

Citizenship Lobby Group Update #9

February 10, 2002

Dear All

I apologise for not being able to reply personally to each of your emails due to the large number I have received in this regard. I hope this update suffices.

New information is at hand since Friday Feb 08, 2002.

Objection notices dated Feb 04/05, 2002

A new batch of objection notices has been sent out to people dated Feb 04 or 05, 2002. This batch appears to target people who renounced dual citizenship back in the 1980's. Having said that, though, all sorts of people are receiving these notices. At least two individuals have received 2 notices - one from the Jan 25 batch and one from the Feb 04 batch.

Some recipients of the letter have successfully completed the renunciation of foreign citizenship procedures required of them by the Citizenship Amendment Act 2001. One man was even issued with a new Zimbabwean passport in November 2001 having satisfied the Registrar General's office that he had duly complied with the provisions of the Act.

Appeals from individuals in receipt of letters dated Feb 04, 2002 **are currently being accepted** by the Constituency Registrars. I suspect that the cut-off date for these appeals is likely to be **Monday Feb 11, 2002**. Make every effort to submit your appeal by then.

It may be a good idea to take your Notice of Objection with you as proof of the date on which it was written (to distinguish yourself from the previous Jan 25/26 group from whom the constituency registrars are refusing to accept appeals.)

At Market Square in Harare, Room 4 now appears to be the office to use (previously Room 6). Room 1 handles enquiries. Herewith a recent submission from a recipient of the Feb 04 batch of recipient.

Once you enter the main gate from the road, go into the building on the left and follow a short passage that leads into a central courtyard and to office 1. I was asked for the date of my notice of objection and if I had the appeal form with me. I was then directed to office 4. "They are using office four today". I handed in my documents and paid \$50.00. I was given a receipt. The details were then recorded in a register as was a contact telephone number. The whole process took less than ten minutes.

\$50 Deposit Required

Please note that at least one person has had their appeal returned to them because it did not include the required payment. When the payment and appeal were duly returned, the deadline for accepting the appeal had allegedly expired and the documents were not accepted.

Legal action

Bryant Elliot of Gill, Godlonton & Gerans continues to be involved in legal action challenging the issuing of these Notices of Objection. I will keep you updated on his progress. He is being kept informed of the information received through the Citizenship Lobby Group.

What to do if you've been refused the opportunity to appeal

I don't have any wise answers to give in this regard as yet. I will approach Bryant Elliot and ask if he has any recommendations. At the very least it would seem to be important to write in protest to the relevant Constituency Registrar and the Registrar-General detailing the date of receipt of the actual document notwithstanding the date on which it was posted by the Constituency Registrar and the date on which your appeal was refused.

Possibly a copy of your complaint should be sent to a civil society organisation like

- Zimbabwe Election Support Network (ZESN), P.O. Box BE630, Belvedere, Harare or
- Legal Resources Foundation (LRF), P.O. Box 918, Harare

Regarding rules of interpretation, I have been sent this extract from Section 34(1) of the Interpretation Act, Chapter 1 which reads as follows:

Where an enactment authorises or requires a document to be served by post, and where the word "serve" or any of the words "give" "deliver" or "send" or any other word is used, the service of the document may be effected by prepaying, registering and posting an envelope addressed to the person on whom the document is to be served at his usual or last known place of abode or business, and containing such document, and unless the contrary is proved, the document shall be deemed to have been served at the time at which such envelope would have been delivered in the ordinary course of post.

Section 28(2) of the Interpretation Act, Chapter 1 reads as follows:

Where in an enactment a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall not be included in the period.

Submission to Observers

I propose to collate the information received regarding these Notices of Objection and submit it to the "observers" as proof of the R-G's intention to disenfranchise voters with a legitimate right to participate in the forthcoming elections.

