

NOTICE OF AMENDMENTS

Zimbabwe Electoral Commission Bill, 2004 (H.B. 18, 2004)

CLAUSE 2

BY MR COLTART:

Between lines 26 and 27 on page 4 of the Bill, to insert the following definition—

““elective public office” means the office of—

- (a) the President; or
- (b) a Minister or Deputy Minister; or
- (c) a Member of Parliament; or
- (d) a member of the governing body of a local authority;”.

In line 27 on page 4 of the Bill, to delete “[*Chapter 2:02*]” and to substitute “[*Chapter 2:13*]”.

Between lines 34 and 35 on page 4 of the Bill, to insert the following definition—

““political office” means—

- (a) any executive appointment or elected office, whether involving remuneration or not; or
- (b) any paid office;
in the service of a political party or of an organisation or movement which publicly supports or opposes the policies, candidates or cause of any political party;”.

CLAUSE 3

BY MR COLTART:

In lines 5 to 12 on page 5 of the Bill, to repeal subclauses (1) and (2) and to substitute the following—

“(1) There shall be a commission to be known as the Zimbabwe Electoral Commission, which shall be a body corporate capable of suing and being sued in its own name and, subject to this Act, of doing anything that a body corporate may do by law.

(2) The Commission shall consist of—

- (a) a chairperson, who shall be a former judge of the High Court or Supreme Court or a person who is qualified for appointment as a judge of the High Court or Supreme Court; and
- (b) eight other Commissioners, of whom at least three shall be women;

appointed in accordance with Part I of the First Schedule.”.

In line 13 on page 5 of the Bill, in subclause (3) to delete “The First Schedule” and to substitute “Part II of the First Schedule”.

CLAUSE 4

BY MR COLTART:

In line 16 on page 5 of the Bill, to delete the words “The Zimbabwe Electoral Commission” and to substitute “Subject to the Electoral Act, the Zimbabwe Electoral Commission”.

In lines 24 to 28 on page 5 of the Bill, to repeal paragraphs (b), (c) and (d) and to substitute the following paragraphs—

- “(b) to promote conditions conducive to the holding of free and fair elections and referendums; and
- (c) to register voters and to ensure the proper custody and maintenance of voters’ rolls; and
- (d) to consider and advise on all proposals to alter the boundaries of wards or other electoral divisions of local authority areas; and”.

In line 31 to repeal paragraph (f) and to substitute—

- “(f) to formulate and implement civic educational programmes relating to elections; and”.

Between lines 39 and 40 on page 5 of the Bill, to insert the following paragraphs, the existing paragraph (i) being renumbered accordingly—

- “(i) to promote co-operation between the Government, political parties and non-governmental organisations in regard to elections and referendums; and
- (j) to establish procedures for the mediation, settlement and resolution of disputes arising between political parties, candidates and other persons in regard to any election or referendum; and
- (k) to require any police officer to take such lawful measures as are necessary to investigate or prevent an offence regarding any election or referendum, or to ensure the maintenance of law and order during any election period; and
- (l) to keep the public informed about—
 - (i) the delimitation of constituencies and other electoral boundaries; and
 - (ii) the location of polling stations and when they are open; and
 - (iii) voters’ rolls and the times and places at which they are open for inspection; and
 - (iv) political parties and candidates contesting every election and referendum; and
 - (v) voting; and
 - (vi) the results of every election and referendum; and
 - (vii) generally, all matters relating to the Commission’s work and the electoral process;

and”.

Between lines 44 on page 5 of the Bill and 1 on page 6, to insert the following subclause, the existing subclause (3) being renumbered accordingly—

“(3) The Commission shall conduct all its activities in a clear and open manner.”.

CLAUSE 5

BY MR COLTART:

Between lines 5 on page 6 of the Bill and 15 on page 7, to repeal the clause and to substitute the following clauses, the remaining clauses being renumbered accordingly—

5 Commission to observe rules of natural justice

“(1) Before reaching a decision that affects or is likely to affect the rights or interests of any political party or person, the Commission shall, to the fullest extent practicable—

- (a) give the party or person due and clear notice of the nature of the decision the Commission is to make and of the factors the Commission is likely to take into consideration when making it; and
- (b) allow the party or person reasonable access to the information available to the Commission in regard to the matter under consideration; and
- (c) give the party or person as full an opportunity as circumstances allow to make representations in the matter; and
- (d) take into account any representations that the party or person may make in the matter;

and generally the Commission shall observe due process and the rules commonly known as the rules of natural justice.

