

H.B. 7, 2005

Published in the *Government Gazette* on the 15th July, 2005
(*Gazette Extraordinary*, General Notice 317/2005)

DISTRIBUTED BY VERITAS TRUST
Tel/fax: [263] [4] 77 44 28, email: veritas@mango.co.zw

Veritas makes every effort to ensure the provision of reliable information, but cannot take legal responsibility for information supplied.

CONSTITUTION OF ZIMBABWE AMENDMENT (NO. 17) BILL, 2005

MEMORANDUM

This Bill will amend the Constitution in several respects, principal of which are the following. **Firstly**, a new provision will confirm the acquisition of land for resettlement purposes which took place pursuant to the Land Reform Programme beginning in 2000, and provide for the acquisition in the future of agricultural land for resettlement and other purposes. **Secondly**, Parliament will be reconstituted as a bicameral legislature consisting of a House of Assembly of 150 members (120 elected on a constituency basis, the 10 Provincial Governors, 8 Chiefs elected in accordance with the Electoral Law to represent the eight non-metropolitan provinces and 10 persons appointed by the President) and a Senate of 66 members (made up of five Senators elected in each of the 10 provinces, plus the President and the Deputy President of the Council of Chiefs, eight Chiefs elected by the Council of Chiefs to represent the eight non-metropolitan provinces, and six Senators appointed by the President). **Thirdly**, the establishment and functions of the Zimbabwe Electoral Commission (with a slightly enlarged membership) will be mentioned in the Constitution itself, and the Electoral Supervisory Commission will be abolished.

In more detail the individual clauses of the Bill provide as follows:

Clause 1

This clause sets out the Bill's short title and dates of commencement of its provisions.

Clause 2 and 23

Clause 2 adds a new section 16B to the Constitution in the manner and for the purposes explained in the introduction to this Memorandum. Clause 21 inserts a new Schedule in the Constitution setting out the land acquired under the Land Reform Programme which is to be declared acquired under the Constitution.

Clause 3

An example of the type of mischief that may justify the imposition of the restrictions on the freedom of movement contemplated by this clause is where, for instance, it is discovered that a person intends to depart Zimbabwe for purpose of engaging in terrorist training abroad.

Clause 4

Section 23(3) of the Constitution enumerates cases in which discrimination is not a violation of the protection from discrimination contained in section 23(1) and (2). This clause proposes to add in section 23(3) a further permissible ground of discrimination in favour of persons or classes of persons who have been disadvantaged by unfair discrimination. It also adds as an impermissible ground discrimination on the basis of physical disability.

Clauses 5, 6, 7, 8, 11, 12, 13, 14, 15, 16 and 21, and First Schedule

These clauses and the First Schedule make consequential amendments to the Constitution that are required by the reconstitution of Parliament as a bicameral legislature consisting of a Senate and a House of Assembly.

Clause 10

The effect of this clause is to redefine the procedure Parliamentary Legal Committee in a manner appropriate to a bicameral legislature. Under the new section inserted by this clause the Committee will make its report on a Bill to the House (whether the Senate or the House of Assembly) in which the Bill originates.

Clause 17

This clause proposes to abolish the Electoral Supervisory Commission constituted in terms of section 61 of the Constitution. In its place the establishment and functions of the Zimbabwe Electoral Commission (already in existence by virtue of the Zimbabwe Electoral Commission Act [*Chapter 2:12*]) will specifically mentioned in the Constitution.

Clause 18

This clause will make it possible for an Act of Parliament to confer on the Judicial Service Commission additional functions in connection with the employment, discipline and conditions of service of such officers and persons employed in connection with the Supreme Court, the High Court and other courts subordinate to the Supreme Court and the High Court as are to be specified in such Act.

Clause 23, Second Schedule and Appendix

This clause and the Second Schedule provide for transitional matters. In particular, provision is made for first election of Senators conducted before the dissolution of the present Parliament in terms of the new section 34(1)(a) and (c) of the Constitution as inserted by this Bill.

BILL

To amend the Constitution of Zimbabwe.

ENACTED by the President and the Parliament of Zimbabwe.

1 Short title and dates of commencement

This Act may be cited as the Constitution of Zimbabwe Amendment (No. 17) Act, 2005.

2 New section inserted in Constitution

(1) The Constitution is amended by the insertion after section 16A of the following section—

“16B Agricultural land acquired for resettlement and other purposes

(1) In this section—

“acquiring authority” means the Minister responsible for lands or any other Minister whom the President may appoint as an acquiring authority for the purposes of this section;

“appointed day” means the date of commencement of the Constitution of Zimbabwe Amendment (No. 17) Act, 2004.

(2) Notwithstanding anything contained in this Chapter—

(a) all agricultural land—

- (i) that was identified on or before the 8th July, 2005, in the *Gazette* or *Gazette Extraordinary* under the proviso to section 5(1) of the Land Acquisition Act [*Chapter 20:10*], and which is itemised in Schedule 7, being agricultural land required for resettlement purposes; or
- (ii) that is identified after the 8th July, 2005, but before the appointed day, in the *Gazette* or *Gazette Extraordinary* under the proviso to section 5(1) of the Land Acquisition Act [*Chapter 20:10*], being agricultural land required for resettlement purposes; or
- (iii) that is identified in terms of this section by the acquiring authority after the appointed day in the *Gazette* or *Gazette Extraordinary* for whatever purpose, including, but not limited to—

- A. settlement for agricultural or other purposes; or
- B. the purposes of land reorganization, forestry, environmental conservation or the utilization of wild life or other natural resources; or
- C. the relocation of persons dispossessed in consequence of the utilization of land for a purpose referred to in subparagraph A or B;

is acquired by and vested in the State with full title therein with effect from the appointed day or, in the case of land referred to in subparagraph (iii), with effect from the thirtieth day after the date it is identified in the manner specified in that paragraph; and

- (b) no compensation shall be payable for land referred to in paragraph (a) except for any improvements effected on such land before it was acquired.

(3) The provisions of any law referred to in section 16 (1) regulating the compulsory acquisition of land that is in force on the appointed day, and the provisions of section 18(9), shall not apply in relation to land referred to in subsection (2)(a) except for the purpose of determining any question related to the payment of compensation referred to in subsection (2) -(b), that is to say, a person having any right or interest in the land—

- (a) shall not apply to a court to challenge the acquisition of the land by the State, and no court shall entertain any such challenge;
- (b) may, in accordance with the provisions of any law referred to in section 16 (1) regulating the compulsory acquisition of land that is in force on the appointed day, challenge the amount of compensation payable for any improvements effected on the land before it was acquired.

(4) As soon as practicable after the appointed day, or after the thirtieth day when the land is identified in the manner specified in subsection (2)(a)(iii), as the case may be, the person responsible under any law providing for the registration of title over land shall, without further notice, effect the necessary endorsements upon any title deed and entries in any register kept in terms of that law for the purpose of formally cancelling the title deed and registering in the State title over the land.

(5) Any inconsistency between anything contained in—

- (a) a notice itemised in Schedule 7; or
- (b) a notice relating to land referred to in subsection (2)(a)(ii) or (iii);

and the title deed to which it refers or is intended to refer, and any error whatsoever contained in such notice, shall not affect the operation of subsection (2)(a) or invalidate the vesting of title in the State in terms of that provision.

(6) An Act of Parliament may make it a criminal offence for any person, without lawful authority, to possess or occupy land referred to in this section or other State land.

(7) This section applies without prejudice to the obligation of the former colonial power to pay compensation for land referred to in this section that was acquired for resettlement purposes.”.

3 Amendment of section 22 of Constitution

Section 22 (“Protection of freedom of movement”) of the Constitution is amended—

- (a) in subsection (3)(a) by the deletion of “in the interests of defence, public safety, public order, public morality or public health” and the substitution of “in the national interest, or in the interests of defence, public safety, public order, public morality, public health, the public interest or the economic interests of the State”;
- (b) in subsection (4) by the deletion of “preventing any person from leaving Zimbabwe or”.

4 Amendment of section 23 of Constitution

Section 23 (“Protection from discrimination on the grounds of race, etc.”) is amended—

- (a) in subsection (2) by the deletion of “or gender” wherever it occurs and the substitution of “, gender or physical disability”;
- (b) in subsection (3) —
 - (i) in paragraph (d) by the deletion of “or gender” and the substitution of “, gender or physical disability”;
 - (ii) by the insertion of the following paragraph after paragraph (f)—
 - “or
 - (g) the implementation of affirmative action programmes for the protection or advancement of persons or classes of persons who have been previously disadvantaged by unfair discrimination.”.

