

FOURTH SCHEDULE (Sections 40B, 46, 133G, 160A and 191)

ELECTORAL CODE OF CONDUCT FOR POLITICAL PARTIES AND CANDIDATES AND OTHER STAKEHOLDERS

[Schedule substituted by s 36 of Act No. 6 of 2018]

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Preamble

This Code is contained in the Fourth Schedule of the Electoral Act of Zimbabwe. All political parties, members, supporters, candidates as well as all individuals, organisations and associations that are formally or informally associated with political parties or that formally or informally conduct political activities, in particular traditional leaders, security and law enforcement officials, public servants and civil society organisations, are expected to abide by this Code during the electoral process. The electoral process includes but is not limited to voter registration, inspection, voter education, nomination, delimitation, voting, counting, tabulation, transmission and announcement of results. In reference to Sections 158 and 159 of the Constitution of Zimbabwe, the Code starts applying 12 months before the earliest possible polling date of a general election and for the 90 days before a by-election caused by a vacancy or a general election required by the dissolution of Parliament.

Purpose of Code

1. The purpose of this Code is to promote conditions that are conducive to free and fair elections and a climate of tolerance in which electioneering activity may take place without fear or coercion, intimidation or reprisals.

General principles

2.(1) The legitimacy of a government borne out of democratic multi-party political activity rests on the following principles—

¹ This table of contents was not in the Schedule as originally enacted, but has been inserted by Veritas to assist readers.

- (a) that the political environment is at all times free of violence, coercion and intimidation
- (b) that conditions are conducive to free, fair and democratic elections conducted through a secret ballot in a climate of democratic tolerance in which political activity may take place without fear of intimidation or reprisals;
- (c) that as a result of being informed through education of the policies and qualities of all political parties, leadership, official and members, citizens are able to make an informed choice; and
- (d) that people are able to choose and vote for a political party freely, without interference, fear, undue influence or bribery.
- (e) that political parties and all candidates as well as their members, and their supporters accept others have the right to present their political principles and ideas in a peaceful environment without intimidation or fear of reprisal, and must respect that right;
- (f) that all political parties and candidates contesting an election or participating in a referendum should be provided with fair and equal access to the electronic and print media both public and private.

(2) All political parties and all candidates as well as their members, and their supporters, and all stakeholders to whom this Code applies commit themselves in good faith to these principles spelled out in subarticle (1) above and must promote them so that—

- (a) a culture of peace pervades political activity;
- (b) political processes will be recognised as expressing the credible free choice of the people;
- (c) the result of that choice will be respected by all.

Application

3. This Code will apply to political parties, candidates for election, election agents for candidates as well as members and supporters of political parties and candidates. Other stakeholders, namely all individuals, organisations and associations that are formally or informally associated with political parties or that formally or informally conduct political activities, in particular traditional leaders, security and law enforcement officials, public servants and civil society organisations are urged to assist in its observance.

Public commitment

4. Every political party and every candidate must—

- (a) give wide publicity to this Code and ensure that their members and supporters are familiar with this Code and their obligation to comply with its terms; and
- (b) publicly state that, throughout the country, everyone has the right—
 - (i) to freely express their political beliefs and opinions;
 - (ii) to freely challenge and debate the political beliefs and opinions of others;
 - (iii) to freely canvass for membership and support from voters;
 - (iv) to freely attend public meetings convened by others;
 - (v) to freely distribute campaign material;
- (c) publicly condemn any action that may undermine the free and fair conduct of elections—
 - (i) in particular condemn and dissociate themselves unreservedly and publicly from any violence or intimidation, including when these acts benefit them and/or are committed by a stakeholder with whom they are formally or informally associated; and
 - (ii) co-operate with the law enforcement agencies in apprehending the culprits;
- (d) disseminate accurate information and materials on the electoral processes, based on their right to receive such information from the election authorities and other relevant authorities.
- (e) affirm and ensure respect for the secrecy of the vote;
- (e) accept the result of an election or challenge the result by due process of law.

Prohibited conduct: politically-motivated violence or intimidation

5. No political party or any of its members or supporters, and no candidate, any of his or her supporters and no stakeholders may—

- (a) use violence, or threaten violence or incite or encourage the use of violence, against anyone on account of his or her political opinions or membership or support of a political party or participation in the election;
- (b) intimidate, or incite or encourage the intimidation, of anyone on account of his or her political opinions or membership or support of a political party; or act in a way that may provoke violence or intimidation;
- (c) use violence or threats or illegal pressure to force a voter to refrain from voting or to vote for a candidate or political party against his or her will;
- (d) force a voter to reveal the identity of the candidate voted for or take reprisals against a person because of the way in which he or she has voted or is believed to have voted.

