

~~Bill reported with amendments. Referred to the Parliamentary Legal Committee.~~

- ~~7. The Minister of Justice, Legal and Parliamentary Affairs, moved: That the House reverts to Order of the Day No. 5.~~

~~Motion put and agreed to.~~

- ~~8. Adjourned debate on motion on the SECOND READING of the *Electoral Amendment Bill*, (H.B. 11, 2022) (*Adjourned 9th May, 2023 – The Minister of Justice, Legal and Parliamentary Affairs*).~~

~~Question again proposed: That the *Electoral Amendment Bill*, (H.B. 11, 2022) be now read a second time = *The Minister of Justice, Legal and Parliamentary Affairs*).~~

Bill read a second time. **Committee, forthwith.**

(House in Committee)

Clause 1, put and agreed to.

On clause 2,

Hon. Mushoriwa, moved:

On page 1 between lines 6 to 25 and on page 2 between lines 1 to 8, by the deletion of Clause 2 and subsequent clauses being renumbered accordingly.

Amendment put,

The Minister of Justice moved,

On page 2 between lines 2 and 8, clause 2 is amended by the deletion of subparagraph (b).

Amendment put and agreed to.

Clause 2, as amended, put and agreed to.

On new clause 3,

Hon. Hwende, moved:

The Bill is amended on page 2 in line 8 before clause 3 by the insertion of the following—

“3. Amendment of section 9 of Cap 2:13

The principal Act is amended in section 9 (“Chief Elections Officer and other employees of the Commission”) in —

- (a) sub-section (5) by the repeal of the words “without the approval of the Minister”;
- (b) sub-section (8) by the repeal of the words “with the approval of the Minister responsible for finance.”.

And subsequent clauses re-numbered accordingly.

Amendment put and withdrawn.

On clause 3,

The Minister of Justice, Legal and Parliamentary Affairs, moved:

On page 2 in line 13 of the Bill, clause 3 is amended by the deletion of the words “or youths” after the word “women”.

Amendment put and agreed to.

Clause 3, as amended, put and agreed to.

On new clause 4,

Hon. Hwende, moved:

The Bill is amended on page 2 after clause 3 by the insertion of following—

4. Amendment of section 10 of Cap. 2:13

The principal Act is amended in section 10 (“Staff of Commission during elections”) by the insertion of the following proviso to sub-section (1)—

“Provided that, such staff seconded to the Commission for the purposes of elections must not be political party activists or have traceable affiliation to any political party.”.

And subsequent clauses re-numbered accordingly.

Amendment put and deferred.

On clause 4,

The Minister of Justice, Legal and Parliamentary Affairs, moved:

On page 2 between lines 29 and 32, clause 4 is amended by the deletion of subparagraph (c) and substitution with the following:

“(c) that a province shall be allocated ten seats”.

Amendment put and agreed to.

Clause 4, as amended, put and agreed to.

On new clause 5,

Hon. Hwende, moved:

After new clause 4, insert the following —

5. Amendment of section 12 of Cap. 2:13

The Principal Act is amended in section 12 (“Funds and Finances of Commission”) by the repeal of paragraph (e) to sub-section (1).

And subsequent clauses re-numbered accordingly.

Amendment put and withdrawn.

Clause 5, put and agreed to.

On new clause 6,

Hon. Gonese, moved:

The Bill is amended on page 2 in line 8 before clause 3 by the insertion of the following—

“6. Amendment of section 17A of Cap 2:13

The principal Act is amended in section 17A (“Voter registration to be conducted continuously”) by the insertion of the following paragraph after paragraph (b) in subsection (2)—

“(c) voter registration shall facilitate the enjoyment of rights provided for in the Constitution and must be governed by principles of trust, inclusivity, accuracy, comprehensiveness and transparency” and subsequent clauses re-numbered accordingly.

Amendment put and withdrawn.

On new clause 6,

Hon. Hwende, moved:

The Bill is amended on page 2 before clause 3 by the insertion of the following—

6. Amendment of section 17A of Cap. 2:13

The Principal Act is amended in section 17A (“Voter registration to be conducted continuously”) after sub-section (2) by the insertion of the following sub-sections after

—

“(3) The Commission and the Registrar General shall ensure that an electronic biometric voter registration is kept and maintained.”.

And subsequent clauses re-numbered accordingly.

Amendment put and deferred.

Clause 6, put and deferred.