5 Amendment of section 31F of Constitution

Section 31F (“Vote of no confidence in Government”) of the Constitution is amended by the repeal of subsection (1) and the substitution of—

“(1) Parliament may, by resolution supported by the votes of not less than two-thirds of all the members of each House, pass a vote of no confidence in the Government.”.

6 New section inserted in Constitution

Chapter V of the Constitution is amended by the insertion in Part I of the following section after section 32—

“33 Parliament

Parliament shall consist of two Houses, called the Senate and the House of Assembly.”.

7 New Part inserted in Chapter V of Constitution

Chapter V of the Constitution is amended by the insertion of the following Part after Part 1—

“PART 2

The Senate

34 Composition of Senate

- (1) The Senate shall consist of sixty-six Senators, of whom—
 - (a) five shall be elected in each of the ten provinces by voters registered in the fifty senatorial constituencies referred to in subsection (4); and
 - (b) two shall be the President and the Deputy President of the Council of Chiefs; and
 - (c) eight shall be Chiefs representing each of the provinces, other than the metropolitan provinces, elected in accordance with the Electoral Law; and
 - (d) six shall be appointed by the President.

(2) The qualifications for election or appointment as a Senator are set out in Schedule 3.

(3) The procedure for the nomination of candidates for election under subsection (1)(a), the election of Senators and the filling of vacancies among elected Senators shall be as prescribed in the Electoral Law.

(4) For the purpose of subsection (1)(a), each province shall be divided into five senatorial constituencies delimited in accordance with the Electoral Law.

35 Election of President of Senate

(1) When the Senate first meets after it is elected and before it proceeds to the despatch of any other business it shall elect a presiding officer to be known as the President of the Senate; and whenever the office of the President of the Senate becomes vacant the Senate shall not transact any other business until a person to fill that office has been elected.

(2) The President of the Senate shall be elected in accordance with Standing Orders from among persons who are or have been members of the Senate or the House of Assembly and who are not members of the Cabinet, Ministers, Deputy Ministers or Provincial Governors:

Provided that a person who is not a member of the Senate shall not be elected as the President of the Senate unless he is qualified in accordance with Schedule 8 for election or appointment to the Senate.

(3) If a Senator is elected as President of the Senate, he shall cease to be a Senator.

(4) A person who has been elected as the President of the Senate shall, before he enters upon the duties of his office, unless he has already done so in accordance with section 44, take and subscribe before the Senate the oath of loyalty in the form set out in Schedule 1.

(5) When the Senate first meets after it is elected it shall, as soon as practicable after the election of the President of the Senate, elect in accordance with Standing Orders a Senator, not being a Vice-President, Minister, Deputy Minister or Provincial Governor, to be the Deputy President of the Senate and to be chairman when the Senate is in committee;

and whenever the office of the Deputy President of the Senate becomes vacant the Senate shall, as soon as convenient, elect another such Senator to that office.

36 Tenure of office of President and Deputy President of Senate

(1) The President of the Senate may at any time resign his office either by announcing his resignation in person to the Senate or by notice in writing to the Clerk of Parliament.

(2) The President of the Senate shall vacate his office—

- (a) on the dissolution of Parliament next following his election;
- (b) if he becomes President, or a Vice-President, Minister, Deputy Minister or a Provincial Governor;
- (c) if he becomes a Senator or a member of the House of Assembly or the Speaker;
- (d) if any circumstance arises that, if he had been a Senator—
 - (i) the provisions of section 41(1)(j), (k), (n), (o), (p) or (q) would apply to him and his seat as a Senator would become vacant; or
 - (ii) he would be required, by virtue of the provisions of section 42, to cease to exercise his functions as a Senator.

(3) The office of the President of the Senate shall become vacant if the Senate has resolved by the affirmative votes of not less than one half of its total membership that the office of the President of the Senate shall become vacant.

(4) Any function of the President of the Senate, whether authorized by law or otherwise, which is required to be performed after a dissolution of Parliament and before the President of the Senate is elected under section 35(1) shall be performed by the person who was the President of the Senate immediately before such dissolution:

Provided that, if at any time after the dissolution of Parliament the person who was the President of the Senate relinquishes the functions of that office by notice in writing to the Clerk of Parliament or is for any reason unable to perform them, those functions shall be performed by the Clerk of Parliament.

(5) The Deputy President of the Senate may at any time resign his office by notice in writing to the Clerk of Parliament and shall vacate his office if—

- (a) he ceases to be a Senator;
- (b) he is required, by virtue of the provisions of section 42 or 43, to cease to exercise his functions as a Senator; or
- (c) he becomes a Vice-President, a Minister, a Deputy Minister or Provincial Governor.”.

8 Amendment of section 38 of Constitution

Section 38 (“Composition of Parliament”) of the Constitution is amended—

- (a) by the deletion of the heading thereto and the substitution of—

“38 Composition of House of Assembly”;
- (b) in subsection (1)—
 - (i) by the deletion of “a Parliament” and "Parliament" and the substitution of “a House of Assembly” and "the House of Assembly" respectively;

- (ii) in paragraph (a) by the deletion of “registered on the common roll for the one hundred and twenty common roll constituencies” and the substitution of “in the one hundred and twenty constituencies delimited in accordance with section 60”;
- (iii) by the repeal of paragraphs (b) and (c) and the substitution of—
 - “(b) ten shall be Provincial Governors; and
 - (c) eight shall be Chiefs representing each of the provinces, other than the metropolitan provinces, elected in accordance with the Electoral Law; and”;
- (c) by the repeal of subsection (2) and the substitution of—
 - “(2) The qualifications for election under subsection (1)(a) as a member of the House of Assembly are set out in Schedule 3.
 - (3) The procedure for the nomination of candidates for election under subsection (1)(a), the election of members of the House of Assembly and the filling of vacancies shall be as prescribed in the Electoral Law.”.

9 Amendment of section 40 of Constitution

Section 40 (“Tenure of office of Speaker and Deputy Speaker”) of the Constitution is amended in subsection (1) by the repeal of paragraph (c) and the substitution of—

- “(c) if he becomes a Senator or the President of the Senate or a member of the House of Assembly;”.

10 New section substituted for section 40B of Constitution

Section 40B of the Constitution is repealed and the following is substituted—

“40B Functions of Parliamentary Legal Committee

- (1) The Parliamentary Legal Committee shall examine—
 - (a) every Bill, other than a Money Bill, Constitutional Bill or a Bill to which the proviso to paragraph 3(1) of Schedule 4 applies, that has been introduced into the House of Assembly or the Senate, whichever is the House in which the Bill originates; and
 - (b) every Bill, other than a Money Bill, a Constitutional Bill, or a Bill to which the proviso to paragraph 3(1) of Schedule 4 applies, which is amended after its examination by the Committee, before the Bill is given its final reading in the House in which it originated; and
 - (c) every draft Bill transmitted by a Minister to the Clerk of Parliament for reference to the Committee; and
 - (d) every statutory instrument published in the *Gazette*; and
 - (e) every draft statutory instrument transmitted by the authority empowered to make it to the Clerk of Parliament for reference to the Committee;

and shall report to the House of Assembly, Senate, Minister or authority, as the case may be, whether in its opinion any provision of the Bill, draft Bill, statutory instrument or draft

statutory instrument would, if enacted, be or, as the case may be, is in contravention of the Declaration of Rights or any other provision of the Constitution.

(2) Members of the Parliamentary Legal Committee who are not members of the House in which a Bill originates shall, if the Committee reports to the House that any provision of the Bill would, if enacted, be in contravention of the Declaration of Rights or any other provision of the Constitution, have the right to sit and speak in the House but shall not have the right to vote therein.

(3) The Parliamentary Legal Committee—

- (a) may, in examining any statutory instrument or draft statutory instrument in terms of subsection (1), report to the House of Assembly, Senate or to the Minister or authority concerned, as the case may be, whether in its opinion any provision of the statutory instrument or draft statutory instrument would, if enacted, be or, as the case may be, is *ultra vires* the enabling Act;
- (b) shall perform such other functions as may be prescribed by or under an Act of Parliament or in Standing Orders.

(4) Standing Orders shall make provision for matters relating to the Parliamentary Legal Committee.

(5) The provisions of paragraphs 4 and 8 of Schedule 4 shall apply in respect of the reports of the Parliamentary Legal Committee on Bills and statutory instruments.”.

11 Amendment of section 41 of Constitution

Section 41 (“Tenure of seats of members”) of the Constitution is amended in subsection (1) by the repeal of paragraphs (c) and (d) and the substitution of—

- “(c) if he resigns his seat by notice, in writing, to the President of the Senate or the Speaker, as the case may be, or to the Clerk of Parliament;
- (d) if he is absent from twenty-one consecutive sittings during any session without the leave of the Senate or the House of Assembly, as the case may be, and the Senate or the House of Assembly has resolved, by the affirmative votes of more than one-half of its total membership, that the seat shall become vacant;”.

