

A SIMPLIFIED STEP-BY-STEP GUIDE TO ZIMBABWE'S ELECTORAL PROCESSES

1. The Electoral Cycle

Zimbabwe has been holding harmonised elections since 2008. Harmonised elections are where elections are held at the same time for representatives of local authorities, Parliament (the National Assembly and the Senate), provincial councils and the Presidency. Harmonised elections are usually conducted every five years¹.

2. Countdown to the Elections

The five-year electoral cycle precipitates a heightened electoral mode in the socio-economic and political environment as it rolls towards its end and polls approach. This usually manifests in political parties carrying out their internal party processes of vetting and selecting their candidates (party primaries) and spearheading campaigns for their candidates and party positions (manifestos) relating to the impending election. In the run-up to the election, national processes that occur include voter education, voter registration² and inspection of the voters' roll to ensure that one's name appears on the roll and s/he will be able to vote on Election Day.

3. Dissolution of Parliament

The dissolution of Parliament usually triggers the conduct of elections. Parliament can be dissolved by a two-thirds majority vote in both the National Assembly and the Senate, sitting separately and voting in favour of dissolution. The President can also dissolve Parliament on his own initiative if it unreasonably refuses to pass a Bill on the appropriation of revenue for approved government expenditure. If the President unilaterally dissolves Parliament, any Member of Parliament can approach the Constitutional Court and ask it to review the President's conduct. Where Parliament has been dissolved in either of these two ways, elections must be held within ninety (90) days of such dissolution.

If Parliament is not dissolved in either of these ways, it will automatically be dissolved at midnight on the day before the first polling day for the next election, which must be conducted at least thirty (30) days before the expiration of the five year electoral cycle. However for the 2013 election, the poll should be held within 90 days of the dissolution of Parliament.

¹ The new Section 158 of the Constitution provides for this. It has not yet come into effect but this does not change the electoral cycle in terms of it being a five-year cycle.

² In terms of Section 17A of the Electoral Act (Chapter 2:13), voter registration is a continuous exercise. However, there is always a re-generation of interest and demand for voter registration usually soars in this period unlike in the period which is immediately post-election and right up to the immediate pre-election era.

The five-year electoral cycle begins to run on the day when the president-elect is sworn into office following an election³.

4. The Proclamation of the Election Date

The President proclaims a date for the holding of elections whenever they fall due after consultation with the Zimbabwe Electoral Commission (ZEC). The proclamation issued by the President fixes the place(s), day(s) and time(s) for the sitting of the nomination court and the actual date for the elections⁴. The proclamation also makes provision for the conduct of a presidential run-off election should one become necessary. This proclamation officially marks the start of the election period which runs from the date of the proclamation to the date of announcement of the results.⁵ In 2013, the Election Day has been set for 31 July 2013 and a possible presidential election run-off has been set for 11 September 2013.

5. Closing the Voters' (Electoral) Roll⁶

Voter registration and inspection of the voters' roll is done on a continuous basis⁷. For the 2013 general elections however, the Constitution specifically required that a special and intensive voter registration and inspection exercise be carried out for at least thirty (30) days following the publication of the new Constitution. This exercise ran from 10 June 2013 to 9 July 2013. In the previous elections, it has always been the practice to conduct a mobile voter registration exercise ahead of the election.

While the voters' roll remains open for new registrations on a continuous basis, only those voters who are registered and whose names appear on the voters' roll twelve (12) days after nomination court will be entitled to cast their votes in this election⁸. This means while the voters' roll remains open for registration, the "electoral roll" (i.e. the voters' roll that will be used during the elections) will be closed with effect from the twelfth day after the sitting of the nomination court.

6. Voter Education

While civic education can be done at any time in the electoral cycle, there is always a heightened voter education drive during the period of the mobile voter registration exercise. The primary duty to provide voter education lies with ZEC and it may authorise any other person or organisation to conduct voter education on its behalf. Individuals and organisations may

³ This is in terms of section 143(1) of the Constitution

⁴ Section 38 of the Electoral Act (Chapter 2:13)

⁵ Section 4 (2) of the Electoral Act (Chapter 2:13)

⁶ This term does not appear in the electoral laws and has just been used for convenience purposes. The law specifically speaks of a voters roll only.

⁷ Section 17A and 22 of the Electoral Act (Chapter 2:13)

⁸ Section 26A of the Electoral Act (Chapter 2:13)

continue with civic education throughout, but need accreditation from ZEC to carry out specific voter education. Political parties may engage in voter education at will without ZEC's approval⁹.