On new clause 7,

Hon. Hwende, moved:

After new clause 6, insert the following—

7. Amendment of section 20 of Cap. 2:13

The Principal Act is amended in section 20 (“Voters Roll to be kept by Commission”) by —

(a) the repeal of sub-section (1) and the substitution of the following—

“ (1) The Commission shall keep and maintain in printed and electronic form a voters roll for each polling station, ward and constituency, containing the names of all registered voters who may vote at polling station, ward and constituency as the case might be:

Provided that in the event that a voter is illiterate or physically handicapped and therefore would need assistance at the time of voting the Commission shall ensure that a note of such condition is contained in the voters roll.”;

(b) the insertion of a new sub-section after sub-section (5) as follows—

“(6) In order to identify a prospective voter the polling agents shall be furnished with a voters roll bearing pictures of all registered voters such that upon entry at the polling station to record their votes, the presiding officer or election official shall cause the announcing of their names for all polling agents to validate the facial features and name of the aspiring voter on the voters rolls provided.”.

And subsequent clauses re-numbered accordingly.

Amendment put and deferred.

On clause 7,

Hon. Mushoriwa, moved:

The Bill is amended on page 7 in lines 17 to 39 by the deletion of Clause 7 (“Amendment of

section 46 of Cap. 2. 13”) and the subsequent clauses shall accordingly be renumbered.

Amendment put and withdrawn.

Clause 7 put and deferred.

On new clause 8,

Hon. Hwende, moved:

After new clause 7, insert the following—

8. Amendment of section of 21 Cap. 2:13

The Principal Act is amended in section 21 (“Inspection of voters rolls and provision of copies”) by the repeal of sub-section (2) and the substitution of the following—

“(2) A person inspecting any voters roll in terms of subsection (1) may, without removing the roll from the office where it is kept—

- (a) photograph or make a copy of the roll or any part of it; and
- (b) make written notes of anything contained in it.”

And subsequent clauses re-numbered accordingly.

Amendment put and deferred.

On new clause 8,

Hon. Gonese, moved:

After new clause 7, insert the following—

8. Amendment of section 21 of Cap. 2:13

The principal Act is amended in section 21 (“Inspection of voters rolls and provision of copies”) as follows—

- (a) in subsections (3), (4), and (6) by the deletion of the phrase “within a reasonable period of time” and the substitution of “within seventy-two (72) hours” wherever it appears;
- (b) in paragraph (a) of subsection (6) by the insertion of “non-editable” before “electronic”;
- (c) by the deletion of paragraph (b) of subsection (6).

And subsequent clauses re-numbered accordingly.

Amendment put,

Business suspended at nineteen minutes past seven o'clock p.m.

Business resumed at quarter past eight o'clock p.m.

The Minister of Justice, Legal and Parliamentary Affairs, moved:

On new clause 8, in subparagraph (a) by the deletion of the words “within seventy-two (72) hours” and substitution with the words “five” and the deletion of subparagraph (b).

Amendment put and agreed to.

New clause 8, as amended, put and agreed to.

On clause 8,

Hon Mushoriwa, moved:

Clause 8 (now Clause 19) of the Bill is amended on page 7, line 50 and 51, by the deletion of the words “and in all newspapers of mass circulation in Zimbabwe” and substitution of following words —

“and in all newspapers and other media circulating in the constituency concerned.”

And the subsequent clauses shall accordingly be renumbered.

Amendment put and withdrawn.

On Clause 8,

The Minister of Justice, Legal and Parliamentary Affairs, moved:

On page 7 in line 50 of the Bill, clause 8 is amended by the deletion of all the words after the word "*Gazette*"

Amendment put and agreed to.

Clause 8, as amended, put and agreed to.

On new clause 9,

Hon. Mushoriwa, moved:

The Bill is amended on page 2 in line 8 before clause 3 by the insertion of the following—

Amendment to section 24 of Cap. 2:13.

The principal Act is amended in section 24 ("Claims for registration") in sub-section (6) by the repeal of the words "*proof of residence in that constituency or both of the foregoing*" and substitution of—

"proof of residence in that constituency and any other document that is reasonably needed to prove that the claimant is entitled to be registered in that constituency."

And subsequent clauses re-numbered accordingly.

Amendment put and withdrawn.

On clause 9,

Hon Mushoriwa, moved:

The Bill is amended on page 8 in lines 1 to 6 by the deletion of Clause 9 (now Clause 31) ("Amendment of section 119 of Cap. 2. 13")

And the subsequent clauses shall accordingly be renumbered.

Amendment put and withdrawn.

Clause 9 put and agreed to.