12 New section substituted for section 45 of Constitution

Section 45 of the Constitution is repealed and the following is substituted—

“45 Remuneration of President of Senate and Speaker

(1) There shall be charged upon and paid out of the Consolidated Revenue Fund to the President of the Senate and to the Speaker such salary and allowances as may from time to time be prescribed by or under an Act of Parliament.

(2) The salary payable to the President of the Senate or the Speaker shall not be reduced during the period he holds that office.

(3) A person who was the President of the Senate or the Speaker immediately before a dissolution of Parliament shall continue to receive the salary and allowances of that office until such time as the Senate or the House of Assembly, as the case may be, first meets after the dissolution or until he ceases sooner to perform the functions of

- (a) the President of the Senate in the circumstances referred to in section 36(4).; or
- (b) the Speaker in the circumstances referred to in section 40(4).”.

13 New section substituted for section 46 of Constitution

Section 46 of the Constitution is repealed and the following is substituted—

“46 President’s power to address and attend Parliament

(1) The President—

(a) may at any time—

(i) address the Senate or the House of Assembly; or

(ii) call a joint meeting of the Senate and the House of Assembly and attend and address such joint meeting;

(b) shall have the right to sit and speak in the Senate or the House of Assembly but shall not have the right to vote therein.

(2) The President may send messages to the Senate or the House of Assembly and any such message shall be read by the President of the Senate or the Speaker, as the case may be, or by a Vice-President or a Minister.”.

14 New section substituted for section 47 of Constitution

Section 47 of the Constitution is repealed and the following is substituted—

“47 Vice-Presidents, Ministers, Deputy Ministers, Provincial Governors and Attorney-General in Parliament

(1) A Vice-President or Minister, Deputy Minister or Provincial Governor shall have a right to sit and speak in both the Senate and the House of Assembly but shall only have the right to vote in the House of which he is a member.

(2) The Attorney-General shall have the right to sit and speak in the Senate and the House of Assembly but shall not have the right to vote therein.”.

15 Amendment of section 52 of Constitution

Section 52 (“Alteration of the Constitution”) of the Constitution is amended—

(a) in subsection (2) by the deletion of “Parliament” and the substitution of “the Senate or the House of Assembly”;

(b) by the repeal of subsections (2a) and (5) and the substitution of—

“(3) A Constitutional Bill shall not be deemed to have been duly passed by Parliament unless, at the final vote thereon in the Senate and the House of Assembly, it received the affirmative votes of not less than two-thirds of the total membership of each House.

(4) If in the case of a Constitutional Bill which has been passed by the House of Assembly in accordance with subsection (3) but has not been passed by the Senate in accordance with that subsection within a period of one hundred and eighty days beginning on the day on which the Bill was first introduced into the Senate, the House of Assembly resolves after the expiration of that period by the affirmative votes of not less than two-thirds of its members that the Bill be presented to the President for assent

in the form in which it was passed by the House of Assembly, except for minor changes required by the passage of time, and with such amendments, if any, as the Senate and the House of Assembly may have agreed, the Bill shall be deemed to have been duly passed in the form in which it is presented to the President.

(5) A Constitutional Bill shall not be submitted to the President for assent unless—

(a) it is accompanied by—

(i) a certificate from the President of the Senate that at the final vote thereon in the Senate the Bill received the affirmative votes of not less than two-thirds of the total membership of the Senate; and

(ii) a certificate from the Speaker that at the final vote thereon in the House of Assembly the Bill received the affirmative votes of not less than two-thirds of the total membership of the House of Assembly;

or

(b) it is accompanied by the certificate referred to in paragraph (a)(ii) and a further certificate from the Speaker stating that the Bill is a Bill to which the provisions of subsection (4) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.”.

16 New section substituted for section 54 of Constitution

Section 54 of the Constitution is repealed and the following is substituted—

“54 Quorum

(1) If objection is taken by a member of the Senate present that there are present, besides the President of the Senate or the Senator presiding, fewer than eleven members and, after such interval as may be prescribed in Standing Orders, the President of the Senate or the Senator presiding ascertains that the number of members present is less than eleven, the Senate shall thereupon be adjourned in accordance with Standing Orders.

(2) If objection is taken by a member of the House of Assembly present that there are present, besides the Speaker or the member presiding, fewer than twenty-five of the members and, after such interval as may be prescribed in Standing Orders, the Speaker or member presiding ascertains that the number of members present is less than twenty-five, the House of Assembly shall thereupon be adjourned in accordance with Standing Orders.”.

17 New section substituted for section 61 of Constitution

Section 61 of the Constitution is repealed and the following is substituted—

“61 Zimbabwe Electoral Commission

(1) There shall be a commission to be known as the Zimbabwe Electoral Commission which shall consist of—

(a) a chairman who shall be a judge of the High Court or the Supreme Court or a person qualified to be appointed as a judge of the High Court or Supreme Court, appointed by the President after consultation with the Judicial Service Commission; and

- (b) six other members, at least three of whom shall be women, appointed by the President from a list of nine nominees submitted by the Committee on Standing Rules and Orders.

(2) If the appointment of a chairman of the Zimbabwe Electoral Commission is not consistent with any recommendation of the Judicial Service Commission in terms of subsection (1)(a), the President shall cause Parliament to be informed as soon as practicable.

(3) A member of the Zimbabwe Electoral Commission shall, before entering upon his office, take and subscribe before the President or some person authorized by the President in that behalf the oath of loyalty and the oath of office in the forms set out in Schedule 1.

(4) The Zimbabwe Electoral Commission shall have the following functions—

(a) to prepare for, conduct and supervise—

- (i) elections to the office of President and to Parliament; and
- (ii) elections to the governing bodies of local authorities; and
- (iii) referendums;

and to ensure that those elections and referendums are conducted efficiently, freely, fairly, transparently and in accordance with the law;

(b) to supervise the registration of voters by the authority charged with that responsibility under the Electoral Law; and

(c) to compile voters' rolls and registers; and

(d) to ensure the proper custody and maintenance of voters' rolls and registers; and

(e) to design, print and distribute ballot papers, approve the form of and procure ballot boxes, and establish and operate polling centres; and

(f) to conduct voter education; and

(g) to accredit observers of elections and referendums in accordance with an Act of Parliament; and

(h) to give instructions to—

A. the Registrar-General of Voters in regard to the exercise of his or her functions under the Electoral Law or any other law; and

B. other persons in the employment of the State or of a local authority for the purpose of ensuring the efficient, proper, free and fair conduct of any election or referendum;

and

(i) to exercise any other functions that may be conferred or imposed on the Commission by the Electoral Law or any other law.

(5) The Zimbabwe Electoral Commission shall not, in the exercise of its functions in terms of subsection (4), be subject to the direction or control of any person or authority.

(6) There shall be charged upon and paid out of the Consolidated Revenue Fund—

- (a) sufficient funds appropriated to the Zimbabwe Electoral Commission to enable it to exercise its functions in terms of subsection (4);
- (b) to the members of the Zimbabwe Electoral Commission such salaries, allowances, pension and other benefits as may from time to time be prescribed by or under an Act of Parliament.

(7) The salary, allowances and other benefits payable to a member of the Zimbabwe Electoral Commission shall not be reduced during his tenure of office.

(8) An Act of Parliament—

- (a) shall make provision for—
 - (i) the terms of office of members of the Zimbabwe Electoral Commission;
 - (ii) the qualifications or eligibility of any person to be appointed as a member of the Commission in terms of subsection (1)(b);
 - (iii) the vacation of or removal from office of any member of the Commission who becomes disqualified or ineligible as a member or on the grounds of misconduct or inability to hold office as a member;
 - (iv) the procedure at meetings of the Commission;
 - (v) the appointment and functions of a chief executive of the Zimbabwe Electoral Commission to manage the funds and affairs of the Commission;
 - (vi) the making of reports to Parliament on the conduct of any election or referendum;
- (b) may make provision for—
 - (i) functions related to elections and referendums that are additional to those specified in subsection (4); and
 - (ii) the manner in which the Zimbabwe Electoral Commission shall exercise its functions; and
 - (iii) the appointment and discipline of the staff of the Commission.”.

18 Amendment of section 91 of Constitution

Section 91 (“Functions of Judicial Service Commission”) of the Constitution is amended by the insertion of the following subsection, the present section becoming subsection (1)—

“(2) An Act of Parliament referred to in subsection (1) may confer on the Judicial Service Commission functions in connection with the employment, discipline and conditions of service of such officers and persons employed in—

- (a) the Supreme Court, the High Court and other courts subordinate to the Supreme Court and the High Court; and
- (b) the office of the Ombudsman;

as are specified in such Act.”.

