officer acting on the instructions and under the control of such a judicial officer];

- (e) by the insertion after the definition of "declaration votes list" of the following definition:
 "Director-General" means the Director-General: Home Affairs;";
- (f) by the substitution for the definition of "division" of the following definition: 5
 "division", [—
 (a)] whenever it is used in relation to a House of Parliament, or in so far as a provision in which it is used is applied in relation to a House of Parliament, means an electoral division of the House concerned as delimited from time to time in accordance with sections 48 to 51 of the Constitution; 10
 [(b) whenever it is used in relation to a provincial council, or in so far as a provision in which it is used is applied in relation to a provincial council, means an electoral division of the provincial council concerned referred to in section 69 (1) of the Provincial Government Act, 1961 (Act No. 32 of 1961)];" 15
- (g) by the substitution for the definition of "election" of the following definition:
 "election" means an election of a member of a House of Parliament [or of a member of a provincial council];"; 20
- (h) by the deletion of the definition of "identity card";
- (i) by the substitution for the definition of "identity document" of the following definition:
 "identity document" means an identity document as defined in section 1 (1) of the Identification Act, 1986, as well as a document referred to in sections 8 (3) (a) and 9 of that Act;"; 25
- (j) by the substitution for the definition of "identity number" of the following definition:
 "identity number", in relation to a person to whom an identity document according to the definition of "identity document" has been issued, means an identity number as defined in section 5 (2) of the Identification Act, 1986;"; 30
- (k) by the substitution for the definition of "magistrate" of the following definition:
 "magistrate"— 35
 (a) includes an additional magistrate or an assistant magistrate or an acting magistrate [or a Commissioner referred to in section 2 (2) of the Black Administration Act, 1927 (Act No. 38 of 1927), or a special justice of the peace who is an officer in the public service]; 40
 or
 (b) in the case of an independent State, means a judicial officer of such an independent State or any officer acting on the instructions and under the control of such a judicial officer;";
- (l) by the substitution for the definition of "Minister" of the following definition: 45
 "Minister" means the Minister of [Internal] Home Affairs;";
- (m) by the substitution for the definition of "ordinary place of residence" of the following definition:
 "ordinary place of residence", in relation to a person, means the place which in terms of the [Population Registration Act, 1950] Identification Act, 1986, is given in the population register as such person's ordinary place of residence;"; 50
- (n) by the substitution for the definition of "political party" of the following definition:
 "political party" means a political party registered in terms of the provisions of section 36 as a political party;"; 55
- (o) by the substitution for the definition of "population register" of the following definition:
 "population register" means the register referred to in section [2] 1 (1) of the [Population Registration Act, 1950] Identification Act, 1986;"; 60
- (p) by the deletion of the definition of "presiding officer for absent votes";
- (q) by the substitution for the definition of "presiding officer for votes of special voters" of the following definition:
 "presiding officer for votes of special voters"—

- (a) means an electoral officer or a returning officer or magistrate or an additional, assistant or acting magistrate or any officer in the employment of the State designated as such presiding officer by the returning officer **[after consultation with the candidates concerned, if any, and with authorized representatives of political parties, if such representatives ask to be consulted]**, or any officer acting on the directions and under the control of any of the aforesaid officers; 5
- (b) in relation to a special voter having his home in an independent State, includes a judicial officer or an officer referred to in section **[47 (3)] 81A (3)**; 10
- (c) in relation to a voter who is a person referred to in section **[1 (4) (d)] 1 (2) (d)** of the **[Population Registration Act, 1950 (Act No. 30 of 1950)] Identification Act, 1986**, means the senior officer of the Republic stationed at the place outside the Republic where such voter is employed or resident, and includes any person designated for such purpose by such senior officer; and 15
- (d) in relation to a voter referred to in section **[47 (2) (b)] 81A (2) (b)**, means any person designated for such purpose by the chief electoral officer, and includes any other person designated for such purpose by such person if authorized thereto by the chief electoral officer;” 20
- (r) by the deletion of the definition of “public conveyance”;
- (s) by the substitution for the definition of “public office” of the following definition: 25
 “‘public office’ means any office held under the Executive Government of the Republic or under any provincial administration or local or education authority, whether the office be held by election or appointment thereto, and includes membership **[of a provincial council or]** of a provincial executive committee or of a local or education authority or of a board or commission appointed by the State President or **[an]** the administrator of a province;” 30
- (t) by the substitution for the definition of “regional representative” of the following definition: 35
 “‘regional representative’ means an officer in the Department of **[Internal]** Home Affairs occupying the office of regional representative or who acts in that capacity;”
- (u) by the substitution for the definition of “returning officer” of the following definition: 40
 “‘returning officer’, in relation to any division, means the person appointed under section **[34 (1) (c)] 34 (3) (b)** in respect of that division;”
- (v) by the substitution for the definition of “voter” of the following definition: 45
 “‘voter’ means a person whose name is included in a voters’ list prepared in terms of this Act, and, in relation to a division of a House of Parliament **[or of a provincial council]** or the election of a member of a House of Parliament **[or of a provincial council]** in a division thereof, means a person whose name is included in such a voters’ list for the division concerned or the voters’ list which is in terms of this Act required to be used at such election, as the case may be;” and
- (w) by the insertion after the definition of “voter’s envelope” of the following definition: 50
 “‘voter voting by post’ or ‘voter by post’ means any person who has made or is desirous of making an application under section 49;”.

Substitution of section 2 of Act 45 of 1979, as substituted by section 9 of Act 103 of 1984 55

2. The following section is hereby substituted for section 2 of the principal Act:

“Application of Act

2. The provisions of this Act shall apply in respect of elections of members of the Houses of Parliament **[and the provincial councils]** and in respect of the registration of voters for such elections.” 60

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Substitution of section 3 of Act 45 of 1979, as substituted by section 10 of Act 103 of 1984

3. The following section is hereby substituted for section 3 of the principal Act:

“Persons entitled to be registered and to vote

3. Every **[White]** person **[Coloured person and Indian]** referred to in section 52 of the Constitution and who complies with the provisions of paragraphs (a), (b) and (c) of that section shall be entitled to be registered as a voter—

- (a) in the case of a **[White]** person who is entitled to vote at an election of a member of the House of Assembly, in the division of the House of Assembly **[and in the division of the provincial council]**;
- (b) in the case of a **[Coloured]** person who is entitled to vote at an election of a member of the House of Representatives, in the division of the House of Representatives; and
- (c) in the case of **[an Indian]** a person who is entitled to vote at an election of a member of the House of Delegates, in the division of the House of Delegates,

in which his ordinary place of residence is situated and to remain registered as a voter in that division as long as his ordinary place of residence is situated in that division, and, on compliance with and subject to the provisions of this Act, to vote at an election of a member of the House concerned **[and, in the case of a White person, also of a member of the provincial council concerned]**, in the division thereof in which he is so registered.”.

Amendment of section 4 of Act 45 of 1979, as amended by section 11 of Act 103 of 1984

4. Section 4 of the principal Act is hereby amended—

- (a) by the substitution for subparagraph (i) of paragraph (c) of subsection (1) of the following subparagraph:
“(i) that he has applied for an identity document in accordance with the **[Population Registration Act, 1950 (Act No. 30 of 1950)] Identification Act, 1986; or**”;
- (b) by the substitution for subsection (3A) of the following subsection:
“(3A) (a) Paragraph (ii) of the proviso to paragraph (c) of subsection (1) shall lapse immediately after a general election for the Houses of Parliament held in pursuance of the first dissolution of Parliament under section 47 (1) of the Constitution.
(b) A separate voters’ list shall be printed for the purposes of sections 24 and 26 in respect of the persons referred to in subsection (1) (c) (ii) for each electoral division.”.

Amendment of section 5 of Act 45 of 1979, as substituted by section 12 of Act 103 of 1984

5. Section 5 of the principal Act is hereby amended—

- (a) by the deletion in paragraph (a) of subsection (1) of the words “Internal Affairs”;
- (b) by the substitution in paragraph (d) of subsection (2) for the words “Internal Affairs” of the words “Home Affairs”; and
- (c) by the deletion in paragraph (c) of subsection (2) of the words “or section 69 (2) of the Provincial Government Act, 1961 (Act No. 32 of 1961)”.

Amendment of section 6 of Act 45 of 1979, as substituted by section 13 of Act 103 of 1984

6. Section 6 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
“(1) As soon as may be practicable after the commencement of section 13 of the Population Registration and Elections Amendment Act, 1984, the

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chief electoral officer shall cause to be prepared from the population register in respect of each division of each House of Parliament **[and, subject to subsection (2), in respect of each division of each provincial council]** a list of persons who at the said commencement are entitled to be registered in that division as voters in respect of an election of a member of the House **[or provincial council]** concerned.”;

(b) by the deletion of subsection (2);

(c) by the substitution in subsection (4) of the Afrikaans text for the words preceding paragraph (a) of the following words:

“(4) Voordat bedoelde kieserslyste ingevolge subartikel (3) van krag word, moet die verkiesingsbeampte ’n eksemplaar van die kieserslys vir elke afdeling van elke Huis van die Parlement **[of provinsiale raad]** in sy gebied—”; and

(d) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

“(a) furnish a copy of the voters’ list for each division of each House of Parliament **[or provincial council]** in his area free of charge to the authorized representative of each political party registered in respect of elections for that House **[or the provincial councils]**.”;

Amendment of section 7 of Act 45 of 1979, as substituted by section 14 of Act 103 of 1984

7. Section 7 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) As soon as may be practicable after the date of publication of a proclamation under section 50 (3) of the Constitution relating to a redelimitation of divisions of a House of Parliament, **[or, if that House is the House of Assembly, of divisions of the House of Assembly and the provincial councils]** the chief electoral officer shall cause to be prepared from the population register in respect of each division of the House concerned **[or, subject to subsection (2), in respect of each division of a provincial council, as the case may be]** established by that redelimitation and which is not a division the boundaries of which were left unaltered, a list of persons who as at that date and as if such redelimitation came into operation on that date, are entitled to be registered in that division as voters in respect of an election of a member of the House **[or provincial council]** concerned.”; and

(b) by the deletion of subsection (2).

Amendment of section 13 of Act 45 of 1979, as amended by section 16 of Act 103 of 1984

8. Section 13 of the principal Act is hereby amended—

(a) by the substitution for paragraph (e) of subsection (1) of the following paragraph:

“(e) **[if an identity document has been issued to him]** with the exception of persons referred to in section 4 (1) (c) (ii), his identity number.”; and

(b) by the substitution for subsection (2) of the following subsection:

“(2) If a division is divided into polling districts under section 45, the voters’ list for that division shall be compiled and printed so as to show—

(a) the particulars referred to in subsection (1), **[surnames of the voters in each polling district]** in serial numbers and the surnames of the voters in alphabetical order; and

(b) in which polling district every voter is, subject to the provisions of this Act, required to vote,

and a separate voters’ list may be compiled and printed for each polling district or, subject to the provisions of section 45 (4), for two or more polling districts.”.

Amendment of section 16 of Act 45 of 1979, as amended by section 19 of Act 103 of 1984

9. Section 16 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

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- “(2) The registrar or clerk of any court which—
- (a) imposes on any adult person a sentence, in respect of any offence referred to in section 4 (1), which would render any such person unqualified for registration or disqualified for continuance of registration or incapable of voting at any election; or
- (b) declares any person incapable during any period of being registered or of voting at any election,
- shall, not later than the tenth day of the month following the month in which the sentence was imposed or the declaration was made, or if the conviction, sentence or declaration is brought under review or is appealed against, not later than the tenth day of the month following the month in which it is confirmed on review or appeal, as the case may be, transmit to the [chief] electoral officer of the area in which his office is situated a return in the prescribed form containing the prescribed particulars concerning that person.”.

Substitution of section 19 of Act 45 of 1979, as substituted by section 21 of Act 103 of 1984

10. The following section is hereby substituted for section 19 of the principal Act:

“Furnishing of certain particulars to political parties

19. (1) The chief electoral officer shall within 21 days of the end of each month furnish the authorized representative of each political party registered in respect of elections for the House of Assembly, the House of Representatives or the House of Delegates, in respect of each division free of charge with the name and residential address and identity number of each [White person, Coloured person or Indian, respectively, who is of or over the age of 18 years] person referred to in section 3 who is entitled to be registered as a voter of the House of Assembly, the House of Representatives or the House of Delegates, respectively, and whose name was included in or removed from the population register during that month or in respect of whom a change in ordinary place of residence was recorded in the population register during that month, and also with the name of the division and the number of the polling district in which that person after such inclusion of his name or after such change in ordinary place of residence was or is to be registered as a voter or after such removal of his name ceased or will cease to be registered as a voter, as the case may be.

(2) The chief electoral officer shall, within 21 days of the end of each month, furnish the particulars referred to in subsection (1) also free of charge to local authorities in respect of those divisions which are situated wholly or partially within the area of jurisdiction of the local authority concerned.”.

Amendment of section 20 of Act 45 of 1979, as substituted by section 22 of Act 103 of 1984

11. Section 20 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) An electoral officer shall within 30 days after a date determined from time to time by the chief electoral officer or the Minister—
- (a) furnish a copy of the voters' list for each division of each House of Parliament [or provincial council] in his area, as amended up to and including the date so determined, free of charge to the authorized representative of each political party registered in respect of elections for that House [or the provincial councils] and to local authorities in respect of those divisions which are situated wholly or partially within the area of jurisdiction of the local authority concerned; and

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- (b) make a copy of the voters' list for each such division, as amended up to and including the said date, available for a period of not less than seven days in his office and in the office of the **[magistrate]** district representative of the **[district]** Department of Home Affairs of the area in which that division or any part of that division is situated and at such other place or places as may be determined by the electoral officer, for inspection free of charge by members of the public.”; and
- (b) by the substitution for subsection (3) of the following subsection:
 “(3) An electoral officer shall on request by **[any person]** the authorized representative of a political party furnish such **[person]** representative free of charge with particulars regarding the registration of a voter registered in a division in his area.”.

