

# **THE LAW MAKING PROCESS**

**Presentation by**

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**“An effective parliament should be amplifying the public voice. It provides the connective tissue between people and power, and should ensure that government priorities reflect and respond to the needs of the people.”**

**Greg Power**

# MANDATE OF PARLIAMENT

- ▶ Parliament derives its mandate from **Section 117** of the Constitution of Zimbabwe (Amendment no. 20) of 2013 which states that “...**to make laws for the peace, order and good governance of Zimbabwe.**”
- ▶ This role of Parliament was aptly described by the Parliamentary Reform Committee (PRC) which stated in its Foundation Report that:

***“The Role of Parliament is to legislate, to scrutinize the policies and activities of the Executive, to hold the Executive to account for its actions and to act as a forum for democratic participation by all members of society.*”**

# MANDATE OF PARLIAMENT CONT...

- Thus, the constitutional provision gives Parliament the **legislative, oversight and representative** functions covering all areas of the executive's operations.
- Parliament makes **new laws, change or improve old ones.**
- Presentation will focus on one of the core functions of Parliament, namely; **legislative**

# LEGISLATIVE PROCESS IN PARLIAMENT

- Detailed procedures of the legislative process are clearly laid out in the **5<sup>th</sup> Schedule of the Constitution of Zimbabwe** as read with **Standing Orders 133-35**.
- Process pass through the following stages;
  - **Drafting of Bill**
  - **Government Gazette,**
  - **First Reading**
  - **Second Reading**
  - **Third Reading**
  - **Approval by Senate**
  - **Presidential Assent**

# WHAT IS A BILL?

- A Bill is a proposal for a **new law**, or a proposal to **change an existing law** that is tabled before Parliament.
- Basically 3 Types of Bills
  - **Public Bill** (initiated by the Government Ministry responsible or a Member of Parliament);
  - **Private Bill** (initiated by private organisations like local authorities or private companies to give them powers and does not affect the general public); and
  - **Hybrid Bill** (mix of public and private Bills, i.e. affect the general public and the private organisations at the same time)
- **Public Bills introduced by the Executive are the most common.**
- The Education Amendment Bill is a public bill.

# PUBLICATION IN THE GOVERNMENT GAZETTE

- Drafting of the Bill is done by the Executive.
- The Standing Orders require that a Bill be published in the Government Gazette before introduction in the House.
- Gazetting is a formal way of informing the general public of the Bill as a way of soliciting their views on the proposed legislation.
- **14 days have to lapse before an ordinary Bill can be introduced in Parliament.**
- Education Amendment Bill was Gazetted on 15 February 2019.

# REFERRAL OF THE BILL TO THE PORTFOLIO COMMITTEE

- Upon gazetting, a Bill is automatically referred to the relevant Portfolio Committee (e.g. Primary and Secondary Education)
- **Committee is given 14 business days excluding Fridays for presentation of its report at the Second Reading Stage**
- Committee expected to consider the provisions of the Bill.
- Research Department prepare a Bill Digest on the proposed law.
- Public Hearings are to be undertaken by the relevant Committee as a way of engaging stakeholders in the legislative process.

# REFERRAL OF THE BILL TO THE PORTFOLIO COMMITTEE

- Section 141 of the Constitution requires that interested stakeholders are consulted on the Bill.
- Parliament to facilitate public involvement in its processes and those of its Committees
- Interested parties consulted about Bills being considered by Parliament
- Can be through public hearings, stakeholder meetings and/or submissions in writing
- Section 328 calls for public meetings on Constitutional Bills



# FIRST READING

- Formal introduction of the Bill in Parliament where the Minister reads the long title of the Bill. (14 March 2019)
- No debate at this stage
- Once read for the First time the Bill is automatically referred to the **Parliamentary Legal Committee (PLC)**.
- PLC given 26 business days to report to the House whether there are any provisions of the Bill that are in violation of the Constitution, particularly the Declaration of Rights.
- PLC may issue an Adverse Report (House may adopt or reject PLC recommendations) or Non-Adverse Report (Bill proceeds to second reading)

# SECOND READING

- During this stage the Minister explains the broad principles of the Bill.
- The Relevant Committee (e.g Primary and Secondary education) presents its Report.
- Debate will be confined to the principles of the Bill.
- Bill read the Second Time when debate is concluded.
- Bill then goes to Committee stage

# COMMITTEE STAGE

- House resolves itself into the Committee of the Whole House. ( Speaker leaves the chair and a Chairperson (who has to be a member of the Speakers panel) assumes the chair.
- Committee of the Whole House considers the Bill clause by clause.
- Amendments to the Bill are then presented at this stage.
- Amendments should appear on the Order Paper at least a day before the Committee Stage.
- At the conclusion of the Committee Stage the Chairperson reports the Bill to the House with or without amendments.

# THIRD READING

- At the Third Reading Stage, debate may take place, as at the Second Reading, on the principles of the Bill.
- However, issues which were not brought up during the Second Reading may not be raised.
- The Third Reading is the final stage.
- At this stage, the House votes to accept or reject the Bill.
- For ordinary Bill to pass, a simple majority of all members present, and voting is needed. For Bills to amend the Constitution, a two-thirds majority is needed for the Bill to pass.
- A Bill to amend provisions of the Declaration of Rights must be referred to a national referendum and be approved by a majority of voters.

# APPROVAL BY SENATE

- ▶ A Bill that originated in the National Assembly and was passed by that House must be submitted to the Senate to undergo similar processes and procedures.
- ▶ The same applies with Bills that originate from the Senate; such Bills have to undergo similar procedures in the National Assembly.
- ▶ A Bill received from one House must be transmitted to the other House without delay.
- ▶ The receiving House must debate and discuss the Bill, and has power to reject, or pass the Bill with or without amendments.
- ▶ A House that amends a Bill submitted to it must return the Bill, with amendments to the originating House.
- ▶ The originating House can accept, reject or amend any or all the amendments.

# PRESIDENTIAL ASSENT

- Once approved by both Houses, the President must **assent** and **sign** into law.
- If the President still has reservations on the Bill from Parliament, s/he has two choices:
  - he can assent and sign the Bill as presented by Parliament
  - he can refer the Bill to the Constitutional Court for advice on whether the Bill is constitutional
- If the Constitutional Court advises that the Bill is constitutional, the President is obliged to sign the Bill immediately.
- If the Constitutional Court advises that the Bill is unconstitutional, the President cannot sign the Bill.

# PUBLICATION AND ENROLMENT OF ACT

- Once the President has assented to an Act, the President's office causes it to be published in the ***Gazette***.
- Most Acts come into operation on the day that they are published, but in some cases an Act gives the President power to specify when the Act will come into force.
- The Clerk of Parliament sends a copy of the Act to be enrolled in the office of the Registrar of the High Court.

**I THANK YOU**

**SIYABONGA**

**TATENDA**

