

NOTICE OF AMENDMENT
General Laws Amendment Bill, 2001 (H.B. 16, 2001)
NEW CLAUSE INSERTED AFTER CLAUSE 2

BY THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

After clause 2 ending on line 15 on page 3 of the Bill, insert the following clause, the subsequent clauses being renumbered accordingly—

“3 Amendment of Cap. 2:01

The Electoral Act [*Chapter 2:01*] is amended—

- (a) in section 2 by the insertion in subsection (1) of the following definitions—

“**Commission**” means the Electoral Supervisory Commission appointed in terms of section 61 of the Constitution;

“**counting centre**” means any place notified by a constituency registrar in terms of section 73 as a place where the counting of votes will take place;

“**electoral officer**” means the Registrar-General, a constituency registrar, presiding officer, polling officer or counting officer;

“**monitor**” means a person appointed and accredited as a monitor in terms of section 14B;

“**observer**” means a person accredited as an observer in terms of section 4A;”;

- (b) by the insertion after section 4 of the following section—

“4A Functions of Election Directorate regarding observers

- (1) In this section—

“**observe**”, in relation to any election, means, subject to such conditions as may be prescribed—

- (a) observe the conduct of the polling at the election; and
- (b) be present at the verification of statements of presiding officers and the counting of votes cast at the election in terms of sections 72 and 73; and
- (c) bring any irregularity or apparent irregularity in the conduct of the poll or the counting of the votes to the attention of the constituency registrar.

- (2) The Election Directorate shall, for the purpose of subsection (5), establish a committee, called “the Observers’ Accreditation Committee”, consisting of—

- (a) the chairman of the Election Directorate; and
- (b) the Registrar-General; and
- (c) two persons nominated by the Minister; and
- (d) a person nominated by the Minister responsible for foreign affairs.

- (3) A decision of the Observers’ Accreditation Committee shall, unless the Election Directorate amends or rescinds the decision, be deemed to be a decision of the Election Directorate.

- (4) Each member of the Observers’ Accreditation Committee may appoint a person as an alternate member of the Committee, and any such alternate member may act as a member during any period that a substantive member is unable to exercise his functions.

- (5) The function of the Observers’ Accreditation Committee shall be to accredit as observers—

- (a) individuals representing foreign countries or international or regional organisations that have been invited by the Minister responsible for foreign affairs to observe any election; and
- (b) individuals representing bodies in the region that exercise functions similar to those of the Commission and that have been invited by the Commission to observe any election; and
- (c) eminent persons from outside Zimbabwe who have been invited by the Minister responsible for foreign affairs to observe any election; and
- (d) eminent persons from within Zimbabwe who have been invited by the Minister to observe any election; and
- (e) individuals representing local organisations that have been invited by the Minister to observe any election.

- (6) No individual, other than an election agent, polling agent or monitor, may observe any election, or be permitted to enter and remain at any polling station or counting centre as an observer, unless such person is accredited by the Observers’ Accreditation Committee before the commencement of the poll as an observer, for which purpose such individual shall—

- (a) report to the Committee at the time and place notified by the Committee; and
- (b) furnish the Committee with proof of the appropriate invitation referred to in paragraph (a), (b) or (c) of subsection (5); and
- (c) be furnished with a copy of, or made aware of the contents of, the code of conduct prescribed in the Schedule; and
- (d) pay the prescribed accreditation fee.

(7) Upon satisfaction of the requirements of subsection (6) the Observers' Accreditation Committee shall issue the individual concerned with an accreditation certificate confirming that the applicable requirements have been satisfied by that individual and specifying the period during which such individual is accredited as an observer.

(8) Every observer shall exhibit his accreditation certificate to any electoral officer who demands to see it.

