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PROCLAMATION

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No. 72, 1995

NORTHERN CAPE PROVINCE

DEPARTMENT OF HOUSING AND LOCAL GOVERNMENT

LOCAL GOVERNMENT TRANSITION ACT, 1993 (ACT 209 OF 1993)

AMENDMENT OF THE LOCAL GOVERNMENT TRANSITION ELECTION REGULATIONS, 1994

Under the powers vested in me by section 9 (2) of the Local Government Transition Act, 1993 (Act 209 of 1993), and with the concurrence of the Provincial Committee for Local Government, I hereby amend the Local Government Transition Election Regulations, 1994 (hereinafter referred to as the Regulations) set out in the Schedule hereto.

O. P. DIKGETSI,

Member of the Executive Council for Local Government.

Note: Schedules in the other official languages of the Province will be published as soon as it is practically possible.

SCHEDULE

AMENDMENTS TO REGULATIONS

Unless stated otherwise :

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

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

Amendments to Regulation 1

Regulation 1 is hereby amended by the insertion after regulation 1(1)(vi) of the following regulation :

- 1 (1) (vi)A "consolidated voters' roll " means a consolidated voters' roll signed and certified or prepared for the purpose of being signed and certified in accordance with the provisions of regulation 12F(4)(a).

Regulation 1 is hereby amended by the insertion after regulation 1(1)(xxv) of the following regulation :

- 1 (1) (xxv)A "supplementary voters' roll" means a supplementary voters' roll signed and certified or prepared for the purposes of being signed and certified in accordance with the provisions of regulation 12E(1).

Regulation 1 is hereby amended by the insertion after regulation 1(1)(xxix) of the following regulation :

- 1 (1) (xxix)A "voters' roll" means a voters' roll certified and signed in accordance with the provisions of regulation 7(1) and save for the purposes of regulations 3 to 7, 13 to 17, 21, and 23 to 29 inclusive, includes a supplementary voters' roll and a consolidated voters' roll.

Amendment to Chapter 3

Chapter 3 is hereby amended by the insertion after Chapter 3 of the following new Chapter 3A :

C H A P T E R 3A

SUPPLEMENTARY VOTERS' ROLL, CONSOLIDATED ROLL AND
CORRECTIONS

Making the Roll

12A (1) (a) Every transitional authority shall make a
supplementary voters' roll.

(b) Every transitional authority shall not later than
12 September 1995 publish that it proposes to make
a supplementary voters' roll and call upon any
natural person who is entitled in terms of
regulation 2 to be included in such supplementary
voters' roll and whose name is not included in the
voters' roll for that transitional authority to
claim within the period 12 September 1995 and 25
September 1995 inclusive to be enrolled.

(c) Every transitional authority shall make its
voters' roll as certified and signed in accordance
with the provisions of regulation 7(1) available
for public inspection at not less than one
municipal office during normal officer hours from
12 September to 25 September 1995 inclusive.

(2) Each transitional authority shall designate or
appoint :

(a) a voters' roll officer within its employment who
shall be responsible for preparing a supplementary
voters' roll on its behalf; and

(b) such employees or other person or persons as may
be necessary to assist with the preparation
thereof at such remuneration as it may determine.

- (3) A person applying to be enrolled as a voter shall make a claim in accordance with form ER1.
- (4) Any person claiming to be enrolled as a voter shall provide the information required in form ER1 and if the voters' roll officer is satisfied on the face of such information that such person is qualified in terms of regulation 2 to be enrolled as a voter such person's name and particulars shall be included in the supplementary voters' roll subject to the provisions of regulation 12D.
- (5) (a) At the expiration of the period referred to in subregulation (1), every transitional authority shall cause a supplementary voters' roll to be prepared containing the names of persons qualified to be enrolled as voters for the election and such roll shall :
- (i) contain a serial number unique in respect of each name, which number shall not be the same as any serial number in the voters' roll;
 - (ii) contain the identity number of each person claiming enrolment;
 - (iii) be in alphabetical order according to surnames;
 - (iv) state the address to which the claim relates; and
 - (v) identify the basis of qualification or entitlement.
- (b) Every page of a supplementary voters' roll shall be numbered consecutively and shall identify the

name of the transitional authority and the year to which it relates; and where such roll has been divided into parts, every page of such part shall also identify the ward and voting station to which it relates.

