



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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GOVERNMENT NOTICE

No. 145 Promulgation of Electoral Amendment Act, 2003 (Act No. 7 of 2003), of the Parliament 1

Government Notice

OFFICE OF THE PRIME MINISTER

No. 145 2003

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 7 of 2003: Electoral Amendment Act, 2003.

EXPLANATORY NOTE:

_____ Words underlined with a solid line indicate insertions in existing provisions.

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

ACT

To amend the Electoral Act, 1992, so as to substitute and delete certain definitions; to adjust and further regulate certain provisions relating to the registration of voters; to revise a certain provision relating to the voting process at elections held simultaneously; to remove all provisions relating to wards; to substitute certain expressions; to make a consequential amendment to the Local Authorities Act, 1992; and to provide for matters incidental thereto.

(Signed by the President on 4 July 2003)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

Amendment of section 1 of Act No. 24 of 1992, as amended by section 3 of Act No. 3 of 1997, section 1 of Act No. 23 of 1994 and section 1 of Act No. 30 of 1998

1. Section 1 of the Electoral Act, 1992 (hereinafter referred to as the principal Act), is amended -

(a) by in subsection (1) -

(i) substituting the following definition for the definition of “application” :

“ ‘application’ in so far as a provision in which it is used is applied in relation to any applicant who -

(a) is entitled to vote at any election of the President, members of the National Assembly and any member of a regional council; or

(b) is entitled to vote at any election of **[any member]** members of a local authority council,

means the **[separate]** application form to be used **[for an election]** in respect of the elections referred to in paragraph (a) **[or]** and (b), **[as the case may be, submitted and]** completed **[by]** in respect of such applicant in accordance with the provisions of section 16(2);”;

(ii) substituting the following definition for the definition of “local authority voters’ register”:

“ ‘local authority voters’ register’ means the local authority voters’ register referred to in section 26(1)(a)(ii) for a local authority area **[or ward, as the case may be]**;”;

(iii) substituting the following definition for the definition of “party list”:

“ ‘party list’ -

- (a) in relation to any election of members of the National Assembly, means a list of candidates submitted by a political party under section 59(1);
- (b) in relation to any election of members of a local authority council required to be held on party lists under the Local Authorities Act, 1992, means a list of candidates submitted by a political party under section 68(1)[a];”;

- (iv) substituting the following definition for the definition of “provisional local authority voters’ register”:

“ ‘provisional local authority voters’ register’ means the provisional local authority voters’ register referred to in section 21(a)(ii) for a local authority area **[or ward, as the case may be]**”;

- (v) substituting the following definition for the definition of “registration card”:

“ ‘voter registration card’ in so far as a provision in which it is used is applied in relation to any person who -

- (a) is entitled to vote at any election of the President, members of the National Assembly and any member of a regional council; or
- (b) is entitled and qualified to vote at any election of **[any member] members** of a local authority council,

means the **[separate] original voter registration card [form]** to be used at an election referred to in paragraph (a) or (b), as the case may be, completed in respect of and issued to such person in terms of section 20 and complying with the provisions of subsection (2) of this section;”;

- (vi) deleting the definition of “registration form”;

- (vii) substituting the following definition for the definition of “registration number”:

“ ‘voter registration number’, in relation to a voter registration card in question, means the distinctive serial number appearing in accordance with the provisions of subsection (2) of this section on the **[registration form in question used for such] voter** registration card, and ‘number’ has a corresponding meaning, as the case may be;”;

- (viii) substituting the following definition for the definition of “supervisor of registration”:

“ ‘supervisor of registration’ means a supervisor of registration appointed under section 14(1)(a) **[for a constituency or local authority area, as the case may be]**”;

- (ix) substituting the following definition for the definition of “voter”:

“ ‘voter’ -

- (a) in relation to any election of the President, members of the National Assembly or any member of a regional council, means a person whose name is included in the national voters' register;
- (b) in relation to any election of **[any member]** members of a local authority council, means a person whose name is included in the local authority voters' register,

and who is entitled or qualified to vote at that election, and 'registered voter' has a corresponding meaning, as the case may be;"; and

- (x) deleting the definition of " ward "; and
- (b) by the substitution for subsection (2) of the following subsection:

"(2) For the purposes of the registration of voters under this Act, each voter registration card and application form shall -

- (a) contain a distinctive serial number which may include a letter or letters of the alphabet; and
- (b) consist of an original **[and duplicate]** only."

Substitution of section 2 of Act No. 24 of 1992

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

"Application of Act

2. This Act shall apply in respect of elections of the President, members of the National Assembly, any member of any regional council, and members of any local authority council and in respect of the registration of voters for such elections."

Substitution of section 13 of Act No. 24 of 1992, as amended by section 3 of Act No. 23 of 1994

- 3. The following section is substituted for section 13 of the principal Act:

"Persons entitled to register as voters

13. (1) Subject to subsection (2), every person who, by virtue of the provisions of Article 17(2) of the Namibian Constitution, is entitled to vote, shall be entitled to be registered as a voter -

- (a) in the case of an election of the President or of members of the National Assembly or of any member of a regional council, in respect of the constituency in which he or she is resident";;
 - (b) in the case of an election of members of a local authority council, in respect of the local authority area in which he or she is resident, but subject to Article 111(3) of the Namibian Constitution.
- (2) No person shall be entitled to be registered as a voter if -

- (a) he or she is subject to an order of a court declaring him or her to be of unsound mind or mentally disordered or defective; or
- (b) he or she is detained as a mentally ill person under the provisions of any law.

