

Federal Law on the Election of the National Council (National Council Election Regulation 1992 – NRW)

BGBl. No. 471/1992

(NR: GP XVIII RV 180 AB 601 p. 78. BR: 4335 AB 4306 p. 557.)

as amended by the Federal Laws

BGBl. No. 505/1994 (NR: GP XVIII RV 1334 AB 1608 p. 168. / BR: AB 4818 p. 588.)

BGBl. No. 18/1995 (NR: GP XIX AB 60 p. 11 / BR: AB 4943 p. 593.)

BGBl. No. 117/1996 (NR: GP XX RV 18 AB 28 p. 5. / BR: 5128 AB 5131 p. 609.) (CELEX-No.: 393L0109)

BGBl. I No. 30/1998 (NR: GP XX RV 915 AB 1037 p. 104. BR: AB 5611 p. 634.)

BGBl. I No. 161/1998 (NR: GP XX IA 856/A AB 1396 p. 139. BR: AB 5783 p. 644.)

BGBl. I No. 90/1999 (NR: GP XX AB 1773 p. 171. BR: AB 5959 p. 655.)

BGBl. I No. 98/2001 – Article 15 (Adaptation to Currency (Euro) Act – Interior Ministry) (NR: GP XXI RV 621 AB 704 p. 75. BR: 6398 AB 6424 p. 679.)

(Translator's remark: BGBl: Federal Law Gazette, NR: National Council, GP: Parliament session, RV: Government bill, AB: Committee Report, BR: Federal Council)

PART I

Announcement of the election, Partitioning of the federal territory for election purposes, Electoral authorities

Section 1

Number of members, Announcement of the election, Constituencies

Number of members, Announcement of the election,

Day of election, Qualifying date

§ 1. (1) The National Council consists of 183 members, who are elected according to the provisions of this federal law.

(2) The election shall be announced by the federal government in the Federal Law Gazette by way of regulation. This regulation shall contain the day of election, which must be set by the federal government on a Sunday or other public holiday in accordance with the main committee of the National Council. Moreover, the regulation shall determine the day to be taken as qualifying date. This day must not precede the day of the announcement of the election. The periods set in §§ 13, 14, 16 and 25 of this federal law and the preconditions of the right to vote (§ 21 al. 1) and of the eligibility (§ 41) are determined by the qualifying date.

(3) The regulation of the Federal Government on the announcement of the election shall also be publicly proclaimed in all communities.

Provincial constituencies, Voting districts

§ 2. (1) For election purposes the federal territory is partitioned in nine provincial constituencies, whereby each province constitutes a provincial constituency. The provincial constituency bears the name of the province and has a number according to the alphabetical order of the provinces.

(2) Casting the ballot takes place at the local electoral authority. Local electoral authorities comprise the community electoral authorities and the precinct electoral authorities.

(3) Each political district, in the provinces of Lower Austria and Vorarlberg each administrative district, and each city with self-government constitutes a voting district. In the City of Vienna each community district is a voting district.

Regional constituencies

§ 3. (1) The voting districts of the provincial constituencies are combined to one or several regional constituencies. The regional constituencies bear the number of their provincial constituency and, in addition, a letter according to the alphabetical order.

(2) The regional constituencies are:

Number of Provincial

Constituency Name:

1A Burgenland North

1B Burgenland South
2A Klagenfurt
2B Villach
2C Carinthia West
2D Carinthia East
3A Weinviertel
3B Waldviertel
3C Mostviertel
3D Lower Austria Central
3E Lower Austria South
3F Vienna-Surroundings
3G Lower Austria South-East
4A Linz and Surroundings
4B Innviertel
4C Hausruckviertel
4D Traunviertel
4E Mühlviertel
5A Salzburg City
5B Flachgau/Tennengau
5C Lungau/Pinzgau/Pongau
6A Graz
6B Styria Central
6C Styria South
6D Styria East
6E Styria North
6F Styria North-East
6G Styria North-West
6H Styria West
7A Innsbruck
7B Innsbruck-Land
7C Unterland
7D Oberland
7E East Tyrol
8A Vorarlberg North
8B Vorarlberg South
9A Vienna Inner-South
9B Vienna Inner-West
9C Vienna Inner-East

9D Vienna South

9E Vienna South-West

9F Vienna North West

9G Vienna North

(3) The voting districts of the regional constituencies can be seen from Schedule 1.

Number of seats in the constituencies, Calculation according to the latest census

§ 4. (1) In each constituency as many seats of the National Council are distributed as are the results of the calculation according to al. 2 to 5.

(2) The number of citizens having their principal residence within the territory of the Republic according to the final results of the latest ordinary or special census (Census Act 1980, Federal Law Gazette No. 199) plus the number of citizens living abroad, being registered in the electoral list on the qualifying date shall be divided by 183. This quotient shall be calculated as a three-figure decimal. It constitutes the figure of proportion.

(3) Each provincial constituency is allotted as many seats as the figure of proportion (al. 2) is contained in the number of citizens having their principal residence in the provincial constituency according to the final results of the latest ordinary or special census respectively, plus the number of citizens living abroad who are registered on the qualifying date in the electoral list in the area of the provincial constituency.

(4) If not all 183 seats can be allotted this way, the quotients to be ascertained according to al. 3 shall be calculated as a three-figure decimal. The remaining seats are allotted to those provincial constituencies that show the largest decimals according to the sequence order. In case the decimals are equal in two or more provincial constituencies, these provincial constituencies are allotted one remaining seat each, unless it is for the allotment of the last of the 183 seats. If, by way of equal decimals, two or more provincial constituencies are equally entitled to the allotment of this last seat, the question of which provincial constituency is allotted this last remaining seat is decided by drawing lots.

(5) Each regional constituency receives as many of the National Council seats allotted to the respective provincial constituency as are calculated by application of the general meaning of al. 3 and 4.

Proclamation of the number of seats

§ 5. (1) The number of seats allotted to each constituency according to § 4 shall be proclaimed by the Minister for the Interior in the Federal Law Gazette immediately following the confirmation of the final results of the latest ordinary or special census respectively.

(2) The allotment of the seats so proclaimed shall be applied to all National Council elections that take place from the effectiveness of the proclamation till the proclamation of the allotment of seats on the grounds of the next ordinary or special census respectively.

Section 2

Electoral authorities

General provisions

§ 6. (1) The electoral authorities shall be responsible for the organisation and carrying out of the elections. They are re-constituted before each election.

(2) The electoral authorities consist of a chairman as polling officer or his deputy and a number of assessors. For each assessor a substitute assessor shall be appointed in case he should be unable to attend.

(3) Only persons having the right to vote in National Council elections can be members of the electoral authorities. Persons not meeting this requirement are excluded from the electoral authority. Anyhow, the non-presiding deputies and the substitute assessors who are not taken into account for the quorum and vote enjoy the same status as the members of the electoral authorities.

(4) The office of a member of an electoral authority is a public honorary office which each person resident in the community where the respective electoral authority is located is obliged to accept.

(5) The meetings of the electoral authorities can also be attended by representatives of the campaigning parties according to § 15 al. 4.

Scope of competence of the electoral authorities and polling officer

§ 7. (1) The carrying out and organisation of the elections shall be the duty of the electoral authorities. The polling officers shall fulfil the duties as provided by this federal law. They shall also prepare the meetings of the electoral authorities and implement the decisions of the electoral authorities.

(2) The electoral authorities shall be given the necessary personnel and equipment from the resources of the office, headed by the polling officer or by which he is appointed. The accruing costs shall be borne by the regional authority responsible for the funding of the office concerned.

Community electoral authorities

§ 8. (1) A community electoral authority shall be established for each community except Vienna.

(2) Regardless of the provision in § 10 al. 5, it shall consist of the mayor or a permanent representative to be appointed by him as chairman and community polling officer and of nine assessors.

(3) In case the community polling officer is temporarily unable to attend, the mayor shall also appoint a deputy.

Precinct electoral authorities

§ 9. (1) In communities partitioned in precincts a precinct electoral authority shall be established for each precinct. In the provincial constituencies outside of Vienna the community electoral authority may also serve as precinct electoral authority in one of its precincts.

(2) The precinct electoral authority consists of the chairman to be appointed by the mayor as precinct polling officer and three assessors.

(3) In case the precinct polling officer is temporarily unable to attend, the mayor shall also appoint a deputy.

District electoral authorities

§ 10. (1) For each political district (administrative district), each city with self- government, and in the City of Vienna at the seat of each City Council District Office a district electoral authority shall be established. The regional jurisdiction of the district electoral authorities in Vienna corresponds with the jurisdiction of the City Council District Office.

(2) The district electoral authority consists of the head of the district office, of the mayor in the cities with self-government, and of the head of the City Council District Office in the City of Vienna, or a permanent representative to be appointed by him as chairman and district polling officer, as well as of nine assessors.

(3) In case the district polling officer is temporarily unable to attend he shall appoint a deputy.

(4) The district electoral authority has its seat at the seat of the district polling officer.

(5) Outside of Vienna the members of the district electoral authority must not simultaneously be members of community electoral authorities, in Vienna not simultaneously be members of the provincial electoral authority for the provincial constituency of Vienna.

Provincial electoral authorities

§ 11. (1) At the seat of each Office of the Provincial Government a provincial electoral authority shall be established separately for each Province.

(2) It consists of the Governor of the Province or a permanent representative to be appointed by him as chairman and provincial polling officer, and of nine assessors.

(3) In case the provincial polling officer is temporarily unable to attend, the Governor shall also appoint a deputy.

Federal electoral authority

§ 12. (1) At the seat of the Ministry of the Interior the federal electoral authority shall be established for the entire federal territory.

(2) It consists of the Federal Minister of the Interior as chairman and federal polling officer and eleven assessors, of whom two persons belong or belonged to the judiciary.

(3) The members of the federal electoral authority must not be officials of any other electoral authority.

(4) In case the Federal Minister of the Interior is temporarily unable to attend he appoints several deputies and determines the sequence order of their being called for his representation.

(5) Regardless of its scope of competence according to § 7 al. 1, the federal electoral authority supervises all other electoral authorities. Within the boundaries of this supervisory right the federal electoral authority can, in particular, set aside or reverse unlawful decisions or orders of the subordinate electoral authorities. Decisions of the electoral authorities in objection or appeals proceedings against the electoral lists (ballot registers) cannot be reversed by the federal electoral authority.

(6) The federal electoral authority can also declare admissible an exceeding of the dates fixed in the §§ 13, 14, 16, 39, 47, 61, 106, 109, 111, 112 and 124 al. 3, if abiding by them is impossible as a consequence of traffic problems or of other unavoidable reasons. Such order must not affect dates and periods provided for in other provisions of this federal law.

Periods for the appointment of precinct polling officers,

Permanent representatives and deputies,

Swearing-in, Scope of competence of the polling officer

§ 13. (1) The precinct polling officer, the permanent representatives to be appointed according to §§ 8, 10 and 11, and all deputies of the polling officer of the electoral authorities to be newly established before each election who are to be appointed for the case of a temporary

inability to attend, shall be appointed on the seventh day after the qualifying date at the latest, unless it is for the appointment of officers of electoral authorities, whose constitution has subsequently become unavoidable due to the reasons mentioned in § 14 al. 4.

(2) Before taking up their office the appointed officers shall swear to that person having effected the appointment their strict impartiality and diligent performance of their duties by means of handshake.

(3) Until the constitution of the electoral authorities to be newly established before each election their chairmen (deputies) shall perform any undeferable duties of the electoral authorities and, in particular, accept applications.

(4) After the constitution of these electoral authorities the chairmen (deputies) shall be obliged to notify the electoral authority of all previous dispositions and to discharge all duties that are not reserved for decision of the electoral authorities themselves according to § 7 al. 1.

Filing the applications to appoint the assessors and their substitutes

§ 14. (1) On the tenth day after the qualifying date at the latest the party persons of confidence wishing to participate in the election campaign (§ 42) shall submit their proposals for the assessors and substitutes, not belonging to the judiciary, of the electoral authorities to be newly established, who have to be appointed according to § 15 al. 3, to the polling officers of these electoral authorities. Regardless of the provisions of § 15 al. 2, the proposals shall be based on the number of assessors and substitute assessors according to the constitution of the electoral authorities on the qualifying date.

(2) Only persons meeting the requirements of § 6 al. 3 can be proposed as assessors and substitute assessors.

(3) The applications shall be addressed to the Federal Minister of the Interior for the constitution of the federal electoral authority, to the Governor of the Province for the constitution of the provincial electoral authorities, to the provincial polling officer for the district electoral authorities, and to the district polling officer for the constitution of the community and precinct electoral authorities.

(4) Applications received late shall not be taken into account, except of electoral authorities whose subsequent constitution has become unavoidable due to modifications in the precincts, in the community area, or in the political districts.

(5) The polling officer can request the party persons of confidence submitting proposals according to al. 1 to expressly declare in written form that the party wants to participate in the election campaign (§ 42). If this declaration is not given, the proposals shall be deemed as not submitted. If the party affiliates are known to the polling officer and he is in the position to assess whether the applying persons do indeed represent the party, or if an application is submitted by a party represented in the National Council, the application shall be accepted immediately for further processing. If this is not the case, the applicant has to ensure that the application is signed by at least one hundred persons having the right to vote, within the period determined in al. 1, if this has not already been done.

(6) Before the appointment of the assessors and their substitutes the applicants can modify or withdraw their applications any time. The provisions of al. 2, 3 and 5 shall apply accordingly.

Appointment of the assessors and substitute assessors,

Sending of persons of confidence

§ 15. (1) The assessors and substitute assessors of the federal electoral authority, to be newly established before each election, are appointed by the federal government.

(2) The appointment of the assessors and substitute assessors of the other electoral authorities to be newly established is the responsibility of the new electoral authorities, namely, the federal polling officer in terms of the provincial electoral authorities, the provincial polling officer in terms of the district electoral authorities, and the district polling officer in terms of the community and precinct electoral authorities. Should this cause a modification of the constitution of the electoral authorities compared with the date of the announcement of the election, the persons of confidence of the parties concerned by this modification (§ 14 al. 1) shall submit the required proposals within the period determined by the electoral authority.

