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GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1917. 10 Julie 1992

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

No. 129 van 1992: Wysigingswet op die Kieswet, 1992.

No. 1917. 10 July 1992

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

No. 129 of 1992: Electoral Amendment Act, 1992.

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

Tot wysiging van die Kieswet, 1979, ten einde 'n sekere omskrywing in te voeg en sekere ander omskrywings te skrap; die minimum tydperke wat moet verloop vanaf die dag waarop 'n proklamasie afgekondig is om nominasiedag en stembag by 'n verkiesing te bepaal en die dae aldus bepaal waarop nominasiedag en stembag val, te verkort; die voorsiening om per pos te stem, te skrap; die omstandighede waaronder spesiale stemme uitgebring kan word, verder te reël; die tydperk waarbinne spesiale stemme uitgebring kan word, te verkort; die tydperk waarbinne die Staatspresident 'n proklamasie moet uitvaardig ten einde 'n nuwe verkiesing te gelas vir die aanvulling van 'n vakature in die verteenwoordiging van 'n kiesafdeling van 'n Huis van die Parlement te verleng; en die tydperk waarbinne die Sekretaris van die Parlement by kennisgewing in die *Staatskoerant* moet verklaar dat 'n vakature in die verteenwoordiging van 'n kiesafdeling van 'n Huis van die Parlement ontstaan het, te verleng; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 2 Julie 1992.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 45 van 1979, soos gewysig deur artikel 8 van Wet 103 van 1984 en artikel 1 van Wet 92 van 1989

1. Artikel 1 van die Kieswet, 1979 (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur die omskrywing van “kieserskoevert” te skrap;
 - (b) deur die omskrywing van “‘kieser wat per pos stem’ of ‘kieser per pos’” te skrap;
 - (c) deur die omskrywing van “lys van ontvangende omslagkoeverte” te skrap;
 - (d) deur die omskrywing van “omslagkoevert” te skrap;
 - (e) deur die volgende omskrywing na die omskrywing van “openbare amp” in te voeg:
 - “ ‘openbare vervoermiddel’ ’n vervoermiddel wat—
 - (a) aan die Staat behoort; of
 - (b) onder kontrak namens die Staat vir die vervoer van passasiers of goedere gebruik word; of
 - (c) vir die vervoer van passasiers langs ’n vasgestelde roete binne, na of van die gebied van ’n plaaslike bestuur gebruik word;”;
 - en
 - (f) deur die omskrywing van “stembriefkoevert” deur die volgende omskrywing te vervang:

GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Electoral Act, 1979, so as to insert a certain definition and to delete certain other definitions; to shorten the minimum periods which have to expire from the day on which a proclamation is published to fix nomination day and polling day at an election and the days so fixed on which nomination day and polling day fall; to delete the provision to vote by post; to further regulate the circumstances under which special votes may be given; to shorten the period within which special votes may be given; to extend the period within which the State President shall issue a proclamation ordering a new election for the filling of a vacancy in the representation of an electoral division of a House of Parliament; and to extend the period within which the Secretary to Parliament shall by notice in the *Gazette* declare that a vacancy has occurred in the representation of an electoral division of a House of Parliament; and to provide for matters in connection therewith.

(Afrikaans text signed by the State President.)
(Assented to 2 July 1992.)

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 and section 1 of Act 92 of 1989

- 5 **1.** Section 1 of the Electoral Act, 1979 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the substitution for the definition of “ballot paper envelope” of the following definition:
- 10 “ ‘ballot paper envelope’ means an envelope referred to in section **[59(1)(d) or section]** 81(1)(d); ”;
- (b) by the deletion of the definition of “covering envelope”;
- (c) by the deletion of the definition of “list of covering envelopes received”;
- 15 (d) by the insertion after the definition of “presiding officer for votes of special voters” of the following definition:
- “ ‘public conveyance’ means a conveyance which—
- (a) is the property of the State; or
- (b) is used under contract to the State for the conveyance of passengers or goods; or
- 20 (c) is used for the conveyance of passengers along a fixed route within, to or from the area of a local authority; ”;
- (e) by the deletion of the definition of “voter’s envelope”; and

“ ‘stembriefkoevert’ ’n koevert bedoel in artikel [59(1)(d) of artikel] 81(1)(d);”.

