

LOCAL GOVERNMENT ELECTIONS

Electoral rules and regulations

Municipal elections will be held on 18 May 2011. Here is a brief outline of the most critical rules that govern these elections.

Introduction

Elections will be held for 278 municipal councils, eight of which are metropolitan councils: Johannesburg, Cape Town, eThekweni, Ekurhuleni, Tshwane, Nelson Mandela and the new metros, Buffalo City and Mangaung. In these areas, one municipal council needs to be elected, namely the metropolitan municipal council,

comprising 50% ward councillors and 50% proportional representation (PR) councillors.

In addition, 226 local councils will be elected, most of them comprising 50% ward councillors and 50% proportional representation councillors.

Finally, 44 district councils will be elected. District

municipalities comprise a number of local municipalities. In these areas, two municipal councils must be elected: a local council and a district council. The voters directly elect 40% of the district council, and each local council appoints representatives constituting the remaining 60%.

In the eight metropolitan areas, a voter casts two votes: one vote for a ward candidate and one vote for a party. Outside the metropolitan areas, voters generally cast three votes: one vote for a ward candidate, one vote for a party on the local council and one vote for a party on the district council.

Political parties

Only registered political parties may participate in the elections. Political parties may register nationally (allowing them to participate in all municipal elections) or per municipality (allowing them to participate only in the municipalities in which they are registered). When political parties submit their candidates' lists for PR elections to the Independent Electoral Commission (IEC), the law expects them to try to ensure that 50% of the names are those of women, spread out evenly through the list.

Candidates

Any registered voter can become a councillor, if elected. The following persons are not allowed to be councillors:

- municipal officials (though the MEC may exempt a part-time councillor);
- national and provincial officials;
- national and provincial parliamentarians; and
- members of another municipal council.

These persons are allowed to stand for election, but have to give up their disqualifying positions before being declared elected as councillors.

Staff members standing for election

With regard to municipal staff members standing for election, special rules apply. A municipal staff member who has been certified by the IEC as a candidate must present this certificate to his or her employer. From that day until the declaration of the results, this staff member is on annual leave (or unpaid leave if there is not enough leave left). If declared elected, he or she will be deemed to have resigned a day before assuming office (unless the MEC grants an exemption; see above). Such a staff member is not permitted to use any council property or be assisted by any municipal staff member in his or her election campaign.



The following persons are not allowed to be councillors or even stand for election:

- persons who have been disqualified from voting for the National Assembly;
- insolvents;
- persons declared of unsound mind; and
- persons convicted of an offence and sentenced to more than 12 months' imprisonment without the option of a fine.

Elections for the local council

Proportional representation is an inclusive electoral system, in that a political party does not need to win an absolute majority or be the biggest party in order to win a seat. In a PR system, the percentage of the votes received broadly determines the number of seats held by a political party, and that party controls its list of candidates. If an elected PR councillor is no longer a member of the party, the seat becomes vacant. In the event of a vacancy during the term of office, the political party nominates a new candidate to take the seat. No elections are necessary and the political make-up of the council remains the same.

Ward elections work differently. These are winner-take-all elections, in which the candidate with the most votes wins the ward. Candidates may be nominated by political parties. However, candidates may also be nominated by voters in the ward, and these are called 'independent candidates'. The most important requirement is that 50 registered voters in the ward must support the nomination. If a ward seat becomes vacant during the term of office, a by-election must be held. The outcome of the by-election may change the politics of the council and sometimes even affect the balance of power in a local council.



Appointing district representatives

A newly elected local council must appoint a delegation to the district council. This usually happens at the first meeting of the local council. The larger the number of registered voters in a local municipality, the larger its delegation to the district council. The appointment of these district representatives is not an ordinary majority council resolution. The newly elected councillors of the local council cast votes for the district representatives in an election that is managed by the IEC. Often the municipal electoral officer does this on behalf of the IEC. This election is a PR election, meaning that the composition of the district delegation will broadly reflect that of the local council. Every party on the local council and every councillor may submit a list of names for election to the district council. It is possible to combine lists. For example, two parties on the local council may submit a joint list or an independent candidate may appear on a party's list.

The political composition of the local council's delegation to the district will stay the same throughout the term of office, even if that of the local council changes as a result of by-elections.

In other words, if party X and party Y each won 50% of the local council seats, the district delegation will look the same. If party X later on gains an additional 20% of the seats by winning by-elections from party Y, nothing will change in the political composition of the district delegation, despite the fact that party X now has a 70% majority.

Calculation of PR seats

The IEC carefully calculates the number of PR seats on the local or district council for a political party. The formulae are set out in the

Municipal Structures Act. Importantly, if a political party loses a ward election, it does not lose the votes cast for its ward candidate. Those votes are included to determine the number of PR seats on the local council that party is entitled to.

Let's say party X competes with party Y for a ward seat. Party Y receives 60% of the votes and wins the ward. However, party X still benefits from its 40% of the votes in the calculation of its PR seats.

Voting stations

The IEC has established voting stations in every voting district. In some voting districts, mobile voting stations are used. The IEC determines the boundary of the voting station.

Voting day

Voting stations are open from 07:00 to 21:00, unless the IEC makes special arrangements. Every voter who arrives before closing time may vote. Political meetings and marches are prohibited on voting day. The publication or distribution of exit polls is also prohibited during voting hours. Furthermore, no political pamphlets or posters may be visible in the voting station.

The following key officers will be present at a voting station:

- the presiding officer, who is in charge of the voting station and resolves conflicts that may arise;
- voting officers, who are appointed by the IEC to facilitate the voting procedure and count the votes;
- party agents, who are appointed by participating parties to observe election and counting proceedings and object against irregularities to the presiding officer;
- observers accredited by the IEC, who may be there to observe the election and counting proceedings; and
- candidates, who may be there to observe voting and counting procedures and object against irregularities to the presiding officer, but are not permitted to try to influence voters.

The presiding officer may remove anyone from the voting station, with the assistance of the police, if needed. Agents, candidates and observers may be removed if their conduct is not conducive to free and fair elections.



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