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GOVERNMENT NOTICE

DEPARTMENT OF CONSTITUTIONAL DEVELOPMENT

No. R. 1764 **7 November 1995**

LOCAL GOVERNMENT TRANSITION ACT, 1993
(ACT No. 209 OF 1993)

REGULATIONS REGARDING THE ELECTION OF CERTAIN MEMBERS OF TRANSITIONAL METRO- POLITAN COUNCILS AND DISTRICT COUNCILS

The Minister of Provincial Affairs and Constitutional Development has, under section 12 of the Local Government Transition Act, 1993 (Act No. 209 of 1993), made the regulations in the Schedule.

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Local Government Transition Act, 1993 (Act No. 209 of 1993), shall have such meaning and, unless the context otherwise indicates—

“**list**” means a list of one or more members of a transitional authority nominated in order of preference by a party or a member of such transitional authority;

“**party**” means any party which has been registered in terms of the regulations made under section 9 of the Act to participate in the local government elections and is represented on a transitional authority;

“**presiding officer**” means the presiding officer of a transitional authority nominated in terms of regulation 3 (1) (a);

GOEWERMENTSKENNISGEWING

DEPARTEMENT VAN STAATKUNDIGE ONTWIKKELING

No. R. 1764 **7 November 1995**

OORGANGSWET OP PLAASLIKE REGERING, 1993
(WET No. 209 VAN 1993)

REGULASIES BETREFFENDE VERKIESING VAN SEKERE LEDE VAN METROPOLITAANSE OOR- GANGSRADE EN DISTRIKSRADE

Die Minister van Provinsiale Sake en Staatskundige Ontwikkeling het kragtens artikel 12 van die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993), die regulasies in die Bylae uitgevaardig.

BYLAE

Woordomskrywing

1. In hierdie regulasies het enige woord of uitdrukking waaraan 'n betekenis in die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993), geheg word, sodanige betekenis en tensy uit die samehang anders blyk, beteken—

“**die Wet**” die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993);

“**kwota van stemme per setel**” die resultaat van die totale aantal lede van 'n oorgangsowerheid gedeel deur een plus die totale aantal setels wat deur sodanige oorgangsowerheid op die betrokke metropolitaanse oorgangsraad of distriksraad gevul moet word, plus een met die weglating van breukdele;

“**lys**” 'n lys van een of meer lede van 'n oorgangsowerheid genomineer in volgorde van voorkeur, deur 'n party of 'n lid van sodanige oorgangsowerheid;

"quota of votes per seat" means the result of the total number of members of a transitional authority divided by one plus the total number of seats to be filled by such transitional authority on the transitional metropolitan council or the district council concerned, plus one disregarding fractions;

"the Act" means the Local Government Transition Act, 1993 (Act No. 209 of 1993);

"transitional authority" means, in relation to—

- (a) a transitional metropolitan council, a transitional metropolitan substructure within its area of jurisdiction; or
- (b) a district council, a transitional local council, transitional representative council or transitional rural council within its area of jurisdiction.

Application of Regulations

2. These regulations shall apply to the election of—

- (a) the sixty per cent of the members of the transitional metropolitan council referred to in paragraph 8 of Schedule 4 to the Act;
- (b) the members of a district council referred to in section 9D (1) (b) (i) of the Act,

by one or more transitional authorities from amongst their members.

Election of certain members of transitional metropolitan councils or district councils

3. (1) (a) Subject to regulation 4, whenever an election contemplated in regulation 2 has to take place, the transitional authority concerned shall nominate any person (whether or not he or she is a member of the transitional authority) as presiding officer for the purpose of this regulation.

(b) For the purpose of the election contemplated in regulation 2, the presiding officer shall, upon his or her nomination, convene a meeting of the transitional authority concerned, and call upon parties and members to prepare lists to be submitted at that meeting.

(c) The name of a member of a transitional authority shall not appear on more than one list.

(d) A party may submit only one list in respect of a transitional authority.

(2) (a) At the meeting of a transitional authority referred to in subregulation (1) (b), a vote shall be held in respect of all the lists submitted for that purpose and each member of the transitional authority shall have one vote which may be cast in favour of one list.

(b) The total number of votes cast in favour of each list shall be divided by the quota of votes per seat and the result shall, subject to subregulation (3), determine the number of seats to be allocated to that list.