(3) The assessors and substitute assessors not belonging to the judiciary will be appointed on the basis of the party proposals in application of the d'Hondt maximal number procedure according to their strength determined by the preceding election of the National Council in the jurisdiction of the electoral authority, with regard to precinct electoral authorities in the territory of the community.

(4) However, if a party (§ 14 al. 1) is not entitled to appoint an assessor according to al. 3, it shall be entitled to send to each electoral authority at most two representatives as persons of their confidence, if it is represented by at least three members in the previously elected National Council. The same right is granted to those parties not being represented in the previously elected National Council accordingly with regard to the provincial electoral authorities and the federal electoral authority. The persons of confidence shall be invited to the meetings of the electoral authorities. They shall participate in the proceedings without voting rights. Eventually, the provisions of al. 1, 2 and 5, and of §§ 6 al. 3, 14, 16 al. 2, 19 al. 1, 2, 3 first sentence, 4 and 5, 20 and 56 al. 1 last sentence, shall be applied accordingly.

(5) The names of the members of the electoral authorities shall be publicly announced the usual way.

Constitution of the electoral authorities,

Swearing-in of the assessors and substitute assessors

§ 16. (1) The electoral authorities to be convoked by their chairman shall hold their constituting meeting on the twenty-first day after the qualifying date at the latest.

(2) In this meeting the assessors and substitute assessors shall, before taking up their office, swear to the chairman their strict impartiality and diligent performance of their duties by means of handshake. The same oath shall be declared by the assessors and substitute assessors who are appointed after the constitutive meeting of the electoral authority.

(3) The precinct electoral authorities in Vienna and in the communities with more than 20.000 inhabitants can also be convoked to the constitutive meeting on a later date. The same applies to electoral authorities whose constitution has subsequently become unavoidable due to one of the reasons mentioned in § 14 al. 4.

Presence quorum, Effective decisions of the electoral authorities

§ 17. (1) The electoral authorities have the necessary quorum, if the chairman or his deputy, and at least half of the assessors are present.

(2) The passing of an effective decision requires the majority of the votes. The chairman does not take part in the vote. However, in case the votes are equal, the opinion he adheres to is decisive in making the decision.

(3) In ascertaining the quorum substitute assessors are only taken into account if their respective assessors are prevented from carrying out their duty.

Carrying out of official acts by the polling officer alone

§ 18. (1) If, notwithstanding its proper convocation, an electoral authority fails on the day of election to meet the required quorum or falls below the quorum during its sitting in office, and the urgency of the official act does not permit any delay, the polling officer shall carry out the official act alone. In this case he shall, if possible, consult persons of confidence in proportion of the party strength.

(2) The same applies to all official acts of an electoral authority unable to meet, because no party submitted proposals for the appointment of assessors (substitute assessors) according to § 14.

(3) Save in the cases of al. 1 and 2 and of §§ 15 al. 2, 42 al. 1 and 113 the polling officer can carry out undeferable official acts, for which he has been expressly authorised by the electoral authority.

Modifications in the constitution of the electoral authorities,

Tenure

§ 19. (1) If, by any reason save the temporary inability to attend, an assessor or substitute assessor does not discharge his duty in the electoral authority, the party having submitted the proposal for his appointment shall submit a new proposal for the vacant office.

(2) Officers, who may appoint precinct polling officers, permanent representatives or certain deputies to the electoral authorities in case of inability to attend, and parties having submitted proposals for the appointment of assessors and substitute assessors are also permitted to withdraw the appointed persons from the electoral authorities and to replace them by new persons at any time.

(3) If a party, entitled to propose assessors and substitute assessors to be appointed to an electoral authority in a provincial constituency, did not submit a provincial election proposal (§ 42) or the proposal was not made public (§ 49), those assessors and substitute assessors shall lose their offices in the respective provincial electoral authority and in all subordinate electoral authorities, however, in the federal electoral authority only in case the party has in no provincial constituency submitted a provincial election proposal or in no provincial constituency their provincial election proposals have been made public. In this case all offices of the assessors and substitute assessors shall be redistributed among the campaigning parties according to § 15 al. 3 whether or not they are currently represented in the electoral authority.

(4) If, following the National Council elections, the constitution of an electoral authority does no longer correspond with the provisions of § 15 al. 3, the modifications shall be carried out in proportion with the new strength of the parties.

(5) For the modifications according to al. 1 to 4 the provisions of § 14 al. 1 to 3, 5 and 6, and the §§ 15 and 16 shall be applied accordingly, however, for modifications according to al. 4, subject to the proviso that the determined period begins on the thirtieth day following the day of election.

(6) The electoral authorities established before each election and possibly modified according to al. 1 to 5 remain in office until the constitution of the electoral authorities on the occasion of the next election.

Entitlement to fees for the members of the electoral authorities

§ 20. (1) The members of the electoral authorities are entitled to fees according to al. 2 and 3 for their service.

(2) In order to determine the extent and amount of the fees according to al. 1 the provisions on the fees of jurors and lay-judges of the Entitlement to Fees Act 1975, Federal Law Gazette No. 136, shall be applied accordingly.

(3) The members of the electoral authority shall submit to the polling officer their claim for fees within 14 days after the closing of the meeting of the electoral authority. No application is required if only costs of stay are claimed.

(4) The decision on the claims according to al. 3 lies with the Federal Minister of the Interior with regard to members of the federal electoral authority, and with the administrative authority, which the polling officer belongs to or by which he is appointed, with regard to the members of all other electoral authorities; against this decision no remedy is admissible.

(5) The cost for the fees of the members of the electoral authorities shall be borne by the regional authority which is obliged to bear the cost of the office that is responsible for the procurement of the necessary personnel and equipment to the electoral authorities according to § 7 al. 2.

PART II

Right to vote, Registration of the persons having the right to vote

Section 1

Right to vote

§ 21. (1) All men and women have the right to vote, provided they have the Austrian citizenship, have reached the age of 18 before 1st January of the year of the election, and are not excluded from the right to vote.

(2) With the exception of the age requirement, the question whether the preconditions according to al. 1 are met shall be assessed at the qualifying date (§ 1 al. 2).

Section 2

Exclusion from the election

Due to a criminal sentence

§ 22. (1) Anyone being effectively sentenced to a term of imprisonment exceeding one year by a domestic court due to one or more wilfully committed criminal offences is excluded from the right to vote. This exclusion ends after six months. The period begins after the term has been served and preventive measures entailing the restraint of personal liberty have been ended or have become obsolete; in case the term has been served only by way of deducting the time of detention pending trial from the sentence, the period begins when the verdict is final.

(2) If the legal consequences are excluded by other legal provisions, lapsed, or the convict has been released from the legal consequences or the exclusion from the right to vote, he is not excluded from the right to vote either. Moreover, the exclusion from the right to vote is not effective, if the court has suspended the term. If the suspension is revoked, the exclusion from the right to vote becomes effective on the day when this decision becomes final.

Section 3

Registration of the electorate

Electoral lists

§ 23. (1) The electorate shall be registered in the electoral lists. For the electoral lists the specimen in Schedule 2 shall be used.

(2) The setting up of the electoral lists is the duty of the communities within the conferred jurisdiction of the federation.

(3) The electoral lists shall be set up by the communities on the basis of the voters' records.

(4) In communities not partitioned in precincts the electoral lists shall be set up according to the alphabetical order of the names of the persons having the right to vote; if, however, a community is partitioned in precincts they shall be set up according to precincts and, if applicable, to towns, streets, and house numbers.

Place of listing

§ 24. (1) Each person having the right to vote shall be registered in the electoral list of that place (community, precinct) where he has his principal residence on the qualifying date. For persons having the right to vote who live abroad the place of their being registered in the electoral list shall be determined by the entries in the voters' records.

(2) Each person having the right to vote shall only be registered once in the electoral lists.

(3) Persons having the right to vote who are called for military service or alternative national service shall be registered in the electoral list of that community where they used to have their principal residence before having been called, unless they changed their residence during their military or alternative national service.

(4) If a person having the right to vote is registered in the electoral list of several places (communities, precincts), he shall be deleted immediately from the electoral list where he was wrongly registered. The person having the right to vote and the community in which he keeps being registered shall be immediately notified.

Providing access to the electoral list

§ 25. (1) On the twenty-first day after the qualifying date the electoral list shall be shown to the public for ten days in a generally accessible office room. In communities where public announcements are made according to § 26 the period of access may be reduced to one week. In such cases the period of access begins on the twenty-fourth day after the qualifying date. In Vienna a place of access shall be established at least in each community district.

(2) The access to the electoral lists shall be announced by the mayor in the usual local way before the beginning of the period of access. The public announcement shall also include the period of access, the daily hours of access not less than four hours, the name of the office rooms where the electoral list is available for examination, the office where objections can be filed against the electoral list, and the provisions of al. 3 and §§ 28 and 33. In fixing the daily hours reserved for the access it shall be taken into consideration that the access be possible beyond the normal working hours.

(3) During the period of access everyone may examine the electoral list or make copies of it.

(4) Beginning with the first day of access modifications in the electoral lists shall only be permitted on the grounds of an objection or appeals proceeding. Excepted from this rule are deletions according to § 24 al. 4, the correction of apparently wrong registrations of persons having the right to vote, and the corrections of formal mistakes, in particular the correction of writing mistakes.

Announcement in private houses

§ 26. (1) Before the period of examination begins, an announcement shall be posted in communities of more than 10.000 inhabitants in each private house in a place which is generally accessible to the residents (doorway) showing the number of male and female persons of the electorate in the order of the position and door number of the apartments, or their family and first names, and the office where objections can be filed against the electoral list.

(2) Such announcements can also be posted in other communities; they have to be posted in any case if the appropriate district authority, or the Governor of the Province with regard to cities with self-government, so decides.

Issuing of copies to the parties

§ 27. (1) The communities shall issue to the parties being represented in the National Council and to the other parties wishing to campaign, at their request and against reimbursement of the costs, copies of the electoral lists on the first day of their being accessible at the latest.

(2) The applicants shall submit this request two weeks before the access of the electoral list at the latest. 50% of the estimated production costs are due upon the application. The remaining costs shall be paid upon receipt of the copies.

(3) The same preconditions apply to the issue of possible amendments to the electoral list.

Objections

§ 28. (1) During the period of access every citizen can, upon providing his name and address, object in written form or orally against the electoral list at the office named for recording of objections (§ 25 al. 2). The person objecting can request the adding of a person having the right to vote to the electoral list or the deletion of a person not having the right to vote from the electoral list.

(2) The objections must reach the office, where they shall be submitted, before the end of the period of access.

(3) In case the objection is submitted in written form each case shall require a separate objection. If the objection demands the adding of a person having the right to vote to the electoral list, the documents necessary to substantiate the objection, in particular a voter's data form (specimen Schedule 1 of the Voters' Records Act 1973) filled out by the person presumed to have the right to vote, shall be attached, except of a citizen living abroad. If the objection requests the deletion of a person not entitled to vote the reason shall be indicated. All objections, even faulty ones, shall be accepted and forwarded by the offices in charge. In case an objection is signed by several persons the one having signed first is considered to be authorised recipient.

(4) Anyone who maliciously raises objections commits an administrative offence and is subject to a maximum fine of up-to 218 Euros and, in case it cannot be collected, to a maximum subsidiary term of imprisonment of two weeks.

Notification of the person whose deletion is requested

§ 29. (1) The community shall notify the person whose listing in the electoral list was objected, stating the reasons, within 24 hours after receipt of the objection. The person concerned has the right to make counter-statements in written form or orally before the authority competent to decide on the objection within four days after the receipt of the objection.

(2) The names of the objecting persons are subject to official secrecy. They shall be provided to the criminal courts at request.

Decision on objections

§ 30. (1) Outside of Vienna the community electoral authority and in Vienna the district electoral authority shall decide on objections within six days following the end of the period of access. § 7 of the General Administrative Procedure Act 1991 is applicable.

(2) The community shall without delay notify the objecting person and the person concerned of the decision in written form.

Correction of the electoral list

§ 31. If the decision necessitates the correction of the electoral list, the community shall carry out the correction of the electoral list, stating the date of decision, immediately after the decision has become effective. If a person not previously registered in the electoral list is thus added, his name shall be noted at the end of the electoral list together with the next available current number, and in that position of the electoral list, where he would have had to be registered initially, reference shall be made to the current number of the new entry.

Appeals

§ 32. (1) The person objecting and the person concerned by the decision may appeal against the decision according to § 30 al. 1 to the community in written form within two days upon receipt of the decision. The community shall without delay notify the respondent of the filed appeal with the information that he has the right of access to the appeal and to make a statement on the given reasons of appeal within two days upon receipt of the notification.

(2) Outside of Vienna the district electoral authority and in Vienna the provincial electoral authority shall decide on the appeal within four days following its receipt. § 7 of the General Administrative Procedure Act 1991 is applicable. No further appeal is admissible.

(3) The provisions of §§ 28 al. 2 to 4 and 30 al. 2, and § 31 are applicable accordingly.

Handling of the objections and appeals raised

according to the Voters' Records Act 1973

§ 33. The provisions mentioned above in §§ 28 to 32 shall be applied to the objections and appeals against the voters' records pending at the beginning of the period of access according to the provisions of the Voters' Records Act 1973 as amended (§§ 4 to 8).

Closing of the electoral list

§ 34. (1) After the completion of the objection and appeals proceedings the community shall close the electoral list.

(2) The final electoral list shall be decisive for the election.

Reports on the number of persons having the right to vote

§ 35. (1) Before providing access to the electoral list (§ 25) the district electoral authorities shall announce the number of persons having the right to vote in the voting district, subdivided by men and women, to the provincial electoral authority, which in turn shall announce the same to the federal electoral authority for the territory of the province by the fastest way available (immediate notification).

(2) The modifications of the number of persons having the right to vote, which occur due to the objection and appeals proceedings, shall be equally reported to the provincial electoral authority after the closing of the electoral list, which shall report without delay to the federal electoral authority.