7. Nomination Court and Challenges

The nomination of candidates for the elections takes place at least fourteen (14) days after the issuance of the proclamation calling for elections¹⁰. Political parties can furnish ZEC with nomination papers for its representatives intending to contest in all the elections, countersigned by designated office bearers of the political parties concerned in advance¹¹. ZEC will scrutinise these and request the political parties to attend to any queries which may arise from the nomination papers and re-submit them after rectifying the identified queries. This provision, if adhered to, will significantly reduce the workload of the nomination court on the date of its sitting as the bulk of the work would have been done in advance. It also helps political parties to attend to some queries which would have otherwise resulted in their candidates being disqualified on nomination day and potentially limits the prospects of nomination court-related appeals.

Any person registered on the voters' roll is entitled to inspect the nomination papers filed before a nomination officer before the sitting of the nomination court or after the close of the nomination court on such conditions as may be prescribed¹².

An appeal against the nomination of a party list candidate¹³ can be filed by any person registered on the voters' roll of a constituency within the province in which the candidate was nominated. Such an appeal has to be filed in the Electoral Court within forty-eight (48) hours after the sitting of the nomination court. The appeal must be determined within forty-eight (48) hours of being lodged with the Electoral Court. The decision of the Electoral Court on such an appeal is final¹⁴. A candidate whose nomination has been rejected by the presiding officer may lodge an appeal within four (4) days in the Electoral Court¹⁵.

Nominations to fill the seats of Chiefs and representatives of the disabled in Parliament are done separately by the electoral colleges for these respective constituencies as may be set by the President¹⁶.

After nomination, the full party lists of candidates are printed and published in the Government Gazette and in the media.¹⁷

⁹ Section 40C of the Electoral Act (Chapter 2:13)

¹⁰ Section 157 (3) of the Constitution

¹¹ Section 38A of the Electoral Act (Chapter 2:13)

¹² Section 46 (18) of the Constitution.

¹³ Candidates who will be elected through proportional representation

¹⁴ Section 45G of the Electoral Act (Chapter 2:13)

¹⁵ Section 46 (19) of the Electoral Act (Chapter 2:13)

¹⁶ Part X of the Electoral Act (Chapter 2:13) and the Seventh Schedule to the Electoral Act (Chapter 2:13)

¹⁷ Section 45F of the electoral Act (Chapter 2:13)

8. Printing and Publication of Ballot Papers

ZEC is responsible for designing, printing and distributing ballot papers¹⁸. It must also disclose information relating to the provision of ballot papers. In particular, the Commission must, without delay, inform all political parties and candidates contesting an election, and all observers, of the place where and by whom the ballot papers for the election have been or are being printed; the total number of ballot papers that have been printed for the election; and the number of ballot papers that have been distributed to each polling station and special polling station¹⁹.

9. Early Voting (Postal and Special Voting)

Postal Voting is only available to individuals who will be outside Zimbabwe on polling day on government business, and their spouses²⁰. Postal Voting is only open to such persons who apply to do so within fourteen (14) days after the sitting of the nomination court. The successful applicants will be furnished with the voting material in advance and they will be required to cast their votes and return them in sealed packets which must be received by the Chief Elections Officer at ZEC at least fourteen (14) days before the actual date of the poll²¹. Once received, the Chief Elections Officer will then distribute the postal votes to their respective constituencies in their sealed envelopes within seven (7) days of the date of the actual poll. The postal votes are further dispatched to their respective wards centres in their sealed envelopes and must be received there at least two (2) days before the date of the actual poll. They are only opened for counting at the ward centre at the time of counting the votes for the ordinary poll.

Special Voting is only open to persons who will be electoral officers in the election concerned and members of the disciplined forces who will be performing security duties on polling day outside the wards in which they are registered voters²². Special voting is done in two days. The last polling day for the special vote must be at least sixteen (16) days before the date of the actual poll. Once a person has been authorised to cast a special vote, the Chief Elections Officer is obliged to ensure that a line is drawn through that person's name and endorsed with the initials S.V (for special vote) on the voters' roll sent to the ward centres for the purposes of the election to guard against double-voting²³. The special votes will remain sealed and are only opened at the ward centres where the voter appears on the voters' roll. These will only be opened at the time of counting of votes for the ordinary poll at the ward centre. Election agents and observers are entitled to be present during the processing of the special vote applications, polling for the special vote and centres where such votes are kept and counted from.

