
ZIMBABWE ELECTION SUPPORT NETWORK



Electoral Laws as Amended

Fact sheets

[One – Ten]

The Constitution of Zimbabwe Amendment (No. 18) Act 2007

Fact sheet One

History and Purpose

On Friday 8 June 2007, the Government gazetted The Constitution of Zimbabwe Amendment (No. 18) Bill whose purpose was to amend for the eighteenth time the Lancaster House Constitution.

The Bill was later signed into law by the President and became known as the Constitution of Zimbabwe Amendment (No 18) Act. Because of the reasons discussed below caused by the amendment to the Constitution of Zimbabwe, it also became necessary to amend the Zimbabwe Electoral Commission Act [*Chapter 2:12*] (No. 22 of 2004), the Electoral Act [*Chapter 2:13*] (No. 25 of 2004) and the Traditional Leaders Act [*Chapter 29:17*] (No. 25 of 1998). The Electoral Laws Amendment Act also makes provisions for matters connected with or incidental to these pieces of legislation.

The Constitution of Zimbabwe Amendment (no 18) Act amended the Constitution as follows:

(1) Presidential Term and Harmonisation of Presidential and Parliamentary Elections

The amendment shortened the term of the office of President and made it run concurrently with that of Parliament.

It reduced the Presidential term of office from 6 years to 5 years. The Presidential term now runs concurrently with the term of Parliament, and may be shortened or extended accordingly as the term of Parliament is shortened or extended in accordance with section 63(2), (5) or (6) of the Constitution.

The amendment allows only the Senate and House of Assembly Members to sit as an electoral college to elect a President in the event of a casual vacancy arising in that office.

Changing the Composition of the Senate and the House of Assembly

The amendment increases the number of seats in the Senate to 94. In addition to the 60 directly elected Senators and the President and the Deputy President of the Council of Chiefs, the Senate will be made up of the 10 Provincial Governors, 16 Chiefs and 6 Presidential appointees, two of whom will represent Harare and Bulawayo provinces.

The amendment further increased the number of seats in the House of Assembly to 210 all of whom will be directly elected.

Provision for the appointment of a Deputy Chief Justice

There is provision for the separate appointment of a Deputy Chief Justice, who will act as Chief Justice whenever the office of Chief Justice is vacant or the Chief Justice is for any reason unable to perform the functions of his or her office.

In the absence of the Chief Justice, the Deputy Chief Justice will be required to conduct the elections in the event of a casual vacancy arising in the office of the President. (See Fact Sheet 10)

Delimitation of constituencies

The amendment created a new insertion on the Delimitation of Constituencies.

It has always been the function of the Delimitation Commission to determine the limits of the constituencies into which Zimbabwe is to be divided. Therefore, if the President notifies the Delimitation Commission of an anticipated alteration in the number of constituencies, the Delimitation Commission shall determine the limits of the anticipated number of constituencies accordingly.

The amendment further states that in dividing Zimbabwe into House of Assembly constituencies the Delimitation Commission shall, in respect of any area, give due consideration to—

- (a) its physical features;
- (b) the means of communication within the area;
- (c) the geographical distribution of registered voters;
- (d) any community of interest as between registered voters; and
- (e) in the case of any delimitation after the first delimitation consequent upon an alteration in the number of House of Assembly constituencies, existing electoral boundaries.

The amendment further provides that after delimiting the House of Assembly constituencies, the Commission shall divide each province into six senatorial constituencies by assigning to each senatorial constituency a House of Assembly constituency or two or more contiguous House of Assembly constituencies.

This, in our opinion pre-supposes that each province will have a similar number of House of Assembly seats or an equal number of people otherwise if we are to ensure equal representation, less populated provinces will have less representation.

So in reading the Electoral Laws Act as amended by the 2007 Electoral Laws Amendment Act, Zimbabweans should have the above history in mind.

Electoral Laws as Amended

Fact Sheet Two

Composition, Procedures and powers of the Zimbabwe Electoral Commission (ZEC)

The Zimbabwe Electoral Commission is appointed in terms of section 61 of the Constitution of Zimbabwe.