Participation in the election

§ 36. (1) Only persons having the right to vote and whose names are contained in the final electoral list can participate in the election.

(2) Every person having the right to vote has only one vote.

(3) In communities with more than 1.000 inhabitants the persons having the right to vote shall receive official election information according to local customs, till the third day before the day of election at the latest, which shall contain at least the family and first name of the person having the right to vote, the year of birth and the address, the place of election (precinct), the current number of his entry in the electoral list, the day of election, the election hours and the polling station.

Place of exercising the right to vote

§ 37. (1) Every person having the right to vote shall, as a principle, exercise his right to vote in the place (community, precinct) where he is registered in the electoral list.

(2) Persons having the right to vote who have an electoral card can also exercise their right to vote elsewhere.

Section 4

Electoral cards

Right to be issued an electoral card

§ 38. (1) Voters who will, on the day of election, presumably not be at the place (community, precinct) of their being registered in the electoral list and would thus not be able to exercise their right to vote, are entitled to be issued an electoral card.

(2) Persons are also entitled to be issued an electoral card to exercise their right to vote if they are unable to come to the respective polling station on the day of election, due to not being able to walk or being transported, or being bedridden, be it for reasons of ailment, age or else, or due to their being in custody of the court, detained in prison, or special institutions or otherwise held captive, and they wish to take the option of casting the ballot before a special electoral authority (§ 73 al. 1), unless the right to vote could be exercised according to § 72 or § 74.

(3) If a person having the right to vote subsequently lacks the preconditions for the entitlement to an electoral card for reasons of al. 2, he shall notify the community, where he used to stay, in time before the day of election, that he waives the right to go to a special electoral authority established according to § 73.

Issue of the electoral card

§ 39. (1) The issue of the electoral card shall be applied for in written form or orally in the community by which the person having the right to vote was registered in the electoral list, beginning with the day of announcement of the election till the third day before the day of

election at the latest; abroad the issue and handing over of the electoral card can also be applied for through an Austrian official representation. In case of an oral application the identity shall be proven by a document, in case of a written application the identity may also be shown by other means. In case of § 38 al. 2 the application shall include the express request for a visit by a special electoral authority according to § 73 al. 1 and the exact description of the location where the applicant expects the visit by a special electoral authority, and in case of persons being in official custody an official confirmation of the detention.

(2) The electoral card shall be issued as an envelope ready to be sealed and shall bear the printing provided in Schedule 3. In case electoral cards are issued by means of electronic data processing, it is sufficient, instead of the mayor's signature, to put his name on it; no confirmation by the secretariat is required.

(3) If the application for issue of an electoral card is accepted, an official ballot and a voting envelope ready to be sealed with the number of the provincial constituency imprinted shall be issued together with the electoral card. These latter forms shall be put into the envelope mentioned in al. 2. The envelope shall be issued to the applicant. The applicant is obliged to keep the envelope well cared of till casting the ballot.

(4) The community must not issue duplicates for electoral cards lost or damaged, or further official ballots.

Procedure after issue of electoral cards

§ 40. (1) The issue of electoral cards shall be noted in the electoral list in the column "remark" in the line of the respective voter by adding the word "electoral card" in an eye-catching way (e.g. using a coloured pencil).

(2) In case the electoral card is issued to a person having the right to vote according to § 38 al. 2, being outside of the place where he is registered in the electoral list, the issuing community shall notify the community, where the person having the right to vote currently stays, of the issue of the electoral card with the information that this person shall be visited by a special electoral authority.

(3) The number of the electoral cards issued shall be announced to the provincial electoral authority through the channels of the district electoral authority after the end of the period provided in § 39 al. 1 (immediate notification). The provincial electoral authority shall report to the federal electoral authority without delay the number of electoral cards issued in their jurisdiction, however on the day preceding the day of election at the latest.

(4) §§ 56, 72 and 73 provide whether and how special electoral authorities are to be determined for voters with electoral cards. §§ 60, 68, 70 and 82 contain the provisions specific on the exercise of the right to vote by voters with electoral cards.

PART III

Eligibility, Campaigning

Section 1

Eligibility

§ 41. All men and women are eligible, provided they have the Austrian citizenship on the qualifying date, have reached the age of 19 before 1st January of the year of the election, and are not excluded from the right to vote.

Section 2

Campaigning

Submission, first examination and support of the provincial election proposals

§ 42. (1) A campaigning party shall submit its election proposal for the first and second counting procedure (provincial election proposal) to the provincial electoral authority on the thirty-seventh day before the day of election at 17:00 hours at the latest; § 122 shall not be applied. The provincial polling officer shall, after an immediate examination of the provincial election proposal for obvious faults, note on it day and time of receipt. If the provincial polling officer detects obvious faults in a timely submitted provincial election proposal, the provincial polling officer shall at the party's request grant leave for improvement, in which case the re-submission of the improved provincial election proposal shall be effected within the same period as provided for the submission of provincial election proposals, and shall only then note the receipt.

(2) The provincial election proposal must be signed by at least three members of the National Council or supported by persons, who were registered in a community of the provincial constituency on the qualifying date as having the right to vote in the electoral list, i.e. in the provincial constituencies of Burgenland and Vorarlberg by 100 each, in the provincial constituencies of Carinthia, Salzburg, and Tyrol by 200 each, in the provincial constituencies of Upper Austria and Styria by 400 each, and in the provincial constituencies of Lower Austria and Vienna by 500 each. The declarations of support filled out according to the specimen in Schedule 4 and personally signed according to al. 3, shall thereby be attached to the provincial election proposal.

(3) The declaration of support shall contain the confirmation of the community that the person named in the declaration was registered in the voters' records on the qualifying date as having the right to vote. This confirmation shall only be given by the community if the person named in the declaration appears in person before the community authority in charge of the keeping of the voters' records, has proven his identity by providing an identity document with the person's photo (e.g. passport, ID card, driving licence, post office ID document), if the declaration of support contains the information as to first and family name, date of birth and address, and the name of the campaigning

party to be supported, and if the personal signature of the person named in the declaration of support was either given before the community or certified by court or notary.

(4) The communities are obliged to issue a confirmation according to al. 3 without delay and free of administrative charges, or other charges or fees. Such confirmation may only be issued once for a person.

Content of the provincial election proposals

§ 43. (1) The provincial election proposal shall contain:

1. the distinctive party name in words and a possible abbreviation consisting of not more than five letters, which can be a word;
2. the provincial party list, being a list of at most twice as many campaigning persons as representatives to be elected in the provincial constituency, and the regional party lists, being the lists of at most twelve or twice as many campaigning persons as representatives to be elected in the regional constituencies of the provincial constituency, in the sequence order determined by Arabic numbers of the respective application, and with the family and first names, the year of birth, the occupation, and the address of each campaigning person, subject to the condition that no campaigning person may appear on several regional party lists;
3. the name of the legal representative authorised to receive official mail (first and family name, occupation, address)

(2) A campaigning person may only be listed in the provincial election proposal if he has given his written consent. The declaration shall contain the name of the campaigning person as contained in the respective party list of the election proposal.

(3) The provincial electoral authority shall submit copies of the provincial election proposals received without delay to the federal electoral authority and the other provincial authorities. Subsequent modifications, which were taken into account in the provincial election proposals made public according to § 49, shall be reported accordingly to the federal electoral authority and the other provincial electoral authorities without delay.

(4) The campaigning parties shall pay to the Federal Republic a contribution for the costs of the production of the official ballot for the regional constituencies of the provincial constituency amounting to 435 Euros. This contribution shall be paid in cash to the provincial electoral authority at the time of the submission of the election proposal (al. 1). If the contribution for the costs is not paid, the election proposal is deemed as not submitted.

Distinctive party names and abbreviations in the provincial election proposals

§ 44. (1) If several provincial election proposals bear the same or hardly distinctive party names or abbreviations respectively, the provincial polling officer shall summon the representatives of these election proposals to a joint meeting and attempt to reach mutual consent on the distinction of the party name and abbreviation respectively. If no mutual consent can be reached, the provincial electoral authority shall keep party names, which have already been contained in election proposals made public in National Council elections within the last ten years, and name the other provincial election proposals according to the person campaigning proposed in the first position. The same applies to abbreviations subject to the proviso that the provincial electoral authority shall delete the abbreviations on the other provincial election proposals.

(2) Correspondingly, provincial election proposals without an explicit party name shall be named after the person campaigning proposed in the first place.

(3) If a provincial election proposal is to be named after the person campaigning proposed in the first position (name list), but the name of the leader of the list resembles the name of the leader of another provincial party list, or is hardly distinctive from it, the provincial polling officer shall summon the representative of this election proposal to a meeting and request him to name another leader of the list, whose name does not give rise to confusion. If in such case no other leader of the list is named, the provincial election proposal is deemed as not submitted.

(4) Anyhow it is a principle that in case new parties join the campaign preference is given to the party name of that campaigning party that submitted its provincial electoral proposal earlier.

Provincial election proposal without representative authorised to receive official mail

§ 45. (1) If a provincial election proposal does not name an authorised recipient, the respective person campaigning in the first position of the provincial election proposal is taken as representative of the party authorised to receive official mail.

(2) The party can replace the authorised recipient any time by another representative. Such declarations to be addressed to the provincial electoral authority only require the signature of the former representative. If this person does not agree or is no longer in the position to represent the party according to the opinion of the provincial electoral authority, the declaration shall be signed by at least half of the persons campaigning mentioned on the provincial election proposal, who can still represent the party at the time of the declaration according to the opinion of the provincial electoral authority. If these signatures cannot be submitted, the signature of one person campaigning on the provincial election proposal, who can represent the party according to the opinion of the provincial electoral authority, is sufficient.

Examination of the provincial election proposals

§ 46. (1) The provincial electoral authority shall examine without delay whether the submitted provincial election proposals are signed by at least three members of the National Council or are supported by the required number of persons having the right to vote of the provincial constituency according to § 42 al. 2, and whether the persons campaigning, proposed in the provincial party lists and regional party lists, are eligible. If one person having the right to vote supported several provincial election proposals, the provincial electoral authority shall accept as valid his support for the provincial election proposal which was first submitted. The support for the other provincial election proposals shall be deemed as not submitted.

(2) A withdrawal of certain declarations of support after submission of the provincial election proposal shall not be accepted by the provincial electoral authority, unless the supporter is able to show to the provincial electoral authority that he was motivated to support the election proposal by a significant mistake or by wilful deceit or menace, and the withdrawal of the declaration of support was effected on the thirty-fourth day before the day of election at the latest.

(3) If a provincial election proposal lacks the required number of declarations of support (§ 42 al. 2) or, with the exception of the regional party lists, does not correspond with the preconditions required in § 43 al. 1, it shall be rejected by the provincial electoral authority on the twenty-fourth day before the day of election at the latest. Regional party lists not corresponding with these preconditions shall be deemed as not submitted and are to be excluded from the public announcement according to § 49 al. 1. Persons campaigning who are not eligible or whose written declarations (§ 43 al. 2) were not received, shall be deleted from the election proposal. The representative of the party named authorised recipient shall be notified thereof.

Complementary proposals

§ 47. If a person campaigning renounces his campaign, dies, loses his eligibility, is deleted due to lack of eligibility or of a written declaration (§ 43 al. 2), the party may complement their respective provincial party list or regional party list by naming of another person campaigning or bringing the missing declaration later. Complementary proposals for party lists, which only require the signature of the party representative named authorised recipient, and the declaration shall, however, be submitted to the provincial electoral authority on the thirty-fourth day before the day of election at 17:00 hours at the latest.

Provincial election proposals with the same persons campaigning

§ 48. (1) If several provincial election proposals in the same provincial constituency bear the name of the same person campaigning, the provincial electoral authority shall request this person to state within eight days, which of the election proposals he opts for, however, on the thirty-fourth day before the day of election at the latest. He shall be deleted from all other provincial election proposals. If he does not give notice within the period provided, he shall be kept on that provincial election proposal bearing his name, which was first submitted.

(2) If provincial election proposals bear the name of the same person campaigning in two or more provincial constituencies, mutual consent shall be reached between the respective provincial electoral authorities and al. 1 be applied accordingly. If no mutual consent can be reached, the federal electoral authority shall decide on the matter. The decision made shall be notified by the federal electoral authority to the respective provincial electoral authorities till the thirty-first day before the day of election at the latest, and is binding on the provincial electoral authorities.

Finalising and public announcement of the provincial election proposals

§ 49. (1) The provincial electoral authority shall make final the election proposals on the thirty-first day before the day of election at the latest. In case a provincial party list or regional party list contains too many persons campaigning, these persons shall be deleted. Subsequently the election proposals shall be made public.

(2) Faults in the election proposals found after the public announcement do not affect the validity of these election proposals.

(3) In the public announcement according to al. 1 the sequence order of the parties being represented in the previously elected National Council shall reflect the number of seats won by the parties in the previous National Council election in the entire federal territory. If the number of seats is equal, the sequence order is determined according to the total of party votes ascertained in the previous National Council election; if these are also equal the federal electoral authority shall decide by means of lots to be drawn by its youngest member. The sequence order so ascertained shall be notified by the federal electoral authority to the provincial electoral authorities on the thirtieth day before the day of election at the latest, and is binding on the provincial electoral authorities.

(4) Subsequent to the parties listed according to al. 3 the other campaigning parties shall be listed, with their sequence order being determined by the date of the submission of their election proposal. In case election proposals were submitted simultaneously the provincial electoral authority shall decide on the sequence order by means of lots to be drawn by its youngest member.

(5) The words "list 1, 2, 3, etc." shall be put in front of the distinctive party names according to the current numbering. If a party being represented in the previously elected National Council does not participate in the election campaign, the public announcement shall only contain the list number, belonging to it according to al. 3, and next to it the word "empty".

(6) The public announcement shall be effected in the usual local manner. All list numbers and the contents of the election proposal (§ 43 al. 1 items 1 to 3) shall be contained therein in full.