10. Accreditation of Observers

¹⁸ Section 239(g) of the Constitution

¹⁹ Section 52A of the Electoral Act (Chapter 2:13)

²⁰ Section 72 of the Electoral Act (Chapter 2:13)

²¹ Section 75 (1) (d) of the Electoral Act (Chapter 2:13)

²² Section 81 of the Electoral Act (Chapter 2:13)

²³ Section 81D (3) of the Electoral Act (Chapter 2:13)

The accreditation of observers is done by an Observers' Accreditation Committee²⁴. Individuals and organisations who wish to observe any election are entitled to apply for accreditation, but this must be done at least four (4) days before the date of the general poll. Applications for accreditation are considered forthwith upon receipt. Accredited observers are entitled to observe the whole electoral process in the election period in respect of which they have been accredited up to the announcement of final results.²⁵

11. Polling Day

In the past, although there is no law to that effect, the polling dates have almost always been set on Saturdays to ensure greater convenience to the voters. For the 2013 elections however, the polling date is set for a Wednesday and this affected the school terms which had to be cut back to ensure that schools are available to be used as polling stations for the elections. Wednesday 31 July has been declared a public holiday in order to allow all those who wish to vote the opportunity to do so.

12. Where to Vote on Polling Day and Documents Required

Except for postal and special voters, a person intending to vote is only entitled to do so from any polling station located within the ward in which he/she is registered as a voter²⁶.

A voter must take with him/her their valid national identity document. If the voter is in possession of a voter registration certificate, this should also be carried (particularly for newly-registered and first-time voters) in case their name does not appear on the voters' roll for some reason.

Married women who have not changed their surname to that of their husbands should carry with them, in addition to their national identity document, their marriage certificate in case their surname has been changed on the voters' roll without their knowledge or approval.

13. Manner of Voting and Assisted Voters

Voting is done in secret²⁷. Persons who are illiterate and/or living with disability may, upon request, be assisted to vote by a person of their own choice. For visually impaired voters, the presiding officer is entitled to observe the casting of the ballot for that particular voter²⁸. The person offering assistance does not need to be on the voters' roll, but should be above eighteen (18) years of age, should not be an electoral officer, election agent, chief election agent, and candidate or accredited observer in the election.

A register for assisted voters and persons who assist them in voting is kept and maintained by the presiding officer.

²⁴ Section 40H of the Constitution

²⁵ Section 40I of the Electoral Act (Chapter 2:13)

²⁶ Section 56 (1) of the Electoral Act (Chapter 2:13)

²⁷ Section 67 (3) of the Constitution and Section 56 (1) of the Electoral Act (Chapter 2:13)

²⁸ Proviso to Section 59 (5) of the Electoral Act (Chapter 2:13)

In the absence of a person of the voter's choice, a voter who requires assistance in voting may, upon request, be assisted by the presiding officer in the presence of two other electoral officers or employees of ZEC and a police officer on duty²⁹.

Each voter is furnished with a separate ballot paper in respect of each election being conducted concurrently and is required to mark the ballots and deposit them in the separate ballot boxes provided in respect of each election being held concurrently. The voter will receive up to three (3) different ballot papers - one for the presidential candidates, one for the parliamentary (National Assembly) candidates, and one for the local authority candidates. The polling officers will first check that the person appears on the voters' roll using the national identity document and cancel the name from the roll. Next, ballot papers will be issued with the ZEC seal being stamped on them. Another polling officer will then ink the person's little finger, after which the person can proceed to the booth and mark his/her ballot papers.

The voter is no longer required to hold up their ballot papers to the presiding officer before depositing them in the ballot box. If a voter inadvertently spoils a ballot paper, the presiding officer, if satisfied of the inadvertence, repossesses the spoiled ballot and issues a replacement ballot paper to the voter concerned.

14. Persons Entitled to be in a Polling Station

The following persons are allowed inside a polling station and are allowed to be present during the counting of votes and opening of postal and special ballot boxes:-

- (a) Members of the Zimbabwe Electoral Commission; and
- (b) Electoral officers present for the performance of their duties; and
- (c) An election agent of each candidate in the election concerned; and
- (d) The chief election agents of each candidate in the case of an election to the office of President; and
- (e) Accredited observers.

15. Presence of Police Officers inside Polling Stations

Police officers are generally required to be within the vicinity of a polling station to perform any duty that they may be requested to perform at the polling station and the area surrounding it by the presiding officer. Such police officers only serve to maintain order and preventing contraventions of the law so that voters may freely cast their votes. They cannot interfere with the electoral processes at a polling station. They can exercise their duties inside a polling station only under the direction and instruction of the presiding officer³⁰. This means that they can be permitted inside a polling station to perform specific duties and carry out specific instructions

²⁹ Section 59 of the Electoral Act (Chapter 2:13)

³⁰ Section 55 (2) (b), (6), (7) and (7a) of the Electoral Act (Chapter 2:13)

given by the presiding officer. It follows therefore that they cannot be permanently stationed inside a polling station when they have not been assigned a specific and time-bound duty or instruction to carry out inside the polling station.