(6) Subject to the provisions of regulation 12G the returning officer shall ensure that :

(a) A supplementary voters' roll as certified and approved for a transitional local council or for a transitional metropolitan substructure shall be divided into parts according to the wards into which the area of jurisdiction of such transitional local council or transitional metropolitan substructure has been divided;

(b) Every ward shall, unless written authorisation by the Premier to the contrary had been obtained, be divided into parts in accordance with the provisions of regulation 41(3)(c), and the supplementary voters' roll for any ward that had been so divided, shall be divided into such parts;

(c) A supplementary voters' roll as certified and approved for a transitional metropolitan council shall be divided into parts according to the area of jurisdiction of each transitional metropolitan substructure within the transitional metropolitan council area, and thereafter further into parts which correspond exactly with the wards and parts of such wards, if any, for each such transitional metropolitan substructure;

(d) A supplementary voters' roll divided into parts shall comply with the requirements of

subregulation (5)(a) in respect of each such part;

(e) A voter whose name is included in a supplementary voters' roll shall vote in a ward or part thereof at the voting station where his or her name appears in that supplementary voters' roll for such ward or part thereof.

(7) When any claimant :

(a) is under law liable for the payment of assessment rates, rent, service charges or levies in respect of more than one address; or

(b) is so liable in respect of an address other than the place at which he or she is ordinarily resident; or

(c) is ordinarily resident at more than one place within the area of jurisdiction of the same transitional authority, such claimant shall be entitled to be included only once in the supplementary voters' roll of such transitional authority and shall, at the time of making a claim for enrolment, identify one such address as the place for inclusion failing which the voters' roll officer shall make such identification.

(8) (a) The voters' roll officer may include in the supplementary voters' roll the names and particulars of any person in respect of whom a claim on form ER1 has not been made or received, but whose particulars provide the information required for subregulation (5)(a) and on the face of such particulars satisfy the voters' roll officer that such person is qualified in terms of regulation 2 to be enrolled as a voter.

- (b) Notwithstanding the provisions of subregulation (1) a claim in a form substantially in accordance with form ER1 received between 6 June 1995 and 25 September 1995 shall be a lawful claim and shall be taken into account by the voters' roll officer.
- (9) During the period specified in terms of regulation 12A(1) the voters' roll officer shall ensure that :
- (a) an adequate supply of forms ER1 and ER2 and one or more prominent places or secure receptacles for the deposit of claims delivered by hand, are clearly identified, available and accessible to the public at all times during normal office hours at every office of the transitional authority concerned; and
- (b) a reasonable quantity of forms ER1 are made available upon request to a party or person who satisfies the voters' roll officer of a bona fide intention to canvass or facilitate the submission of claims at no cost to any claimant.
- (10) Nothing herein contained shall be construed as requiring any person to be physically or personally present at any place or office in order to lodge a claim for his or her enrolment as a voter, or as precluding any person from posting by ordinary mail such a claim to the voters' roll officer at the address specified on form ER1 for the applicable transitional authority.
- (11) Where no address exists, the transitional authority shall cause an address to be determined or identified within its jurisdiction for the purposes of claims and the preparation of the supplementary voters' roll.

- (12) Where any person applying to be enrolled as a voter makes a claim in accordance with form ER1 and certifies or otherwise signifies as the basis of qualification or entitlement to such claim that he or she pays or is liable for the payment of assessment rates, rent, service charges or levies, such certification or signification of payment or liability for payment shall not found or be used as evidence in respect of any legal action, claim or prosecution by a transitional authority, local government body or any other person or persons whatsoever.

Claims and Objections

- 12B (1) The voters' roll officer shall not later than 24 September 1995 publish a notice :
- (a) stating that a copy of such roll and any claim received in terms of regulation 12A(8)(b) may be inspected at the office or offices of the transitional authority during normal office hours and at such other place or places as the voters' roll officer may appoint during the hours of 06:00 to 22:00 daily, including Saturday, during the period 3 October 1995 to 7 October 1995 inclusive;
- (b) calling upon every person who has any objection to the enrolment of any person whose name appears in such roll :
- (i) to lodge an objection, in the prescribed form ER2, which shall be available at such office or place specified in paragraph (a); or
- (ii) in respect of any person who is unable to write, to appear in person at a stated place and time to lodge an oral objection.

with the voters' roll officer not later than 22:00 on 7 October 1995;

(c) fixing one or more days, during the period 10 October 1995 to 13 October 1995 inclusive, and one or more places, for sitting of the revision court to hear such claims and objections : Provided that at least one such day and at least one such place shall be in an area referred to in regulation 16(1)(b).