Wysiging van artikel 34 van Wet 45 van 1979, soos vervang deur artikel 15 van Wet 92 van 1989

2. Artikel 34 van die Hoofwet word hierby gewysig deur subartikels (5) en (6) 5
deur die volgende subartikels te vervang:

“(5) Die kragtens subartikel (1)(a) bepaalde dag moet ’n dag wees wat nie
vroëer val nie as [21] 15 dae of later as 28 dae na die afkondiging van die in
genoemde subartikel bedoelde proklamasie.

(6) Die kragtens subartikel (1)(b) bepaalde dag moet ’n dag wees wat nie 10
vroëer val nie as [35] 20 dae of later as 45 dae na nominasiedag.”.

Herroeping van artikels 47, 49 tot en met 62, 66, 67 en 69 tot en met 80 van Wet 45 van 1979

3. Artikels 47, 49 tot en met 62, 66, 67 en 69 tot en met 80 van die Hoofwet word 15
hierby herroep.

Wysiging van artikel 81 van Wet 45 van 1979, soos gewysig deur artikel 57 van Wet 103 van 1984 en artikel 54 van Wet 92 van 1989

4. Artikel 81 van die Hoofwet word hierby gewysig deur in subartikel (1) die
woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Voor die datum [tien] sewe dae na die nominasiedag voorsien die 20
hoofverkiesingsbeampte elke voorsittende beampte vir stemme van spesiale
kiesers van—”.

Wysiging van artikel 81A van Wet 45 van 1979, soos ingevoeg deur artikel 55 van Wet 92 van 1989 en gewysig deur artikel 1 van Wet 112 van 1990

5. Artikel 81A van die Hoofwet word hierby gewysig deur subartikel (1) deur 25
die volgende subartikel te vervang:

“(1) Iemand wat op ’n kieserslys vir ’n afdeling geregistreer is en wat—

- (a) (i) weens sy afwesigheid uit die kiesafdeling;
- (ii) weens sy siekte of liggaamlike swakheid of liggaamlike gebrek of 30
hoë ouderdom of, in die geval van ’n vrou, haar swangerskap;
- (iii) vanweë die feit dat hy op ’n openbare vervoermiddel diens sal doen
of dat hy noodsaaklike hospitaal-, polisie- of brandweerpligte sal
verrig;

- (iv) vanweë die feit dat hy op ’n trein of ’n vaartuig sal wees;
- (v) behalwe onder die omstandighede in paragraaf (b) of (c) beoog, 35
vanweë die feit dat hy buite die Republiek sal wees,
te gener tyd op die stembag gedurende die stemure in staat sal wees om
’n stemburo te besoek nie;

- (b) in die Republiek gedomiseleer is en in diens is van die Staat of van ’n 40
statutêre liggaam soos omskryf in artikel 1(1) van die Skatkiswet, 1975
(Wet No. 66 van 1975), of van ’n instelling of liggaam bedoel in artikel
84(1)(f) van die Wet op Provinsiale Bestuur, 1961 (Wet No. 32 van
1961), en werksaamhede buite die Republiek verrig of aan die diens van
die regering van ’n ander land afgestaan is en, terwyl hy sodanige
werksaamhede verrig of aldus afgestaan is, op die stembag buite die 45
Republiek sal wees; of

- (c) die gade of kind is van ’n kieser in paragraaf (b) bedoel en, terwyl
bedoelde kieser sodanige werksaamhede verrig of aldus afgestaan is,
buite die Republiek by hom inwoon en op die stembag buite die 50
Republiek sal wees,

is geregtig om op die in artikel 82 voorgeskrewe wyse aansoek te doen om as
’n spesiale kieser te stem.”.

- (f) by the deletion of the definition of “‘voter voting by post’ or ‘voter by post’”.

