

# Copac Final Draft Constitution

Supplement to The Herald Wednesday 2 May 2012

## PREAMBLE

*We the people of Zimbabwe,  
United in our diversity by our common desire for freedom, justice and equality,  
and our heroic resistance to colonialism, racism and all forms of domination,  
Exalting and extolling the brave men and women who sacrificed their lives during  
the Chimurenga / Umvukela and national liberation struggles,  
Honouring our forebears and compatriots who toiled for the progress of our  
country,  
Recognising the need to entrench democracy, the rule of law, and good, open  
and accountable governance,  
Reaffirming our commitment to upholding and defending fundamental human  
rights and freedoms,  
Celebrating the richness of our natural resources and the vibrancy of our tradi-  
tions and cultures, which were bequeathed to us by Providence and our  
forebears,  
Determined to overcome the manifold vices and injustices destructive of  
progress,  
Cherishing freedom, peace, justice, tolerance, prosperity and patriotism in  
search of new frontiers under a common destiny,  
Acknowledging the supremacy of Almighty God, in whose hands our future lies,  
Resolve by the tenets of this Constitution to commit ourselves to build a vital  
nation, founded on values of fairness, honesty and the dignity of hard work,  
And, imploring the guidance and support of Almighty God, hereby make this  
Constitution and commit ourselves to it as the fundamental law of our  
beloved land.*

## CHAPTER 1 FOUNDING PROVISIONS

### 1 The Republic

Zimbabwe is a sovereign republic.

### 2 Supremacy of Constitution

- (1) This Constitution is the law of Zimbabwe and any other law, practice, custom or conduct inconsistent with it is invalid to the extent of the inconsistency.
- (2) The obligations imposed by this Constitution are binding on every person, natural or juristic, including all executive, legislative and judicial institutions of the State at all levels of government, and must be fulfilled by them.

### 3 Founding values and principles

- (1) Zimbabwe is founded on respect for the following values and principles:
  - (a) supremacy of the Constitution and the rule of law;
  - (b) fundamental human rights and freedoms;
  - (c) cultural and traditional values;
  - (d) recognition of the inherent dignity and worth of each human being;
  - (e) recognition of the equality of all human beings;
  - (f) gender equality; and
  - (g) good governance.
- (2) The principles of good governance, which bind all institutions of the State and government at all levels, include-
  - (a) a multi-party system of democratic government;
  - (b) an electoral system based on-
    - (i) universal adult suffrage;
    - (ii) free, fair and regular elections; and
    - (iii) adequate representation of the electorate;
  - (c) the orderly transfer of power following elections;
  - (d) observance of the principle of separation of powers;
  - (e) respect for the people of Zimbabwe, from whom the authority to govern is derived;
  - (f) openness, justice, accountability and responsiveness on the part of all institutions of government;
  - (g) the fostering of national unity, peace and stability, with due regard to diversity of languages, customary practices and traditions;
  - (h) recognition of the rights of racial, ethnic, cultural, linguistic, religious and political minorities;
  - (i) the equitable sharing of national resources, including land;
  - (j) due respect for vested rights; and
  - (k) the devolution of governmental power and functions to provinces and other appropriate levels.

### 4 National territory

Zimbabwe consists of the territory comprising Zimbabwe on the effective date and any alteration to that territory prescribed in an Act of Parliament and recognised under international law.

### 5 National Flag, National Anthem, Public Seal and Coat of arms

Zimbabwe must have a National Flag, a National Anthem, a Coat of Arms and a Public Seal, details of which are to be prescribed in an Act of Parliament.

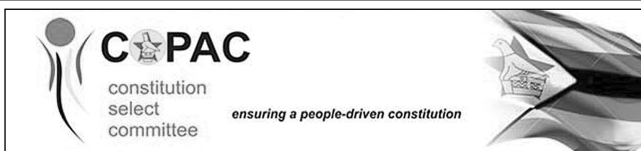
### 6 Languages

- (1) All the indigenous languages of Zimbabwe and English are the official languages of Zimbabwe.
- (2) An Act of Parliament may declare languages of record.
- (4) All State institutions and agencies at every level must-
  - (a) ensure that all official languages are treated equitably; and
  - (b) take into account the language preferences of people affected by governmental measures or communications.
- (5) The State must promote and advance the use of all languages used in Zimbabwe, including sign language, and must create conditions for the development of these languages.