(2) Where the Commission has made a decision or taken any action that adversely affects the rights or interests of any political party or person, the Commission shall provide that party or person, promptly on demand, with written reasons for the decision or action.

6 Commission to be decentralised

The Commission shall establish such provincial, district and ward offices as will enable it to exercise its functions effectively and efficiently throughout Zimbabwe.

7 Provisions to ensure independence, impartiality and professionalism of members, staff and agents of Commission

- (1) Commissioners and the Commission’s employees and agents shall—
 - (a) exercise their functions in order to—

- (i) promote conditions conducive to free, fair and democratic elections and referendums; and
 - (ii) ensure that the secrecy and integrity of the vote are respected;
- and
- (b) not interfere, directly or indirectly, with the exercise by a voter of his or her rights under the Electoral Act; and
 - (c) maintain strict impartiality in the exercise of their functions; and
 - (d) do nothing, whether in the exercise of their functions or otherwise and whether by way of action, speech, attitude or manner, that might—
 - (i) give rise to a reasonable apprehension that they are exercising their functions with partiality or bias; or
 - (ii) place in jeopardy their perceived independence; or
 - (iii) harm the Commission's credibility, impartiality, independence or integrity;
- and
- (e) assist all accredited observer organisations and observers to exercise their functions under the Electoral Act; and
 - (f) safeguard all electoral material entrusted to them under the Electoral Act;

and shall exercise care, competence, honesty and courtesy when carrying out any activity on behalf of the Commission.

(2) Without derogation from paragraphs (c) and (d) of subsection (1), no Commissioner, and no full-time employee of the Commission shall—

- (a) seek appointment, election or nomination to any elective public office or to any political office; or
- (b) be a member of a political party; or
- (c) hold any office in a political party; or
- (d) except in the exercise of his or her functions as a Commissioner or as an employee of the Commission, perform any work for a political party or candidate in connection with an election or referendum; or
- (e) wear or display any badge or article of clothing that is reasonably likely to be associated with a party or candidate.

(3) Paragraphs (a), (c), (d) and (e) of subsection (2) shall apply to part-time employees and agents of the Commission during any period that they are employed or engaged by the Commission.

(4) If an employee or agent contravenes subsection (2) or (3), his or her employment or agency with the Commission shall immediately become void.

(5) For eighteen months after ceasing to be a Commissioner, a person shall be ineligible—

- (a) to be nominated for election to or to hold any elective public office; or
- (b) to hold any political office;

and anything done for the purpose of any such nomination or towards the obtaining by such person of any such office shall be void.

8 Commission may refer questions of law to Electoral Court

(1) If any matter being determined or dealt with by the Commission involves a question of law, the Commission may refer the question to the Electoral Court for decision.

(2) The Commission shall consult the parties to the matter when formulating a question of law for the decision of the Electoral Court in terms of subsection (1)."

CLAUSE 6

BY MR COLTART:

In lines 18 to 27 on page 7 of the Bill, to repeal clause 6 and to substitute the following clauses, the remaining clauses being renumbered accordingly—

6 Estimates of revenue and expenditure

"The estimated revenue and expenditure of the Commission shall be listed separately in any estimates of revenue and expenditure laid before Parliament in terms of Chapter XI of the Constitution.

7 Funds of Commission

(1) The funds of the Commission shall consist of—

- (a) any funds appropriated for the purpose by Act of Parliament; and
- (b) any funds that may accrue to the Commission, subject to subsection (2), by way of donations or grants; and
- (c) any other funds to which the Commission may become lawfully entitled, whether in terms of this Act or any other law.

(2) The Commission shall not accept a donation or grant from any source if its acceptance would give rise to a reasonable apprehension that the Commission was compromising its independence or impartiality.

(3) Parliament shall ensure that in each financial year the Commission is provided with sufficient funds to enable it to carry out its functions efficiently.

(4) The Third Schedule shall apply to the finances of the Commission."

CLAUSE 7

BY MR COLTART:

In lines 31 and 32 on page 7 of the Bill, to repeal subclause (2).

In line 33 on page 7 of the Bill, to delete the words "Subject to the general control of the Commission, the" and to substitute "The".

