

ELECTORAL ACT  
Act 25/2004

To provide for the procedure and conditions of service of members of the Electoral Supervisory Commission and its functions with respect to monitors and observers; to provide for the duties of the Zimbabwe Electoral Commission towards the Electoral Supervisory Commission; to provide for a Registrar-General of Voters and constituency registrars; to make provision for the registration of voters and for the lodging of objections thereto; to provide for the preparation, compilation and maintenance of voters rolls; to prescribe the residence qualifications of voters and the procedure for the nomination and election of candidates to and the filling of vacancies in Parliament; to provide for the conduct of elections and the proceedings which may be taken against undue elections; to provide for elections to the office of President; to provide for local authority elections; to provide for offences and penalties, and for the prevention of corrupt or illegal practices in connection with elections; to establish the Electoral Court and provide for its functions; to make provision for the hearing and determination of election petitions; to repeal the Electoral Act [*Chapter 2:01*]; and to provide for matters connected with or incidental to the foregoing.

ENACTED by the President and the Parliament of Zimbabwe.

PART I PRELIMINARY

1 Short title and date of commencement

(1) This Act may be cited as the Electoral Act [*Chapter 2:13*].

(2) This Act shall come into operation on a date to be fixed by the President by statutory instrument.

2 Application

This Act shall apply to<sup>3/4</sup>

(a) the election of members of Parliament and elections to the office of President for the purposes of the Constitution; and

(b) elections to the governing bodies of councils for the purposes of the Rural District Councils Act [*Chapter 29:13*] and the Urban Councils Act [*Chapter 29:15*].

### 3 General principles of democratic elections

Subject to the Constitution and this Act, every election shall be conducted in way that is consistent with the following principles<sup>3/4</sup>

(a) the authority to govern derives from the will of the people demonstrated through elections that are conducted efficiently, freely, fairly, transparently and properly on the basis of universal and equal suffrage exercised through a secret ballot; and

(b) every citizen has the right<sup>3/4</sup>

(i) to participate in government directly or through freely chosen representatives, and is entitled, without distinction on the ground of race, ethnicity, gender, language, political or religious belief, education, physical appearance or disability or economic or social condition, to stand for office and cast a vote freely;

(ii) to join or participate in the activities of and to recruit members of a political party of his or her choice;

(iii) to participate in peaceful political activity intended to influence the composition and policies of Government;

(iv) to participate, through civic organisations, in peaceful activities to influence and challenge the policies of Government;

(c) every political party has the right—

(i) to operate freely within the law;

(ii) to put up or sponsor one or more candidates in every election;

(iii) to campaign freely within the law;

(iv) to have reasonable access to the media.

### 4 Interpretation

(1) In this Act—

“Chief” has the meaning given thereto in the Traditional Leaders Act [ *Chapter 29:17*];

“chief election agent” means the person appointed in terms of section *ninety-four* as an election agent;

“Chief Elections Officer” means the Chief Elections Officer appointed in terms of section 11 of the Zimbabwe Electoral Commission Act [*Chapter 2:12*], or any officer of the Commission acting on his or her behalf;

“claim” means a claim to be registered as a voter in a constituency;

“claim form” means the prescribed form of claim for registration as a voter under Part V;

“claimant” means a person who presents himself or herself for registration as a voter in terms of subsection (1) of section *twenty-four*;

“Commission” means the Zimbabwe Electoral Commission established in terms of section 3 of the Zimbabwe Electoral Commission Act [*Chapter 2:12*];

“Commissioner” means a member of the Commission, and includes the Chairperson of the Commission;

“competent witness”, in relation to voting by post, means the Registrar-General of Voters or, subject to subsection (2), any person who—

(a) is a member of Parliament, a Provincial Governor, the principal diplomatic representative of Zimbabwe in any country or the deputy of such representative, or a member of the staff of such representative appointed by him or her, or the trade commissioner or any consular official for Zimbabwe in any country; or

(b) inside Zimbabwe, holds the position of a hospital matron, Government mining engineer, Government inspector of mines, mine manager, constituency registrar, deputy constituency registrar, assistant constituency registrar, or chairperson or secretary of a town council or rural district council; or

(c) inside or outside Zimbabwe, is or holds the office of or an appointment as a chartered accountant, corporate member of an engineering institute, land surveyor, corporate member of an institute or association of architects, postmaster, legal practitioner, advocate, barrister, attorney, solicitor, magistrate, bank manager, commissioned officer in the Defence Forces, justice of the peace, commissioner of oaths, mayor, medical practitioner, town clerk, assistant town clerk, veterinary surgeon or commissioned police officer; or