### 7 Promotion of public awareness of Constitution

The State must promote public awareness of this Constitution, in particular by-

- (a) translating it into all official languages and disseminating it as widely as possible;
- (b) requiring this Constitution to be taught in schools and as part of the training of members of the Defence Forces, the Police Service, the Prison Service, the Civil Service and members and employees of public institutions; and



**This is the final draft of the new constitution prepared by the Copac select committee. The Copac management committee now has to study this draft and make its own input on several issues including those marked as "parked."**

- (c) encouraging all persons and organisations, including civic organisations, to disseminate awareness and knowledge of this Constitution throughout society.

## CHAPTER 2 NATIONAL OBJECTIVES

### 2.1 Objectives to guide all institutions and agencies of State and Government

- (1) The objectives set out in this Chapter guide all institutions and agencies of the State and Government at all levels, in taking and implementing policy decisions that will lead to the establishment and promotion of a just, free and democratic society in which people can enjoy prosperous, happy and fulfilled lives.
- (2) Regard must be had to the objectives set out in this Chapter when interpreting the State's obligations under this Constitution and any other law.

### 2.2 Good governance

- (1) The State must adopt and implement policies and legislation to develop efficiency, competence, accountability, openness, personal integrity and financial probity in Government at all levels and in all public institutions.
- (2) In particular-
  - (a) appointments to public offices must be made primarily on the basis of merit;
  - (b) measures must be taken to expose, combat and eradicate all forms of corruption and abuse of power by those holding political and other public offices.
- (3) The State must ensure that all institutions and agencies of the State and government, in particular Commissions and other bodies established by or under this Constitution, are provided with adequate resources and facilities to enable them to carry out their functions effectively and efficiently.

### 2.3 Development and empowerment

- (1) All State and governmental institutions and agencies at every level must endeavour to facilitate rapid and equitable development, and in particular must take measures to-
  - (a) promote private initiative and self-reliance;
  - (b) foster agricultural, commercial, industrial, technological and scientific development;
  - (c) foster the development of industrial and commercial enterprises in order to empower citizens of Zimbabwe;
  - (d) bring about balanced development of the different areas of Zimbabwe, in particular a proper balance in the development of rural and urban areas; and
  - (e) rectify imbalances resulting from past practices and policies.
- (2) Measures referred to in this section must, where practicable, involve the people in the formulation and implementation of development plans and programmes that affect them.
- (3) Measures referred to in this section must protect and enhance the right of the people, particularly women, to equal opportunities in development.
- (4) The State must ensure that local communities benefit from the resources in their areas.

### 2.4 Food security

The State must-

- (a) encourage people to grow and store adequate food;
- (b) secure the establishment of adequate food reserves; and
- (c) encourage and promote adequate and proper nutrition through mass education and other appropriate means.

### 2.5 Cultural objectives

- (1) All State and governmental institutions and agencies at every level must promote and preserve cultural values and practices which enhance the dignity, well-being and equality of Zimbabweans.
- (2) All State and governmental institutions and agencies at every level, and all citizens, must endeavour to preserve and protect Zimbabwe's heritage.
- (3) All State and governmental institutions and agencies at every level must take measures to ensure due respect for the dignity of traditional institutions.

### 2.6 Foreign policy objectives

- (1) The foreign policy of Zimbabwe must be based on principles of
  - (a) promotion and protection of the national interests of Zimbabwe;
  - (b) respect for international law;
  - (c) peaceful co-existence with other nations; and
  - (d) the settlement of international disputes by peaceful means.
- (2) The State must promote regional and pan-African cultural, economic and political cooperation and integration and must participate in international and regional organisations that stand for peace and the well-being and progress of the region, the continent and humanity.