19 Amendment of section 113 of Constitution

Section 113 (“Interpretation”) of the Constitution is amended—

- (a) by the insertion of the following definitions—
- ““Money Bill” has the meaning ascribed to it in paragraph 6(9) of Schedule 4;
- “metropolitan province” means the Harare or Bulawayo province declared in terms of the Provincial Councils and Administration Act [*Chapter 29:11*] or any other law substituted for the same;
- “province” means an area of Zimbabwe declared as such in terms of the Provincial Councils and Administration Act [*Chapter 29:11*] or any other law substituted for the same;
- “Provincial Governor” means a person appointed as such in terms of the Provincial Councils and Administration Act [*Chapter 29:11*] or any other law substituted for the same;
- “Registrar-General of Voters” means the person appointed as such in terms of the Electoral Law;
- “voter”, in relation to an election to the office of President or to Parliament, means a person entitled to vote at that election by virtue of being registered on a voters’ roll;
- “Zimbabwe Electoral Commission” means the Zimbabwe Electoral Commission referred to in section 59;”;
- (b) in the definition of “sitting day”, by the deletion of “Parliament” where it occurs for the second time and the substitution of “the House of Assembly or the Senate, as the case may be;”;
- (c) in the definition of “Speaker” by the deletion of “Parliament” and the substitution of “the House of Assembly”.

20 Amendment of Schedule 3 to Constitution

Schedule 3 (“Qualifications for Members of Parliament and Voters”) of the Constitution is amended—

- (a) in paragraph 1 (“Qualifications for members of Parliament”)—
- (i) by the insertion of the following subparagraphs—
- “(1) Subject to the provisions of paragraph 2, a person who—
- (a) is registered as a voter;
- (b) in the case of a person other than a Chief, has attained the age of forty years or; and
- (c) has been ordinarily resident in Zimbabwe for not less than five years during the period of twenty years immediately preceding his nomination or appointment, as the case may be,
- shall be qualified for election or appointment as a Senator, other than a Senator to be elected pursuant to section 34(1)(c).
- (2) Subject to the provisions of paragraph 2, a person shall be qualified for election as a Senator pursuant to section 34(1)(c) if he holds the office of Chief.”;

- (ii) in subparagraph (3) by the deletion of “or appointment as a member of Parliament” and the substitution of “as a member of the House of Assembly”;
- (b) in paragraph 3 (“Qualifications and disqualifications for voters”)—
 - (i) by the repeal of subparagraph (1)(b);
 - (ii) by the repeal of subparagraph (3)(c).

21 New Schedule substituted for Schedule 4 to Constitution

The Constitution is amended by the repeal of Schedule 4 and the substitution of the following—

“SCHEDULE 4 *(Sections 40B and 51)*

PROCEDURE WITH REGARD TO BILLS AND OTHER MATTERS IN PARLIAMENT

1 Introduction of Bills, motions and petitions

- (1) Any Bill may originate in the House of Assembly.
- (2) Any Bill, other than a Money Bill, may originate in the Senate.
- (3) Subject to the provisions of this Constitution and Standing Orders—
 - (a) any member of the Senate may introduce any Bill into or move any motion for debate in or present any petition to the Senate;
 - (b) any member of the House of Assembly may introduce any Bill into or move any motion for debate in or present any petition to either the Senate or the House of Assembly;
 - (c) a Vice-President, Minister or Deputy Minister may introduce any Bill into or move any motion for debate in or present any petition to Parliament.
- (4) Except on the recommendation of a Vice-President, Minister or Deputy Minister, Parliament shall not—
 - (a) proceed upon any Bill, including any amendment to a Bill, which, in the opinion of the President of the Senate or the Speaker, as the case may be, makes provision for any of the following matters—
 - (i) imposing or increasing any tax;
 - (ii) imposing or increasing any charge on the Consolidated Revenue Fund or other public funds of the State or varying any such charge otherwise than by reducing it;
 - (iii) compounding or remitting any debt due to the State or condoning any failure to collect taxes;
 - (iv) authorizing the making or raising of any loan by the State;
 - (v) condoning unauthorized expenditure;
 - (b) proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the President of the Senate or the Speaker, as the case may be, is that provision should be made for any of the matters specified in subparagraph (a); or

- (c) receive any petition which, in the opinion of the President of the Senate or Speaker, as the case may be, requests that provision be made for any of the matters specified in subparagraph (a).

(5) The provisions of subparagraph (4) shall not apply to any Bill introduced, motion or amendment moved or petition presented by a Vice-President, Minister or Deputy Minister.

2 Procedure in regard to Bills

(1) Immediately after a Bill which originated in the House of Assembly has been passed by the House of Assembly, the Speaker shall cause an authenticated copy of the Bill to be transmitted to the Senate for consideration and the day on which it is transmitted is to be recorded in the journal of the House of Assembly.

(2) A Bill transmitted to the Senate in accordance with subparagraph (1) shall be introduced forthwith into the Senate and, subject to the provisions of the Constitution, the Senate may reject the Bill or pass the Bill, with or without amendments.

(3) A Bill introduced into the Senate in accordance with subparagraph (2) which has been passed by the Senate with amendments shall be returned forthwith to the House of Assembly with the amendments duly certified by the Clerk of Parliament and the House of Assembly may reject, agree to or amend the amendments made to the Bill by the Senate.

(4) Immediately after a Bill which originated in the Senate has been passed by the Senate, the President of the Senate shall cause an authenticated copy of the Bill to be transmitted to the House of Assembly for consideration and the day on which it is transmitted is to be recorded in the journal of the Senate.

(5) A Bill transmitted to the House of Assembly in accordance with subparagraph (4) shall be introduced into the House of Assembly as soon as may be convenient and the House of Assembly may reject the Bill or pass the Bill, with or without amendments.

(6) A Bill introduced into the House of Assembly in accordance with subparagraph (5) which has been passed by the House of Assembly with amendments shall be returned forthwith to the Senate with the amendments duly certified by the Clerk of Parliament and the Senate may reject, agree to or amend the amendments made to the Bill by the House of Assembly.

3 Disagreement between Senate and House of Assembly

(1) Subject to the provisions of this paragraph, if—

- (a) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill which originated in the House of Assembly before the expiration of a period of ninety days beginning on the day of the introduction of the Bill into the Senate;
- (b) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill which originated in the Senate before the expiration of a period of ninety days beginning on the day of the return of the Bill into the Senate; or

- (c) a Bill which originated in the House of Assembly has been rejected or has not been passed by the Senate before the expiration of a period of ninety days beginning on the day of the introduction of the Bill into the Senate,

the Bill may be presented to the President for assent in the form in which it was passed by the House of Assembly, except for minor changes required by the passage of time, with such amendments, if any, as the Senate and the House of Assembly may have agreed:

Provided that if, in the opinion of the Speaker, a Bill which—

- (i) originated in the House of Assembly; and
- (ii) was introduced into the House of Assembly after the expiration of a period of ninety days beginning on the day of the introduction of the Bill into the Senate of a previous Bill originating in the Senate,

contains provisions identical with those contained in that previous Bill, except for minor changes required by the passage of time, the provisions of this subparagraph shall be construed and have effect as though any reference in subparagraphs (a) and (c) to a period of ninety days were a reference to a period of eight sitting days.

(2) A Bill referred to in subparagraph (1) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period—

- (a) in the case of a Bill referred to in subparagraph (a) or (c) of that subparagraph, of ninety days beginning on the day of the introduction of the Bill into the Senate;
- (b) in the case of a Bill referred to in subparagraph (b) of that subparagraph, of ninety days beginning on the day of the return of the Bill into the Senate;
- (a) in the case of a Bill referred to in the proviso to that subparagraph, of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(3) The provisions of subparagraphs (1) and (2)—

- (a) shall not apply to a Constitutional Bill, a Money Bill or a Bill where a certificate of urgency is issued;
- (b) shall not apply to a Bill in respect of which the President of the Senate has reported under paragraph 4(4) as though any reference in subparagraphs (1) and (2) to a period of ninety days were a reference to a period of one hundred and eighty days.

(4) A Bill referred to in subparagraph (1) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the relevant provisions of subparagraphs (1) and (2) apply and that the Bill may lawfully be presented for assent by virtue of those provisions, as read with subparagraph (3)(b), where relevant.

(5) A Bill presented to the President for assent pursuant to a resolution of the House of Assembly referred to in subparagraph (2) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(6) In the calculation of any period of ninety days or one hundred and eighty days referred to in this paragraph, no account shall be taken of any period during which Parliament is prorogued.

