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GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 794 OF 1998

ELECTORAL COURT

RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE
ELECTORAL COURT

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

SCHEDULE

Definitions

1. In these rules, a word to which a meaning has been assigned in the Act has that meaning and, unless the context otherwise indicates -

“Chairperson” means the Chairperson of the Court appointed in terms of section 19(1) of the Act;

“Court” means the Electoral Court established in terms of section 18 of the Act;

“day” means any day other than a Saturday, Sunday or public holiday;

“lodge” means serve copies on all parties and file the original with the Secretary;

“Secretary” means the Secretary of the Court, care of the registrar of the Supreme Court of Appeal, Bloemfontein; and

“the Act” means the Electoral Commission Act, 1996 (Act No. 51 of 1996).

Conduct of business

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

Composition of Court

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

Decisions of Court

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

Appeal proceedings

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

Review proceedings

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

Referral of a matter relating to interpretation of law

7. (1) A referral of a matter by the Commission relating to the interpretation of law in terms of section 20(6) of the Act must be in writing and lodged with the Secretary, who must submit it to the Court without delay.
- (2) The Commission must -
- (a) set out fully in its written submission -
 - (i) the provision or provisions of the law which need to be interpreted;
 - (ii) the facts of the matter, where appropriate;
 - (iii) its arguments and interpretation of such law and the arguments and interpretation of any party having an interest in the matter; and
 - (b) attach, if possible, any documents necessary to enable the Court to determine the matter.
- (3) Upon receipt of the written submission of the Commission, the matter must be dealt with in accordance with the directives of the Court.
- (4) The Secretary must inform the Commission in writing of the finding of the Court within three days thereof.

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

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

Written submissions

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

Failure to comply with time limits or directives of Court

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

Departure from rules

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

Procedure to apply when rules are silent

12. (1) A party who wishes to refer a matter to the Court and who is of the view that the rules do not address or adequately address a particular aspect must inform the Secretary accordingly without delay.
- (2) The Secretary, after having obtained the Court's directives, must inform the party concerned and other interested parties thereof without delay.
- (3) This rule does not affect the Court's authority to determine its own practice and procedures and make its own rules.
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KENNISGEWING 794 VAN 1998**VERKIESINGSHOF****REËLS WAT DIE VOER VAN DIE VERRIGTINGE VAN DIE VERKIESINGSHOF
REGULEER**

Die Verkiesingshof het, ingevolge artikel 20(3) van die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996), die reëls in die Bylae gemaak.

BYLAE**Woordomskrywing**

1. In hierdie reëls het 'n woord waaraan 'n betekenis in die Wet verleen is, daardie betekenis en, tensy uit die samehang anders blyk, beteken -

"dag" enige dag behalwe 'n Saterdag, Sondag of openbare vakansiedag;

"die Wet" die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996);

"Hof" die Verkiesingshof ingestel ingevolge artikel 18 van die Wet;

"indien" afskrifte aan alle partye beteken en die oorspronklike by die Sekretaris
laseer;

"Sekretaris" die Sekretaris van die Hof, per adres die griffier van die Hoogste
Hof van Appèl, Bloemfontein; en

"Voorsitter" die Voorsitter van die Hof aangestel ingevolge artikel 19(1) van die
Wet.

Bedryf van sake

2. Die Hof bedryf sy sake op die wyse deur die Hof bepaal en op die tye en plekke deur die Voorsitter bepaal met behoorlike inagneming van die behoefte aan die spoedige afhandeling van aangeleenthede.

Samestelling van Hof

3. Die Hof bestaan uit al sy lede: Met dien verstande dat indien 'n lid van die Hof nie in staat is om die pligte van sy of haar amp uit te voer nie of indien daar 'n vakature in die lidmaatskap van die Hof is, sal die Hof bestaan uit daardie lede wat in staat is om die pligte van hulle ampte uit te voer: Met dien verstande voorts dat die Hof nie uit minder as drie van sy lede sal bestaan nie.

Beslissings van die Hof

4. (1) Die beslissing van die meerderheid van die lede van die Hof is die beslissing van die Hof.
(2) Indien 'n lid van die Hof op enige stadium gedurende die verhoor van 'n aangeleentheid te sterwe kom, bedank of ongeskik raak om sy of haar pligte uit te voer, word die aangeleentheid deur die oorblywende lede, behoudens reël 3, beslis.

Appèlverrigtinge

5. (1) 'n Aansoek om verlof tot appèl teen 'n beslissing van die Kommissie word skriftelik gedoen en binne drie dae nadat die beslissing geneem is, ingedien.
(2) Die aansoek ingevolge subreël (1) moet die betrokke regspunte en die nodige inligting saaklik, gelykmatig en duidelik uiteensit om die Voorsitter in staat te stel om die aansoek te oorweeg.
(3) Die Sekretaris moet die party wat die aansoek gedoen het en die Kommissie onverwyld verwittig van die Voorsitter se beslissing rakende die aansoek.
(4) Indien verlof om appèl toegestaan word, moet die party wat die aansoek gedoen het en die Kommissie binne drie dae nadat hulle ingevolge subreël (3) ingelig is, volledige skriftelike betoë by die Sekretaris indien.