(9) Not more than three observers comprising individuals invited by the authorities referred to in paragraphs (a), (b), (c), (d) and (e) of subsection (5) shall be permitted—

(a) to enter or remain at any polling station;

(b) to be present for the counting of votes at a counting centre.”;

(c) in section 6 by the repeal of the definition of “**Commission**”;

(d) by the insertion after section 14A of the following sections—

“14B Functions of Commission regarding monitors

(1) In this section—

“**monitor**”, in relation to any election, means, subject to such conditions as may be prescribed—

(a) monitor the conduct of the polling at any polling station or counting centre for the purpose of detecting any irregularity in the conduct of the poll or the counting of the votes; and

(b) be present at the verification of statements of presiding officers and the counting of votes cast at the election in terms of sections 72 and 73; and

(c) bring any irregularity or apparent irregularity in the conduct of the poll or the counting of the votes to the attention of the presiding officer or constituency registrar and request that appropriate corrective action to redress that irregularity, if any, is taken; and

(d) report on any irregularity or apparent irregularity in the conduct of the poll or the counting of the votes to the Commission and on any corrective measures taken to redress the irregularity by the presiding officer or constituency registrar.

(2) The Commission shall appoint and deploy in each polling station members of the Public Service to act as monitors.

(3) The Commission shall forthwith inform the Registrar-General in writing of the names of the monitors it has appointed in terms of this section.

(4) No individual may monitor any election, or be permitted to enter and remain at any polling station or counting centre as a monitor, unless such person is accredited by the Registrar-General before the commencement of the poll as a monitor, for which purpose such individual shall—

(a) report to the Registrar-General at the time and place notified by the Registrar-General; and

(b) furnish the Registrar-General with proof of appointment as a monitor in terms of subsection (2); and

(c) be furnished with a copy of, or made aware of the contents of, the code of conduct prescribed in the Schedule; and

(d) if so required by the Registrar-General, attend a course on electoral law and procedure, approved or provided by the Registrar-General.

(5) Upon satisfaction of the requirements of subsection (4) the Registrar-General shall issue the individual concerned with an accreditation certificate confirming that the applicable requirements have been satisfied by that individual and specifying the period during which such individual is accredited as a monitor.

(6) Every monitor shall exhibit his accreditation certificate to any electoral officer who demands to see it.

(7) Not more than four monitors shall be permitted—

(a) to enter or remain at any polling station;

(b) to be present for the counting of votes at a counting centre.

14C Functions of Commission regarding voter education

(1) In this section—

“**foreign donation or contribution**” means a donation or contribution made by—

(a) a person who is not a permanent resident or citizen of Zimbabwe domiciled in Zimbabwe; or

(b) a company which is not incorporated in Zimbabwe or, if so incorporated, does not carry on business in Zimbabwe; or

(c) any association of persons, whether incorporated or unincorporated, that does not consist exclusively of permanent residents or citizens of Zimbabwe, domiciled in Zimbabwe;

“local donation or contribution” means a donation or contribution that is not a foreign donation or contribution;

“voter education” means any course or programme of instruction on electoral law and procedure aimed at voters generally and not offered as part of a course in law, civics or other subject for students at an educational institution;

“voter education materials” means printed, aural, visual or audio-visual materials intended for use in voter education.

(2) It shall be one of the functions of the Commission to provide voter education for the purpose of any election.

(3) The Commission may appoint any person to assist it in providing voter education.

(4) No person other than the Commission or a person appointed in terms of subsection (3), a political party, or person registered in terms of this section shall provide voter education.

(5) No foreign contribution or donation for the purposes of voter education shall be made except to the Commission, which may allocate such contribution or donation to any person registered in terms of this section.

(6) Any person who provides voter education in contravention of subsection (4) or receives any contribution or donation in contravention of subsection (5) shall be guilty of an offence and liable to a fine not exceeding \$10,000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(7) The Commission shall produce its own voter education materials or course or programme of instruction for use in voter education.

(8) No person shall be qualified to be registered in terms of this section, or continue to be so registered, unless—

- (a) such person is a citizen or permanent resident of Zimbabwe domiciled in Zimbabwe, or an association of persons, whether incorporated or unincorporated, consisting exclusively of citizens or permanent residents of Zimbabwe, domiciled in Zimbabwe; and
- (b) in the case of a private voluntary organisation registered in terms of the Private Voluntary Organisations Act [*Chapter 17:05*], the constitution of such organisation specifically mandates it to provide voter education; and
- (c) in the case of a lawfully constituted trust, whether or not registered in terms of any law, the deed of trust specifically mandates it to provide voter education; and
- (d) such person uses voter education materials furnished or approved by the Commission and employs individuals who are citizens or permanent residents of Zimbabwe to conduct any voter education; and
- (e) such person conducts voter education in accordance with a course or programme of instruction furnished or approved by the Commission; and
- (f) the proposed voter education activities of such person are, subject to subsection (5), funded solely by local contributions or donations; and
- (g) no fee or charge is levied for the provision of voter education or voter education materials.