### 2.7 Gender balance

- (1) The State must promote full gender balance in Zimbabwean society, and in

particular:

- (a) the State must promote the full participation of women in all spheres of Zimbabwean society on the basis of equality with men;
  - (b) the State must take reasonable measures, including legislative measures, to ensure that both genders are equally represented in all institutions and agencies of the State and government, in particular in Commissions and other bodies established by or under this Constitution; and
  - (c) State and governmental institutions and agencies at every level must take practical measures to ensure that women have access to resources, including land, on the basis of equality with men.
- (2) The State must take positive measures to rectify past gender discrimination.

### 2.8 Fair regional representation

- (1) The State must promote the fair representation of all regions in all institutions and agencies of the State and government, in particular in Commissions and other bodies established by or under this Constitution.
- (2) The State and governmental institutions and agencies at every level must take practical measures to ensure that all ethnic communities have equitable access to resources, including land, to promote their development.

### 2.9 Children

- (1) The State must adopt policies and measures to ensure that in matters relating to children the best interests of the children concerned are paramount.
- (2) The State must adopt reasonable policies and measures, within the resources available to it, to ensure that children-
  - (a) enjoy family or parental care, or appropriate alternative care when removed from the family environment;
  - (b) receive shelter and basic nutrition, health care and social services; and
  - (c) are protected from maltreatment, neglect, abuse, exploitation, corruption or degradation.
- (3) The State must take appropriate legislative and other measures-
  - (a) to protect children from exploitative labour practices; and
  - (b) to ensure that children are not required or permitted to perform work or provide services that-
    - (i) are inappropriate for the children's age; or
    - (ii) place at risk the children's well-being, education, physical or mental health or spiritual, moral or social development.

### 2.10 Youth

All State and governmental institutions and agencies at every level must take reasonable measures, including affirmative action programmes, to ensure that the youth, that is to say people between the ages of fifteen and thirty-five years-

- (a) have access to appropriate education and training;
- (b) have opportunities to associate and to be represented and participate in political, social, economic and other spheres of life;
- (c) are afforded opportunities for employment and other avenues to economic betterment;
- (d) have opportunities for healthy recreational activities and access to recreational facilities; and
- (e) are protected from harmful cultural practices, exploitation and all forms of abuse.

### 2.11 Elderly persons

- (1) All State and governmental institutions and agencies at every level must take reasonable measures, including legislative measures, to secure respect, support and protection for elderly persons, that is to say individuals over the age of sixty-five years, and to enable them to participate in the life of the community.
- (2) In particular, State and governmental institutions and agencies must endeavour, within the resources available to them--
  - (a) to provide facilities, food and care for elderly persons who are unable to provide for themselves;
  - (b) to develop programmes to give elderly persons the opportunity to engage in productive activity suited to their abilities and consistent with their vocations and desires; and
  - (c) to foster social organisations aimed at improving the quality of life of elderly persons.

### 2.12 Persons living with disabilities

- (1) All State and governmental institutions and agencies at every level must recognise the rights of persons living with physical or mental disabilities, in particular their right to be treated with respect for their dignity as human beings.
- (2) All State and governmental institutions and agencies at every level must endeavour, within the resources available to them, to assist persons living with physical or mental disabilities to achieve their full potential and to minimise the disadvantages suffered by them.
- (3) In particular, State and governmental institutions and agencies must endeavour-
  - (a) to develop programmes for the welfare of persons living with physical or mental disabilities, especially work programmes consistent with their capabilities and acceptable to them or their legal representatives;
  - (b) to consider the specific requirements of persons living with physical or mental disabilities as one of the priorities in development plans;
  - (c) to encourage the use and development of forms of communication suitable for use by persons living with physical or mental disabilities; and
  - (d) to foster social organisations aimed at improving the quality of life of persons living with physical or mental disabilities.

### 2.13 War veterans

- (1) All State and governmental institutions and agencies at every level must accord due respect, honour and recognition to war veterans, that is to say-
  - (a) those who fought in the war of liberation and those who assisted the fighters;
  - (b) those who were detained for political reasons during the war of liberation; and
  - (c) those who, having participated in wars or conflicts in defence of Zimbabwe's interests, are declared to be war veterans.

(2) The State must take reasonable measures, including legislative measures, for the welfare and economic empowerment of war veterans.