Prohibited conduct: other prohibited acts

6. No political party or any of its members or supporters, and no candidate or any of his or her supporters, may—

- (a) publish false or defamatory allegations about a party, its candidate(s), representatives or members;
- (b) discriminate on the grounds of race, ethnicity, sex, gender, class or religion in connection with an election or political party;
- (c) use hateful language which incites violence towards any individual or group, including in speeches, songs and slogans.
- (d) damage or deface property, including the election posters, placards, banners and other election material of another party or candidate, and any posters or other voter education materials disseminated by the Electoral Commission;
- (e) bar or inhibit access to meetings or to voters for the purpose of election campaigning;
- (f) carry or display weapons at political meetings or at marches, demonstrations, rallies or other public political events;
- (g) bribe a voter to exercise his or vote in a particular manner;
- (h) bribe or intimidate an election official to induce him or her to make a false entry in the voters roll or to alter or falsify election results;
- (i) encourage a person to vote knowing that they are not entitled to do so;
- (j) use the information on the voters roll supplied by the Commission for commercial purposes or to harass or intimidate voters (and they may not publish personal information about voters contained in the electoral roll);
- (k) coerce or offer monetary or other kinds of inducements to persons for them to participate in the activities of a political party not of their choice, or—
 - (i) to become or not become a member of certain political party, stand or not to stand as candidates, or to withdraw or not to withdraw their candidacies or membership of a political party;
 - (ii) violate the secrecy of the vote;
- (l) procure the support or assistance of any official or public servant to act in a partisan manner or further the interest of any political party or cause;
- (m) do any other thing that is defined in the Constitution, the Electoral Act or other laws of Zimbabwe as a corrupt and illegal practice or an offence;
- (n) abuse the right to complain to the courts by making false, frivolous or vexatious complaints.

Conduct during polling period

7.(1) No political party or candidate may, from midnight twenty-four hours before polling day in any election or referendum until polling stations are closed on that day—

- (a) convene or hold a public gathering of any kind;
- (b) publish, or cause or permit the publication, of any advertisement or statement promoting or opposing a particular party or candidate;
- (c) disrupt the work of election officials at a polling station or counting centre;
- (d) campaign or display campaign material within 300 metres of a polling station or counting centre;
- (e) coerce a voter, who does not require assistance, to be assisted to vote.

(2) On polling day in any election or referendum, all political parties and their members and supporters, and all candidates and their supporters, must—

- (a) co-operate with election officials to ensure that polling is peaceful and orderly and that voters are completely free to exercise their vote without being subjected to intimidation, annoyance or disturbance; and
- (b) generally, conduct themselves so as to respect the secrecy and integrity of the ballot.

Announcement of result of election

8. No candidate, and no office-bearer or member of a political party, may purport to declare or announce the results of an election before it has been declared officially by an electoral officer.

Respect for media and journalists

9. Every political party and candidate—

- (a) must respect the role of the news media before, during and after an election or referendum; The media and journalists must also abide by the Electoral Act (Section 160J) prescribing their conduct during the electoral process; and
- (b) may not prevent access by members of the news media to public political meetings, marches, demonstrations and rallies; and
- (c) must take all reasonable steps to ensure that journalists are not subjected to harassment, intimidation, threats or physical assault by any of their representatives or supporters.

Role of women

10. Every political party and every candidate must—

- (a) respect the right of women to communicate freely within parties and as candidates; and
- (b) facilitate the full and equal participation of women in political activities; and
- (c) ensure the free access of women to all public political meetings, marches, demonstrations, rallies and other public political events; and
- (d) take all reasonable steps to ensure that women are free to engage in any political activities.

Compliance – political parties

11.(1) Every political party, every candidate and all supporters, including organisations formally and informally affiliated to political parties, must comply with this Code and in the case of a political party or a candidate—

- (a) instruct its candidates, persons who hold political office in the party and its representatives, members and supporters to comply with this Code and any applicable electoral and general laws;
- (b) issue directives proscribing intimidation, violence and other illegal activity or offence, and educate their members on the undesirability of the same;
- (c) initiate appropriate disciplinary action against its office-bearers, members and supporters, and candidates who contravene this Code or the laws of Zimbabwe.

Compliance – Multiparty Liaison Committees

12.(1) Political parties will participate in multiparty liaison committees chaired by the Zimbabwe Electoral Commission provided for by section 160A of the Electoral Act. As per section 160A of the Electoral Act “liaison committee” means a national multiparty liaison committee, a constituency multiparty liaison committee or a local authority multiparty liaison committee. As per section 160C of

the Electoral Act the function of the MPLC at central level is to create and establish multiparty liaison subcommittees in each province.

