Referendums Regulations, 2013

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IT is hereby notified that the Zimbabwe Electoral Commission has, in terms of section 11 of the Referendums Act [Chapter 2:10] (No. 24 of 1999), made these regulations with the approval of the Minister of Constitutional and Parliamentary Affairs:—

Title

1. These regulations may be cited as the Referendums Regulations, 2013.

Interpretation

- 2. In these regulations—
 - "accredited media practitioner" means a media practitioner accredited in terms of the Access to Information and Protection of Privacy Act [Chapter 10:27] (No. 5 of 2002) or the Broadcasting Services Act [Chapter 12:06] (No. 3 of 2001);
 - "attendance register" means a register kept at every polling station in which are recorded the names and signatures of those entitled to remain in the polling station and the capacities in which they sign;
 - "collation centre" means any ward, constituency, district collation centre or provincial collation centre at which the votes cast at a referendum are collated;
 - "collation return" means a polling station, ward, constituency, district or provincial collation return;
 - "Commission" means the Zimbabwe Electoral Commission;
 - "component returns" means, in relation to-
 - (a) a ward collation return, the polling station returns making up that return;
 - (b) a constituency collation return, the polling station returns and ward collation returns making up that return;
 - (c) a district collation return, the polling station returns, ward collation returns and constituency collation returns making up that return;

- (d) a provincial collation return, the polling station returns, ward collation returns, constituency collation returns and district collation returns making up that return;
- "constituency collation centre" means the place in a constituency where the constituency returning officer receives ward collation returns and component returns from the ward collation centres in the constituency and collates them;
- "district collation centre" means the place in a district where the district returning officer receives constituency collation returns and component returns from the constituency collation centres in the district and collates them;
- "National Command Centre" bears the same meaning as in the Electoral Act;
- "observer" bears the same meaning as in the Electoral Act;
- "protocol register" means the register kept at very polling station in which are recorded any noteworthy occurrences within or in connection with the polling station;
- "provincial collation centre" means the place in a province where the provincial returning officer receives district collation returns and component returns from the district collation centres in the province and collates them;
- "referendum proclamation" means the proclamation published in terms of section 3 of the Act declaring the holding of the referendum in question;
- "returning officer", for the purposes of these regulations, means the officer of the Commission in charge of a polling station or collation centre;
- "Voters' Register" means the register kept at every polling station which is referred to in section 13;
- "ward collation centre" means the place in a ward where the ward returning officer receives polling station returns from the polling stations in the ward and collates them.

Proof of eligibility to vote in referendum

- 3. (1) For the purpose of voting at a referendum, a person is presumed (unless the contrary is shown) to be eligible to be registered as a voter on the voters' roll if he or she produces to the returning officer at a polling station any one of the following documents—
 - (a) a national identity document, that is to say, an identity document in terms of section 7(2) of the National Registration Act [Chapter 10:17]; or
 - (b) a "waiting pass", that is to say, a notice in writing in terms of section 7(1) of the National Registration Act [Chapter 10:17], which includes a photograph of the bearer; or
 - (c) a valid Zimbabwean passport;

on which it is legibly shown that the person is a citizen of Zimbabwe of or over the age of eighteen years.

(2) For the avoidance of doubt, it is declared that a driver's licence cannot be used for the purpose of proving eligibility to be registered on the voters' roll.

Where voters may vote

4. A voter in a referendum may vote at any polling station, no matter where he or she is resident or on what voters roll he or she is registered or entitled to be registered.

Returning officers and referendum officers

- 5. For the purposes of a referendum, the Commission, from the members of its staff (whether permanent or temporary)—
 - (a) shall appoint persons to exercise the functions of returning officers for each polling station and at the National Command Centre;
 - (b) may appoint other persons to exercise functions as referendum officers.

Polling stations

6. (1) Subject to subsection (5), the Commission shall cause polling stations to be established at such places and in such numbers

as the Commission considers necessary to enable voters conveniently to cast their votes at a referendum.