Between lines 44 on page 7 of the Bill and 1 on page 8, to insert the following subclause, the remaining subclauses being renumbered accordingly—

“(4) In the exercise of his or her functions under this Act and the Electoral Act, the Chief Elections Officer shall be subject to the direction and control of the Commission.”.

In lines 6 to 8 on page 8 of the Bill, to repeal subclause (5).

Between lines 18 and 19 on page 8 of the Bill, to insert the following subclause after subclause (7)—

“(8) The terms and conditions of employment of the Chief Elections Officer and other employees of the Commission shall be fixed by the Commission with the approval of the Minister responsible for finance.”.

CLAUSE 8

BY MR COLTART:

In lines 19 to 37 on page 8 of the Bill, to repeal the clause and to substitute—

8 Reports of Commission

“(1) As soon as possible after the result of any election or referendum has been announced, the Commission shall submit a report to the President and to the Speaker of Parliament on the conduct of the election or referendum.

(2) As soon as possible after the end of each financial year, the Commission shall submit to the President and to the Speaker of Parliament a report on its activities during that financial year.

(3) The Commission—

- (a) shall submit to the Speaker of Parliament such other reports on any matter related to its activities as Parliament may by resolution require; and
- (b) may submit to the President and to the Speaker of Parliament such other reports on any matter related to its activities as the Commission considers advisable.

(4) The Speaker shall cause every report received in terms of subsection (1), (2) or (3) to be laid before Parliament on one of the four days on which Parliament sits after he or she received it.”.

PART IV (CLAUSES 9 TO 12)

BY MR COLTART:

Between lines 38 on page 8 of the Bill and 26 on page 10, to repeal Part IV (consisting of clauses 9 to 12) and to substitute the following Part—

“PART IV
VOTER EDUCATION

9 Interpretation in Part IV

In this Part—

“programme of voter education” means a course or programme of instruction whose actual or ostensible purpose is to inform voters generally about the electoral process and additionally, or alternatively, about the identity of the parties and any candidates contesting an election or referendum, 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.

10 Provision of voter education by Commission

(1) Not later than ninety days before polling day in any election or referendum, the Commission shall begin a programme of voter education directed at the electorate in the election or referendum.

(2) The Government shall give the Commission whatever assistance it may require in providing programmes referred to in subsection (1).

(3) Subsection (1) shall not be construed—

- (a) as absolving the Commission from its obligation to provide general programmes of voter education at other times; or
- (b) subject to section *eleven*, as preventing anyone other than the Commission from providing programmes of voter education.

11 Commission to monitor voter education provided by other persons

(1) The Commission shall monitor programmes of voter education provided by other persons in Zimbabwe.

(2) If the Commission considers that any programme of voter education is—

- (a) false, in that the information provided by it is materially false or incorrect; or
- (b) misleading, in that while the programme purports to be impartial it is materially and unfairly biased in favour of or against a political party or candidate contesting an election or referendum;

and that the programme is likely to prevent a substantial number of voters from making an informed political choice in an election or referendum, the Commission may 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.

(3) Before giving a direction under subsection (2), the Commission shall afford every person responsible for providing and publishing the programme concerned an adequate opportunity to make representations in the matter.

(4) Subject to subsection (5), a person to whom a direction has been given under subsection (2) shall immediately take all necessary steps to comply with the direction.

(5) A political party or person to whom a direction has been given under subsection (2) may—

- (a) appeal to the Electoral Court against the direction; or
- (b) apply to the Electoral Court for a review of the giving of the direction on the ground of procedural irregularity or any other ground of review recognised in law.

(6) Part XXII of the Electoral Act shall apply to appeals in terms of subsection (5).

12 Provision of copies of electoral legislation

The Commission shall ensure that—

- (a) every political party and every accredited observer organisation is provided with a copy of this Act and the Electoral Act and all regulations and rules made under those Acts; and
- (b) this Act and the Electoral Act and all regulations and rules made under those Acts are available at all times, free of charge or at minimal cost, to members of the public.”

CLAUSE 13

BY MR COLTART:

In lines 29 to 36 on page 10 of the Bill, to repeal the clause and to substitute—

13 Code of conduct for political parties, candidates and supporters

“(1) Political parties and candidates shall take all necessary steps to ensure that they and their members and supporters observe the code of conduct set out in the Fourth Schedule.