Amendment of section 34 of Act 45 of 1979, as substituted by section 15 of Act 92 of 1989

- 5 2. Section 34 of the principal Act is hereby amended by the substitution for subsections (5) and (6) of the following subsections:

“(5) The day fixed under subsection (1)(a) shall be a day not less than **[21]** 15 days or more than 28 days after the publication of the proclamation referred to in the said subsection.

- 10 (6) The day fixed under subsection (1)(b) shall be a day not less than **[35]** 20 days or more than 45 days after the nomination day.”.

Repeal of sections 47, 49 up to and including 62, 66, 67 and 69 up to and including 80 of Act 45 of 1979

- 15 3. Sections 47, 49 up to and including 62, 66, 67 and 69 up to and including 80 of the principal Act are hereby repealed.

Amendment of section 81 of Act 45 of 1979, as amended by section 57 of Act 103 of 1984 and section 54 of Act 92 of 1989

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

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

Amendment of section 81A of Act 45 of 1979, as inserted by section 55 of Act 92 of 1989 and amended by section 1 of Act 112 of 1990

- 25 5. Section 81A of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any person who is enrolled on the voters’ list for any division and who—

- 30 (a) (i) because of his absence from the constituency;
 (ii) because of his illness or physical infirmity or physical disability or advanced age or, in the case of a female, her pregnancy;
 (iii) by reason of the fact that he will be employed on a public conveyance or that he will perform essential hospital, police or fire
 35 brigade service;
 (iv) by reason of the fact that he will be on a train or a vessel;
 (v) except under the circumstances contemplated in paragraph (b) or (c), by reason of the fact that he will be outside the Republic, will not be able to attend a polling station at any time during the polling hours on the polling day;
 40 (b) is domiciled in the Republic and is in the service of the State or of a statutory body as defined in section 1(1) of the Exchequer Act, 1975 (Act No. 66 of 1975), or of an institution or body referred to in section 84(1)(f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), and performs any functions outside the Republic or has been seconded
 45 to the service of the government of any other country and, while performing such functions or so seconded, will be outside the Republic on the polling day; or
 (c) is the spouse or child of a voter referred to in paragraph (b) and, while such voter performs such functions or is so seconded, resides with him
 50 outside the Republic and will be outside the Republic on the polling day,
 is entitled to make application in the manner prescribed in section 82 to vote as a special voter.”.

Wysiging van artikel 82 van Wet 45 van 1979, soos gewysig deur artikel 58 van Wet 103 van 1984 en artikel 56 van Wet 92 van 1989

6. Artikel 82 van die Hoofwet word hierby gewysig—

(a) deur subartikels (4) en (5) deur die volgende subartikels te vervang:

“(4) **[Geen sodanige aansoek word voor die tiende dag na die nominasiedag deur ’n aansoeker onderteken nie]** ’n Aansoek in hierdie artikel beoog, kan slegs vanaf die Dinsdag tot en met die Saterdag van die week wat die stemburg van die betrokke verkiesing onmiddellik voorafgaan, voltooi en onderteken word.

(5) Indien die aansoek nie later nie as nege-uur in die namiddag van die **[vierde dag voor die stemburg]** Saterdag bedoel in subartikel (4) deur ’n voorsittende beampte vir stemme van spesiale kiesers ontvang word, is die aansoeker geregtig op die uitreiking aan hom van ’n stemburg vir die stemming in die betrokke afdeling en om sy stem daar en dan uit te bring op die wyse in hierdie Wet ten opsigte van spesiale kiesers voorgeskryf: **[Met dien verstande dat indien ’n aansoeker nie later nie as twee-uur in die namiddag van die dag wat die stemburg onmiddellik voorafgaan sy aansoek om as ’n spesiale kieser te stem persoonlik by enige voorsittende beampte vir stemme van spesiale kiesers in die afdeling waarin hy geregtig is om te stem, inlewer, hy soos voormeld geregtig is op die uitreiking aan hom van ’n stemburg om sy stem daar en dan uit te bring].**”; en

(b) deur subartikel (6) te skrap.