Amendment of section 21 of Act 45 of 1979, as amended by section 23 of Act 103 of 1984

12. Section 21 of the principal Act is hereby amended—
- (a) by the addition of the following proviso to subsection (1):
 “: Provided that if an objection is based on the averment that the ordinary place of residence of a voter is no longer in the division in which he is registered, such objection shall be accompanied by an affidavit of the present owner or occupant of the place which is indicated in the voters' list as such voter's residential address.”; and
- (b) by the addition of the following subsections:
 “(5) If the electoral officer, on account of information in respect of an objection referred to in subsection (1), is of the opinion that a person whose name has been included in the population register, is no longer resident at the place which is indicated in the population register as his ordinary place of residence, for the reason that he has moved or has died, the electoral officer may make an appropriate note in the population register opposite the name of the person concerned to prevent the inclusion of that person's name in a voters' list, or if it is already included in a voters' list, the electoral officer may direct that that person's name be removed from such voters' list: Provided that no such note is made or direction issued after the date referred to in section 24 (2) or 26 (2) up to and including the polling day fixed under section 34 (1) (b) or 110, as the case may be.
 (6) The electoral officer may at any time cancel a note referred to in subsection (5) or replace a name in a voters' list which was so removed.”.

Substitution of section 25 of Act 45 of 1979, as amended by section 26 of Act 103 of 1984

13. The following section is hereby substituted for section 25 of the principal Act:

“Copies of printed lists

25. (1) As soon as any voters' list for any division has been printed in terms of section 24 any person shall be entitled to obtain on payment of such charges and subject to such conditions as may be prescribed, a reasonable number of copies of that list: Provided that the fees prescribed for the acquisition of copies of a voters' list by a candidate in the division concerned, the authorized representative of a political party, a State department, a statutory body as defined in section 1 of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), or an institution or body as contemplated in section 84 (1) (f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), may be smaller than the fees prescribed for the acquisition of copies of a voters' list by a person other than such a candidate, authorized representative, State department, statutory body or institution.

(2) The authorized representatives of a political party may, except for the voters' lists referred to in sections 20 and 24, also obtain copies of any other voters' list which may from time to time be compiled in writing by the Department of Home Affairs: Provided that such voters' lists shall

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only be supplied to the authorized representatives on payment of such charges and subject to such conditions as may be prescribed.”.

Amendment of section 26 of Act 45 of 1979, as substituted by section 28 of Act 103 of 1984

14. Section 26 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 5

“(1) Notwithstanding the provisions of section 7 (4) a voters’ list which after a redelimitation of divisions has lapsed in terms of that section, shall during the period commencing on the date on which such voters’ list lapsed and terminating immediately before the date of the first general election held thereafter on which such redelimitation comes into operation in terms of section 51 of the Constitution [or section 69 (2) of the Provincial Government Act, 1961 (Act No. 32 of 1961), as the case may be], be the voters’ list to be used at any election held to fill a casual vacancy in the division for which that voters’ list was prepared.”. 10

Substitution of section 34 of Act 45 of 1979, as amended by section 34 of Act 103 of 1984 15

15. The following section is hereby substituted for section 34 of the principal Act:

“Proclamation fixing nomination day, polling day, etc.

34. (1) Whenever a general election for the House of Assembly or for the House of Representatives or for the House of Delegates is to take place, a proclamation shall be issued— 20

- (a) fixing the day in respect of each division of the House concerned on which a nomination court will sit to receive nominations of candidates for the election of a member of the House concerned for that division; 25
- (b) fixing, subject to the provisions of section 47 of the Constitution, the day on which, if a poll becomes necessary for the reasons mentioned in section 41, the poll in respect of the election of the member of the House of Assembly or the member of the House of Representatives or the member of the House of Delegates referred to in paragraph (a), as the case may be, shall be taken, and stating the hours at which, in accordance with section 94, the poll will commence and will close. 30

(2) A proclamation issued under section 110 to fill a casual vacancy in a division, shall lapse by reason of the dissolution of Parliament or the House concerned. 35

(3) Any day from the day immediately following the day on which the relative proclamation was published under subsection (1) or section 110 but not later than the tenth day before the nomination day as determined in that proclamation, the chief electoral officer shall issue a notice, or separate notices in respect of each province, in the *Gazette*— 40

- (a) fixing the place where nominations in respect of each division for the House concerned shall be submitted and the place at which the nomination court will sit; and
- (b) appointing an electoral officer or a magistrate or any other person to be the returning officer for each division referred to in paragraph (a). 45

(4) If a casual vacancy occurs in the office of a returning officer, or if for any reason a returning officer is unable to act, the chief electoral officer shall appoint another person as returning officer or to act in the stead of the returning officer, as the case may be. 50

(5) The day fixed under subsection (1) (a) shall be a day not less than 21 days or more than 28 days after the publication of the proclamation referred to in the said subsection.

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(6) The day fixed under subsection (1) (b) shall be a day not less than 35 days or more than 45 days after the nomination day.”.

Amendment of section 35 of Act 45 of 1979, as amended by section 35 of Act 103 of 1984

16. Section 35 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 5

“(1) No person shall, as the representative of a political party, be nominated as a candidate in an election for a House of Parliament **[or a provincial council]** under section 41 unless the political party which he purports to represent has been registered as a political party for the purposes of elections for that particular House **[or the provincial councils, as the case may be]**.”. 10

Amendment of section 36 of Act 45 of 1979, as amended by section 36 of Act 103 of 1984

17. Section 36 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection: 15

“(1) The chief electoral officer shall on the written application of a political party, made on the prescribed form, register it as a political party for the purposes of elections for any particular House of Parliament **[or the provincial councils]**, provided—

(a) he is satisfied that it is an object of that political party to promote the election as members of that particular House **[or of one or more provincial councils]** of candidates representing the party; and 20

(b) the application is accompanied by the amount prescribed by section 37 (1) as well as, in the case of a political party established on or after the date of commencement of the Electoral Act Amendment Act, 1984, 25 and having on the date of the application no representative in a House of Parliament **[or a provincial council]**, the original copy of that political party's deed of foundation which has been adopted at a meeting of, and has been signed by, at least 500 persons registered or qualified to be registered as voters in respect of the particular House **[or the provincial council]** for the purposes of the elections **[of]** for which the party applies for registration, and which complies with the requirements of subsection (3).”;

(b) by the substitution for paragraph (b) of subsection (3) of the following paragraph: 35

“(b) the full names and **[birth dates or]** identity numbers of the voters who have signed the said deed of foundation;”;

(c) by the substitution for subsection (8) of the following subsection:

“(8) Any person who makes a false statement or furnishes false particulars in an application in terms of this section for the registration of a political party as a political party, knowing such statement or particulars to be false, shall be guilty of an offence and liable on conviction to a fine not exceeding **[five hundred rand]** R2 000 or to imprisonment for a period not exceeding **[six]** twelve months or to both such fine and such imprisonment.”; and 45

(d) by the deletion in paragraph (a) of subsection (10) of the words “and the provincial councils”.

Amendment of section 37 of Act 45 of 1979

18. Section 37 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 50

“(1) The amount payable in respect of an application for registration as a political party for one or more Houses of Parliament shall be five hundred rand.”.

Amendment of section 40 of Act 45 of 1979

19. Section 40 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection: 55

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- “(3) (a) The chief electoral officer shall send a letter by certified post to the political party in question at the postal address of its head office—
- (i) in which that political party is called upon to pay the outstanding amount without delay; and
 - (ii) in which that political party is informed that if the outstanding amount is not received within thirty days after the date of the letter, a notice will be published in the *Gazette* with a view to the cancellation of the registration of the political party.
- (b) If the chief electoral officer does not within 30 days after the date of the letter sent in terms of paragraph (a) receive the outstanding amount, he shall publish a notice in the *Gazette* in which notice is given that after the expiration of a period of 30 days after the date of that notice the registration of the political party mentioned therein shall be cancelled unless good cause has been shown against such cancellation.”.

Amendment of section 41 of Act 45 of 1979, as amended by section 37 of Act 103 of 1984

20. Section 41 of the principal Act is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:
- “(3) A candidate may be proposed and seconded either by word of mouth in the prescribed manner at the sitting of the nomination court or **[in a written document]** in writing on the prescribed form signed by the proposer and seconder and delivered to the returning officer at the place fixed in terms of section 34 (3) (a) at any time after the **[publication]** issuing of the relative **[proclamation]** notice under section **[34 (1)]** 34 (3) and before the close of the sitting.”;
- (b) by the deletion in paragraph (a) of subsection (4) of the words “or the provincial council”;
- (c) by the substitution for subsection (7) of the following subsection:
- “(7) The nomination court shall sit from **[ten o’ clock]** 10h00 till **[eleven o’ clock in the forenoon]** 10h30: Provided that if **[at such last referred to hour]** any person present is then ready to propose a candidate or a person has been proposed but his nomination has not been completed, the returning officer shall continue the sitting for such period not exceeding half-an-hour as will enable such candidate to be duly nominated.”;
- (d) by the substitution for subsection (7A) of the following subsection:
- “(7A) Subject to the provisions of section 53 of the Constitution **[and section 68 (2) of the Provincial Government Act, 1961 (Act No. 32 of 1961)]**, no person shall merely by reason of his not being registered or not being entitled to be registered in a division be disqualified from being nominated as a candidate in that division.”; and
- (e) by the substitution for section (7B) of the following subsection:
- “(7B) Whenever a candidate is proposed at the sitting of a nomination court by word of mouth, the returning officer shall invite the attention of the person being proposed, or if he is not present, the attention of the proposer [—
- (a) **in the case of an election for a House of Parliament]**, to the provisions of sections 53 and 54 of the Constitution **[; and**
 - (b) **in the case of an election for the provincial council, to the provisions of sections 68 (2) and 70 of the Provincial Government Act, 1961 (Act No. 32 of 1961)]**.”.

Amendment of section 44 of Act 45 of 1979, as substituted by section 39 of Act 103 of 1984

21. Section 44 of the principal Act is hereby amended by the substitution for the words preceding the proviso of the following words:

“If, after the polling day has been fixed for an election in any division, any duly nominated candidate thereat dies before the poll has commenced, the State President shall, upon being satisfied of the fact of the death, withdraw, so far as it concerns that division, the proclamation fixing the polling day, and all proceedings relating to the said election shall, the provisions of section 47 of the

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Constitution [or section 69 (3) of the Provincial Government Act, 1961 (Act No. 32 of 1961)] notwithstanding, be commenced afresh in precisely the same manner as if a vacancy had occurred.”.

Amendment of section 45 of Act 45 of 1979, as amended by section 40 of Act 103 of 1984

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22. Section 45 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Any division may **[by proclamation]** be subdivided by the chief electoral officer after consultation with the authorized representatives of political parties into so many polling districts as may be necessary for the purposes of conveniently taking a poll of the enrolled voters of the division: Provided that a division shall be subdivided into polling districts in such a manner that the number of voters in a polling district shall not exceed 3 000, unless the **[State President]** chief electoral officer is of the opinion that such a subdivision will, because of factors relating to—”;

(b) by the insertion of the following subsection after subsection (2):

“(2A) When a division has been subdivided into polling districts in terms of subsection (1), the chief electoral officer shall—

(a) cause the boundaries of those polling districts to be affixed on the relevant map on which the boundaries of the division concerned appear;

(b) certify on the map referred to in paragraph (a) that they are the final polling district boundaries of that division and supply a copy of such map to the surveyor-general in whose area the division concerned is situated;

(c) make the said map available for public inspection free of charge during office hours in his office and a copy of such map in the office of the electoral officer in respect of each division which is situated in the area of the electoral officer concerned;

(d) give notice in the *Gazette* that such map is available for public inspection and specify in the notice the places where it is so available; and

(e) notify the head offices of all registered political parties thereof.”; and

(c) by the substitution for the proviso to subsection (4) of the following proviso:

“Provided that if the **[chief]** electoral officer is of opinion that the conduct of an election will be facilitated thereby, he may, after consultation with the returning officer and **[with]** the **[concurrence of the]** candidates or their authorized representatives, direct the returning officer to establish more than one polling station in the division or in any polling district therein for voters whose names appear on the voters’ list opposite serial numbers specified by the electoral officer in respect of each such polling station, or to establish one polling station in respect of two or more polling districts, or to change the location of a polling station.”.

Amendment of section 46 of Act 45 of 1979

23. Section 46 of the principal Act is hereby amended—

(a) by the deletion of subsection (4); and

(b) by the addition of the following subsection:

“(5) (a) The returning officer shall establish an office in the division for which he has been appointed which will be convenient to serve the candidates and their agents as well as the voters in that division.

(b) Offices established in terms of paragraph (a) shall be furnished by the chief electoral officer with mechanical means in regard to the efficient consulting of the central alphabetical index of voters registered in all divisions in the Republic in respect of the relevant House for the election concerned.”.