(3) For the purposes of the provisions of subsection (1) of this section and sections 16(1) and 80(4), a person shall be regarded as being resident in a constituency **[or ward]** if his or her home or the place where he or she normally lives and to which he or she returns regularly after any period of temporary absence is within such constituency **[or ward]**.”.

Amendment of section 14 of Act No. 24 of 1992, as amended by section 4 of Act No. 23 of 1994

4. Section 14 of the principal Act is amended -

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

“(1) The Commission shall appoint, for the purposes of the registration of voters in respect of the elections referred to in section 13(1), in respect of each constituency -

- (a) a person to act as supervisor of registration for that constituency and the local authority area or part thereof (if any) situated within the boundaries of that constituency, and to exercise and perform, subject to the direction and control of the Director, the powers, duties and functions conferred upon or assigned to him or her by this Act; and
- (b) one or more persons to act as registration officers for that constituency and the local authority area or part thereof (if any) situated within the boundaries of that constituency, and to perform, subject to the direction and control of the supervisor of registration concerned, the duties and functions assigned to him or her by this Act,

but where more than one local authority area or part thereof is situated within the boundaries of a constituency, the Commission shall appoint, in respect of that constituency, and for that constituency and each such local authority area or part thereof, the persons referred to in paragraphs (a) and (b), to so act.”;

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

(c) by the substitution for subparagraph (i) of paragraph (a) of subsection (4) of the following subparagraph:

“(i) who is not in the full-time service of the State, shall be entitled to the remuneration determined by the Commission, in consultation with the Director **[Permanent Secretary of the ministry referred to in section 11]**.”; and

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

- “(c) A notice under paragraph (b) may be signed on behalf of the Director by the supervisor of registration concerned [**for the constituency or local authority area in question**] , authorized by the Director to do so.”.

Amendment of section 16 of Act No. 24 of 1992, as amended by section 5 of Act No. 23 of 1994

5. Section 16 of the principal Act is amended -

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

“(1) When for the purposes of any general registration referred to in section 15, a period is determined under that section, any person who during that period is entitled or qualified to be registered as a voter shall, if he or she desires to be registered as a voter-

- (a) for the elections referred to in paragraph (a) of section 13(1) only, apply to any registration officer appointed in respect of the constituency in which he or she is resident, to be so registered;
- (b) for an election referred to in paragraph (b) of section 13(1) only, or for such election and the elections referred to in paragraph (a) of that section, apply to a registration officer appointed for both the constituency and local authority area in which that person is resident, to be so registered,

and he or she shall so apply, irrespective of whether or not his or her name has previously been included in a voters' register in terms of this Act or any other law.”.

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

“(2) A person who applies for registration in terms of subsection (1), shall -

- (a) appear in person before the registration officer concerned or any other official designated by such registration officer to have his or her photograph taken;
- (b) furnish such registration officer with the information necessary to complete the prescribed application form;
- (c) when required by such registration officer to do so, affirm, or on oath confirm, the declaration which appears on the application form and which is required to be made by the applicant; and
- (d) in the presence of such registration officer and in accordance with his or her instructions:
 - (i) sign the application form in question; or
 - (ii) if the applicant cannot, for any reason whatsoever, write or sign his or her name, place any fingerprint or mark as such registration officer may require, on that application form.”;

- (c) by the insertion after subparagraph (i) of paragraph (a) of subsection (4) of the following subparagraph:

“(iA) a Namibian passport;”;

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

“(iii) **[sworn]** statements under oath or affirmation made by two other persons having identified themselves to the registration officer concerned by producing any document referred to in subparagraph (i), (iA) or (ii) of this paragraph, in which proof of the identity of the first-mentioned person is furnished;”;

- (e) by the substitution for subparagraph (i) of paragraph (b) of subsection (4) of the following subparagraph:

“(i) submits to the registration officer concerned -

(aa) any document referred to in paragraph (a)(i) or (iA) of this subsection or any official certified extract from any official birth register in Namibia or any other country from which it appears that the applicant has reached the age of 18 years; or

(bb) a **[sworn]** statement under oath or affirmation made by either one of his or her natural parents declaring that he or she has reached the age of 18 years; or”;

- (f) by the substitution for subparagraph (iii) of paragraph (c) of subsection (4) of the following subparagraph:

“(iii) any official certified extract from any official birth register or any **[similar]** other official document referred to in paragraph (b)(i)(aa) of this subsection, from which it appears that the applicant was born in Namibia or that the applicant is a Namibian citizen; or”; and

- (g) by the substitution for the words preceding item (aa) of subparagraph (iv) of paragraph (c) of subsection (4) of the following words:

“**[sworn]** statements under oath or affirmation made by two other persons declaring that -”.

