



**Women and Law
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ANALYSIS OF THE ELECTORAL AMENDMENT BILL, 2022

[23 November 2022]

	Proposed Amendment	WLSA Analysis	Recommendation
1.	<p>Section 4 (“Interpretation”)(1) of the principal Act is amended— (a) by the insertion of the following definition— “disqualifying offence”, in relation to the disqualification of a candidate for election to the National Assembly or a local council, means convicted means any of the following offences of which the candidate is convicted within the period of twelve months (“the</p>	<p>Gender based violence remains a social ill therefore the provision should be comprehensive to cover crimes of gender based violence to disqualify candidates convicted of such crimes.</p>	<p>To read as follows: (a) in Zimbabwe of an offence of which breach of trust, dishonesty or physical violence; sexual harassment ;online and ICT related violence ;including all forms of gender based violence as defined by the Domestic Violence Act Sections 3 and 4 and Criminal Law Reform and Codification Act section 36 on public violence and sections on sexual crimes is an essential element; or</p>

	<p>relevant period”) before the date of nomination as a candidate, that is, being found guilty—</p> <p>(a) in Zimbabwe of an offence of which breach of trust, dishonesty or physical violence is an essential element; or</p> <p>(b) outside Zimbabwe of conduct which, if committed in Zimbabwe, would be an offence of which breach of trust, dishonesty or physical violence is an essential element; and being sentenced to imprisonment for six months or more without the option of a fine or without the option of any other non-custodial punishment, unless within the relevant period—</p> <p>(i) the candidate has been pardoned for the offence; or</p> <p>(ii) on appeal the candidate’s conviction is set aside or the sentence of imprisonment is reduced to less than six</p>		
<p>2.</p>	<p>by the repeal of the definition of “proof of identity” and the substitution of—</p> <p>““proof of identity” means a valid Zimbabwe passport, or a notice or</p>	<p>The previous section had the driver’s license; passport and national Id; notice of identity. The new clause proposes to remove the driver’s license.</p>	<p>This is not a substantive change for this has always been practiced by ZEC. The Electoral management body has always declined a driver’s license as proof of identity. However Zimbabwe still has need for ongoing</p>

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	identity document issued in terms of section 7 of the National Registration Act [Chapter 10:17];”		exercise for national registration to ensure all citizens are documented. We also still have Zimbabweans with identity documents with Alien status which should change to comply with the Constitutional Provisions on Citizenship.
3.	Amendment of section 45B of Cap. 2:13 Section 45B (“Interpretation in Part XIA”) of the principal Act is amended by the repeal of the definition of “party list seat” and the substitution of— “party-list seat” means one of the seats in the Senate referred to in section 120(1)(a) of the Constitution or one of the seats in the National Assembly reserved for women or youths referred to in section 124(1) (b) or (c) of the Constitution, or one of the seats in a provincial council referred to in section 268(1) of the Constitution or any local council seat reserved for women councilors in conformity with section 277(4) of the Constitution;”.	<p>This provision seeks to implement the Youth quota being 10 seats allocated to youths aged 21-35 years. This is one youth member for every electoral province. And further 30 % additional seats for local authorities.</p> <p>This means that National Assembly has 210 directly elected Constituency seats In addition, there will be 60 additional seats for Women’s quota. And furthermore there will be 10 seats for youths.</p> <p>However the party list submitted to ZEC in this provision does not make it a requirement for gender parity</p>	<p>The Electoral Act should make it compulsory for the party list seat for the youth quota to be submitted as Zebra listing with top candidate being female.</p> <p>Furthermore, the 30% quota of women councilors is below the constitutional threshold for gender equality and parity on decision making institutions which should be set at 40%.</p> <p>The quota system design should ensure the minimum 30% are within existing ward boundaries as opposed to additional non-constituency based system.</p>
4.	Section 45D (“Disqualifications for nominations as party-list candidate”)(1) of	This provision allows for openness and avoids duplication.	The provision should ensure party list should be submitted before nomination court for verification.

	<p>the principal Act is amended— (a) by the insertion of the following paragraphs after paragraph (e)— “(f) in the case of a party-list candidate for election as a youth member of the National Assembly, is also nominated as a candidate for election as a constituency member of the National Assembly, or as a member of a provincial council, or as a councilor. (g) in the case of a party-list candidate for election as a member of a local authority, is also nominated as a party-list candidate for election as a Senator or as a candidate for election as a constituency or youth member of the National Assembly, or as a member of a provincial council.”; (b) in subsection (2) by the deletion of “(d) or (e)” and the substitution of “(d), (e), (f) or (g)”.</p>		
<p>5.</p>	<p>Amendment of section 46 of Cap. 2:13 Section 46 (“Withdrawal of candidate”) of the principal Act is amended— (a) in subsection (1) by the insertion of the following paragraph after paragraph (e)— “(e1) (if the nomination form contains no space for a solemn declaration</p>	<p>Amendment of section 46(1) by insertion of paragraph (e1) is confusing and unclear. In-fact, section 46 deals with nomination and not withdrawal. Circumstances under the highlighted sections relates to disqualification of candidates</p>	<p>The heading must explicitly states that it deals with disqualification of candidates during nomination court by substitution withdrawal with nomination</p>