- (2) Every polling station must be located in a place that is readily accessible to the public, including persons living with disabilities.
- (3) In deciding upon the location of polling stations the Commission shall endeavour to consult with interested persons, including political parties and interested private voluntary organisations.
- (4) At least forty-eight hours before the date or the first date (as the case may be) of the referendum, the Commission shall cause notice of—
 - (a) the location of polling stations; and
 - (b) the hours during which the polling stations will be open (which hours must be the same as those fixed by the referendum proclamation);

to be published in the *Gazette* and in any mass circulation newspaper, as well as on the Commission's website and in such other manner as the Commission thinks fit.

(5) A polling station must open at the hour and stay open continuously for the period fixed by the referendum proclamation:

Provided that if for good cause the returning officer determines that it is not possible to open a polling station at the hour fixed by the referendum proclamation, he or she may open it at such later hour as will enable him or her to keep the polling station continuously open for at least twelve hours on the day (or every day, as the case may be) of the referendum.

Ballot papers

- 7. (1) The ballot papers used for voting in a referendum shall be in the form set out in the First Schedule.
- (2) Not later than forty-eight hours before the date or the first date (as the case may be) of the referendum, the Commission must cause the following information to be published in the *Gazette*—

- (a) the name and address of the printer who printed the ballot papers; and
- (b) the total number of ballot papers printed for the referendum; and
- (c) the number of ballot papers allocated to each province for distribution to polling stations in that province.
- (3) If it becomes necessary to print additional ballot papers, the Commission must publish details in a mass circulation newspaper of the numbers of additional ballot papers that have been printed and the reasons why it has become necessary to print additional ballot papers.
- (4) Before the commencement of the voting at any polling station, the returning officer must, in the presence of such observers who are present, count and record the total number of ballot papers received at the polling station on section A of the Referendum Polling Station Return in **Form R1** contained in the Fourth Schedule and allow such observers as are present to record the number of ballot papers received at that polling station.

Ballot boxes

- 8. (1) Not more than thirty minutes before the commencement of the voting at any polling station, the returning officer in the presence of such observers as are present, must—
 - (a) satisfy himself or herself that the ballot box to be used at the polling station is empty; and
 - (b) show the interior of the empty ballot box to such observers as are present; and
 - (c) immediately thereafter close and seal the ballot box in accordance with instructions issued by the Commission.
- (2) If for any reason it becomes necessary at any time during the polling period to use an additional ballot box at any polling station, subsection (1) will apply, with any changes that may be necessary, before that ballot box is so used.

Directions to guide voters

9. Before voting in a referendum begins at any polling station,

the returning officer must affix in a prominent place inside the polling station a notice in the form set out in the Second Schedule.

Observers and accredited media practitioners

- 10. (1) Subject to this section, observers at a referendum must be accredited beforehand in accordance with Part IXB of the Electoral Act in the same way as for an election, and are subject to the code of conduct set out in the First Schedule to the Electoral Act.
- (2) On entering a polling station or collation centre an observer must exhibit to the returning officer his or her accreditation certificate and sign the attendance register.
- (3) Not more than four observers, or, if there are more than four observers wishing to observe the referendum inside a polling station, not more than four observers representing different observer groups, may be present at once inside a polling station.
- (4) If there are more than four observers wishing to observe the referendum inside a polling station, the returning officer must arrange for those observers outside the station to rotate with those inside at fixed intervals.
- (5) For the avoidance of doubt, it is declared that the absence of observers at the voting or the collation of votes or during any other process in connection with the referendum must not delay the voting, collation or other process concerned.
- (6) With reference to the role of accredited media practitioners during a referendum, the Commission may from time to time give written instructions to returning officers concerning the following matters—
 - (a) the number of accredited media practitioners who may be allowed at any time within a polling station; and
 - (b) the conduct of accredited media practitioners inside a polling station.
- (7) On entering a polling station or collation centre an accredited media practitioner must exhibit to the returning officer his or her proof of accreditation and sign the attendance register.

(8) Any observer or accredited media practitioner who contravenes subsection (3) or (7) or an instruction given under subsection (6) may be required by the returning officer to leave the polling station or collation centre, and a refusal on the part of the observer or practitioner to do so shall render him or her liable to be prosecuted for the same offence as that specified in section 90 of the Electoral Act.