Substitution of section 18 of Act No. 24 of 1992, as amended by section 6 of Act No. 23 of 1994

6. The following section is substituted for section 18 of the principal Act:

“Refusal to register applicant

18. (1) A registration officer shall, after having completed the prescribed application form in accordance with the information furnished by the applicant in terms of section 16, refuse to register the applicant for any of the

elections in respect of which the applicant has applied in terms of that section, if the registration officer is not reasonably satisfied that the applicant, on the strength of his or her application, is entitled or qualified to be so registered.

- (2) If a registration officer refuses to register an applicant, he or she shall -
- (a) record the refusal on the application form and complete the prescribed refusal form; and
 - (b) furnish the applicant concerned with the application form accompanied by the refusal form and inform him or her that he or she may, in accordance with the provisions of section 19, appeal against the refusal to the magistrate referred to in that section.”.

Amendment of section 19 of Act No. 24 of 1992

7. Section 19 of the principal Act is amended -

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

“(1) Any person whose application for registration has been refused under section 18 and who desires to appeal against such refusal, may, on the day, at the time and place determined in terms of subsection (2) and of which he or she shall be notified in writing, appeal against such refusal to the magistrate designated for that purpose by the Permanent Secretary: Justice by notice in the *Gazette*, in respect of the constituency or local authority area, as the case may be, in respect of which such person has applied for registration, in the manner prescribed by subsection (3), but where such refusal relates to that person’s application for registration in respect of both a constituency and a local authority area, that person may so appeal against such refusal to the magistrate so designated in respect of both that constituency and local authority area.”;

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

“(b) submit the forms referred to in section 18(2)(b), to such magistrate;”;

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

“(8) The magistrate shall record his or her decision under subsection (7) on the relevant **[application]** refusal form.”;

- (d) by the substitution for subsection (9) of the following subsection:

“(9) If the magistrate dismisses the appeal, he or she shall keep the application and refusal forms in his or her office.”; and

- (e) by the substitution for subsection (10) of the following subsection:

“(10) If the magistrate allows the appeal, he or she shall forthwith refer the appellant to the registration officer concerned, and cause the application and refusal forms to be submitted to that registration officer.”.

Substitution of section 20 of Act No. 24 of 1992, as amended by section 7 of Act No. 23 of 1994 and section 6 of Act No. 30 of 1998

8. The following section is substituted for section 20 of the principal Act:

“Registration of applicant

20. (1) If the registration officer concerned does not under section 18 refuse to register an applicant, or if the applicant is a person referred to the registration officer concerned by the magistrate under section 19(10), the registration officer shall register, subject to the other provisions of this Part, the applicant in respect of the election for which he or she has so applied for registration as provided in section 16(1), by -

- (a) duly completing, in accordance with the information contained in the application form, the voter registration card affixed to such application form;
- (b) requiring the applicant -
 - (i) to sign the **[form]** voter registration card so completed in the space provided for that purpose; or
 - (ii) if the applicant cannot write his or her name, to place his or her fingerprint or, as the case may be, a mark placed by the applicant on the application form in accordance with the provisions of section 16(2)(d)(ii), on the voter registration card [form] in the space provided for that purpose or in accordance with the instructions of the registration officer concerned;
- (c) after the provisions of paragraphs (a) and (b) have been complied with, signing and thereafter laminating, in the manner determined by the Director, the voter registration card; and
- (d) after so signing and laminating that [form] voter registration card, issuing **[the original of]** that registration card to the applicant in respect of the election for which he or she has so applied.

(2) If the applicant is a person who has been referred to the registration officer by the magistrate under section 19(10), the registration officer concerned shall comply with the provisions of subsection (1) of this section even if he or she is not the registration officer who has refused the application in the first place.

(3) The application **[and duplicate registration card]** of a voter shall, as soon as is practicable after his or her registration in terms of subsection (1) be forwarded by the registration officer concerned to the supervisor of registration concerned [appointed for the constituency or for the local authority area in question, as the case may be].

(4) As soon as is practicable after the close of the period determined for the registration of voters referred to in section 15, the supervisor of registration concerned shall -

- (a) in the prescribed form compile, from the applications received in terms of subsection (3) from a registration officer or officers, a voters' list containing the names, residential addresses and voters' registration

numbers of all persons registered as voters, and the constituency or local authority area in respect of which those persons were registered, but shall in the prescribed form compile, in respect of any of those voters who have complied with subsection (3) of section 16 in the manner provided for in subsection (4)(a)(iii) of that section, a separate voters' list;

- (b) forward such voters' list to the Director to be dealt with in accordance with the provisions of section 21.”.

Amendment of section 21 of Act No. 24 of 1992, as amended by section 8 of Act No. 23 of 1994 and section 7 of Act No. 30 of 1998

9. Section 21 of the principal Act is amended -

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

“(a) in the prescribed form, cause to be prepared -

- (i) in respect of the voters registered in respect of a constituency, a provisional national voters' register; and
- (ii) in respect of the voters registered in respect of a local authority area, a provisional local authority voters' register,

in a manner *mutatis mutandis* in accordance with the provisions of paragraph (a) of that section “; and

- (b) by the substitution for paragraph (d) of the following paragraph:

“(d) furnish every political party or association or organization referred to in paragraph (c) [registered in terms of section 39] with copies of the voters' lists.”.