Section 61 of the Constitution sets out clearly the functions of the Commission.

However, the Electoral Laws Amendment Act has the following additional functions for the Commission;

Undertaking and promoting research into electoral matters

- (i) Developing expertise and the use of technology in regard to electoral processes in Government at all levels
- (ii) Promoting co-operation between the Government, political parties and civil society in regard to elections
- (iii) Keeping the public informed about—
 - (a) the times and places where persons can register as voters and the progress of the voter registration exercise
 - (b) the delimitation of wards, constituencies and other electoral boundaries
 - (c) the location and boundaries of polling stations and when they are open
 - (d) voters rolls and the times and places at which they are open for inspection
 - (e) political parties and candidates contesting every election
 - (f) voting
 - (g) generally, all matters relating to the Commission's work and the electoral process
- (iv) Making recommendations to Parliament on appropriate ways to provide public financing for political parties

Electoral Laws as Amended

Fact Sheet Three

Reports on Elections and Referendums

The Zimbabwe Electoral Commission is required under the Electoral Act to produce reports of any election or referendum held under its jurisdiction. The reports should be produced within a period of six months after the announcement of the results of the election or referendum.

The report should be presented to the following mentioned stakeholders;

- (i) the President.
- (ii) the Speaker of the House of Assembly and assumably the President of the House of Senate where it shall be discussed within twenty-four days of being received in the house.
- (iii) the Minister – the Act does not stipulate which Minister but assumably of Justice, Legal and Parliamentary Affairs.
- (iv) each of the political parties that contested the election or referendum.

It is worth noting that the Act omits to mention independent candidates amongst those to whom the report should be presented to.

Electoral Laws as Amended

Fact Sheet Four

Voter Education

The Act defines voter education as “a course or programme of instruction whose purpose is to inform voters generally about the electoral process and additionally, or alternatively, about the identity of the political parties and any candidates contesting an election, but does not include such a course or programme that is part of a course in civics or law offered to students at an educational institution.”

Voter education should commence not later than ninety days before polling day in any election.

The Commission is required to monitor programmes of voter education provided by other persons in Zimbabwe.

Where the Commission considers that any programme of voter education being offered by other players is either false, incorrect or misleading, the Commission should by written notice direct every person responsible for providing and publishing the programme to cease providing or publishing it or to make such alterations to it as the Commission may specify to render it accurate and fair.

False, incorrect or misleading programmes include programmes which purports to be impartial yet it is materially and unfairly biased in favour of or against a political party or candidate contesting the election and that the programme is likely to prevent a substantial number of voters from making an informed political choice in an election.

Before giving a direction to cease providing such a programme, the Commission shall afford every person responsible for providing and publishing the programme concerned an adequate opportunity to make representations on the matter.

A person to whom a direction has been given to cease providing voter education shall immediately take all necessary steps to comply with the direction.

Electoral Laws as Amended

FACT SHEET FIVE

MEDIA AND ELECTIONS

Media Regulations for Elections

In terms of the Electoral Laws Amendment Act, the Zimbabwe Broadcasting Corporation (ZBC) should afford all political parties and independent candidates contesting the forthcoming elections such free access to their broadcasting services as may be prescribed in the regulations made by the Zimbabwe Electoral Commission (ZEC).

At the onset, it is important to note that the ZEC is yet to come up with the regulations. Instead, ZEC had promised to engage stakeholders in the media and publish the regulations by 15 February 2008.

When made, these regulations should provide for the total time to be allocated to each political party and candidate as well as the duration of each broadcast that may be made by or on behalf of a party or candidate. Further, the regulations will also provide for the times at which broadcasts made by political parties and candidates are to be transmitted.

The Electoral Laws Amendment Act also provides that these regulations shall ensure a fair and balanced allocation of time between each political party and independent candidates. During the 2002 Presidential Election, the Media Monitoring Project Zimbabwe (MMPZ) reported that the ruling ZANU PF party got 95% of all the time that was allocated to election issues while the opposition Movement for Democratic Change (MDC) got 4%, which was used mainly to denigrate it and the other smaller opposition parties sharing 1%.