"oorgangsowerheid" met betrekking tot—

- (a) 'n metropolitaanse oorgangsraad, 'n metropolitaanse oorgangsubstruktuur binne sy regsgebied; of
- (b) 'n distriksraad, 'n plaaslike oorgangsraad, verteenwoordigende oorgangsraad, of 'n landelike oorgangsraad binne sy regsgebied;

"party" enige party wat ingevolge die regulasies wat kragtens artikel 9 van die Wet uitgevaardig is, geregistreer is om deel te neem aan plaaslike regeringsverkiesings en op 'n oorgangsraad verteenwoordig is;

"voorsittende beampte" die voorsittende beampte van 'n oorgangsowerheid wat ingevolge regulasie 3 (1) (a) benoem is.

Toepassing van Regulasies

2. Hierdie regulasies is van toepassing op die verkiesing van—

- (a) die sestig persent van die lede van 'n metropolitaanse oorgangsraad bedoel in paragraaf 8 van Bylae 4 by die Wet;
- (b) die lede van 'n distriksraad bedoel in artikel 9D (1) (b) (i) van die Wet,

deur een of meer oorgangsowerhede vanuit hul lede.

Verkiesing van sekere lede van metropolitaanse oorgangsrade of distriksrade

3. (1) (a) Indien 'n verkiesing in regulasie 2 bedoel moet plaasvind, benoem die betrokke oorgangsowerheid behoudens regulasie 4, enige persoon (hetsy hy of sy 'n lid van die oorgangsowerheid is al dan nie) as voorsittende beampte vir doeleindes van hierdie regulasie.

(b) Vir doeleindes van die verkiesing in regulasie 2 bedoel, belê die voorsittende beampte, by sy of haar benoeming, 'n vergadering van die betrokke oorgangsowerheid, en versoek partye en lede om lyste voor te berei vir indiening by daardie vergadering.

(c) Die naam van 'n lid van 'n oorgangsowerheid verskyn nie op meer as een lys nie.

(d) 'n Party kan slegs een lys met betrekking tot 'n oorgangsowerheid indien.

(2) (a) By die vergadering van 'n oorgangsowerheid in subregulasie (1) (b) bedoel, word 'n stemming ten opsigte van al die lyste wat vir daardie doel ingedien is, gehou en elke lid van die oorgangsowerheid het een stem wat ten gunste van een lys uitgebring kan word.

(b) Die totale aantal stemme wat ten gunste van elke lys uitgebring is word verdeel deur die kwota van stemme per setel en die uitslag bepaal behoudens subregulasie (3), die aantal setels wat aan daardie lys toegeken word.

(3) Where the calculation in subregulation (2) yields a surplus, such surplus shall compete with similar surpluses accruing to any other list and any undistributed seat or seats shall be awarded to the list or lists concerned in sequence of the highest surplus.

(4) If the surplus for two or more lists is equal, the presiding officer shall determine by lot which of such lists shall be awarded the undistributed seat or seats.

(5) The names appearing on a list shall, according to the number of seats determined in terms of subregulations (2), (3) and (4), be taken from such list in the order of preference they appear on such list.

(6) If a list contains fewer names than the number of seats allocated to that list in terms of subregulations (2), (3) and (4), such list shall—

- (a) be allocated the number of seats in respect of names which appear thereon; and
- (b) forfeit any further seats in so far as no names appear thereon.

(7) If any seat is forfeited in terms of subregulation (6)—

- (a) a new quota of votes per any seat so forfeited shall be determined as follows:
 - (i) The total number of votes cast, minus those votes cast in favour of all lists forfeiting seats in terms of subregulation (6), shall be divided by the remaining number of seats plus one, still to be allocated to the other lists; and
 - (ii) the result plus one, disregarding the fractions, shall be the new quota; and
- (b) a new determination on the allocation of seats to such other lists shall be made *mutatis mutandis* in accordance with subregulations (2) (b), (3), (4) and (5).

(8) If an additional number of seats is allocated to a list in terms of subregulation (7) and that list does not contain a sufficient number of names, the procedure described in subregulations (6) and (7) shall be repeated until all the vacant seats have been filled.

(9) If a member of a transitional metropolitan council or a district council vacates his or her office before the expiry or his or her term of office, such vacancy shall be filled by the following name appearing on the list from which the name of the vacating member had been taken, and if such list contains no names or fewer names than the vacancies that are to be filled from such list, the provisions of subregulations (6), (7) and (8) shall apply *mutatis mutandis*.

