



GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA

WINDHOEK — 31 August 1992

No. 471

CONTENTS.

Page

[GOVERNMENT NOTICE

- No. 119 Promulgation of Electoral Act, 1992 (Act 24 of 1992), of the National Assembly

Government Notice

OFFICE OF THE PRIME MINISTER

No. 119

1992

PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

The following Act which has been passed by the National Assembly and signed by the President in terms of the Namibian Constitution is hereby published in terms of

No. 24 of 1992: Electoral Act, 1992.

ELECTORAL ACT, 1992

- (f) fraudulently takes out of any polling station any ballot paper or authorization ballot paper envelope; or
- (g) without due authority destroys, takes, opens, uses or otherwise interferes with any ballot box, voting compartment, instrument, form, document or other equipment used or intended for use at any polling station; or
- (h) causes any disturbance at any polling station, or disobeys any lawful order given by the presiding officer at any polling station; or
- (i) without lawful authority destroys, mutilates, defaces or removes any notice exhibited under this Act,

shall be guilty of an offence and on conviction be liable -

- (i) in the case of an offence in terms of paragraph (a), (b) or (c), to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment; and
- (ii) in any other case, to a fine not exceeding R4 000 to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

Corrupt and illegal practices

Meaning of corrupt and illegal practices in Act.

103. For the purposes of this Act, "corrupt and illegal practice;" shall mean any of the offences of undue influence, bribery, impersonation, corrupt procurement or withdraw of candidature and treating as hereinafter dealt with in this Part.

Undue influence.

104. Any person who, directly or indirectly, by himself or herself or by any other person -

- (a) makes use or threatens to make use of any violence, force or restraint, or inflicts or threatens inflict any bodily or psychological injury, damage, hazard or loss, upon or against, or does or threatens to do anything to the disadvantage of, any person in order to induce or compel any person to vote or to refrain from voting at any

ELECTORAL ACT, 1992

election, or on account of any person having voted or refrained from voting at the election; or

(b) by any such means as aforesaid or any fraudulent device or contrivance induces, compels or prevails upon any voter to vote or refrain from voting at any election in question or to vote in favour of a particular political party or candidate, or impedes, hinders or prevents the free exercise of the franchise by any voter at any election in question,

shall be guilty of an offence and on conviction be liable to a fine not exceeding R20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

Bribery.

105. (1) Any person who, whether himself or herself or through an intermediary and whether directly or indirectly -

(a) corruptly gives, lends or procures, or agrees to give, lend or procure, or offers, promises, or promises to procure, or promises to endeavour to procure, any money or any other thing, to or for any voter, or to or for any person on behalf of any voter, or to or for any other person -

(i) for the purpose of inducing such voter to record or abstain from recording his or her vote in any election; or

(ii) on account of the fact that such voter has recorded or abstained from recording his or her vote in any election; or

b) makes any such gift, loan, offer or promise or effect for him or her any such procurement or enters into any such agreement to or for or with any other person for the purpose of inducing such person to vote for any particular political party or candidate; or

c) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures, or engages or promises or endeavours to procure the vote of any voter in the election; or

ELECTORAL ACT, 1992

(d) advances or pays, or causes to be advanced or paid, any money, to or for the use of, any other person with the intention that such money, or any part thereof, is to be expended on bribery in the election in question, or who knowingly pays, or causes to be paid, any money or any other person in discharge or repayment of any money which has in full or in part been expended in bribery in that election; or

(e) before or during the election in question, receives or negotiates any payment or loan on his or her own behalf or any other person in consideration for his or her voting or his or her agreeing to vote in such election or his or her abstaining from voting, or his or her agreeing, to abstain from voting, in such election; or

(f) after the election has received any money on account of the fact that any other person -

(i) has recorded his or her vote or has abstained from recording his or her vote in such election; or

(ii) has induced any further person to record or to abstain from recording his or her vote in such election,

shall be guilty of an offence and on conviction be liable to a fine not exceeding R20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(2) Nothing -

(a) in subsection (1)(a) contained shall be construed as applying to any transportation rendered to any voter for the purpose of recording his or her vote;

(b) in this section contained shall be construed as applying to any money paid or agreed to be paid or on account of any election expenses *bona*

fide and lawfully incurred.

- (a) in an election in question applies for a ballot paper in the name of some other person living or dead or of a fictitious person and records a vote in the name of any such person; or
- (b) having voted once in an election in question, in such election votes again or applies again for a ballot paper; or
- (c) submits any affidavit or declaration required in terms of this Act containing any information or allegation which he or she knows to be false,

shall be guilty of an offence and on conviction be liable to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Corrupt procurement or withdrawal of candidate.

107- Any person who -

- a) corruptly induces or procures any other person to become a candidate or to withdraw as a candidate in any election in consideration of any payment or promise of any nature; or
- (b) becomes a candidate or withdraws as a candidate in such election as a result of inducement or procurement provided in paragraph (a); or
- (jj) for the purpose of promoting or securing the election of another political party or candidate, before or during the election in question, publishes a false statement of the withdrawal of a political party or the death or withdrawal of a candidate from such election, knowing such statement to be false,

shall be guilty of an offence and on conviction be liable to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Treating.

108. Any person who -

- (a) corruptly, whether himself or herself or through an intermediary, whether before or during or after an election in question and whether directly or indirectly, gives or provides, or pays in full or in

ELECTORAL ACT, 1992

part the expense or giving or providing, any provisions to or for any other person -

- (i) for the purpose of corruptly influencing such other person or any further person to record or abstain from recording his or her vote in such election; or
- ii) on account of the fact that such other person or any further person has recorded or has abstained from recording or is about to record or to abstain from recording his or her vote in such election; or

(b) being a voter, corruptly accepts or takes any payment, food, drink, entertainment, lodging or provisions referred to in paragraph (a),

shall be guilty of an offence and on conviction be liable to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

**PART VII
ELECTION APPLICATIONS**

Powers of High Court in relation to election applications.

109. An application complaining of an undue return or an undue election of any person to the office of President or as any member of the National Assembly or a regional council or local authority council by reason of want of qualification disqualification, corrupt and illegal practice, irregularity or by reason of any other cause whatsoever, shall, subject to the provisions of this Part, be made to the court.

Presentation of election applications.

110. (1) An election application shall be represented within 30 days after the day on which the result of the election in question has been declared as provided in this Act.

(2) Presentation of the application shall be made by lodging it with the registrar of the court.

(3) (a) At the time of the presentation of the application or within five days thereafter, security