On new clause 10,

Hon. Gonese, moved:

The Bill is amended on page 2 in line 8 before clause 3 by the insertion of the following—

10. Amendment of section 37A of Cap. 2:13

The Principal Act is amended in section 37A ("Delimitation of constituencies and electoral divisions to be conducted openly and with consultation") as follows—

(a) by the repeal of subsection (2) and the substitution of the following—

"(2) When fixing or reviewing the boundaries of constituencies and other electoral divisions, the Commission shall—

(a) ensure that boundaries bringing apart electoral districts are set up in a way that matches interest communities (that is governmental regions, ethnic communities, racial communities and geographical zones);

- (b) within eight (8) months before elections receive representations from voters, political parties and other interested persons and bodies likely to be affected by the decision made by the Commission;
- (c) meet the National Multi-Party Liaison Committee to receive representations in order to delimit by gender, wards in local authorities, being that each ward may not be allocated the same gender for a period exceeding two (2) five (5) year terms of office coterminous with the life of Parliament;
- (d) meet the National Multi-Party Liaison Committee to receive representations in order to delimit provinces for purposes of National Assembly youth seats to be held by persons aged between the ages 18 years to 35 years;
- (e) for the purpose of youth representation to the National Assembly, each province shall not be allocated the same gender for a period exceeding two (2) five (5) year terms of office coterminous with the life of Parliament;
- (f) publish in the *Gazette* the date, time and place a meeting in terms of paragraph (a) and (b) shall be convened.”.

(b) by the insertion of new sub-sections (3), (4) and (5) as follows—

“(3) After receiving representations from voters, political parties, Multiparty Liaison Committees and other interested persons and bodies; and having concluded the delimitation process, the Commission shall prepare and publish a report in the *Gazette* within sixty (60) days.

(4) The Commission shall promulgate regulations that will detail the implementation of the delimitation process in terms of this section. The delimitation process should avoid any kind of manipulation and gerrymandering.

(5) In the event of a boundary dispute, any person can lodge a complaint with the Commission, which shall be determined within seven (7) days of lodging the complaint. If anyone is aggrieved by the decision of the Commission, they shall lodge an appeal with the Electoral Court.”.

And the subsequent clauses shall accordingly be renumbered.

Amendment put and withdrawn.

On Clause 10,

The Minister of Justice, Legal and Parliamentary Affairs, moved:

On page 8, line 10 the insertion of the phrase “ withdraw his candidature at least twenty-one days before polls,” after the word “may” and the deletion of the phrase, “*any time before twenty-one days from the day or first day as the case may be on which the poll in a local council election has to be taken, withdraw his or her candidacy.*”

Clause 10 as amended put and agreed to.

On new clause 11,

Hon. Hwende, moved:

The Bill is amended on page 2 in line 8 before clause 3 by the insertion of the following—

11. Amendment of section 37C of Cap. 2:13

The Principal Act is amended in section 37C (“Electoral centres and transmission of results to and between electoral centres”) after sub-section (4) by the insertion of the following sub-section—

“(5) The Commission shall ensure that, for at least two months after the announcement of the result of the election concerned, all voting returns are kept open for inspection by members of the public at all reasonable times, and copies shall be provided upon payment of prescribed fees at—

- (a) the head office of the Commission, where the returns are for an election to the office of President;
- (b) the provincial command centre of the province concerned, where the returns are for an election of party-list members of Parliament for a province or members of a provincial council;
- (c) the constituency centre of the constituency concerned, where the returns are for an election of a member of the National Assembly for a constituency;
- (d) the ward centre of the ward concerned, where the returns are for an election of a councillor for a ward.”.

And subsequent clauses re-numbered accordingly.

Amendment put and withdrawn.

The Minister of Justice, Legal and Parliamentary Affairs moved:

That line 18-21 be deleted and that clause 11 be deferred.

On new clause 12,

Hon. Hwende, moved:

The Bill is amended on page 2 in line 8 before clause 3 by the insertion of the following—

12. Amendment of section 40I of Cap. 2:13

The Principal Act is amended in section 40I (“Accreditation of observers”) in sub-section (1a) by the insertion of the following sub-paragraph—

“(b1) open observer accreditation at least six months before any General election and one month before any by-election.”.

And the subsequent clauses shall accordingly be renumbered.

Amendment put and deferred.

On new clause 18,

Hon. Gonese, moved:

The Bill is amended by the insertion of a new clause on page 7 in line 40 as follows—

“18. Amendment of section 47 of Cap. 2:13

The Principal Act is amended in section 47 (“Nomination fee”) by the insertion a new sub-section (2) as follows—

“(2) The nomination fee shall neither be exorbitant nor inhibitive but reasonable enough to allow an eligible citizen to stand for election for public office.”.

And the subsequent clauses shall accordingly be renumbered.

Amendment put and agreed to.

New Clause 18, put and agreed to.

On new Clause 20,

Hon. Gonese, moved:

The Bill is amended on page 8 between lines 1 and 5 by the deletion of clause 9 (now clause 31) and the substitution of the following—

“20. Insertion of sections to Cap. 2:13

The principal Act is amended by insertion of the following section 52B and C—

“52B. Printing of Ballot Paper

The Commission shall call for a competitive tender to print ballot papers and all related electoral material including the procurement of indelible ink, the supply of ballot boxes and all relevant material.

