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Published: 16th September 2005 (General Notice 373D of 2005)

Commencement: See section 24 and footnotes<sup>1</sup>

# ACT

To amend the Constitution of Zimbabwe.

ENACTED by the President and the Parliament of Zimbabwe.

## **1 Short title**

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

## **2 New section inserted in Constitution<sup>2</sup>**

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, 2005<sup>3</sup>.

(2) Notwithstanding anything contained in this Chapter—

(a) all agricultural land—

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<sup>1</sup> The effect of section 24(2) is that certain amendments come into operation immediately (i.e., on the 16th September, 2005), while others, principally those concerning the introduction of the Senate but including section 17 concerning the Electoral Supervisory Commission and the Zimbabwe Electoral Commission, will not come into full operation until the Senate has been duly elected and constituted in terms of section 24(1) as read with the Second Schedule. It is not stated how the date of commencement of the full operation of the second group of amendments will be officially identified and notified to the public. Individual footnotes indicate the provisions coming into operation the 16th September, 2005.

<sup>2</sup> into operation with effect from the 16th September, 2005.

<sup>3</sup> i.e. the 16th September, 2005.

- (i) that was identified on or before the 8th July, 2005, in the *Gazette* or *Gazette Extraordinary* under 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 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 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(1) and (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 date 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<sup>4</sup>**

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<sup>5</sup>**

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

- (a) in subsection (2) by the deletion of “or gender” wherever it occurs and the substitution of “, sex, gender, marital status or physical disability”;
- (b) in subsection (3)—
- (i) by the repeal of paragraph (a) and the substitution of—
- “(a) matters of personal law.”;
- (ii) in paragraph (d) by the deletion of “or gender” and the substitution of “, sex, gender, marital status or physical disability”;
- (iii) 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.”;
- (c) by the insertion of the following subsection after subsection (3)—
- “(3a) Notwithstanding subsection (3)(b), in implementing any programme of land reform the Government shall treat men and women on an equal basis with respect to the allocation or distribution of land or any right or interest therein under that programme.”;

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<sup>4</sup> into operation with effect from the 16th September, 2005

<sup>5</sup> into operation with effect from the 16th September, 2005

(d) in subsection (5) by the deletion of "or gender" wherever it occurs and the substitution of "sex or gender".

## **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 3 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 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, Minister, 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) and (c), 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 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 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, 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<sup>6</sup>**

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 the 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;

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<sup>6</sup> Not into operation immediately with effect from the 16th September, 2005. In other words, like the 2005 General Election, the election of the first Senators will be conducted by the "old" Zimbabwe Electoral Commission and supervised by the Electoral Supervisory Commission.

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 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 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<sup>7</sup>**

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—

“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;<sup>8</sup>

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<sup>7</sup> into operation with effect from the 16th September, 2005

<sup>8</sup> this definition into operation with effect from the 16th September, 2005

“Zimbabwe Electoral Commission” means the Zimbabwe Electoral Commission referred to in section 61;”;

- (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<sup>9</sup>**

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; and
        - (b) in the case of a person other than a Chief, has attained the age of forty years; 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.

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<sup>9</sup> into operation with effect from the 16th September, 2005

- (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 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 to 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 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 to the Senate;
  - (c) 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 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<sup>10</sup>, a Constitutional Bill or a Bill to which the proviso to paragraph 3(1) applies, after the introduction of the Bill

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<sup>10</sup> (*sic*). The reference to a Money Bill is mistaken and must be ignored; compare the new section 40B(1)(a) of the Constitution in section 10 of this Act, in terms of which the Parliamentary Legal Committee will examine Money Bills, just as it does at present. Section 40B(1)(a) as originally proposed in the Bill for this Act did refer to Money Bills (and would have removed Money Bills from the jurisdiction of the Parliamentary Legal Committee), but the reference was deleted by a Committee Stage amendment. There should have been a corresponding consequential deletion in the subparagraph to which this footnote relates.