Amendment of section 22 of Act No. 24 of 1992

10. Section 22 of the principal Act is amended by the substitution for subsection (6) of the following subsection:

“(6) If an objection has been allowed under subsection (4) and a request for the submission of a statement of the case is not made under subsection (1) of section 23 within three days after the date on which the objection was allowed, or if so made, is refused in terms of paragraph (b) of that subsection, the relevant voter registration card issued to the respondent shall cease to be valid, and whereupon the magistrate concerned shall forthwith inform the Director accordingly and transmit that voter registration card [endorsed by him or her to the effect that it has ceased to be valid,] to the Director for cancellation.”.

Amendment of section 26 of Act No. 24 of 1992, as amended by section 9 of Act No. 23 of 1994 and section 9 of Act No. 30 of 1998

11. Section 26 of the principal Act is amended -

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

“(b) cause to be transmitted to every supervisor of registration appointed for -

- (i) a constituency, a copy of that part of the national voters’ register that relate to that constituency; or
- (ii) both a constituency and local authority area or part thereof, a copy of that part of the national voters’ register and of the local authority voters’ register that respectively relate to that constituency and that local authority area.”;

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

“(4) Upon the date of publication by the Commission of a notice referred to in paragraph (a) of subsection (3), every voters’ list and every provisional voters’ register shall cease to be of any force and effect, and thereupon the relevant voters’ register shall be the voters’ register for the respective constituencies or local authority areas **[or, where such areas have been divided as contemplated in paragraph (b) of that subsection, for the respective wards].**”; and

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

“(5) The Director shall, upon the publication of the notice contemplated in subsection (3)(a), provide every political party **[registered in terms of section 39]** with a copy of the voters’ register referred to in that subsection.”.

Amendment of section 28A of Act No. 24 of 1992, as inserted by section 11 of Act No. 23 of 1994 and amended by section 1 of Act No. 19 of 1999

12. Section 28A of the principal Act is amended -

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

“(a) in respect of a general registration of voters determined to take place -

- (i) under section 15(1), from the date of publication in the *Gazette* of the proclamation under that section;
- (ii) under section 15(1A), from 1 July 2003,

until the expiry of a period of 30 days from the date of publication in the *Gazette* of the notice contemplated in section 26(3)(a) in relation to such general registration, and shall be so suspended for the whole of Namibia; and”; and

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

“(ii) in the case of a by-election in terms of section 49(2), for every constituency **[or local authority area or, where applicable, ward]** in respect of which the by-election is held.”.

Substitution of section 29 of Act No. 24 of 1992, as substituted by section 12 of Act No. 23 of 1994

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

“Notification of change in place of residence

29. When there has been a change in the place of residence or home, with reference to a voter who has been registered in respect of a particular constituency or local authority area, and as a result thereof that voter is no longer entitled to the continuance of his or her registration in respect of that constituency or local authority area, the voter shall notify, for the purposes of section 32, as soon as is practicable after such a change, the Director thereof.”

Amendment of section 30 of Act No. 24 of 1992, as amended by section 13 of Act No. 23 of 1994

14. Section 30 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

“(1) A voter who, because of a change in his or her place of residence or home, becomes entitled or qualified to be registered as a voter in respect of any other constituency or local authority area, may, subject to subsection (1A), apply to the registration officer concerned in the form determined by the Director to be so registered and shall when so applying surrender to that registration officer the voter registration card previously issued to that voter in terms of section 20(1).”

Amendment of section 32 of Act No. 24 of 1992, as amended by section 14 of Act No. 23 of 1994

15. Section 32 of the principal Act is amended -

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

“adding the name, voter registration number and other particulars of any person -”;

(b) by the substitution for subparagraph (i) of paragraph (b) of subsection (1) of the following subparagraph:

“(i) who since his or her name was included in the register in question has ceased to be entitled to registration as a voter in respect of the particular constituency or local authority area under which his or her name appears in the national voters’ register or local authority voters’ register;”;

(c) by the substitution for subparagraph (iii) of paragraph (b) of subsection (1) of the following subparagraph:

“(iii) whose name was in terms of paragraph (a)(iii) added under another constituency or local authority area [of ward] in the register in question;”;

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

- “(c) transferring the name and other particulars of any person whose name was erroneously or contrary to the provisions of this Act included in the register in question, under any particular constituency or local authority area [**or ward**], to the appropriate constituency or local authority area [**or ward, as the case may be**];”;
- (e) by the substitution for paragraph (d) of subsection (1) of the following paragraph:
 - “(d) correcting any error on the register in question in the name, voter registration number or other particulars of a person, supplying any omission in such a name, number or particulars or recording any change in such name, number or particulars; or”;
- (f) by the substitution for paragraph (e) of subsection (1) of the following paragraph:
 - “(e) removing any superfluous entry in the register in question where the name of the same person appears more than once in that register [**or**].”;
 - and
- (g) by the deletion of paragraph (f).