**2.14 Work and labour relations**

- (1) All State and governmental institutions and agencies at every level must adopt reasonable policies and measures, within the resources available to them, to provide everyone with an opportunity to work in a freely chosen activity, in order to secure a decent living for themselves and their families.
- (2) In particular, State and governmental institutions and agencies must endeavour to secure-
  - (a) full employment;
  - (b) just, equitable and satisfactory conditions of work, particularly with respect to-
    - (i) adequate remuneration;
    - (ii) equitable opportunity for promotion;
    - (iii) safety at work;
    - (iv) maternity leave; and
    - (v) rest, leisure, limitation of working hours, periodic holidays with pay and remuneration for public holidays;
  - (c) the removal of restrictions that unnecessarily inhibit or prevent people from working and otherwise engaging in gainful economic activities;
  - (d) vocational guidance and the development of vocational and training programmes, including those for persons with disabilities;
  - (e) the implementation of measures such as family care that enable women to enjoy a real opportunity to work; and
  - (f) the rights of employers and employees to engage in collective bargaining and, where necessary, to engage in appropriate collective job action to enforce their rights.

**2.15 Protection of the family**

- (1) All State and governmental institutions and agencies at every level must protect and foster the institution of the family as the natural and basic unit of society.
- (2) In particular, State and governmental institutions and agencies must endeavour, within the resources available to them, to adopt measures for-
  - (a) the provision of care and assistance to mothers, fathers and other family members who have charge of children; and
  - (b) the prevention of domestic violence.

**2.16 Marriage**

The State must take appropriate measures to ensure that-

- (a) no marriage is entered into without the free and full consent of the intending spouses;
- (b) everyone of marriageable age is free to marry another person who is of marriageable age and of the opposite sex;
- (c) there is equality of rights and responsibilities of spouses during marriage and at its dissolution; and
- (d) in the event of dissolution of a marriage, whether through death or divorce, provision is made for the necessary protection of any children and spouses.

**2.17 Education**

- (1) The State must take all practical measures to promote free and compulsory basic education for children.
- (2) In particular, the State must take measures to ensure that girls are afforded the same opportunities as boys to obtain education at all levels.
- (3) The State must take appropriate measures, within the resources available to it-
  - (a) to afford adults access to basic education; and
  - (b) to afford equitable access to higher education.

**2.18 Shelter**

All State and governmental institutions and agencies at every level must take reasonable legislative and other measures, within the resources available to them, to enable everyone to have access to adequate shelter.

**2.19 Health services**

- (1) The State must take all practical measures to ensure the provision of basic, accessible and adequate health services to the population.
- (2) The State must take appropriate measures to ensure that no one is refused emergency medical treatment at any health institution.

**2.20 Social welfare**

The State must take all practical measures, within the limits of the resources available to it, to provide social security and social care to those who are need it, in particular war veterans, the destitute, elderly persons, children and persons living with disabilities.

**2.21 Legal aid**

The State must take all practical measures, within the limits of the resources available to it, to provide legal representation in civil and criminal cases for people who need it and are unable to afford legal practitioners of their choice.

**2.22 Preservation of traditional knowledge**

The State must take measures to ensure the preservation and protection of knowledge possessed by members of local communities regarding the medicinal and other properties of animal and plant life in their areas.

**2.23 Fostering of fundamental rights and freedoms**

The State must take all practical measures to protect the fundamental rights and freedoms enshrined in Chapter 4 and to promote their full realisation and fulfilment.

**2.24 Domestication of international instruments**

The State must ensure that all international conventions, treaties and agreements to which Zimbabwe is a party and which-
 

- (a) address gender issues;
- (b) address issues relating to children, ethnic communities, youths, elderly persons and persons living with disabilities; or
- (c) protect or promote any of the fundamental rights and freedoms enshrined in Chapter 4; are incorporated into domestic law.