(7) The party names of all campaigning parties including possible abbreviations shall be printed with black ink in equally big letters into rectangular fields equally big for each campaigning party. As for the abbreviations big black, uniform letters are to be used. In front of each party name the word "list" and below that, in a bigger size, the respective current number shall be added. With party names exceeding three lines the size of the letters can be adjusted according to the space available.

Withdrawal of the provincial election proposal and regional party lists

§ 50. (1) A campaigning party may withdraw its provincial election proposal by means of a written statement. This statement shall be submitted to the provincial electoral authority on the thirty-fourth day before the day of election at 17:00 hours at the latest, and shall be signed by the three members of the National Council or half of the persons, having the right to vote, who previously supported the election proposal.

(2) A provincial election proposal is also deemed as withdrawn if all campaigners on the provincial party list personally renounce their election campaign in written form vis-à-vis the provincial electoral authority till the thirty-fourth day before the day of election.

(3) If all campaigners on a regional party list so renounced their election campaign, only this regional party list is deemed to have been withdrawn.

Reimbursement of the contribution for costs

§ 51. If a provincial election proposal is not made public, the contribution for costs (§ 43 al. 4) shall be paid back.

PART IV

Polling procedure

Section 1

Place and time of election

Community as place of election, Orders of the community electoral authorities, and of the city council in Vienna

§ 52. (1) Each community is a place of election.

(2) Outside of Vienna the community electoral authorities shall determine whether a community shall be partitioned in precincts according to § 53. The community electoral authorities, and the city council for Vienna, shall fix the precincts and determine, subject to the following provisions, the respective polling stations, the zones of prohibition provided for in § 58 al. 1, and the time of election. The precincts, polling stations, zones of prohibition and the time of election shall be determined in time on the fifth day before the day of election, except the special precincts.

(3) The orders made shall be publicly announced by the community in the usual local manner, in any case, however, by posting them at the building of the polling station, on the fifth day before the day of election at the latest. In the public announcement reference shall also be made to the prohibition on election campaigning, on assembly, and on carrying weapons laid down in § 58, and reference shall be made that violations will be prosecuted.

(4) The community electoral authorities, and the city council in Vienna, shall, when fixing the special precincts, simultaneously determine the number of special electoral authorities to be established according to § 73. This order shall be publicly announced immediately in the usual local manner.

(5) Subject to facilities opportunities each community, and each district in Vienna, shall provide for establishing at least one polling station easily accessible for handicapped people. For blind voters and such persons with heavy visual defects appropriate guiding systems shall be provided subject to technical opportunities.

(6) The orders made by the community electoral authority shall be reported without delay to the district electoral authority.

Precincts

§ 53. (1) In order to facilitate the election larger communities shall be partitioned in precincts, which shall be organised in such a way that, on the day of election, an average number of at most seventy voters per hour must be handled.

(2) Communities with areas of residence very distant from each other (strayed residences) may also be partitioned in precincts in order to facilitate for the voters the way to the polling station.

(3) The establishment of precincts with less than 30 voters requires the consent of the provincial electoral authority, which shall only be granted if the electoral privacy is safeguarded.

Polling stations

§ 54. The polling station shall be suitable for the carrying out of the act of voting. The furniture necessary for the carrying out of the election, such as the table for the electoral authority and next to it a table for the election witnesses, the ballot box, and the necessary amount of duly equipped voting booths, shall be provided by the community. Equally shall be taken care that, if possible, a waiting lounge shall be available for the voters in the building of the polling station.

Polling stations outside of a precinct ,

Common polling stations for several precincts

§ 55. In communities being partitioned in precincts one polling station shall, as a principle, be established within each precinct. However, the polling station may be moved to a building outside of the precinct if this building can be reached by the electorate without major difficulties. In such communities a common polling station may also be established if the station provides enough space for the accommodation of the electoral authorities and for the simultaneous carrying out of several acts of voting, and has appropriate waiting

lounges for the voters.

Polling stations for voters with electoral card

§ 56. (1) In larger communities, being partitioned in precincts the community electoral authority shall determine at least one polling station where the voters with electoral cards have to cast the ballot. In Vienna at least one polling station for voters with electoral cards shall be established in each community district. If polling stations are determined for voters with electoral cards, these voters may only exercise their right to vote in the polling stations determined for voters with electoral cards. Moreover, voters without electoral cards shall also be admitted if the preconditions of § 37 al. 1 are met. However, members of the electoral authorities and their auxiliary personnel, and the election witnesses retain the right to vote also before the electoral authorities where they perform their duties, provided they have electoral cards.

(2) The regulations of al. 1 do not affect the provisions of §§ 72 and 73.

Voting booth

§ 57. (1) In each polling station there shall be at least one voting booth. In order to achieve a faster handling of the voters, several voting booths may be set up with regard to one electoral authority if the supervision of the act of voting by the electoral authority is not jeopardised. In case of precincts with more than 500 persons having the right to vote at least two voting booths shall be set up in the polling station.

(2) The voting booth shall be set up in such a way that the voter can fill out the ballot and put it into the voting envelope without being viewed by any other person being present in the polling station.

(3) If solid booths, specially made for this purpose, are not available, it is sufficient for a voting booth to prevent the viewing of the voter in the voting booth by any sort of separation device. Therefore, the voting booth can be made, in particular, of simple wooden frameworks covered with non-transparent paper or cloth, by fixing curtains in a corner of the room, by putting together larger cases, by the appropriate arrangement of blackboards. If possible, it shall be set up in such a way that the voter can enter the booth on one side and leave it on the other side.

(4) The voting booth shall be equipped with a table and a chair or with a high desk, and a writing pad, and with the necessary material for filling out the ballot (coloured pencil, if possible). Moreover, the provincial party lists made final and public by the provincial electoral authority shall be posted in the voting booth on a visible spot.

(5) During the time of election sufficient lighting shall be provided in the voting booth.

Zones of prohibition

§ 58. (1) In the building of the polling station and in the surrounding area (zone of prohibition) to be determined by the community electoral authority, and in Vienna by the city council, any kind of election campaigning, in particular, by way of speeches to the voters, posting or distributing of election pamphlets or of candidate lists, and, furthermore, any assembly or carrying of weapons of all kind, is prohibited.

(2) The prohibition on carrying weapons shall not include those weapons that have to be carried by officers of the public security service or prison wardens according to their professional regulations.

(3) Violations of the prohibitions laid down in al. 1 will be punished by the district administrative authority with a maximum fine of up-to 218 Euros, in case it cannot be collected, with a maximum subsidiary term of imprisonment of two weeks.

Time of election

§ 59. The beginning and the duration of casting the ballot (time of election) shall be fixed subject to § 52 al. 2 such as to safeguard the exercise of the right to vote for all voters.

Casting the ballot abroad by persons having the right to vote

§ 60. (1) Voters who will, on the day of election, presumably be abroad, may exercise their right to vote there in such a way that, if they have an electoral card, they send the electoral card in time to the address of the appropriate provincial electoral authority printed on the electoral card, observing to the provisions of al. 2 to 6.

(2) In case the voter does not make use of the possibility laid down in al. 1, the electoral card requires the confirmation by a person comparable to an Austrian notary or an institution authorised to make official certifications according to the law of the host state respectively, or by the head of the Austrian official representation or an official authorised by him for this purpose. The confirmation shall contain the identity of the voter and the place and date (day and time) when he put the sealed voting envelope back into the electoral card. The confirmation shall be issued before the closing of the last polling station in Austria.

(3) If the persons entitled to vote are members of a unit deployed abroad upon request for support by an international organisation, this confirmation shall be issued by the officer in charge of the unit or by a member of this unit authorised by him for this purpose.

(4) Furthermore, the confirmation may be effected by an adult witness of Austrian nationality, having a valid Austrian passport, of which document the dates of issue shall be noted on the electoral card, otherwise the vote shall be invalid.

(5) Such ways of exercising one's right to vote that are not permitted in the respective country shall not be pursued.

(6) The electoral card together with the unopened voting envelope therein shall be submitted to the appropriate provincial electoral authority on the eighth day following the day of the election at 12:00 hours at the latest. Voting envelopes received late shall not be taken into account for ascertaining the election results.

Section 2

Election witnesses

§ 61. (1) To each electoral authority in each polling station two election witnesses can be sent by each party, whose provincial election proposal was made public. The election witnesses shall be named to the district electoral authority in written form by the party representative named authorised recipient on the tenth day before the day of election at the latest; each election witness shall obtain an entry certificate authorising him to enter the polling station, which shall be presented to the electoral authority upon entering the polling station.

(2) The election witnesses shall merely be persons of trust for the campaigning parties; no further influence on the course of the act of voting shall be permitted. The election witnesses shall not be bound by any obligation to keep secret information learned from their work.

Section 3

Acts of voting within Austria

Organisation of the election, Official power of the polling officer

§ 62. (1) Irrespective of the provisions in § 60, the organisation of the election shall be the responsibility of the community electoral authorities, and the precinct electoral authorities for communities being partitioned in precincts.

(2) The polling officer shall take care of the maintenance of public order during the act of voting and ensure the observance of the provisions of this federal law. He shall not allow the electoral authority to exceed its jurisdiction.

(3) Everyone shall strictly comply with the orders of the polling officer. Failure to comply with the orders shall constitute an administrative offence and will be punished by the district administrative authority with a maximum fine of up-to 218 Euros, in case it cannot be collected, with a maximum subsidiary term of imprisonment of two weeks.

Beginning of the act of voting

§ 63. (1) On the day of election at the fixed hour and in the polling station determined for this purpose the act of voting shall be commenced by the polling officer submitting to the electoral authority the electoral list together with the prepared ballot register (specimen Schedule 5), the voting envelopes, and the official ballot papers (§§ 75, 76), and reading out the provisions of §§ 17 and 18 on the quorum of the electoral authority. The polling officer shall notify the electoral authority of the number of official ballots (§§ 75, 76) delivered upon confirming the receipt (§ 75 al. 3), examine this number before the electoral authority, and take down the result in a written report.

(2) Immediately before the beginning of casting the ballots the electoral authority shall make sure that the ballot box reserved for the casting of ballots is empty.

(3) Casting the ballot begins with the members of the electoral authority, their possible auxiliary personnel, the persons of trust and the election witnesses casting their votes. If they are registered in the electoral list of another precinct, they can exercise their right to vote before the electoral authority where they perform their duties only by means of an electoral card. Moreover, the provisions of §§ 68 and 70 shall be applicable for voting by electoral card voters.

Voting envelopes

§ 64. (1) Voters shall be given non-transparent voting envelopes.

(2) The writing of words, remarks or signs on the voting envelopes is prohibited. Violations of this prohibition shall be punished by the district administrative authority with a maximum fine of up-to 218 Euros, in case it cannot be collected, with a maximum subsidiary term of imprisonment of two weeks, provided that this act does not constitute an offence to be punished more severely.

Entering the polling station

§ 65. (1) Apart from the electoral authority, only their auxiliary personnel, the election witnesses, the voters for the purpose of casting the ballot, and, if applicable, the officials necessary for the maintenance of public order and security may be admitted to the polling station. After casting the ballot the voters shall immediately leave the polling station.

(2) If it appears necessary for the undisturbed carrying out of the election, the polling officer may order that the voters be admitted to the polling station only one after another.

Personal exercise of the right to vote

§ 66. (1) The right to vote shall be exercised personally; the blind or persons with heavy visual defects shall be provided by the electoral authority with a stencil as an aid to enable their exercising the vote themselves. Physically or mentally handicapped voters may have a person at their side to guide and help them with the act of voting, to be chosen by themselves and confirmed vis-à-vis the polling officer. Apart from these cases the voting booth may only be entered by one person at a time.

(2) Persons shall be deemed physically or mentally handicapped who cannot be required to fill out the official ballot paper without the aid of

another person.

(3) In doubtful cases the electoral authority shall decide on the admissibility of an assisting person. Any casting of ballot with the aid of an assisting person shall be laid down in a note.

(4) Anyone who falsely pretends to be blind, heavily visually handicapped or physically handicapped commits an administrative offence and will be punished by the district administrative authority with a maximum fine of up-to 218 Euros, in case it cannot be retrieved, with a maximum subsidiary term of imprisonment of two weeks.

(5) § 72 contains specific provisions on the exercise of the right to vote for persons being cared for in nursery homes.

Identification

§ 67. (1) Every voter appearing before the electoral authority shall provide his name, his address of residence, and a document or other official paper that proves his identity beyond doubt.

(2) Documents or other official papers to be accepted for confirmation of the identity are in particular: personal ID cards, passports and driving licences, and furthermore all official ID cards with a personal photograph.

(3) If the voter does not have a document or official paper of the kind described in al. 2, he shall be still admitted to casting the ballot, given that he is personally known to the majority of the members of the electoral authority and no objection according to § 71 al. 1 is raised. This incidence shall be expressly mentioned in the notes on the act of voting.

Casting the ballot

§ 68. (1) The voter shall first prove his identity (§§ 67 and 70 al. 1). If he is registered in the electoral list, the polling officer shall give him the empty voting envelope and the official ballot paper. In case of a voter with an electoral card the polling officer shall, after the opening of the envelope (§ 39 al. 3) to be delivered to him by this person, return the official ballot paper lying inside together with the voting envelope ready to be sealed. In case of a voter with an electoral card from the own regional constituency the polling officer shall hand out the empty voting envelope instead of the voting envelope ready to be sealed. The polling officer shall destroy the voting envelope ready to be sealed. The polling officer shall instruct every voter with an electoral card to use the ballot paper already handed out at the issue of the electoral card. If, however, a voter with an electoral card does no longer have this ballot paper, he shall be given a ballot paper of the regional constituency (§ 75), provided that his electoral card bears the name of that regional constituency wherein which the place of election is situated, if, however, he is a voter with an electoral card from another regional constituency, he shall be given a blank official ballot paper (§ 76). The polling officer shall write on the blank official ballot paper, before giving it to the voter, the number of the provincial constituency and the letter of the regional constituency, being indicated on the electoral card. If a voter with an electoral card does no longer have the voting envelope ready to be sealed, he shall be given a new voting envelope ready to be sealed of his provincial constituency.