(7) For the purposes of this paragraph—

- (a) a Bill originating in the House of Assembly shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in accordance with paragraph 2(1);
- (b) a Bill originating in the Senate shall be deemed to have been returned to the Senate on the sitting day next following the day on which the Bill is returned for the first time to the Senate in accordance with paragraph 2(6).

4 Reports of Parliamentary Legal Committee on Bills

(1) The House of Assembly or the Senate, whichever is the House in which a Bill originates, shall not proceed upon the Bill, other than a Money Bill, a Constitutional Bill or a Bill to which the proviso to paragraph 3(1) applies, after the introduction of the Bill into the House of Assembly or the Senate, as the case may be, or give such Bill its final reading after it has been amended in House of Assembly or the Senate, unless a report of the Parliamentary Legal Committee on the Bill has been presented to the House of Assembly or the Senate:

Provided that, if no report has been presented within the period specified in Standing Orders or any extension thereof granted in accordance with Standing Orders, it shall be presumed that the Committee is of the opinion that no provisions of the Bill would, if enacted, be in contravention of the Declaration of Rights or any other provision of this Constitution, and the House of Assembly or the Senate, as the case may be, may proceed upon the Bill or give the Bill its final reading, as the case may be.

(2) It shall be the duty of the House of Assembly or the Senate, as the case may be, to consider any report presented to it under section 40B(1) which states that, in the opinion of the Parliamentary Legal Committee, a provision of a Bill would, if enacted, be in contravention of the Declaration of Rights or any other provision of this Constitution.

(3) If, after considering a report referred to in subparagraph (2), the House of Assembly or the Senate, as the case may be, resolves that a provision of the Bill would, if enacted, be in contravention of the Declaration of Rights or any other provision of this Constitution, the House of Assembly or the Senate shall not pass the Bill containing that provision.

(4) If the House of Assembly or the Senate, acting under subparagraph (3), does not pass a Bill or amends a Bill so that it would not, if enacted, be in contravention of the Declaration of Rights—

- (a) the Speaker shall report to the President of the Senate accordingly; or
- (b) the President of the Senate shall report to the Speaker accordingly;

as the case may be.

5 Procedure in regard to Bills where certificate of urgency is issued

(1) A Vice-President or a Minister may certify that a Bill, other than a Constitutional Bill, originating in the House of Assembly which has been passed by the House of Assembly is so urgent that it is not in the national interest to delay its enactment.

(2) If—

- (a) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill in respect of which a certificate has been issued under subparagraph (1) before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate; or
- (b) a Bill in respect of which a certificate has been issued under subparagraph (1) has not been passed by the Senate before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate;

the Bill may, subject to the provisions of this paragraph, be presented to the President for assent in the form in which it was passed by the House of Assembly with such amendments, if any, as the Senate and the House of Assembly may have agreed.

(3) A Bill referred to in subparagraph (2) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(4) A Bill referred to in subparagraph (2) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the provisions of subparagraphs (2) and (3) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

(5) A Bill presented to the President for assent pursuant to a resolution of the House of Assembly referred to in subparagraph (3) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(6) For the purposes of this paragraph, a Bill in respect of which a certificate has been issued under subparagraph (1) shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in accordance with paragraph 2(1).

(7) If, in the case of a Bill presented to the President for assent pursuant to a resolution of the House of Assembly referred to in subparagraph (3), the Senate has not considered that Bill in the form in which it was presented to the President for assent, a copy of that Bill certified by the Clerk of Parliament to be in the form in which it was presented to the President for assent shall be transmitted to the Senate immediately after its enactment and the provisions of section 40B and paragraph 4 shall, *mutatis mutandis*, apply in relation to that Bill.

(8) The provisions of subparagraphs (9) and (10) shall apply to a Bill to which the President has assented pursuant to the provisions of this paragraph if the Senate—

- (a) resolved before the day on which that Bill was enacted that a provision of that Bill, as enacted, was a provision which would, if enacted, be in contravention of the Declaration of Rights; or
- (b) resolves within a period of thirty sitting days beginning on the day on which that Bill was enacted that a provision of that Bill, as enacted, is in contravention of the Declaration of Rights.

(9) If, before the expiration of a period of eight sitting days beginning on—

- (a) the day of the resolution of the Senate referred to in subparagraph (8); or

- (b) the day on which the Bill is enacted;

whichever is the later day, the House of Assembly has not passed a resolution such as is referred to in subparagraph (10), the President shall forthwith cause to be published in the *Gazette* a notice annulling the provision to which the resolution of the Senate relates with effect from the date of the publication of the notice.

(10) If, before the expiration of a period referred to in subparagraph (9), the House of Assembly has resolved by the affirmative votes of more than one-half of its total membership that the provision to which the resolution of the Senate relates shall remain in force, the provision shall unless it is sooner repealed or has had its effect, subject to the provisions of section 24, continue in force for a period of two hundred and seventy days beginning on the day of the resolution or the day on which that Bill was enacted, whichever is the later day:

Provided that, if—

- (a) the resolution of the House of Assembly referred to in this subparagraph was passed by the affirmative votes of not less than ninety-one of its members; or
- (b) before the expiration of the period of two hundred and seventy days referred to in this paragraph the House of Assembly has, by the affirmative votes of not less than ninety-one of its members, passed a further resolution that the provision shall remain in force;

the provision shall, unless its is sooner repealed or has had its effect, subject to the provisions of section 24, continue in force after the expiration of the period of two hundred and seventy days.

(11) Where the Senate or the House of Assembly passes a resolution under subparagraph (8), (9) or (10), the Clerk of Parliament shall forthwith cause to be published in the *Gazette* a notice of such resolution and of the effect thereof.

6 Money Bills

(1) The Senate shall not have power to amend a Bill which is certified by the Speaker to be a Money Bill but may recommend amendments to the House of Assembly.`

(2) An amendment to a Bill referred to in subparagraph (1) which is recommended by the Senate shall be duly certified by the Clerk of Parliament and transmitted to the House of Assembly for its consideration.

(3) After the House of Assembly has considered amendments to a Bill referred to in subparagraph (1) which have been recommended by the Senate the Bill shall be presented to the President for assent in the form in which it was passed by the House of Assembly with such amendments, if any, as may have been made by the House of Assembly on the recommendation of the Senate.

(4) If a Bill referred to in subparagraph (1) has not been passed by the Senate before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate, the Bill may, subject to the provisions of this paragraph, be presented to the President for assent in the form in which it was passed by the House of Assembly.

(5) A Bill referred to in subparagraph (4) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(6) A Bill referred to in subparagraph (4) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the provisions of subparagraphs (4) and (5) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

(7) A Bill presented to the President for assent pursuant to a resolution of the House of Assembly referred to in subparagraph (5) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(8) For the purposes of this paragraph, a Bill referred to in subparagraph (1) shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in accordance with paragraph 2(1).

(9) In this Constitution, “Money Bill” means a public Bill which contains only provisions dealing with all or any of the following matters—

- (a) the imposition, repeal, remission, alteration, administration or regulation of taxation or any exemption therefrom;
- (b) the imposition, for the payment of debt or other financial purposes, including expenses of administration, of charges on the Consolidated Revenue Fund or any other public funds or on moneys provided by Parliament or the variation or repeal of any such charges;
- (c) the grant of moneys for the services of the Government, including expenses of administration, or the grant of money to any authority or person or the variation or revocation of any such grant;
- (d) the appropriation, receipt, custody investment, issue or audit of accounts of public money;
- (e) the making or raising of any loan by the Government or the repayment thereof or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan;
- (f) the guarantee given by or on behalf of the Government in respect of any loan raised by any person and any conditions which are attached to such guarantee;
- (g) the compounding or remitting of any debt and the condoning of any failure to collect taxes;
- (h) the condoning of unauthorized expenditure;
- (i) subordinate matters which are ancillary or incidental to any of the foregoing matters;

and any reference in this subparagraph to taxation, public funds, public money, debt, taxes or expenditure shall not be construed as including a reference to any taxation by, or the funds, money, debts, taxes or expenditure of, a local authority or statutory body.

7 Provisions relating to amendments to Bills

(1) Subject to the provisions of this Constitution and Standing Orders, after a Bill has been returned to the House in which it originated, the Senate or the House of Assembly may, by message to the other House pursuant to a resolution, agree to any amendment or withdraw any amendment which has been made to the Bill:

Provided that the Senate shall not agree to or withdraw any amendment unless the Parliamentary Legal Committee has reported thereon and the provisions of paragraph 4 shall, *mutatis mutandis*, apply in relation thereto.