(9) A person proposing to be registered in terms of this section shall apply in the prescribed manner and—

- (a) satisfy the Commission that it is not disqualified in terms of paragraph (a), (b), (c) or (f) of subsection (8); and
- (b) furnish the Commission with copies of all the voter education materials proposed to be used and particulars of the course or programme of instruction in accordance with which the voter education will be conducted; and
- (c) furnish the Commission with all the names, addresses, citizenship or residence status and qualifications of the individuals who will conduct voter education; and
- (d) disclose the manner and sources of funding of its proposed voter education activities; and
- (e) pay the prescribed registration fee, if any.

(10) On receipt of an application in terms of subsection (9), the Commission shall, if it is satisfied that the applicant is not disqualified in terms of subsection (6) and that the voter education materials proposed to be used by the applicant and the course or programme of instruction in accordance with which the voter education will be conducted are adequate and not misleading or biased in favour of any political party, register the applicant.

(11) If the Commission is not satisfied as to any matter referred to in subsection (10), it shall reject the application and forthwith notify the applicant giving the reasons for its decision.

(12) Any person aggrieved by a decision of the Commission in terms of subsection (9) shall have a right of appeal to the High Court from that decision.”;

(e) in section 20—

(i) by the insertion before subsection (1) of the following subsection—

“(a1) In this section and section 21—

“**proof of identity**” means a passport, identity document issued in terms of section 7 of the National Registration Act [*Chapter 10:17*] or drivers licence issued in terms of the Road Traffic Act [*Chapter 13:11*];

“**proof of qualification as a voter**” means a passport or identity document issued in terms of section 7 of the National Registration Act [*Chapter 10:17*];

“**proof of residence**”, in relation to a constituency, means proof by way of a receipt or demand for payment of any rate in terms of the Urban Councils Act [*Chapter 29:15*], rate or levy in terms Rural District Councils Act [*Chapter 29:13*], or charge for the provision of electricity, a bank statement or such other proof of residence as may be prescribed.”;

(ii) by the insertion after subsection (3) of the following subsection—

“(4) The Registrar-General or any constituency registrar may demand from any voter who is registered on the voters roll for a constituency proof of identity, proof of qualification as a voter, proof of residence in that constituency or all or any combination of the foregoing.”;

(f) in section 21 by the insertion after subsection (6) of the following subsection—

“(7) The Registrar-General or any constituency registrar may demand from any claimant proof of identity, proof of qualification as a voter, proof of residence in a constituency or all or any combination of the foregoing.”;

(g) in section 26 by the repeal of subsection (3) and the substitution of—

“(3) If an objection in terms of subsection (1) is lodged and—

(a) the constituency registrar upholds the objection, he shall give written notice accordingly to—

(i) the voter who has objected and refund the whole of the sum deposited in terms of paragraph (c) of subsection (2) or, where the effect of upholding the objection is to strike the name of the person to whom the objection relates off the voters roll or to place it on another voters roll, refund half such sum; and

(ii) the person to whom the objection relates, where the effect of upholding the objection is to strike his name off the voters roll or to place it on another voters roll:

Provided that if the voter who has objected returns the sum to the constituency registrar accompanied by a written notice to the effect that he wishes the objection to be heard, or if the person to whom the objection relates gives the constituency registrar notice to the effect that he wishes the objection to be heard, paragraph (b) shall apply as if the constituency registrar did not uphold the objection;

(b) the constituency registrar does not uphold the objection, he shall—

(i) forthwith set down the objection for hearing before a designated magistrate of the province in which the person to whom the objection relates resides; and