(d) is a member of a class of persons prescribed as competent witnesses;

“constituency” means any of the constituencies into which Zimbabwe is divided in terms of subsection (2) of section 60 of the Constitution;

“constituency centre” means any place within a constituency notified by a constituency elections officer in terms of subsection (1) of section *sixty-five* as a place where the collating of votes from the polling stations in that constituency will take place in accordance with Part XIII;

“constituency elections officer” means a person who is appointed in terms of subsection (1) of section *seventeen* to be a constituency elections officer;

“constituency registrar” means a person who is appointed in terms of subsection (1) of section *nineteen* to be a constituency registrar;

“constituency return” means a return in the prescribed form recording the result of a collation of the votes for a Presidential election at a constituency centre in terms of the Second Schedule;

“corrupt practice” means any of the following offences referred to in Part XIX, namely—

- (a) undue influence;
- (b) bribery;
- (c) personation;
- (d) attempting to commit or inciting the commission of an offence specified in paragraph (a), (b) or (c);

“covering envelope” means the envelope referred to in paragraph (c) of subsection (4) of section *seventy-two*;

“designated magistrate” means a magistrate designated for the purposes of Part VI by the Minister to whom the administration of the Magistrates Court Act [*Chapter 7:10*] has been assigned;

“disciplined force” means any branch of the Defence Forces or the Police Force;

“election” means—

- (a) the election of a member of Parliament; or

(b) an election to the office of President; or

(c) an election for the purposes of the Rural District Councils Act [*Chapter 29:13*] or the Urban Councils Act [*Chapter 29:15*];

as the case may be;

“election agent” means a person appointed in terms of section *ninety-five* as an election agent;

“election expenses” , in relation to a candidate at an election, means all moneys expended or expenses incurred on account of or in respect of the conduct or management of that election by that candidate or on his or her behalf or in his or her interests, but does not include the sum deposited with the candidate’ s nomination paper in terms of subsection (1) of section *forty-seven* or subsection (1) of section *one hundred and five* or any moneys expended or expenses incurred by or in the interests of a political party of which the candidate is a member if they do not relate directly to him or her;

“election petition” means a petition referred to in section *one hundred and sixty-seven*;

“Electoral Court” means the Electoral Court established by section *one hundred and sixty-one*;

“electoral officer” means the Chief Elections Officer, a constituency elections officer, presiding officer or polling officer, or any official referred to in subsection (1) of section *eighteen* or *nineteen*;

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

“fixed date” means the date fixed in terms of subsection (2) of section *one* as the date of commencement of this Act;

“list of votes marked by the presiding officer” means a list referred to in subsection (2) of sections *fifty-nine* and section *sixty*;

“Minister” means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“money” includes any pecuniary reward;

“monitor” means a person appointed and accredited as a monitor in terms of

section *thirteen*;

“nomination day” , in relation to—

(a) the election of a member of Parliament, other than a Chief, means any day fixed in terms of paragraph (a) of subsection (2) of section *thirty-eight*;

(b) an election to the office of President, means the day fixed in terms of paragraph (a) of subsection (1) of section *one hundred and three*;

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

“office hours” , in relation to the office of a constituency registrar, means the hours on a week-day during which that office is open to members of the public;

“payment” includes any pecuniary or other reward;

“pecuniary reward” includes any office, place or employment, any valuable security or other equivalent for money and any valuable consideration;

“personal expenses” , in relation to a candidate at an election, means the reasonable travelling expenses of that candidate and of his or her chief election agent, if any, and the reasonable expenses of their living at hotels or elsewhere for the purposes of and in relation to that election;

“political party” means any political organisation;

“polling day” , in relation to—

(a) an election to Parliament, means the day or days fixed in terms of paragraph (b) of subsection (2) of section *thirty-eight*;

(b) an election to the office of President, means any day or days fixed in terms of paragraph (b) of subsection (1) of section *one hundred and three*;

“polling officer” means any person appointed in terms of subsection (2) of section *fifty-two* to be a polling officer;

“polling station” means a polling station referred to in subsection (1) of section *fifty-one*;

“polling-station return” means a return in the prescribed form recording the

result of a counting of the votes at a polling station in terms of section *sixty-four*;

“prescribed” means prescribed by the Commission by regulations made in terms of section *one hundred and ninety-two*;

“presiding officer” means any person appointed in terms of subsection (2) of section *fifty-two* to be a presiding officer;