- (5) Die party wat 'n appèl indien, moet -
- (a) volledig in die skriftelike betoog uiteensit -
 - (i) die feite- en regsbevindinge, indien toepaslik;
 - (ii) die bevel of bevel waarteen die appèl aanhangig gemaak word; en
 - (iii) die gronde waarop sy kontensies berus; en
 - (b) indien moontlik, enige relevante oorkonde of notule van die betrokke verrigtinge aanheg.

Hersieningsverrigtinge

6. (1) 'n Party wat daartoe geregtig is en wat 'n beslissing van die Kommissie in hersiening wil neem, moet binne drie dae nadat die beslissing geneem is, 'n volledige skriftelike betoog by die Sekretaris indien.
- (2) Die Kommissie moet binne drie dae na ontvangs van die betoog in subreël (1) bedoel, 'n volledige skriftelike betoog by die Sekretaris indien.
- (3) Die party wat 'n aangeleentheid in hersiening neem, moet -
- (a) volledig in die skriftelike betoog uiteensit -
 - (i) die beslissing of beslissings wat hy hersien wil hê; en
 - (ii) die gronde daarvoor; en
 - (b) indien moontlik, enige relevante oorkonde of notule van die betrokke verrigtinge aanheg.

Verwysing van 'n aangeleentheid rakende uitleg van 'n wetsbepaling

7. (1) 'n Verwysing van 'n aangeleentheid deur die Kommissie rakende die uitleg van 'n wetsbepaling ingevolge artikel 20(6) van die Wet, moet skriftelik gedoen en by die Sekretaris ingedien word, wat dit onverwyld aan die Hof moet voorlê.
- (2) Die Kommissie moet -
- (a) volledig in sy skriftelike betoog uiteensit -
 - (i) die bepaling of bepalinge van die wet wat uitgelê moet word;
 - (ii) die feite van die aangeleentheid, indien toepaslik;
 - (iii) sy argumente en uitleg van sodanige wetsbepaling asook die argumente en uitleg van 'n party wat belang by die aangeleentheid het; en

- (b) indien moontlik, enige relevante dokumente wat nodig is om die Hof in staat te stel om die aangeleentheid te beslis aanheg.
- (3) By ontvangs van die skriftelike betoog van die Kommissie moet die aangeleentheid in ooreenstemming met die voorskrifte van die Hof hanteer word.
- (4) Die Sekretaris moet die Kommissie skriftelik in kennis stel van die bevinding van die Hof binne drie dae daarvan.

Ondersoek na wangedrag, ongeskiktheid of onbevoegdheid van 'n lid van die Kommissie

- 8. (1) 'n Bewering van wangedrag, ongeskiktheid of onbevoegdheid aan die kant van 'n lid van die Kommissie moet -
 - (a) skriftelik gedoen word en indien moontlik, van stawende getuienis vergesel wees; en
 - (b) by die Sekretaris ingedien word.
- (2) Die betrokke lid moet binne die tydperk deur die Hof voorgeskryf, skriftelik op die bewerings antwoord.
- (3) By ontvangs van die antwoord van die betrokke lid of na die verstryking van die tydperk deur die Hof voorgeskryf ingevolge subreël (2), moet die ondersoek in ooreenstemming met die voorskrifte van die Hof hanteer word.
- (4) Die Sekretaris moet onverwyld die skriftelike aanbeveling van die Hof en enige ander dokumente wat die Hof gepas ag, aan die Nasionale Vergadering voorlê.

Skriftelike betoë

- 9. Skriftelike betoë ingevolge hierdie reëls kan deur 'n party of 'n persoon behoorlik deur so 'n party gemagtig, voorberei word.

Versuim om aan tydsbeperkinge of voorskrifte van die Hof te voldoen

- 10. Versuim om aan die voorgeskrewe tydsbeperkinge of voorskrifte van die Hof te voldoen, sal, deur die blote feit daarvan, tot gevolg hê dat 'n party onder belet geplaas word, tensy die Hof by aanvoering van goeie gronde anders gelas.

Afwyking van reëls

11. (1) Die Hof kan, wanneer hy dit nodig ag, van hierdie reëls afwyk en gepaste alternatiewe voorskrifte gee.
- (2) In die bedryf van sy sake kan die Hof, wanneer hy dit gepas ag, onder andere -
- (a) verdere skriftelike betoë versoek;
 - (b) mondelinge betoog deur 'n party of 'n persoon behoorlik gemagtig deur so 'n party, toelaat;
 - (c) oorkondes of notules van verrigtinge versoek;
 - (d) voorgeskrewe tydperke verkort of verleng;
 - (e) gelas dat mondelinge getuienis oor spesifieke aangeleenthede aangehoor word; of
 - (f) 'n aangeleentheid vir verhoor verwys.