(3) Indien die berekening in subregulasie (2) 'n surplus oplewer, ding sodanige surplus mee met soortgelyke surplusse wat aan enige ander lys toeval en enige ontoegekende setel of setels word toegeken aan die betrokke lys of lyste in volgorde van die hoogste surplus.

(4) Indien die surplus vir twee of meer lyste gelyk is, bepaal die voorsittende beampte by wyse van loting aan welke van sodanige lyste die ontoegekende setel of setels toegeken word.

(5) Die name wat op 'n lys verskyn word volgens die aantal setels wat ingevolge subregulasies (2), (3) en (4) bepaal is, van sodanige lys verwyder in die volgorde van voorkeur waarop hulle op sodanige lys verskyn.

(6) In die geval waar 'n lys minder name bevat as die getal setels wat ingevolge subregulasies (2), (3) en (4) toegeken is, sodanige lys—

- (a) met betrekking tot name wat daarop voorkom, die aantal setels toegeken word; en
- (b) vir sover geen name daarop voorkom nie, enige verdere setels verbeur.

(7) Indien enige setel ingevolge subregulasie (6) verbeur word—

- (a) word 'n nuwe kwota van stemme per setel wat so verbeur is, soos volg bepaal:
 - (i) Die totale aantal stemme uitgebring, minus daardie stemme wat ten gunste van alle lyste wat ingevolge subregulasie (6) verbeur is, word verdeel deur die aantal oorblywende setels plus een, wat nog aan die ander lyste toegeken moet word; en
 - (ii) die resultaat plus een, met die weglating van breukdele, is die nuwe kwota; en
- (b) 'n nuwe bepaling betreffende die toedeling van setels aan sodanige ander lyste word *mutatis mutandis* gemaak in ooreenstemming met subregulasies (2) (b), (3), (4) en (5).

(8) Indien 'n addisionele aantal setels ingevolge subregulasie (7) aan 'n lys toegeken is en daardie lys bevat nie 'n voldoende aantal name nie, word die procedure in subregulasies (6) en (7) beskryf herhaal tot dat al die vakante setels gevul is.

(9) Indien 'n lid van 'n metropolitaanse oorgangsraad of 'n distriksraad sy of haar amp ontruim voor die verstryking van sy of haar ampstermyn, word sodanige vakature gevul deur die volgende naam wat op die lys verskyn waarvan die naam van die ontruimende lid se naam geneem is, en in die geval dat die lys geen name of minder name as vakatures wat van sodanige lys gevul moet word bevat, is die bepalings van subregulasies (6), (7) en (8) *mutatis mutandis* van toepassing.

Election of single member of transitional metropolitan councils or district councils

4. (1) Notwithstanding regulation 2, if a transitional authority has only one seat on a transitional metropolitan council or a district council to be filled by an election contemplated in regulation 2, such seat shall be filled from members nominated by a party or a member of such transitional authority, and elected by a simple majority of all the members of such transitional authority.

(2) If a vacancy occurs in a seat of a member contemplated in subregulation (1) before the expiry of his or her term of office, such vacancy shall be filled in accordance with the provisions of subregulation (1).

Short title

5. These regulations shall be called the Election of Certain Members of Transitional Metropolitan Councils and District Councils Regulations, 1995.

Verkiesing van enkel lid van metropolitaanse oorgangsrade of distriksrade

4. (1) Indien 'n oorgangswerheid slegs een setel het wat op 'n metropolitaanse oorgangsraad of distriksraad, deur 'n verkiesing in regulasie 2 beoog, gevul moet word, word sodanige setel ondanks regulasie 2 gevul van lede genomineer deur 'n party of 'n lid van sodanige oorgangswerheid, en verkies deur 'n gewone meerderheid van al die lede van sodanige oorgangswerheid.

(2) Indien 'n vakature in 'n setel van 'n lid in subregulasie (1) beoog ontstaan, voor die verstryking van sy of haar ampstermyn, word sodanige vakature in ooreenstemming met die bepalings van subregulasie (1) gevul.

Kort titel

5. Hierdie regulasies heet die Regulasies Betreffende die Verkiesing van Sekere Lede van Metropolitaanse Oorgangsrade en Distriksrade, 1995.

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