“prohibited symbol” means a symbol or representation declared to be a prohibited symbol in terms of subsection (1) of section *one hundred and forty-six*;

“proof of identity” means a valid Zimbabwe passport, or a notice or identity document issued in terms of section 7 of the National Registration Act [*Chapter 10:17*], or a valid driver’s licence containing an identity number assigned to the holder thereof under the National Registration Act [*Chapter 10:17*];

“proof of residence” , in relation to a constituency, means proof by way of<sup>3/4</sup>

(a) 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, in the name of the owner of the property concerned (or in the case of an occupier other than the owner, such a receipt or demand in the name of the owner accompanied by a written statement of the owner confirming the occupation of the property by the occupier); or

(b) a sworn statement by the employer of the voter or claimant confirming the voter’s or claimant’s address; or

(c) a bank statement, hospital bill or envelope with a post marking, bearing the name of the voter or claimant and the voter’s or claimant’s address; or

(d) a sworn oral or written statement by the chief, headman or village head of the area or village where the voter or claimant resides, confirming that the voter or claimant resides in the area or village concerned;

“qualified” , in relation to a person claiming or entitled to be registered as a voter for a constituency, means qualified to be a voter in that constituency in accordance with paragraph 3 of Schedule 3 to the Constitution and section *twenty-three*, and “disqualification” shall be construed accordingly;

“registered” , in relation to a voter, means registered in terms of Part V for the purpose of voting at an election;

“Registrar-General of Voters” means the Registrar-General of Voters referred to in section *eighteen*;

“registration office” means the office of the Registrar-General of Voters or any office of a constituency registrar;

“Service Commissions” means<sup>3/4</sup>

(a) the Defence Forces Service Commission; and

(b) the Police Service Commission; and

(c) the Prison Service Commission; and

(d) the Public Service Commission;

“Speaker’ ’ means the Speaker of Parliament;

“voter” means a person who is entitled to vote and is registered on a voters roll;

“voters registration certificate” means a certificate of registration as a voter issued in terms of section *twenty-four*;

“voters roll” means<sup>3/4</sup>

(a) the voters roll for any constituency; or

(b) the voters roll for the area of any local authority or for any ward of such an area;

“ward or council centre” means any place within a ward or council area notified by the Chief Elections Officer in terms of subsection (2) of section *one hundred and twenty-eight* as a place where the counting of votes at a local authority election will take place in accordance with Part XVIII.

(2) Notwithstanding anything contained in the definition of “competent witness” in subsection (1), a candidate in an election or an agent of such a candidate shall not be a competent witness in respect of voting by post in that election.



## PART II Electoral Supervisory Commission: Procedure and Conditions of Service of Members

### 5 Interpretation in Part II

In this Part—

“member” means a member of the Electoral Supervisory Commission.

### 6 Conditions of office of members

(1) Subject to this Part, a member shall be appointed for a term of five years and shall be eligible for re-appointment:

Provided that a person who has served as a member for two consecutive terms shall not be eligible for re-appointment.

(2) On the expiry of the period for which a member has been appointed, he or she shall continue to hold office until he or she has been re-appointed or his or her successor has been appointed:

Provided that a member shall not continue to hold office in terms of this subsection for a period exceeding six months.

(3) Subject to section *twelve*, a member shall hold office on such conditions as the President may fix for members generally.

(4) When fixing the conditions of service of a member, the President may direct that any enactment relating to the conditions of service of members of the Public Service shall apply to the conditions of service of the member, subject to such modifications, exceptions or conditions as the President may specify, and thereupon the enactment concerned shall so apply to the conditions of service of the member concerned.

### 7 Disqualification for appointment as member

Without derogation from subsection (2) of section 61 of the Constitution, the President shall not appoint a person as a member, and no person shall be qualified to hold office as a member, who—

- (a) is not a citizen of Zimbabwe permanently resident in Zimbabwe; or
- (b) 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

(c) has, within the period of five years immediately preceding the date of his or her proposed appointment, 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 such sentence has been suspended, and has not received a free pardon.

## 8 Vacation of office by member

A member shall vacate his or her office and his or her office shall become vacant one month after the date the member gives notice in writing to the President of his or her intention to resign the office or after the expiry of such shorter period as he or she and the President may agree.

## 9 Removal of members from office

(1) A member shall not be removed from office except in terms of this section.

(2) The President may remove a member from office on the grounds of—

(a) inability to discharge the functions of his or her office, whether arising from infirmity of mind or body or any other cause; or

(b) misbehaviour; or

(c) failure to comply with any of the conditions of his or her office fixed by the President in terms of section six.