16. Conduct of Personnel in and around Polling Stations

All individuals who are inside a polling station must refrain from using their mobile telephones and from taking photographs and video footage of the polling station, the materials, the personnel and voters in the booth or casting their votes. Observers are permitted to take notes of what they observe during the process. Accredited members of the media may request approval from the presiding officer if they wish to take photographs or video footage of people casting their ballots. Personnel should not speak inside polling stations and no person should interfere with a voter who is going through the process of voting, or after voting. No posters for candidates or political parties can be placed within 200metres of a polling station and no person may campaign within 200metres of a polling station. There is no law barring a person from taking photographs or written details of polling station/ward centre/constituency centre returns that have been posted outside stations or centres, but care should be taken as some polling officers and the police are often overzealous and may arbitrarily arrest or victimise people taking such photographs or notes.

17. Counting of Votes and Announcement of Results

The total unmarked ballot papers and serial numbers of ballot books received at each polling station are counted and recorded before the polling station opens on Election Day. This must be done in the presence of the persons who are entitled to be in a polling station, including political party election agents and accredited observers³¹. At the close of the poll, the presiding officer closes the ballot boxes and seals them. The unused ballot papers, register of assisted voters, counterfoils and unused ballot books and papers, and counterfoils of spoilt papers are sealed and packaged separately. The presiding officer then opens the ballot boxes and counts the votes in each ballot box separately. The presiding officer can reject any vote which does not bear his/her official seal, or a ballot that has not been marked, or a ballot which does not clearly indicate which candidate was being voted for. The total number of votes for each candidate in each election is recorded on polling station returns and signed by all present. The ballots are then returned to the ballot boxes and the boxes and all other election material is sealed again. All representatives present place their seal/signature on the boxes again. A copy of the polling station return is pasted on the outside of a polling station and must be in a place which is accessible to, and can be seen clearly by the public.

The ballot boxes, copies of polling station returns and other election material are then transmitted to the ward centre. At the ward centre, the ward elections officer will verify and collate the polling-station returns. It is at this stage that the postal and special votes for that specific ward are also counted. The outcome of the postal and special votes will then be tallied together with the votes from the polling stations and entered into a ward return. A copy of the

³¹ Section 54A of the Constitution

ward return, signed by all representatives present, must be displayed outside the ward centre in a place accessible to, and which can be seen by, the public. The ward return is then transmitted to the constituency centre.

The same process is repeated at the constituency centre, then the provincial command centre, and the national command centre. Winning candidates for local council are announced at the ward centre; winning candidates for National Assembly are announced at the constituency centre.

The announcement of the presidential election result is done by the Chairperson of ZEC or, in her absence, the Deputy Chairperson, or another ZEC Commissioner. No other person can declare a presidential candidate duly elected. However in terms of the law any person can reveal and/or use results which have been displayed outside polling stations and other centres.

The announcement of the presidential election result must be done in no more than five (5) days unless ZEC applies to court and is granted an extension of the five-day period upon showing good cause to the court.

18. Recounting of Votes

Votes can be recounted at the request of any political party or candidate who contested in the election. A written application for the recount must be made to ZEC giving reasonable grounds to justify the recount. ZEC may also, on its own, order a recount of votes in any polling station where it considers on reasonable grounds that there might have been a miscount.

19. Challenges to Election Results

Depending on the type of the election, disputes about the outcome of the election are determined by either the Constitutional Court or the Electoral Court.

The Constitutional Court determines a dispute of the election of a President. A petition challenging the result of the presidential election must be filed within seven (7) days of the declaration of the result of the poll. The Constitutional Court must determine such application within a period of fourteen (14) days. Where a petition has been filed challenging the result of a presidential election, the President-elect of the disputed poll is not sworn in until after the petition has been finalised. The previous President's term of office lapses when the newly elected President is sworn in.

Petitions challenging the outcome of other elections must be filed at the Electoral Court within fourteen (14) days of the declaration of the result of the poll. The election petition must be determined within six (6) months of being filed and should there be an appeal against the decision of the Electoral Court, such appeal must be finalised within a further period of six (6) months. An appeal against the decision of the Electoral Court on a point of law only is made to the Supreme Court.