Use of mobile phones and cameras inside polling stations and collation centres

- 11. (1) No person voting in a referendum and no observer or (subject to subsection (4)) accredited media practitioner may make use of a mobile phone for telephonic communication or use a mobile phone camera or other camera to take photographs or make kinetic images inside a polling station.
- (2) A referendum officer, observer or accredited media practitioner may not use a mobile phone during the voting and counting processes inside a polling station or collation centre.
- (3) The returning officer may, for official purposes in connection with the referendum, use a mobile phone during the voting and counting processes inside a polling station or collation centre.
- (4) The returning officer may allow accredited media practitioners to take photographs and make kinetic images inside the polling station or collation centre, but the media practitioners must not interfere with or obstruct the voting processes and must not take pictures of any voters who are marking their ballots inside voting compartments.
- (5) Any accredited media practitioner who contravenes subsection (4) may be required by the returning officer to leave the polling station, and a refusal on the part of the practitioner to do so shall render him or her liable to be prosecuted for the same offence as that specified in section 90 of the Electoral Act.

False or misleading information relating to referendum question or issue

12. (1) If it comes to the attention of the Commission that-

- (a) any person or organisation canvassing for or against the question or issue that is to be decided at the referendum;
- (b) any broadcaster (including a public broadcaster) or print publisher;

is publishing information on the question or issue that, in its opinion, is—

- (c) false, in that the information provided by the person, organisation, broadcaster or print publisher is materially false or incorrect; and
- (d) likely to prevent a substantial number of voters from making an informed choice in the referendum;

the Commission may by written notice direct the person, organisation, broadcaster or print publisher concerned to do either or both of the following—

- (e) cease publishing the information or to make such alterations to it as the Commission may specify to render it accurate and fair;
- (f) make such retraction or correction of the information as the Commission directs and in the manner so directed.
- (2) Before giving a direction under subsection (1)(e) or (f), the Commission shall afford every person responsible for publishing the information concerned an adequate opportunity to make representations in the matter.
- (3) A person to whom a direction has been given under subsection (1)(e) or (f), shall immediately take all necessary steps to comply with the direction.
- (4) Any person who contravenes subsection (3) shall be liable to be prosecuted for the same offence as that specified in section 40E of the Electoral Act.

Voters' Register

13. (1) The returning officer of every polling station shall keep a register ("the Voters' Register") in the form set out in the Third

Schedule on which must be recorded full names, identification particulars, date of birth and gender of every person who enters a polling station to vote in the referendum, such person having satisfied the returning officer that he or she is eligible to vote at the referendum.

(2) The returning officer must also note in the protocol register the names of voters who have not been allowed to vote because they are not eligible to vote and those persons who have been assisted to vote and the reasons therefor.

Method of voting and voting by illiterate or physically handicapped voters

- 14. (1) When a person claiming the vote in a referendum has received a ballot paper, he or she must—
 - (a) take the ballot paper to the compartment provided for the purpose; and
 - (b) then signify on the ballot paper whether he or she is in favour of or against the question or issue that is to be decided at the referendum, by secretly placing a cross in the appropriate rectangle according to the directions given on the ballot paper; and
 - (c) then fold the ballot paper as instructed by the referendum officer who issued the ballot paper so that the official mark is visible and the cross made by him or her is not visible and deposit the ballot paper into the ballot box.
- (2) Section 59 of the Electoral Act applies with such changes as may be necessary to voting by illiterate or physically handicapped voters at a referendum, and the reference in that section to a "special register" shall be construed as a reference to the protocol register.

Procedure on closure of voting

- 15. (1) The returning officer must permit every voter to vote who, at the time fixed for the closure of voting at the polling station concerned, is in the queue of persons waiting to cast their votes.
- (2) Immediately after the closure of voting, the returning officer, in the presence of such observers as are present, must close and seal the aperture of the ballot box with the seal strap.