8 Report of Parliamentary Legal Committee on statutory instruments

(1) If—

- (a) after considering a report of the Parliamentary Legal Committee that a provision of a statutory instrument is in contravention of the Declaration of Rights or any other provision of this Constitution, the Senate resolves that the provision is in contravention of the Declaration of Rights or any other provision of this Constitution; and
- (b) within twenty-one sitting days after the passing of the resolution of the Senate referred to in subparagraph (a)—
 - (i) the House of Assembly has not resolved that the provision shall not be repealed; or
 - (ii) the Committee has not reported to the Clerk of Parliament that the provision has been repealed or amended in such a way as, in the opinion of the Committee, to remove the contravention;

the Clerk of Parliament shall report the circumstances to the President who shall forthwith, by notice in the *Gazette*, repeal the provision.

(2) The Parliamentary Legal Committee may, at any time before a report of the Committee that a provision of a statutory instrument is in contravention of the Declaration of Rights or any other provision of this Constitution is considered by the Senate, withdraw the report if, in the opinion of the Committee, the provision is repealed or is amended in such a way as, in the opinion of the Committee, to remove the contravention.

(3) A provision of a statutory instrument which has been repealed by the President in terms of subparagraph (1) shall cease to be of force with effect from the date of such repeal notwithstanding that some person or authority other than the President may have made the statutory instrument concerned.”.

22 Insertion of Schedule 7 to Constitution

The Constitution is amended by the insertion of the following Schedule after Schedule 6—

“SCHEDULE 7 *(Section 16B)*

AGRICULTURAL LAND GAZETTED BEFORE THE 8TH JULY, 2005

The pieces of land identified in the General Notices specified in the second column of the following table that were published in the *Gazette* or *Gazette Extraordinary* on the date

specified opposite thereto in the third column of the table constitute the land referred to in section 16B(2)(a)(i).

In this Schedule “piece of land” means a piece of land registered as a separate entity under any law providing for the registration of title over land.

| | <i>"General Notice No.</i> | <i>Date of publication</i> |
|-----|----------------------------|----------------------------|
| 1. | 233A of 2000 | 02/06/2000 |
| 2. | 400 of 2000 | 18/08/2000 |
| 3. | 405A of 2000 | 25/08/2000 |
| 4. | 418A of 2000 | 01/09/2000 |
| 5. | 439 of 2000 | 08/09/2000 |
| 6. | 440B of 2000 | 14/09/2000 |
| 7. | 447B of 2000 | 22/09/2000 |
| 8. | 447D of 2000 | 29/09/2000 |
| 9. | 457B of 2000 | 06/10/2000 |
| 10. | 483G of 2000 | 20/10/2000 |
| 11. | 521A of 2000 | 17/11/2000 |
| 12. | 541A of 2000 | 24/11/2000 |
| 13. | 50A of 2001 | 26/01/2001 |
| 14. | 67A of 2001 | 09/02/2001 |
| 15. | 107A of 2001 | 23/02/2001 |
| 16. | 180A of 2001 | 23/03/2001 |
| 17. | 195A of 2001 | 06/04/2001 |
| 18. | 208 of 2001 | 20/04/2001 |
| 19. | 226A of 2001 | 27/04/2001 |
| 20. | 237A of 2001 | 04/05/2001 |
| 21. | 242B of 2001 | 11/05/2001 |
| 22. | 264A of 2001 | 18/05/2001 |
| 23. | 313B of 2001 | 22/06/2001 |
| 24. | 322A of 2001 | 29/06/2001 |
| 25. | 322B of 2001 | 29/06/2001 |
| 26. | 322C of 2001 | 29/06/2001 |
| 27. | 330A of 2001 | 06/07/2001 |
| 28. | 355A of 2001 | 13/07/2001 |
| 29. | 442A of 2001 | 07/09/2001 |
| 30. | 591 of 2001 | 16/11/2001 |
| 31. | 653 of 2001 | 28/12/2001 |

| | <i>"General Notice No.</i> | <i>Date of publication</i> |
|-----|----------------------------|----------------------------|
| 32. | 656 of 2001 | 28/12/2001 |
| 33. | 4A of 2002 | 04/01/2002 |
| 34. | 30T of 2002 | 11/01/2002 |
| 35. | 48 of 2002 | 18/02/2002 |
| 36. | 53A of 2002 | 25/01/2002 |
| 37. | 55A of 2002 | 01/02/2002 |
| 38. | 65 of 2002 | 08/02/2002 |
| 39. | 94A of 2002 | 22/02/2002 |
| 40. | 98A of 2002 | 01/03/2002 |
| 41. | 104A of 2002 | 08/03/2002 |
| 42. | 116A of 2002 | 15/03/2002 |
| 43. | 118A of 2002 | 22/03/2002 |
| 44. | 144A of 2002 | 05/04/2002 |
| 45. | 163 of 2002 | 12/04/2002 |
| 46. | 164 of 2002 | 12/04/2002 |
| 47. | 198A of 2002 | 26/04/2002 |
| 48. | 220A of 2002 | 10/05/2002 |
| 49. | 227A of 2002 | 17/05/2002 |
| 50. | 252A of 2002 | 31/05/2002 |
| 51. | 252B of 2002 | 31/05/2002 |
| 52. | 268A of 2002 | 07/06/2002 |
| 53. | 268B of 2002 | 07/06/2002 |
| 54. | 296A of 2002 | 21/06/2002 |
| 55. | 313 of 2002 | 05/07/2002 |
| 56. | 314 of 2002 | 05/07/2002 |
| 57. | 325 of 2002 | 12/07/2002 |
| 58. | 326 of 2002 | 12/07/2002 |
| 59. | 341 of 2002 | 19/07/2002 |
| 60. | 342 of 2002 | 19/07/2002 |
| 61. | 356 of 2002 | 02/08/2002 |
| 62. | 391A of 2002 | 23/08/2002 |
| 63. | 391B of 2002 | 23/08/2002 |
| 64. | 398 of 2002 | 30/08/2002 |
| 65. | 399 of 2002 | 30/08/2002 |
| 66. | 409 of 2002 | 06/09/2002 |

| | <i>"General Notice No.</i> | <i>Date of publication</i> |
|------|----------------------------|----------------------------|
| 67. | 530A of 2002 | 11/10/2002 |
| 68. | 530B of 2002 | 11/10/2002 |
| 69. | 541A of 2002 | 25/10/2002 |
| 70. | 541B of 2002 | 25/10/2002 |
| 71. | 574 of 2002 | 08/11/2002 |
| 72. | 575 of 2002 | 08/11/2002 |
| 73. | 583A of 2002 | 15/11/2002 |
| 74. | 610A of 2002 | 29/11/2002 |
| 75. | 610B of 2002 | 29/11/2002 |
| 76. | 1 of 2003 | 03/01/2003 |
| 77. | 2 of 2003 | 03/01/2003 |
| 78. | 37 of 2003 | 31/01/2003 |
| 79. | 94 of 2003 | 28/02/2003 |
| 80. | 131 of 2003 | 21/03/2003 |
| 81. | 132 of 2003 | 21/03/2003 |
| 82. | 164 of 2003 | 18/04/2003 |
| 83. | 165 of 2003 | 18/04/2003 |
| 84. | 202A of 2003 | 09/05/2003 |
| 85. | 202B of 2003 | 09/05/2003 |
| 86. | 227 of 2003 | 30/05/2003 |
| 87. | 228 of 2003 | 30/05/2003 |
| 88. | 251 of 2003 | 20/06/2003 |
| 89. | 252 of 2003 | 20/06/2003 |
| 90. | 290 of 2003 | 25/07/2003 |
| 91. | 291 of 2003 | 25/07/2003 |
| 92. | 298A of 2003 | 01/08/2003 |
| 93. | 298B of 2003 | 01/08/2003 |
| 94. | 298F of 2003 | 06/08/2003 |
| 95. | 323A of 2003 | 08/08/2003 |
| 96. | 323B of 2003 | 08/08/2003 |
| 97. | 323C of 2003 | 08/08/2003 |
| 98. | 323D of 2003 | 08/08/2003 |
| 99. | 353 of 2003 | 22/08/2003 |
| 100. | 354 of 2003 | 22/08/2003 |
| 101. | 370 of 2003 | 22/08/2003 |