52C. Zimbabwe Election Commission National Logistics Committee

(1) Every political party in Parliament should have one representative each in the Commission’s National Logistics Committee established in terms of paragraph 7 of the First Schedule to the Zimbabwe Electoral Commission Act [*Chapter 2:12*].

(2) All other political parties that are not in parliament shall have one representative in the Commission’s National Logistics Committee and subsequent clauses re-numbered accordingly.

Amendment put and deferred.

On new clause 21,

Hon. Gonese, moved:

The Bill is amended by the insertion of the following new clause on page 8;

21. Amendment of section 57 of Cap:13

The principal Act is amended in section 57 (“Manner of voting”) by the insertion of the following sub-paragraph (d) after paragraph (c) as follows —

“(d) a tactile ballot jacket shall be provided for persons with visual impairment.” and subsequent clauses re-numbered accordingly.

Amendment put and deferred.

On new Clause 22,

Hon. Hwende, moved:

The Bill is amended on page 8 by the insertion of the following new clause after new clause 21—

“22. Amendment of section 59 of Cap 2:13

The principal Act is amended in section 59 (“Voting by illiterate or physically handicapped voters”) by the insertion—

(a) of the following sub-paragraphs after paragraph (a) —

“(a1) provide a ballot paper in braille or any other form where so requested by a visually impaired voter;”;

(b) by the insertion after sub-section (5) of the following sub-section—

“(5a) The Commission shall—

(a) verify and consider objections to assisted voting claimants;

(b) cause the publication of the list of assisted voters at all polling stations” and subsequent clauses re-numbered accordingly.

Amendment put and withdrawn.

On new Clause 23,

Hon. Hwende, moved:

The Bill is amended on page 8 by the insertion of the following new clause after new clause 22—

23. Amendment of section 64 of Cap 2:13

Section 64 (“Procedure after counting at polling station”) of the principal Act is amended by the insertion of the following sub-section after sub-section (2) —

“(3) After affixing a polling station return on the outside of the polling station in terms of subsection (1)(e), the presiding officer shall personally transmit the polling

station returns electronically directly to the National Tallying Centre which shall post the returns on a public portal” and subsequent clauses re-numbered accordingly.

Amendment put and deferred.

New clauses 24 to 28 put and withdrawn.

On new clause 28,

Hon. Gonese, moved:

The Bill is amended on page 8 by the insertion of the following new clause after new clause 27—

28. Insertion of new section to Cap 2:13

The principal Act is amended by insertion of the following sections after section 81 —

“81A. Persons entitled to special vote

(1) In subsection (2)—

“essential service” includes—

- (a) any hospital or medical service;
- (b) any transport service;
- (c) any service relating to the generation, supply or distribution of electricity;
- (d) any service relating to the supply or distribution of water;
- (e) any sewerage or sanitary service;
- (f) any service relating to the production, supply, delivery or distribution of food, fuel or coal;
- (g) any fire brigade;
- (h) communications services.

(2) A registered voter shall be entitled to cast a special vote in terms of this Part before the polling day or first polling day in an election if he or she will be unable to vote at a polling station in his or her constituency or ward because he or she—

- (a) is or will be an electoral officer; or
- (b) is a member of a security service who will be performing security duties during the election; or
- (c) is likely to be employed in an essential service; or
- (d) will be, or is likely to be, a patient in a hospital, clinic or similar place; or
- (e) are detained in prison; or
- (f) is a person with a disability; or for any other reason that may be prescribed.

81B. Fixing of date, place and time of special voting

(1) As soon as practicable after the calling of an election, the Commission shall fix for the purposes of special voting—

- (a) two (2) polling days, the last polling day of which shall be at least sixteen (16) days before the polling day or first polling day, as the case may be, in the election; and
- (b) the location of polling stations, which shall be located at a constituency or ward centre:

Provided that if the Commission considers that the constituency or ward in question is too large or that for any other reason special voters may be prejudiced by having only one special polling station within a constituency or ward, the Commission may establish one or more additional polling stations within the constituency or ward, to be called "special district sub-centre polling stations"; and

- (c) the hours during which special voting can take place.

(2) Where two or more elections are held concurrently, the Commission shall fix the same polling days, the same special polling stations and the same hours of polling for all the elections.

(3) The Commission shall give reasonable public notice of the days and hours fixed for special voting, and of the location of the special polling stations, to—

- (a) the persons who are or will be entitled to cast special votes:

Provided that, in the case of members of security services, it shall be sufficient for the Commission to give notice to their commanding officers; and

- (b) political parties and candidates contesting the election; and
- (c) observers accredited for the election.