(ii) the designated magistrate shall appoint a day and place for the hearing, the day so appointed being not more than 30 days after the date of lodging of the objection.”;

(h) by the repeal of section 34 and the substitution of—

“34 Additional powers to alter voters rolls

(1) In addition to other powers of alteration conferred by this Part, a voters roll may be altered—

(a) by the Registrar-General at any time to correct any error or omission or to change (whether on the oral or written application of a voter or not) the original name or address of the voter to an altered name or address;

(b) by the constituency registrar at any time by correcting any obvious mistake or omission, or by changing, on the written application of a voter, the original name or address of the voter to an altered name or address;

(c) by the constituency registrar at any time except during the period between the issue of a proclamation referred to in section 38 or 39 and the close of polling at the election fixed by any such proclamation, by striking out the name of any person, on proof that he has become qualified for and has secured registration on another voters roll.

(2) In the case of an alteration in terms of paragraph (a) of subsection (1) made otherwise than on the oral or written application of a voter, or paragraph (b) of subsection (1), a notice of the fact shall be published in the *Gazette* by the Registrar-General or constituency registrar, as the case may be.”;

- (i) in section 60 by the repeal in subsection (2) of paragraph (a) and the substitution of—
 - “(a) close and seal the aperture in the ballot box and affix his seal thereto and permit any such candidates and election agents to affix their signatures or thumb-prints upon the presiding officer’s seal;”;
- (j) in section 61—
 - (i) by the repeal of subsection (2) and the substitution of—
 - “(2) When an election is to take place in a constituency, a voter ordinarily resident in Zimbabwe who is resident in that constituency or was, within 12 months of the polling day or first polling day, as the case may be, fixed in relation to that constituency, resident therein and has good reason to believe that he will be absent from the constituency or unable to attend at the polling station by reason of being—
 - (a) on duty as a member of a disciplined force or as a constituency registrar, presiding officer, polling officer or counting officer; or
 - (b) absent from Zimbabwe in the service of the Government of Zimbabwe; or
 - (c) a spouse of a person referred to in paragraph (a) or (b);
 may apply to the Registrar-General for a postal ballot paper:

Provided that applications for postal ballot papers by members of a disciplined force may be made to the Registrar-General through their commanding officers.”;
 - (ii) in subsection (3) by the deletion in paragraph (c) of “reach the constituency registrar concerned not later than noon on the day before the polling day or first polling day” and the substitution of “reach the Registrar-General not later than noon on tenth day before the polling day or first polling day”;
 - (iii) in subsection (6) by the deletion of “constituency registrar” wherever it occurs and the substitution of “Registrar-General”;
- (k) in section 62—
 - (i) in subsection (1) by the deletion of “If the constituency registrar is satisfied, in regard to an application received by him not later than noon on the day before the polling day or first polling day” and the substitution of “If the Registrar-General is satisfied, in regard to an application received by him not later than noon on third day before the polling day or first polling day”;
 - (ii) in subsection (3) by the deletion of “constituency registrar” and the substitution of “Registrar-General”;
 - (iii) in subsection (4) by the deletion of “constituency registrar” and the substitution of “Registrar-General”;
 - (iv) in subsection (5) by the deletion of “constituency registrar” wherever it occurs and the substitution of “Registrar-General”;
- (l) in section 63 by the deletion of “constituency registrar” and the substitution of “Registrar-General”;
- (m) in section 64 by the deletion in subsection (2) of “constituency registrar” and the substitution of “Registrar-General”;
- (n) in section 78 by the deletion in subsection (4) of “six months” and the substitution of “two years”;
- (o) by the insertion after section 79 of the following sections—

“79A Conduct of election agents, polling agents, monitors and observers at elections

(1) Every election agent, polling agent, monitor and observer appointed or accredited for the purpose of any election shall be bound by the code of conduct set out in the Schedule.

(2) Any election agent, polling agent, monitor or observer who contravenes any provision of the code of conduct set out in the Schedule shall be guilty of an offence and liable to a fine not exceeding 100 thousand dollars or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(3) Additionally or alternatively to any prosecution for an offence in terms of subsection (2), contravention of any provision of the code of conduct set out in the Schedule shall, notwithstanding anything contained in this Act, constitute grounds for an electoral officer to exclude any polling agent, monitor or observer from any polling station or counting centre.