| | <i>"General Notice No.</i> | <i>Date of publication</i> |
|------|----------------------------|----------------------------|
| 102. | 371 of 2003 | 22/08/2003 |
| 103. | 382 of 2003 | 29/08/2003 |
| 104. | 434 of 2003 | 05/09/2003 |
| 105. | 445E of 2003 | 17/09/2003 |
| 106. | 445F of 2003 | 17/09/2003 |
| 107. | 445G of 2003 | 17/09/2003 |
| 108. | 463A of 2003 | 26/09/2003 |
| 109. | 463B of 2003 | 26/09/2003 |
| 110. | 486 of 2003 | 03/10/2003 |
| 111. | 486 of 2003 | 03/10/2003 |
| 112. | 493B of 2003 | 10/10/2003 |
| 113. | 550A of 2003 | 31/10/2003 |
| 114. | 550B of 2003 | 31/10/2003 |
| 115. | 558 of 2003 | 07/11/2003 |
| 116. | 559 of 2003 | 07/11/2003 |
| 117. | 565A of 2003 | 14/11/2003 |
| 118. | 565B of 2003 | 14/11/2003 |
| 119. | 575A of 2003 | 21/11/2003 |
| 120. | 575B of 2003 | 21/11/2003 |
| 121. | 606 of 2006 | 12/12/2003 |
| 122. | 607 of 2003 | 12/12/2003 |
| 123. | 626A of 2003 | 19/12/2003 |
| 124. | 626B of 2003 | 19/12/2003 |
| 125. | 8 of 2004 | 02/01/2004 |
| 126. | 15 of 2004 | 09/01/2004 |
| 127. | 42 of 2004 | 16/01/2004 |
| 128. | 43 of 2004 | 16/01/2004 |
| 129. | 49 of 2004 | 23/01/2004 |
| 130. | 235A of 2004 | 07/04/2004 |
| 131. | 257 of 2004 | 26/04/2004 |
| 132. | 283 of 2004 | 07/05/2004 |
| 133. | 314 of 2004 | 04/06/2004 |
| 134. | 315 of 2004 | 04/06/2004 |
| 135. | 333C of 2004 | 18/06/2004 |
| 136. | 344 of 2004 | 02/07/2004 |

| | <i>"General Notice No.</i> | <i>Date of publication</i> |
|------|----------------------------|----------------------------|
| 137. | 345 of 2004 | 09/07/2004 |
| 138. | 401 of 2004 | 23/07/2004 |
| 139. | 427 of 2004 | 06/08/2004 |
| 140. | 449 of 2004 | 03/09/2004 |
| 141. | 445B of 2004 | 10/09/2004 |
| 142. | 464A of 2004 | 17/09/2004 |
| 143. | 474 of 2004 | 24/09/2004 |
| 144. | 491 of 2004 | 08/10/2004 |
| 145. | 504B of 2004 | 15/10/2004 |
| 146. | 539A of 2004 | 19/11/2004 |
| 147. | 539B of 2004 | 19/11/2004 |
| 148. | 560B of 2004 | 10/12/2004 |
| 149. | 18 of 2005 | 21/01/2005 |
| 150. | 45 of 2005 | 18/02/2005 |
| 151. | 93 of 2005 | 04/03/2005 |
| 152. | 102 of 2005 | 11/03/2005 |
| 153. | 120B of 2005 | 08/04/2005 |
| 154. | 208B of 2005 | 20/05/2005 |
| 155. | 226 of 2005 | 27/05/2005 |
| 156. | 246D of 2005 | 10/06/2005 |
| 157. | 272B of 2005 | 24/06/2005 |
| 158. | 305 of 2005 | 08/07/2005". |

23 Minor amendments to Constitution

The provisions of the Constitution specified in the first column of the First Schedule are amended to the extent specified opposite thereto in the second column of the Schedule.

24 Transitional provisions

(1) The Second Schedule applies with respect to the first election of Senators in terms of section 34(1)(a) and (c) of the Constitution.

(2) Until the Senate is duly elected and constituted in terms of subsection (1), the Constitution as it applied immediately before the date of commencement of this Act shall continue in force, except for the following provisions of this Act, which shall come into force immediately on the date of its commencement:

Sections 2, 3, 4 and 18, the definition of “voter” inserted into section 113 of the Constitution by section 19(a), sections 20 and 22, Part I of the First Schedule, and the Second Schedule.

(3) Any Standing Orders which were in force immediately before the date of commencement of this Act shall, on and after that date, continue in force in all respects as if they had been made in terms of section 57 of the Constitution and, until such time as they are amended or repealed accordingly, the Speaker may apply them subject to such modifications as appear to him or her to be necessary to extend their application to the Senate.

(4) Every person who, immediately before the date of commencement of this Act, was a member of Parliament by virtue of being elected or appointed in accordance with the Constitution immediately before the date of commencement of this Act shall, on the date when the Senate is duly elected and constituted in terms of subsection (1), become a member of the House of Assembly as though he or she had been appointed or elected in accordance with the Constitution as amended on that date.

FIRST SCHEDULE (Section 23)

PART I

MINOR AMENDMENTS IN FORCE FROM THE DATE OF COMMENCEMENT OF THIS ACT

| <i>Provision</i> | <i>Extent of amendment</i> |
|---------------------------------------|--|
| Section 26(1) (definition of “court”) | By the deletion of “tribal” and the substitution of “local”. |
| Section 28(2) | By the deletion of “registered on the common roll”. |

PART II

MINOR AMENDMENTS IN FORCE FROM THE DATE OF PUBLICATION OF THE PROCLAMATION REFERRED TO IN PARAGRAPH 4(1) OF THE SECOND SCHEDULE

| <i>Provision</i> | <i>Extent of amendment</i> |
|---|---|
| Sections 13(2)(b), 20(2)(b)(iii), 44, 56(1), (2) and (3) and 59(1)(proviso) | By the deletion of “Parliament” and the substitution of “the Senate or the House of Assembly”. |
| Sections 13 (2) (d), 43(2) and 55 | By the deletion of “Parliament” wherever it occurs and the substitution of “the Senate or the House of Assembly”. |

| | |
|---|---|
| Section 29(3) | By the deletion of “committee of Parliament, appointed by the Speaker upon the request of not fewer than one-third of the members of Parliament” and the substitution of “joint committee of Senate and the House of Assembly, appointed by the Speaker in consultation with the President of the Senate upon the request of not fewer than one-third of the members of the House of Assembly”. |
| Section 29(3) | By the deletion of “members of Parliament” wherever it occurs and the substitution of “Senators and members of the House of Assembly sitting together”. |
| Sections 31F(2) and 39(2)(proviso) | By the deletion of “Parliament” wherever it occurs and the substitution of “the House of Assembly”. |
| Sections 31F and 40(1) | By the deletion of "Parliament" where it occurs for the first and the substitution of "the House of Assembly". |
| Sections 31J(2) and 39(1) | By the deletion of “Parliament” where it occurs for the first and third times and the substitution of “the House of Assembly”. |
| Sections 39(2) and (3), 40(3) and (5)(a), 51(3a), 77(2), 84(2), 105(2a) and (5), 106(1) and (6), 107(2a) and 113 (1) (in the definition of “Speaker”) | By the deletion of “Parliament” and the substitution of “the House of Assembly”. |
| Section 39(4) | By the deletion of “Parliament” where it occurs for the first, third and fourth times and the substitution of “the House of Assembly”. |

| | |
|-----------------------|---|
| Section 40A(2) | By the deletion of “other than members of the Cabinet or Ministers” and the substitution of “other than members of the Cabinet, Ministers or Provincial Governors”. |
| Section 43(1)(b) | By the deletion of “Parliament” where it occurs for the first time and the substitution of “the Senate or the House of Assembly, as the case may be” and the deletion of “Parliament” where it occurs for the second and third times and the substitution of “the Senate or the House of Assembly”. |
| Section 48(3) | By the deletion of “Parliament” where it occurs for the first time and the substitution of “the House of Assembly”. |
| Section 48(2) and (4) | By the deletion of “Parliament” where it occurs for the second time and the substitution of “the House of Assembly”. |
| Section 49 | By the deletion of “Speaker” and the substitution of “President of the Senate and the Speaker”. |
| Section 51(1) | By the deletion of “Parliament” where it occurs for the second time and the substitution of “the House of assembly and the Senate”. |
| Section 51(3b) | By the deletion of “Parliament” where it occurs for the first, second and third and times and the substitution of “the House of Assembly”. |
| Section 57(1) | By the deletion of “Parliament” and the substitution of “the Senate and the House of Assembly, jointly or severally as may be appropriate,”. |

| | |
|----------------------------|--|
| Section 57(1)(c) | By the deletion of “over Parliament” and the substitution of “in the Senate or the House of Assembly”. |
| Section 57(1)(d) | By the deletion of “in Parliament” and the substitution of “in and between the Senate and the House of Assembly”. |
| Section 62(2) | By the deletion of “Parliament” where it occurs for the second time and the substitution of “either House”. |
| Section 103(1) and proviso | By the deletion of “Parliament, on a day on which Parliament sits” wherever it occurs and the substitution of “the House of Assembly, on a day on which the House sits”. |
| Section 103 (1)(proviso) | By the deletion of “Parliament” where it occurs for the last time and the substitution of “the House”. |

SECOND SCHEDULE (Section 24(3))

SPECIAL TRANSITIONAL PROVISIONS FOR THE FIRST ELECTION OF SENATORS REFERRED TO IN SECTIONS 34(1)(a) AND (c) OF THE CONSTITUTION

Interpretation in Second Schedule

1.(1) In this Schedule—

“existing Parliamentary constituencies” means the constituencies declared by the President by Proclamation 1 of 2005 published in Statutory Instrument 3A of 2005, as amended by Proclamation 2 of 2005, published in Statutory Instrument 39A of 2005;

“Commission” means the Zimbabwe Electoral Commission established in terms of section 3 of the Zimbabwe Electoral Commission Act [*Chapter 2:12*] (Act No. 22 of 2004).