(2) Subject to this section, the Commission may, by statutory instrument, amend the code of conduct set out in the Fourth Schedule.

(3) Before making any amendment in terms of subsection (2), the Commission shall inform all political parties of the proposed amendment and give them an adequate opportunity to make representations in regard to it.

(4) The Minister shall cause every statutory instrument made by the Commission in terms of subsection (2) to be laid before Parliament on one of the five days that Parliament sits after the instrument was published in the *Gazette*, and if Parliament resolves that the instrument should be amended or repealed the Commission shall without delay comply with the resolution.”.

CLAUSE 15

BY MR COLTART:

In lines 1 and 2 on page 11 of the Bill, to repeal subclause (2) and to substitute the following subclauses—

“(2) After making regulations in terms of subsection (1), the Commission shall transmit them to the Minister, who shall cause them to be published in the *Gazette* without delay and to be laid before Parliament as soon as possible after their publication in the *Gazette*.

(3) For the avoidance of doubt it is declared that regulations made in terms of subsection (1) are not subject to approval by the Minister.

(4) Regulations made in terms of subsection (1) shall not have effect until they have been published in the *Gazette*.”.

FIRST SCHEDULE

BY MR COLTART:

Between line 3 on page 11 of the Bill and line 11 on page 15, to repeal the First Schedule and to substitute the following—

“FIRST SCHEDULE (Section 3)

PROVISIONS RELATING TO MEMBERSHIP AND PROCEDURE OF COMMISSION

ARRANGEMENT OF PARAGRAPHS

PART I

MEMBERSHIP OF COMMISSION

Paragraph

1. Interpretation.
2. Appointment of Commissioners.
3. Suitability for appointment as Commissioner.
4. Terms of office of Commissioners.
5. Vacation of office by Commissioner.
6. Removal of Commissioner from office.
7. Filling of vacancies on Commission.
8. Conditions of office of Commissioners.
9. Chairperson and vice-chairperson of Commission.

PART II

PROCEDURE OF COMMISSION

10. Convening of meetings.
11. Right of public to place items on agenda of meetings.
12. Procedure at meetings.
13. Committees of Commission.
14. Interested persons to be notified of decisions of Commission and committees.
15. Minutes of proceedings of Commission and committees.

PART I

MEMBERSHIP OF COMMISSION

Interpretation

1. In this Part—

“Parliamentary Appointments Committee” means the committee appointed by Parliament in terms of subparagraph (1) of paragraph 2.

Appointment of Commissioners

2.(1) For the purpose of selecting suitable persons for appointment to the Commission, Parliament shall appoint a committee of its members, to be known as the Parliamentary Appointments Committee, of whose members—

- (a) half shall be Members of Parliament representing the political party to which the majority of Members belong; and
- (b) the other half shall be Members of Parliament representing all the other parties in Parliament.

(2) Whenever there are one or more vacancies on the Commission, the Parliamentary Appointments Committee shall without delay—

- (a) publish as widely as possible a notice calling for nominations of suitable persons to fill the vacancy or vacancies; and
- (b) subject to subparagraph (3), assess the suitability of persons nominated in response to the notice; and
- (c) draw up a short-list of suitable persons containing the names of at least fifty *per centum* more persons than there are vacancies to be filled;

and shall forthwith table the short-list before Parliament.

(3) Upon the tabling of a short-list in terms of subparagraph (2), Parliament shall without delay—

- (a) subject to subparagraph (5), by a majority of at least two-thirds of its total membership, select from the short-list the required number of persons to fill the vacancy or vacancies; and

(b) forward the names of the persons so selected to the President;

(4) the President shall without delay appoint to the Commission the person or persons whose names have been forwarded in terms of subparagraph (b) of subparagraph (3):

Provided that if the President believes that any such person is unsuitable for appointment, the President may without delay inform Parliament of the grounds for that belief and request Parliament to reconsider its selection of that person, whereupon Parliament, by a majority of at least two-thirds of its total membership, may either—

(a) confirm its selection of that person; or

(b) select another person from a short-list prepared by the Parliamentary Appointments Committee;

and, upon that person's name being forwarded to the President, the President shall without delay appoint that person as a Commissioner.

(5) In the exercise of their functions under this paragraph, the Parliamentary Appointments Committee, Parliament and the President shall ensure that at all times—

(a) at least one Commissioner is a person qualified for appointment as a judge of the High Court or the Supreme Court; and

(b) at least three Commissioners are women.