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Substitution of section 47 of Act 45 of 1979, as amended by section 41 of Act 103 of 1984

24. The following section is hereby substituted for section 47 of the principal Act:

“Applications to vote by post

47. (1) Any person who is enrolled upon the voters' list for any division and who will, throughout the hours of polling on polling day, not be able to attend at a polling station in that division, may make application in the manner prescribed in section 49 to vote as a voter by post or in the manner prescribed in section 82 to vote as a special voter. 5

(2) If any election to be held to fill a casual vacancy in a division has lapsed by reason of the dissolution of Parliament or the House concerned, any application in accordance with this Act to vote in that by-election as a voter by post shall, irrespective of whether or not such application has already been submitted to the returning officer, for the purposes of this Act be deemed to be an application to vote in that division as a voter by post in the general election which is to be held in pursuance of that dissolution of Parliament or that House. 10

(3) (a) The State President may by proclamation declare that the provisions of this Act in so far as they relate to voters voting by post shall not apply with respect to any election for a House of Parliament mentioned in the proclamation held during a period likewise mentioned. 15

(b) Notwithstanding any provisions of this Act to the contrary no person shall apply in terms of subsection (1) to vote as a voter voting by post at an election to which a proclamation issued under paragraph (a) of this subsection is applicable. 20

(c) A proclamation issued under this Act before the commencement of the Elections and Identification Amendment Act, 1989, whereby the State President declared that the provisions of this Act in so far as they relate to absent voters shall not apply with respect to any election for a House of Parliament mentioned in the proclamation, remains in force and shall be deemed to have been issued under paragraph (a) of this subsection with respect to voters voting by post.”. 25

Repeal of section 48 of Act 45 of 1979 30

25. Section 48 of the principal Act is hereby repealed. 35

Substitution of section 49 of Act 45 of 1979, as amended by section 43 of Act 103 of 1984

26. The following section is hereby substituted for section 49 of the principal Act:

“Form of application 40

49. (1) Every application to vote as a voter by post—

- (a) shall be personally signed by the applicant in the presence of a competent witness, who— 45
- (i) shall also sign the application;
 - (ii) shall furnish his full names and residential address on the application;
 - (iii) shall, if acting in that capacity, furnish on the application the name and address of the political party or candidate he is authorized to represent;
 - (iv) shall indicate the date on which he signed the application; and 50
 - (v) shall indicate on the application whether the voter has proved his identity in the prescribed manner;
- (b) shall state the name of the division in which the applicant is registered and in respect of which he is applying to vote as a voter by post; 55
- (c) shall state the identity number of the applicant;
- (d) shall state the present residential and postal address of the applicant;
- (e) shall be delivered by hand or sent by post to the returning officer for the division concerned:

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Provided that—

- (i) if any person referred to in section 47 (1), is unable to read or write or because of his blindness or physical infirmity is unable to write, he shall in terms of section 88 (1) (a) apply to be visited by a presiding officer for votes of special voters; 5
- (ii) if the present residential address which has to be furnished in terms of this subsection differs from the residential address which appears in the voters' list, the application shall be accompanied by a notice of change of address in terms of the provisions of the Identification Act, 1986, which shall be sent or delivered to the electoral officer by the returning officer; 10
- (iii) the postal address which has to be furnished in terms of this subsection shall not be the address of a political party, a representative of a political party, a candidate, an agent of a candidate or any other person acting on behalf of such candidate, or the business or other office address of such representative, candidate, agent or person; 15
- (iv) the voter voting by post shall identify himself to the witness, for purposes of paragraph (a) (v), by the submission of his identity document, a temporary identity certificate on which his photograph appears or a South African passport. 20
- (2) No such application shall be signed by an applicant before the appropriate date referred to in section 128 or be delivered or sent to the returning officer prior to the date of the notice issued under section 34 (3).
- (3) If the application is received by the returning officer not later than four o'clock in the afternoon of the tenth day before the polling day, the applicant shall be entitled to have a ballot paper issued to him for the poll in the division concerned, and to record his vote in the manner provided for voters voting by post." 25

Amendment of section 51 of Act 45 of 1979

27. Section 51 of the principal Act is hereby amended by the substitution for the words "two hundred rand" of the expression "R2 000". 30

Amendment of section 52 of Act 45 of 1979, as amended by section 44 of Act 103 of 1984

28. Section 52 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: 35
- “(a) The returning officer shall by means of a date stamp record on every application for a ballot paper received by him the date of its receipt, number all such applications in consecutive order, and if he received any such application not later than four o'clock in the afternoon of the **[fifth] tenth** day before the polling day and is satisfied that it was properly signed by the applicant before a competent witness and also by such witness and that the applicant's name appears on the voters' list of the division for which he is the returning officer, issue in respect of the applicant in the manner hereinafter prescribed, a ballot paper in respect of the division mentioned in that application **[and, where section 49 (3) is applicable, also a ballot paper in respect of the division of the House of Assembly or the provincial council deemed in terms of that section to be so mentioned]**, without questioning the truth of any statement made by the applicant in his application **[or the existence of any grounds specified by the applicant in his application by virtue of the provisions of section 49 (1), unless after consultation with the candidates or an agent of every candidate and, if necessary in his opinion, after an investigation, he is satisfied that the said statement is untrue or that the said grounds do not exist: Provided that if any objection is raised against the issue of a ballot paper or the rejection of an application in terms of this paragraph, the returning officer shall record the fact that such an objection has been raised, on the application in question].”;**
- (b) by the addition of the following proviso to paragraph (c) of subsection (1): 55
- “: Provided that if significant differences occur between the signatures on the applications, the returning officer may submit copies of all the 60

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relevant applications to the electoral officer for investigation and the action he deems fit.”;

(c) by the deletion of subsection (2); and

(d) by the substitution for subsection (3) of the following subsection:

“(3) If the returning officer rejects any **[such]** application he shall inform the applicant, and, if the competent witness referred to in section 49 (1) (a) (iii) has represented a political party or candidate, also that political party or candidate, of the reason for rejection **[and if he rejects any application merely because it is defective in form he shall retain it and issue a new application form to the applicant if there is sufficient time to enable the applicant to complete and return such application form to the returning officer not later than four o’ clock in the afternoon of the fifth day before the polling day]**: Provided that if such an application is rejected a voter who qualifies to vote as a voter by post may complete another application form, which shall, subject to the provisions of section 52 (1) (a), be returned to the returning officer by the applicant or the political party or candidate concerned.”.

Substitution of section 53 of Act 45 of 1979

29. The following section is hereby substituted for section 53 of the principal Act:

“Applications to be open for inspection

53. All applications for ballot papers received by the returning officer shall be kept by him and those applications in respect of which the issued ballot papers have been returned shall be open to **[public]** inspection without payment of any fee by candidates for the division concerned or their authorized representatives, until the declaration of the result of the poll, when they shall be dealt with as provided in section 79: Provided that a candidate or his authorized representative may at any time until the declaration of the result of the poll inspect those applications which were handed to the returning officer on behalf of the candidate concerned.”.

Substitution of section 54 of Act 45 of 1979, as amended by section 45 of Act 103 of 1984

30. The following section is hereby substituted for section 54 of the principal Act:

“Form of ballot papers for voters voting by post

54. Ballot papers issued to **[absent]** voters voting by post, shall be in the same form and of the same colours as the ballot papers issued to voters referred to in section 98, but the official mark for marking the former ballot papers, as provided in section 57, shall be different from the official mark for marking the latter ballot papers: Provided that until such time as such ballot papers are received by the returning officer, the ballot papers for special voters referred to in section 85 may be used as ballot papers for **[absent]** voters voting by post, provided the returning officer, before he issues them as such—

(a) alters the particulars on the ballot papers in order to distinguish them from ballot papers for special voters; and

(b) completes the ballot papers *mutatis mutandis* in accordance with section 86 (1) (a), (b) and (c) in so far as the particulars thereon are incomplete.”.

Substitution of section 55 of Act 45 of 1979, as amended by section 46 of Act 103 of 1984

31. The following section is hereby substituted for section 55 of the principal Act:

“Issue of ballot papers to voters voting by post

55. The returning officer shall on the date ten days after the nomination day issue a ballot paper for the poll in the division concerned in respect of each applicant therefor who is entitled thereto and whose application was received by him before that date, and shall further forthwith issue a ballot paper in respect of every applicant who is entitled thereto and whose application therefor was received by the returning officer on or after that date but not later than four o’clock in the afternoon of the tenth day before the polling day.”.

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Substitution of section 56 of Act 45 of 1979, as amended by section 47 of Act 103 of 1984

32. The following section is hereby substituted for section 56 of the principal Act:

“Persons who may be present at issue of ballot papers and opening of ballot boxes 5

56. (1) Only the returning officer and his assistants may be present at the proceedings on the issue of ballot papers for voters voting by post.

(2) At the proceedings on the opening of the ballot box for voters voting by post and of the envelopes in that ballot box, there may be present, in addition to the returning officer and his assistants, the candidates and, in respect of each candidate, two agents or two other persons nominated for such purpose by an election agent, and no other person.”. 10

Amendment of section 57 of Act 45 of 1979, as amended by section 48 of Act 103 of 1984 15

33. Section 57 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) The number, name, residence and occupation of the voter as stated in the voters’ list shall be **[called out]** checked in the voters’ list, the number shall be entered on the counterfoil of the ballot paper for the division concerned and a line shall be drawn in pencil or ink through the number and surname of the voter in a copy of the voters’ list certified as provided in section 46 (3), to denote that a ballot paper has been issued in respect of the voter, but without showing the particular ballot paper issued in respect of him **[Provided that if the same voters’ list is used for a poll in a division of the House of Assembly and in a division of a provincial council, the returning officer shall draw a line through the number and surname of the voter on the voters’ list after ascertaining that a ballot paper for the poll in respect of the House of Assembly and a ballot paper for the poll in respect of the provincial council have been issued to the absent voter].**”; and 20 25 30

(b) by the deletion of subsection (4).

Substitution of section 58 of Act 45 of 1979, as amended by section 49 of Act 103 of 1984

34. The following section is hereby substituted for section 58 of the principal Act:

“Declaration of identity 35

58. (1) The ballot paper sent to a voter voting by post shall be accompanied by such form of declaration of identity as may be prescribed, with the directions for voting mentioned in section 66 printed thereon.

(2) The returning officer shall enter or cause to be entered upon the said form the consecutive number of the voter’s application for a ballot paper for voters voting by post.”. 40

Substitution of section 59 of Act 45 of 1979, as amended by section 50 of Act 103 of 1984

35. The following section is hereby substituted for section 59 of the principal Act: 45

“Documents to be sent or delivered in respect of voter voting by post

59. (1) The returning officer shall place—

- (a) the ballot paper;
- (b) the form of declaration of identity;

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- (c) an envelope marked 'For registration by postal authorities—post free/Deur posbeampes aangeteken te word—posvry' and addressed to the returning officer; and
- (d) a smaller envelope on the face of which are printed the words 'ballot paper envelope' and 'stembriefkoevert' and on the back of which the returning officer has recorded or caused to be recorded the serial number of the voter's application for a ballot paper, in a voter's envelope as prescribed, which shall be effectually closed and placed in an envelope addressed to the voter voting by post, and shall effectually close that envelope.
- (2) All envelopes referred to in subsection (1) which are addressed to voters voting by post shall be counted, and forthwith be delivered by the returning officer to the nearest post office for registration and despatch."

Substitution of section 60 of Act 45 of 1979

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36. The following section is hereby substituted for section 60 of the principal Act:

"Custody of counterfoils of ballot papers and voters' lists

60. The returning officer shall, immediately after the completion of each issue of ballot papers, keep the marked copy of the voters' list referred to in section 57, and the counterfoils of the ballot papers, in a safe place."

Substitution of section 61 of Act 45 of 1979

37. The following section is hereby substituted for section 61 of the principal Act:

"Voters' list to indicate issue of ballot papers to voters voting by post

61. (1) The returning officer shall, if there is time conveniently to do so, note on the certified copies of the voters' list supplied to presiding officers for official purposes of the election, as provided in section 46, the names of all voters who applied to vote as a voter by post and in respect of whom ballot papers have been issued.

(2) If there is not time conveniently to note on the certified copies of the voters' list aforesaid the issue of ballot papers, the returning officer shall immediately advise every presiding officer in the division of the issue of the ballot papers."

Substitution of section 62 of Act 45 of 1979

38. The following section is hereby substituted for section 62 of the principal Act:

"Voters voting by post and special voters not entitled to vote at polling station

62. A [person] voter in respect of whom a ballot paper has been issued or delivered in terms of section 59 [of] or 86 shall, subject to the provisions of section 96 (9), not be entitled to vote at a polling station."

Repeal of sections 63, 64 and 65 of Act 45 of 1979

39. Sections 63, 64 and 65 of the principal Act are hereby repealed.

Substitution of section 66 of Act 45 of 1979, as amended by section 52 of Act 103 of 1984

40. The following section is hereby substituted for section 66 of the principal Act:

"Manner of voting as voter by post

66. The following directions for voting as a voter voting by post shall be basically observed immediately after receiving the voter's envelope:

- (a) The voter shall complete and sign the form of declaration of identity.

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- (b) The voter shall vote by marking the ballot paper on the right-hand side with a cross opposite the name of the candidate for whom he votes.
- (c) The voter shall not allow any person to see how he has voted.
- (d) Immediately after voting the voter shall place the marked ballot paper in a ballot paper envelope and fasten it up and then place the ballot paper envelope together with the declaration of identity in the larger envelope (covering envelope) which has been addressed to the returning officer. 5
- (e) After the voter has fastened the covering envelope he shall without delay either despatch it by registered post to the returning officer or have it delivered personally to the returning officer. 10
- (f) Any such envelope addressed to the returning officer which is received into the custody of the postal authorities without being registered for transmission through the post, shall forthwith be registered and transmitted to the returning officer to whom it is addressed. 15
- (g) Failure to register any such envelope shall not invalidate the vote of the voter.”.