(2) The voters' roll officer shall not later than 8 October 1995, prepare a list setting out the name of and particulars relating to every claimant, objector and person in respect of whom an objection has been lodged under subregulation (1)(b).

(3) The voters' roll officer shall lodge with the revision court objections to the enrolment of all claimants whom such officer has reason to believe are not entitled to be enrolled as voters in terms of regulation 2 or any other provision of these regulations.

(4) The voters' roll officer shall, not less than two days before the day fixed for the sitting of the revision court, serve a notice on :

(a) every person whose name appears on the roll or a list of claimants contemplated by subregulation (2) and to whose enrolment an objection has been lodged;

(b) the objector concerned; and

(c) any claimant for enrolment as a voter whose claim has been objected to or rejected by the voters'

roll officer;

setting out the grounds of such objection or rejection, the date on which it will be considered by the revision court, and inviting each such person, claimant and objector to attend; and stating that such objection will not be considered by the revision court unless such objector attends such sitting and every other sitting of the revision court to which consideration of such objection is adjourned :

Provided that where the address of a claimant or objector is not sufficiently precise to permit such service, the voters' roll officer shall in respect of any one or more claimants or objectors publish a notice substantially in accordance with the provisions of this subregulation or where such publication cannot be effected owing to limitations on the availability of a newspaper or newspapers, display such notice at the municipal office closest to the known address or locality of the claimant or objector.

- (5) Non-receipt of a notice or defect in the publication of any notice referred to in subregulation (4) shall not invalidate the voters' roll or any proceeding or decision of the revision court.
- (6) The Premier may with due regard to the date of the election, direct a voters' roll officer to increase the number or the locality of places or sittings referred to in subregulations (1)(a) or (1)(b).

Constitution of Revision Court

- 12C (1) (a) There is hereby established for the purposes of each supplementary voters' roll a revision court with the powers, functions and duties set out in these regulations.

- (b) Notwithstanding the provisions of subregulation
(1)(a) above, or (2)

below, the Premier may authorise and establish more
than one revision court in respect of each
supplementary voters' roll or any part of each roll.

- (2) The revision court for each supplementary voters'
roll or part of such roll shall consist of three
persons appointed by the transitional authority
concerned, not later than 29 September 1995, or such
earlier date as the Premier may determine in writing
to and in respect of one or more transitional
authorities, at least one of whom shall be an
advocate, attorney or other legally qualified person
who shall be the presiding officer of the court :
Provided that the Premier may, upon written
application by the transitional authority concerned
and upon being satisfied that there is no suitable
legally qualified person, approve in writing the
appointment by the transitional authority of some
other suitably qualified person who shall be the
presiding officer, and an alternate.

- (3) The transitional authority shall further appoint
alternates to take the place of any member of the
revision court who is absent or incapacitated and
shall determine the order of precedence of such
alternates : Provided that at least one such
alternate shall comply with the qualifications
prescribed for the presiding officer referred to in
subregulation (2).

- (4) The appointment of members and alternates to a
revision court in terms of subregulations (2) and (3)
shall be decided by a resolution of the council
adopted by a majority of at least two-thirds of all
its members.

(5) (a) No person shall be appointed or accept appointment as a member or an alternate member of such court if he or she :

(i) is the holder of an office in a party;

(ii) is a member or councillor or employee of the transitional authority concerned; or

(iii) is not eligible to be enrolled as a voter for a transitional authority in terms of regulation 2;

(iv) is a member of the election committee in terms of regulation 90 for that transitional authority; or

(v) has been nominated as a candidate or is included in a party list in the election for that transitional authority.

(b) A member of such a court shall cease to be a member thereof and shall vacate his or her seat if he or she :

(i) becomes disqualified for appointment as a member of such a court;

(ii) tenders his or her resignation to the chief executive; or

(iii) dies

and any vacancy so arising shall be filled from the appropriate alternate appointment, or in the absence thereof as soon as possible by the transitional authority with a person who has substantially the same qualifications as his or her predecessor.