(6) The Parliamentary Appointments Committee shall exercise its functions under subparagraph (2) in a clear and open manner.

(7) Without derogation from subparagraph (6), in regard to any interview the Parliamentary Appointments Committee conducts with a person whose name it is considering for a short-list in terms of subparagraph (2)—

(a) the Committee shall cause public notice to be given a reasonable time in advance of the interview, stating when and where it is to be held and who is to be interviewed; and

(b) shall take whatever other steps are necessary to encourage the public to attend the interview;

and the public shall have a right to attend the interview.

Suitability for appointment as Commissioner

3.(1) A person is suitable for appointment to the Commission if he or she is noted for impartiality and independence and is not disqualified under subparagraph (2).

(2) A person is disqualified for appointment as a Commissioner if he or she—

(a) is neither a citizen of Zimbabwe nor permanently resident in Zimbabwe; or

(b) holds or, in the five years immediately preceding the date of his or her proposed appointment, has held an elective public office or a political office; or

- (c) has, in terms of a law in force in any country—
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) made an assignment to or arrangement or composition with his or her creditors which has not been rescinded or set aside;
 or
- (d) within five years immediately before his or her proposed appointment, he or she has been convicted—
 - (i) in Zimbabwe of a criminal offence; or
 - (ii) outside Zimbabwe of an offence, by whatever name called, which, if committed in Zimbabwe, would have been a criminal offence;
 and sentenced to a term of imprisonment without the option of a fine, whether or not the sentence has been suspended, and has not received a free pardon.

(3) For the purposes of subparagraph (c) of subparagraph (2), a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body.

(4) Any person who, knowing that he or she is disqualified in terms of this paragraph to hold office as a Commissioner—

- (a) attends any meeting of the Commission as a Commissioner; or
- (b) performs any other act as a Commissioner;

shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

Terms of office of Commissioners

4.(1) Subject to this paragraph, Commissioners shall be appointed for six-year terms and shall be eligible for re-appointment:

Provided that a person who has served as a Commissioner for two or more terms aggregating twelve years shall not be eligible for reappointment.

(2) Subject to subparagraph (3), if a Commissioner dies or vacates office before the expiry of his or her term, his or her successor shall be appointed to hold office for the remainder of that term.

(3) Of the Commissioners appointed to the first Commission—

- (a) three, who shall be chosen by lot at the Commission's first meeting, shall vacate their office two years after their appointment; and
- (b) a further three, who shall also be chosen by lot at the Commission's first meeting, shall vacate their office four years after their appointment;

and their successors shall be appointed or they shall be eligible for re-appointment, as the case may be, for six-year terms.

Vacation of office by Commissioner

5. A Commissioner's office shall become vacant—
- (a) one month after the date he or she gives notice in writing to the President, through the Speaker, of his or her intention to resign from the Commission or after the expiry of such other period of notice as the Commissioner and the Speaker may agree; or
 - (b) if the Commissioner becomes a member of a political party; or
 - (c) if the Commissioner was a member of a political party when he or she was appointed to the Commission and fails, within one week after his or her appointment—
 - (i) to relinquish membership of the party; and
 - (ii) by notice to the Speaker, to renounce publicly all connection with the party;
- or
- (d) if the Commissioner causes or permits himself or herself to be nominated as a candidate for any elective public office or any political office; or
 - (e) on the date the Commissioner begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine—
 - (i) in Zimbabwe, in respect of any offence; or
 - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;
- or
- (f) if the Commissioner becomes disqualified in terms of subparagraph (a), (b), (c) or (d) of subparagraph (2) of paragraph 3 to hold office as a Commissioner.

Removal of Commissioner from office

6.(1) A Commissioner may be removed from office by the President in accordance with this paragraph, but only on one or more of the following grounds—

- (a) inability to exercise the functions of his or her office, whether arising from physical or mental incapacity; or
- (b) misconduct; or
- (c) gross incompetence; or
- (d) if he or she becomes disqualified to hold office as a Commissioner.

(2) If, on the motion of the Parliamentary Appointments Committee, Parliament resolves by a majority of all its members that the question of removing a Commissioner from office on a ground specified in subparagraph (1) ought to be

investigated, the President shall without delay appoint a tribunal to inquire into the matter.