Substitution of section 67 of Act 45 of 1979

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41. The following section is hereby substituted for section 67 of the principal Act:

“Secrecy of voting

67. (1) No one besides the voter concerned shall look at or make himself acquainted with the vote given by the voter voting by post or assist such voter to vote or interfere in any way with such voter in relation to his vote. 25

(2) Any person who contravenes any of the provisions of subsection (1), shall be guilty of an offence.”.

Repeal of section 68 of Act 45 of 1979

42. Section 68 of the principal Act is hereby repealed. 30

Substitution of section 69 of Act 45 of 1979

43. The following section is hereby substituted for section 69 of the principal Act:

“Duty of persons to whom ballot paper envelope is handed

69. Any person to whom an envelope containing or purporting to contain a ballot paper is handed by a voter voting by post or by someone else on behalf of such voter, and who, if he is himself the returning officer, fails to place the envelope forthwith in the ballot box for voters voting by post, or if he is not the returning officer, fails to deal therewith in the manner prescribed in this Act, shall be guilty of an offence.”. 35

Substitution of section 70 of Act 45 of 1979

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44. The following section is hereby substituted for section 70 of the principal Act:

“Ballot box for voters voting by post

70. (1) The returning officer shall provide a ballot box for the reception of the covering envelopes when returned by the [absent] voters voting by post. 45

(2) Such ballot box shall immediately after the completion of the first issue of the ballot papers and thereafter daily up to and including polling day, after such ballot box has been opened and the contents thereof removed, be shown open and empty to the candidates and such agents of the candidates as may be in attendance, shall be sealed with the seal of the returning officer and the seals of such of the candidates or agents of 50

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the candidates as desire to affix their seals and shall be marked '[absent voters]' ballot box for voters voting by post', and the returning officer shall make provision for the safe custody of such ballot box."

Substitution of section 71 of Act 45 of 1979

45. The following section is hereby substituted for section 71 of the principal Act: 5

"List of covering envelopes received

71. The returning officer or his assistant shall immediately on receipt of any covering envelope place it unopened in the '[absent voters]' ballot box for voters voting by post and shall enter on a list the postal registered number and the office of origin of every such envelope received through 10 the post, and the words 'personally delivered' in respect of every other such envelope."

Amendment of section 72 of Act 45 of 1979

46. Section 72 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 15

"(2) The list of covering envelopes received shall, until the commencement of the counting of the votes, as provided in section 104, and together with the list referred to in subsection (1), [during a period of one month after] until the declaration of the [results] result of the poll, be open to [public] inspection by the candidates for the division concerned or their authorized representatives at 20 the office of the returning officer, without payment of any fee."

Substitution of section 73 of Act 45 of 1979

47. The following section is hereby substituted for section 73 of the principal Act:

"Envelopes received after close of poll

73. Where covering envelopes or special covering envelopes are 25 received by the returning officer or in terms of [section 66 (1) (f) or] section 87 (4) by a presiding officer, after the close of the poll [or where any envelopes addressed to presiding officers for absent voters or any voters' envelopes are returned by such presiding officers as undelivered], the returning officer shall open such envelopes, check the contents and 30 seal them up into separate packets."

Substitution of section 74 of Act 45 of 1979

48. The following section is hereby substituted for section 74 of the principal Act:

"Opening of ballot box for voters voting by post

74. The '[absent voters]' ballot box for voters voting by post shall be 35 opened by the returning officer on the day following the day on which the first covering envelopes are received and thereafter on every working day up to and including polling day, after previous written notice has been given to each candidate or his agent of the place where, the date on which and the time when such ballot box will be so opened." 40

Amendment of section 75 of Act 45 of 1979, as amended by section 53 of Act 103 of 1984

49. Section 75 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) When [an absent voters] a ballot box for voters voting by post has been opened the returning officer shall count and note the number of 45 covering envelopes contained therein, check the postal registered number on every envelope with the numbers entered on the list of covering envelopes received, then open each covering envelope separately and

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record the name of the **[absent]** voter from whom it has been received, examine the declaration of identity of the voter voting by post and compare the signature **[of the absent voter]** on such declaration with the signature of the same voter on the application for the ballot paper **[or ballot papers or, in the case of a blind or incapacitated voter, the signature of the person who signed the declaration of identity on behalf of such voter with the signature of the same person on the application for the ballot paper or ballot papers]** and allow the candidates and the agents of the candidates to inspect both signatures.”; and

- (b) by the deletion of subsections (2) and (3). 10

Amendment of section 76 of Act 45 of 1979, as amended by section 54 of Act 103 of 1984

50. Section 76 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) If the returning officer is satisfied that the signature on the 15 declaration of identity is that of the voter who signed the application for a ballot paper **[or ballot papers or, as the case may be, of the person who signed such application on behalf of a blind or incapacitated voter in terms of the proviso to section 49 (2)]**, he shall place the declaration of identity and the envelope **[or envelopes]** containing the ballot paper **[or ballot papers, as 20 the case may be]** in separate receptacles, which shall be sealed by him with his own seal and also by such of the candidates or agents of candidates as desire to affix their seals thereto, and keep them safely in those receptacles until the commencement of the counting of the votes as provided in section 104, and if objection to his decision is made by or on behalf of any 25 candidate, he shall endorse the declaration of identity ‘acceptance objected to’ **[Provided that a returning officer shall, after consultation with the candidates and the agents of the candidates, accept a declaration of identity notwithstanding any defect therein if such defect in that declaration of identity is clearly due to the negligence of the presiding officer for absent 30 votes]**.”;
- (b) by the substitution for subsection (2) of the following subsection:
 “(2) If he is not so satisfied, he shall endorse the declaration of identity ‘rejected’ and shall attach thereto the ballot paper envelope **[or envelopes, as the case may be]** without opening such envelope **[or envelopes]**, or, if 35 there is **[or are]** no such envelope **[or envelopes]**, the ballot paper **[or ballot papers]**, and if objection to his decision is made by or on behalf of any candidate, he shall add to the endorsement the words ‘rejection objected to’.”;
- (c) by the substitution for subsection (4) of the following subsection: 40
 “(4) Where a declaration of identity does not appear to accompany the ballot paper envelope **[or envelopes]** the returning officer shall open the ballot paper envelope **[or envelopes]**, and if such envelope is **[or any of such envelopes are]** found to contain the declaration of identity he shall deal with such declaration and ballot paper **[or ballot papers]** in accordance with the 45 provisions of this section.”;
- (d) by the deletion in subsection (5) of the words “or ballot papers”; and
- (e) by the substitution for subsection (6) of the following subsection:
 “(6) (a) If the returning officer has rejected a declaration of identity, he shall by telegraphic message notify the voter who has applied for the 50 ballot paper **[or ballot papers]** of the reasons for the rejection and shall **[request]** inform the voter, provided the period within which the voter may apply to vote as **[an absent]** a voter by post has not yet expired, that the voter may again **[to]** make application to vote as **[an absent]** a voter by post. 55
 (b) If the voter referred to in paragraph (a) again makes application to vote as **[an absent]** a voter by post, the returning officer shall deal with such an application as if no previous application to vote as **[an absent]** a voter by post had been received from that voter.”.

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Substitution of section 77 of Act 45 of 1979, as amended by section 55 of Act 103 of 1984

51. The following section is hereby substituted for section 77 of the principal Act:

“Death of voter voting by post, before opening of poll

77. (1) If, in any division, at or prior to the counting of the votes, any candidate or any agent of any candidate or any voter makes before the returning officer a declaration on oath or produces to the returning officer a death certificate showing that a voter who has voted in that division as **[an absent]** a voter by post, has died before the commencement of the poll, the returning officer, if satisfied as to the identity of the deceased person with the person who voted as **[an absent]** a voter by post, shall trace and reject the ballot paper **[or ballot papers]** marked by the deceased person.

(2) Any person who in such a declaration makes any false statement, knowing the statement to be false, shall be guilty of an offence and liable on conviction to a fine not exceeding **[two hundred rand]** R1 000 or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

(3) The returning officer shall act *mutatis mutandis* as prescribed in subsection (1) with reference to any ballot paper **[or ballot papers]** marked by a voter who has voted in the division in question as **[an absent]** a voter by post, and in respect of whom the chief electoral officer or an electoral officer has advised that returning officer that such voter's name has been deleted from the voters' list of the said division.”.

Substitution of section 78 of Act 45 of 1979, as substituted by section 56 of Act 103 of 1984

52. The following section is hereby substituted for section 78 of the principal Act:

“Counting of votes of voters voting by post and special voters

78. The returning officer shall, immediately after nine o'clock in the afternoon on the polling day, after having examined whether the seals referred to in section 76 (1) are in order and after having afforded the agents of the candidates an opportunity to do the same, open the accepted unopened ballot paper envelopes, remove the ballot papers from the ballot paper envelopes, **[sort, in the case of an election for the House of Assembly and the provincial council, the ballot papers on the basis of the respective divisions to which they relate]** and count the ballot papers and the votes cast by **[absent]** voters by post and special voters in favour of each candidate, *mutatis mutandis* in the manner prescribed by section 104, and advise the candidates and agents of candidates who may be present of the result of the count: Provided that the returning officer may at any time after nine o'clock in the morning on the polling day **[with the consent of]** after consultation with the candidates, and after having examined whether the seals referred to are in order and having afforded the agents and candidates an opportunity to do the same, open the accepted unopened ballot paper envelopes and place the ballot papers, without ascertaining whether the official mark appears on the reverse side thereof, **[or sorting]** or counting them, in a sealed ballot box until immediately after nine o'clock in the afternoon of the same day, after which those ballot papers may be dealt with in accordance with the above-mentioned provisions.”.

Amendment of section 80 of Act 45 of 1979

53. Section 80 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The returning officer shall be responsible for the safe custody of the sealed packets referred to in sections **[60]** 73 and 79, and of the lists **[telegraphic advices]**, applications and letters referred to in sections 71, 72, 89 and 91.”.

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Amendment of section 81 of Act 45 of 1979, as amended by section 57 of Act 103 of 1984

54. Section 81 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“Prior to the date **[seven]** ten days after the nomination day the chief electoral officer shall furnish every presiding officer for votes of special voters with—”.

Insertion of section 81A in Act 45 of 1979

55. The following section is hereby inserted in the principal Act after section 81:

“Application to vote as a special voter

81A. (1) Any person who is enrolled on the voters' list for any division, is entitled to make application in the manner prescribed in section 82 to vote as a special voter.

(2) A person—

- (a) referred to in section 1 (2) (d) or (e) of the Identification Act, 1986, who is enrolled on the voters' list for a division and will throughout the hours of polling on polling day be outside the Republic; or
- (b) who is enrolled on the voters' list for a division and will throughout the hours of polling on polling day be in the territory of South West Africa or on any island under the sovereignty of the Republic, may make application in the manner prescribed in section 82 to vote as a special voter and may record a special vote at any polling station which has been established in that country or territory or island for an election of the House of Parliament concerned.

(3) The Government of the Republic may enter into an agreement with the government of an independent State by virtue of which the said governments undertake to make provision therefor that—

- (a) a judicial officer of the independent State concerned or any officer acting on the instructions and under the control of such a judicial officer; or
- (b) an officer serving in a State department of the Republic and stationed in that independent State as a member of the Republic's diplomatic mission or any person acting on the instructions and under the control of such an officer,

may, in relation to any special voter having his home in such independent State, exercise all the powers and carry out all the functions conferred or imposed upon a presiding officer for votes of special voters by this Act.”.

Amendment of section 82 of Act 45 of 1979, as amended by section 58 of Act 103 of 1984

56. Section 82 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 40

“(1) Every application to vote as a special voter shall be completed in duplicate **[and it shall be specified therein which of the grounds for an application to vote as a special voter which are contemplated in section 47(1) and (2), is applicable to the applicant].**”;

- (b) by the substitution for paragraphs (c), (d) and (e) of subsection (2) of the following paragraphs, respectively: 45

“(c) shall state the name of the division **[or, in the case of an election for the House of Assembly and the provincial council, the name of the division of the House of Assembly and the name of the division of the provincial council]** in which the applicant is registered and in respect of which he is applying to vote as a special voter, and the address in respect of which he believes he is so registered; 50

- (d) shall state the identity number of the applicant **[if an identity document has been issued to him]**;

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- (e) shall contain a declaration to the effect that the applicant believes that he is the alleged voter whose name appears on the voters' list of the division referred to in the application **[and that he has not previously voted as an absent voter or a special voter in that division or in any other division during the relevant election];**”;
- (c) by the insertion of the following subsection after subsection (2):
 “(2A) If the present residential address which has to be furnished in terms of this subsection differs from the residential address which appears in the voters' list, the application shall be accompanied by a notice of change of address in terms of the provisions of the Identification Act, 1986, which shall be sent or delivered to the electoral officer by the returning officer.”;
- (d) by the deletion of subsection (3);
- (e) by the substitution for subsection (4) of the following subsection:
 “(4) No such application shall be signed by an applicant prior to the **[seventh] tenth** day after the nomination day.”;
- (f) by the substitution for subsection (5) of the following subsection:
 “(5) If the application is received by a presiding officer for votes of special voters not later than nine o'clock in the afternoon of the **[second] fourth** day **[immediately]** preceding polling day, the applicant shall be entitled to have a ballot paper for the poll in the relevant division **[or, in the case of a poll in a division of the House of Assembly and in a division of the provincial council, of ballot papers for the poll in respect of both the House of Assembly and the provincial council]** issued to him, and to record his vote there and then in the manner provided for in this Act in respect of special voters: Provided that if an applicant not later than **[nine] two** o'clock in the afternoon of the day immediately preceding the polling day submits his application to vote as a special voter in person to any presiding officer for votes of special voters in the division in which he is entitled to vote, the applicant shall as aforesaid be entitled to have a ballot paper **[or ballot papers]** issued to him and to record his vote there and then.”;
- (g) by the substitution for subsection (6) of the following subsection:
 “(6) If the ballot paper **[or ballot papers]** issued in respect of **[an absent] a voter voting by post [have] has** not been returned completed to the returning officer and that voter submits to him in person during his working hours, not later than **[four] two** o'clock in the afternoon of the day immediately preceding the polling day, an application to vote as a special voter in which that returning officer is indicated as the presiding officer for votes of special voters to whom the ballot paper **[or ballot papers]** shall be sent or delivered, such returning officer shall in respect of that application act as if no previous application to vote as **[an absent] a voter by post** had been received from the voter concerned, and take the necessary steps to enable such voter to vote forthwith as a special voter.”; and
- (h) by the substitution in subsection (7) for the words “two hundred rand” of the expression “R1 000”.

