

CHAPTER 2:10
REFERENDUMS ACT

Act 12/1999, 22/2004 (s. 3)

ARRANGEMENT OF SECTIONS

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To provide for the holding of referendums to ascertain the views of citizens on any questions or issues.

[Date of commencement: 11th January, 2000.]

1 Short title

This Act may be cited as the Referendums Act [*Chapter 2:10*].

2 Interpretation

(1) In this Act—

“Electoral Act” means the Electoral Act [*Chapter 2:01*];

“Minister” means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“referendum” means a referendum held in terms of section *four*;

“returning officer” means an officer of the Zimbabwe Electoral Commission;

[Definition inserted by section 3 of Act 22 of 2004]

“voter” means a person who is entitled to vote in a referendum in terms of section *six*.

(2) Any expression that is not specifically defined in subsection (1) and to which a meaning has been assigned in the Electoral Act has the same meaning when used in this Act.

3 Referendum proclamation

Whenever the President considers it desirable to ascertain the view of voters on any question or issue, he may by proclamation in the *Gazette*—

(a) declare that a referendum is to be held in order to ascertain the view of voters on that question or issue; and

(b) appoint a day or days for the holding of the referendum; and

(c) state the hours at which voting for the purposes of the referendum will commence and will close; and

(d)

[Paragraph deleted by section 3 of act 22 of 2004]

4 Referendum to be held on appointed day

A referendum of voters shall be held on the day or days appointed in terms of paragraph (b) of section *three* for the purpose of determining whether the voters are in favour of or against the question or issue to be decided at the referendum.

5 Question or issue to be stated on ballot-papers

All ballot-papers used for voting in a referendum shall state the question or issue to be determined at the referendum.

6 Persons entitled to vote at referendum

Any person who satisfies the presiding officer of a polling station that he or she is eighteen years or above and is eligible to be registered as a voter on the voter’s roll shall be entitled to vote at a referendum.

7 Majority of voters to decide question at referendum

The majority of votes given in a referendum shall determine the opinion of the voters on the question or issue to be decided at the referendum.

8 Declaration of result of referendum

(1) As soon as practicable after the close of the voting in a referendum, the returning officer shall count the votes recorded in favour of and the votes recorded against the question or issue to be decided at the referendum.

(2) The returning officer shall reject and not count any ballot paper which—

- (a) does not bear the official mark of a presiding officer or of the returning officer; or
- (b) bears any writing or mark by which the voter can be identified otherwise than as is prescribed in the Electoral Act; or
- (c) is not marked with a cross in the appropriate rectangle; or
- (d) is marked with a cross which does not indicate with certainty in the appropriate rectangle whether the voter intended to record a vote in favour of or against the question or issue to be decided at the referendum.

(3) Immediately after he has counted the votes, the returning officer shall send the Chief Elections Officer a statement of—

- (a) the total number of votes recorded; and
- (b) the number of votes recorded in favour of the question or issue to be decided at the referendum; and
- (c) the number of votes recorded against the question or issue to be decided at the referendum; and
- (d) the number of spoilt ballot papers.

(4) As soon as the Chief Elections Officer has received the statement of every returning officer in terms of subsection (3), he shall ascertain and declare—

- (a) the total number of votes in favour of the question or issue to be decided at the referendum; and
- (b) the total number of votes against the question or issue to be decided at the referendum; and
- (c) the total number of spoilt papers;

recorded at the voting throughout Zimbabwe.

(5) The Minister shall notify in the *Gazette* the numbers of the votes as finally ascertained by the Chief Elections Officer and the results of the referendum as determined thereby:

Provided that, if the outcome of the referendum is affected by the result of any appeal brought in terms of section *nine*, any notification in terms of this section shall be amended accordingly.

[Section as amended by section 3 of Act 22 of 2004]

9 Appeals

(1) An appeal shall lie to the Electoral Court as to the correctness of any decision of a returning officer in admitting or rejecting any vote in regard to which there has been a dispute between the returning officer and an aggrieved party.

(2) An appeal under subsection (1) shall be lodged with the registrar of the Electoral Court within thirty days after the declaration by the Registrar-General in terms of subsection (4) of section *eight*.

(3) Part XXIII of the Electoral Act shall apply, *mutatis mutandis*, to any appeal under subsection (1) as if it were an election petition.

[Section as amended by section 3 of Act 22 of 2004]

10 Application of Cap. 2:01

Subject to this Act, the Electoral Act and the regulations made thereunder shall apply to any referendum, in so far as they can appropriately be applied to it, as if the referendum were a general election held following a dissolution of Parliament, and for that purpose—

- (a) any reference in the Electoral Act to an election shall be construed as a reference to a referendum;
- (b) any reference in the Electoral Act to candidates and to candidates' election agents or polling agents shall be disregarded;
- (c) any forms used for the purposes of the Electoral Act may be used for the purposes of a referendum, with or without modification.

11 Regulations

(1) The Commission may by regulation prescribe anything which, in his opinion, is required or permitted to be prescribed or which, in its opinion, is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

[Subsection as amended by section 3 of Act 22 of 2004]

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the form of ballot papers;

- (b) the establishment of polling stations outside the constituencies for which they are established, where voters who are not physically present in the constituencies in which they are registered or entitled to be registered, as the case may be, may cast their votes;
 - (c) the establishment of multi-constituency polling stations, that is to say, polling stations where voters may vote if they are registered or entitled to be registered in any of two or more constituencies;
 - (d) such modifications or adaptations of the Electoral Act or the regulations made thereunder as the Commission considers necessary or expedient to give effect to this Act and for its proper administration.
- (3) Regulations made in terms of subsection (1) shall not have effect until they have been approved by the Minister and published in the *Gazette*.

[Subsection inserted by section 3 of Act 22 of 2004]