

COMMISSIONS WATCH 6/2016

ZIMBABWE ELECTORAL COMMISSION

[18th August 2016]

Zimbabwe Electoral Commission: Six Vacancies Filled

This bulletin is an update on the membership of the Zimbabwe Electoral Commission [ZEC] following its return to full strength with the filling of six vacancies last month.

Procedure for Appointment of ZEC Members

Appointments to the Zimbabwe Electoral Commission [ZEC] are made in terms of section 238(1)(b) of the Constitution – the President appoints from a list of nominees submitted by Parliament’s Committee on Standing Rules and Orders [CSRO].

Section 237 of the Constitution provides for the procedure to be followed by the CSRO in deciding on its list of nominees. It must advertise the vacancies and invite the public to make nominations. It must then conduct public interviews of prospective candidates, prepare a list of nominees and submit the list to the President. The list sent to the President must give the President a choice – the number of candidates on the list must be at least one-and-a-half times the number of vacancies to be filled. Finally, the President cannot appoint someone not on the CSRO list; he must make his choice from the persons on the list.

Reappointment is allowed, subject to the restriction that no-one may be appointed to serve more than 12 years in all, whether continuously or not [*Constitution, section 238(5)*]. A candidate seeking reappointment is not exempt from the procedure referred to in the previous paragraph – which means that he or she must be interviewed by the CSRO, in public, just like any other candidate. And reappointment is not automatic.

Six ZEC Vacancies Filled Recently

In May, the CSRO conducted interviews to fill six vacancies on the Zimbabwe Electoral Commission. The vacancies were caused by the expiry at the end of March of the terms of office of Mrs Joyce Kazembe [former deputy-chairperson], Mr Daniel Chigaru, Mr Theophilus Gambe, Dr Petty Makoni, Mrs Sibongile Ndhlovu and Mrs Bessie Nhandara.

Five of the six outgoing commissioners were among the candidates interviewed. They were Mrs Kazembe, Dr Makoni, Mrs Nhandara, Mr Chigaru, and Mrs Ndlovhu.

After conducting the public interviews, the CSRO submitted a list of nine nominees to the President. The President appointed the following six persons—

New members

Dr Ngoni Kundudzora, Mrs Netsai Mushonga and Mrs Faith Sebata

Reappointed members

Mrs Joyce Kazembe, Mr Daniel Chigaru and Mrs Sibongile Ndlovhu
The Commissioners were sworn into office on 7th July 2016.

Commissioners' Term of Office

In terms of section 238(5) of the Constitution, ZEC commissioners serve a six-year term of office and may be re-appointed, subject to a maximum of twelve years in office, whether continuous or not. Commissioners Kazembe, Chigaru and Ndlovhu, because they have already served six years, will not be eligible for reappointment when their terms of office expire in 2022. New Commissioners Kundidzora, Mushonga and Sebata will be eligible for reappointment.

Background of ZEC and ZEC's Composition Since 2010

ZEC was established as a Independent Constitutional Commission by the Nineteenth Amendment to the former Constitution [Act 1/2013]. Its first members were sworn into office on 31st March 2010 – Justice Simpson Mtambanengwe (Chairperson), Mrs Joyce Laetitia Kazembe (Deputy Chairperson), Mr Daniel John Chigaru, Mr Theophilus Gambe, Dr Petty Makoni, Mrs Sibongile Ndlovu, Mrs Bessie Fadzai Nhandara, Professor Geoff Feltoe, and Mr Mkhululi Nyathi . The transitional provisions of the present Constitution provided for them to continue in office until the expiry of their existing terms of office.

In February 2013, Justice Mtambanengwe resigned. Mrs Kazembe then served as Acting Chairperson until 15th March 2013 when Justice Rita Makarau was appointed as Chairperson. The Constitutional Referendum took place on 16th March and was followed by the adoption of the present Constitution and the holding of the Harmonised Elections on 31st July 2013.