Political Adverts during Elections

The ZBC and newspapers from the ZIMPAPERS stables are not be obliged to publish any advertisement by or on behalf of a political party or candidate contesting an election. However should they be prepared to publish any such advertisement, the public media should offer the same terms and conditions of publication to all the political parties and candidates contesting the elections. Every such publication should be clearly identified as an advertisement.

A quick analysis of the recent publications from the public media reflects only advertisement (which are not clearly identified as such) from the ruling party only. The Herald of 1 March 2008 even carried the ZANU PF campaign launch photographs while the Sunday Mail of 2 March continues with the ZANU PF campaign launch photos on the front page and has not even a single photograph of the launch of independent presidential candidate Simba Makoni despite carrying a story on the launch.

ZBC and print publishers including the privately owned press may publish statements issued by ZEC for the purpose of informing voters about aspects of the electoral process. ZEC will be required to pay for the publication of any such statements at what the Act calls a reasonable amount as may be agreed between it and the broadcaster or print publisher concerned.

Code of Conduct for Elections Coverage

The Electoral Laws Amendment Act further makes provisions for news coverage during an election period. The following are some provisions to govern the coverage of election;

- (1) Both the electronic and print media should ensure that all political parties and candidates are treated equitably in their news media, in regard to the extent, timing and prominence of the coverage accorded to them.
- (2) The media should ensure that reports on the election in their news media are factually accurate, complete and fair.
- (3) A clear distinction should be made between factual reporting on the election and editorial comment on it.
- (4) Inaccuracies in reports on the election in their news media are rectified without delay and with due prominence.
- (5) Political parties and candidates should be afforded a reasonable right of reply to any allegations made in their news media that are claimed by the political parties or candidates concerned to be false.
- (6) The media should not promote political parties or candidates that encourage violence or hatred against any class of persons in Zimbabwe.
- (7) News articles should avoid language that encourages racial, ethnic or religious prejudice or hatred or encourages or incites violence. News articles should not to undue public contempt towards any political party, candidate or class of person in Zimbabwe.

Monitoring of Election Coverage

ZEC is obliged to monitor the Zimbabwean news media during any election period to ensure that political parties, candidates, broadcasters, print publishers and journalists observe the provisions above.

In the post-election report discussed in Fact Sheet Three, ZEC should include a report on the coverage of the election by the news media.

Organisations such as the Media Institute of Southern Africa (MISA) and the Media Monitoring Project Zimbabwe (MMPZ) may also monitor the media for compliance, as this law should not be construed as preventing anyone other than ZEC from monitoring news media and reporting on their conduct during an election period.

In the event of inconsistency between provisions of the Electoral Laws Amendment Act and the Broadcasting Services, the Access to Information and Protection of Privacy or any other enactment, the Electoral Laws Amendment Act shall prevail over that enactment to the extent of the inconsistency.

Electoral Laws as Amended

Fact Sheet Six

Election Observation

Election Observation

No individual other than a chief elections agent or election agent or polling agent, may observe any election, or be permitted to enter and remain at any polling station or constituency centre as an observer, unless such person is accredited as an observer by the Observers' Accreditation Committee before the commencement of the poll.

In terms of the Electoral Laws Amendment Act election observation means;

- (1) To observe the election process for the period between the calling of the election and the declaration of the result of the poll.
- (2) To observe the conduct of the polling at the election.
- (3) To be present at the counting or collating of votes cast at the election and the verification of polling station returns by presiding officers.
- (4) To bring any irregularity or apparent irregularity in the conduct of the poll or the counting or collating of the votes to the attention of ZEC.

Observers' Accreditation Committee

ZEC should establish a committee, called "the Observers' Accreditation Committee" which shall consist of six members as follows;

- (a) The chairperson of ZEC, who shall be the chairperson of the committee.
- (b) The vice-chairperson of the ZEC.
- (c) Another member of ZEC.
- (d) One person nominated by the Office of the President and Cabinet (most likely a member of the dreaded CIO)
- (e) One person nominated by the Minister (assumable of Justice, Legal and Parliamentary Affairs)
- (f) One person nominated by the Minister responsible for foreign affairs.