81C. Where special voters must vote

(1) A voter who is authorised to cast a special vote in terms of this Part must cast his or her vote at the special polling station for the constituency or ward in which he or she is or another special polling station in a different constituency or ward nearer where the voter is.

(2) A voter who has been authorised to cast a special vote shall not be entitled to vote in any other manner than by casting a special vote in terms of this Part.

81D. Application for special vote

(1) A person who wishes to cast a special vote in an election shall apply for authorisation to the Commission at least fourteen (14) days before the first special polling day in the election.

(2) An application under subsection (1) shall—

- (a) be in the prescribed form; and
- (b) be signed by the applicant and accompanied by, or a certified copy of, his or her national registration card or voter registration certificate; and
- (c) where the application is made by an electoral officer, be accompanied by a certificate from the Chief Elections Officer stating that the applicant will be carrying out duties as an election officer in the election concerned elsewhere than in the constituency in which the applicant is registered as a voter; and
- (d) where the application is made by a member of a security service, be accompanied by a certificate from his or her commanding officer stating that the applicant will be deployed to carry out security duties elsewhere than in the constituency or ward in which the applicant is registered as a voter.

(3) The Chief Elections Officer shall number all applications for authorisation received by the Commission, noting on each of them the date on which it was received, and shall permit them to be inspected by members of the public, for the prescribed fee, if any, until the declaration of the result of the poll, when they shall be dealt with in terms of this Act.

81E. Issue or refusal of authorisation to cast special vote

(1) If the Commission is satisfied that an applicant is entitled to cast a special vote in terms of this Part, the Chief Elections Officer shall—

- (a) notify the applicant accordingly and supply him or her with a written authorisation to cast a special vote; and
- (b) inform the applicant of the days on which he or she may cast a special vote and the place and times at which he or she may do so.

(2) The Chief Elections Officer shall keep a list of all authorisations issued in terms of subsection (1), which list shall contain the following details of every person to whom an authorisation has been issued—

- (a) the person's name and address; and
- (b) the person's voter registration number; and
- (c) the ward and constituency in which the person is registered; and shall be open for inspection by members of the public, for the prescribed fee, if any, until the declaration of the result of the poll, when it shall be dealt with in terms of this Act.

(3) The Chief Elections Officer shall ensure that the voters roll supplied to each constituency and ward centre for the purposes of the election has a line drawn through every voter in the ward who has been authorised to cast a special vote and shall inscribe opposite that person's name the letters "S.V.".

(4) If the Commission is not satisfied that an applicant is entitled to cast a special vote in terms of this Part, the Chief Elections Officer shall immediately notify the applicant that authorisation has been refused and that the applicant must attend personally at a polling station to cast his or her vote.

(5) Any person aggrieved by the decision of the Commission to deny him or her special vote is entitled to make an urgent appeal to the Magistrate's Court or the Electoral Court.

81F. Procedure for special voting

(1) The Commission shall ensure that on the first day fixed for special voting in terms of section 114, special polling stations are established at the constituency or ward centre for special voting.

(2) The Commission shall provide a ballot box at each special polling station clearly marked "Special Voting Ballot Box".

(3) Special ballot papers shall be in the same form as ballot papers delivered to voters at polling stations on any polling day in the election concerned, except that special ballot papers shall be inscribed in the top right-hand corner with the letters "S.V."

(4) Not more than thirty minutes before the commencement of the poll at a special polling station, the constituency elections officer shall—

- (a) satisfy himself or herself that the special ballot box to be used at the special polling station is empty; and
- (b) show the interior of the empty special voting ballot box to such of the candidates, election agents, observers and other persons entitled to attend at the special polling station as are present; and
- (c) immediately thereafter close and seal the ballot box in accordance with instructions issued by the Commission.

(5) The seal of the ballot box shall be broken—

- (a) at the start of polling on the first special voting day, and then re-sealed at the close of the poll; and
- (b) at the start of polling on the second special polling day, and then the ballot box shall be opened at the close of the poll; in the presence of such of the candidates, election agents, observers and other persons entitled to attend at the special polling station as are present.

(6) The procedure for voting at special polling stations shall be the same as for voting at ordinary polling stations on the polling day or days in the election concerned, except that—

- (a) the voter, in addition to his or her proof of identity, shall be requested to produce his or her authorisation to cast a special vote; and
- (b) the voter shall be given an envelope clearly inscribed with the words "Special Ballot Papers" and the name of the constituency and ward in which he or she is registered, and shall be instructed that, after marking the ballot paper in accordance with this Act, he or she must place the ballot paper in the envelope and seal the envelope before depositing it in the special ballot box:

Provided that, where more than one election is being held concurrently in the constituency, the voter shall be instructed to place all his or her marked ballot papers in the same envelope; and

- (c) voters casting special ballots shall comply with the instructions given to them in terms of paragraph (b).