- (3) The returning officer must then, without opening the ballot box, account for all the ballot papers issued by him or her, by completing section B of the R1 Form contained in the Fourth Schedule.
- (4) As soon as practicable after the closure of the voting, the returning officer must, in the presence of such observers as are present, open the ballot box and count and record the votes in favour of the issue or question to be decided at the referendum and the number of votes against the issue or question.
- (5) The returning officer must reject and not count any ballot paper which—
 - (a) does not bear the official mark of the returning officer, and section 63(5) and (6) of the Electoral Act will apply to such ballots; 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 in a manner that clearly indicates whether the voter intended to vote in favour of the issue or question or against it.
- (6) Immediately after he or she has counted the votes, the returning officer must compile a return of the results by completing section C of the Referendum Polling Station Return Form R1 contained in the Fourth Schedule indicating therein—
 - (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 rejected ballot papers.
 - (7) The returning officer must then-
 - (a) display the completed polling station return to those present and afford each observer the opportunity to subscribe their signatures thereto; and

- (b) affix a copy of the polling station return on the outside of the polling station so that it is visible to the public; and
- (c) provide a copy of section C of the polling station return to any observer present who requests it.
- (8) The returning officer must then make up into separate packets and seal—
 - (a) the unused and cancelled ballot papers and counterfoils of unused ballot papers;
 - (b) the counterfoils of the used ballot papers, including the counterfoils of spoilt ballot papers;
 - (c) the Voters' Register;
 - (d) used ballot papers of those who have voted yes in the referendum;
 - (e) used ballot papers of those who have voted no in the referendum.
- (9) The returning officer must then place in the ballot box the marked ballots, and the separate packages with the unused ballot papers, the counterfoils of unused ballot papers, the spoilt ballots, the rejected ballots, and the Voters' Register.
- (10) The returning officer must then close and seal the aperture of the ballot box.

Transmission and collation of results

- 16. (1) Immediately after he or she has compiled the polling station return and affixed the return outside the polling station and provided copies thereof to such observers as may be present, the returning officer at each polling station must personally deliver the original copy of the polling station return to the ward returning officer and, if facilities exist, must also transmit by electronic mail or telefax the polling station return to the Chief Elections Officer.
- (2) Immediately on receipt of the polling station returns from the polling stations in the ward, the ward returning officer must, in the presence of any observers who may be there—

- (a) check the accuracy of each polling station return and satisfy himself or herself that it has been duly completed and properly signed; and
- (b) add up the totals of the referendum results for the ward and enter the collated results in a (ward) collation return in the form contained in the Fifth Schedule; and
- (c) upon completion of the ward collation return, affix a copy of the ward collation return outside the ward collation centre; and
- (d) immediately thereafter personally deliver or cause a referendum officer to deliver original copies of the polling station returns and the ward collation return to the constituency returning officer and, if facilities exist, must also transmit by electronic mail or telefax the ward collation return to the Chief Elections Officer.
- (3) Immediately on receipt of the polling station returns and the ward collation returns from the ward collation centres in the constituency concerned, the constituency returning officer must, in the presence of any observers who may be there—
 - (a) check the accuracy of each ward collation return and satisfy himself or herself that it has been duly completed and properly signed; and
 - (b) add up the totals of the referendum results from the ward collation returns for that constituency and enter the collated results in a (constituency) collation return in the form contained in the Fifth Schedule; and
 - (c) upon completion of the constituency collation return, affix a copy of the constituency collation return outside the constituency collation centre; and
 - (d) immediately thereafter personally deliver or cause a referendum officer to deliver original copies of the polling station returns, ward collation returns and the constituency collation return to the district returning officer and, if facilities exist, must also transmit by electronic mail or telefax the constituency collation return to the Chief Elections Officer.