Substitution of section 33 of Act No. 24 of 1992

16. The following section is substituted for section 33 of the principal Act:

“Return or surrender of voter registration cards

33. When the name, voter registration number and other particulars of any person -

- (a) are added to a relevant voters’ register in terms of the provisions of paragraph (a)(ii) of section 32(1), the Director shall, if no voter registration card has been issued to such person, issue or cause to be issued a voter registration card to such person or, if a voter registration card has already been surrendered by such person cause it to be returned to such person;
- (b) are removed from a voters’ register in question in terms of the provisions of paragraph (b) of that section, the Director shall request such person, if he or she is not a deceased person, by notice served upon such person, to surrender the voter registration card in question within a period determined by the Director and specified in such notice, to him or her or any supervisor of registration, registration officer or magistrate so specified;
- (c) are transferred in terms of the provisions of paragraph (c) of that section, the Director shall request such person by notice served upon such person, to surrender his or her voter registration card within the period so determined by the Director and specified in such notice, to him or her, any supervisor of registration, registration officer or magistrate so specified, in order to [**correct or complete the particulars on such registration card in accordance with the provisions of that paragraph;**] be issued with a new voter registration card containing the correct and complete particulars of such person.

- [(d) are compiled for the purposes of preparing the register in question in a manner referred to in paragraph (f) of that section, the Director may by notice in the *Gazette* request persons affected thereby, to surrender their registration cards within a period specified in such notice and at such places and to such persons as may be so specified, in order to correct or complete any particulars on such registration card in accordance with the provisions of that section, or to issue a new registration card.]”.

Substitution of section 37 of Act No. 24 of 1992, as substituted by section 16 of Act No. 23 of 1994

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

“Adjustment of voters’ registration on alteration of constituencies

37. (1) If by reason of any new determination or division of constituencies [or wards] in terms of this Act or any other law any portion of a constituency [or ward] as existing before the determination or division, is allocated to another constituency [or ward, respectively], the Director shall prepare from the current voters’ register in question which was prepared on the basis of the last previous determination or division, as amended from time to time in terms of the provisions of this Act, a voters’ register [of] on the altered constituencies [or wards, as the case may be].

(2) The relevant voters’ register prepared under subsection (1) shall come into operation on the date on which the alteration of the constituencies [or wards, as the case may be,] comes into operation at the next general election in respect of which the current voters’ register in question was prepared.

(3) The voters’ register prepared on the basis of the last previous determination or division referred to in subsection (1), shall be retained and shall be the relevant voters’ register to be used at any by-election in question until the alteration of the constituencies [or wards, as the case may be,] comes into operation at the next general election in question.”.

Amendment of section 49 of Act No. 24 of 1992

18. Section 49 of the principal Act is amended -

(a) by the substitution for paragraphs (c) and (d) of subsection (1) of the following paragraphs:

“(c) for the election of members of regional councils, on a date determined in accordance with the provisions of section 7 of the Regional Councils Act, 1992;

(d) for the election of members of local authority councils, on a date determined in accordance with the provisions of section 8 of the Local Authorities Act, 1992.”;

(b) by the deletion of subparagraph (iii) of paragraph (a) of subsection (2);

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

“(b) election of members of a local authority council dissolved in terms of the provisions of section 92(2)[(a)] of the said Local Authorities Act, 1992,”; and

- (d) by the substitution for the words following after paragraph (b) of subsection (3) of the following words:

“which is to take place before the date on which any general election of members of local authority councils is to be held as contemplated in section 8 of the said Local Authorities Act, 1992, shall, for all purposes, but without derogating from the provisions of that section, be deemed to be a general election for the local authority area in question on a date determined in accordance with the provisions of section 3(4A) or 92(4) [**3(4)(d) or 92(2)(b)**] of the said Local Authorities Act, 1992, as the case may be, in respect of that area [**or, where that area has been divided into wards, in respect of every ward in that area.**”

Amendment of section 50 of Act No. 24 of 1992, as amended by section 17 of Act No. 23 of 1994

19. Section 50 of the principal Act is amended -

- (a) by the substitution for subparagraphs (ii) and (iii) of paragraph (a) of subsection (1) of the following subparagraphs:

“(ii) for any member of any regional council in respect of each constituency in respect of which such an election is to take place;

(iii) for members of any local authority council, in respect of the local authority area in respect of which such an election is to take place,”;
and

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

“(5) For the purposes of this Act, any day determined for any election referred to in section 49(1)(c) and (d), (2)(a)(ii) [**and (iii)**] and (3), as the case may be, shall be deemed to be the polling day determined for such an election under the provisions of subsection (1)(b) of this section.”.

Amendment of section 51 of Act No. 24 of 1992, as amended by section 18 of Act No. 23 of 1994 and section 2 of Act No. 19 of 1999

20. Section 51 of the principal Act is amended -

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

“(iii) for members of a local authority council, for a local authority area,”;

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

“Provided that the same person may be appointed returning officer for a constituency and a local authority area [**or ward**] referred to in paragraph (a).”; and

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

“(a) Any person appointed under subsection (1) shall be entitled to remuneration or allowances or both remuneration and allowances, under such circumstances or on such basis or in respect of such services rendered by him or her and at such tariffs, as may from time to time be determined by the Commission, in consultation with the Director [**Permanent Secretary of the ministry referred to in section 11**].”.