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 or any other provision of this Constitution—

- (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 it 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 or the House of Assembly 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 the 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<sup>11</sup>

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

### “SCHEDULE 7<sup>12</sup> (Section 16B)

#### AGRICULTURAL LAND GAZETTED ON OR 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

<sup>11</sup> into operation with effect from the 16th September, 2005

<sup>12</sup> In the Bill for this Act this Schedule contained 158 items. There are now 157 items, although there was no Committee Stage amendment to the Schedule. The difference is accounted for by an acceptable editorial elimination, during the preparation of the Act, of a duplication that occurred in items 110 and 111 of the Schedule in the Bill.

	<i>"General Notice No.</i>	<i>Date of publication</i>
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
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

	<i>"General Notice No.</i>	<i>Date of publication</i>
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
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

	<i>"General Notice No.</i>	<i>Date of publication</i>
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
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

	<i>"General Notice No.</i>	<i>Date of publication</i>
110.	486 of 2003	03/10/2003
111.	493B of 2003	10/10/2003
112.	550A of 2003	31/10/2003
113.	550B of 2003	31/10/2003
114.	558 of 2003	07/11/2003
115.	559 of 2003	07/11/2003
116.	565A of 2003	14/11/2003
117.	565B of 2003	14/11/2003
118.	575A of 2003	21/11/2003
119.	575B of 2003	21/11/2003
120.	606 of 2006	12/12/2003
121.	607 of 2003	12/12/2003
122.	626A of 2003	19/12/2003
123.	626B of 2003	19/12/2003
124.	8 of 2004	02/01/2004
125.	15 of 2004	09/01/2004
126.	42 of 2004	16/01/2004
127.	43 of 2004	16/01/2004
128.	49 of 2004	23/01/2004
129.	235A of 2004	07/04/2004
130.	257 of 2004	26/04/2004
131.	283 of 2004	07/05/2004
132.	314 of 2004	04/06/2004
133.	315 of 2004	04/06/2004
134.	333C of 2004	18/06/2004
135.	344 of 2004	02/07/2004
136.	345 of 2004	09/07/2004
137.	401 of 2004	23/07/2004
138.	427 of 2004	06/08/2004
139.	449 of 2004	03/09/2004
140.	445B of 2004	10/09/2004
141.	464A of 2004	17/09/2004
142.	474 of 2004	24/09/2004
143.	491 of 2004	08/10/2004
144.	504B of 2004	15/10/2004

	<i>"General Notice No.</i>	<i>Date of publication</i>
145.	539A of 2004	19/11/2004
146.	539B of 2004	19/11/2004
147.	560B of 2004	10/12/2004
148.	18 of 2005	21/01/2005
149.	45 of 2005	18/02/2005
150.	93 of 2005	04/03/2005
151.	102 of 2005	11/03/2005
152.	120B of 2005	08/04/2005
153.	208B of 2005	20/05/2005
154.	226 of 2005	27/05/2005
155.	246D of 2005	10/06/2005
156.	272B of 2005	24/06/2005
157.	305 of 2005	08/07/2005".

## **23 Minor amendments to Constitution<sup>13</sup>**

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

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<sup>13</sup> The amendments in Part I of the Schedule come into operation with effect from the 16th September, 2005. See section 24(2).

House of Assembly as though he or she had been appointed or elected in accordance with the Constitution as amended on that date.<sup>14</sup>

## **FIRST SCHEDULE (Section 23)**

### **PART I**

#### **MINOR AMENDMENTS IN FORCE FROM THE DATE OF COMMENCEMENT OF THIS ACT<sup>15</sup>**

<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<sup>16</sup>**

<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 the 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”.

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<sup>14</sup> But the two MPs who are the President and Deputy President, respectively, of the Council of Chiefs will automatically become Senator Chiefs, reducing the number of Chiefs in the House of Assembly from ten to eight, as envisaged by the new section 38(1)(c).

<sup>15</sup> i.e. the 16th September, 2005.

<sup>16</sup> This heading, in so far as it deals with the commencement of its contents, is inconsistent with section 24(2).

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(2) and 40(1)	By the deletion of "Parliament" where it occurs for the first time 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 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)(b)	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(1))<sup>17</sup>**

### 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

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<sup>17</sup> into operation with effect from the 16th September, 2005

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 the election conducted for the purposes of this Schedule 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 proclamation;
- (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 (b), 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.