(2) Any word or expression to which a meaning has been assigned in the Electoral Act [*Chapter 2:13*] (Act No. 25 of 2004) (hereinafter referred to as the “Electoral Law”) or the Zimbabwe Electoral Commission Act [*Chapter 2:12*] (Act No. 22 of 2004) (hereinafter referred to as the “Zimbabwe Electoral Commission Act”) shall have the same meaning when used in this Schedule.

Application of Electoral Laws to elections held under this Schedule and powers of Commission

2.(1) The Electoral Law and the Electoral Commission Act shall apply to elections held for the purposes of this Schedule subject to such modifications as the Zimbabwe Electoral Commission deems necessary.

(2) Subject to subparagraph (4), the Zimbabwe Electoral Commission may make such statutory instruments as it deems necessary or desirable to ensure that any election conducted for the purposes of this Schedule is properly and efficiently conducted, and to deal with any matter or situation connected with, arising out of or resulting from the election.

(3) Statutory instruments made in terms of subparagraph (2) may provide for—

- (a) modifying any provision of the Electoral Law and the Zimbabwe Electoral Commission Act which the Zimbabwe Electoral Commission has deemed necessary to modify under subparagraph (1);
- (b) empowering any person to make orders or give directions in relation to any matter connected with, arising out of or resulting from any election conducted for the purposes of this Schedule;
- (c) penalties for contraventions of any such statutory instrument, not exceeding a fine of level ten or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

(4) Statutory instruments made in terms of subparagraph (3) shall not have effect until they have been approved by the Minister of Justice, Legal and Parliamentary Affairs and published in the *Gazette*.

First delimitation of senatorial constituencies

3. For the purposes of the first election of Senators under this Act, the existing Parliamentary constituencies named in the first column of the Appendix to this Schedule shall constitute the senatorial constituencies specified opposite thereto in the second column of the Appendix.

First Senate elections after commencement of this Act

4.(1) Not later than ninety days after the date of commencement of this Act, the President shall by proclamation in the *Gazette* provide for—

- (a) a day on which the voters rolls for that election shall be regarded as closed for the purpose of accepting the registration of voters who may vote at the election, which day may be on or after the day of publication of the statutory instrument.
- (b) a place or places at which, and a day or days, not less than fourteen nor more than twenty-one days after the day of publication of the proclamation, on which a nomination court shall sit in terms of section 46 of the Electoral Law to receive nominations of candidates for election of Senators in terms of section 34(1)(a) of the Constitution; and
- (c) a day or days, not less than twenty-one nor more than forty-five days after the nomination day or last nomination day, as the case may be, fixed in terms of subparagraph (a), on which a poll shall be taken if a poll becomes necessary in terms of section 45(17)(c) of the Electoral Law for the election of Senators in terms of section 34(1)(a) of the Constitution; and

(2) For the purposes of the election of Chiefs as Senators in terms of section 34(1)(c) of the Constitution, the President shall, in the statutory instrument referred to in subparagraph (1),

fix times and places at which and a day or days, not earlier than the nomination day fixed in terms of subparagraph (2)(a) and not later than fourteen days after the polling day or last polling day, as the case may be, fixed in terms of subparagraph (2)(b) of subsection (2), on which electoral college referred to in section 40(b) of the Electoral Law shall meet in terms of Part X of the Electoral Law.

(3) The President may, by a further proclamation in the *Gazette*, alter any day, time or place fixed under subparagraph (1) or (2), and the day, time or place as so altered shall be deemed to have been fixed in terms of the appropriate subparagraph.

APPENDIX (Paragraph 3 of Second Schedule)

SENATORIAL CONSTITUENCIES

BULAWAYO PROVINCE

| <i>Existing Parliamentary constituencies comprised within Senatorial constituency</i> | <i>Senatorial constituency</i> |
|---|--------------------------------|
| Bulawayo East and Makokoba | Bulawayo-Makokoba |
| Pumula-Luveve | Pumula-Luveve |
| Phelandaba-Mpopoma | Phelandaba-Mpopoma |
| Bulawayo South and Nkulumane | Bulawayo-Nkulumane |
| Lobengula-Magwegwe | Lobengula-Magwegwe |

HARARE PROVINCE

| | |
|--|--|
| Chitungwiza, St. Mary's and Zengeza | Chitungwiza |
| Glen View, Glen Norah, Highfield and Budiriro | Glen View-Glen Norah-Highfield-Budiriro |
| Harare North, Harare Central, Tafara-Mabvuku and Harare East | Harare-Mabvuku-Tafara |
| Harare South, Mbare and Hatfield | Harare-Mbare-Hatfield |
| Mufakose, Kuwadzana, Kambuzuma and Dzivarasekwa | Mufakose-Kuwadzana-Kambuzuma-Dzivarasekwa |

MANICALAND PROVINCE

| | |
|--|-----------------------------|
| Buhera South, Buhera North and Makoni West | Buhera-Makoni |
| Chipinge South, Chipinge North and Chimanimani | Chipinge-Chimanimani |
| Makoni East, Makoni North and Nyanga | Makoni-Nyanga |
| Mutare Central, Mutare South and Mutare West | Mutare |

Mutasa North, Mutasa South and Mutare
North **Mutasa-Mutare**

MASHONALAND CENTRAL PROVINCE

Bindura and Shamva **Bindura-Shamva**
Guruve North and Guruve South **Guruve**
Mazowe East and Mazowe West **Mazowe**
Mt. Darwin North and Mzarabani **Mt. Darwin-Mzarabani**
Mt. Darwin South and Rushinga **Rushinga-Mt. Darwin**

MASHONALAND EAST PROVINCE

Chikomba and Wedza **Chikomba-Wedza**
Marondera East, Marondera West and Seke **Marondera-Seke**
Mudzi East, Mudzi West and Uzumba
Maramba Pfungwe **Mudzi-Uzumba Maramba Pfungwe**
Murewa South, Murewa North and Goromonzi **Murewa-Goromonzi**
Mutoko North and Mutoko South **Mutoko**

MASHONALAND WEST PROVINCE

Chegutú, Mhondoro and Manyame **Chegutú-Mhondoro-Manyame**
Hurungwe East, Hurungwe West and Kariba **Hurungwe-Kariba**
Kadoma, Sanyati and Ngezi **Kadoma-Sanyati-Ngezi**
Makonde and Chinhoyi **Makonde-Chinhoyi**
Zvimba North and Zvimba South **Zvimba**

MASVINGO PROVINCE

Bikita East, Bikita West and Zaka East **Bikita-Zaka**
Chiredzi North, Chiredzi South and Zaka
West **Chiredzi-Zaka**
Chivi North, Chivi South and Mwenezi **Chivi-Mwenezi**
Gutu North and Gutu South **Gutu**
Masvingo North, Masvingo Central and
Masvingo South **Masvingo**

MATABELELAND NORTH PROVINCE

Binga **Binga**
Bubi-Unguza **Bubi-Unguza**

| | |
|----------------------------|--------------------------|
| Hwange East | Hwange East |
| Lupane and Nkayi | Lupane-Nkayi |
| Tsholotsho and Hwange West | Tsholotsho-Hwange |

MATABELELAND SOUTH PROVINCE

| | |
|-----------------------|--------------------------|
| Beitbridge | Beitbridge |
| Bulilima and Mangwe | Bulilima-Mangwe |
| Gwanda | Gwanda |
| Insiza | Insiza |
| Matobo and Umzingwane | Matobo-Umzingwane |

MIDLANDS PROVINCE

| | |
|---|------------------------------------|
| Gokwe-Chireya, Gokwe-Kana and Gokwe-Sengwa | Gokwe |
| Chirumanzu, Kwekwe and Silobela | Chirumanzu, Kwekwe-Silobela |
| Mberengwa West, Mberengwa East and Zvishavane | Mberengwa-Zvishavane |
| Gweru Urban, Gweru Rural, Mkoba and Shurugwi | Gweru-Shurugwi |
| Gokwe, Gokwe-Nembudziya and Zhombe | Gokwe-Zhombe |