There appears to be no much difference between ZEC and the Observers' Accreditation Committee as whatever decision taken by the Observers' Accreditation Committee will be deemed to be a decision of the Commission.

Functions of Observers' Accreditation Committee

- (i) To accredit as observers individuals representing foreign countries or international organisations and eminent persons who would have earlier applied to the Commission to be accepted as observers and have been approved for accreditation by the Commission.

- (ii) The Observers' Accreditation Committee shall not accredit any individual or eminent person in respect of whom the Minister responsible for foreign affairs has lodged any objection against such individual or eminent person observing any election.
- (iii) To accredit as observers individuals representing local organisations and eminent persons from within Zimbabwe who have earlier applied to the Commission to be accepted as observers and have been approved for accreditation by the Commission.
- (iv) The Observers' Accreditation Committee shall not accredit any individual or eminent person in respect of whom the Minister of Justice Legal and Parliamentary Affairs has lodged any objection against such individual or eminent person observing any election.
- (v) To accredit as observers individuals representing bodies that exercise functions similar to those of the Commission and that have been invited by the Commission to observe any election.
- (vi) To accredit individuals representing foreign countries or international organisations and eminent persons from outside Zimbabwe who have been invited by the Minister responsible for foreign affairs to observe any election.
- (vii) To accredit individuals representing local organisations and eminent persons from within Zimbabwe who have been invited by the Minister to observe any election.

Every observer shall exhibit his or her accreditation certificate to any electoral officer who demands to see it.

Not more than the prescribed number (which is not stated) of observers shall be permitted to enter or remain at any polling station and to be present for the counting or collating of votes at a polling station or constituency centre.

Electoral Laws as Amended

Fact Sheet Seven

Voters' Registration and the Voters' Roll

Voter Registration

Voter registration shall be conducted on a continuous basis so as to keep the voters rolls up-to-date. Every person claiming to be a voter shall be entitled, at any time while the voters roll is open, to lodge a claim for registration as a voter or for the transfer of registration as a voter.

The Zimbabwe Electoral Commission (ZEC) shall keep and maintain a voters roll for each ward and constituency, containing the names of all registered voters who may vote in that ward and constituency.

A voters' roll shall specify, in relation to each registered voter—

- (a) the voters' first and last names, date of birth and national registration number.
- (b) the place where the voter ordinarily resides.

ZEC shall keep at least one copy of every voters roll at its head office and copy of each ward and constituency voters roll at all ZEC's offices within the constituency concerned. Where there is no office of ZEC within the constituency concerned, the constituency registrar shall have charge and custody of the ward and constituency voters roll for his or her constituency.

Inspection of the Voter's Roll

Every voters' roll is a public document and open to inspection by the public, free of charge, during ordinary office hours at the office of ZEC or the constituency registrar where it is kept.

A person inspecting the voters roll for a constituency may, without removing the voters roll, make any written notes of anything contained therein during office hours.

ZEC shall without delay provide any person who requests it with a copy of the voters roll, upon payment of the prescribed fee. The prescribed fee should not exceed the reasonable cost of preparing the copy.

ZEC should provide to every political party and candidate contesting the election, and every accredited observer group, one electronic copy of every voters roll to be used in the election within 7 days of the calling of an election and upon payment of the prescribed fees.

No person shall be registered as a voter for the purposes of voting at any Presidential election or general election of members of Parliament or councillors unless he or she lodges a claim for registration or transfer of registration no later than twenty-four hours before the nomination day fixed in terms of a proclamation in relation to that election.

Electoral Laws as Amended

Fact Sheet Eight

Polling Stations

In any election, a constituency elections officer shall establish, at such convenient places as he or she may determine, as many polling stations as he or she may consider to be necessary for the purposes of conveniently taking a poll of the voters of his or her constituency:

Constituency elections officer shall establish a sufficient number of polling stations in each ward of his or her constituency.

ZEC shall receive from political parties contesting the election concerned any representations on the issue of the location of polling stations in any constituency, and may give directions on this matter to any constituency elections officer on the basis of such representations.

Every polling station shall be located in a place that is readily accessible to the public, including persons with physical disabilities.