Prosedure vir aansoeke indien reëls swyg

12. (1) 'n Party wat 'n aangeleentheid na die Hof wil verwys en wat van mening is dat die reëls nie 'n besondere aspek aanspreek of behoorlik aanspreek nie, moet die Sekretaris onverwyld dienooreenkomstig inlig.
- (2) Na ontvangs van die Hof se voorskrifte, moet die Sekretaris die betrokke party en ander belanghebbende partye onverwyld daarvan in kennis stel.
- (3) Hierdie reël beïnvloed nie die Hof se gesag om sy eie praktyk en prosedures te bepaal en sy eie reëls te maak nie.
-



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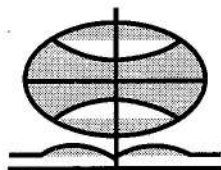
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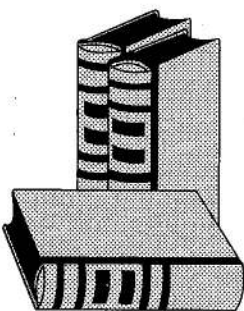
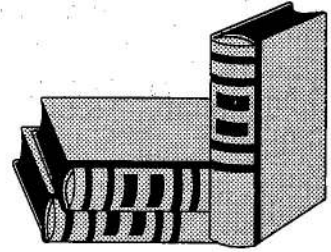
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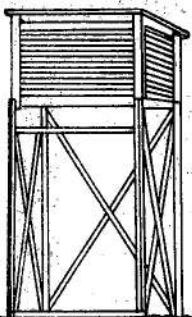
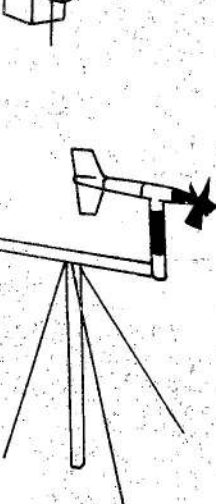
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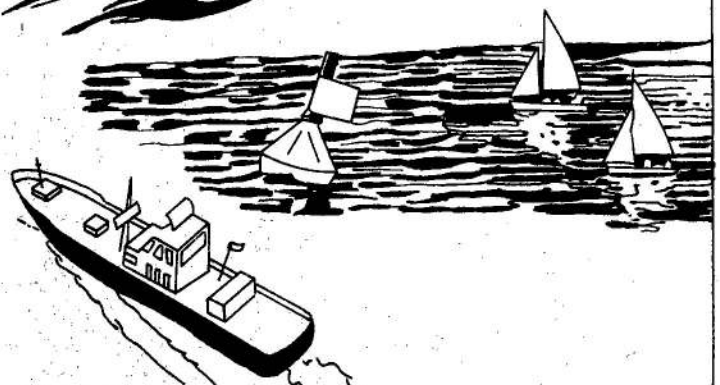
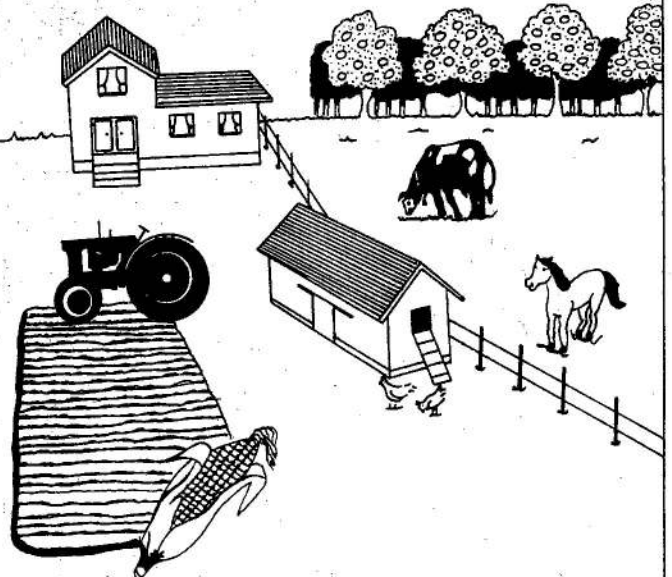
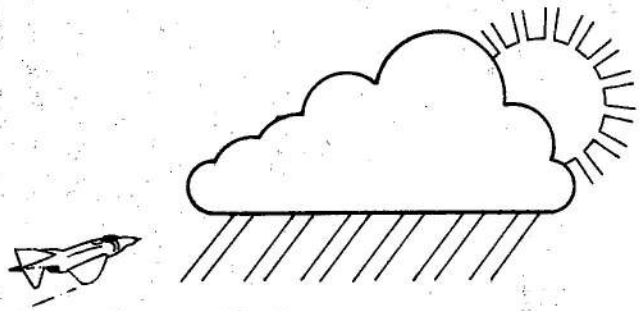
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