(3) A tribunal appointed under subparagraph (2) shall consist of not fewer than three members selected by the President from the following—

- (a) persons who have held office as a judge of the Supreme Court or the High Court;
- (b) persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil or criminal matters in a country in which the common law is Roman-Dutch or English, and English is an official language;
- (c) registered legal practitioners of at least seven years' standing who have been nominated under subparagraph (4).

(4) The Council of the Law Society of Zimbabwe shall nominate a panel containing the names of at least three qualified legal practitioners for the purposes of subparagraph (c) of subparagraph (3) when required to do so by the President.

(5) A tribunal appointed under subparagraph (2) shall inquire into the matter with all due dispatch, and shall report to the President with a recommendation whether or not the Commissioner concerned should be removed from office.

(6) The President shall without delay act on the recommendation of a tribunal in terms of subparagraph (5).

(7) The Minister shall lay a copy of a tribunal's report and recommendation before Parliament on one of the eight days that Parliament sits after the report and recommendation were delivered to the President.

Filling of vacancies on Commission

7. The Parliamentary Appointments Committee, Parliament and the President shall ensure that vacancies on the Commission are filled within sixty days after they occur.

Conditions of office of Commissioners

8.(1) Subject to this Act, Commissioners shall hold office on such terms and conditions relating to remuneration, allowances and other benefits as may be fixed for Commissioners generally by the President acting on the advice of the Parliamentary Appointments Committee, which advice shall be given after consultation with the Minister responsible for finance.

(2) The President, acting on the advice of the Parliamentary Appointments Committee, may direct that any enactment relating to the conditions of service of members of the Public Service shall apply to Commissioners, subject to such modifications, exceptions or conditions as the President may specify, and thereupon the enactment concerned shall so apply to the Commissioners concerned.

(3) Terms and conditions fixed in terms of subparagraph (1) may require any or all of the Commissioners to give their whole time to the service of the Commission, and those Commissioners shall not engage in any other occupation,

service or employment for remuneration unless the President, with the approval of a resolution of Parliament, has permitted them to do so.

Chairperson and vice-chairperson of Commission

9.(1) At its first meeting the Commission shall elect a Commissioner to be chairperson and another to be vice-chairperson of the Commission.

(2) The chairperson and vice-chairperson of the Commission shall hold office as such for so long as they remain Commissioners, unless—

- (a) they resign their office as such; or
- (b) the Commission resolves that they should cease to hold office as such.

(3) Whenever a vacancy occurs in the office of chairperson or vice-chairperson of the Commission, the Commission shall at its next meeting elect a Commissioner to fill the vacancy.

(4) Subject to any restrictions or conditions imposed by the Commission, the chairperson of the Commission may, in cases of urgency or emergency, take whatever action or decision he or she thinks appropriate on the Commission's behalf:

Provided that the chairperson shall report to the Commission at its next meeting on any action or decision he or she has taken in terms of this subparagraph, and the Commission may confirm, vary or revoke the action or decision concerned.

(5) The vice-chairperson of the Commission shall exercise the chairperson's functions whenever the chairperson is unable to exercise them or whenever the office of chairperson is vacant.

PART II

PROCEDURE OF COMMISSION

Convening of meetings

10.(1) The Commission shall hold its first meeting on a date and at a place fixed by the Speaker, and thereafter, subject to this Act, shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit.

(2) The chairperson of the Commission—

- (a) may convene a special meeting of the Commission at any time; and
- (b) shall convene a special meeting of the Commission on the written request of not fewer than two Commissioners, which meeting shall be convened for a date not sooner than seven days and not later than thirty days after the chairperson's receipt of the request.

(3) No business shall be discussed at a special meeting convened in terms of subparagraph (2) other than—

- (a) such business as may be determined by the chairperson of the Commission, where he or she convened the meeting in terms of subparagraph (a) of subparagraph (2); or
- (b) the business specified in the request for the meeting, where the chairperson of the Commission convened the meeting in terms of subparagraph (b) of subparagraph (2);

but after that business has been completed, the Commission shall proceed to deal with any matter it is required to discuss in terms of paragraph 12.

(4) The Chief Elections Officer shall cause each Commissioner to be given at least forty-eight hours' written notice of any meeting of the Commission, including a special meeting convened in terms of subparagraph (2), and the notice shall specify the business for which the meeting has been convened.