Polling stations may not be located in the following areas;

- (a) In premises owned or occupied by a political party or candidate.
- (b) In a police station, barracks, cantonment area or other place where police officers or members of the Defence Forces are permanently stationed.
- (c) In premises licensed under the Liquor Act [*Chapter 14:12*].
- (d) At or in any place which, for any reason, may give rise to reasonable apprehension on the part of voters as to the secrecy of their votes or the integrity of the electoral process.

Electoral Laws as Amended

Fact Sheet Nine

Voting Procedure

Opening of poll

At the commencement of the poll at any polling station the presiding officer should, in the presence of such persons entitled to be within the polling station as are present, count and record the total number of ballot papers received at the polling station.

The people who are entitled to be within the polling station are;

- (i) Electoral officers present for the performance of their official duties
- (ii) The candidates and their chief election agents
- (iii) One election agent for each Presidential candidate or candidate standing in the constituency or ward where the polling station is located
- (iv) Accredited observers
- (v) Persons who are recording their votes
- (vi) Such other classes of persons as may be prescribed

Maintenance of Peace at the Polling Station

For the purpose of keeping order at a polling station and the area surrounding it, every electoral officer at the polling station shall have the powers of a peace officer under the Criminal Procedure and Evidence Act [*Chapter 9:07*].

A presiding officer may call upon a police officer for assistance in keeping order at the polling station and the area surrounding it, and every police officer so called upon shall provide whatever assistance is needed. The Commissioner-General of Police (as he is now called) shall ensure that sufficient numbers of police officers are available to provide assistance if called upon to do so.

The presiding officer should record in detail every incident in which order at the polling station and the area surrounding it was disrupted and, in particular, every occasion in which a person was expelled or required to leave the polling station or its surrounding area in terms of this section.

Voting Procedure

At any election called for the purpose of electing the President, members of Parliament and councilors, every voter registered on a ward voters roll shall be entitled to vote in the ward concerned for a Presidential candidate, the Parliamentary candidates who have been duly nominated for the senatorial and House of Assembly constituencies in which that ward is situated, and a candidate for the office of councillor standing in that ward.

If the name of any voter does not appear on the ward voters roll, he or she shall be entitled to vote upon production to the presiding officer of a voters registration certificate issued to him or her.

A voter shall not be entitled to vote otherwise than at a polling station located in a ward for which he or she is registered as a voter on the ward voters roll.

A voter shall be entitled to vote only once for a Presidential candidate or a candidate who has been duly nominated for the constituency or ward for which he or she is registered.

The presiding officer may put to a would be voter such questions as he or she considers necessary to ascertain whether or not the applicant is registered as a voter on the voters roll for the ward.

The presiding officer shall require a would be voter to produce his or her voters registration certificate or proof of identity. Where a would be voter is registered as a voter on the voters roll for the ward and there is no indication that the applicant has previously received a ballot paper or postal ballot paper for the election, the presiding officer shall mark or otherwise deal with that certificate or proof of identity in a manner directed by the Chief Elections Officer and shall hand the applicant a ballot paper.

Before handing an applicant a ballot paper, the presiding officer shall require the would be voter to submit to an examination specified by the Chief Elections Officer to ascertain whether or not he or she has previously received a ballot paper at that election. If the would be voter refuses to submit to such examination or if such examination shows that the applicant has previously received such a ballot paper, the presiding officer shall not hand him or her a ballot paper.

At the request in person of a voter who cannot read or write or a voter who is incapacitated by blindness or other physical cause, the presiding officer, in the presence of two other electoral officers or employees of the ZEC on duty at the polling station, shall assist the voter to there and then mark the ballot papers in accordance with the voter's wishes and place the ballot papers in the ballot boxes.

If the wishes of the voter as to the manner in which the vote is to be marked on the ballot paper are not sufficiently clear to enable the vote to be so marked, the presiding officer may cause such questions to be put to the voter as, in his or her opinion, are necessary to clarify the voter's wishes.

Closing of poll

The presiding officer shall, immediately after the close of the poll, in the presence of such candidates and their chief election agents or election agents as are present close and seal the aperture in the ballot box.