**CHAPTER 3  
CITIZENSHIP**

**3.1 Zimbabwean citizenship**

- (1) All Zimbabwean citizens are equally entitled to the rights, privileges and benefits of citizenship and are equally subject to the duties and obligations of citizenship.
- (2) Zimbabwean citizens have the following duties, in addition to any others imposed upon them by law-
  - (a) to be loyal to Zimbabwe;
  - (b) to observe this Constitution and to respect its ideals and institutions;
  - (c) to respect the national flag and the national anthem; and
  - (d) to the best of their ability, to defend Zimbabwe and its sovereignty.
- (3) All Zimbabwean citizens are equally entitled to the following, in addition to any other rights granted to them by law-
  - (a) to the protection of the State wherever they may be; (b) to passports and other travel documents; and
  - (c) to birth certificates and other identity documents issued by the State.
- (4) Persons are Zimbabwean citizens by birth or registration.

**3.2 Citizenship by birth**

- (1) Persons are Zimbabwean citizens by birth if when they are born, whether in Zimbabwe or elsewhere, either their mother or father is a citizen of Zimbabwe.
- (2) An Act of Parliament may limit the effect of subsection (1) on the descendants of Zimbabwean citizens who were born outside Zimbabwe and who acquired their citizenship through persons who were themselves born outside Zimbabwe.
- (3) A child found in Zimbabwe who is, or appears to be, less than ten years of age, and whose nationality and parents are not known, is presumed to be a Zimbabwean citizen by birth.

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(4) Subsections (1) and (3) apply also to people born before the effective date in the circumstances described in those subsections.

**3.3 Citizenship by registration**

- (1) Anyone who has been married to a Zimbabwean citizen for at least ten years, whether before or after the effective date, and who satisfies the conditions prescribed by an Act of Parliament, is entitled on application to be registered as a Zimbabwean citizen.
- (2) Anyone who has been continuously and lawfully resident in Zimbabwe for at least ten years, whether before or after the effective date, and who satisfies the conditions prescribed by an Act of Parliament, is entitled, on application, to be registered as a Zimbabwean citizen.
- (3) A child who is not a Zimbabwean citizen, but is adopted by a Zimbabwean citizen, whether before or after the effective date, is entitled on application to be registered as a Zimbabwean citizen.

**3.4 Revocation of citizenship**

- (1) If a person acquired Zimbabwean citizenship by registration, the citizenship may be revoked if-
  - (a) the person acquired the citizenship by fraud, false representation or concealment of a material fact;
  - (b) during a war in which Zimbabwe was engaged, the person unlawfully traded or communicated with an enemy or was engaged in or associated with any business that was knowingly carried on so as to assist an enemy in that war; or
  - (c) within five years after becoming a Zimbabwean citizen, the person is convicted of a criminal offence specified in an Act of Parliament.
- (2) If a person acquired Zimbabwean citizenship by birth, having been presumed to be such a citizen as provided in section 3.2(3), the citizenship may be revoked if-
  - (a) the citizenship was acquired by fraud, false representation or concealment of a material fact by any person; or
  - (b) the person's nationality or parentage becomes known, and reveals that the person was a citizen of another country.
- (3) A person's citizenship cannot be revoked under this section if the person would be rendered stateless.

**3.5 Retention of citizenship despite marriage or dissolution of marriage**

Zimbabwean citizenship is not lost through marriage or the dissolution of marriage.

**3.6 Continuation of previous citizenship**

Everyone who, immediately before the effective date, was a Zimbabwean citizen continues to be a citizen of Zimbabwe after that date.

**3.7 Powers of Parliament in regard to citizenship**

- (1) An Act of Parliament must provide for the establishment of a Citizenship and Immigration Board consisting of a chairperson and at least two other members, appointed by the President, to be responsible for-
  - (a) granting and revoking citizenship by registration;
  - (b) permitting persons, other than citizens, to reside and work in Zimbabwe, and fixing the terms and conditions under which they may so reside and work;
  - (c) exercising any other functions that may be conferred or imposed on the Board by or under an Act of Parliament.
- (2) An Act of Parliament may make provision, consistent with this Chapter, for -
  - (a) procedures by which Zimbabwean citizenship may be acquired;
  - (b) the voluntary renunciation of Zimbabwean citizenship;
  - (c) procedures for the revocation of Zimbabwean citizenship;
  - (d) the restoration of Zimbabwean citizenship; and
  - (e) generally giving effect to this Chapter.

