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MEDIA COVERAGE OF ELECTIONS

This document contains (1) extracts from the Zimbabwe Electoral Commission Act [*Chapter 2:12*] [as amended by the Electoral Laws Amendment Act, 2007 (No. 17 of 2007)] and (2) the Zimbabwe Electoral Commission (Media Coverage of Elections) Regulations, 2008. The text shows the law as at 15th June 2008.

1. Extracts from the Zimbabwe Electoral Commission Act

PART IVA

MEDIA COVERAGE OF ELECTIONS¹

16A Interpretation in Part IVA

In this Part—

“broadcaster” means a person who operates a broadcasting service for the transmission of television or radio programmes to the public or any substantial section of the public, whether the transmission is effected by wireless or other means;

“election period” has the meaning given to that term by section 4 (“Interpretation”) (1) of the Electoral Act [*Chapter 2:13*];²

¹ Part IVA inserted by section 12 of Act 17/2007.

² The definition is as follows:-

“election period” or “period of an election” means—

- (a) in the case of a Presidential election, the period between the calling of the election and the declaration of the result of the poll in terms of paragraph 3(1) of the Second Schedule;
- (b) in the case of a general election for the purpose of electing members of Parliament, the period between the calling of the election and the declaration of the result of the poll for the last constituency in terms of section 66(1);
- (c) in the case of an election to fill a vacancy in the membership of Parliament, the period between the calling of the election and the declaration of the result of the poll for the constituency concerned in terms of section 66(1);
- (d) in the case of a general election for the purpose of electing councillors, the period between the calling of the election and the declaration of the result of the poll in terms of section 130(1) for the last council area or ward of the local authority concerned
- (e) in the case of an election for the purpose of filling a casual vacancy or special vacancy in the governing body of a local authority, the period between the publication of a notice referred to in section 124 and the declaration of the result of the poll in terms of section 130(1) for the council area or ward of the local authority concerned;

“print publisher” means a person who publishes a newspaper, magazine or other printed document at regular intervals for sale or distribution to the public generally;

“public broadcaster” means a broadcaster that is owned or controlled by the State.

16B Application of Part IVA in relation to other media laws

In the event of inconsistency between this Part and the Broadcasting Services [Chapter 12:06] (No. 3 of 2001), the Access to Information and Protection of Privacy [Chapter 10:27] (No. 5 of 2002) or any other enactment, this Part shall prevail over that enactment to the extent of the inconsistency.

16C Access to public broadcasting media

(1) Public broadcasters shall afford all political parties and independent candidates contesting an election such free access to their broadcasting services as may be prescribed in regulations made by the Commission, with the approval of the Minister, in terms of section 19.

(2) Regulations referred to in subsection (1) shall provide for—

- (a) the total time to be allocated to each political party and candidate and the duration of each broadcast that may be made by or on behalf of a party or candidate; and
- (b) the times at which broadcasts made by political parties and candidates are to be transmitted; and
- (c) the areas to which broadcasts made by political parties and candidates are to be transmitted;

and the regulations shall ensure—

- (d) a fair and balanced allocation of time between each political party and independent candidate;
- (e) that each political party and independent candidate is allowed a reasonable opportunity to present a case through the broadcasting service concerned.

16D Political advertising in broadcasting and print media

(1) A broadcaster or print publisher shall not be obliged, subject to section 16B, to publish any advertisement by or on behalf of a political party or candidate contesting an election, but if the broadcaster or publisher is prepared to publish any such advertisement—

- (a) it shall offer the same terms and conditions of publication, without discrimination, to all the political parties and candidates contesting the election; and
- (b) the price it charges for publication shall be at the lowest rate it offers to publishers of commercial advertisements; and
- (c) every such publication shall be identified clearly as an advertisement.

(2) Subsection (1) shall not be construed as obliging a broadcaster or print publisher to publish an advertisement which would render the broadcaster or publisher liable to any criminal or delictual penalty.

16E Publication of electoral information in public interest

(1) If required to do so by the Commission, broadcasters and print publishers shall publish statements issued by the Commission for the purpose of informing voters about aspects of the electoral process.

(2) The Commission shall pay for the publication of any statement referred to in subsection (1) such reasonable amount as may be agreed between it and the broadcaster or print publisher concerned.

16F Conduct of news media during election period

During an election period broadcasters and print publishers shall ensure that—

- (a) 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;
- (b) reports on the election in their news media are factually accurate, complete and fair;
- (c) a clear distinction is made in their news media between factual reporting on the election and editorial comment on it;
- (d) inaccuracies in reports on the election in their news media are rectified without delay and with due prominence;
- (e) political parties and candidates are 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;
- (f) their news media do not promote political parties or candidates that encourage violence or hatred against any class of persons in Zimbabwe;
- (g) their news media avoid language that—
 - (i) encourages racial, ethnic or religious prejudice or hatred; or
 - (ii) encourages or incites violence; or
 - (iii) is likely to lead to undue public contempt towards any political party, candidate or class of person in Zimbabwe.