(7) Subject to this section, the provisions relating to the conduct of a poll shall apply, with any necessary changes, to special voting.

81G. Opening of special ballot boxes

(1) Immediately after the time fixed for voting at a special polling station has ended, the constituency elections officer shall, in the presence of such candidates, election agents, observers and electoral officers as are present—

- (a) open the special ballot box; and
- (b) count and record the number of envelopes in the special ballot box; and
- (c) compare the number of envelopes in the special ballot box with the number of persons who were authorised to cast a special vote in the constituency or ward, as notified by the Chief Election Officer, and, if there is any discrepancy between the numbers, inform the candidates, election agents and observers who are present.

(2) The constituency elections officer shall then place in a package all the envelopes found in the special ballot box and shall seal the package and permit the candidates, their election agents and observers who are present to inscribe their signatures over the place where the package is sealed.

(3) The constituency elections officer shall then personally convey to the provincial elections officer—

- (a) the package that has been sealed in terms of subsection (2); and
- (b) the record of the number of envelopes contained in the package; whereupon the provincial elections officer shall take charge of them and be responsible for their safe custody and transmission to the Chief Elections Officer.

(4) Upon receipt of the package that has been sealed in terms of subsection (2), the Chief Elections Officer shall at least five (5) days before the polling day or first

polling day, as the case may be, in the election, give notice to each candidate or his or her chief election agent of the time, date and place at which he or she will—

- (a) open the package referred to in subsection (3); and
- (b) count and record the number of envelopes in the package; and
- (c) compare the number of envelopes in the package with the number recorded by the constituency elections officer of the special polling station and, if there is any discrepancy between the numbers, inform the candidates, election agents and observers who are present.

(5) Immediately after completing the formalities required by subsection (4), the Chief Elections Officer shall forthwith distribute the envelopes, unopened, to the constituency elections officers for the constituencies or wards indicated on the backs of the envelopes, together with an accompanying note indicating the number of envelopes that are sent and the special ballot paper envelopes shall be dealt with in terms of this Act.

81H. Procedure for voting by citizens outside Zimbabwe

The commission shall establish voting facilities in such countries hosting a significant number of Zimbabweans who shall cast their votes for Presidential candidates only.

81I. Offences in relation to special votes

(1) Any person who, having been authorised to cast a special vote in terms of this Part, casts or attempts to cast a vote at an ordinary polling station shall, whether or not he or she has cast a special vote at the same election, be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six (6) months or to both such fine and such imprisonment.

(2) A person who attempts to induce any other person to obtain a special ballot paper with the intention of influencing him or her by bribery or intimidation to record his or her vote in favour of a particular candidate shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six (6) months or to both such fine and such imprisonment and, in addition to any such punishment, may, if he or she is convicted of that offence by the Electoral Court, be declared by the Electoral Court to be disqualified from voting at any election for a period not exceeding five years.

(3) Any person who makes or induces any other person to make a false statement in an application for a special ballot paper shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six (6) months or to both such fine and such imprisonment.

And subsequent clauses re-numbered accordingly.

Amendment put,

Hon Gonese, moved:

The new clause 28 is amended by the deletion of sections 81A to 81G and.

Amendment put and agreed to.

New Clause 28, as amended put and deferred.

New clauses 29 and 30, put and withdrawn.

On new clause 31,

Hon. Gonese, moved:

The Bill is amended on page 8 by the insertion of the following new clause after new clause 30—

“31. Amendment of section 133 of Cap :13

The principal Act is amended in section 133 (“Responsibilities of political parties and candidates”) by the insertion of the following sub-paragraphs after paragraph (c) —

“(d) The Code of Conduct set out in the Fourth Schedule shall be binding on all political parties, candidates and agents participating in an election.

(e) If any party violates the provisions of the Code, the Commission may—

(i) disqualify the candidate from participating in the election in the constituency or ward concerned; or

(ii) stop the candidate or party from campaigning for a period of time; or

(iii) issues a warning; or

(iv) forfeit a candidate’s deposit; or

(v) bar the party, agent or candidate from not using the media.” and the subsequent clauses shall accordingly be renumbered.

Amendment put and deferred.

On new clause 32,

Hon Mushoriwa, moved:

The Bill is amended on page 8 after new clause 31 by the insertion of the following—

32. Insertion of new sections in Cap. 2:13

“The principal Act is amended by the insertion after section 134 of the following section—

135 Abuse of public resources

“(1) In this section—

“public officer” means a person holding or acting in a paid office in the service of the State;

“public resources” has the meaning given to it in the Public Finance Management Act [*Chapter 22:19*].

(2) Any candidate for election who, being a public officer, directly or indirectly, by himself or herself or by another person, uses or expends public resources for the purposes of the election in contravention of the Public Finance Management Act [*Chapter 22:19*] shall be guilty of the offence of abuse of public resources and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.”.