After sealing of ballot boxes, a candidate or his or her chief election agent or election agent maybe present at the counting of the votes for a Presidential election or general election of members of Parliament or councillors which takes place concurrently with the election for which he or she was nominated, so long as the counting of the votes for the elections in question are held concurrently at the polling station concerned.

Counting of votes at the polling station

The presiding officer shall, as soon as the last packet is sealed open and unseal the ballot boxes and count the votes.

During the counting of the votes the following people will be allowed to remain in the polling station. These are;

- (i) Electoral officers present for the performance of their official duties
- (ii) The candidates and their chief election agents
- (iii) One election agent for each Presidential candidate or candidate standing in the constituency or ward where the polling station is located

- (iv) Accredited observers

Counting procedure

In relation to each ballot box and the sealed packets in his or her custody, the presiding officer shall open the ballot box and he or she shall then open each sealed packet containing the unused and spoilt ballot papers and the list of votes marked by the presiding officer.

The ballot papers in each ballot box shall be counted separately.

The presiding officer shall reject and not count any ballot papers which do not bear his or her official mark or which are not marked by the voter or which do not indicate with certainty the candidate for whom the voter intended to vote.

At the counting of the votes the presiding officer shall not reject any ballot paper where the voter has indicated with certainty the candidate for whom he or she intended to vote merely by reason of the fact that the voter has so indicated otherwise than by means of a cross.

If the presiding officer rejects as invalid a ballot paper, he or she shall endorse "Rejected" on the ballot paper and shall add to the endorsement "Rejection Objected To" if an objection to his or her decision is made by a candidate or his or her chief election agent or election agent, and all such ballot papers shall be placed together in an envelope within the packet containing the rejected ballot papers.

Should the presiding officer accept as valid a ballot paper, he or she shall endorse "Acceptance Objected To" on the ballot paper if an objection to his or her decision is made by a candidate or his or her chief election agent or election agent, and all such ballot papers shall be placed together in an envelope within the packet containing the accepted ballot papers.

Procedure after counting

After the counting is completed the presiding officer shall without delay, in the presence of such candidates and their election agents as are present adopt the following procedure;

- (i) Close and seal the aperture in the ballot box
- (ii) Make up into separate packets sealed with his or her own seal and with the seals of those candidates and election agents, if any, who desire to affix their seals the unused and spoilt ballot papers and counterfoils of the unused ballot papers placed together, the counterfoils of the used ballot papers, including the counterfoils of the spoilt ballot papers and the list of votes marked by the presiding officer.
- (iii) Record on the polling station return the votes obtained by each candidate and the number of rejected ballot papers in such a manner that the results of the count for each ballot box are shown on the return.
- (iv) Display the completed polling station return to those present and afford each candidate or his or her polling agent the opportunity to subscribe their signatures thereto.
- (v) Affix a copy of the polling-station return on the outside of the polling station so that it is visible to the public.

Immediately after affixing a polling station return on the outside of the polling station, the presiding officer shall personally transmit to the constituency elections officer for the constituency to which the polling station belongs the ballot box and packets mentioned above accompanied by a statement made by the presiding officer showing the number of ballot papers entrusted to him or her and accounting for them under the heads of used ballot papers, excluding spoilt ballot papers, unused ballot papers and spoilt ballot papers.

The presiding officer shall also personally transmit the polling-station return certified by himself or herself to be correct.

If the presiding officer dies or gets injured or falls sick and is unable to personally transmit the ballot box, packets, statement and polling station return mentioned above, a polling officer who was on duty at the polling station shall personally transmit these, and in that event any statement or certification required to be made by the presiding officer for the purposes of this section may be made by the polling officer concerned.

Declaration of election results

After the number of votes received by each candidate as shown in each polling-station return has been added together and the resulting figure added to the number of postal votes received by each candidate, the constituency elections officer shall forthwith declare the candidate who has received the greater or greatest number of votes (depending on the number of candidates) to be duly elected as a member of Parliament with effect from the day of such declaration.