16G Monitoring of media by Commission

(1) The Commission shall monitor the Zimbabwean news media during any election period to ensure that political parties, candidates, broadcasters, print publishers and journalists observe the provisions of this Part.

(2) In their post-election report the Commission shall include a report on the coverage of the election by the news media.

(3) This section shall not be construed as preventing anyone other than the Commission from monitoring news media and reporting on their conduct during an election period.

2. Media Coverage of Elections Regulations

See next page.

2. Media Coverage of Elections Regulations

Statutory Instrument 33 of 2008.

[CAP. 2:12

Zimbabwe Electoral Commission (Media Coverage of Elections) Regulations, 2008

ARRANGEMENT OF SECTIONS

Section

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IT is hereby notified that the Zimbabwe Electoral Commission, in terms of section 19 of the Zimbabwe Electoral Commission Act [*Chapter 2:12*], has, with the approval of the Minister, made the following regulations—

Title

1. These regulations may be cited as the Zimbabwe Electoral Commission (Media Coverage of Elections) Regulations, 2008.

Interpretation

- 2.(1) In these regulations—

"air time" means the time given by broadcasters to political parties and independent candidates to broadcast their election material;

"election advertisement" means any advertisement promoting a political party or candidate during an election period;

"election broadcast" means any election programme or election advertisement that is aired by a broadcaster;

"election matter" means any election advertisement, election programme or election publication;

"election programme" means any of the programmes referred to in section 3(2) that are broadcast during an election period;

"election publication" means any publication made by a print publisher in regard to an election;

"equitable", in relation to the coverage accorded to political parties and candidates by broadcasters and print publishers, means fair treatment in news, current affairs and discussion programmes or features, and should not be construed to mean equal treatment;

"prime time" means the period between 1800 hours and 2200 hours every day.

(2) Any word or expression to which a meaning has been assigned in the Act, the Broadcasting Services Act [*Chapter 12:06*] and the Access to Information and Protection of Privacy Act [*Chapter 10:27*] shall have the same meaning when used in these regulations.

Election programmes to be broadcast

3.(1) Each of the stations of a public broadcaster shall ensure that when broadcasting election programmes or election advertisements—

- (a) the station will adhere to the applicable provisions of Part IVA of the Act;
- (b) the election broadcast is clearly defined as an election broadcast and identified or announced as such in a similar manner both at its introduction and at its conclusion.

(2) A public broadcaster shall carry political parties' or candidates' advertisements in accordance with section 16D of the Act.

(3) A public broadcaster shall ensure that election programmes to be broadcast during an election period shall include the following programmes—

- (a) programmes to which political parties or candidates are invited to present their election manifestos and policies to the electorate without being interviewed;
- (b) programmes in which there are discussions relating to the elections;
- (c) programmes in which there are interviews with candidates or the representatives of political parties relating to the elections.

Allocation of air time on television and radio

4.(1) A public broadcaster shall ensure that contesting political parties or candidates are treated equitably in the allocation of air time for the broadcasting of election matter.

(2) A public broadcaster shall, during an election period, allocate advertising air time on television and radio to a political party or candidate contesting an election upon payment by the party or candidate of the amounts stipulated by the broadcaster for the broadcasting of election advertisements generally.

Election broadcasts

5.(1) a public broadcaster shall transmit an election programme in such a manner that the programme does not follow immediately before or after another election programme.

(2) A public broadcaster shall transmit election programmes during prime time.

(3) No broadcaster shall broadcast any election programme or advertisement that incites violence or advocates hatred that is based on race, ethnicity, sex, gender, religion or political conviction and that constitutes incitement to cause harm..

(4) A public broadcaster shall give the Commission a broadcast schedule for election programmes and recording dates for all pre-recorded programmes for each station within seven (7) days after the nomination day or first nomination day, as the case may be, of the election in question, or within such longer period as the Commission may for good cause allow..

(5) No election programme shall be broadcast on a polling day.

(6) Broadcasters shall ensure that every election broadcast meets the quality standards set by the broadcaster.

Election advertisements

6.(1) Each of the stations of a public broadcaster shall allocate four hours of available purchasable time during an election period for election advertisements which shall be distributed equitably to political parties and candidates contesting the election in question, taking into consideration the number of constituencies the being contested by the respective political parties.

(2) A public broadcaster shall transmit an election advertisement in such a manner that the election advertisement does not follow immediately before or after another election advertisement.

(3) A broadcaster's advertising rates for election advertisements shall be seventy *per centum* (70%) of the current advertising rates for other classes of advertisements.

(4) Subject to section 16D(2) of the Act, a broadcaster shall not edit or alter any advertisement submitted for transmission without the consent of the political party or candidate concerned.