And the subsequent clauses shall accordingly be renumbered.

Amendment put and negatived.

On new clause 33,

Hon. Gonese, moved:

The Bill is amended on page 8 by the insertion of the following new clause after new clause 32—

33. Amendment of section 160G of Cap 2:13

Section 160G (“Access to public broadcasting media”) of the principal Act is amended in subsection (2) —

(a) by the insertion of the following paragraphs —

“(f) a code of conduct to govern media practitioners’ conduct during elections and the penalties for contravening the code.

(g) that appropriate measures, as may be prescribed, are provided for to prevent any form of abuse or curtailment of the right of access to the broadcasting services.”.

(b) by the insertion of the following subsection after subsection (3) —

“(3) The media shall, as far as practicable, provide information in officially recognised languages or endeavour to translate.”. And the subsequent clauses shall accordingly be renumbered.

Amendment put, and deferred.

On new clause 34.

Hon Mushoriwa, moved:

The Bill is amended on page 8 by the insertion of the following new clause after new clause 33—

34 Amendment to section 166 of Cap. 2:13

The Principal Act is amended in section 166 (“Interpretation in Part XXIII”) by the repeal of the section and substitution of —

166 Interpretation in Part XXIII

“In this Part—

“constituency”, in relation to an election of a councillor, means the ward in which the election took place;

“respondent”, subject to section 169(3), means the President, Member of Parliament or councillor whose election or qualification for holding office is complained of in an election petition.”.

And the subsequent clauses shall accordingly be renumbered.

Amendment put and withdrawn.

On new clause 35,

Hon. Mushoriwa, moved:

The Bill is amended on page 8 by the insertion of the following new clause after new clause 34—

35 Amendment of section 167 of Cap. 2:13

“The principal Act is amended in section 169 (“Notice of election petition to be served on respondent”) by the repeal of the section and substitution of —

169 Service of election petition

“(1) Within ten days after presentation of an election petition, the petitioner shall cause a copy of the petition, together with notice of its presentation and of the names and addresses of the proposed sureties, to be served on the respondent.

(2) Where an election petition complains of an act or omission on the part of the Commission or any employee or agent of the Commission or any public officer, the petitioner shall cause the petition and other documents referred to in subsection (1) to be served also on—

(a) the Commission; and

(b) the employee, agent or public officer, if his or her identity is known and it is practicable to effect service on him or her.

(3) Where an election petition and other documents have been served on a person referred to in subsection (2), that person shall have the same rights and responsibilities in regard to the petition as the respondent.”

And the subsequent clauses shall accordingly be renumbered.

Amendment put and agreed to.

On new clause 36,

Hon. Mushoriwa, moved:

The Bill is amended on page 8 by the insertion of the following new clause after new clause 35—

36 Amendment of section 171 of Cap. 2:13

“The principal Act is amended in section 171 (“Provisions as to trial of election petition”) by the insertion of the following sub-sections after sub-section (2) —

“(3) Any question of fact to be determined on the trial of an election petition shall be decided on a balance of probabilities.

(4) At the trial of an election petition the Electoral Court shall endeavour to determine the real issues raised by the petition and, while observing the rules of natural justice, shall not be unreasonably restricted by procedural technicalities.”.

And the subsequent sections shall accordingly be renumbered.

Amendment put and deferred.

On new clause 37,

Hon Mushoriwa, moved:

The Bill is amended on page 8 by the insertion of the following new clause after new clause 36—

37 Amendment of section 177 of Cap. 2:13

“The principal Act is amended in section 177 (“When non-compliance with this Act invalidates election”) by the repeal of the section and substitution of—

177 When irregularity invalidates election

“(1) In this section—

“irregularity”, in relation to an election, means—

- (a) a disqualification or lack of qualification on the part of the person who was declared elected; or
- (b) an electoral malpractice; or
- (c) a mistake or improper performance of any function, or a failure to perform any function, on the part of the Commission or any of its employees or agents or on the part of any public officer; or
- (d) a contravention, whether intentional or inadvertent, of this Act or the Constitution; or
- (e) a failure to conduct the election in accordance with the principles laid down in section 3 of this Act or Chapter 7 of the Constitution.

(2) The Electoral Court shall set aside an election if it is satisfied that there was a material irregularity in the course of or in connection with the election, unless the Court considers that the irregularity did not affect and was not likely to have affected the result of the election.”

And the subsequent sections shall accordingly be renumbered.

Amendment put and negatived.