- (6) The revision court shall determine the manner in which it shall conduct its business.
- (7) Whenever a change in the membership of the revision court takes place any part-heard claim or objection shall, at the request of the applicable claimant or objector, be dealt with de novo.
- (8) Administrative work incidental to the performance of the functions of a voters' roll officer and a revision court shall be performed by the chief

executive of the transitional authority concerned or by one or more officials of such authority duly appointed in writing and acting under the jurisdiction and control of such chief executive.

- (9) Members of a revision court shall be remunerated on such basis as shall be determined by the Premier not later than the time referred to in sub-regulation (2), or, failing which, by resolution of the transitional authority.

Powers, Functions and Duties of Revision Court

- 12D (1) On the day or days and at the place or places fixed in terms of regulation 12B(1)(c) or 12B(6) the revision court shall sit to consider and determine claims and objections to the enrolment of persons as voters in the supplementary voters' roll.
- (2) The revision court shall :
- (a) add to or insert in the supplementary voters' roll the name of every claimant :
 - (i) whom it is satisfied is entitled to be

enrolled;

(ii) to whose enrolment no objection was lodged;
or

(iii) who notwithstanding any objection is shown to
its satisfaction to be entitled to be enrolled
as a voter,

or place the names of all such claimants on a
separate list complying with the provision of
regulation 12A(5)(a), and add such list to the
supplementary voters' roll; or

(b) delete or remove from the supplementary voters'
roll the name of every claimant :

(i) in respect of whom an objection was lodged;
and

(ii) who is shown to its satisfaction not to be
entitled to be enrolled as a voter;

(c) delete or remove from the supplementary voters'
roll the name of every claimant whom it is
satisfied is included in the voters' roll
certified for the same transitional authority in
terms of regulation 7(1) whether under the same or
a different address; and

(d) correct any error or supply any omission which may
appear to it to have occurred in any entry in the
supplementary voters' roll with regard to the
particulars required in terms of regulation
12A(5)(a).

(3) (a) (i) Where a name is added to or inserted in
the supplementary voters' roll in terms

of subregulation (2)(a), the serial number allocated to such name in terms of regulation 12A(5)(a)(i) shall be a number which has not been allocated previously to any other name or claimant; and

(ii) Where a name is deleted or removed from the supplementary voters' roll in terms of subregulation (2)(b) or (c), the serial number allocated to such name in terms of regulation 12A(5)(a)(i) shall not be allocated to any other name or claimant.

(b) Where a supplementary voters' roll is divided into parts in terms of regulation 12A(6), the serial number allocated to a name in the roll in terms of regulation 12A(5)(a)(i) shall be retained with such name in any part.

(4) The revision court shall not consider any claim or objection unless :

(a) such claim or objection has been lodged in accordance with these regulations; and

(b) (i) in the case of any claim or objection referred to in regulation 12B(1)(b) such claim or objection was received by the voters' roll officer before the expiry of the period referred to therein;

(ii) failing compliance with subparagraph (i), the revision court is satisfied that there are exceptional circumstances relating to the late submission of the document concerned

warranting the consideration of the claim or objection; and

- (c) in the case of any person to whose enrolment an objection has been lodged, the objector attends every sitting of the revision court at which the objection is to be considered to substantiate such objection.
- (5) The voters' roll officer shall be entitled to attend and shall be heard in the presence of a claimant or objector at all sittings of the revision court.
- (6) Any person whose claim or objection may be considered by the revision court and any person opposing any such claim or objection shall be entitled to be heard in person or by a representative authorised thereto in writing and to give and call evidence viva voce.
- (7) All evidence given before the revision court shall be given on oath or affirmation administered by the presiding officer.
- (8) Sittings of the revision court shall be open to the public and the press.
- (9) Subject to the provisions of these regulations the revision court may adjourn from time to time as it may deem expedient.
- (10) If no claims or objections in terms of regulations 12B(1)(b) or 12B(3) are lodged within the periods referred to in such provisions the voters' roll officer shall, by notice posted at the offices of the transitional authority, forthwith cancel the sitting of the revision court.