Amendment of section 83 of Act 45 of 1979, as amended by section 59 of Act 103 of 1984

57. Section 83 of the principal Act is hereby amended—

- (a) by the addition of the following proviso to paragraph (a) of subsection (1):
 “: Provided that each returning officer shall establish, within the division for which he has been appointed, a polling station for the recording of special votes, in order to enable voters to vote in terms of the provisions of this Act, and subject to the provisions of section 82 (5), as special voters until nine o'clock in the afternoon from the tenth day after the nomination day until two o'clock in the afternoon of the day immediately preceding the polling day.”; and
- (b) by the deletion of subsection (3).

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Amendment of section 84 of Act 45 of 1979, as amended by section 60 of Act 103 of 1984

58. Section 84 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) shall establish his identity before the presiding officer for votes of special voters through the production of his **[identity card]** identity document, a temporary identity certificate on which his photograph appears or a South African passport **[drivers’ licence or passport or any other proof of identity issued to him by the State or by any institution or person and on which the name and a photograph of the special voter appear, or if he is unable to produce any of the said documents, his identity shall be established by means of an affidavit made in the prescribed form before the said presiding officer by a person whose identity has been established before that officer through the production of any of the said documents]**; and”;

(b) by the substitution for subsection (2) of the following subsection:

“(2) After the special voter has in terms of the provisions of subsection (1) established his identity and signed his application to vote as a special voter, the presiding officer referred to in that subsection shall accept and sign the said application without questioning the truth of any statement made by the said voter in his application or the existence of any ground specified by the special voter in his application by virtue of the provisions of section **[82 (1)] 81A (1) or (2)**, unless the said officer is, after consultation with the authorized representatives of political parties or the candidates who are present and, if necessary in his opinion, after investigation, satisfied that the said statement is untrue or that the said grounds do not exist: Provided that if any objection is raised by any of the said representatives or candidates or by the special voter concerned, as the case may be, against the acceptance or rejection, in terms of this subsection, of an application, the said presiding officer shall record the fact that such an objection has been raised, on the application **[Provided further that before an application of a voter is considered who established his identity by means of an affidavit referred to in subsection (1) (a), the questions mentioned in paragraphs (a) and (b) of section 97 (2) shall be put to him in writing by the presiding officer and he answered by him in an affidavit made in the prescribed form before the presiding officer, and that if he does not answer the question mentioned in paragraph (a) of the said section distinctly and absolutely in the affirmative and the question mentioned in paragraph (b) of that section distinctly and absolutely in the negative, his application shall be rejected]**.”.

Amendment of section 86 of Act 45 of 1979, as amended by section 61 of Act 103 of 1984

59. Section 86 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) on the front of **[a]** the ballot paper **[or, in the case of a poll in a division of the House of Assembly and in a division of the provincial council, of ballot papers]** referred to in section 81 (1) (b) (on which there are as many spaces for the purpose as there are candidates nominated in the relevant division **[or, as the case may be, division of the House of Assembly and division of the provincial council]** in which the applicant believes that he is registered as a voter) the surnames, arranged in alphabetical order, and in the case of a division in respect of which two or more candidates with the same surname have been nominated, the initials of all the duly nominated candidates as well as the names or abbreviated names of the political parties which they represent or, if a candidate does not represent a political party, the words ‘independent/onafhanklik’;”;

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- (b) by the deletion in paragraphs (b) and (c) of subsection (1) of the words “or of each of the said ballot papers”; and
- (c) by the substitution for subsection (2) of the following subsection:
- “(2) Immediately after he has taken the steps referred to in subsection (1), the presiding officer shall deliver to the special voter **[concerned—** 5
(a)] the ballot paper **[or ballot papers and envelope]** concerned **;**
(b) one of the copies of that voter’s application to vote as a special voter;
and
(c) one or two ballot paper envelopes, according to whether he received one 10
or two ballot papers] and a ballot paper envelope,
and the special voter concerned shall thereupon without delay proceed as provided in section 87.”.

Amendment of section 87 of Act 45 of 1979, as amended by section 62 of Act 103 of 1984

60. Section 87 of the principal Act is hereby amended— 15
- (a) by the deletion in subsection (2) of the words “or respective ballot papers”;
- (b) by the substitution for subsection (4) of the following subsection:
- “(4) Immediately after voting the special voter shall in the presence of the presiding officer for votes of special voters, but without disclosing how he has voted, place the marked ballot paper **[or each marked ballot paper]** 20
in a **[separate]** ballot paper envelope and fasten it up, and shall then deliver the ballot paper envelope to the presiding officer for votes of special voters, who shall, in the presence of the special voter, place it together with a copy of the application to vote as a special voter, in a special covering envelope addressed to the returning officer, and shall after he has fastened that 25
covering envelope, [place the ballot paper envelope or envelopes, together with the copy of his application to vote as a special voter delivered to him by such officer, in the special covering envelope addressed to the returning officer, and shall after he has fastened that covering envelope and, if he so desires, after he has affixed his signature on the back thereof, deliver it to the 30
presiding officer for votes of special voters, who shall] unless it is addressed to himself as returning officer, without delay either despatch it by registered post or deliver it personally to the returning officer, and if it is addressed to him as returning officer, keep it in his custody and deal with it in accordance with the provisions of this Act: Provided that the presiding officer for votes 35
of special voters may deliver such covering envelope to the presiding officer at any polling station in the division concerned or cause it to be so delivered by **[a presiding officer for absent votes or]** any other presiding officer for votes of special voters instead of dealing with it in the manner prescribed in the preceding provisions.”; and 40
- (c) by the substitution for subsection (5) of the following subsection:
- “(5) If a special voter inadvertently spoils a ballot paper or accidentally votes for the wrong candidate, or accidentally has done something on the ballot paper that could lead to the rejection of such a ballot paper, he may, before such a ballot paper has been sealed with his ballot paper envelope in 45
the covering envelope, return it to the presiding officer for votes of special voters, who shall, if satisfied of the inadvertence, give him another ballot paper and cancel the spoiled ballot paper and who shall, after having noted the cancellation upon the counterfoil of the spoiled ballot paper, send that ballot paper to the returning officer **[concerned]** of the division in respect of 50
which the ballot paper has been issued, along with an explanation why the ballot paper was cancelled.”.

Amendment of section 88 of Act 45 of 1979, as amended by section 63 of Act 103 of 1984

61. Section 88 of the principal Act is hereby amended by the substitution for 55
paragraph (a) of subsection (1) of the following paragraph:

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- “(a) at the request of a special voter who in his opinion is unable to attend before a presiding officer for votes of special voters, call upon that voter at any time during the period from seven o’clock in the forenoon of the **[seventh] tenth** day after the nomination day up to and including **[nine] two** o’clock in the afternoon of the day immediately preceding polling day, at any address in order to enable that voter to vote as a special voter;” 5

Amendment of section 89 of Act 45 of 1979, as amended by section 64 of Act 103 of 1984

62. Section 89 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (2) of the following 10 paragraph:

“(a) One copy of every application to vote as a special voter shall, up to and including polling day, be open to **[public]** inspection by candidates for the division concerned or their authorized representatives free of charge at the office of the presiding officer for votes of special voters by 15 whom that application was received.”; and

- (b) by the substitution for subsection (3) of the following subsection:

“(3) On the day immediately following polling day, every presiding officer for votes of special voters shall furnish the chief electoral officer with a list showing the name and identity number of every voter in respect of 20 whom any of the documents referred to in section 81 were issued, and the **[names] name** of the **[divisions] division** in which that voter voted as a special voter **[and such lists shall be open for public inspection free of charge at the office of the chief electoral officer during a period of thirty days after polling day]**.”. 25

Amendment of section 91 of Act 45 of 1979, as amended by section 65 of Act 103 of 1984

63. Section 91 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) The returning officer shall on the date **[eight] eleven** days after the 30 nomination day open separately every special covering envelope received by him prior to that date, and shall further, not later than the day after the day of receipt thereof, open separately every special covering envelope received by him after that date.”;

- (b) by the substitution for paragraph (b) of subsection (3) of the following 35 paragraph:

“(b) he shall place a serial number on each such application and the same serial number on the ballot paper envelope **[or envelopes, if any]** received with such application in the same special covering envelope;”;

- (c) by the deletion in paragraph (e) of subsection (3) of the words “or 40 envelopes”;

- (d) by the substitution for subsection (5) of the following subsection:

“(5) All applications to vote as special voters received and accepted by a returning officer shall be kept in his custody and shall be open to **[public]** inspection by the candidates for the division concerned or their authorized 45 representatives, free of charge, until after the declaration of the result of the poll, when they shall be dealt with as provided in section 79.”;

- (e) by the deletion in paragraph (a) of subsection (8) of the words “or envelopes”;

- (f) by the substitution for paragraph (a) of subsection (9) of the following 50 paragraph:

“(a) If the returning officer rejects an application to vote as a special voter, he shall endorse the application ‘rejected’ and shall attach thereto the ballot paper envelope **[or envelopes]** without opening such envelope **[or envelopes]**, or if there is **[or are]** no such envelope **[or envelopes]**, 55 the ballot paper **[or ballot papers]**, and if objection is made to his decision by or on behalf of any candidate he shall add to the endorsement the words ‘rejection objected to.’”;

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- (g) by the substitution for paragraph (c) of subsection (9) of the following paragraph:
- “(c) Where an application to vote as a special voter does not appear to accompany a ballot paper envelope **[or envelopes]**, the returning officer shall open the ballot paper envelope **[or envelopes]**, and if it is found that the ballot paper envelope **[or any of the ballot paper envelopes]** contains the application in question, he shall remove it and again seal the ballot paper **[or ballot papers]** in the ballot paper envelope **[or envelopes]** and deal with the application and ballot paper envelope **[or envelopes]** as provided in this section.”; and
- (h) by the substitution for paragraph (d) of subsection (9) of the following paragraph:
- “(d) any application to vote as a special voter which on receipt by a returning officer is not accompanied by a ballot paper envelope, and any ballot paper **[or ballot papers]** envelope not accompanied by such an application, shall be marked ‘rejected’.”

Substitution of section 92 of Act 45 of 1979

64. The following section is hereby substituted for section 92 of the principal Act:

“Application of certain sections in regard to special voters

92. The provisions of sections **[67, 68]** 72 and 77 shall *mutatis mutandis* apply with reference to special voters, and in the application of the said provisions any reference therein—

- (a) to **[an absent]** a voter voting by post shall be construed as a reference to a special voter;
- [(b) to a presiding officer for absent votes shall be construed as a reference to a presiding officer for votes of special voters;**
- (c) (b) to a covering envelope shall be construed as a reference to a special covering envelope.”

Insertion of sections 92A and 92B in Act 45 of 1979

65. The following sections are hereby inserted in the principal Act after section 92:

“Secrecy at voting

92A. (1) Save as provided in section 87 (8), the presiding officer for votes of special voters shall not look at or make himself acquainted with the vote given by the special voter, and shall not permit any person (other than the special voter) to see or become acquainted with the special voter’s vote, or to assist the special voter to vote or to interfere in any way with the special voter in relation to his vote.

(2) Any presiding officer for votes of special voters or other officer or person who contravenes any of the provisions of subsection (1), shall be guilty of an offence.

Duties of persons present when special voter records his vote

92B. (1) Any person present when a special voter appears before a presiding officer for votes of special voters for the purpose of voting as a special voter shall—

- (a) obey all directions of the presiding officer for votes of special voters;
- (b) refrain from making any communication whatever to the special voter in relation to his vote;
- (c) refrain from assisting the special voter or in any way interfering with him in relation to his vote; and
- (d) refrain from looking at the special voter’s vote or from doing anything whereby he might become acquainted with the special voter’s vote.

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(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence.”

Substitution of section 93 of Act 45 of 1979

66. The following section is hereby substituted for section 93 of the principal Act:

“Prevention of presiding officers from performing duties

93. Any person who wilfully prevents a presiding officer for [absent votes or a presiding officer for] votes of special voters from performing his duties under this Act shall be guilty of an offence.”

Amendment of section 95 of Act 45 of 1979

67. Section 95 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The presiding officer and other officers at the 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 returning officer, the candidates, their election agents, the polling officers, the polling agents of each candidate appointed for the polling district as provided in section 123, [one messenger for each candidate whose services may be employed by the polling agents of that candidate to notify the members of the candidate’s organization of the registered numbers of the persons who have voted] and the police officials on duty.”;

(b) by the substitution in subsection (2) for the words “twenty rand” of the expression “R500”; and

(c) by the insertion after subsection (3) of the following subsection:

“(3A) The presiding officer may, after consultation with the returning officer and the candidates or their agents, declare an area all around the polling station as part of the polling station in order to promote the aims of subsection (3).”.