On new clause 38 (Amendment of section 182 of Cap. 2:13),

Hon Mushoriwa, moved:

The Bill is amended on page 8 by the insertion of the following new clause after new clause 37—

38. Amendment of section 182 of Cap. 2:13

- (a) “The principal Act is amended in section 182 (“Time within which election petitions and appeals thereon to be determined”) the insertion of a new sub-section after sub-section (3) as follows—

“(4) If an election petition or appeal is not determined within the time prescribed in subsection (1) or (2), as the case may be, the legal practitioners, if any, who represented the petitioner and the respondent at any stage of the proceedings—

- (a) shall be jointly and severally liable for the costs of the proceedings; and
- (b) shall not be entitled to any fees or charges in respect of the work they may have done for their clients;

unless the court, being satisfied that they were not responsible for any delay in the determination of the petition or appeal, orders the contra.

And the subsequent sections shall accordingly be renumbered.

Amendment put and negatived.

On new clause 38,

Hon Gonese, moved:

The Bill is amended on page 8 by the insertion of the following new clause after new clause 37—

38. Insertion of new section to Cap 2:13

The principal Act is amended by the insertion of the following new section after section 182—

“182A. Assumption of Office by the President - Elect

(1) There shall be established an ad hoc Committee which shall be called the Assumption of the Office of President Committee which shall comprise of, the—

- (a) Chief Secretary to the Cabinet who shall be the Chairperson;
- (b) Permanent Secretary responsible for Justice, Legal and Parliamentary Affairs;
- (c) Permanent Secretary responsible for Home Affairs;
- (d) Permanent Secretary responsible for Foreign Affairs;
- (e) Permanent Secretary responsible for Local Government;
- (f) Permanent Secretary responsible for Defence;
- (g) Attorney General;
- (h) Chairperson of the Public Service Commission;
- (i) The Director General of the Intelligence Services ;
- (j) The Commander of the Defence Forces;
- (k) The Commissioner General of the Police Services;
- (l) The Commissioner General of the Prison Services.

(2) The Permanent Secretary responsible for Justice Legal and Parliamentary Affairs shall be the Secretary to the Committee.

(3) The Chairperson of the Committee shall convene the first meeting of the Committee upon the conclusion of the harmonized elections.

(4) The quorum of the Committee shall be two thirds of its membership

(5) The Committee shall —

- (a) to ensure the smooth transfer of power from an outgoing president to the president elect where applicable;
- (b) make arrangements for the security of the President Elect;
- (c) make arrangements for the briefing of the President Elect by public officials on relevant matters;
- (d) make provisions for the assignment of personnel and facilities for the president elect;
- (e) organise and coordinate meetings and communication between the outgoing president and president elect;
- (f) make preparations for the inauguration program;
- (g) execute any other functions and activities related to its mandate.

(6) The President Elect shall be entitled to consult the Committee in order to carry out any preparations necessary for the Assumption of Office.

(7) The President Elect shall be entitled to seek any information in writing from any Public Officer the President Elect considers necessary and such officer shall be obliged to provide such information.

(8) The Committee shall make all the necessary arrangements for the swearing in ceremony including publication in the Gazette.

(9) After the taking of the oath of office by the President Elect the outgoing President shall hand over the symbolic instruments of power being the Constitution and a sword

(10) This section shall not apply if the incumbent is re-elected into office”.

And the subsequent sections shall accordingly be renumbered.

Amendment put and deferred.

On new clause 39,

Hon Gonese, moved:

The Bill is amended on page 8 by the insertion of the following new clause after new clause 38—

39. Amendment of section 192(6) of Cap 2:13

Section 192 (“Regulatory powers of Commission”) of the Principal Act is amended by deletion of “approved by the Minister and” in section 192(6).

And the subsequent sections shall accordingly be renumbered.

Amendment put and withdrawn.

The Minister of Justice, Legal and Parliamentary Affairs, moved: That the Chairperson do now report progress and seek leave to sit again.

Motion put and agreed to.

(House resumed)

Progress reported.

Committee to resume- Tuesday, 30th May 2023

9. On the motion of the Minister of Justice, Legal and Parliamentary Affairs: The House adjourned at seven minutes past 12 o'clock am until Tuesday, 30th May 2023 at a quarter past two o'clock in the afternoon.

HON. ADV. J. F. N. MUDENDA
Speaker.

~~TUESDAY, 30TH MAY, 2023~~

~~ORDERS OF THE DAY AND NOTICES OF MOTIONS~~

~~1. THE MINISTER OF ENERGY AND POWER DEVELOPMENT~~

~~THAT WHEREAS section 327(2) of the Constitution of Zimbabwe provides that any convention, treaty or agreement acceded to, concluded or executed by or under the authority of the President with one or more foreign states or governments or international organisations shall be subject to approval by Parliament.~~

~~WHEREAS the Agreement on the Privileges and Immunities of the International Atomic Energy Agency (Agreement) was made in 1959:~~