Amendment of section 55 of Act No. 24 of 1992, as amended by section 21 of Act No. 23 of 1994

21. Section 55 of the principal Act is amended -

- (a) by the substitution for subparagraph (ii) of paragraph (d) of subsection (2) of the following subparagraph:

“(ii) there is submitted to the Chairperson of the Commission a list, not later than four o’ clock in the afternoon of the second day before the nomination day, containing the names, voters’ registration numbers and residential addresses of, and signed by, the persons supporting the nomination of such candidate referred to in paragraph (c)(ii) of section 54, and none of whom has already signed in support of any other candidate in respect of the election in question.”; and

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

“(c) If the nomination of a candidate is rejected in terms of section 57(4) or withdrawn in accordance with the provisions of subsection (4) of this section, the amount deposited by or on behalf of the political party or the person nominated as candidate shall, as soon as is practicable after the provisions of section 57(3) [**58(3)**] have been complied with, be returned to the depositor.”.

Substitution of section 67 of Act No. 24 of 1992

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

“Requirements for nomination as candidates for local authority council elections

67. A person shall not be nominated by a political party as a candidate on a list of candidates for a local authority council election, unless he or she -

- (a) qualifies to be a member of that local authority council as contemplated in section 7 of the Local Authority Act, 1992; and

- (b) is a member of that political party.”.

Substitution of section 68 of Act No. 24 of 1992, as amended by section 27 of Act No. 23 of 1994 and section 11 of Act No. 30 of 1998

23. The following section is substituted for section 68 of the principal Act:

“Submission of party lists

68. (1) A political party shall take part in the election for members of a local authority council by submitting to the returning officer for the local authority area in question, a list of candidates in writing at any time after the publication in the *Gazette* of the appropriate proclamation referred to in section 50(1)(a), but not later than 11h00 on the day determined in accordance with the provisions of that section.

(2) A list of candidates referred to in subsection (1) shall contain, subject to the provisions of this section and of section 67, the names, voters’ registration numbers and residential addresses of candidates, numbering not less than the number of members required to fill the seats in the local authority council in question to which the political party may become entitled in accordance with the provisions of section 91(1).

(3) The provisions of section 59(2), (4), (5) and (6) and of section 60 shall apply *mutatis mutandis* in relation to such list of candidates as if the election in question were an election for members of the National Assembly.”.

Repeal of section 69 of Act No. 24 of 1992

24. Section 69 of the principal Act is repealed.

Repeal of section 70 of Act No. 24 of 1992, as amended by section 28 of Act No. 23 of 1994

25. Section 70 of the principal Act is repealed.

Repeal of section 71 of Act No. 24 of 1992

26. Section 71 of the principal Act is repealed.

Repeal of section 72 of Act No. 24 of 1992

27. Section 72 of the principal Act is repealed.

Amendment of section 73 of Act No. 24 of 1992, as amended by section 29 of Act No. 23 of 1994

28. Section 73 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

“(1) The Commission shall for the purpose of facilitating the taking of a poll in any election, establish one or more polling stations at convenient places for a constituency or a local authority area, or for both a constituency and a local authority area or part thereof situated within the boundaries of that constituency.”.

Amendment of section 80 of Act No. 24 of 1992, as amended by section 34 of Act No. 23 of 1994

29. Section 80 of the principal Act is amended -

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

“(1) Subject to the provisions of this section, no person shall record his or her vote at any place other than at a polling station established, as the case may be, for the constituency or local authority area [**or where applicable, the ward**] in respect of which he or she is registered.”;

- (b) by the substitution for the words preceding subparagraph (i) of paragraph (a) of subsection (2) of the following words:

“Where, at an election for a member of a regional council or for members of a local authority council, any voter who is employed as a returning officer, presiding officer, polling officer, counting officer or police officer at such election and, by reason of such employment, will be unable to attend on any polling day at a polling station at which he or she is in accordance with subsection (1) or (4) required to record his or her vote, the returning officer for the constituency or local authority area [**or, where applicable, the ward**] in respect of which such voter is registered, shall -”; and

- (c) by the addition of the following subsection:

“(4) Where both the elections referred to in paragraph (b) of section 82A(1) are conducted simultaneously as contemplated in that section, a voter shall if he or she desires to record a vote in respect of -

- (a) an election for a member of a regional council only, record that vote at any polling station established for the constituency in respect of which or she is registered;
- (b) an election for members of a local authority council only, or for such election and the election referred to in paragraph (a), record that vote at the polling station established for both the constituency and local authority area in respect of which he or she is registered.”.