(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 proclamation 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 (1)(b) and not later than fourteen days after the polling day or last polling day, as the case may be, fixed in terms of subparagraph (1)(b)<sup>18</sup>, on which the electoral college referred to in section 40(b) of the Electoral Law<sup>19</sup> 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	<b>Bulawayo-Makokoba</b>
Pumula-Luveve	<b>Pumula-Luveve</b>
Phelandaba-Mpopoma	<b>Phelandaba-Mpopoma</b>
Bulawayo South and Nkulumane	<b>Bulawayo-Nkulumane</b>
Lobengula-Magwegwe	<b>Lobengula-Magwegwe</b>

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<sup>18</sup> (*sic*). The reference should be to paragraph (1)(c).

<sup>19</sup> i.e., the electoral colleges (not electoral college) constituted by the eight provincial councils of chiefs.

#### **HARARE PROVINCE**

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

#### **MANICALAND PROVINCE**

Buhera South, Buhera North and Makoni West	<b>Buhera-Makoni</b>
Chipinge South, Chipinge North and Chimanimani	<b>Chipinge-Chimanimani</b>
Makoni East, Makoni North and Nyanga	<b>Makoni-Nyanga</b>
Mutare Central, Mutare South and Mutare West	<b>Mutare</b>
Mutasa North, Mutasa South and Mutare North	<b>Mutasa-Mutare</b>

#### **MASHONALAND CENTRAL PROVINCE**

Bindura and Shamva	<b>Bindura-Shamva</b>
Guruve North and Guruve South	<b>Guruve</b>
Mazowe East and Mazowe West	<b>Mazowe</b>
Mt. Darwin North and Mzarabani	<b>Mt. Darwin-Mzarabani</b>
Mt. Darwin South and Rushinga	<b>Rushinga-Mt. Darwin</b>

#### **MASHONALAND EAST PROVINCE**

Chikomba and Wedza	<b>Chikomba-Wedza</b>
Marondera East, Marondera West and Seke	<b>Marondera-Seke</b>
Mudzi East, Mudzi West and Uzumba Maramba Pfungwe	<b>Mudzi-Uzumba Maramba Pfungwe</b>
Murewa South, Murewa North and Goromonzi	<b>Murewa-Goromonzi</b>
Mutoko North and Mutoko South	<b>Mutoko</b>

#### **MASHONALAND WEST PROVINCE**

Chegutu, Mhondoro and Manyame	<b>Chegutu-Mhondoro-Manyame</b>
Hurungwe East, Hurungwe West and Kariba	<b>Hurungwe-Kariba</b>

Kadoma, Sanyati and Ngezi	<b>Kadoma-Sanyati-Ngezi</b>
Makonde and Chinhoyi	<b>Makonde-Chinhoyi</b>
Zvimba North and Zvimba South	<b>Zvimba</b>

#### **MASVINGO PROVINCE**

Bikita East, Bikita West and Zaka East	<b>Bikita-Zaka</b>
Chiredzi North, Chiredzi South and Zaka West	<b>Chiredzi-Zaka</b>
Chivi North, Chivi South and Mwenezi	<b>Chivi-Mwenezi</b>
Gutu North and Gutu South	<b>Gutu</b>
Masvingo North, Masvingo Central and Masvingo South	<b>Masvingo</b>

#### **MATABELELAND NORTH PROVINCE**

Binga	<b>Binga</b>
Bubi-Umguza	<b>Bubi-Umguza</b>
Hwange East	<b>Hwange East</b>
Lupane and Nkayi	<b>Lupane-Nkayi</b>
Tsholotsho and Hwange West	<b>Tsholotsho-Hwange</b>

#### **MATABELELAND SOUTH PROVINCE**

Beitbridge	<b>Beitbridge</b>
Bulilima and Mangwe	<b>Bulilima-Mangwe</b>
Gwanda	<b>Gwanda</b>
Insiza	<b>Insiza</b>
Matobo and Umzingwane	<b>Matobo-Umzingwane</b>

#### **MIDLANDS PROVINCE**

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