Certification and Signature of Roll

- 12E (1) Subject to the provisions of regulation 12F the supplementary voters' roll as amended if any by the revision court in terms of regulation 12D shall be certified and signed by the presiding officer of such court not later than 18:00 on 17 October 1995 and shall, subject to the provisions of regulation 8, thereupon be the supplementary voters' roll for the transitional authority concerned until a new voters' roll has been lawfully made.
- (2) Any document purporting to be the supplementary voters' roll as certified and signed by the presiding officer of the revision court in terms of subregulation (1) or a true copy of such roll certified by the chief executive by the issue of a certificate to that effect shall, unless it is proved that such document is not such supplementary voters' roll or such a true copy, as the case may be, be conclusive proof that the persons whose names appear therein are entitled to exercise any right conferred on voters by these regulations.
- (3) The supplementary voters' roll so certified shall be deposited at the offices of the transitional authority and shall be open for inspection by members of the public during the normal office hours of the transitional authority or during such extended hours and times as such transitional authority may determine by resolution.
- (4) Any voter or candidate or party may obtain a copy of the supplementary voters' roll or part thereof applicable to a ward at such prices as the transitional authority may determine by resolution.

- (5) A certified supplementary voters' roll shall be deemed to be part of the voters' roll of a transitional authority.

Consolidation of Voters' Roll and Supplementary Roll

12F (1) The revision court appointed in terms of regulation 12C shall advise the voters' roll officer not later than 6 October 1995 whether it requires such officer :

(a) to prepare a consolidated voters' roll by amalgamating the voters' roll certified in terms of regulation 7(1) and the supplementary voters' roll certified in terms of regulation 12E(1); and

(b) to divide such consolidated voters' roll into wards and voting stations in accordance with the provisions of regulations 3(5)(b), (6) and 6(3)(b).

(2) In arriving at a decision to require such consolidation and division, the revision court shall satisfy itself inter alia with due regard to the time available between the date of signature and certification of the supplementary voters' roll and the date of the election :

(a) that it is necessary and advisable for the conduct and management of the election in the transitional authority concerned that such consolidation and division should be undertaken ; and

(b) that such and undertaking :

(i) is within the administrative capacity of the voters' roll officer and such employees or person or persons who may have been designated or appointed in terms of regulation 12A(2); and

- (ii) can be entered into and completed without detriment to or adverse impact upon the conduct and management of the election as a whole in the transitional authority concerned.
- (3) For the purposes of subregulation (2) the revision court shall invite and consider the views of the voters' roll officer and the returning officer and may at its sole and absolute discretion invite and consider the views of the election committee appointed in terms of regulation 90 and such other person or persons as it may deem necessary or appropriate.
- (4) Any decision by the revision court to require the voters' roll officer to prepare and divide a consolidated roll shall be subject to the concurrence and approval of the Premier.
- (5) (a) Where the revision court requires the voters' roll officer to prepare and divide a consolidated voters' roll in terms of subregulation (1) it shall examine and consider such consolidation immediately upon completion thereof.
- (b) Where the revision court is satisfied that such consolidation reflects the true and accurate amalgamation of the respective voters' rolls without addition, omission or alteration, it shall approve the consolidated voters' roll.
- (c) Such consolidated voters' roll as approved shall forthwith be certified and signed by the presiding officer of such court and shall, subject to the provisions of regulation 8, thereupon be the new voters' roll for the transitional authority concerned until a new voters' roll has been

lawfully made.

- (6) Where a consolidated voters' roll is prepared in terms of subregulation (1)(a) the serial number allocated to a name on a roll in terms of regulation 3(5)(a)(i) or 12A(5)(a)(i) shall be retained with such name in any consolidation and in any division of such consolidation into any part.
- (7) The provisions of regulations 7(2) to (4) inclusive shall apply mutatis mutandis to such certified voters' roll.
- (8) The voters' roll officer shall divide such certified voters' roll into parts in accordance with the provisions of regulation 3(6).

Corrections to Roll

- 12G (1) Notwithstanding the provisions of regulations 4, 6 or 12D, the revision court appointed in terms of regulation 12C may at any time after consultation with the voters' roll officer amend the voters' roll prepared or signed and certified in terms of regulation 6 or 7(1) respectively or the supplementary roll prepared or signed and certified in terms of regulation 12D or 12E(1) respectively :
- (a) by deleting from such roll in respect of any claimant or voter a second or subsequent entry repeating the same identity number, name, address, and the basis of qualification or entitlement : Provided that the provisions of regulation 6(3)(a)(ii) shall apply mutatis mutandis;
- (b) by amending the spelling or a number relating to a voter or claimant on the roll in such manner that such spelling or number conforms to the

spelling or number on the claim which was the basis of enrolment of that voter or claimant.