(5) Not later than twenty-four hours before any meeting of the Commission, the Chief Elections Officer shall cause notice of the meeting, specifying the business to be transacted at it, to be posted at the main entrance to the Commission's head office and at the entrances to all its other offices in Zimbabwe.

(6) Where it is urgently necessary to do so in order to ensure the proper conduct of any election or referendum, the Commission may hold a special meeting even if—

- (a) Commissioners have been given less than forty-eight hours' notice of the meeting;
- (b) public notice of the meeting has been posted at the entrances to the Commission's offices less than twenty-four hours before the meeting;

but the reasons for so holding the meeting shall be recorded fully in the minutes of the meeting.

(7) Failure to give or publish notice of a meeting in terms of subparagraph (4) or (5) shall not invalidate decisions taken by the Commission at the meeting but, except in the case of a meeting referred to in subparagraph (6), an avoidable failure to give or publish such notice shall constitute misconduct on the part of the Chief Elections Officer and any other member of the Commission's staff responsible for giving or publishing the notice.

Right of public to place items on agenda of meetings

11.(1) Any person may, by written notice delivered to the Chief Elections Officer not later than seventy-two hours before the meeting concerned, require the Commission to discuss at a meeting any matter relating to elections and referendums.

(2) When the Commission discusses a matter in compliance with subparagraph (1), the person who gave notice of it in terms of that subparagraph shall be entitled to address the Commission on that matter, either in person or through a legal practitioner:

Provided that the person presiding at the meeting—

- (a) may impose reasonable time-limits on any such discussion or address;

- (b) in exceptional circumstances, may postpone any such discussion or address to a subsequent meeting.

Procedure at meetings

12.(1) All meetings of the Commission shall be held in public.

(2) The chairperson of the Commission or, in the chairperson's absence, the vice-chairperson shall preside at all meetings of the Commission:

Provided that, if the chairperson and vice-chairperson are both absent from any meeting, the Commissioners present may elect one of their number to preside at that meeting as chairperson.

(3) A majority of the Commissioners shall form a quorum at any meeting of the Commission.

(4) With the Commission's approval, the chairperson of the Commission may invite any person to attend a meeting of the Commission, where the chairperson considers that the person has special knowledge or experience in any matter to be considered by the Commission at that meeting.

(5) A person invited to attend a meeting of the Commission in terms of subparagraph (4) may take part in the proceedings of the meeting while the Commission is considering the matter for which he or she was invited, but he or she shall not have a vote on any question before the Commission.

(6) Anything authorised or required to be done by the Commission may be decided by a majority vote at any meeting of the Commission at which a quorum is present:

Provided that, before a vote is taken on any matter, the person presiding at the meeting shall attempt to reach a decision on it by consensus.

(7) At all meetings of the Commission each Commissioner present shall have one vote on any matter before the Commission:

Provided that—

- (i) in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote;
- (ii) no Commissioner shall take part in the consideration or discussion of, or vote on—
 - A. any matter in which the Commissioner or a close relative has a personal or financial interest; or
 - B. any matter whatever, if to do so would give rise to reasonable doubts about the Commissioner's independence or impartiality.

Committees of Commission

13.(1) For the better exercise of its functions, the Commission may establish one or more committees in which it may vest such of its functions as it thinks fit:

Provided that the vesting of a function in a committee shall not prevent the Commission from itself exercising that function, and the Commission may amend or rescind any decision of the committee in the exercise of that function.

(2) The Commission may appoint persons other than Commissioners to any committee established in terms of subparagraph (1).

(3) The chairperson of the Commission or of a committee may at any reasonable time and place convene a meeting of that committee.

(4) The procedure of each committee shall be as fixed from time to time by the Commission.

(5) Subject to this paragraph, subparagraphs (2) to (4) of paragraph 11 and subparagraphs (2) to (7) of paragraph 12 shall apply, with any necessary alterations, to committees and their members as they apply to the Commission and Commissioners.

Interested persons to be notified of decisions of Commission and committees

14. The Chief Elections Officer shall ensure that all parties and persons who are directly affected by any decision of the Commission or a committee are notified of the decision, in writing, as soon as possible after the decision was reached.

Minutes of proceedings of Commission and committees

15.(1) The Commission shall cause minutes of all proceedings of and decisions taken at all its meetings and the meetings of all its committees to be entered in books kept for the purpose.