(5) A broadcaster may reject an advertisement submitted for transmission and if it does so it shall provide written reasons for the rejection within twenty-four (24) hours to the concerned political party or candidate.

(6) A broadcaster shall be indemnified against any cost, damage or loss incurred or sustained as a result of any claim arising from any election broadcast.

Election publications

7. (1) A print publisher shall not publish any election publication that incites violence or advocates hatred that is based on race, ethnicity, sex, gender, religion or political conviction and that constitutes incitement to cause harm.

(2) A print publisher shall offer the same terms and conditions of publication, without discrimination, to all the political parties and candidates contesting an election during an election period.

(3) A print publisher's advertising rates for election advertisements shall be at the lowest rates offered to persons placing commercial advertisements.

(4) A print publisher may reject an advertisement submitted for publication and if it does so it shall provide written reasons for the rejection within twenty-four (24) hours to the concerned political party or candidate.

(5) A print publisher shall be indemnified against any cost, damage or loss incurred or sustained as a result of any claim arising from any election advertisement.

Conduct of broadcasters, print publishers, presenters and reporters during an election period

8.(1) Broadcasters and print publishers shall ensure that during the election period, news and current affairs programmes or features relating to the election in question are presented in a balanced, fair, complete and accurate manner.

(2) Broadcasters' and print publishers' presenters or reporters who are engaged during an election period in broadcasting programmes or publishing articles that present news and current affairs in connection with the election in question shall not—

- (a) express their personal views in such programmes or articles;'
- (b) wear or exhibit symbols or colours or appear with clothes or insignia associated with any political party or other election contestant;
- (c) accept gifts, favours or special treatment by political parties or other persons interested in the election that compromise their professional integrity.

(4) Journalists accredited under the Access to Information and Protection of Privacy Act [Chapter 10:27] to cover an election during an election period shall not do anything whether in the course of their duties or otherwise and whether by way of action, speech, attitude or manner, that may compromise their professional integrity.

(5) Every broadcaster and print publisher shall afford political parties and candidates the right of reply where a report aired or published under the editorial responsibility of the broadcaster or print publisher contains inaccurate information or unfair criticism based on a distortion of facts, and such right shall be given within twenty-four hours in a programme or column of similar weight and audience.

Records of political matter broadcast or published

9. (1) Broadcasters and print publishers shall make a written record of election matter broadcast or published no later than twenty-four hours after it is broadcast or published, which record shall contain the following information—

- (a) the name and address of the representative of the political party or candidate responsible for submitting the election matter to the broadcaster or print publisher;
- (b) in the case of an election broadcast, the transmission date and time and the duration of the broadcast;
- (c) in the case of election matter other than an election broadcast, the publication date of the election matter;
- (d) any other information which the broadcaster or print publisher deems necessary.

(2) Broadcasters and print publishers shall retain for at least six months after an election period the record referred to in subsection (1).

Appeals

10.(1) Any political party or candidate contesting an election who is aggrieved by any decision of a broadcaster or print publisher in terms of these regulations may appeal to the Commission, giving the grounds of the appeal within twenty-four hours of being notified of the broadcaster's or print publisher's decision.

(2) An appeal in terms of subsection (1) shall be made in [form MC1](#) set out in the Schedule.

(3) The Commission may, before deciding an appeal lodged in terms of subsection (1), request the appellant and the broadcaster or print publisher, as the case may be, to appear before the Commission and make such oral submissions in connection with the appeal as the Commission considers will be of assistance to it in determining the appeal.

(4) The period between the lodging of the appeal in terms of subsection (1) and its determination shall not exceed two days and, if the appeal has not been determined after that period, it shall be deemed to have been determined in favour of the appellant.

(5) The Commission may, if it finds a complaint to be well-founded, grant the relief sought by the complainant or such other relief as it thinks fit in the circumstances.

Repeal

11. The Broadcasting Services (Access to radio and television during an Election) Regulations, 2005, published in Statutory Instrument 22 of 2005, are repealed..

SCHEDULE (*Section 10(2)*)

MEDIA COVERAGE APPEAL FORM

[Please see next page]

Form MC1

ZIMBABWE ELECTORAL COMMISSION

1. Complainant's Details

Political Party/Independent Candidate

Name of Political Party/Independent Candidate:

Address of Political Party/Independent Candidate.....

.....

Telephone: Fax:

E-mail:

Person Representing Party/Independent Candidate:

Office held in Party:

First Name/s:

Surname:

Date of Birth:..... I.D. No:

Residential Address:

.....

Business Address:

.....

Telephone:..... Fax:

E-Mail.....

2. Respondent's Details

Name of Broadcaster/Station/Print Publisher:

Programme:

Date and Time of Transmission or publication:

3. Nature of complaint and relief sought, if any (*Provide Details*)

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Date.....Signature