79B Absence of election agents, polling agents, monitors and observers at opening and closing of ballot boxes, etc.

For the avoidance of doubt it is declared that the failure by any person entitled in terms of paragraph (b) of subsection (1) of section 55 to be present on time—

- (a) at the sealing or opening of the ballot boxes in terms of subsection (4) of section 54; or

- (b) at the sealing of the ballot boxes in terms of paragraph (a) of subsection (2) of section 60 or of the packets referred to in paragraph (b) of that subsection; or
 - (c) at the verification of the statements referred to in subsection (1) of section 72 and at the counting of votes in terms of that section;
- shall not prevent the electoral officer concerned from proceeding in the absence of such person.”;
- (p) by the insertion after section 116 of the following section—

“116A Defacing property for political purposes

(1) Any person who, with the object of supporting or opposing any political party, political cause or candidate, whether or not in reference to any election, places any bill, placard, poster, pamphlet, circular or other document, writing or painting on, or otherwise defaces, any house, building, wall, fence, lamp-post, gate or elevator without the consent of the owner or occupier thereof, shall be guilty of an offence and liable to a fine not exceeding 100 thousand dollars or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(2) Subject to Part XIX of the Criminal Procedure and Evidence Act [*Chapter 9:07*], a court which has convicted a person of any offence in terms of subsection (1) shall forthwith award compensation, including the costs of restoring the property to its former condition, to any person whose right or interest in property of any description has been lost or diminished as a direct result of the offence.”;

- (q) by the insertion of the following Schedule—

“SCHEDULE (*Sections 4A(6)(c), 14B(4)(c) and 79A*)

CODE OF CONDUCT FOR ELECTION AGENTS, POLLING AGENTS, MONITORS AND OBSERVERS

1. An election agent, polling agent, monitor or observer shall obey every lawful instruction of an electoral officer.
2. An election agent, polling agent, monitor or observer shall not hinder or obstruct an electoral officer in the lawful conduct of his or her functions.
3. No monitor or observer shall wear any apparel sporting a prohibited symbol or apparel indicating any affiliation with a candidate or political party participating in the poll, nor in any other way canvass for any candidate or political party while monitoring or observing the poll.
4. An election agent or polling agent shall not wear any apparel sporting a prohibited symbol or indicating any affiliation with a candidate or political party participating in the poll, but may wear such identification label or badge as is sufficient to indicate the candidate or political party he or she represents.
5. An election agent or polling agent shall not, within the polling station or within 100 metres of any polling station, canvass for any candidate or political party.
6. An election agent, polling agent, monitor or observer shall not obstruct or accost any voter at a polling station or on his or her way thereto or therefrom, nor interview any voter at a polling station.
7. An election agent, polling agent, monitor or observer shall not do anything which compromises the secrecy of the ballot.
8. If an election agent, polling agent or monitor considers that there has been any irregularity in the conduct of the poll or the counting of the votes, the election agent, polling agent or monitor shall not bring such irregularity or apparent irregularity to the attention of any electoral officer other than the presiding officer or constituency registrar.
9. If an observer considers that there has been any irregularity in the conduct of the poll or the counting of the votes, the observer shall not bring such irregularity or apparent irregularity to the attention of any electoral officer other than the constituency registrar.
10. Not more than one polling agent for any candidate shall be permitted to be in a polling station or to witness the verification of statements of presiding officers and the counting of votes, as the case may be, at any time.
11. A polling agent may not be present at the verification of the statements or the counting of the votes at an election for which his candidate was not nominated.
12. In the case of an election to the office of President—
 - (a) a candidate’s provincial or constituency election agents shall not be permitted to enter any polling station, nor witness the verification of statements of presiding officers or the counting of votes, outside the province or constituency, as the case may be, for which they were appointed;
 - (b) a candidate’s polling agents may not be present at the counting of votes.
10. An election agent, polling agent, monitor or observer shall, generally, conduct himself or herself in a manner conducive to the peaceful, dignified and orderly conduct of the poll.”.

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