Wysiging van artikel 83 van Wet 45 van 1979, soos gewysig deur artikel 59 van Wet 103 van 1984 en artikel 57 van Wet 92 van 1989

7. Artikel 83 van die Hoofwet word hierby gewysig deur die voorbehoudsbepaling by paragraaf (a) van subartikel (1) deur die volgende voorbehoudsbepaling te vervang:

“Met dien verstande dat elke kiesbeampte, binne die afdeling waarvoor hy aangestel is, ’n stemburg vir die uitbring van spesiale stemme moet instel, ten einde kiesers in staat te stel om ingevolge die bepalings van hierdie Wet **[, en behoudens die bepalings van artikel 82(5),]** as spesiale kiesers te stem tot nege-uur in die namiddag **[vanaf die tiende dag na die nominasiedag tot twee-uur in die namiddag van die dag wat die stemburg onmiddellik voorafgaan]** van elkeen van die dae bedoel in artikel 82(4).”.

Vervanging van artikel 85 van Wet 45 van 1979

8. Artikel 85 van die Hoofwet word hierby deur die volgende artikel vervang:

“Vorm van stemburg vir spesiale kiesers

85. Stemburg aan spesiale kiesers uitgereik, het, behalwe vir sover artikel 81 anders bepaal, dieselfde vorm en is van dieselfde kleure as dié **[aan ander kiesers uitgereik]** in Bylae 1 voorgeskryf, maar in plaas van die offisiële merk **[bedoel in artikel 57]** wat op die agterkant van die stemburg gemerk moet word, plaas die voorsittende beampte vir stemme van spesiale kiesers sy ampstempel en naamtekening op die agterkant van elke sodanige stemburg.”.

Wysiging van artikel 88 van Wet 45 van 1979, soos gewysig deur artikel 63 van Wet 103 van 1984 en artikel 61 van Wet 92 van 1989

9. Artikel 88 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) enige spesiale kieser wat volgens sy oordeel nie in staat is om ’n voorsittende beampte vir spesiale kiesers te besoek nie, te eniger tyd gedurende die tydperk vanaf sewe-uur in die voormiddag **[van die tiende dag na die nominasiedag tot en met twee-uur in die namiddag van die dag onmiddellik voor die stemburg]** tot en met

Amendment of section 82 of Act 45 of 1979, as amended by section 58 of Act 103 of 1984 and section 56 of Act 92 of 1989

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

(a) by the substitution for subsections (4) and (5) of the following subsections:

“(4) **[No such application shall be signed by an applicant prior to the tenth day after the nomination day]** ~~An application contemplated in this section may only be completed and signed from the Tuesday up to and including the Saturday of the week immediately preceding the polling day of the relevant election.~~

(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 **[fourth day preceding polling day]** Saturday referred to in subsection (4), the applicant shall be entitled to have a ballot paper for the poll in the relevant division 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 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 issued to him and to record his vote there and then.]**”; and

(b) by the deletion of subsection (6).

25 **Amendment of section 83 of Act 45 of 1979, as amended by section 59 of Act 103 of 1984 and section 57 of Act 92 of 1989**

7. Section 83 of the principal Act is hereby amended by the substitution for the proviso to paragraph (a) of subsection (1), of the following proviso:

“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]** of each of the days referred to in section 82(4).”.

Substitution of section 85 of Act 45 of 1979

8. The following section is hereby substituted for section 85 of the principal Act:

“Form of special voters’ ballot papers

85. Ballot papers issued to special voters shall, except in so far as is otherwise provided in section 81, be in the same form and of the same colours as those **[issued to other voters]** prescribed in Schedule 1, but instead of the official mark **[referred to in section 57 of]** that must be marked on the back of the ballot paper, the presiding officer for votes of special voters shall place his stamp of office and signature on the back of every such ballot paper.”.