Amendment of section 96 of Act 45 of 1979, as amended by section 66 of Act 103 of 1984

68. Section 96 of the principal Act is hereby amended—

(a) by the substitution in paragraph (a) of subsection (3) for the expression “section 1 (4) (e) of the Population Registration Act, 1950” of the expression “section 1 (2) (e) of the Identification Act, 1986”;

(b) by the deletion of paragraph (b) of subsection (3);

(c) by the substitution in paragraph (a) of subsection (3A) for the expression “section 1 (4) (e) of the Population Registration Act, 1950” of the expression “section 1 (2) (e) of the Identification Act, 1986”;

(d) by the deletion in subsection (4) of the words “or ballot papers”;

(e) by the deletion in subsection (5) of the words “or ballot papers”; and

(f) by the substitution for subsection (9) of the following subsection:

“(9) The provisions of this section shall *mutatis mutandis* apply in respect of [an absent] a voter voting by post or a special voter who signs a declaration in the prescribed form to the effect that he has not voted as [an absent] a voter voting by post or a special voter at the election in question.”.

Amendment of section 97 of Act 45 of 1979, as amended by section 1 of Act 41 of 1983 and section 67 of Act 103 of 1984

69. Section 97 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A voter shall, whether or not his name appears on more than one voters’ list or more than once on the same list, be entitled to give at an election for the House of Assembly [and the provincial council], one vote only for the election

of a member of the House of Assembly **[and one vote only for the election of a member of the provincial council]**, or at an election for the House of Representatives, one vote only for the election of a member of the House of Representatives, or at an election for the House of Delegates, one vote only for the election of a member of the House of Delegates, and no voter shall be entitled to vote unless he has produced to a polling officer in proof of his identity his **[identity card]** identity document or temporary identity certificate on which his photograph appears **[driver's licence or passport]** or other proof of identity issued to him by the State **[or by any institution or person]** and on which the name and a photograph of the voter appear or, if he is unable so to produce any of the said documents, any other voter who is registered in the same division as that in which the first-mentioned voter is registered and who has identified himself to the presiding officer or to a polling officer designated by the presiding officer for that purpose by producing his **[identity card]** identity document **[driver's licence, passport or the above-mentioned other proof of identity]**, makes before the presiding officer or such polling officer an affidavit in the prescribed form in which proof of the identity of the first-mentioned voter is furnished: Provided that if an objection is lodged against the identification of a voter by way of an affidavit the presiding officer shall note on the affidavit the fact that an objection has been lodged, and such objection shall further be dealt with in the prescribed manner."

Amendment of section 98 of Act 45 of 1979, as amended by section 68 of Act 103 of 1984

70. Section 98 of the principal Act is hereby amended—

- (a) by the deletion of paragraph (b);
- (b) by the substitution for paragraph (d) of the following paragraph:
- “(d) The presiding officer or a polling officer at the polling station shall ascertain, by reference to the voters' list for the **[division, that the person claiming to vote is a person enrolled upon that list, and, subject to the provisions of section 96, is also enrolled on the voters' list for the]** polling district or polling districts for which such polling station has been established, or, if such voters' list has not been compiled or the voter is a person referred to in section 96 (3), to the voters' list for the division, that the person claiming to vote is a person enrolled on the list for the polling district or the division, as the case may be.”;
- (c) by the deletion of the proviso to paragraph (e);
- (d) by the substitution for paragraph (f) of the following paragraph:
- “(f) When the person claiming to vote has received the ballot paper, he shall take it to the compartment provided for the purpose, signify on the ballot paper the candidate for whom he desires to vote by secretly placing a cross opposite the name of that candidate, and then fold the ballot paper so that the official mark is visible and the names of the candidates and the cross made by him are not visible, and having held up the ballot paper so that the presiding officer or a polling officer designated by him can recognize the official mark, he shall drop the ballot paper received by him in the ballot box placed in front of the presiding officer or such polling officer.”; and
- (e) by the substitution for paragraph (h) of the following paragraph:
- “(h) For the purpose of ascertaining whether any paper which any voter is about to drop into a ballot box is a ballot paper officially issued **[and that it, in the case of an election for the House of Assembly and the provincial council, is placed in the correct ballot box]**, the presiding officer shall require him to show him the back of the paper in such a manner that if the paper were a ballot paper officially issued, the number, the official mark and the words 'Election for House of Assembly' or 'Election for House of Representatives' or 'Election for House of Delegates' **[or 'Election for Provincial Council']**, as the case may be, thereon would be visible but the cross made by the voter would not be visible.”.

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Substitution of section 99 of Act 45 of 1979

71. The following section is hereby substituted for section 99 of the principal Act:

“Spoiled ballot papers

99. If a voter inadvertently spoils a ballot paper or accidentally votes for the wrong candidate, or accidentally has done something on the ballot paper that could lead to the rejection of such a ballot paper, he may return it to the presiding officer, who shall, if satisfied of the inadvertence, give him another paper and retain the spoiled paper, whereupon the spoiled paper shall be immediately cancelled and the fact of the cancellation shall be noted upon the counterfoil thereof.”

Substitution of section 100 of Act 45 of 1979, as amended by section 69 of Act 103 of 1984

72. The following section is hereby substituted for section 100 of the principal Act:

“Voters who cannot read or are incapacitated by blindness or other physical cause

100. (1) The presiding officer, on the application in person of any voter who is unable to read or of any voter who is incapacitated by blindness or other physical cause from voting in the manner prescribed by the other provisions of this Act, shall then and there, before such agents of the candidates as may be present, mark the vote of that voter on the ballot paper [or ballot papers] in the manner directed by the voter, and place the ballot paper [or ballot papers] in the ballot box.

(2) The presiding officer, on the application in person of any voter who is incapacitated by blindness or other physical cause from voting in the manner prescribed by the other provisions of this Act, who has not applied to have his vote recorded by the presiding officer in terms of subsection (1), and who is accompanied by another person, shall, if he is satisfied that such person [is the father, mother, brother, sister, husband, wife, son, daughter or friend of the voter and] has attained the age of eighteen years, permit such voter to vote with the assistance of the person accompanying him, and upon such permission being granted, anything which is by this Act required to be done to or by the said voter in connection with the giving of his vote may be done to or with the assistance of the person accompanying him.

[(3) The name and number on the voters' list of every person whose vote is marked in pursuance of this section and the reason why it is so marked shall be entered on a separate list.]”

Amendment of section 101 of Act 45 of 1979, as amended by section 70 of Act 103 of 1984

73. Section 101 of the principal Act is hereby amended by the deletion in 40 subsections (1) and (1A) of the words “or ballot papers”, wherever they occur.

Amendment of section 102 of Act 45 of 1979, as amended by section 71 of Act 103 of 1984

74. Section 102 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 45

“(1) If any candidate or his election agent or the polling agent of any candidate or any voter makes before the presiding officer a declaration on oath stating that a person enrolled on the voters' list is dead or is so incapacitated by sickness, absence or otherwise, that it is impossible that such person could be present at the polling station to record his vote at the election then being held, the presiding officer shall refuse to hand a ballot paper [or ballot papers] to any person who applies therefor in the name of the person who is the subject of the 50

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declaration, unless the person so applying proves his identity **[in the manner contemplated in section 66 (1) (a) (iv)]** through the production of his identity document or temporary identity certificate on which his photograph appears or makes a declaration on oath before the presiding officer that he is the person whose name appears on the voters' list for the division and that the statements made in the first-mentioned declaration (which shall be read to him) are false." 5

Amendment of section 103 of Act 45 of 1979, as amended by section 72 of Act 103 of 1984

75. Section 103 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (h) of subsection (1) of the following 10 paragraph:
“(h) the envelopes containing or purporting to contain ballot papers, delivered to him in terms of **[section 66 (1) (f) and]** section 87 (4),”; and
(b) by the deletion of the proviso to subsection (2).

Amendment of section 104 of Act 45 of 1979, as amended by section 73 of Act 103 of 15 1984

76. Section 104 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
“(1) Upon receipt by the returning officer of the packets from any presiding officer the former shall take charge of them **[and when all the 20 ballot boxes and other packets have been received by him and not before, he shall]**, examine whether the seals are in order and afford the agents of the candidates an opportunity to do the same, and after that, in the presence of such candidates and agents of the candidates as may be in attendance (not exceeding two agents of each candidate), open the sealed packets contain- 25 ing the marked copy of the voters' list and take out and compare one with another, in such manner as may be prescribed, all the marked copies of the voters' list on which the fact of any person having received a ballot paper **[or ballot papers]** has been recorded by the presiding officer as hereinbefore provided: Provided that the returning officer may, **[with the concurrence of] 30 after consultation with** the candidates and notwithstanding any provisions to the contrary, direct that the counting of votes of **[absent] voters voting by post** and special voters in terms of section 78, the comparison of the marked copies of the voters' list and the verification of the ballot paper accounts and the testing of the accounts of ballot papers 35 and the counting thereof in terms of this section, shall be carried out simultaneously, and that he may for such purpose appoint two additional agents for each candidate.”;
- (b) by the substitution for subsection (3) of the following subsection: 40
“(3) The returning officer shall also open the sealed packets of declaration envelopes, and, if on the aforesaid comparison of the marked copies of the voters' list it appears that the same person has received ballot papers at two or more polling stations, or if the returning officer has received ballot papers on which the same person has recorded his vote as **[an absent] a 45 voter by post** or a special voter, shall forthwith reject every vote appearing to have been given by such person by means of declaration ballot papers.”;
- (c) by the substitution for subsection (5) of the following subsection:
“(5) If on the comparison aforesaid it appears that a person has received a ballot paper **[or ballot papers]** at a polling station other than the polling station of the polling district in respect of which he is registered, but has not 50 received a ballot paper **[or ballot papers]** at such last-mentioned polling station or if the returning officer has not received a ballot paper **[or ballot papers]** on which the same person has recorded his vote as **[an absent] a voter by post** or a special voter, the returning officer shall carefully open the declaration envelope of such person so that the declaration appearing 55 thereon is not defaced in any way or the ballot paper **[or ballot papers]** enclosed therein is **[or are]** not torn or mutilated, and shall place the declaration ballot paper envelope, unopened, in a ballot box or other suitable receptacle, where it shall remain until dealt with as provided in subsection (9).”;

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- (d) by the deletion of paragraph (c) of subsection (7);
- (e) by the substitution for paragraph (d) of subsection (7) of the following paragraph:
 “(d) count, while for this purpose holding the ballot papers with their faces upwards, the ballot papers and votes given for each candidate in the division in respect of a polling station and announce the result of the counting to the candidates and the agents of the candidates who are present.”;
- (f) by the deletion of paragraph (d) of subsection (9); and
- (g) by the substitution for subsection (13) of the following subsection: 10
 “(13) After the counting of all the ballot papers and votes is completed, the returning officer shall determine the result of the poll in the relevant division by adding—
 (a) the number of votes by **[absent] voters voting by post** and special voters; 15
 (b) the number of votes in respect of each **[ballot box] polling station**; and
 (c) the number of declaration votes,
 given for each candidate, and he shall forthwith declare the candidate who has the greater or the greatest number of votes in the relevant division to be duly elected a member of the House of Parliament **[or provincial council]** concerned for that division with effect from the polling day fixed in respect of the election in question.” 20

Amendment of section 105 of Act 45 of 1979, as amended by section 74 of Act 103 of 1984

77. Section 105 of the principal Act is hereby amended— 25
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
 “(a) does not bear the official mark mentioned in section 98 or which bears neither the stamp mentioned in section 86 (1) nor the signature so mentioned and in respect of which he has sound reason to believe that it was not officially handed to a voter in terms of section 98 (e) or **[86 (2) (a)] 86 (2)**.”; 30
- (b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
 “(a) any ballot paper on which there is a mark or writing, other than the signature of a voter, by means of which a voter has clearly indicated his choice otherwise than by means of a cross, except a ballot paper marked by **[an absent] a voter voting by post** or a special voter on which a vote in favour of any candidate has been altered to a vote in favour of another candidate.”; and 40
- (c) by the deletion of paragraphs (d), (e), (f) and (g) of subsection (2).

Amendment of section 107 of Act 45 of 1979, as amended by section 75 of Act 103 of 1984

78. Section 107 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection: 45
 “(1) The returning officer shall not open any sealed packet of tendered ballot papers or counterfoils, but shall immediately after the declaration of the poll [—
 (a) in the case of a poll for the House of Assembly and the provincial council, enclose in separate packets the counted and rejected ballot papers in respect of the relevant division of the House of Assembly and of the relevant division or divisions of the provincial council, and, in respect of all those divisions together, enclose in packets the sealed declaration envelopes of persons whose votes have been rejected as provided in section 104 (3), and the opened declaration envelopes of persons whose votes have not been so rejected, respectively; 50
 (b) in the case of a poll for the House of Representatives or for the House of Delegates] enclose in packets the counted and rejected ballot papers in respect of the division concerned, the sealed declaration envelopes 55

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- of persons whose votes have been rejected in accordance with section 104 (3), and the opened declaration envelopes of persons whose votes have not been so rejected, respectively.”;
- (b) by the substitution for subsection (2) of the following subsection: 5
 “(2) The returning officer shall, immediately after the declaration of the poll, transmit all counterfoils of ballot papers in respect of the relevant division, **[or, in the case of a poll for the House of Assembly and the provincial council, in respect of the relevant division of the House of Assembly and in respect of the relevant division or divisions of the provincial council]** together with reports on the prescribed form as to the verification 10 of the ballot paper accounts, to the chief electoral officer.”; and
- (c) by the substitution for subsection (6) of the following subsection: 15
 “(6) All documents retained by a returning officer in pursuance of this Act (other than ballot papers of whatsoever description) shall by order of the court be open to **[public]** inspection by candidates for the division 15 concerned or their authorized representatives at such time and under such regulations as may be prescribed; and the returning officer shall supply copies of or extracts from the said documents on request to **[any person demanding them]** the candidates for the division in question or their 20 authorized representatives, on payment of such fees and subject to such regulations as may be prescribed.”.