(2) The polling officer shall instruct the voter to go into the voting booth. There the voter shall fill out the official ballot, put it into the envelope, leave the voting booth and hand over the envelope to the polling officer. This person shall put the unopened envelope into the ballot box. In case the voting envelope is from a voter with an electoral card, who is not registered in a community of the regional constituency as entitled to vote, this person shall seal the voting envelope before giving it to the polling officer. The polling officer shall put the voting envelopes of these voters with electoral cards into a special box. The assessor marking the names of the voters in the electoral list (§ 69 al. 1) shall take care that the polling officer does not mistakenly put voting envelopes, given to him by voters with electoral cards of other regional constituencies, into the general ballot box.

(3) If the voter makes a mistake in filling out the official ballot, he shall be given another ballot paper at his request; al. 1 shall be applied accordingly. The voter shall invalidate in front of the electoral authority the official ballot, first given to him, by means of tearing, and take it with him for the purpose of maintaining the electoral privacy.

(4) In any case, the issue of another official ballot shall be noted in the ballot register.

Notes in the ballot register and in the electoral list by the electoral authority

§ 69. (1) The name of the voter having cast his ballot shall be entered in the ballot register under the current number and with noting the current number of the electoral list. Simultaneously his name shall be marked in the electoral list by a second assessor.

(2) The current number in the ballot register shall be noted by the second assessor in the column "Ballot cast" of the electoral list in the corresponding area (male, female person entitled to vote).

Procedure with electoral card voters

§ 70. (1) Voters, who have been issued an electoral card, shall present, in addition to the electoral card, a document or official paper mentioned in § 67 al. 2, from which the identity of the person described on the electoral card can be seen. The names of voters with electoral cards shall be entered at the end of the electoral list under the current number and included in the notes on the course of the election, unless they are voters with electoral cards according to al. 2. The electoral card shall be taken from the voter, marked with the current number of the electoral list, and attached to the notes. If a polling station was exclusively reserved for voters with electoral cards, the current number of the ballot register shall be noted on the electoral card.

(2) If a voter with electoral card appears before the appropriate electoral authority according to his initial entry in the electoral list in order

to exercise his right to vote, he shall cast his ballot, after handing over the electoral card to the electoral authority, by using the voting envelope, already issued to him together with the electoral card, and in compliance with the other provisions of this federal law.

Casting the ballot in case of doubtful identity of the voter

§ 71. (1) The electoral authority shall only decide on the admissibility of casting the ballot if the identity of the voter ready to cast the ballot appears to be doubtful. The members of the electoral authority and the election witnesses and, if applicable, voters being present in the polling station, can only object against the admissibility of casting the ballot for this reason as long as the person, whose right to vote is doubted, has not cast the ballot.

(2) The decision of the electoral authority shall be made before continuing the act of voting. It shall be final.

Section 4

Special facilitation for the exercise of the right to vote

Exercise of the right to vote by persons being cared

for in convalescence and nursery homes

§ 72. (1) With a view to facilitating the exercise of the right to vote for persons being cared for and accommodated in public or private convalescence and nursery homes, the community electoral authority and the city council in Vienna can establish one or more special precincts for the local area of the institution building. The provisions of §§ 52 to 54 shall be observed accordingly.

(2) If precincts are established according to al. 1, the patients who are able to walk shall exercise their right to vote in the polling stations of the appropriate precinct electoral authority according to al. 1. The same applies to patients being able to walk who cast their vote by means of electoral card.

(3) The appropriate precinct electoral authority according to al. 1, together with their auxiliary personnel and the election witnesses, can also go to the bedrooms of the bedridden patients in order to collect their votes. In such case it shall be ensured by appropriate equipment (for instance by setting up of a folding screen and the like) that the patient is able to fill out his ballot and put it into the voting envelope, to be given to him by the polling officer, unviewed by all other people present in the bedroom.

(4) Moreover, when exercising the right to vote according to al. 2 and 3 the provisions of this federal law, in particular those of §§ 39 and 40, and 68 and 70 on the participation in the election and the exercise of the right to vote by means of electoral card, shall be applied accordingly.

Exercising the vote by voters with electoral cards being bedridden or restricted in their personal liberty

§ 73. (1) With a view to facilitating the exercise of the right to vote for persons entitled to vote, who have an electoral card because of an application according to § 38 al. 2, the community electoral authorities, and the city council in Vienna, shall establish special electoral authorities on the second day before the day of election at the latest, where these persons shall go to during the fixed time of election. The provisions of §§ 52 and 54 shall be applied accordingly.

(2) The provisions of § 72 al. 3 and 4 shall be applied accordingly to the exercise of the right to vote before the special electoral authorities.

(3) The examination of the ballots by the special electoral authorities shall only consist of the report provided in § 84 al. 2. The voting envelopes of voters with electoral cards from other regional constituencies according to § 38 al. 2 shall be counted separately and be delivered separately to the electoral authorities taking action according to al. 4. Regarding the report of the special electoral authorities § 85 al. 2 lit. a to h, al. 3 lit. a to d and g, and al. 4 are to be applied accordingly.

(4) The community electoral authorities, and the city council in Vienna, shall determine that electoral authority, which has to state the election results of the special electoral authorities, taking into account the maintenance of the secrecy of the ballot. This electoral authority shall then indistinguishably include in the ascertainment of their own election results the received unopened voting envelopes of voters of the regional constituency being bedridden or restricted in their personal liberty; voting envelopes of voters of other regional constituencies being bedridden or restricted in their personal liberty shall be dealt with according to §§ 84 al. 3 and 85 al. 3 lit. h. The election files including the written reports of the special electoral authorities shall be immediately delivered by those authorities to the electoral authority making the ascertainment, and shall constitute a part of its electoral files.

Exercising the right to vote by persons entitled to vote being restricted in their personal liberty

§ 74. With a view to facilitating the exercise of the right to vote for persons in custody of the courts, prisons, in institutions for special treatment, or detained in arrest rooms, the community electoral authority, and the city council in Vienna, shall establish for the local area of detention one or more special precincts. Moreover, the provisions for the exercise of the right to vote for patients cared for in convalescence and nursery homes (§ 72) shall be applied accordingly.

Section 5

Official ballot

Official ballot for the provincial constituency

§ 75. (1) The official ballots for the regional constituencies of the provincial constituency shall have an equally big column for each campaigning party. It shall contain the list number, a circle, the party name including, if applicable, the abbreviation, thereunder free space each for the entry of a person campaigning on the provincial party list of the party voted for, and lists of campaigners in the sequence order of the regional party lists with circles and Arabic numbers, stating family and first name and the year of birth, and furthermore the information provided in the specimen in Schedule 6, while taking into account the public announcement effected according to § 49. Likewise, ballot stencils (§ 66 al. 1) shall be produced. The official ballots and the ballot stencils may only be produced upon order of the provincial electoral authority.

(2) The size of the official ballot of the provincial constituency shall correspond to the total of list numbers to be taken into consideration in the provincial constituency, and to the number of regional campaigners of the party. The size shall at least correspond to the format DIN A3. For all party names the same size of rectangulars and print letters, and for the abbreviations the biggest uniform print letters possible shall be used. In case the party name exceeds three lines the size of the print letters may be adapted to the available space. The word "list" shall be printed small; for the list numbers bigger uniform numbers can be used. The colour of all prints shall be exclusively black. The separation lines of the rectangulars, and the circles shall be equally bold.

(3) The official ballots of the provincial constituency shall be delivered by the provincial electoral authority directly to the precinct electoral authorities in Vienna, to the community and precinct electoral authorities outside of Vienna through the channels of the district administrative authority and the communities, and in case of cities with self-government through their channels, according to the final figure of the electorate within the jurisdiction of the electoral authority plus an additional amount of 15%. A further amount of 5% shall be provided to the district administrative authorities for a possible further demand of the electoral authorities on the day of election. The official ballots of the provincial constituencies shall in each case be issued against a twofold confirmation of receipt; one copy is for the deliverer, the other copy is for the recipient.

(4) The costs of production for the official ballots and the ballot stencils (§ 66 al. 1) shall be borne by the Federation.

Blank official ballot

§ 76. (1) The blank official ballot shall have two columns, where the voter can enter the party name (abbreviation) and one person each campaigning on the provincial party list and the regional party list of the party voted for, and the information provided in the specimen in Schedule 7. The blank official ballot may only be issued upon order of the federal electoral authority.

(2) The size of the blank official ballot shall approximately correspond to the format DIN A5.

(3) The blank official ballots shall be delivered in the required number by the federal electoral authority to the community and precinct electoral authorities through the channels of the district administrative authorities and communities, and in case of cities with self-government through their channels. § 75 al. 3 last sentence shall apply accordingly.

Common provisions for the official ballot

§ 77. (1) Only the official ballot handed over to the voter by the polling officer together with the voting envelope may be used for casting the vote.

(2) Anyone not being authorised, who orders, produces, deals with or distributes official ballots or ballots equal or similar to the official ballots, commits an administrative offence and will be punished by the district administrative authority with a maximum fine of 218 Euros or, in case it cannot be retrieved, with a maximum subsidiary term of imprisonment of two weeks, if this does not amount to an act to be punished more severely. Official ballots produced without authorisation or similar ballots or resembling such ones may be declared forfeited irrespective of the owner.

(3) The penalty according to al. 2 is also applicable to anyone not being authorised, who marks official ballots designed to be issued for the election in any way.

Section 6

Validity and invalidity of the official ballot

Valid filling out

§ 78. (1) A filled out official ballot of the provincial constituency shall be valid if it is unequivocally ascertainable which party the voter intended to vote for. This shall be the case if the voter makes a cross or other sign with ink, coloured pencil, pencil, or the like, in one of the circles printed below each party name so as to make it clear that he intends to vote for the party listed in the same column.

(2) The filled out ballot shall also be valid if the intention of the voter is otherwise unequivocally clear, for instance, by ticking, underlining, other similar marking of a campaigning party, by deleting the other campaigning parties, or by naming at least one person campaigning on a party list (§ 79).

Casting preferential votes

§ 79. (1) The voter can cast one preferential vote each for a person campaigning on the provincial party list and the regional party list of the party voted for.

(2) For a person campaigning on the provincial party list the voter can cast a preferential vote by entering the name of this campaigner in

the free space reserved for this purpose on the official ballot. The entry is valid if it clearly shows which person campaigning of the party voted for the voter intended to name. This shall be particularly the case if the entry contains at least the family name of the person campaigning or, in case of two campaigners of the same name on the provincial party list, an appropriate feature of distinction (for instance, indication of the ordering number on the provincial party list, first name, year of birth, occupation, or address).

(3) For a regional campaigner the voter can cast a preferential vote by making a cross or other sign with ink, coloured pencil, pencil, or the like in the circle printed on the left of the name of the regional campaigner on the official ballot so as to make it unequivocally clear that he intends to cast a preferential vote for the regional campaigner listed in the same line.

(4) The preferential vote for a regional campaigner shall also be valid if the intention of the voter is unequivocally clear otherwise, for instance by ticking, underlining, other appropriate marking of the regional campaigner, or by deleting the other regional campaigners.

(5) The name of a person campaigning shall be deemed as not entered by the voter if several campaigners were indicated or the campaigner on a party list other than the party voted for was indicated.

Several ballots in one voting envelope

§ 80. (1) If a voting envelope contains several official ballots, they shall count as one valid ballot, if

1. the same party was named by the voter on all ballots, or
2. at least one filled out ballot is valid and the notes on the other ballots leave no doubt as to the party voted for, or
3. apart from a filled out valid ballot, the other official ballots are either not filled out or their validity is not impaired according to § 79 al. 5 and § 81 al. 3.

(2) Other non-official ballots, which are found in the voting envelope together with a filled out valid ballot, shall not impair the validity of the official ballot.

Invalid ballots

§ 81. (1) The ballot shall be invalid if

1. a ballot other than the official ballot was used for casting the vote, or
2. the ballot was impaired by a piece of it torn off in such a way that it is no longer clear which party the voter intended to vote for, or
3. no party and no person campaigning was indicated, or
4. two or more parties were indicated, or
5. a list was indicated that only contains a list number but no party name (§ 49 al. 5), or
6. only a campaigner was named, who is not campaigning for the party listed in the same column, or
7. it is not clear from the signs made or other indications which party he intended to vote for.

(2) Empty voting envelopes shall count as invalid ballots. If a voting envelope contains several ballots bearing the names of different parties, they shall count as an invalid ballot, if they are not already invalid due to other reasons.

(3) Words, remarks, or signs that are noted on the official ballots other than for the indication of the campaigning party or for the naming of a person campaigning, shall not impair the validity of the ballot, if thereby none of the abovementioned grounds for invalidity is given. Attachments of all kind found in the voting envelope shall not impair the validity of the official ballots.

Section 7

Validity and invalidity of the blank official ballot

Valid filling out

§ 82. (1) The filled out blank official ballot shall be valid if it is unequivocally clear which party the voter with an electoral card intended to vote for. This shall be particularly the case if the voter enters the party name or the abbreviation of a party, which was publicly announced in the provincial constituency where he is registered in the electoral list of a community.

(2) On the blank official ballot issued to him the electoral card voter can cast one valid preferential vote each by naming a campaigner on the regional party list and a campaigner on the provincial party list of the party voted for.

(3) The provisions of §§ 78 to 80 shall apply accordingly.

Invalid ballots

§ 83. (1) The blank official ballot is invalid if

1. it is not unequivocally clear from the entry made by the voter which party the voter intended to vote for, or
2. a party was indicated, of which no provincial election proposal was made public in the provincial constituency where the person entitled to vote is registered in the electoral list of a community, or
3. no party and no person campaigning was indicated, or
4. only a campaigner was named, who is not campaigning for the party listed in the same column, or
5. the number of the provincial constituency and the letter of the regional constituency (§ 68 al. 1 penultimate sentence) was not

entered or is not unequivocally clear.