(2) Any deletion or amendment made in terms of subregulation (1) above shall be made not later than 10 October 1995 and shall be certified, signed and dated on the applicable roll by the presiding officer of the revision court at the time it is made.

(3) Where any such deletion or amendment is made and certified after the division of a voters' roll into parts in terms of regulation 3(6), the voters' roll officer shall ensure that every such applicable part is amended accordingly and shall make an endorsement in his or her name against every such deletion or amendment.

12H Nothing herein contained shall be construed as permitting or requiring the use of a supplementary voters' roll or a claim submitted in respect thereof on the use of a consolidated voters' roll for the purposes of any ward delimitation or nomination of a candidate or registration of a party in terms of these regulations.

Amendment to Regulation 12

Regulation 12(a) is hereby amended by the substitution thereof of the following :

12 (a) furnishes any false information in any claim or objection lodged in terms of regulation 3, [or] 4, 12A or 12B or in regard to any particulars required for the making of a voters' roll or a supplementary voters' roll;

Amendment to Regulation 13

Regulation 13 is hereby amended by the deletion of 13(2) :

[(2) Any delimitation or determination contemplated in subregulation (1)(a), (b) or (c) may from time to time, but not later than a date three months prior to the day determined by the Minister as contemplated in section 9(1) of the Act, be reviewed by the Premier in accordance with the provisions of subregulation (1).]

Amendment to Regulation 21

Regulation 21(1)(e) is hereby amended by the substitution thereof of the following :

21 (1) (e) he or she is an employee of the [transitional authority] local government concerned or any other [transitional authority] local government :
Provided that the [Executive Council] Premier contemplated in section 149 of the Constitution may exempt any such person if satisfied that such exemption is in the public interest and proof of such exemption accompanies the nomination.

Amendment to Regulation 25

Amend the further proviso to regulation 25 as follows :

"Provided that where the rejection is in terms of paragraphs (a), (c), (d), (e), or (f), the returning officer shall in writing grant the party the opportunity to rectify the defect by not later than 16:00 on 19 September 1995, by supplying to such officer the rectified information or address or deposit or substituting another name or names or qualified persons or making other rectifications, as the case may be, and upon due compliance therewith, the returning officer shall approve the application and register the party : Provided further that where a party fails to rectify a defect in terms of subparagraph

(d), (e), or (f) only, or where form ER4 in respect of a candidate is not submitted in terms of regulation 24(1)(b)(vi), the returning officer shall reject the person or persons or, subject to the provisions of regulation 90(1)(e)(iii), the distinguishing mark or symbol concerned, and shall otherwise approve the application and register the party.

Amendment to Regulation 26

Regulations 26(2) is hereby amended by the substitution thereof of the following :

26 (2) At noon on nomination day the returning officer shall, at the place of nomination referred to in regulation 23(1)(e), publicly declare :

(a) the names of the parties whose nominations have been rejected in terms of regulation 25;

(b) the name of any party whose nomination is the only nomination accepted and the name or names of the person or persons taken from the list of the aforesaid party in terms of regulation 75(3) and who are, in terms of subregulation (4), deemed to have been duly elected;

~~[(b)]~~ (c) the names of the parties whose nominations have been accepted and in respect of which a vote will be held;

~~[(c)]~~ (d) the names of the accepted candidates on the party list of each party in paragraph (b) and (c); and

~~[(d)]~~ (e) display the distinguishing mark or symbol of each party, if any, accepted by the returning officer or adjudicated by the election committee in terms of regulation 90(1)(e)(iii).

Regulation 26 is hereby amended by the insertion after regulation 26(3) of the following regulations :

26 (4) (a) Where the application and registration of only one party has been approved and the nomination of such party is declared in terms of this regulation, a vote shall not be held on election day in respect of such party and the total number of seats to be filled by proportional representation shall be deemed to be the number of seats determined for such party in terms of regulation 75(1) and (2).

(b) If the number of persons on the list of candidates for such party is less than the number of seats to be filled in accordance with paragraph (a), the number of seats to be filled by proportional representation shall be deemed to be the number of seats which can be filled from such list and any vacancies shall remain unfilled until the next election of the council concerned takes place.