Amendment of section 88 of Act 45 of 1979, as amended by section 63 of Act 103 of 1984 and section 61 of Act 92 of 1989

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

“(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 tenth day after the nomination day up to and including two o'clock in the afternoon of the day immediately**

nege-uur in die namiddag van elke dag bedoel in artikel 82(4), by enige adres op versoek van daardie kieser besoek om bedoelde kieser in staat te stel om as 'n spesiale kieser te stem;".

Wysiging van artikel 91 van Wet 45 van 1979, soos gewysig deur artikel 65 van Wet 103 van 1984 en artikel 63 van Wet 92 van 1989

5

10. Artikel 91 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die kiesbeampte maak **[op die datum elf dae na die nominasiedag]** nie later nie as op die stemdag, elke spesiale omslagkoevert wat deur hom **[voor]** tot en met daardie datum ontvang is, afsonderlik oop**[, en maak voorts elke spesiale omslagkoevert wat na daardie datum deur hom ontvang word, afsonderlik oop nie later as die dag na ontvangs daarvan nie]**.";

(b) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang:

"(a) stempel hy die datum van **[ontvangs]** daardie dag op die aansoek om as spesiale kieser te stem;"

(c) deur paragraaf (e) van subartikel (3) deur die volgende paragraaf te vervang:

"(e) as hy bevind dat die aansoek behoorlik voltooi en deur die aansoeker en die betrokke voorsittende beampte onderteken is en dat die naam van die aansoeker voorkom op die kieserslys van die afdeling waarvoor hy kiesbeampte is, aanvaar hy daardie aansoek as dit die enigste aansoek is wat deur hom ten opsigte van dieselfde kieser ontvang is **[of as dit die enigste aansoek is wat hy ingevolge artikel 75(4) in aanmerking moet neem]**, en plaas hy die betrokke stembrieffkoevert in die stembus vir spesiale kiesers, sonder om die waarheid van enige verklaring wat die aansoeker in sy aansoek doen of die bestaan van enige gronde wat die aansoeker uit hoofde van die bepalings van artikel 82(1) in sy aansoek vermeld, te bevraagteken, tensy hy, na oorlegpleging met die kandidaat of 'n agent van elke kandidaat en, indien dit na sy oordeel nodig is, ondersoek, oortuig is dat bedoelde verklaring nie waar is nie of dat bedoelde gronde nie bestaan nie.";

(d) deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Alle aansoeke om as spesiale kiesers te stem, deur 'n kiesbeampte ontvang en aanvaar, word deur hom bewaar en is oop vir kostelose insae deur kandidaat vir die betrokke afdeling of hul gemagtigde verteenwoordigers tot na afkondiging van die uitslag van die stemming, en daarna word daarmee gehandel soos in artikel **[79] 93B** bepaal."

Invoeging van artikels 91A en 91B in Wet 45 van 1979

11. Die volgende artikels word hierby in die Hoofwet na artikel 91 ingevoeg:

45

"Dood van spesiale kieser, voor begin van stemming

91A. (1) Indien 'n kandidaat of 'n agent van 'n kandidaat of 'n kieser in 'n afdeling by of voor die tel van die stemme, voor die kiesbeampte 'n beëdigde verklaring aflê of aan hom 'n sterftesertifikaat voorlê wat toon dat 'n kieser wat sy stem in daardie afdeling as 'n spesiale kieser uitgebring het, voor die begin van die stemming oorlede is, spoor die kiesbeampte, as hy oortuig is dat die afgestorwe persoon die persoon is wat sy stem as spesiale kieser uitgebring het, die stembrief op wat deur die afgestorwe persoon gemerk is en verwerp hy dit.

(2) Iemand wat in so 'n verklaring 'n valse bewering doen wetende dat die bewering vals is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R1 000 of met gevange-

preceding polling day] up to and including nine o'clock in the afternoon of every day referred to in section 82(4), at any address in order to enable that voter to vote as a special voter;".