Where there is a draw between two or more candidates and the addition of one vote would entitle any of the candidates to be declared elected, the constituency elections officer shall at once communicate the fact to the Chief Elections Officer who shall, as soon as possible thereafter, arrange for the determination of the candidate to whom such one additional vote shall be deemed to have been given by the drawing of lots by the Chief Elections Officer in the presence of a judge of the Electoral Court, and shall thereafter declare the candidate so determined to be duly elected as a member of Parliament with effect from the day of such declaration. At such a determination, in addition to the judge and the Chief Elections Officer, only the candidates who have received an equality of votes and one chief election agent for each candidate who is not himself or herself able to be present may be present there.

A declaration by the constituency elections officer or the Chief Elections Officer shall be final, subject to reversal on petition to the Electoral Court that such declaration be set aside or to the proceedings relating to that election being declared void.

Recounting of votes

Within forty-eight hours after a constituency elections officer has declared a candidate to be duly elected, any political party or candidate that contested the election in the ward or constituency concerned may request ZEC to conduct a recount of votes in one or more of the polling stations in the constituency.

The request shall be in writing, signed by an appropriate representative of the political party or candidate making the request and state specifically the number of votes believed to have been miscounted and, if possible, how the miscount may have occurred. Further, the requester shall state how the results of the election have been affected by the alleged miscount.

On receipt of such a request, ZEC shall order a recount of votes in the polling stations concerned should ZEC consider that there are reasonable grounds for believing that the alleged miscount of the votes occurred and that, if it did occur, it would have affected the result of the election.

ZEC may on its own initiative order a recount of votes in any polling stations if it considers there are reasonable grounds for believing that the votes were miscounted and that, if they were, the miscount would have affected the result of the election.

When ZEC orders a recount of votes, ZEC should specify the polling stations whose votes are to be recounted and, where appropriate, the votes that are to be recounted. ZEC should also stipulate the date

and the place and time at which the recount is to take place. Further, ZEC should specify the procedure to be adopted for the recount and should take all necessary steps to inform accredited observers and all political parties and candidates that contested the election of its decision and of the date, time and place of the recount.

Accredited observers and representatives of candidates and political parties that contested the election shall be entitled to be present at any recount ordered in terms of this section.

ZEC's decision on whether or not to order a recount and, if it orders one, the extent of the recount, shall not be subject to appeal.

Destruction of Voting Material

The Chief Elections Officer shall order the destruction of the election material including ballot papers fourteen days after the elections unless an election petition is lodged in relation to the ward or constituency concerned.

Where an election petition is lodged in relation to any constituency within fourteen days after the end of the election period to which the election relates, the Chief Elections Officer should retain for six months all the election matter relating to that ward or constituency and then, unless otherwise directed by an order of the Electoral Court, shall cause them to be destroyed.

Electoral Laws as Amended

Fact Sheet Ten

ELECTION OF PRESIDENT

Where only one candidate for President is validly nominated at the close of the day on which a nomination court sits, the Chief Elections Officer shall declare such a candidate to be duly elected as President without the necessity of a poll.

Where two or more candidates for President are validly nominated, a poll shall be taken in each constituency for the election of a President.

Where two or more candidates for President are nominated, and after a poll taken no candidate receives a majority of the total number of valid votes cast, a second election shall be held within twenty-one days after the previous election in accordance with the Electoral Laws Act.

In a second election, only the two candidates who received the highest and next highest numbers of valid votes cast at the previous election shall be eligible to contest the election.

If, after a second election the two candidates receive an equal number of votes, Parliament shall, as soon as practicable after the declaration of the result of that election, meet as an electoral college and elect one of the two candidates as President by secret ballot and without prior debate.

The result of an election to the office of President shall be declared by the Chief Elections Officer who shall forthwith publish such result in the *Gazette* and in such other manner as he or she considers necessary to give sufficient publicity to the result.

A person elected as President shall assume office on the day upon which he or she is declared so elected by the Chief Elections Officer.

Election of a President in the event of a casual vacancy

In the event that the President dies or resigns, an election shall be held within ninety days of the President's death or resignation.

The Senate and House of Assembly members will form an electoral college which shall elect a successor President.