(5) Where no application has been approved and no registration has been made in respect of any party, the returning officer shall make a declaration that no nomination has been accepted, and a by-election shall be held within 90 days from the date of the election substantially in the manner provided in these regulations for the holding of elections.

Amendment to Regulation 29

Regulations 29(4)(d) and 29(5)(g) is hereby amended by the substitution therefor of the following:

29 (4) (d) the name [of the] if any, supplied in writing by the Premier to such returning officer, identifying any traditional leader of a community observing a system

of indigenous law and residing on land within the area of jurisdiction of the transitional authority who is ex officio a member of the council; and

- 29 (5) (g) distinguishing marks or symbols which are identical or which are not clearly and easily distinguishable [; and] , save where all proposed candidates submitting such marks or symbols agree in writing to the joint use thereof; and

Amendment to Regulation 31

Regulation 31(3)(a) is hereby amended by the substitution therefor of the following :

- 31 (3) (a) The returning officer shall where appropriate designate one election officer or

more as a deputy returning officer, presiding officer, deputy presiding officer, voting officer, translation officer or voter's assistant contemplated in subregulation (4), counting officer, and/or other election officer : provided that any election officer may be given more than one designation.

Amendment to Regulation 41

Regulation 41(8) is hereby amended by the substitution thereof of the following :

Certain Powers in Respect of Voting Area

- 41 (8) The presiding officer appointed to a voting station shall have the power to :

- (a) take such steps and give such directions as may be necessary for the orderly conduct of voting and the effectual conduct of the election and compliance with these regulations, including control of the number of voters to be admitted at a time to the voting station and the inner perimeter; [and]

(b) exclude or evict from the voting station and the inner perimeter all persons except those permitted in terms of regulation 42[.]; and

(c) exclude or evict from the voting station and the inner perimeter any person who is in possession of any firearm other than a police officer on duty.

Regulation 41(11) is hereby amended by the substitution thereof of the following :

41 (11) The powers conferred by subregulation (8)(a) and (b), (9) and (10) shall not be so exercised as to prevent any person who is entitled to vote from having an opportunity to cast his or her vote.

Regulation 41 is hereby amended by the insertion after regulation 41(14)(b) of the following regulation :

41 (15) (a) Subject to the provisions of subparagraph (b) the returning officer for a district council, transitional representative council or transitional rural council may with the concurrence of the transitional authority concerned designate a building or structure within that transitional authority for the purposes of a voting station or combined voting station or place of counting for an election in respect of such council.

(b) The provisions of regulation 41(13)(b), (c) and (14) shall apply mutatis mutandis to any such designation : Provided that where there is no Election Committee in respect of such council any reference thereto shall be construed as a reference to the Premier.

Amendment to Regulation 56

Regulations 56(1)(b) is hereby amended by the substitution thereof of the following :

56 (1) (b) when inside such compartment without delay secretly place a cross or clear mark of intention by means of mark or writing other than a cross on the ballot paper [in the square opposite the name and symbol of the candidate for whom he or she wishes to vote in a ward election, and on the ballot paper in the square opposite the name and symbol of the party for which he or she wishes to vote in the election according to proportional representation;]

(i) in the case of an election according to proportional representation in the square opposite the name and symbol of the party for which he or she wishes to vote; and

(ii) in the case of a ward election which has one vacancy in the square opposite the name and symbol of the candidate for whom he or she wishes to vote; or.

(iii) in the case of a ward election which has more than one vacancy, in the

square opposite the name and symbol of one or more candidates for whom he or she wishes to vote but not exceeding the number of vacancies in such ward election.

Amendment to Regulation 65

Regulations 65(a) is hereby amended by the deletion of the following :

65 The returning officer shall take into the place for the counting

of votes :

- (a) a copy of the Act; [the Constitution; the Electoral Act, 1993 (Act 202 of 1993);] and these regulations;

Amendment to Regulation 73

Regulations 73(1)(a) is hereby amended by the substitution thereof of the following :

73 (1) (a) [ascertain which candidate or candidates has or have been elected by a majority of votes;]

(i) in the case of a ward election which has one vacancy ascertain which candidate has been elected by a majority of votes; and

(ii) in the case of a ward election which has more than one vacancy ascertain which candidates have been elected by establishing :

(aa) the number of vacancies;

(bb) the number of votes cast for each candidate in sequence of descending numerical order;

and by designating one vacancy to each candidate in such sequence until all vacancies for that ward have been so designated;

Regulations 73(1)(e) is hereby amended by the substitution thereof of the following :

73 (1) (e) thereafter transmit such report or form or forms as the Premier may prescribe in writing to such place or places and in such manner as the Premier may require; and

~~[(e)]~~(f) in any instance where the returning officer is not the chief executive, deliver a certified copy of completed applicable form ER26 to the chief executive.