(2) Any minutes referred to in subparagraph (1) which purport to be signed, with the authority of the Commission or the committee concerned, as the case may be, by the chairperson of the meeting to which the minutes relate or by the chairperson of the next following meeting, shall be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at the meeting concerned.

(3) The Chief Elections Officer shall ensure that all minutes referred to in subparagraph (1) are kept at the head office of the Commission and are open to inspection at all reasonable times by members of the public, who may take extracts from or make copies of such minutes.”.

NEW SCHEDULE

BY MR COLTART:

After line 43 on page 17 of the Bill, to insert the following Schedule—

“FOURTH SCHEDULE (Section 13)

CODE OF CONDUCT FOR POLITICAL PARTIES, CANDIDATES AND SUPPORTERS

Commitment to democracy

- 1.(1) All political parties and candidates must commit themselves to—
 - (a) promote free, fair and democratic elections and referendums; and
 - (b) encourage the free expression of the will of voters; and
 - (c) condemn unreservedly and publicly any violence or intimidation; and
 - (d) reject any form of discrimination based on race, gender, ethnicity, language, class or religion in connection with elections, referendums or political activity; and
 - (e) give wide publicity to this code; and
 - (f) disseminate accurate information on electoral processes.

(2) All political parties and their members and supporters, and all candidates and their supporters, must promote conditions conducive to free, fair and democratic elections conducted through a secret ballot in a climate of democratic tolerance in which political activity may take place without fear of intimidation or reprisals.

(3) All political parties and their members and supporters, and all candidates and their supporters, must accept that others have the right to present their political principles and ideas in a peaceful environment without intimidation or fear of reprisal, and must respect that right.

Compliance with law

2.(1) All political parties and candidates must actively encourage their members and supporters to comply with the law, including this code.

(2) All political parties must restrain their office-bearers, members and supporters, and all candidates must restrain their representatives and supporters, from contravening any law, including this code, and must discipline those who contravene it.

(3) Political parties and candidates must not engage in or condone corrupt practices or conduct that violates the integrity of the electoral process, such as bribery or intimidation, or encouraging persons to vote knowing that they are not entitled to do so.

Non-violence

3.(1) All political parties and their members and supporters, and all candidates and their supporters, must ensure that no one, other than members of the Police Force or the Defence Forces lawfully on duty, displays or carries any weapon or any material that may be used as weapons at any political gathering, march or demonstration or at or near any polling station.

(2) No political party or any of its members or supporters, and no candidate or any of his or her supporters, may—

- (a) use violence, or incite or encourage the use of violence, against anyone on account of his or her political opinions or membership or support of a political party; or
- (b) intimidate, or incite or encourage the intimidation, of anyone on account of his or her political opinions or membership or support of a political party;

and political parties and candidates must discipline their members or supporters who contravene this subparagraph.

Respect for media and journalists

- 4. Every political party and candidate—
 - (a) must respect the role of the news media before, during and after an election or referendum; and
 - (b) may not prevent access by members of the news media to public political meetings, marches, demonstrations and rallies; and
 - (c) must take all reasonable steps to ensure that journalists are not subjected to harassment, intimidation, hazard, threat or physical assault by any of their representatives or supporters.

Conduct during polling period

5.(1) No political party or candidate may, from midnight twenty-four hours before polling day in any election or referendum until polling stations are closed on that day—

- (a) convene or hold a public gathering of any kind; or
- (b) publish, or cause or permit the publication, of any advertisement or statement promoting or opposing a particular party or candidate;

(2) On polling day in any election or referendum, all political parties and their members and supporters, and all candidates and their supporters, must—

- (a) co-operate with election officials to ensure that polling is peaceful and orderly and that voters are completely free to exercise their vote without being subjected to intimidation, annoyance or disturbance; and
- (b) generally, conduct themselves so as to respect the secrecy and integrity of the ballot.

False, frivolous or vexatious allegations regarding other parties and candidates

6.(1) Political parties and candidates and their representatives must not publish false allegations about the conduct of other parties or candidates or their members or supporters.

(2) Political parties and candidates and their representatives must not file false, frivolous or vexatious complaints with the Commission or any of its committees regarding the conduct of other parties or candidates or their members or supporters.

Acceptance of results of election

7. All political parties and candidates must accept the result of an election or referendum once the result has been certified by the Commission and all complaints have been resolved or determined in accordance with the Electoral Act.”.