Not later than fourteen days before election day, the Clerk of Parliament shall cause a notice to be published in the *Gazette* and in every newspaper circulating in the areas where Senators and members of the House of Assembly are resident announcing the date of election day and the time and venue at which the electoral college will meet. The Clerk of Parliament may alter any date, time or venue and, if he or she does so, he or she shall cause notice of the altered dates or time to be given.

In the notice by the Clerk of Parliament, he or she shall state that nominations of candidates for election as President may be lodged with the Clerk of Parliament during ordinary business hours up to four o'clock in the afternoon on the day specified in the notice, which day shall be not less than three and not more than fourteen days before election day.

An election for the purposes of electing a successor President shall be fixed for a date no later than fourteen days before the expiry of the ninety-day period since the death or resignation of the President.

Qualifications and nomination of candidates

(1) Zimbabwean citizen by birth or descent.

(2) At least forty years old.

(3) Ordinarily resident in Zimbabwe.

The candidate shall be nominated by at least twenty-five people all of whom should be parliamentarians in the Senate or House of Assembly.

The Clerk of Parliament may reject any nomination which, in his or her opinion, is not in order, where the person lodging it has not rectified any defect after being given an opportunity to do so and shall forthwith notify the candidate or his or her agent, giving reasons for the decision.

Where the Clerk of Parliament has rejected a nomination, the candidate shall have a right to bring the decision on review before the Supreme Court. Such an application for a review of a decision of the Clerk of Parliament shall be lodged with the Registrar of the Supreme Court no later than eleven o'clock in the morning three days before election day.

The Supreme Court may set aside the decision of the Clerk of Parliament, and may substitute its own decision for that of the Clerk of Parliament and give such directions in the matter as it thinks fit. This shall be done by not later than the day immediately preceding election day.

Voting Process

Where only one candidate is duly nominated he or she shall be declared by the Clerk of Parliament to be duly elected as President of the Republic of Zimbabwe.

Where two or more candidates are duly nominated, the Clerk of Parliament shall direct an election (which the Act refers to as a tally of votes) to take place. The Clerk of Parliament should notify the Chief Justice in writing.

The Chief Justice should convene the electoral college at the House of Assembly or other specified venue. He or she will have the obligation of presiding over the electoral college, conducting any drawing of lots and eventually declaring the successful candidate to be elected.

Half of the membership of the electoral college shall constitute a quorum at any meeting of the electoral college. If there is no quorum within fifteen minutes of the time fixed for the start of the meeting of the electoral college, the Chief Justice shall adjourn the meeting until one hour later and, at that adjourned meeting, the members of the electoral college present shall form a quorum.

Voting procedure

The Chief Justice shall order the doors of the chamber to be secured.

He or she shall call out the name of each candidate in alphabetical order of his or her surname and direct those wishing to vote for the candidate to gather as a voting bloc in the part of the chamber he or she will indicate.

The Chief Justice should appoint one member of the voting bloc as the teller for that voting bloc, who shall make up a list of the members of the voting bloc under the name of the candidate for whom the voting bloc wishes to vote, and the total number of the members of that voting bloc.

The tellers shall sign the voting bloc lists and hand them to the Chief Justice, who shall declare the numbers to the electoral college. In the case of confusion or error occurring concerning the numbers reported, which cannot otherwise be corrected, the Chief Justice shall direct that another tally of votes shall take place.

Each member of the electoral college shall be entitled to a single vote in the voting bloc to which he or she belongs.

If no candidate receives a majority of the votes after the first tally of votes, the Chief Justice shall announce to the electoral college the number of votes cast for each candidate and order that the candidate or candidates who received the least number of votes be eliminated.

Thereafter, a further tally of votes shall be taken in respect of the remaining candidates.

Where no candidate receives a majority of the votes cast at such subsequent tally of votes, this procedure shall be repeated until a candidate does receive such a majority.

If after any tally of votes one candidate receives a majority of the votes cast by members of the electoral college the Chief Justice shall announce to the electoral college the number of votes cast for each candidate and consequently declare the candidate who received a majority of the votes cast to be duly elected as President of the Republic of Zimbabwe.