Amendment of section 91 of Act 45 of 1979, as amended by section 65 of Act 103 of 1984 and section 63 of Act 92 of 1989

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

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

10 “(1) The returning officer shall **[on the date eleven days after the nomination day] not later than on the polling day** open separately every special covering envelope received by him **[prior] up to and including 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].**”;

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

 “(a) he shall stamp the date of **[receipt] that day** on the application to vote as a special voter;”;

 (c) by the substitution for paragraph (e) of subsection (3) of the following paragraph:

20 “(e) if he is satisfied that the application was properly completed and signed by the applicant and the presiding officer concerned and that the name of the applicant appears on the voters' list of the division for which he is the returning officer, he shall accept that application if it is the only application received by him in respect of the same voter **[or if it is the only application which in terms of section 75(4) shall be considered by him]** and place the ballot paper envelope concerned in the ballot box for special voters, without questioning the truth of the 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 82(1), unless after consultation with the candidates or an agent of every candidate and, if necessary in his opinion, investigation, he is satisfied that the said statement is untrue or that the said grounds do not exist.”; and

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

40 “(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 inspection by the candidates for the division concerned or their authorized 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] 93B.**”.

Insertion of sections 91A and 91B in Act 45 of 1979

45 11. The following sections are hereby inserted in the principal Act after section 91:

“Death of special voter, before commencement of poll

50 **91A.** (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 a special voter, 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 a special voter, shall trace and reject the ballot paper marked by the deceased person.

55 (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 R1 000 or to

nisstraf vir 'n tydperk van hoogstens 12 maande of met daardie boete sowel as daardie gevangenisstraf.

(3) Die kiesbeampte handel *mutatis mutandis* volgens voorskrif van subartikel (1) met betrekking tot 'n stembrief gemerk deur 'n kieser wat sy stem in die betrokke afdeling as 'n spesiale kieser uitgebring het, en ten opsigte van wie die hoofverkiesingsbeampte of 'n verkiesingsbeampte bedoelde kiesbeampte in kennis gestel het dat daardie kieser se naam uit die kieserslys van bedoelde afdeling geskrap is.

Spesiale kiesers nie geregtig om by stemburo's te stem nie

91B. 'n Kieser ten opsigte van wie 'n stembrief kragtens artikel 86 uitgereik of oorhandig is, is, behoudens die bepalings van artikel 96(9), nie geregtig om sy stem ten opsigte van die betrokke verkiesing by 'n stemburo uit te bring nie."

Vervanging van artikel 92 van Wet 45 van 1979, soos vervang deur artikel 64 van Wet 92 van 1989

12. Artikel 92 van die Hoofwet word hierby deur die volgende artikel vervang:

"Poslys van afgelewerde spesiale omslagkoeverte

92. (1) Die amptenaar in bevel van die poskantoor waaruit 'n spesiale omslagkoevert voor die sluiting van die stemming aan die kiesbeampte afgelewer is, stuur aan die kiesbeampte, nie later nie as 24 uur na die sluiting van die stemming, 'n lys waarin die posnommer van aantekening en kantoor van afsending van elke spesiale omslagkoevert wat hy aan die kiesbeampte laat aflewer het, aangegee word.

(2) Die lys van ontvangse spesiale omslagkoeverte lê, totdat met die tel van die stemme begin word, soos in artikel 104 bepaal, en tesame met die in subartikel (1) bedoelde lys, tot die afkondiging van die uitslag van die stemming, by die kantoor van die kiesbeampte ter kostelose insae deur kandidate vir die betrokke afdeling of hul gemagtigde verteenwoordigers."