- (4) Immediately on receipt of the polling station returns, ward collation returns and constituency collation returns from the constituency collation centres in the district concerned, the district returning officer must, in the presence of any observers who may be there—
 - (a) check the accuracy of each constituency collation return and satisfy himself or herself that it has been duly completed and properly signed; and
 - (b) add up the totals of the referendum results from the constituency collation returns for that district and enter the collated results in a (district) collation return in the form contained in the Fifth Schedule; and
 - (c) upon completion of the district collation return, affix a copy of the district collation return outside the district collation centre; and
 - (d) immediately thereafter personally deliver or cause a referendum officer to deliver original copies of copies of the polling station returns, ward collation returns, constituency collation returns and the district collation return to the provincial returning officer and, if facilities exist, must also transmit by electronic mail or telefax the district collation return to the Chief Elections Officer.
- (5) Immediately on receipt of the polling station returns, ward collation returns, constituency collation returns and district collation returns from the district collation centres in the districts making up the province concerned, the provincial returning officer must, in the presence of any observers who may be there—
 - (a) check the accuracy of each district collation return and satisfy himself or herself that it has been duly completed and properly signed; and
 - (b) add up the totals of the referendum results from the district collation returns for that province and enter the collated results in a (provincial) collation return in the form contained in the Fifth Schedule; and
 - (c) upon completion of the provincial collation return, affix a copy of the provincial collation return outside the provincial collation centre; and

(d) immediately thereafter personally deliver original copies of the polling station returns, ward collation returns, constituency collation returns, district collation returns and the provincial collation return to the Chief Elections Officer and, if facilities exist, also transmit by electronic mail or telefax the provincial collation return to the Chief Returning Officer.

Final collation of results

- 17. (1) As soon as the Chief Elections Officer has received every polling station return and collation return, the Chief Elections Officer must commence the final collation process.
- (2) Observers will be entitled to observe the final collation process:

Provided that the Chief Elections Officer may fix a reasonable maximum number of observers who may be present at any one time during the process, taking into account the capacity of the venue at which the collation is taking place.

- (3) The Chief Elections Officer must then-
- (a) verify the accuracy of the polling station returns, ward collation returns, district collation returns, constituency collation returns and provincial collation returns; and
- (b) satisfy himself or herself that the polling station returns, ward collation returns, constituency collation returns, district collation returns and provincial collation returns have been duly completed and signed in all material respects; and
- (c) add up the figures contained in the provincial collation returns in order to determine—
 - (i) the total number of votes in favour of the question or issue to be decided at the referendum; and
 - (ii) the total number of votes against the question or issue to be decided at the referendum; and
 - (iii) the total number of rejected ballot papers;

recorded at the voting in the referendum throughout Zimbabwe, and having determined these the Chief Elections Officer must record the count of the referendum.

Announcement and publication of results of referendum

- 18. (1) No later than five days after the close of polling in the referendum, the Chief Elections Officer must publicly declare the tally of the votes in each of the categories specified in section 17(3)(c)(i), (ii) and (iii), and—
 - (a) announce the outcome of the question or issue that was decided by voters to the referendum; and
 - (b) affix a copy of the results on the outside the National Command Centre; and
 - (c) provide certified copies of the results to those observers present who request such copies.
- (2) The Chief Elections Officer must then immediately transmit the results of the referendum to the Minister who, as soon as practicably thereafter, must notify in the *Gazette* and in mass circulation and local newspapers the numbers of the votes as finally ascertained by the Chief Elections Officer and the results of the referendum as determined thereby.

Modification of Schedules

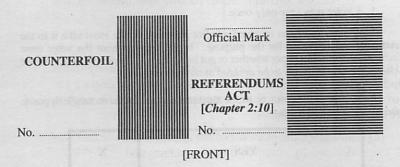
- 19.(1) The Commission may modify the collation return set out in the Fifth Schedule so as to enable the results of the appropriate component returns to be incorporated in the ward collation return, constituency collation return, district collation return and provincial collation return.
- (2) The Commission may modify the First, Second, Third and Fourth Schedules in any manner that it deems will augment their comprehensibility, accuracy or utility for the purposes of these regulations, without, however, substantively altering their content.

Repeal of Statutory Instrument 22A of 2000

20. The Referendum Regulations, 2000, published in Statutory Instrument 22A of 2000, are repealed.

FIRST SCHEDULE (Section 7(1))

FORM OF BALLOT PAPER



[Statement of the Question to be Decided]

If you are in favour, make a cross in the rectangle opposite the word "YES". If you are against, make a cross in the rectangle opposite the word "NO".