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	<p>by the candidate that he or she has not been convicted of a disqualifying offence, or, if so convicted, has been pardoned by the President or by virtue of an Act of Parliament) shall be accompanied by an affidavit to the effect that he or she has not been convicted of a disqualifying offence (or, if so convicted, has been pardoned by the President or by virtue of an Act of Parliament); and”;</p> <p>(b) in subsection (15) by the insertion of the following paragraph after paragraph (d)— “(d1) he or she has been convicted of a disqualifying offence without being pardoned therefor; or”;</p> <p>(c) in subsection (20) by the insertion of the following paragraph after paragraph (c)— “or</p> <p>(d) being a candidate, makes a false declaration in a nomination paper or in an affidavit accompanying such nomination paper that he or she is has not been convicted of a disqualifying offence or has received a pardon therefor;”.</p>		
6.	Amendment of section 49 of Cap. 2:13	The section sets time limits of withdrawal of a candidate. A candidate	This is admitted

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	<p>Section 49 (“Withdrawal of candidate”) of the principal Act is amended— (a) by the repeal of subsections (1) and (2) and the substitution of— “(1) Subject to this section, a duly nominated candidate for election for a constituency may withdraw, by notice in writing addressed to the Chief Elections Officer, his or her candidature at any time before twenty-one days from the day or first day, as the case may be, on which the poll in an election for the constituency is to be taken. (2) On receipt of a notice of withdrawal in terms of subsection (1), the Chief Elections Officer shall cause the withdrawal to be published in the <i>Gazette</i> and in all newspapers of mass circulation in Zimbabwe.</p>	<p>can only withdraw from an election 21 days before the elections</p>	
7.	<p>Amendment of section 119 of Cap. 2:13 Section 119 (“Qualifications and disqualifications for election as councilor”)(2) of the principal Act is amended by the repeal of paragraph (e) and the substitution of— “(e) he or she has been convicted of a disqualifying offence for which he or she has not received a pardon; or”.</p>	<p>This amendment entails and reinforced the new amendment on crimes involving dishonesty, fraud, corruption among others. It is admitted</p>	<p>This is admitted.</p>

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<p>8</p>	<p>Amendment of section 126 of Cap. 2:13 Section 126 (“Withdrawal of candidate”) of the principal Act is amended by the repeal of subsection (1) and the substitution of— “(1) Subject to this Act, a person who has been duly nominated as a candidate at an election may, at 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 is to be taken, withdraw his or her candidacy by means of written notification to the Chief Elections Officer, signed by the candidate personally.”.</p>	<p>This insertion reinforces and stipulates the timeframe under which a candidate in an election fir the council, municipality or local authority can withdraw their candidature. A candidate can only withdraw his or her candidature 21 days before the election or anytime earlier than that. The current principle Act did not have a provision for timeframes under which a candidate withdraws his or her candidature.</p>	<p>This is admitted.</p>
<p>9</p>	<p>Amendment of Eighth Schedule to Cap. 2:13 The principal Act is amended by the insertion in the Eighth Schedule of the following Part after Part IV—</p>	<p>This section sets out the formula for calculation of the 10% youth and 30% women council quotas which is calculated as follows: $30 \times \text{Number of wards in local authority concerned} \div 100$ This is calculated using the number of wards a political party won in an election. The examples in this section is illustrative.</p>	

ADDITIONAL POSSIBLE AMENDMENTS

1. The constitution of Zimbabwe in Sections 17, 56 and 80 provides for gender equality in all leadership positions. The Electoral Act must be amended to provide for gender equality in elected public positions and this is one of the key electoral reforms which promotes women leadership.
2. Impartial and balanced media coverage is an important electoral reform which must include women across the political divide coverage on public broadcasters like ZBC, Herald and others.
3. The Electoral Act and the Political Parties Financing Act must be amended to reforms demand that campaign funds must be subjected to audit and budget caps in wards, constituencies and nationally. This will ensure that women, who have less financial resources, are able to campaign and get elected. Supporting this reform promotes women leadership.
4. As part of the electoral reforms, political parties must create an enabling environment for women to freely participate which means that code of conducts must be enforced to stop sexual harassment, intimidation, name calling and violence. Supporting these reforms mean that women have equal opportunities to participate in electoral processes.
5. Women have strong conflict resolution skills and can mediate conflict more effectively thus electing women will promote peace and coercion in communities. Ending political violence and promoting effective conflict resolution are some of the key electoral reforms demands and electing women will help achieve this reform.