

DETERMINATION OF DELEGATES (NATIONAL COUNCIL OF PROVINCES) ACT 69 OF 1998

[ASSENTED TO 28 SEPTEMBER 1998]

[DATE OF COMMENCEMENT: 7 OCTOBER 1998]

(English text signed by the President)

as amended by

Loss or Retention of Membership of National and Provincial Legislatures Act 22 of 2002
Constitutional Matters Amendment Act 15 of 2005

General Laws (Loss of Membership of National Assembly, Provincial Legislature or
Municipal Council) Amendment Act 55 of 2008

ACT

To provide for the determination of permanent and special delegates to the National Council of Provinces as contemplated in section 61 (2) of the Constitution; and to provide for matters connected therewith.

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

1 Definitions

In this Act, unless the context otherwise indicates-

'delegate' means any delegate in the delegation of a province referred to in section 60 (1) of the Constitution;

'permanent delegate' means a permanent delegate referred to in section 60 (2) (b) of the Constitution;

'province' means any province referred to in section 103 (1) of the Constitution;

'provincial legislature' means any provincial legislature contemplated in section 104 of the Constitution;

'special delegate' means a special delegate referred to in section 60 (2) (a) of the Constitution.

2 Determination of permanent and special delegates

(1) Every party represented in a provincial legislature which in terms of section 61 (1) of the Constitution is entitled to delegates in the delegation of the particular province, must have at least one permanent delegate.

(2) The number of permanent delegates of a party which is entitled to more than one delegate, is determined by multiplying the total number of delegates to which such a party is entitled by six and dividing the result by ten, disregarding any fraction of a number.

(3) The remaining number of the total number of delegates to which a party contemplated in subsection (2) is entitled, are the special delegates of that party: Provided that if the number of special delegates so determined is more than the number of permanent delegates of that party, the number of the special delegates must be reduced in favour of the number of permanent delegates so that the number of special delegates is equal to or less than the number of permanent delegates of that party.

(4) (a) If the total number of special delegates determined in terms of subsection (3) in respect of a particular provincial legislature is less than four, the delegates of the parties that are entitled to only one delegate in the delegation of that province must, despite subsection (1), become special delegates in the sequence from the lowest to the highest number of votes that have been recorded for those parties during the last election of that provincial legislature, until four special delegates have been allocated to parties in the provincial delegation.

(b) If the total number of special delegates determined in terms of subsection (3) in respect of a particular provincial legislature is more than four, those special delegates must, despite subsections (2) and (3), become permanent delegates in the sequence from the highest to the lowest number of vote that have been recorded for the parties concerned during the last election of that provincial legislature, until six permanent delegates have been allocated to parties in the provincial delegation.

(c)

[Para. (c) omitted by s. 7 of Act 55 of 2008 .]

(d) If more than one party that is entitled to a delegate in a provincial legislature recorded the same number of votes during the last election of that provincial legislature, the legislature concerned must, in a manner that is consistent with democracy-

- (i) in the case of paragraph (a), elect so many delegates from the delegates of those parties to become special delegates as may be required to allocate four special delegates to parties in the provincial delegation; or
- (ii) in the case of paragraph (b), despite subsections (2) and (3), elect so many special delegates of those parties to become permanent delegates as may be required to allocate six permanent delegates to parties in the provincial delegation.

[Sub-s. (4) substituted by s. 2 of Act 22 of 2002, by s. 11 of Act 15 of 2005 and by s. 7 of Act 55 of 2008 .]

3 Short title

This Act is called the Determination of Delegates (National Council of Provinces) Act, 1998.