	YES		
nataron	NO	osia tenta di	

[REVERSE]

SECOND SCHEDULE (Section 9)

DIRECTIONS TO GUIDE VOTERS IN VOTING

- 1. A voter may vote only once.
- 2. When a voter has received a ballot paper, he or she must take it to the compartment provided for the purpose. In the compartment the voter must indicate on the ballot paper whether or not he or she is in favour of [here state the question or issue that is to be decided at the referendum].

If the voter is in favour, he or she must make a cross in the rectangle opposite the word "YES" like this—

YES	X
NO	·

If the voter is against, he or she must make a cross in the rectangle opposite the word "NO" like this—

YES	
NO	x

- 3. The voter must then fold the ballot paper so that the official mark can be seen and the cross he or she has made cannot be seen.
- 4. The voter must then go to the ballot box hold the ballot paper up so that the presiding officer can recognise the official mark on it, and must then drop the paper in the ballot box in front of the presiding officer.
- 5. A voter MUST NOT sign his or her name on the ballot paper, and MUST NOT make any other mark on it that might reveal his or her identity. If a ballot paper is signed or has such a mark on it, it will be considered blank and will not be counted.
- 6. If a voter inadvertently spoils a ballot paper, he or she may return it to the presiding officer, who may give the voter another paper.

THIRD SCHEDULE (Section 13(1))

VOTERS' REGISTER

RECORD OF PERSONS VOTING IN REFERENDUM

The following per	sons voted in the referendum:	•.	
	tation:		
Name of local aut	hority:	*****	
Name of ward:	***************************************	*************	••••••
Name of district:	***************************************	***************************************	••••••
Name of province	·		•••••
			[a]
Full names of voter	National Identity Number	Date of birth	Gender
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			etc
Name of returning off	icer in full:	***************************************	
Signature of returning	officer:	•••••	***************************************
Date:	•	•••••	•••••

FOURTH SCHEDULE (Sections 7(4), 15(3), (6) and 16(2))

REFERENDUM POLLING STATION RETURN

FORM R1

REFERENDUM ACT [CHAPTER 2:10]

(Section 8)

Polling Station Return for Referendum

To be completed with copies and distributed as follows:

- 1. To be displayed at polling station.
- 2. A copy to be given to each observer present at polling station.
- 3. A copy to be sealed in the ballot box.
- 4. A copy to be submitted to Ward Returning Officer.
- 5. A copy to be submitted to District Returning Officer

7. A copy to be submitted to the Chief Elections Officer.

- 6. A copy to be submitted to the Provincial Returning Officer.
- Name of polling station:

 Name of local authority:

 Name of ward:

 Name of district:

SECTION A Ballot papers received To be completed before polling takes place

Book	Serial numbers		Number of ballots	
	From	То		
Book 1				
Book 2				
Book 3				
Book 4		erege		
Book 5				
Book 6				
Book 7	•	•		
Book 8				
Book 9				
Book 10		Total		

SECTION B

Ballot paper account after close of poll To be completed before unsealing of ballot boxes

Unused ballot papers after polling	Serial	numbers	Totals
	From	То	
	· ·		
· 		· · ·	
-			
}-			<u> </u>
Unnumbered ballot papers			:
Spoilt ballot papers			

SECTION C Polling station results after counting

Total votes in favour of issue or question	
Total votes against issue or question	
Number of rejected ballot papers	
Ballot papers unaccounted for	

Total number of votes valid and rejected votes cast	
Total Hamilton of Yours Valle and Tojoures Yours Cast	

Referendums Regulations, 2013

Names and signatures of observers present-

Full names	Organisation represented	Signature	Date
	•		

Full names of returning officer:
Signature of returning officer:
Date:
Full names of witness:
·
Signature of witness:

FIFTH SCHEDULE (Section 7(4)) COLLATION RETURN FORM R3

Name of polling station/ward collation centre/constituency collation centre/district collation centre/provincial collation centre (delete inapplicable):

Total votes in favour of issue or question	
Total votes against issue or question	
Number of rejected ballot papers	
Ballot papers unaccounted for	
Total number of votes valid and rejected votes cast	

Names and signatures of observers present-

Full names	Organisation represented	Signature	Date
		·	
_			

Full names of collation officer:	٠.
Signature of collation officer:	•••
Date:	••
Full names of witness:	••
Signature of witness:	