(2) The provisions of § 81 al. 1 indents 1 and 2, and al. 2 and 3 shall apply accordingly.

Section 8

Ascertainment of the local election results

Examination of the ballots, Counting the votes

§ 84. (1) If the time fixed for the act of voting has lapsed and all voters, who appeared before that in the polling station or in the waiting lounge determined by the electoral authority, have cast their vote, the electoral authority shall declare that the voting procedure is closed. After closing the voting procedure the polling station shall be closed, in which only the members of the electoral authority, their auxiliary personnel, the persons of trust according to § 15 al. 4, and the election witnesses may stay.

(2) The electoral authority shall first ascertain how many official ballots were handed out in total, taking into account the possible additional notes in the ballot register, and shall examine whether this number taken together with the remaining rest not handed out makes up the number of official ballots received before the act of voting.

(3) The electoral authority shall then count and pack the voting envelopes of the electoral card voters of other regional constituencies, being in a special box. The envelope shall be firmly closed and marked with a seal. On the envelope the number of the unopened voting envelopes contained therein shall be indicated. Subsequently the electoral authority shall well shuffle the voting envelopes in the ballot box, empty the ballot box, and ascertain:

- a. the number of the voting envelopes cast by the voters;
- b. the number of voters listed in the ballot register;
- c. the presumable reason, if the number of a) plus the number of the voting envelopes of the electoral card voters from other regional constituencies does not correspond to the number of b).

(4) The electoral authority shall then open the voting envelopes cast by the voters of other regional constituencies, take out the ballots, examine their validity, mark the invalid ballots with the current number, and ascertain:

- a. the total sum of the valid and invalid votes cast;
- b. the sum of the invalid votes cast;
- c. the sum of the valid votes cast;
- d. the valid votes cast for the respective parties (totals for each party).

(5) The ascertainties made according to al. 4 and the number of voting envelopes cast by electoral card voters of other regional constituencies shall immediately be authenticated in a report (§ 85) and notified to the community electoral authority in the communities outside of Vienna being partitioned in precincts, and to the district electoral authority in the other communities and in Vienna, in the fastest way available (immediate notification). If no votes were cast by electoral card voters of other regional constituencies, this shall be expressly noted down.

Written report

§ 85. (1) The electoral authority shall then authenticate the course of the election and the local election results in a written report.

(2) The report shall at least contain:

- a. the name of the place of election (community, political district, precinct, polling station, regional constituencies, provincial constituency) and the day of election;
- b. the names of the present and absent members of the electoral authority and the persons of confidence according to § 15 al. 4;
- c. the names of the present election witnesses;
- d. the time of the beginning and end of the act of voting;
- e. the number of the official ballots received and handed out to the voters;
- f. the names of the electoral card voters, specially emphasising the electoral card voters of other regional constituencies;
- g. the decisions of the electoral authority on the admission or rejection of voters for casting the ballot (§ 71);
- h. other decisions of the electoral authority made in the course of the act of voting (e.g. suspension of the act of voting);
- i. the ascertainment of the electoral authorities according to § 84 al. 3 and 4, whereas, in case invalid votes were found, the reason for invalidity shall be listed.

(3) To the report shall be attached:

- a. the electoral list;
- b. the ballot register;
- c. the electoral cards of the electoral card voters;
- d. the confirmation of receipt of the number of the official ballots received;
- e. the invalid ballots, to be packed in separate envelopes with appropriate notes on it;
- f. the valid ballots, to be packed in separate envelopes with appropriate notes on it each according to the list numbers of the parties, and within this sequence order according to ballots with and without preferential votes cast;
- g. the official ballots not issued, to be packed also in separate envelopes with appropriate notes on it;
- h. the voting envelopes cast by electoral card voters of other regional constituencies, in the specially marked and sealed envelope (§ 84 al. 3 second sentence), in case these have not already been separately forwarded to the provincial electoral authority

according to § 89 al. 2.

(4) The report shall then be signed by the members of the electoral authority. If it is not signed by all members, the reasons for it shall be indicated.

(5) With this being done the act of voting shall be closed.

(6) The report together with its attachments constitutes the electoral files of the electoral authority.

Putting together the precinct results outside of Vienna

§ 86. (1) In the communities outside of Vienna being partitioned in precincts, the community electoral authorities shall put together the results for the total area of the community, reported by the precinct electoral authorities according to § 84 al. 5, and notify the district electoral authority without delay in the fastest way available, possibly by messengers (immediate notification).

(2) The precinct electoral authorities in the communities described in al. 1 shall submit to the community electoral authority the electoral files, sealed and, if possible, within a sealed envelope. The community electoral authorities shall examine by way of re-calculating the ascertainties made by the precinct electoral authorities according to § 84 al. 3 and 4 vis-à-vis the reports, and shall put them together for the total area of the community, and authenticate them in a written report. For the written report the provisions of § 85 al. 2 lit. a to e, h and i shall apply accordingly. The report shall in particular contain the total results of the election for the area of the community in the form laid down in § 84 al. 3 and 4.

(3) The electoral files of the precinct electoral authorities shall be attached to the reports of the community electoral authorities described in al. 1. These shall constitute the electoral files of the community electoral authority in these communities.

(4) The written report shall be signed by all members of the community electoral authority. If it is not signed by all members, the reason for it shall be indicated.

Special measures in case of exceptional occurrences

§ 87. (1) If a situation occurs preventing the beginning, the continuation, or the closing of the act of voting, the electoral authority can prolong the act of voting or adjourn it to the following day.

(2) Any prolongation or adjournment shall be immediately announced in the usual local manner.

(3) If casting the ballot had already commenced, the electoral files and the ballot box with the voting envelopes and ballots contained therein shall be sealed and properly safeguarded by the electoral authority till the continuation of the act of voting.

Putting together the local election results

by the district electoral authority

§ 88. In the voting district the district electoral authority shall put together the reported election results of the community electoral authorities, and of the precinct electoral authorities in Vienna, and shall notify the ascertainties so found to the provincial electoral authority without delay in the fastest way available, if possible, by messengers (immediate notification).

Submission of the electoral files of the community electoral authorities,

and the precinct electoral authorities in Vienna,

to the district electoral authority

§ 89. (1) The electoral files of the community electoral authorities, and the electoral files of the precinct electoral authorities in Vienna, shall be submitted after the ascertainment of the local election results without delay to the appropriate district electoral authority, sealed and possibly by messengers in a sealed envelope.

(2) The community electoral authorities, which cannot submit their electoral files to the district electoral authority on the day of the election, shall in any case separately forward without delay the voting envelopes cast by the electoral card voters of other regional constituencies to the district electoral authority according to the counting done in application of § 84 al. 3. They shall be immediately submitted to the provincial electoral authority.

Ascertainment of the election results in the voting district

and submission of the electoral files to the provincial electoral authority

§ 90. (1) As soon as all electoral files of the community district authorities, and the precinct electoral authorities in Vienna, have reached the district electoral authorities, these shall be put in alphabetical order by the district electoral authority according to communities, and according to precincts in Vienna, and shall be examined for possible mistakes in the calculated results and, if necessary, be rectified. Then the district electoral authority shall put together for the area of the voting district the final local election results and note them in a written report.

(2) Eventually the district electoral authority shall for each community, and for each precinct in Vienna, ascertain the preferential votes cast for each campaigner on the party lists of a provincial election proposal made public in the provincial constituency on the grounds of the submitted ballots according to § 91, and shall note them in preferential vote lists for the area of the voting district.

(3) The written report according to al. 1 and the list of preferential votes according to al. 2 shall constitute the electoral files of the district electoral authority. The electoral files of the community electoral authorities, and the precinct electoral authorities in Vienna, shall be attached to it and immediately submitted to the appropriate provincial electoral authority, sealed, possibly in a sealed envelope.

(4) In cities with self-government the precinct electoral authorities shall make their reports directly to the district electoral authority. The electoral files shall also be directly delivered by the precinct electoral authority to the district electoral authority. The provisions of al. 1 to 3 and of §§ 86 to 89 shall be applied accordingly subject to the proviso that the district electoral authority shall be in charge of putting together the local election results and of the ascertainment of the election results in the voting district.

Ascertainment of the preferential votes

§ 91. (1) Every person campaigning on the party list of a provincial election proposal made public in the provincial constituency shall get a preferential vote each time his name is indicated by the voter on the official ballot (§§ 79, 82 al. 2).

(2) The total number of preferential votes cast for a campaigner shall be ascertained, separated in provincial party list and regional party list, by the district electoral authority for the area of the voting district, and by the provincial electoral authority for the area of the provincial constituency and all regional constituencies of the provincial constituency.

PART V

Ascertainment procedure

Section 1

Preliminary election result

Ascertainment of the number of voting envelopes delivered by electoral card voters within Austria outside of the issuing regional constituency,

Report to the federal electoral authority

§ 92. As soon as each provincial electoral authority has received all reports to be made according to § 88, it shall immediately ascertain the total number of voting envelopes delivered within its area by electoral card voters from outside of its regional constituency and without delay communicate this figure to the federal electoral authority by the fastest means of communication (immediate notification).

Preliminary ascertainment in the provincial constituency,

Report to the federal electoral authority

§ 93. (1) Thereupon the provincial electoral authority shall ascertain the preliminary total of votes cast in the provincial constituency on basis of the reports received by the district electoral authorities as provided in § 88. The votes of electoral card voters registered in a community of the provincial constituency as authorised to vote but who have cast their vote outside of their regional constituency shall thereby not be considered.

(2) The provincial electoral authority shall immediately communicate to the federal electoral authority the preliminary total of votes it ascertained according to para. 1 within its constituency (immediate notification). The federal electoral authority shall be informed of:

- a. the total of valid and invalid votes cast;
- b. the total of invalid votes;
- c. the total of valid votes;
- d. the valid votes cast for each of the parties (totals for each party).

Handling of voting envelopes delivered by electoral card voters within Austria.

Report to the federal electoral authority

§ 94. (1) As soon as the provincial electoral authority has received all voting envelopes of electoral card voters sent by the district electoral authorities in accordance with § 89 al. 2 and as soon as after the notification according to § 88 it is certain that there will be no more such voting envelopes arriving, the number of voting envelopes delivered at the community and precinct electoral authorities within the area of the regional electoral authority shall be ascertained for each provincial constituency. The provincial electoral authority shall then sort out the voting envelopes of electoral card voters of its own provincial constituency.

(2) The provincial electoral authority shall notify the federal electoral authority immediately by the fastest means about the results ascertained in accordance with al. 1 (immediate notification). If a provincial constituency has not ascertained any such results due to no votes having been cast by electoral card voters, the respective notification shall also be made.

(3) Each provincial electoral authority shall sort the voting envelopes delivered by electoral card voters residing in other provincial constituencies by the eight other provincial constituencies and authenticate the ascertainties according to al. 1 in a separate written record. These written records shall be signed by the members of the provincial electoral authority and sent to the respective provincial electoral authorities by express registered letter in a sealed envelope together with the respective voting envelopes. A copy of this record shall be kept by the provincial electoral authority. Al. 2 second sentence applies accordingly.

Ascertainment of the preliminary election result by the federal electoral authority

§ 95. (1) On basis of the reports received by the provincial electoral authorities according to § 93 al. 2 and § 94 al. 2 the federal electoral authority shall at first ascertain in a preliminary manner for each one of the forty three regional constituencies, the nine provincial constituencies, and for the complete federal territory:

- a. the total of valid and invalid votes cast;
- b. the total of invalid votes;
- c. the total of valid votes;
- d. the valid votes cast for each of the parties (totals for each party).

(2) On basis of the preliminary election results the federal electoral authority shall then ascertain the seats to be allotted in a preliminary manner to the respective parties by applying the stipulations of §§ 96 al. 2, 97, 100, 101, as well as 107 accordingly.

Section 2

Ascertainments by the provincial electoral authority

Authentic report of votes with election quotient

§ 96. (1) On basis of the election records received according to § 90 al. 3 the provincial electoral authority shall verify the election results of the constituencies ascertained by the district electoral authorities for possible errors in the figures of the result, in case of necessity effect the respective rectification and then finally ascertain the preliminary results ascertained by the federal electoral authority for the regional constituencies and the provincial constituency according to § 95 and immediately notify the federal electoral authority of the result (immediate notification). The voting envelopes sorted out according to § 94 al. 1 as well as the voting envelopes received by the other provincial electoral authorities according to § 94 al. 3 as well as the voting envelopes received from electoral card voters from abroad, the latter ones in consideration of the provisions concerning casting the vote abroad (§ 60), shall also be included after measures have been taken to safeguard the principle of secret of the vote (e.g. by thoroughly shuffling in a vessel).

(2) The total of valid votes cast for the parties in the provincial constituency shall be divided by the number of seats allotted to the provincial constituency. The resulting figure shall be rounded to the next following whole number and shall be the election quotient. The total of votes cast in the provincial constituency as well as the election quotient shall be recorded in an authentic report on votes.

First ascertainment procedure

Definite result in the regional constituency

Allotment of seats to the parties

§ 97. Each party is allotted the number of seats corresponding to the quotient between total of votes gained in the regional constituency divided by the election quotient.

Allotment of seats to the regional candidates of the regional party lists according to the preferential votes, Listing of regional candidates not elected

§ 98. (1) The seats reserved to regional candidates of a party according to § 97 shall be allotted according to the provisions of al. 3 and 4.

(2) For this purpose the provincial electoral authority shall ascertain on basis of the authentic report on preferential votes of the district electoral authorities (§ 90 al. 2) and the ballots from the voting envelopes received according to §§ 60 al. 6 and 94 al. 3 and from the ballots sorted out according to § 94 al. 1 the total number of preferential votes cast for each one of the regional candidates of the party list elected in the regional constituencies of the provincial constituency listed on the ballot. § 91 applies accordingly. The result shall be recorded in an authentic report on preferential votes separately for each regional constituency.