On 31st July 2013, polling day in the Harmonised Election, Commissioner Nyathi tendered his resignation to the President. A few days later Commissioner Feltoe resigned on 5th August. These two vacancies were filled in 2015 by the appointment of Commissioner Magade and Commissioner Moyo. Only six commissioners, therefore, reached the end of their terms of office on 31st March 2016.

Current Composition of ZEC

Pre-2016 Appointments

Justice Makarau [chairperson] Justice Makarau has served as the ZEC chairperson since her appointment in 2013. Section 238(2) of the Constitution requires the chairperson to be a judge or former judge, or to be a person qualified to serve as a judge. Justice Makarau became a High Court judge since 2000, and was appointed Judge President of the High Court in 2006 [to date, she is the only woman to have served as Judge President]. In 2010 she was appointed as a judge of the Supreme Court.

She was also appointed as the Acting Secretary for the Judicial Service Commission in the same year, and still serves in that capacity. Justice Makarau is also the current President of the SADC Election Commissions Forum. Justice Makarau's term as a member of ZEC comes to an end in March 2019. She will be eligible for one more term of office thereafter.

Mr Emmanuel Magade [deputy chairperson] Mr Magade is the Dean of Law at the University of Zimbabwe. He was appointed as a commissioner in June 2015, and has served as the deputy-chairperson since March this year. His current term will expire in 2021, and he will be eligible for reappointment for one further term.

Mr Qhubani Moyo Mr Moyo was appointed to ZEC together with Mr Magade in June 2015. Mr Moyo, who is a public policy academic, was the Director of Policy and Research for the MDC led by Professor Welshman Ncube until he resigned in 2013. Mr Moyo's current term will expire in 2021, and he will be eligible for reappointment.

This Year's Reappointments

Mrs Joyce Kazembe Mrs Kazembe has a long history of service on election supervision and management bodies. She served on the Electoral Supervisory Commission from 2002 and a commissioner in 2006 pursuant to Constitutional Amendment No. 17 of 2005. Mrs Kazembe served as deputy-chairperson of ZEC from 2010 until March 2016 when her term of office expired. She was reappointed as a commissioner in July 2016. When Mrs Kazembe's term comes to an end in July 2022, she will not be eligible for another term of office.

Mr. Daniel Chigaru Mr Chigaru is an administrator and business leader. He was the General Manager of the Zimbabwe International Trade Fair from 2003 until his retirement in 2013, and was a ZEC Commissioner from 2010 until March 2016. When his term expires in July 2022, Mr Chigaru will not be eligible for reappointment.

Mrs. Sibongile Ndlovhu Mrs Sibongile Ndlovhu, who is a teacher by profession, first became involved in Zimbabwe's electoral processes in 1995 when she served as an election officer. She also worked for the Election Supervisory Commission as voter education supervisor. Mrs Ndlovhu was the Deputy Elections Officer for Bulawayo Province and the District Elections Officer in Bulawayo District from 2008 to March 2010. In 2010, she was sworn in as a Commissioner and served until her term expired in March 2016.. When her current term expires in July 2022, she will not be eligible for reappointment.

This Year's New Appointments

Dr. Ngoni Kundidzora Dr Kundidzora is a legal academic who has also worked as an independent consultant. Most recently, he served as an Assistant Professor of Law at Ethiopia's Civil Service University. Dr

Kundidzora's six-year term as a ZEC Commissioner will expire in July 2022, and he will be eligible for re-appointment.

Mrs. Netsai Mushonga Mrs Mushonga works as a consultant and trainer on issues of development, economic empowerment, women's rights, and gender-sensitive peace-building. She has worked for Amnesty International Zimbabwe, the Centre for Conflict Resolution in South Africa and also served as the National Coordinator of the Women's Coalition of Zimbabwe. She was instrumental in coordinating campaigns for the Domestic Violence Act and a gender-sensitive Constitution. Mrs Mushonga's six-year term of office will expire in July 2022, and she will be eligible for re-appointment.

Mrs. Faith Sebata Mrs Sebata is a retired educationist and is also the former Director of ZEC's Voter Registration Education Department. Her six-year term of office will expire in July 2022, and she will be eligible for reappointment.

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