

Date Printed: 01/13/2009

JTS Box Number: IFES_20
Tab Number: 42
Document Title: CONSTITUTION OF ZIMBABWE AMENDMENT (NO 16)
BILL, 2000 DEPARTMENTAL DRAFT
Document Date: 2000
Document Country: ZIM
Document Language: ENG
IFES ID: CON00001



* 4 E B A A E 0 9 - F 2 3 1 - 4 B 6 5 - 8 A 6 4 - 9 5 7 0 0 5 D 3 0 3 F 5 *

DEPARTMENTAL DRAFT

Published in terms of section 52 (2) of the Constitution

**F. CLIFTON WHITE RESOURCE CENTER
INTERNATIONAL FOUNDATION FOR ELECTION SYSTEMS**

CONSTITUTION OF ZIMBABWE AMENDMENT (No. 16) BILL, 2000

MEMORANDUM

This Bill will amend the Constitution, firstly in regard to the compulsory acquisition of agricultural land and, secondly, to provide for the establishment and functions of an Anti-Corruption Commission.

In more detail the individual clauses of the Bill provide as follows:—

Clause 1

This clause sets out the Bill's short title.

Clauses 2 and 3

Clause 3 will insert a new section 16A into the Constitution dealing with the acquisition of agricultural land for resettlement. In brief, the new section will state that if the former colonial power does not pay compensation for agricultural land acquired for resettlement, the Government of Zimbabwe has no obligation to do so; the section will also set out factors that must be taken into account in assessing any compensation that may be payable.

Clause 2 will make consequential amendments to section 16 of the Constitution.

Clause 4

This clause will insert another new section into the Constitution, this one dealing with the establishment and functions of an Anti-Corruption Commission. The Commission's main function will be to combat corruption, theft, misappropriation, abuse of power and other improprieties in the public and private sectors.

BILL

To amend the Constitution of Zimbabwe.

ENACTED by the President and the Parliament of Zimbabwe.

1 Short title

5 This Act may be cited as the Constitution of Zimbabwe Amendment (No. 16) Act, 2000.

2 Amendment of section 16 of Constitution

Section 16 of the Constitution is amended—

- 10 (a) in subsection (1) by the deletion of “No property” and the substitution of “Subject to section *sixteen A*, no property”;
- (b) by the repeal of subsections (2) and (2a).

3 New section inserted in Constitution

10 The Constitution is amended by the insertion after section 16 of the following section—

15 “16A Agricultural land acquired for resettlement

(1) In regard to the compulsory acquisition of agricultural land for the resettlement of people in accordance with a programme of land reform, the following factors shall be regarded as of ultimate and overriding importance—

- (a) under colonial domination the people of Zimbabwe were unjustifiably dispossessed of their land and other resources without compensation;
- (b) the people consequently took up arms in order to regain their land and political sovereignty, and this ultimately resulted in the Independence of Zimbabwe in 1980; 5
- (c) the people of Zimbabwe must be enabled to reassert their rights and regain ownership of their land;

and accordingly—

- (i) the former colonial power has an obligation to pay compensation for agricultural land compulsorily acquired for resettlement, through a fund established for the purpose; and 10
- (ii) if the former colonial power fails to pay compensation through such a fund, the Government of Zimbabwe has no obligation to pay compensation for agricultural land compulsorily acquired for resettlement. 15

(2) In view of the overriding considerations set out in subsection (1), where agricultural land is acquired compulsorily for the resettlement of people in accordance with a programme of land reform, the following factors shall be taken into account in the assessment of any compensation that may be payable—

- (a) the history of the ownership, use and occupation of the land; 20
- (b) the price paid for the land when it was last acquired;
- (c) the cost or value of improvements on the land;
- (d) the current use to which the land and any improvements on it are being put;
- (e) any investment which the State or the acquiring authority may have made which improved or enhanced the value of the land and any improvements on it; 25
- (f) the resources available to the acquiring authority in implementing the programme of land reform;
- (g) any financial constraints that necessitate the payment of compensation in instalments over a period of time; and 30
- (h) any other relevant factor that may be specified in an Act of Parliament.”.

4 New section inserted in Constitution

The Constitution is amended by the insertion after section 108 of the following section— 35

“108A Anti-Corruption Commission

(1) There shall be an Anti-Corruption Commission consisting of at least four and not more than nine members appointed by the President.

(2) Persons appointed to the Anti-Corruption Commission shall be persons of integrity chosen for their knowledge of and experience in administration or the prosecution or investigation of crime or for their general suitability for appointment, and— 40

- (a) at least one shall be entitled to practise as a legal practitioner; and
- (b) at least one shall be entitled to practise as an auditor or public accountant in Zimbabwe; and
- (c) at least one shall have had not less than ten years’ experience in the investigation of crime. 45

(3) The Anti-Corruption Commission shall have the following functions—

- (a) to combat corruption, theft, misappropriation, abuse of power and other improprieties in the conduct of affairs in both the public and private sectors;
- 5 (b) to make recommendations to the Government and to organisations in the private sector on measures to enhance integrity and accountability and to prevent improprieties; and
- (c) to exercise any other functions that may be conferred or imposed on the Commission by or under an Act of Parliament.

(4) An Act of Parliament may confer powers on the Anti-Corruption Commission,
10 including power—

- (a) to conduct investigations and inquiries on its own initiative or on receipt of complaints;
- (b) to require assistance from members of the Police Force and other investigative agencies of the State; and
- 15 (c) through the Attorney-General, to secure the prosecution of persons for corruption, theft, misappropriation, abuse of power and other improprieties.”