(3) The order of sequence for the allotment of seats shall be that at first those regional candidates are to be considered who have at least half as many preferential votes as compared with the election quotient, or the sixth part of the preferential votes as this party has obtained valid votes in the respective regional constituency. The order of sequence of allotment of seats is determined by the order of sequence of preferential votes of each regional candidate, beginning with the highest total of preferential votes followed by the respective next lower total. In case regional candidates would have equal right to be allotted a seat, the sequence of the regional candidates indicated on the regional party list shall govern.

(4) Seats of a party which on basis of the preferential votes cannot be allotted at all or not fully to regional candidates, shall be allotted to the regional candidates in the order of sequence as they appear on the regional party list. In this connection regional candidates who have already gained a seat on basis of preferential votes shall not be taken into consideration.

(5) Regional candidates not elected shall be taken into consideration in case a seat of their list shall be vacated. In this case al. 3 and 4 shall be applied accordingly. In case the list is depleted due to death or because of candidates being deleted (§ 111 al. 4), further nominations shall be made in accordance with § 102 al.5.

Written report on the first ascertainment procedure

§ 99. (1) The provincial electoral authority shall record the result of the first ascertainment procedure in a written report.

(2) The report shall contain at least:

- a. the names of the regional constituencies, the place, and the time of the respective official act;
- b. the names of the provincial electoral authority members present and absent as well as the names of the persons of confidence according to § 15 al. 4;
- c. possible ascertainments according to § 96 al. 1;
- d. the total number of votes definitely ascertained in the regional constituencies subdivided as per § 93 al. 2;
- e. the names of the elected regional candidates of each regional party list in the order of sequence of their nomination, with the number of preferential votes added if applicable;
- f. the names of the respective regional candidates not elected in the order of sequence as stated in § 98 al. 5.

(3) The reports of the district, community, and precinct electoral authorities as well as the authentic report of votes, the authentic report of preferential votes for the regional constituencies and the provincial election nominations published according to § 49 shall be added to the report. Together with its enclosures it shall constitute the election records of the first ascertainment.

(4) The report shall be signed by the members of the provincial electoral authority. If it is not signed by all members, the reason for it shall be indicated.

Second ascertainment procedure

Ascertainment and announcement of parties

participating in the second ascertainment procedure

§ 100. (1) Those parties having obtained a seat in at least one of the regional constituencies or at least 4% of the valid votes cast in the whole of the federal territory in the first ascertainment procedure shall participate in the second ascertainment procedure.

(2) After having received all reports of the provincial electoral authorities forwarded according to § 96 al. 1, the federal electoral authority shall ascertain those parties which comply with the conditions for participating in the second ascertainment procedure according to al. 1.

(3) The facts determined in accordance with al. 2 shall immediately be notified to all provincial electoral authorities by the fastest possible means of communication (immediate notification).

Definite result in the provincial constituency,

Allotment of seats to the parties

§ 101. The seats to be allotted in the provincial constituency shall be distributed to the parties designated by the federal electoral authority according to § 100 al. 3. The number of seats obtained by each party shall be the quotient of their party total divided by the election quotient, less such seats as may have been obtained in the first ascertainment procedure.

Allotment of seats to the candidates of the provincial party lists

in accordance with the preferential votes,

Sequence of candidates not elected

§ 102. (1) The seats reserved to candidates of a party according to § 101 shall be allotted according to the provisions of al. 3 and 4. In this case candidates who have already been allotted a seat in the course of the first ascertainment procedure shall not be considered.

(2) For this purpose the provincial electoral authority shall ascertain the total number of preferential votes cast for each one of the candidates of the elected provincial party list in the provincial constituency as indicated on the ballot, on basis of the authentic reports on preferential votes of the district electoral authorities (§ 90 al. 2) and the ballots from the voting envelopes received according to §§ 60 al. 6 and 94 al. 3 as well as the ballots from the voting envelopes sorted out according to § 94 al. 1. § 91 applies accordingly. The result of this ascertainment shall be recorded in an authentic preferential votes report..

(3) The seats to be allotted shall first be allotted in the order of sequence to those candidates who have obtained a number of preferential votes at least equivalent to the election quotient. The order of sequence for allotment of the seats depends in this case on the order of sequence of the preferential vote totals of each candidate, starting from the highest total followed by the respective following lower totals. In case candidates would have equal right to be allotted a seat, the sequence of the candidates indicated on the regional party list shall govern.

(4) Seats of a party which on basis of the preferential votes cannot be allotted at all or not fully to candidates, shall be allotted to the candidates in the order of sequence as they appear on the provincial party list. In this connection candidates who have already gained a seat on basis of preferential votes shall not be taken into consideration.

(5) Candidates not elected shall be considered in case a seat of their list will be vacated. For this purpose al. 3 and 4 shall be applied accordingly.

Written report on the second ascertainment procedure

§ 103. (1) The provincial electoral authority shall record the result of the second ascertainment procedure in a written report.

(2) The report shall contain at least:

- a. the names of the regional constituency, the place, and the time of the respective official act;
- b. the names of the provincial electoral authority members present and absent as well as the names of the persons of confidence according to § 15 al. 4;
- c. possible ascertainties according to § 96 al. 1;
- d. the total number of votes definitely ascertained in the regional constituency subdivided as per § 93 al. 2;
- e. the names of the elected candidates of each regional party list in the order of sequence of their nomination, with the number of preferential votes added if applicable;
- f. the names of the respective regional candidates not elected in the order of sequence as stated in § 102 al. 5.

(3) The reports of the first ascertainment procedure as well as the authentic report on preferential votes of the provincial constituency shall be attached to the written report of the provincial electoral authorities on the second ascertainment procedure. Together with its attachments it constitutes the election records for the second ascertainment procedure.

(4) The report shall be signed by the members of the provincial electoral authority. If it is not signed by all members, the reason for it shall be indicated..

Report to the federal electoral authority

§ 104. Thereupon the regional electoral authority shall immediately notify the definite results of the regional constituencies to the federal electoral authority in the form as defined by § 103 al. 2 lit. d and e (immediate notification).

Announcement of the election results,

Forwarding of the election records

§ 105. (1) The provincial electoral authority shall then announce the definite totals of the votes cast in the provincial constituency and in the regional constituencies, the names of the provincial party list candidates elected and not elected, as well as the number of seats not allotted. The announcement shall be posted on the official bulletin board of the Office of the Provincial Government. The announcement shall also contain the date when it has been posted.

(2) The election records of the provincial electoral authority shall then be forwarded immediately to the federal electoral authority in a sealed package or by personal messenger.

Section 3

Duties of the federal electoral authority

Third ascertainment procedure

Introduction of the federal election proposals

§ 106. (1) Parties running for the election who have introduced provincial election proposals are entitled to be allotted seats in the course of the third ascertainment procedure only in case they have introduced a federal election proposal and have not been excluded from being allotted seats according to § 107 al. 2.

(2) The federal election proposal shall be introduced to the federal electoral authority at the latest on the twentieth day preceding the day of the election; it shall be co-signed by at least one person who is listed as authorised recipient of the respective party in a provincial election proposal of a provincial constituency. Persons who are listed as candidates of the respective party in a provincial election proposal of a provincial constituency may also be listed in the federal election proposal.

(3) The federal election proposal shall contain:

1. the distinctive party name in full and, if available, its abbreviated letter code;
2. the federal party list, being the list of candidates for the allotment of seats in the third ascertainment procedure. The federal party list shall indicate the candidates in the order of sequence requested numbered in Arabic numerals, by their first name and family name, stating their year of birth, occupation, and address. For a candidate who is already listed in one of the provincial constituencies in an election proposal of the party introducing the federal election proposal, the party lists (provincial party list, regional party list) in which he figures as a candidate of a provincial election proposal, shall also be mentioned.
3. the name of the authorised recipient (first name and family name, occupation, address).

(4) Immediately after receipt the federal electoral authority shall examine the federal election proposals as to their being in accordance with the provisions of al. 2 and 3. For this purpose the federal polling officer shall proceed by applying § 42 al. 1 accordingly. Federal election proposals not corresponding with these provisions shall be considered as not having been introduced.

(5) Deadline for the federal electoral authority to close the federal election proposals and announce them in the official Austrian journal "Amtsblatt zur Wiener Zeitung" shall be the sixteenth day before the day of the election.

Ascertainment and allotment of seats

§ 107. (1) At first the federal electoral authority shall ascertain the total votes for each party for the complete federal territory on basis of the written reports of the provincial electoral authorities received according to § 105 al. 2.

(2) Parties who have not gained any seat in any regional constituency of the federal territory and who have obtained less than 4% of the total of valid votes cast are not entitled to being allotted any seats in the third ascertainment procedure.

(3) The total of the 183 seats less those seats obtained in the first and second ascertainment procedure by those parties, which had not introduced any federal election proposal, shall be allotted to the remaining parties in the third ascertainment procedure by use of the election quotient to be calculated according to al. 4 and 5.

(4) The totals of the votes cast for each party shall be written next to each other in the order of sequence starting with the largest number; under each number its half shall be written, followed by its third, its fourth, and its subsequent fractions.

(5) The election quotient shall be the onehundredandeightythirddlargest figure in order of sequence of the figures written when 183 seats are to be allotted, the onehundredandeightysecondlargest figure in the case of 182 seats to be allotted, the onehundredandeightyfirstlargest figure in the case of 181 seats and so forth.

(6) Each party gains as many seats as often as the election quotient is contained in the total of votes cast for it. If as a result of this calculation two or more parties should be entitled to be allotted the same seat, the decision shall be made by drawing lots. If for one of the parties the draw results in a total of seats according to al. 7, it shall be allotted the respective seat. If this is the case for more than one party, the lot shall be drawn among all of them.

(7) If the total of seats ascertained for one particular party is less than the total of seats it gained in the first and second allotment procedure, the further procedure shall be in accordance with a situation where such party had not introduced any federal election proposal and the allotment procedure shall be repeated according to al. 3 to 6.

(8) If the total of seats allotted to a party in accordance with this procedure exceeds the total of seats gained by it in the first and second ascertainment procedures, it shall be allotted as many further seats as corresponds with this difference.

Allotment to the candidates, Written report, Announcement

§ 108. (1) The seats allotted in the third ascertainment procedure (§ 107) shall be assigned to the candidates of the various parties in the order of sequence as stated in the federal election proposal. Candidates not elected are to be taken into consideration in case a seat of their list in the federal election proposal shall be vacated. The order of sequence of their nomination shall in this case be determined by the order of sequence in the federal election proposal.

(2) The federal electoral authority shall display the result of its third ascertainment procedure as follows:

- a. the total number of votes cast for each one of the parties in the complete federal territory;
- b. the number of seats gained by each party;
- c. the names of the candidates who have been allotted seats according to § 107 al. 8.

(3) The result ascertained by the federal electoral authority shall be recorded in a written report which shall contain at least:

- a. the names of the federal electoral authority members present and absent
- b. the results ascertained according to al. 2.

(4) The result ascertained shall be announced immediately in the form stated in al. 2. The announcement shall be posted at the official bulletin board of the Federal Ministry of the Interior. The announcement shall also state the date when it has been posted.

Statements of candidates elected twice

§ 109. If a candidate has been elected on more than one election proposals (provincial election proposals, federal election proposal), he shall within 48 hours after the last announcement of the election result (§§ 105 al. 1 and 108 al. 4), which resulted in his being elected twice, submit a written statement to the federal electoral authority about his choice which election proposal he is going to accept. If no statement of the candidate elected twice is received within the above mentioned term, the federal electoral authority shall decide. The electoral authorities affected by this decision shall be notified of it.

Section 4

Objections against figures ascertained

§ 110. (1) The authorised recipient of any party is free to raise an objection in writing with the federal electoral authority against the figures ascertained by a provincial electoral authority within three days after its announcement according to § 105 al. 1, against the figures ascertained by the federal electoral authority within three days after its announcement according to § 108.

(2) The appeals shall furnish sufficient prima facie evidence why and to what extent the figures ascertained by the provincial electoral authority or the federal electoral authority are not in conformity with the provisions of this federal law. If such reasons are not furnished, the appeal can be rejected without any further examination.

(3) In case of an appeal with sufficient evidence the federal electoral authority shall re-examine the election result on basis of the documents available. If these documents should furnish any evidence of an incorrect result, the federal electoral authority shall immediately rectify the respective result, revoke the announcements of the provincial and of the federal electoral authority, and announce the correct

result.

(4) If the re-examination does not show any reason for rectification of the results, the federal electoral authority shall reject the appeal.

Section 5

Candidates not elected

Appeal, Refusal, Deletion

§ 111. (1) Candidates who have not been elected or who have not accepted an election won by them as well as such candidates who have accepted their seat but have resigned later, remain on the party list (regional party list, provincial party list, federal party list) as long as they have not expressly requested to be deleted from the party list (al. 4). If a Member of the Federal Government, an Undersecretary of State or a Member of the European Parliament delegated by the National Council resigns from his seat as a Member of the National Council, a candidate not elected shall be nominated for this seat from the respective party list. After retiring from the office or from the European Parliament, in cases of art. 71 of the Federal Constitutional Law in the wording of 1929 after having been relieved from the duty to continue the administration, such candidates shall be re-offered the seat by the respective electoral authority, unless they renounce within eight days to re-exercise their office. In this way a candidate, who steps in on the seat of the temporarily resigning Member of the National Council – however if another member who is a candidate of the respective party list has declared before his appointment to the respective electoral authority to be willing to step in on the seat of the temporarily resigning Member, it will be he - shall again become a not elected candidate of the respective party list, as long as he has not expressly requested to be deleted from the list (al. 4). If there are several such statements, the statement of the Member of the National Council, who was the last one to submit it, shall be the valid one.

(2) Candidates of provincial election proposals, who have not been elected, shall be appointed by the provincial electoral authority, not elected candidates of federal election proposals by the federal electoral authority. In this case the order of sequence of their appointment for not elected regional candidates is determined according to § 98 al. 5, for not elected candidates of provincial party lists according to § 102 al. 5, and for not elected candidates of federal election proposals according to the order of sequence in the federal party list. If a candidate to be appointed in this manner had already been elected in a regional or provincial constituency or on a federal election proposal, he shall be requested by the electoral authority, intending to appoint him, to declare within eight days, for which election proposal he will decide. If no such declaration is received within this term, the electoral authority shall decide. The electoral authorities concerned by the decision shall be informed of it. The name of the definitely appointed candidate shall be announced in the usual official manner and, in case of an appointment of a candidate of a provincial election proposal, the federal electoral authority shall be informed immediately in order to be able to issue an election certificate.

