

WARD DELIMITATION: LEGAL PROVISIONS

Constitution of the Republic of South Africa, 1996

157 (4) (a) If the electoral system includes ward representation, the delimitation of wards must be done by an independent authority appointed in terms of, and operating according to, procedures and criteria prescribed by national legislation.

Local Government: Municipal Structures Act, 1998

20 Determination of number of councillors

- (1) The number of councillors of a municipal council-
- (a) must be determined in accordance with a formula determined by the Minister by notice in the *Government Gazette*, which formula must be based on the number of voters registered on that municipality's segment of the national common voters' roll on a date determined in the notice;
 - (b) may not be fewer than three or more than 90 councillors, if it is a local or district municipality; and
 - (c) may not be more than 270 councillors, if it is a metropolitan municipality.
- (2) Different formulae may be determined in terms of subsection (1) (a) for the different categories of municipalities.
- (3) The MEC for local government in a province may deviate from the number of councillors determined for a municipality in terms of subsection (1) by-
- (a) increasing the number of councillors if extreme distances, a lack of effective communication in the municipality or other exceptional circumstances render it necessary; or
 - (b) decreasing the number of councillors if it is necessary to achieve the most effective size for-
 - (i) active participation by all councillors at council meetings;
 - (ii) good and timely executive and legislative decisions;
 - (i) responsiveness and accountability of councillors, taking into account the possible use of modern communication techniques and facilities; or

(iv) the optimum use of municipal funds for councillor allowances and administrative support facilities.

(4) A deviation in terms of subsection (3) may be no more than-

(a) three of the number determined for the municipality in accordance with the subsection (1) (a) formula, if 30 or fewer councillors have been determined for the municipality in terms of the formula, provided that a council of fewer than seven may not be decreased; or

(b) 10 percent of the number determined for the municipality in accordance with the subsection (1) (a) formula, if more than 30 councillors have been determined for the municipality in terms of the formula.

22 Election of metropolitan and local councils

(1) The council of a metropolitan or local municipality consists of councillors elected in accordance with Schedule 1-

(a) by voters registered on that municipality's segment of the national common voters roll, to proportionally represent the parties that contested the election in that municipality; and

(b) by voters registered on that municipality's segment of the national common voters roll in the respective wards in that municipality, to directly represent the wards.

(2) The number of ward councillors in a metropolitan or local council referred to in subsection (1) (b) must be equal to 50 per cent of the number of councillors determined for the municipality in terms of section 20. If the number of councillors determined in terms of section 20 is an uneven number, the fraction must be rounded off upwards.

(3) The number of proportionally elected councillors in a metropolitan or local municipality referred to in subsection (1) (a) is determined by subtracting the number determined in terms of subsection (2) from the number of councillors determined for the municipality in terms of section 20.

(4) If a local municipality has no wards, all its councillors must be elected in accordance with subsection (1) (a). Local municipalities with fewer than seven members have no wards.

Schedule 1
Part 1
General

2 Delimitation of wards

The Demarcation Board after consultation with the Electoral Commission, for purposes of an election, must delimit all metropolitan municipalities and all local municipalities that must have wards, into wards.

3 Number of wards

The number of wards in a metropolitan or local municipality must be equal to the number of ward councillors determined for the municipality in terms of section 22 (2).

4 Delimitation criteria

The Demarcation Board after consulting the Electoral Commission must delimit a municipality into wards, each having approximately the same number of voters, taking into account the following criteria:

(a) The number of registered voters in each ward, may not vary by more than fifteen per cent from the norm, where the norm is determined by dividing the total number of registered voters on the municipality's segment of the national common voters roll by the number of wards in the municipality.

(b) The need to avoid as far as possible the fragmentation of communities.

(c) The object of a ward committee as set out in section 72 (3) which is to enhance participatory democracy in local government.

(d) The availability and location of a suitable place or places for voting and counting if appropriate, taking into consideration-

- (i) communication and accessibility;
- (ii) density of population;
- (iii) topography and physical characteristics; and
- (iv) the number of voters that are entitled to vote within the required time-frame.

(e) The safety and security of voters and election material.

(f) Identifiable ward boundaries.

5 Publication of delimitation

(1) The Demarcation Board must publish its delimitation of wards for a municipality in the *Provincial Gazette*.

(2) Any person aggrieved by a delimitation may within 14 days of publication submit objections in writing to the Demarcation Board, and the Board must-

(a) consider those objections; and

(b) confirm, vary or withdraw its determination.

Note: The implementation of the legislation will be explained during the envisaged launch in July 2009.