Harare & Chitungwiza Mayoral/Council Elections

Regarding the mayoral and council elections looming, you are reminded that voter eligibility is based on residency not citizenship. Apparently, the roll to be used is the common voters' roll. I hope to get clarification from the Combined Harare Residents' Association (CHRA) as to how they envisage voters removed from the common roll will be able to vote in the mayoral/council elections.

Attached to this email is an excerpt from the Electoral Act regarding voter eligibility in these elections. It was provided by CHRA.

Repeated information

Below I have repeated a bit of information (and appeal draft) given out in update #7 for the benefit of people who have joined this mailing list since Jan 30, 2002.

Best wishes and thanks for all your replies and information
Brenda Burrell

Your rights

Permanent residence is an implicit part of citizenship. Prior to renunciation in the latter part of 2001 you would have been a de facto permanent resident.

Regardless of the fact that you may have chosen to retain your foreign citizenship over your Zimbabwean citizenship, you are nonetheless eligible to vote as evidenced by the following relevant details extracted from the High Court judgement handed down by Justice Rita Makarau on January 25, 2002:

1. In order to comply with section 28(2) of the Constitution of Zimbabwe, for the Presidential elections scheduled for 9 and 10 March 2002, the Registrar General shall ensure that there is in place a common roll.

2. The common roll referred to in 1 above, shall contain the names and such other information as may be necessary, of all persons who have attained the age of 18 years, are citizens of Zimbabwe or, since 1985, have been regarded by a written law to be permanent residents in Zimbabwe and who meet the residential requirements of any particular constituency or have satisfied him that for reasons related to place of origin, political affiliation or otherwise, it is appropriate that they be registered in a constituency in which they do not reside;
3. The Registrar General shall restore to the voters roll of any constituency all voters who, on or before 18 January 2002, were on that roll or were eligible but were refused to be on that roll, who may have lost or renounced their citizenship of Zimbabwe, but who since 1985, have been regarded by a written law to be permanently resident in Zimbabwe;
4. The Registrar General shall make adequate and reasonable administrative arrangements for all voters registered on the common roll who will not be in their constituencies on the polling days, to exercise their vote

Notes regarding the draft *Notice of Appeal Against Objection to Registration*

1. The draft is included at the end of this document.
2. The grounds specified in this draft may not apply to everyone.
 - If, for instance, a person has been removed from being a citizen simply because they have a right to a foreign citizenship, then they should argue that they are still a citizen of Zimbabwe and they are entitled to be registered on that basis.
 - Alternatively, they can also say that if they have been a permanent resident in Zimbabwe since 31 December 1985 they qualify on that ground as well, to be a voter.

What you should do if you receive one of these letters

1. Respond immediately.
2. Use the following draft *Notice of Appeal Against Objection to Registration* - it has been provided by a lawyer with plenty of experience.
3. Preferably hand deliver your response to the relevant registrar's office AND request a receipt for the document OR;
Post your response by registered post
4. Keep me informed of:
 - your name
 - date since which you've been a permanent resident of Zimbabwe
 - which city/district you reside in
 - when you received your Notice of Objection
 - Date on Notice
 - Postmark on envelope
 - Date on registered slip
 - Date registered slip collected
 - Date Notice collected
 - Date appeal lodged OR Date appeal refused and reason
 - how you submitted your response
 - what happens to you next in this regard

Fee

Apparently a \$50 money order earns commission of \$150 and registering \$88, so be prepared to pay out \$288 if you want to return your documents by registered post in this manner.

Electoral Act (Chapter 2:01)

Notice of Appeal Against Objection to Registration

The grounds of my appeal are as follows:

I have been a permanent resident of this country since that is before 31 December 1985. I am therefore entitled to register as a voter on the common roll in terms of section 3 (1) (b) of Schedule 3 of the Constitution. I would be grateful therefore if you will retain my name on the voters' roll.

I should mention that although your letter is dated I note that the postmark on the envelope containing your letter is dated In fact I only received your letter on from which date I presume the seven day notice period commences.

Signed

Name

Date