

Municipal Elections

– where PR and ward representation meet

The new electoral system for local government represents a novel and intricate combination of party representation and ward representation. The system is outlined in the Municipal Structures Act 117 of 1998 (MSA) and in the forthcoming Local Government: Municipal Electoral Act. The MSA will be discussed here, insofar as it lays down the law for municipal elections and deals with translation of votes into seats on the council. This will be preceded by some remarks on registration of voters and parties, the question who can stand for elections and the determination of an election date.

Registration of voters and parties

Voters

The national common voters' roll is also used for municipal elections. This means that anyone who is already registered as a voter for national and provincial elections can vote in a municipal election (and does not have to register again for municipal elections). Any South African citizen above 18 years old in possession of a green bar-coded identity document may apply for registration as a voter. Re-registration is necessary for people who changed residency after the previous registration.

Parties

Only parties that are registered can

contest a municipal election. The Municipal Electoral Bill proposes an amendment to the MSA (Items 10 of Schedule 1 and 4 of Schedule 2), which still stipulates that unregistered parties can also submit a list of candidates, to that effect.

Who can stand for elections?

A distinction should be made between (1) the right to stand for elections (s 21(1)(a) MSA) and (2) the right to become and remain a councillor if elected (s 21(1)(b) MSA).

Right to stand for elections

Every citizen who is qualified to vote for a particular municipality has the right to stand for elections in that municipality. In other words, anyone who is registered on that municipality's segment of the national voters' roll (s 21(1)(a) MSA, read together with s 157(5) of the Constitution) can be nominated as a candidate. The exceptions are:

- people who have been disqualified from voting for the National Assembly;
- unrehabilitated insolvents; and
- persons that were declared to be of unsound mind by a South African court (s 158(1)(c) of the Constitution).

Right to become and remain a councillor

Candidates that have been elected,

have the right to be a member of the council, except –

- when any of the circumstances that disqualify a person from voting apply (ie the candidate has been disqualified, has become insolvent or was declared to be of unsound mind);
- when the candidate is a member of the National Assembly, National Council of Provinces (excluding SALGA delegates) or a provincial legislature;
- when the candidate is a member of another municipal council (this does not apply to councillors appointed from local municipalities to district municipalities); or
- when the candidate is appointed by, or is in the service of the municipality and receives remuneration for that. The MEC can exempt a person from this disqualification if the duties of that person do not result in substantial conflict with the person's duties and mandate as a councillor (s 21(1)(b), (2) MSA, read together with s 158(1)(a), (c), (d) and (e) of the Constitution).

Election date

General elections

The Minister for Provincial and Local Government calls general municipal elections and sets a date for those elections. The date is to be published in the *Government Gazette*.

By-elections

In the case of a by-election, the Municipal Manager (Town Clerk or Chief Executive Officer) of the municipality concerned calls a by-election and sets a date for the by-election. This must be published in a local newspaper. If the municipal manager fails to call a date (in time), the MEC in that province must call for the election.

Electoral system

Election of Metropolitan Municipalities

Metropolitan councils as well as councils of Local Municipalities with wards will consist of –

- 50 % ward councillors (independent or nominated by a political party); and
- 50 % councillors that proportionally represent the parties that contested in that municipality (PR councillors).

Local Municipalities that have fewer than seven councillors do not have wards. In these municipalities, the council will consist of PR councillors only.

District Councils

District Councils will consist of –

- 40 % PR councillors (elected by all the voters in the district area); and
- 60 % consisting of –
 - PR councillors elected by voters in District Management Areas within the district, to represent that DMA in the District Council; and
 - councillors *appointed* by the Local Municipalities in the district to represent their Local Municipality in the District Council.

How many votes a voter has depends on whether the voter is registered in:

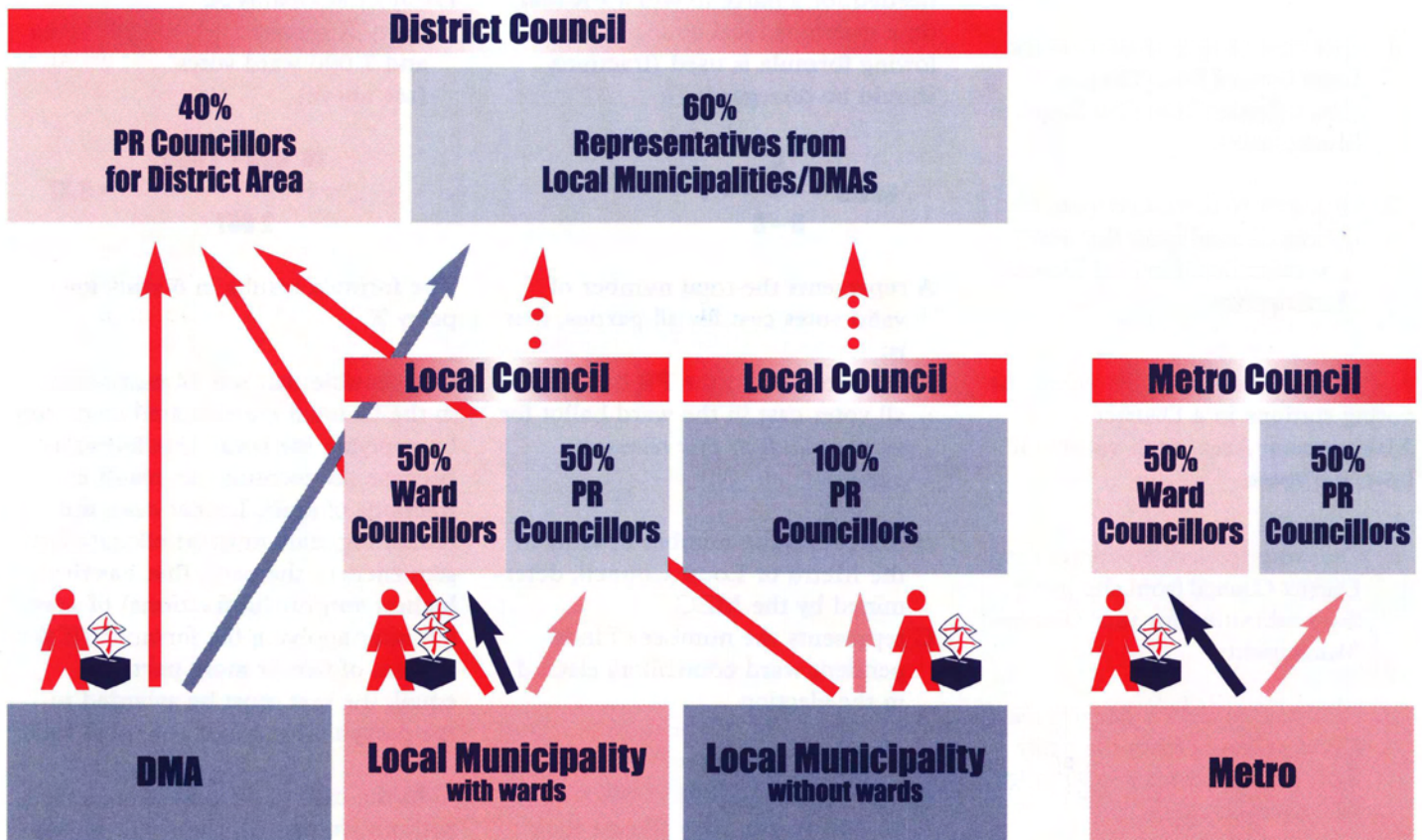
1. A Metropolitan Municipality

2. A Local Municipality with wards
3. A Local Municipality *without* wards; or
4. A District Management Area.

(See the diagram below).

1. Metropolitan Municipality: At voting stations in a Metropolitan Municipality (ie Greater Cape Town, Greater Johannesburg, Greater Pretoria, Greater East Rand and Greater Port Elizabeth) each voter will have two votes:

1. One vote to elect a *ward councillor* to the *Metropolitan Council* for the ward.
2. One vote to elect a *party* to the *Metropolitan Council* from the party lists, submitted for that Metropolitan Municipality.



Vote for party from entire district to District Council
Vote for party from DMA to District Council

Vote for Ward Councillor
Vote for party on Local Council
Appointment from Local Council to District Council

Where PR and ward

2. Local Municipality with wards:

At voting stations in a Local Municipality with wards, each voter will have *three* votes:

1. One vote to elect a *ward councillor to the Local Council* for the ward.
2. One vote to elect a *party to the Local Council* from the party lists, submitted for that Local Municipality.
3. One vote to elect a *party to the District Council* from the party lists, submitted for that District Municipality.

3. Local Municipality without wards:

At voting stations in a Local Municipality without wards, each voter will have *two* votes:

1. One vote to elect a *party to the Local Council* from the party lists, submitted for that Local Municipality.
2. One vote to elect a *party to the District Council* from the party lists, submitted for that District Municipality.

4. District Management Area: At

voting stations in a District Management Area, each voter will have *two* votes:

1. One vote to elect a *party to the District Council* from the party lists, submitted for that District Municipality.
2. One vote to elect a *party to the District Council* from the party lists, submitted for that District Management Area.

Determining the result

Schedules 1 and 2 to the MSA determine how the votes cast in all these

elections will be translated into seats on the relevant councils.

Ward elections

In the election for a ward councillor, the ward candidate who receives the most votes is the elected councillor for that ward. This is a classical 'first-past-the-post' system.

PR elections in a Metropolitan or Local Council

The allocation of seats to the parties, that participated in the election for the PR seats in a Metropolitan or Local Council (with or without wards) takes place in the three steps outlined below.