Amendment to Regulation 76

Regulations 76(1)(d) is hereby amended by the substitution thereof of the following :

76 (1) (d) thereafter transmit such report or form or forms as the Premier may prescribe in writing to such place or places and in such manner as the Premier may require; and

~~[(d)]~~(e) in any instance where the returning officer is not the chief executive, deliver a certified copy of completed applicable forms ER26 to the chief executive.

Amendment to Regulation 90

Regulations 90(1)(a) is hereby amended by the substitution thereof of the following :

90 (1) (a) A transitional authority shall establish an election committee not later than 31 May 1995 which will function [for such period as the transitional authority or Premier may determine but in any event not later than 23:59 on the day immediately preceding the date contemplated by section 9(1) of the Act.] until 23.59 on the day of the election for such transitional authority or such later date as may be determined by the Premier.

Amendment to Regulation 93

Regulations 93(2)(a) and (b) are hereby amended by the substitution thereof of the following :

93 (2) (a) In the case of a transitional local council :

Returning Officer	:	1 - 10 000 registered voters	R 400,00
	:		
	:	10 001 - 50 000 registered voters	R 600,00
	:	50 001 - 100 000 registered voters	R 800,00
	:	100 001 - 250 000 registered voters	R 1 000,00
	:	250 001 upwards registered voters	R 1 250,00
Deputy Returning Officer	:	70% of the above	
Presiding Officer	:		R 240,00
<u>Deputy Presiding Officer</u>	:		<u>R 200,00</u>
Any other Election Officer	:		R 160,00
Counting Officer	:		R 120,00

(b) In the case of a transitional metropolitan substructure :

Returning Officer	:	R 1 500,00
Deputy Returning Officer	:	R 1 000,00
Presiding Officer	:	R 320,00
Deputy Presiding Officer	:	R 240,00
<u>Deputy Presiding Officer</u>	:	<u>R 200,00</u>
Any other Election Officer	:	R 160,00
Counting Officer	:	R 120,00

Amendment to Regulation 95

Regulation 95(1) is hereby amended by adding the following new regulation after regulation 95(1)(f) :

95 (1) (f) Where a returning officer, voters' roll officer or any election officer dies, resigns, becomes incapacitated or otherwise absents himself or herself from

the performance of his or her functions, power or duties,

and the transitional authority or returning officer does not or cannot immediately replace or re-appoint such officer, the Premier may forthwith authorise or appoint any authority, body or person to the position of such returning officer, voters' roll officer or election officer.

Amendment to Regulation 102

Regulation 102 is hereby amended by the substitution thereof of the following :

Infringement of Secrecy

102 Any person who :

- (a) contravenes regulation 52 or 99;
- (b) unlawfully attempts to ascertain or directly or indirectly aids any other person to ascertain for which candidate or candidates or party any person intends to vote or has voted;
- (c) directly or indirectly induces or attempts to induce any person to whom a ballot paper has been issued to display his or her ballot paper after he or she has marked it, in such a manner as to disclose the name or names of the candidate or candidates or party for whom he or she has voted;
- (d) places upon any ballot paper, other than the ballot paper issued to him or her, any mark or writing whereby the person who records his vote thereon may be identified;
- (e) except in reply to a question lawfully put to him or her in the course of proceedings in a competent court, discloses or communicates any information he or she may have obtained as to the candidate or candidates or party for whom a vote has been given on any ballot paper;

(f) unlawfully breaks the seal or fastening on or in any other manner opens or removes any of the contents of a ballot box, parcel or envelope referred to in regulations 56(2), 62, 72 or 73,

shall be guilty of an offence.

Regulation 110

Regulation 110(1)(g) is hereby amended by the substitution thereof by the following :

110 (1) (g) other than a police officer on duty, enters or remains in a voting station or the inner perimeter of a voting area in possession of a firearm;

[(g)](h) contravenes or fails to comply with the provisions of regulations 12, 91 or 100(a); or

[(h)](i) commits any contravention of these regulations,

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