Amendment of section 108 of Act 45 of 1979, as amended by section 76 of Act 103 of 1984

79. Section 108 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 25
 “(1) As soon as the returning officer has declared any candidate to be duly elected (whether or not a poll has taken place) he shall **[without delay]** as soon as possible but not later than nine o’ clock in the forenoon of the day following the day on which the counting is completed, transmit to the chief electoral officer the name of the person declared duly elected, and, if 30 a poll has taken place, the number of votes received by the respective candidates and the number of rejected ballot papers.”; and
- (b) by the substitution for subsection (3) of the following subsection: 35
 “(3) Upon receipt of the information referred to in subsection (1) the chief electoral officer shall without delay notify **[in the case of an election for a House of Parliament]** the Secretary to Parliament **[or, in the case of an election for a provincial council, the clerk of the provincial council concerned]** of the name of the person declared duly elected, and, if a poll has taken place, the number of votes received by the respective candidates 40 in the election in question.”.

Amendment of section 110 of Act 45 of 1979, as amended by section 78 of Act 103 of 1984

80. Section 110 of the principal Act is hereby amended by the deletion of the words “or a provincial council”.

Substitution of section 111 of Act 45 of 1979, as amended by section 79 of Act 103 of 1984

81. The following section is hereby substituted for section 111 of the principal Act:

“Provisions in case same person elected for more than one division

111. If the same person has at any election been declared duly elected for more than one division of the same House of Parliament, **[or for a 50 division of the House of Assembly and for a division of a provincial council, or for more than one division of the same provincial council, or for a division of one provincial council as well as for a division of another provincial council]** he shall, upon being thereto required by the chief electoral officer, decide within a period (not being less than one week) 55

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specified by the chief electoral officer which division he will represent; and upon receiving his decision the chief electoral officer shall notify the Secretary to Parliament **[or the clerk of the provincial council (as the case may be)]** thereof, who shall forthwith declare by notice in the *Gazette* **[or the Official Gazette of the province concerned (as the case may be)]** that a vacancy has occurred in the division not chosen by such person and the cause of such vacancy: Provided that if the said person fails, within the period so specified, to make his decision as aforesaid, his election for every division for which he has been elected shall be deemed null and void, whereupon the chief electoral officer shall notify the said Secretary **[or clerk of the provincial council (as the case may be)]** of the said failure and the said Secretary **[or clerk of the provincial council (as the case may be)]** shall by like notice declare that a vacancy has occurred in every such division and the cause of such vacancy.”

Amendment of section 112 of Act 45 of 1979, as substituted by section 80 of Act 103 of 1984

82. Section 112 of the principal Act is hereby amended by the deletion of the words “or messenger”.

Substitution of section 114 of Act 45 of 1979

83. The following section is hereby substituted for section 114 of the principal Act:

“Interrupting or disturbing proceedings at elections

114. Any person who wilfully interrupts, obstructs or disturbs any proceedings taken under this Chapter shall be guilty of an offence and liable on conviction to a fine not exceeding **[one hundred rand]** R2 000 or to imprisonment for a period not exceeding **[three]** twelve months.”

Amendment of section 115 of Act 45 of 1979

84. Section 115 of the principal Act is hereby amended by the substitution in subsection (1) for the words following paragraph (e) of the following words:

“shall be guilty of an offence and liable on conviction, if he is a returning officer or an officer in attendance at a polling station **[or a presiding officer for absent votes]** or a presiding officer for votes of special voters, to imprisonment for a period not exceeding two years, and if he is any other person, to imprisonment for a period not exceeding nine months.”

Amendment of section 117 of Act 45 of 1979, as amended by section 81 of Act 103 of 1984

85. Section 117 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) Every officer, candidate and agent **[and messenger]** in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in that station, and shall not, before the poll is closed, communicate, except for some purpose authorized by law, to any person any information likely to defeat the secrecy of the voting.”;

(b) by the deletion in subsection (2) of the words “or ballot papers”;

(c) by the deletion in subsection (3) of the words “or any of his ballot papers”;

(d) by the substitution for subsection (6) of the following subsection:

“(6) Subject to the provisions of **[sections 66 and]** section 100, no person shall attempt to ascertain, or directly or indirectly aid in ascertaining, for which candidate any voter has given his vote.”; and

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- (e) by the substitution in subsection (9) for the words "two hundred rand" of the expression "R2 000".

Repeal of section 119 of Act 45 of 1979

86. Section 119 of the principal Act is hereby repealed.

Amendment of section 120 of Act 45 of 1979, as amended by section 84 of Act 103 of 1984 5

87. Section 120 of the principal Act is hereby amended by the deletion in paragraph (i) of the words "and a like number of messengers".

Amendment of section 121 of Act 45 of 1979, as amended by section 85 of Act 103 of 1984 10

88. Section 121 of the principal Act is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:

"(3) Before, on or not later than three days after the nomination day the full name and address of the election agent of each candidate shall be declared, in writing, by the candidate or some other person on his behalf to the returning officer, **[and the returning officer shall forthwith give public notice of the name and address of every election agent so declared]** and if no such declaration in writing is so made by any candidate, that candidate shall be deemed to be his own election agent."; and 15

- (b) by the substitution for subsection (4) of the following subsection: 20

"(4) One election agent only shall be appointed for each candidate, but the appointment may be revoked, and, in the event of such revocation or such election agent's death, the candidate shall be deemed to be his own election agent, unless the revocation or death takes place on or before the nomination day, or not less than three clear days before the polling day, in which case the candidate may forthwith upon the revocation or death make a declaration, which shall be delivered not less than three clear days before the polling day, to the returning officer, that he appoints another election agent **[whose name and address may forthwith be notified by the candidate by advertisement in a newspaper circulating in the division]**." 25 30

Amendment of section 122 of Act 45 of 1979, as amended by section 86 of Act 103 of 1984

89. Section 122 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The election agent shall within three days after he has appointed a sub-agent or after the appointment of a sub-agent has been terminated, in writing advise the returning officer of the name and address of such sub-agent **[and the returning officer shall forthwith give public notice of the name and address of the sub-agent concerned and of the fact that he has been appointed or that his appointment has been terminated, as the case may be]**." 35 40

Amendment of section 123 of Act 45 of 1979, as amended by section 87 of Act 103 of 1984

90. Section 123 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The election agent of a candidate, by himself or his sub-agent, shall appoint every polling agent and clerk employed whether for payment or otherwise on behalf of the candidate at an election, and hire every committee room hired on behalf of the candidate: Provided that if the number of voters registered in respect of any polling district does not exceed three thousand, not more than three polling agents shall be appointed for that polling district, and if the number of voters registered in respect of any polling district exceeds three" 45 50

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thousand, one additional polling agent may be appointed for every one thousand, or part of one thousand, voters registered in respect of that polling district in excess of three thousand.”

Substitution of section 128 of Act 45 of 1979, as amended by section 88 of Act 103 of 1984 5

91. The following section is hereby substituted for section 128 of the principal Act:

“When election commences

128. For the purposes of this Chapter, an election shall be deemed to commence—

- (a) in the case of a general election upon the dissolution of Parliament 10 or the House of Parliament concerned under any provision of the Constitution [or upon the expiry of the term of office or dissolution of a provincial council under section 71 of the said Provincial Government Act, 1961 (Act No. 32 of 1961)]; and
- (b) in the case of a by-election in consequence of a vacancy, by death, 15 resignation or other cause, in the representation of any division, upon the publication in the *Gazette* [or the *Official Gazette* of the province concerned] of a notice by the Secretary to Parliament [or the clerk of the provincial council of that province, as the case may be] declaring that a vacancy has occurred.” 20

Amendment of section 128A of Act 45 of 1979, as inserted by section 89 of Act 103 of 1984

92. Section 128A of the principal Act is hereby amended—

- (a) by the deletion of paragraph (a) of subsection (1);
- (b) by the substitution for paragraph (b) of subsection (1) of the following 25 paragraph:
“(b) nominated under section [56 (a) or (b)] 56 (2) for the purpose of that section;”;
- (c) by the deletion in paragraph (f) of subsection (1) of the Afrikaans text of the words “of bode”; and 30
- (d) by the deletion in subparagraph (i) of paragraph (f) of subsection (1) and in paragraph (a) of subsection (2) of the words “and the provincial council”.

Substitution of section 130 of Act 45 of 1979

93. The following section is hereby substituted for section 130 of the principal Act: 35

“Treating

130. (1) Any person who [—

- (a) corruptly by himself or by any other person, either before, during or after an election, directly or indirectly, gives or provides, or pays wholly or in part the expense of giving or providing, any food, drink, 40 entertainment, lodging or provisions to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election 45 [or
- (b) during an election, by himself or by any other person, directly or indirectly, gives or provides, or pays wholly or in part the expense of giving or providing any liquor as defined in paragraph (a) of the definition of ‘liquor’ in section 1 of the Liquor Act, 1977 (Act No. 87 50 of 1977), to or for any person while that person is attending any meeting or gathering of more than ten persons which has been convened for the purpose of promoting the interests of any political party at that election or the candidature of any person who has been or may be nominated as a candidate at that election, unless such 55 meeting or gathering is a meeting or gathering only of persons who are assisting a candidate in his election campaign],
- shall be guilty of the offence of treating.

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(2) Any voter who corruptly accepts or takes any food, drink, entertainment, lodging or provisions referred to in subsection (1) [(a)], shall also be guilty of the offence of treating.”.

Amendment of section 131 of Act 45 of 1979

94. Section 131 of the principal Act is hereby amended— 5
- (a) by the substitution for paragraphs (a) and (b) of subsection (1) of the following paragraphs, respectively:
- “(a) in order to induce or compel that person—
- (i) to vote or refrain from voting at any election;
- (ii) to vote or refrain from voting for a particular candidate at any election; **[or]**
- (iii) to make or refrain from making an application for a ballot paper;
- (iv) to receive or refrain from receiving a ballot paper; or
- (b) on account of that person having— 15
- (i) voted or refrained from voting at any election;
- (ii) voted or refrained from voting for a particular candidate at any election;
- (iii) made or refrained from making an application for a ballot paper;
- (iv) received or refrained from receiving a ballot paper;”; and
- (b) by the substitution for subsection (3) of the following subsection: 20
- “(3) Any person who, within a polling station or within a place at which any voter votes as **[an absent]** a voter by post or a special voter, attempts by threats, intimidation or otherwise to influence a voter to vote in favour of a particular candidate or political party, shall be guilty of the offence of undue influence.”. 25

Amendment of section 133 of Act 45 of 1979

95. Section 133 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:
- “(a) at any election applies for a ballot paper in the name of some other person, living or dead, or of a fictitious person, or who, except as provided in **[sections 66 (2) and] section 100 (2)**, records a vote in the name of any such person; or”.

Amendment of section 134 of Act 45 of 1979

96. Section 134 of the principal Act is hereby amended by the substitution in subsection (2) for the words “one thousand rand” of the expression “**R2 000**”. 35

Amendment of section 144 of Act 45 of 1979

97. Section 144 of the principal Act is hereby amended by the substitution for paragraphs (b) and (c) of subsection (1) of the following paragraphs, respectively:
- “(b) in the case of an illegal practice under section 141 (3), to a fine not exceeding **[one hundred rand] R1 000**; and 40
- (c) in the case of any other illegal practice, to a fine not exceeding **[two hundred rand] R2 000**.”.

Insertion of section 144A in Act 45 of 1979

98. The following section is hereby inserted in the principal Act after section 144:
- “**Offences relating to certain printed matter** 45
- 144A. Any person convicted by a court of the offence of malicious injury to property or theft in relation to any bill, placard, poster, pamphlet, circular or other printed matter referred to in section 141 (1), shall be liable to a fine not exceeding R10 000 or imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.”. 50

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Amendment of section 145 of Act 45 of 1979, as amended by section 90 of Act 103 of 1984

99. Section 145 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: 5
- “(a) if upon the trial of an election application it is proved that any corrupt practice or illegal practice has been committed in respect of the election, the subject of the application, by or with the knowledge and consent or approval of any candidate at the election or by or with the knowledge and consent or approval of any of his agents, the election of that candidate shall be void, and a fresh election shall thereupon be held, unless some other person was or is entitled under section 160 to be declared duly elected, in which case the matter is dealt with in accordance with that section;”; and 10
- (b) by the deletion in paragraph (b) of subsection (1) of the words “or a 15 provincial council”.

Amendment of section 148 of Act 45 of 1979

100. Section 148 of the principal Act is hereby amended by the substitution in subsection (2) for the words “one thousand rand” of the expression “R2 000”.