Amendment of section 82 of Act No. 24 of 1992, as amended by section 36 of Act No. 23 of 1994

30. Section 82 of the principal Act is amended -

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

“(3) No voter shall be permitted to vote in any election unless he or she produces his or her voter registration card for the election in question to the presiding officer or a polling officer.”;

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

“(a) by examining and by asking relevant questions relating to the particulars appearing on the voter registration card produced to him or her by a voter in terms of subsection (3) that -

- (i) the voter is the person whose name, photograph and other particulars appear on that voter registration card; and
- (ii) the voter registration card is a voter registration card officially issued to the voter in terms of the provisions of Part III;”

- (c) by the substitution for paragraph (c) of subsection (4) of the following paragraph:
- “(c) by reference to the list of unrecovered voter registration cards referred to in section 74(1)(b), whether the name of the voter, voter registration number or other particulars which appear on the voter registration card produced by the voter appear on that list.”;
- (d) by the substitution for paragraph (d) of subsection (5) of the following paragraph:
- “(d) If any person has in terms of paragraph (c) been prohibited from voting, the presiding officer shall endorse the relevant **[registration card produced by him or her]** voters’ register to the effect that such person was so prohibited.”;
- (e) by the substitution for subsection (6) of the following subsection:
- “(6) If, in accordance with the provisions of subsection (4)(c), the presiding officer or polling officer establishes that the name, voter registration number and other particulars which appear on the voter registration card produced by a voter appear on the list referred to in that subsection, the presiding officer or polling officer shall not permit such voter to vote by virtue of that voter registration card, and shall seize such card.”;
- (f) by the substitution for subsection (7) of the following subsection:
- “(7) After having complied with the provisions of subsection (4), the presiding officer or polling officer shall return the voter registration card to the voter concerned.”;
- (g) by the substitution for the words preceding paragraph (a) of subsection (9) of the following words:
- “When the voter has complied with the provisions of subsection (8) ~~[(7)]~~, the presiding officer or a polling officer shall -”; and
- (h) by the substitution for paragraph (a) of subsection (9) of the following paragraph:
- “(a) enter the voter registration number of the voter in the ballot paper book on the counterfoil of a ballot paper which bears on the back thereof the official mark;”;
- (i) by the substitution for subsection (11) of the following subsection:
- “(11) The voting at a polling station shall not be interrupted by any defect occurring in any instrument used at such polling station for the purposes of subsection (5)(b), and the vote recorded by any voter shall not be invalid merely because the provisions of subsection (4)(b) were not complied with in his or her case because of such defect, whereupon the **[registration card]** relevant voters’ register shall be endorsed to that effect.”.

Substitution of section 82A of Act No. 24 of 1992, as inserted by section 38 of Act No. 23 of 1994

31. The following section is substituted for section 82A of the principal Act:

“Voting process at elections held simultaneously

82A. (1) Where under section 50(1) -

- (a) an election for the President and an election for members of the National Assembly; and/or
- (b) an election for any member of a regional council and an election for members of a local authority council,

have been determined to take place on the same polling day, the voting process at polling stations shall be conducted jointly for both such elections.

(2) Notwithstanding anything to the contrary contained in this Act where, a political party has, in respect of-

- (a) the elections referred to in subsection (1)(a), nominated a candidate for election to the office of President as well as candidates for election as members of the National Assembly; or
- (b) the elections referred to in subsection (1)(b), nominated a candidate for election as a member of a regional council as well as candidates for election as members of a local authority council,

that political party shall be entitled to appoint as election agents for a polling station only such number of persons as is prescribed in respect of any one of such elections.

(3) Where a voting process is conducted as contemplated in subsection (1), any voter who attends a polling station for the purpose of recording his or her vote, shall -

- (a) if he or she desires to record a vote in respect of both the elections referred to in paragraph (a) or (b) of that subsection, record such votes on the occasion of such attendance, and no voter shall, after such attendance, be allowed to record any vote at any polling station on any subsequent occasion; and
- (b) irrespective as to whether he or she desires to record a vote in respect of both the elections referred to in paragraph (a) or (b) of that subsection, be required to subject himself or herself to identification with the identification mark contemplated in section 82(5) as that voter would have been required to do had the voting process been conducted in respect of one of the elections only.”.

Amendment of section 89 of Act No. 24 of 1992, as amended by section 43 of Act No. 23 of 1994 and section 6 of Act No. 19 of 1999

32. Section 89 of the principal Act is amended by the substitution for subsection (2) of the following subsection:

“(2) The Director shall in accordance with the results received by him or her from returning officers in terms of subsection (1)[**(a) and the results determined by him or her in terms of subsection (1)(b)**], determine in the manner provided in Schedule 4 to the Namibian Constitution the number of candidates of each political party to be declared duly elected as members of the National Assembly.”.

Amendment of section 91 of Act No. 24 of 1992

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

“Determination and announcement of result in local authority council elections

91. (1) When at an election for members of a local authority council all the votes have been counted and the number of votes recorded for each political party taking part in such election has been determined, the returning officer concerned shall determine *mutatis mutandis* in the manner referred to in section 89(2), the number of candidates of a political party that is in terms of subsection (2) of this section to be declared duly elected as members of the local authority council in question, as if the election for members of that council were an election for members of the National Assembly.