## 10 Staff of Electoral Supervisory Commission

(1) There shall be—

(a) subject to the law governing the Public Service, such persons employed in the Electoral Supervisory Commission as may be necessary to perform secretarial functions; and

(b) at the request of the Electoral Supervisory Commission, such other persons as may be seconded to it by the chairpersons of the Service Commissions to assist it in discharging its functions.

(2) The person for the time being performing the functions of secretary of the Electoral Supervisory Commission may attend meetings of the Electoral Supervisory Commission but shall not vote on any question before the Electoral Supervisory Commission.

#### 11 Meetings and procedure of Electoral Supervisory Commission

(1) Subject to this section and sections 61 and 114 of the Constitution, the Electoral Supervisory Commission shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and proceedings as it thinks fit.

(2) The chairperson of the Electoral Supervisory Commission may himself or herself at any time and shall, at the request in writing of not fewer than two members, convene a special meeting of the Electoral Supervisory Commission.

(3) If, at a meeting of the Electoral Supervisory Commission, the chairperson is absent, the members present may elect one of their number to preside at that meeting as chairperson.

(4) Any proposal circulated among all members and agreed to in writing by a majority of all members shall be of the same effect as a resolution passed at a duly constituted meeting of the Electoral Supervisory Commission and shall be incorporated in the minutes of the next succeeding meeting of the Electoral Supervisory Commission:

Provided that, if a member requires such a proposal to be placed before a meeting of the Electoral Supervisory Commission, this subsection shall not apply to such proposal.

(5) Where the chairperson of the Electoral Supervisory Commission considers that a person has special knowledge of or experience in any matter being considered by the Electoral Supervisory Commission, he or she may invite that person to attend a meeting of the Electoral Supervisory Commission at which the matter is to be discussed, and that person may then attend the meeting but shall not vote on any question before the Electoral Supervisory Commission.

## 12 Remuneration and expenses of members

A member of the Electoral Supervisory Commission shall be paid—

(a) such remuneration as the Minister may fix with the approval of the Minister responsible for finance; and

(b) such allowances as the Minister may fix to meet any reasonable expenses incurred by the member in connection with the business of the Electoral Supervisory Commission.

## 13 Functions of Electoral Supervisory Commission regarding monitors

(1) In this section<sup>3/4</sup>

“monitor”, in relation to any election, means, subject to such conditions as may be prescribed<sup>3/4</sup>

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

(b) be present at the counting or collating of votes cast at the election and the verification of polling-station returns by presiding officers in terms of sections *sixty-three*, *sixty-four* and *sixty-five*; and

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

(d) report on any irregularity or apparent irregularity in the conduct of the poll or the counting or collating of the votes to the Electoral Supervisory Commission and the Commission and on any corrective measures taken to redress the irregularity by the presiding officer or constituency elections officer;

and the noun “monitor” shall be construed accordingly.

(2) Subject to this section, the Electoral Supervisory Commission shall appoint and deploy in each polling station members of the Public Service to act as monitors.

(3) The Electoral Supervisory Commission shall forthwith inform the Commission 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 constituency centre as a monitor, unless such person is accredited by the Electoral Supervisory Commission before the commencement of the poll as a monitor, for which purpose such individual shall report to the Electoral Supervisory Commission at the time and place notified by the Electoral Supervisory Commission and<sup>3/4</sup>

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

(b) if so required by the Electoral Supervisory Commission, attend a course on electoral law and procedure approved or provided by the Electoral Supervisory Commission.

(5) Upon satisfaction of the requirements of subsection (4) the Electoral Supervisory Commission 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 or her accreditation certificate to any officer of the Commission or electoral officer who demands to see it.

(7) Not more than the prescribed number of monitors shall be permitted<sup>3/4</sup>

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

(b) to be present for the counting or collating of votes at a polling station or constituency centre.

#### 14 Functions of Electoral Supervisory Commission regarding observers

(1) In this section<sup>3/4</sup>

“observe”, in relation to any election, means, subject to such conditions as may be prescribed<sup>3/4</sup>

(a) observe the conduct of the polling at the election; and

(b) be present at the counting or collating of votes cast at the election and

the verification of polling-station returns by presiding officers in terms of sections *sixty-three*, *sixty-four* and *sixty-five*; and

(c) bring any irregularity or apparent irregularity in the conduct of the poll or the counting or collating of the votes to the attention of the monitor on duty or the Electoral Supervisory Commission;

and the noun “observer” shall be construed accordingly.

(2) The Electoral Supervisory Commission shall, for the pur



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