(3) If a candidate to be considered nominated for a vacated seat refuses to be appointed, he still retains his position on the party list.

(4) A candidate on a provincial election proposal can at any time request the provincial electoral authority, and a candidate on the federal election proposal can request the federal electoral authority to delete him from the list. The electoral authority shall publicly announce such a deletion.

Filling of seats in case of depletion

of election proposals

§ 112. (1) In case the provincial party list on the provincial election proposal has been depleted due to cases of death or because of deletion (§ 111 al. 4), the provincial electoral authority responsible for such appointment shall request the authorised recipient of the party who had introduced the provincial election proposal to notify within 14 days, which one of the candidates to be considered and figuring on the other provincial election proposals shall be appointed by the provincial electoral authority for vacated seats when seats are vacated.

(2) In case of depletion of a federal election proposal the provision of al. 1 shall be applied accordingly by the federal electoral authority with the proviso that the authorised recipient of the party shall complete the federal election proposal by naming further candidates of the provincial constituencies who so far did not figure on the federal election proposal.

Section 6

Election certificates

§ 113. After having been elected or appointed according to § 111 each Member of the National Council is handed an election certificate authorising him to enter the National Council.

PART VI

Elections to the National Council

held simultaneously with other elections

§ 114. (1) It is permitted to hold elections to the National Council simultaneously with another general election. For the holding of an election to the National Council simultaneously with an election of the Members to be delegated by Austria to the European Parliament § 82 of the European Election Regulations – EER, BGBl (Federal Law Gazette) No. 117/1996 shall apply.

(2) For the holding of elections to the National Council simultaneously with other general elections the following provisions shall apply:

1. The ballots for the other general elections can be put together with the ballots for the National Council elections if the ballots

together do not exceed the double of the measurements of the National Council election ballot.

2. If the ballots are not put together, the balloting officer shall hand each voter an official ballot both for the National Council election as well as for the other general elections, provided that the voter is entitled to vote for the National Council as well as for the other general elections.
3. If at the place of the election a voter is only entitled to vote for the National Council, he shall be handed only a ballot for the National Council election. The voting envelopes of such voters shall be deposited in a separate ballot box marked "National Council voters only".
4. Each voter shall be handed only one ballot envelope, no matter whether combined or separate ballots are cast.
5. At the beginning of the vote count when the envelopes are opened, the combined ballots shall be separated and handled according to the provisions of the respective election procedures. Whether a ballot cast for the National Council election and for the other general elections is valid or not valid shall be judged in accordance with the respective election rules.
6. The written reports, voters' records, voting lists, electoral cards, ballots, and other enclosures to be used for the National Council elections shall be kept with the election records for the National Council election.

PART VII

Special provisions for repeating the election procedure

Scope of application

§ 115. (1) The provisions of Part I to VI and VIII shall be applied accordingly for the organisation of the complete or partial repetition of the election procedure of a National Council election following a decision of the Federal Constitutional Court unless otherwise specified in the following.

(2) When repeating an election procedure, the electoral authorities are bound by the actual facts stated and the legal opinion of the Federal Constitutional Court when making its decision (§ 70 al. 4 of the Law of the Federal Constitutional Court 1953).

Call for repetition of an election

§ 116. (1) Whenever the voting procedure of a National Council election must be wholly or partially repeated, the federal government shall immediately call by ordinance for a repetition of the election.

(2) The ordinance shall state the day of the election as determined by the Federal Government by agreement with the main committee of the National Council for a Sunday or another public holiday. A qualifying date shall be only fixed in such cases of cancellation of the election procedure when new electoral authorities must be nominated for the repeated election, as well as in case the voters' records must be re-compiled or re-published. If this is not the case, the qualifying date for the repeated election shall be considered to be the qualifying date of the election that had been cancelled. The ordinance shall also state the constituencies in which the voting shall take place.

(3) If the voting does not have to be repeated in all constituencies, electoral card voters can still cast their vote by electoral card anywhere in the federal territory as well as abroad in accordance with the provisions of § 60.

Electorate and voters' records;

Election precincts and electoral authorities

§ 117. Unless otherwise stipulated in §§ 115 al. 2 and 116 al. 2, the following provisions shall apply to a repeated election:

1. Only such voters are entitled to vote who already had been listed in the previous voters' records of the election to be repeated. The repetition of the election shall be based on these voters' records without any modification.
2. In the constituencies where the voting procedure has been cancelled, the same subdivision in voting precincts shall be applicable as had been in the cancelled election.
3. The voting and ascertainment procedure shall be effected by the electoral authorities as composed in the same manner as they were in the cancelled election. For any changes in the composition of these electoral authorities § 19 al. 1, 2, and 3 shall apply accordingly.

Issuing of electoral cards;

Electoral authorities for electoral card voters

§ 118. (1) Everybody who according to § 117 item 1 is entitled to vote in the repeated election may claim to be issued an electoral card. For the issuance of the electoral card and for voting with electoral cards, the provisions of §§ 38 to 40, 56, 68, 70, and 72 shall apply accordingly, with the proviso that for electoral card voters the electoral card shall in addition to the official ballot contain an envelope with an imprint of the number and name of the provincial constituency, the identification letter and the name of the regional constituency as well as the address of the provincial electoral authority where the electoral card has been issued.

(2) In constituencies where the election has not been cancelled, electoral card voters shall cast their vote at the community electoral authority and the precinct electoral authorities installed for the cancelled election according to § 72, unless otherwise provided in al. 3. In the before-mentioned special election precincts outside of Vienna the community electoral authority can also assume the function of the precinct electoral authority.

(3) In larger communities subdivided in precincts during the cancelled elections and where the election in the constituency had not been cancelled, the community electoral authority, and in the City of Vienna the "Magistrat" (municipal authority), shall determine in due time, however at the latest by the fifth day before election day, at which precinct electoral authority electoral card voters may cast their vote.

(4) The community electoral authorities, and in the City of Vienna the "Magistrat" authority, shall determine in due time, however at the latest by the fifth day before election day, the opening hours during which voters can cast their votes. The opening hours and the polling stations for electoral card voters shall be publicly posted at the latest by the fifth day before election day.

Voting by electoral card

§ 119. If an electoral card voter casts his vote at one of the electoral authorities mentioned in § 118 al. 2, the balloting officer shall hand to the electoral card voter the official ballot and also the ballot envelope contained in the electoral card, and he shall draw the attention of the electoral card voter to the provisions of § 68 to be complied with when casting the vote. § 60 shall apply accordingly when the vote is cast abroad.

Sending of electoral card voters' ballots

§ 120. (1) In the constituencies where the election procedure has not been cancelled, the precinct and community electoral authorities shall record in a report the names of electoral card voters listed in the voting list and the number of voting envelopes cast by electoral card voters, classified by constituencies where the voting envelopes had been issued. The voting envelopes of the electoral card voters shall remain unopened and be attached to the written report. Together with the voting list and the voting envelopes of the electoral card voters, the written report shall constitute the election records of the local electoral authority.

(2) The precinct electoral authorities located outside of Vienna as mentioned in al. 1 shall send the precinct election file to the community electoral authority. The respective community electoral authority shall separate the voting envelopes contained in the precinct election records and in its own election records, classify them by constituencies and authenticate in a written report the number of voting envelopes cast for each constituency. The voting envelopes shall then be sent unopened in a sealed envelope by registered express mail to the provincial electoral authority where the voting envelopes had been issued, accompanied by a letter stating the number of voting envelopes sent.

(3) The precinct electoral authorities of Vienna in which the election procedure has not been cancelled shall send the voting envelopes of electoral card voters in a sealed envelope to the respective provincial electoral authorities according to al. 2. The envelopes to be sent to the Vienna provincial electoral authority shall be addressed to the City of Vienna "Magistrat", to the other provincial electoral authorities by registered express mail.

(4) The above provisions shall apply only in such cases when electoral card voters have cast their vote at one of the local electoral authorities stated in al. 1 through 3. If for the complete duration of the opening hours no ballot envelope has been cast by electoral card voters, this fact shall be recorded in a written report.

(5) Voting envelopes by electoral card voters resident abroad shall be handled at the provincial electoral authorities by applying § 96 al. 1 accordingly.

(6) The provincial electoral authorities where the election procedure has been cancelled shall at first officially authenticate in a written report the number of voting envelopes received by the local electoral authorities from electoral card voters resident in other constituencies, classified by constituencies where the respective voting envelopes had been issued. The voting envelopes of such electoral card voters shall then be sent unopened in a sealed envelope by the fastest means of transportation to the provincial electoral authority where the respective voting envelopes had been issued, accompanied by a letter stating the number of voting envelopes attached.

Count of electoral card voters' votes

§ 121. (1) To the extent that this federal law provides for a preliminary count and announcement of the votes cast for other constituencies, the application of the respective provisions shall be waived in the case of a repeated election only in certain constituencies.

(2) If an election shall be repeated only in certain constituencies, the provincial electoral authorities shall on basis of the voting envelopes received according to § 120 al. 2, 3, 5, and 6 ascertain the total of votes of electoral card voters only when ascertaining their final result.

(3) Count of the electoral card voters' votes may be finalized only as soon as it can be assumed that no further electoral card voters' voting envelopes (§ 120 al. 2, 3, 5, and 6) will be received.

PART VIII

Final provisions

Information in writing and immediate notifications

§ 122. (1) Unless otherwise provided in this federal law, information in writing can also be sent by telegram, telex, by automation supported data transmission or any other technically possible means, whatever is available.

(2) The same applies to immediate notifications whenever fastest transmission is guaranteed this way.

Deadlines

§ 123. (1) The commencement and the termination of a term or period provided by this federal law shall not be impeded by Sundays or other public holidays. The same applies to Saturdays and Good Friday. If a deadline falls due on a Saturday, Sunday, or any other public holiday, the authorities in charge of the respective election procedure shall provide for being able to duly receive information of the measures due on such dates in accordance with the respective provisions.

(2) Days of mail transit time shall be included in the count of days for the deadline.

Costs of the election

§ 124. (1) Unless provided otherwise by this federal law, the cost arising out of holding an election shall be borne by the communities; anyhow the federal government shall reimburse them 100 % of the cost of paper used for the election including the cost of printed forms, and one third of the general costs, in both cases only against due proof and only to the extent as they have not already been reimbursed in accordance with § 12 Voters' Records Act 1973.

(2) Eligible for reimbursement according to al. 1 are costs which were indispensable for holding the election. Not eligible for reimbursement are costs which would have arisen to the community authorities also in case no election had been held. The reimbursement of costs shall not be affected by a provincial or community election which may be held at the same time.

(3) The community authorities, with the exception of the City of Vienna, are entitled to claim such reimbursement of cost within 60 days after election day from the Governor of the Province who shall adopt the respective resolution in agreement with the respective provincial finance authority.

(4) No appeal may be lodged against this resolution.

(5) Claims of the City of Vienna for reimbursement of cost shall be lodged within the term indicated in al. 3 directly with the Federal Minister of the Interior who shall decide in agreement with the Federal Minister of Finance.

Exemption from fees

§ 125. All written documents resulting directly from provisions of this federal law shall be exempt from any federal stamp fees and administrative fees.

(Female forms of official titles)

§ 126. Whenever functions resulting from this federal law are being assumed by female persons, the female form of the respective name of the function may be used.

(Transitional provisions)

§ 127. (1) (Provision of Constitutional Law) As soon as this federal law takes effect, § 62a of the National Council Election Regulations 1971, BGBl. No. 391/1970, in the wording of Federal Law BGBl. No. 148/1990, shall cease to be effective.

(2) As soon as this federal law takes effect, the other provisions of the National Council Election Regulations 1971, BGBl. No. 391/1970, in the wording of the Federal Laws BGBl. No. 194/1971, 280/1973, 403/1977, 93/1979, 136/1983, 232/1984, 148/1990 and the Public Announcement BGBl. No. 19/1988 shall cease to be effective, notwithstanding the provisions of al. 3.

(3) A possible appointment of candidates not elected to the National Council in the last elections held before this federal law takes effect shall be dealt with by the electoral authorities nominated according to the National Council Election Regulations 1971. They shall also be responsible for the duties of electoral authorities according to the Voters' Records Act 1973, BGBl. No. 601/1973 in the wording of the Federal Laws BGBl. No. 427/1985 and 148/1990 as long as the new electoral authorities have not been constituted according to this federal law. For this purpose the provisions of the National Council Election Regulations 1971 shall apply to such electoral authorities.

(First announcement of the number of seats after taking effect)

§ 128. Immediately after this federal law takes effect, the Federal Minister of the Interior shall, on basis of the final result of the respective last Ordinary or Extraordinary Census, ascertain the number of seats to be allotted to each constituency according to § 4 and announce the result in the Federal Law Gazette. § 5 al. 2 shall be applied accordingly.

(Taking effect)

§ 129. (1) This federal law shall take effect on the 1st of May, 1993.

(1a) § 24 al. 3 in the wording of the Federal Law BGBl. I No. 30/1998 shall take effect on the 1st January, 1998.

(1b) The §§ 28 al. 4, 43 al. 4, 58 al. 3, 62 al. 3, 64 al. 2, 66 al. 4, and 77 al. 2 in the wording of the Federal Law BGBl. I No. 98/2001 shall take effect on the 1st January, 2002.

(2) The implementation of this federal law shall be the responsibility of the Federal Minister of the Interior, with respect to § 22 in agreement with the Federal Minister of Justice, with respect to § 60 in agreement with the Federal Minister of Foreign Affairs and the Federal Minister of Defence, and with respect to § 124 in agreement with the Federal Minister of Finance. The implementation of § 125 with respect to stamp fees shall be the responsibility of the Federal Minister of Finance.