Invoeging van artikels 93A, 93B, 93C en 93D in Wet 45 van 1979

13. Die volgende artikels word hierby in die Hoofwet na artikel 93 ingevoeg:

"Tel van stemme van spesiale kiesers

93A. Die kiesbeampte maak onmiddellik na nege-uur in die namiddag op die stemdag nadat hy nagegaan het of die in artikel 90(2) bedoelde seëls in orde is en hy die agente van die kandidate 'n geleentheid gegee het om dieselfde te doen, die aangenome ongeopende stembriefkoeverte oop, verwyder die stembriewe uit die stembriefkoeverte en tel die stembriewe en stemme deur spesiale kiesers op elke kandidaat uitgebring *mutatis mutandis* op die wyse by artikel 104 voorgeskryf, en deel die uitslag van die telling mee aan die kandidate en agente van kandidate wat aanwesig is: Met dien verstande dat die kiesbeampte te eniger tyd na nege-uur in die voormiddag op die stemdag na oorlegpleging met die kandidate, en nadat hy nagegaan het of bedoelde seëls in orde is en hy die agente van die kandidate 'n geleentheid gegee het om dieselfde te doen, die aangenome ongeopende stembriefkoeverte kan oopmaak en die stembriewe, sonder om hom te vergewis van die ampstempel en naamtekening op die agterkant daarvan, of dit te tel, in 'n verseëelde stembus kan plaas tot om onmiddellik na nege-uur in die namiddag op dieselfde dag, waarna daar ooreenkomstig bogenoemde bepalings met daardie stembriewe gehandel kan word.

imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

5 (3) The returning officer shall act *mutatis mutandis* as prescribed in subsection (1) with reference to any ballot paper marked by a voter who has voted in the division in question as a special voter, 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.

Special voters not entitled to vote at polling stations

10 **91B.** A voter in respect of whom a ballot paper has been issued or delivered in terms of section 86 shall, subject to the provisions of section 96(9), not be entitled to vote at a polling station in respect of the election in question.”.

15 **Substitution of section 92 of Act 45 of 1979, as substituted by section 64 of Act 92 of 1989**

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

“Postal list of special covering envelopes delivered

20 **92.** (1) The officer in charge of the post office from which any special covering envelope has been delivered to the returning officer before the close of the poll shall, not later than 24 hours after the close of the poll, send to the returning officer a list showing the postal registered number and office of origin of every special covering envelope which he has caused to be delivered to the returning officer.

25 (2) The list of special 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), until the declaration of the result of the poll, be open to inspection by the candidates for the division concerned or their authorized representatives at the office of the returning officer, without payment of any fee.”.

Insertion of sections 93A, 93B, 93C and 93D in Act 45 of 1979

35 13. The following sections are hereby inserted in the principal Act after section 93:

“Counting of votes of special voters

40 **93A.** 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 90(2) 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, and count the ballot papers and the votes cast by 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 forenoon on the polling day after consultation with the candidates, and after having examined whether the seals referred to are in order and having afforded the agents of the candidates an opportunity to do the same, open the accepted unopened ballot paper envelopes and place the ballot papers, without ascertaining whether the stamp of office and signature appears on the back thereof, 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.

Verseëling van sekere stukke in afsonderlike pakkette**93B. Die kiesbeampte verseël in afsonderlike pakkette—**

- (a) alle aanvaarde aansoeke om as spesiale kiesers te stem; en
- (b) alle verworpe aansoeke om as spesiale kiesers te stem, met die stembriefkoeverte (as daar is) daarby aangeheg.

5

Koeverte wat na sluiting van stemming ontvang word

93C. Wanneer spesiale omslagkoeverte na die sluiting van die stemming deur die kiesbeampte of ingevolge artikel 87(4) deur 'n voorsittende beampte ontvang word, maak die kiesbeampte bedoelde koeverte oop, gaan hy die inhoud na en verseël hy hulle in afsonderlike pakkette.

10

Verantwoordelikheid van kiesbeampte vir veilige bewaring van stukke

93D. (1) Die kiesbeampte is verantwoordelik vir die veilige bewaring van die in artikels 93B en 93C bedoelde verseëelde pakkette en van die in artikels 89, 91 en 92 bedoelde lysste, aansoeke en briewe.

(2) Die kiesbeampte behou genoemde pakkette (uitgesonderd pakkette wat teenblaai van stembriewe bevat), lysste en koeverte ongeopen vir 'n tydperk van een jaar vanaf die datum van die verkiesing, en daarna word, tensy die hof anders gelas, met genoemde pakkette, lysste en koeverte gehandel volgens voorskrif van die hoofverkiesingsbeampte.”.