Amendment of section 160 of Act 45 of 1979, as amended by section 91 of Act 103 of 1984

101. Section 160 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (i) of the following paragraph:
- “(i) If the court determines that the respondent was not duly elected, but that some other person was or is entitled to be declared duly elected, the respondent shall **[forthwith]** from the date of such determination be deemed to have vacated his seat, and the court shall forthwith certify such its determination to the State President and to the Speaker of Parliament **[or to the administrator concerned, as the case may be]**, and the State President shall thereupon, by proclamation, declare such other person duly elected from the date on which the respondent vacated his seat.”; 25 30
- (b) by the substitution for paragraph (j) of the following paragraph:
- “(j) If the court determines that the respondent was not duly elected, and that no other person was or is entitled to be declared duly elected, the seat of the respondent shall be deemed vacant, and the court shall certify such its determination to the Speaker of Parliament **[or the administrator concerned, as the case may be]**, and the Speaker **[or the administrator]** shall, if satisfied that no appeal is being prosecuted against the determination of the court or that an appeal has failed, declare by notice in the *Gazette* **[or the Official Gazette of the province concerned (as the case may be)]** that a vacancy has occurred, the cause of such vacancy and the division in which such vacancy has occurred.”; 35 40
- (c) by the deletion in paragraph (k) of the words “or to the administrator concerned, as the case may be”; 45
- (d) by the substitution for paragraph (l) of the following paragraph:
- “(l) The court may at the same time make a special report to the Speaker **[or administrator (as the case may be)]** as to any matter, arising in the course of the trial, an account of which ought, in its judgment, to be submitted to the House of Assembly, House of Representatives or House of Delegates **[or provincial council]** (as the case may be).”; and 50
- (e) by the substitution for paragraph (m) of the following paragraph:
- “(m) A copy of every certificate and report made by the court under this section shall, as soon as possible, be presented by the Speaker to the

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House of Assembly, House of Representatives or House of Delegates
[or] (as the case may be) **[by the administrator to the provincial council
 concerned].”**.

**Amendment of section 176 of Act 45 of 1979, as amended by section 92 of Act 103 of
 1984** 5

102. Section 176 of the principal Act is hereby amended—

- (a) by the deletion in subsection (1) of the words “or provincial council”; and
 (b) by the deletion in subsection (2) of the words “or to the administrator
 concerned, as the case may be”.

Substitution of section 183 of Act 45 of 1979 10

103. The following section is hereby substituted for section 183 of the principal
 Act:

**“Chief electoral officer to keep list of certain persons incapacitated from
 voting**

183. (1) **[Every]** The chief electoral officer shall make and keep a list 15
 containing the names, addresses and occupations of all persons who,
 from time to time, though otherwise qualified to be registered in any
 division **[in the area for which he has been appointed]**, have become
 incapable of voting by reason of their having been found guilty, on
 conviction or by report of the court under this Act, of any corrupt or 20
 illegal practice, and of all persons who, by reason of their having been
 convicted of any other offence under this Act or any other law or at
 common law, have become incapable of being voters at an election as
 defined by this Act or at any election for a public office.

(2) The chief electoral officer shall enter in the list opposite the name 25
 of each such person the offence of which such person has been
 convicted.”.

**Substitution of section 188 of Act 45 of 1979, as amended by section 94 of Act 103 of
 1984**

104. The following section is hereby substituted for section 188 of the principal 30
 Act:

“Vacation of seats through resignation

188. (1) Any member of a House of Parliament **[or of a provincial
 council]** may by writing under his hand or by telegraphic message
 addressed to the Secretary to Parliament **[or the clerk of the provincial 35
 council concerned]** resign as a member with effect from a date specified
 in such writing or message: Provided that if no date is so specified, he
 shall be deemed to have resigned as a member with effect from the day
 immediately following the date on which the said Secretary **[or clerk]**
 received such writing or message. 40

(2) After the receipt by the Secretary to Parliament **[or the said clerk
 of the provincial council]** of any such writing or message intimating the
 resignation of the member concerned, the said Secretary **[or clerk, as the
 case may be]** shall—

- (a) forthwith, if such member has resigned with effect from the date of, 45
 or a date prior to, the receipt of such writing or message; or
 (b) upon the resignation becoming effective, if such member has
 resigned or is deemed to have resigned with effect from a date
 subsequent to the date of the receipt of such writing or message,
 declare by notice in the *Gazette* **[or the Official Gazette of the province 50
 concerned, as the case may be]** that a vacancy has occurred, the date with
 effect from which it has occurred, the cause of such vacancy and the
 division in which such vacancy has occurred: Provided that in the case of
 a resignation by telegraphic message, the authenticity of such message

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shall be established to the satisfaction of the said Secretary **[or clerk, as the case may be]** before action is taken by him as aforesaid.”.

Substitution of section 189 of Act 45 of 1979, as amended by section 95 of Act 103 of 1984

105. The following section is hereby substituted for section 189 of the principal Act: 5

“Vacation of seats through death

189. (1) Whenever the **[Secretary for the Interior and Immigration] Director-General** receives, under the Births, Marriages and Deaths Registration Act, 1963 (Act No. 81 of 1963), the registration of the death of a member of a House of Parliament **[or of a provincial council]**, he shall forthwith transmit a certificate of such registration to the Secretary to Parliament **[or clerk of the provincial council concerned, as the case may be]**, and upon receipt of such certificate by the Secretary to Parliament **[or the said clerk of the provincial council]** he shall take the steps prescribed by section 188:

(2) Whenever, although no such certificate has been received, the Secretary to Parliament **[or clerk of the provincial council concerned]** is satisfied that a member has died, he shall take the said prescribed steps.”. 20

Substitution of section 190 of Act 45 of 1979, as substituted by section 96 of Act 103 of 1984

106. The following section is hereby substituted for section 190 of the principal Act:

“Vacation of seats through failure to attend sittings

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190. If the seat of a member of a House of Parliament **[or a provincial council]** has become vacant as provided in section 55 of the Constitution **[or section 70 of the Provincial Government Act, 1961 (Act No. 32 of 1961), as the case may be]** in circumstances where section 191 of this Act is not applicable, the Secretary to Parliament **[or clerk of the provincial council concerned]** shall take the steps prescribed by section 188.”. 30

Substitution of section 191 of Act 45 of 1979, as amended by section 97 of Act 103 of 1984

107. The following section is hereby substituted for section 191 of the principal Act: 35

“Vacation of seats through other causes

191. Whenever in the case of a member of a House of Parliament **[or a provincial council]** a competent court—

- (a) convicts such member of any offence and sentences him to imprisonment without the option of a fine for a period of not less than twelve months; or
- (b) grants a final order sequestrating as insolvent such member's estate; or
- (c) grants an order declaring such member of unsound mind; or
- (d) grants an order presuming the death of such member, 45

or whenever such conviction and sentence or order is confirmed upon appeal or review by a superior court, the clerk or registrar of the court shall forthwith transmit a certificate of any such conviction and sentence or order or confirmation thereof to the Secretary to Parliament **[or clerk of the provincial council of the province concerned, as the case may be]** and the Secretary to Parliament **[or clerk of the provincial council concerned]** shall, if satisfied that the conviction and sentence or order against such member is not being appealed against or brought under review, or having been appealed against or brought under review has 50

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been confirmed, and that no further steps are being taken to appeal against any such confirmation, take the steps prescribed by section 188.”.

Amendment of section 194 of Act 45 of 1979

108. Section 194 of the principal Act is hereby amended by the deletion in subsection (1) of the words “or in the *Official Gazette* of a province”. 5

Substitution of section 195 of Act 45 of 1979

109. The following section is hereby substituted for section 195 of the principal Act:

“Sundays, public holidays and non-workdays

195. Whenever under this Act anything 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 or a day which is not a workday, such thing shall be commenced, concluded or done on the date **[next succeeding]** immediately preceding such Sunday or public holiday or day which is not a workday or if the last-mentioned date is also a Sunday or public holiday or not a workday, then on the date **[next succeeding]** immediately preceding such Sunday or public holiday or day and which is a workday.”. 10
15

Substitution of section 196 of Act 45 of 1979, as substituted by section 100 of Act 103 of 1984 20

110. The following section is hereby substituted for section 196 of the principal Act:

“Exemption from stamp duty

196. Notwithstanding anything to the contrary contained in any law relating to stamp duty, no stamp duty shall be charged on any declaration referred to in section 41, **[49]** 66, 96, 102 or 112.”. 25

Amendment of section 197 of Act 45 of 1979

111. Section 197 of the principal Act is hereby amended by the substitution for the words “hundred rand” of the expression “R1 000”.

Substitution of section 197A of Act 45 of 1979, as inserted by section 101 of Act 103 of 1984 30

112. The following section is hereby substituted for section 197A of the principal Act:

“Delegation

197A. The chief electoral officer may delegate any power conferred upon him by this Act to any officer serving in the Department of **[Internal]** Home Affairs or authorize any such officer to perform any duty assigned to the chief electoral officer by this Act.”. 35

Amendment of section 198 of Act 45 of 1979

113. Section 198 of the principal Act is hereby amended— 40

(a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) **[The State President]** Subject to the provisions of subsections (2) and (4) the Minister may make regulations providing for such matters as in this Act are permitted to be prescribed and generally for the better carrying out of the objects and purposes of this Act. 45

(2) The Minister may make regulations regarding the election of persons as members of the Houses of Parliament.”; and

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(b) by the substitution for subsection (4) of the following subsection:

“(4) The **[State President] Minister** may also, where no forms are prescribed by this Act, prescribe the form of any documents to be used in the carrying out of the provisions of this Act **[and may prescribe different forms to be used in any of the provinces or other areas of the Republic]**.”. 5

Substitution of Schedule 1 to Act 45 of 1979, as substituted by section 103 of Act 103 of 1984

114. The Schedule to this Act is hereby substituted for Schedule 1 to the principal Act.

Substitution of long title of Act 45 of 1979, as substituted by section 104 of Act 103 of 1984

115. The following long title is hereby substituted for the long title of the principal Act:

“ACT

To regulate the registration of voters and the election of members of the Houses 15 of Parliament **[and of the provincial councils]**; and to provide for incidental matters.”.

Substitution of section 9 of Act 72 of 1986

116. The following section is hereby substituted for section 9 of the Identification Act, 1986: 20

“**Temporary identity certificates**

9. When any person has applied for an identity document, or has for official purposes lodged his identity document with the Director-General, the Director-General may on application issue to the person concerned whose particulars are included in the population register in 25 terms of section 6, a temporary identity certificate in the prescribed form and manner, which, for the period and on the conditions mentioned therein, shall for the purposes of this Act be regarded as his identity document.”.

Insertion of section 12A in Act 72 of 1986 30

117. The following section is hereby inserted in the Identification Act, 1986, after section 12:

“**Furnishing of particulars of persons to local government bodies**

12A. (1) Subject to the provisions of section 12, every local government body may on the application for the rendering of services to 35 residential premises within its area of jurisdiction, make the commencement of the rendering of such services subject to the furnishing by the applicant of particulars of—

(a) an identity number;

(b) an ordinary place of residence; and 40

(c) a postal address,

in the prescribed manner and within the prescribed time, in respect of all the occupants of the residential premises concerned who have already attained the age of 16 years and whose names have been included in the population register: Provided that the local government body may at will 45 render the services applied for subject to the furnishing, within the prescribed time, of the particulars desired.

(2) A local government body may, in the case of a consumer to whom services are already rendered or to whom services are rendered subject to

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the furnishing of the particulars referred to in subsection (1), if such consumer does not furnish the said particulars within the prescribed time to the local government body, suspend the further rendering of such services until the particulars concerned are furnished.

(3) A local government body deals with all particulars received by it by virtue of subsection (1) or (2), as prescribed. 5

(4) The Minister may, after consultation with local government bodies, compel these government bodies by notice in the *Gazette* to obtain the particulars referred to in subsection (1) from each applicant for the rendering of services or consumer of services. 10

(5) For the purposes of this section 'local government body' means—

(a) an institution or body contemplated in section 84 (1) (f) of the Provincial Government Act, 1961 (Act No. 32 of 1961);

(b) a board of management or board as defined in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act No. 9 of 1987); 15

(c) a local authority as defined in section 1 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982);

(d) a local government body established or deemed to be established under section 30 of the Black Administration Act, 1927 (Act No. 38 of 1927); or 20

(e) a regional services council established under the Regional Services Councils Act, 1985 (Act No. 109 of 1985).”.

Amendment of section 18 of Act 72 of 1986

118. Section 18 of the Identification Act, 1986, is hereby amended—

(a) by the substitution in subparagraph (i) of subsection (2) for the expression “R500” of the expression “R1 000”; and 25

(b) by the substitution in subparagraph (ii) of subsection (2) for the expression “R100” of the expression “R500”.

Short title and commencement

119. (1) This Act shall be called the Elections and Identification Amendment Act, 1989, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 30

(2) Different dates may be so fixed in respect of the different provisions of this Act.

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SCHEDULE
"Schedule 1
Form of Front of Ballot Paper

TEENBLAD
 COUNTERFOIL

No.

Verkiesing vir Volksraad,
 Raad van
 Verteenwoordigers of
 Raad van
 Afgevaardigdes,

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

na gelang van die geval.

Election for House of
 Assembly, House of
 Representatives or House
 of Delegates,

Record your vote by a X in the square opposite the name of the candidate for whom you wish to vote.

as the case may be.

Kiesafdeling
 Electoral Division of

Datum:
 Date:

Geregistreeerde
 No. van Kieser
 Registered
 No. of Voter. }

Form of Back of Ballot Paper

No.

Offisiële Merk Official Mark

Verkiesing van 'n Lid van die Volksraad, Raad van Verteenwoordigers
 of Raad van Afgevaardigdes, na gelang van die geval,
 Election of a Member of the House of Assembly, House of Representatives
 or House of Delegates, as the case may be,

vir die Kiesafdeling
for the Electoral Division of

Datum: }"
 Date: }