Step 1: Determining the quota

To work out how many votes are needed for a party to win a PR seat on a metro or local council, the following formula is used (fractions should be disregarded):

$$\text{quota} = \frac{A}{B - C} + 1$$

A represents the total number of valid votes cast for all parties, that is:

- all votes cast in the PR ballot; plus
- all votes cast in the ward ballot for *ward candidates that represent parties.*

B represents the number of seats in the Metro or Local Council, determined by the MEC

C represents the number of independent ward councillors elected in the election

Example:

Local Municipality A:

30 000 voters, who all cast their votes (100 % turnout)

18 council seats: 9 ward, 9 PR

3 ward elections won by independent ward candidates

10 000 votes were cast for party aligned ward candidates

$$\text{quota} = \frac{30\,000 + 10\,000}{18 - 3} + 1 = 2\,667$$

Step 2: Allocating seats

The allocation of seats to a particular party takes place according to the following formula:

$$\frac{\text{Votes cast for the party in the PR ballot} + \text{Votes cast for the party in the ward ballot}}{\text{Quota}}$$

Quota

* *votes for the party's ward candidates*

Example:

Local Municipality A:

Party X received 10 000 PR votes and 7 000 ward votes (see above)

$$\frac{10\,000 + 7\,000}{2\,667} = 6,37$$

The formula results in 6 seats for party X.

It is possible that not all party-seats in the Council are allocated to parties by applying the result this formula, because the formula can result in fractions of seats. In that case, the remaining seats must be allocated, in sequence, to the party that has the highest surplus (in fractions) of seats left after applying the formula. (If the surplus of two or more parties is equal, the seat must be awarded to the party that received the most valid votes.)

In the case of a Local Municipality without wards (3.), the result of this formula produces the number of seats, a party is entitled to. In an election for a Metro Council or a Local Council with wards (1. and 2.), how-

representation meet

ver, the number of seats for a political party is subject to Step 3.

Step 3: Deducting the ward councillors, that represent parties

Only in an election for a Metro Council or Local Council *that has wards*, the number of the party's ward candidates that have won ward elections must be deducted from the result of Step 2.

Example:

If Party X won one ward election, one seat is to be deducted from the 6 seats it is entitled to in terms of Step 2, resulting in a final number of 5 PR seats for Party X in addition to the one ward seat.

Elections for a District Council

This section explains how to determine the number of seats for a party, which contested for the PR seats (representing the entire district area) in the 40 % segment of the District Council. The other 60 % of the District Council consists of representatives from the Local Municipalities in the district area and representatives of DMAs in the district area. The first are appointed by the respective Local Municipalities after they have been elected and the latter are elected by the voters in the DMA on a PR basis. The number of seats on the District Council, to which a DMA or a Local Municipality is entitled, is determined on a proportional basis, using the number of voters, registered in that particular area. These processes will not be discussed in this section, which will be confined to the make up of the 60 % segment of the District Council.

Step 1: Determining the quota

The quota of votes for a PR seat (representing the entire district area) in the District Council must be determined in accordance with the following formula:

$$\text{quota} = \frac{\text{total number of valid votes cast for all parties}}{\text{number of PR seats for the district area in the District Council (= 40 \% of the total number of seats)}} + 1$$

Step 2: Allocating seats

The allocation of seats to a party is done by using the following formula:

$$\frac{\text{Total number of votes cast for the party}}{\text{Quota}}$$

The same rule as above with regard to fractions applies.

Example:

District Municipality B:
360 000 voters, who all cast their votes (100 % turnout)
42 councils seats, of which 17 are PR seats for the district area. Party A received 70 000 votes from entire district

Step 1: Determining the quota:

$$\text{quota} = \frac{360\,000}{17} + 1 = 21\,177$$

Step 2: Allocating seats:

$$\frac{70\,000}{21\,177} = 3,305$$

Party A is entitled to 3 of the 17 PR seats for the district area.

Assessment

The new electoral system represents a choice for the option, mandated by section 157(2)(b) of the Constitution, namely a system of combined ward and proportional representation. This "mixed" electoral system will replace the current

"parallel system", where the ward and proportional representation voting systems run completely separately and where there is no attempt to integrate the two sets of votes.

The integration of the two sets of votes takes place in the calculation of seats. Ward votes for party – affiliated ward candidates are taken into account when determining the number of *proportional representation* seats that political party is entitled to (Step 2 under PR elections in a Metropolitan or Local Council). Thus, a party that loses a ward election by a few votes will benefit from a mixed system because the votes it received will count when the proportional representation seats are allocated. No vote for a party candidate is thus wasted. This seems to boost bigger parties, that participate in both PR and ward elections. However, every ward election won by a political party results in the deduction of a proportional representation seat for that party (Step 3 under PR elections in a Metropolitan or Local Council). To that extent, protection for smaller political parties has been built into the calculation of seats. The integration of ward and PR votes mitigates the distortions, caused by the 'winner-takes-it-all' ward system.

Broadly speaking, the biggest problem with the system is its complexity. A complex electoral system, however, seems to be unavoidable, given the new structure of local government with its different categories and two-tiered system of governance outside metros. The importance of voter education is evident if we expect voters to cast their votes in an informed manner.

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