15

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Wysiging van artikel 96 van Wet 45 van 1979, soos gewysig deur artikel 66 van Wet 103 van 1984 en artikel 68 van Wet 92 van 1989

14. Artikel 96 van die Hoofwet word hierby gewysig deur subartikel (9) deur die volgende subartikel te vervang:

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“(9) Die bepalings van hierdie artikel is *mutatis mutandis* van toepassing ten opsigte van **['n kieser wat per pos stem of]** 'n spesiale kieser wat 'n verklaring in die voorgeskrewe vorm onderteken met die strekking dat hy nie as 'n **[kieser wat per pos stem of]** spesiale kieser by die betrokke verkiesing gestem het nie.”.

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Wysiging van artikel 104 van Wet 45 van 1979, soos gewysig deur artikel 73 van Wet 103 van 1984 en artikel 76 van Wet 92 van 1989

15. Artikel 104 van die Hoofwet word hierby gewysig—

- (a) deur die voorbehoudsbepaling by subartikel (1) deur die volgende voorbehoudsbepaling te vervang:

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“Met dien verstande dat die kiesbeampte na oorlegpleging met die kandidate en ondanks andersluidende bepalings, kan gelas dat die tel van stemme van **[kiesers wat per pos stem en]** spesiale kiesers ingevolge artikel **[78] 93A**, die vergelyking van die gemerkte afskrifte van die kieserslys en die toets van die opgawes van stembriewe en die tel daarvan ingevolge hierdie artikel, gelyktydig moet plaasvind en dat hy vir dié doel twee addisionele agente vir elke kandidaat kan aanstel.”;

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- (b) deur subartikel (3) deur die volgende subartikel te vervang:

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“(3) Die kiesbeampte maak ook die verseëelde pakkette verklaringskoeverte oop, en indien dit by voormelde vergelyking van die gemerkte afskrifte van die kieserslysste blyk dat dieselfde persoon by twee of meer stemburo's stembriewe ontvang het of indien die kiesbeampte stembriewe ontvang het waarop dieselfde persoon sy stem as 'n **[kieser per pos of]** spesiale kieser uitgebring het, verwerp hy dadelik alle stemme wat deur daardie persoon deur middel van verklaringstembriewe uitgebring blyk te wees.”;

50

- (c) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Indien dit by voormelde vergelyking blyk dat iemand by 'n

Sealing up of certain documents into separate packets**93B.** The returning officer shall seal up in separate packets—

- (a) any accepted applications to vote as special voters; and
 (b) any rejected applications to vote as special voters, with the ballot paper envelopes (if any) attached thereto.

Envelopes received after close of poll

93C. Where special covering envelopes are received by the returning officer or in terms of section 87(4) by a presiding officer, after the close of the poll, the returning officer shall open such envelopes, check the contents and seal them up into separate packets.

Responsibility of returning officer for safe custody of documents

93D. (1) The returning officer shall be responsible for the safe custody of the sealed packets referred to in sections 93B and 93C, and of the lists, applications and letters referred to in sections 89, 91 and 92.

(2) The returning officer shall retain the said packets (not being packets containing counterfoils of ballot papers), lists and envelopes unopened for a period of one year from the date of the election, and thereafter the said packets, lists and envelopes shall, unless the court otherwise directs, be disposed of as directed by the chief electoral officer.”.

Amendment of section 96 of Act 45 of 1979, as amended by section 66 of Act 103 of 1984 and section 68 of Act 92 of 1989

14. Section 96 of the principal Act is hereby amended by the substitution for subsection (9) of the following subsection:

“(9) The provisions of this section shall *mutatis mutandis* apply in respect of 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 a **[voter voting by post or a]** special voter at the election in question.”.

Amendment of section 104 of Act 45 of 1979, as amended by section 73 of Act 103 of 1984 and section 76 of Act 92 of 1989

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

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

“Provided that the returning officer may, after consultation with the candidates and notwithstanding any provisions to the contrary, direct that the counting of votes of **[voters voting by post and]** special voters in terms of section **[78] 93A**, 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 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:

“(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 a **[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