In agreement with the Electoral Commission and the political parties represented in Parliament, the multiparty liaison committees will be set up for the entire electoral process in concurrence with a view to the application of this Code of Conduct, according to the timeline stated in the introduction.

The functions of a multiparty liaison committee shall be—

- (a) to monitor political parties, candidates, supporters, their formal and informal associates, and other stakeholders in order to ensure that they adhere to the Code and uphold conditions conducive to free and unfettered free democratic political activity within a climate of tolerance in which political activities may take place without fear of coercion, intimidation or reprisals;
- (b) to foster and engender a spirit of goodwill among political parties as their contribution to the consolidation of peace in Zimbabwe. To contribute to the institutionalisation of a culture of mutual tolerance, democratic discourse and the principle of fair play in the conduct of national and local political activities in Zimbabwe;
- (c) to serve as a forum for discussion of issues of common concern, hear and resolve any disputes, concerns, matters or grievances relating to the electoral process, including in particular any disputes arising from allegations concerning non-compliance with the Code;
- (d) to immediately report upon and refer to the Commission any disputes, concerns, matters or grievances relating to the electoral process;
- (e) to request the Commission to mediate or appoint an independent mediator to resolve any dispute, concern, matter or grievance relating to the electoral process. The Commission or the mediator appointed should resolve them within the time requested by the multiparty liaison committee or within a reasonable time as per the Electoral Act;
- (f) to present to the Commission any reports, assessments, records or recommendations relating to the electoral process; and
- (g) generally, to assist in implementing the Code.

(2) The national multiparty liaison committee will delegate some of its functions to provincial multiparty liaison subcommittees. The functions of the provincial subcommittees will mirror the functions and composition of the national committee but will focus exclusively on the provincial context. The provincial subcommittees will also monitor, supervise or direct the activities of constituency multiparty liaison subcommittees.

(3) After nomination, Constituency multiparty liaison committees for a Presidential election, a general election for the purpose of electing members of the National Assembly or a by-election to fill a casual vacancy in the National Assembly, as well as local authority multiparty liaison committees for a general election of councillors or a local authority by-election will also be established.

(4) A national multiparty liaison committee shall consist of a Commissioner as the chairperson and two representatives of each political party and candidates. The parties will be those represented in Parliament prior to nominations, and those parties and candidates contesting the election after nominations have taken place. Representatives shall be selected by the party concerned. As provided for by the Electoral Act, the composition of a committee can be expanded to include any person invited by the representatives of every political party represented in the committee. The political parties have thus decided to invite representatives from other stakeholders covered by this Code. Representatives of government agencies, Constitutional Commissions (Chapter 12), civil society, individuals and other stakeholders may be invited to attend multiparty stakeholder meetings.

(5) Decisions of the multiparty liaison committees shall be made by consensus.

(6) Parties commit to refer disputes arising from allegations concerning non-compliance with the Code to the relevant multiparty liaison committee.

Compliance – enforcement of the Electoral Act and other relevant legislation

13.(1) In case of non-compliance with the Code of Conduct, political parties commit to take measures, including disciplinary action, and to first seek resolution of disputes within multiparty liaison committees.

(2) The Electoral Act prescribes sanctions for offences in the electoral process, including violence, intimidation and corrupt practices. These sanctions include imprisonment, fines as well as disqualification from voting or filling a public office.

(3) Political parties, the Zimbabwe Electoral Commission and other stakeholders have a duty to collaborate with law enforcement and judicial authorities, including the Zimbabwe Republic Police, the National Prosecuting Authority and the Courts, in preventing and sanctioning offenses in the electoral process.

Duty to co-operate

14. Every political party and every candidate must co-operate with other parties to avoid the risk of electoral-related conflict; in particular, they must—

- (a) endeavour not to call public meetings, marches or rallies that coincide with those called by another party or candidate contesting the election;
- (b) with the election authorities protect and enhance their role to supervise and administer elections;
- (c) with law enforcement officers maintain peace during the election period, as well as prevent and sanction offences in the electoral process;
- (d) with the Human Rights Commission and other Constitutional Commissions assist in the reporting, documentation and referral of human rights violations in the electoral process;
- (e) with judicial authorities in their application of the law sanction offences in the electoral process;
- (f) co-operate with other stakeholders, in particular individuals and organisations conducting political activities formally or informally in order to ensure compliance with this Code and to prevent election-related conflicts.

[Fourth Schedule substituted by s. 36 of Act No. 6 of 2018]