

## FLOOR-CROSSING AT A GLANCE

Last year, government passed legislation amending the Constitution to allow elected representatives to change their political affiliations without losing their seats at national, provincial and local levels- the so-called “floor-crossing” legislation. The United Democratic Movement [UDM] challenged the constitutionality of the legislation. The UDM argued, amongst others that the legislation compromised the Constitutional requirement that the electoral system should allow for “*in general, proportional representation.*” In addition it argued that smaller parties would be negatively affected by the legislation as it encouraged “cherry-picking” where larger parties offer more attractive positions to members of smaller parties and so lure them away from their party.

The Constitutional Court declared that floor-crossing during designated window periods was constitutional. However, the Court held that there were certain technical deficiencies related to the legislation providing for floor-crossing on a national and provincial level. This meant that Parliament was required to redraft such legislation. Floor-crossing at the local government level went ahead shortly after the judgement was handed down and within the designated window period. After *The Constitution of South Africa Fourth Amendment Act* was passed, the first window period opened, allowing Members of Parliament [MP] and Members of Provincial Legislatures [MPL] to defect to other parties or form a new party without losing their seats. The 15 days that followed the opening of the window period on 28 March 2003 saw a number of MPs and MPLs defecting to various parties and others forming new parties. Nationally, the defections during this window period has had a significant impact within the National Assembly. Provincially, Kwazulu-Natal and the Western Cape province were most affected.

Significantly, as a result of defections from the UDM to the African National Congress [ANC], the ANC increased its representation to 275 thereby gaining a two-thirds majority in the National Assembly. The defections also had a far-reaching effect on smaller opposition parties. The UDM’s representation in the National Assembly was reduced from 14 MP’s to 4 MPs. The Democratic Alliance [DA] on the other hand benefited

substantially during the window period. Its representation has increased to 46 seats in the National Assembly with MP's mainly defecting from the New National Party [NNP] to the DA. In addition, the number of political parties represented in the National Assembly was increased to 18 after 5 new parties were formed during the window period. The most significant of these is likely to be Patricia De Lille's Independent Democrats. De Lille formed her own party after crossing the floor from the Pan Africanist Congress [PAC].

Provincially, the ANC gained an outright majority in the Western Cape legislature following defections of NNP and UDM MPLs to the ANC. Only one new party was formed in the Western Cape namely the New Labour Party which has been started by ex-Premier Peter Marais.

In Kwazulu-Natal the ANC's alliance with smaller parties has increased its representation to 40 seats while the IFP alliance, together with the DA leaves it with 38 seats.

The next window period will occur at some point after the 2004 elections. The legislation provides that twice in a five-year term MPs, MPLs and Local Government Councillors be given an opportunity to defect without losing their seat.



## 2003 Floor Crossing

### NATIONAL

<u>Parties</u>	<u>1999 Elections</u>	<u>Percentage</u>	<u>Defectors</u>	<u>After Floor Crossing</u>	<u>Percentage</u>
ANC	266	66.50%	9	275	68.75%
DA	38	9.50%	8	46	11.50%
IFP	34	8.50%	(3)	31	7.75%
NNP	28	7.00%	(8)	20	5.00%
UDM	14	3.50%	(9)	4	1.00%
ACDP	6	1.50%	1	7	1.75%
PAC	3	0.75%	(1)	2	0.50%
UCDP	3	0.75%		3	0.75%
Vryheidsfront/Freedom Front	3	0.75%		3	0.75%
Freedom Alliance	2	0.50%		2	0.50%
Africkaner Eenheidsbeweiging	1	0.25%	(1)	0	0.00%
Azanian People's Organization	1	0.25%		1	0.25%
Minoirty Front	1	0.25%		1	0.25%
<u>New Parties Formed:</u>		0.00%		0	0.00%
Independent Democrats (de Lille)		0.00%	1	1	0.25%
National Action		0.00%	1	1	0.25%
African Independent Movement		0.00%	1	1	0.25%
Alliance for Democracy & Prosperity		0.00%	1	1	0.25%
Peace and Justice Congress (Mr M. F Cassim)		0	1	1	
<b>TOTAL</b>	<b>400</b>	<b>100.00%</b>	<b>1</b>	<b>400</b>	<b>99.75%</b>

**REGIONAL**

<u>Kwa-Zulu Natal</u>	<u>1999 Elections</u>	<u>Percentage</u>	<u>Defectors</u>	<u>After Floor Crossing</u>	<u>Percentage</u>
ANC	32	40.00%	3	35	43.75%
IFP	34	42.50%	(2)	32	40.00%
DP/DA	7	8.75%	(1)	6	7.50%
UDM	1	1.25%		1	1.25%
NNP	3	3.75%	(1)	2	2.50%
ACDP	1	1.25%		1	1.25%
MF	2	2.50%		2	2.50%
New Parties Formed:					
Peace and Development Party		0.00%	1	1	1.25%

<b>TOTAL</b>	<b>80</b>	<b>100.00%</b>	<b>0</b>	<b>80</b>	<b>100.00%</b>
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<u>Western Cape</u>	<u>1999 Elections</u>	<u>Percentage</u>	<u>Defectors</u>	<u>After Floor Crossing</u>	<u>Percentage</u>
ANC	18	42.86%	4	22	52.38%
DP/DA	5	11.90%	2	7	16.67%
NNP	17	40.48%	(6)	10	23.81%
UDM	1	2.38%	(1)	0	0.00%
ACDP	1	2.38%	1	2	4.76%
New Parties:					
New Labour Party		0.00%	1	1	
<b>TOTAL</b>	<b>42</b>	<b>100.00%</b>	<b>1</b>	<b>42</b>	<b>97.62%</b>