(2) As soon as is practicable after the result of a local authority council election has been determined as contemplated in subsection (1), the returning officer concerned shall in the prescribed manner announce that result, by -

- (a) making known the total number of votes counted and the appropriate quota determined in accordance with the provisions of that subsection and, in respect of each political party, the number of votes recorded for it and the number of seats in the council in question, if any, to which a political party shall be entitled; and
- (b) declaring -
 - (i) those candidates who appear on the list of candidates of each political party in respect of which a number of seats has been determined and who have been nominated from that list by that political party as members of the council in question to fill the seats; and
 - (ii) if the number of seats determined in respect of a political party is more than the candidates available on the list of candidates of that political party, a person who qualifies to be a member of the council in question and who has been nominated in the prescribed manner in writing for that purpose by the political party and who has in writing consented to his or her nomination,

to be duly elected as members of the council in question with effect from any day determined in respect of the election in question.

(3) The returning officer concerned shall as soon as is practicable after the provisions of subsection (2) of this section have been complied with, cause a written statement of the announcement made by him or her in terms of the provisions of that subsection, to be transmitted to the Commission.

(4) If there appears on any list of candidates referred to in subsection (2) of this section, the name of a person who died or was found not to qualify in relation to the council in question on or before the date of the declaration contemplated in that subsection, that name shall for the purposes of that subsection be deemed not to appear on the list in question.”.

Amendment of section 96 of Act No. 24 of 1992

34. Section 96 of the principal Act is amended -

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

“(c) with the intent to defraud duplicates, copies, forges, falsifies or fabricates any [**registration form or**] voter registration card or any document purporting to be [**a registration form or**] a voter registration card, or utters or is in possession of any document so duplicated, copied, forged, falsified or fabricated; or”;

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

“(d) not being an officer or magistrate or other person acting within the course of his or her duties under or for the purposes of this Act, [**is, in possession of a registration form or**] issues or purports to issue a voter registration card or destroys, mutilates or defaces any voter registration card, or except in accordance with the provisions of this Act, places any writing or mark on any voter registration card; or”;

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

“(e) is found in possession of a voter registration card not issued to him or her, without being able to give a satisfactory explanation for his or her possession of it, or is found in possession of more than one voter registration card issued to him or her for the election in question; or”;

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

“(i) without good cause fails to comply with a notice furnished to him or her under section 14(8)(b) [**14(7)(b)**];” and

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

“(o) willfully issues to any person a voter registration card knowing that such person does not qualify in terms of the provisions of this Act to be issued with a voter registration card.”.

Amendment of section 116 of Act No. 24 of 1992

35. Section 116 of the principal Act is amended-

- (a) by the substitution for subsection (6) of the following subsection:

“(6) If the court determines that the respondent was not duly elected, but that some other person was or is entitled to be declared duly elected, the respondent shall from the date of such determination be deemed to have vacated his or her office or seat, as the case may be, and the court shall forthwith certify as such its determination to the Commission and, in the case of the President or the National Assembly, to the Speaker of the National Assembly or, in the case of a regional council, to the chief regional officer of that council or, in the case of a local authority council, to the chief executive officer of that council, and the Commission shall thereupon, by notice in the *Gazette*, declare such other person duly elected from the date on which the respondent vacated his or her office or seat, as the case may be, and alter announcement of the result of the election published in the *Gazette*, accordingly.”; and

- (b) by the substitution for subsection (10) of the following subsection:

“(10) A copy of every certificate and report made by the court under this section shall, as soon as is practicable, be presented by the Speaker to the National Assembly or by the said chief regional officer to the regional council in question, or by the said chief executive officer to the local authority council in question, as the case may be.”.

Amendment of section 121 of Act No. 24 of 1992, as amended by section 46 of Act No. 23 of 1994

36. Section 121 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

“(1) The Director shall keep in respect of each constituency or local authority area [**or, where such area has been divided into wards, each ward,**] a list of names, voters’ registration numbers and residential addresses of all persons who in terms of this Act have become incapable of being registered or of remaining registered as voters or of voting at the election in question.”.

Amendment of section 130 of Act No. 24 of 1992, as amended by section 49 of Act No. 23 of 1994

37. Section 130 of the principal Act is amended by the substitution for subsection (4) of the following subsection:

“(4) Different regulations may be made under subsection (1) in respect of different regions, constituencies or local authority areas [**or wards**], or different elections under this Act or different political parties, as the circumstances may require.”.

Substitution of expressions in Act No. 24 of 1992

38. The principal Act is amended -

- (a) by the substitution for the expression “registration card”, wherever it occurs, of the expression “voter registration card”; and
- (b) by the substitution for the expression “registration number”, wherever it occurs, of the expression “voter registration number”.

Amendment of section 1 of Act No. 23 of 1992

39. Section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992), is amended by the substitution for the definition of “party list” of the following definition:

“ ‘party list’ means a list of candidates referred to in section 68(1)[a] of the Electoral Act, 1992 (Act No. 24 of 1992);”.

Short title and commencement

40. This Act is called the Electoral Amendment Act, 2003, and comes into operation on a date to be determined by the Minister by notice in the *Gazette*.