**CHAPTER 4  
DECLARATION OF RIGHTS  
PART 1  
FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS**

**4.1 Right to life**

- (1) Every person has the right to life.
- (2) A law may permit the death penalty to be imposed only on persons convicted of murder committed in aggravating circumstances, and-
  - (a) the penalty may be carried out only in accordance with a final judgment of a competent court;
  - (b) the penalty must not be imposed on a person-
    - (i) who was less than twenty-one years old when the offence was committed; or
    - (ii) who is more than seventy years old;
  - (c) the penalty must not be imposed or carried out on a pregnant woman;
  - (d) the law must permit the court a discretion whether, or not to impose the penalty;
  - (e) the person sentenced must have a right to seek pardon or commutation of the penalty from the President.
- (3) An Act of Parliament must protect the lives of unborn children, and that Act must provide that pregnancy may be terminated only in accordance with that law.

**4.2 Right to personal liberty**

- (1) Every person has the right to personal liberty, which includes the right -
  - (a) not to be detained without trial; and
  - (b) not to be deprived of their liberty arbitrarily or without just cause.
- (2) No one may be imprisoned merely on the ground of inability to fulfil a civil obligation.
- (3) No one may be arrested unless the arrest is reasonably necessary-
  - (a) to safeguard their safety or health;
  - (b) to prevent them escaping or absconding; or
  - (c) to ensure that they-
    - (i) do not commit an offence; or
    - (ii) do not interfere with the course of justice.

**4.3 Right to human dignity**

Everyone has inherent dignity in their private and public life, and the right to have that dignity respected and protected.

**4.4 Right to personal security**

- Everyone has the right to bodily and psychological integrity, which includes the right-
  - (a) to freedom from all forms of violence from public or private sources;
  - (b) to make decisions concerning reproduction;
  - (c) to security in and control over their body;
  - (d) not to be subjected to medical or scientific experiments, or to the extraction or use of their bodily tissue, without their informed consent.

**4.5 Freedom from torture or inhuman or degrading treatment and punishment**

No one may be subjected to physical or psychological torture or to cruel, inhuman or degrading treatment or punishment.

**4.6 Freedom from slavery, servitude and forced labour**

No one may be subjected to slavery or servitude or made to perform forced or compulsory labour.

**4.7 Equality and non-discrimination**

- (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- (2) Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.
- (3) Everyone has the right not to be treated in an unfairly discriminatory manner on such grounds as their nationality, race, colour, tribe, place or circumstances of birth, ethnic or social origin, language, class, religious belief, political or other opinion, custom, culture, sex, gender, marital status, age, disability or economic, social or other status.

- (4) A person is treated in a discriminatory manner for the purpose of subsection (3)if-
  - (a) they are subjected directly or indirectly to a condition, restriction or disability to which other people are not subjected; or
  - (b) other people are accorded directly or indirectly a privilege or advantage which they are not accorded.
- (5) Discrimination on any of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair, reasonable and justifiable in an open, just and democratic society based on human dignity, equality and freedom.
- (6) To promote the achievement of equality, reasonable legislative and other measures may be taken to protect or advance people or classes of people who have been disadvantaged by unfair discrimination, and-
  - (a) such measures must be taken to redress circumstances of genuine need;
  - (b) no such measure is to be regarded as unfair for the purposes of subsection (3).

**4.8 Right to privacy**

Everyone has the right to privacy, which includes the right not to have-
 

- (a) their home, premises or property entered without their permission;
- (b) their person, home, premises or property searched;
- (c) their possessions seized; or
- (d) the privacy of their communications infringed.

**4.9 Freedom of association**

- (1) Everyone has the right to freedom of association and the right not to associate with others.
- (2) No one may be compelled to belong to an association or to attend a meeting or gathering.

**4.10 Freedom of assembly, demonstration, picketing and petitioning**

Everyone has the right to assemble, to demonstrate, to picket and to present petitions, but these rights must be exercised peacefully.

**4.11 Freedom of conscience**

- (1) Everyone has the right to freedom of conscience, which includes -
  - (a) freedom of thought, opinion, religion or belief; and
  - (b) freedom to practise and propagate and give expression to their thought, opinion, religion or belief, whether in public or in private and whether alone or together with others.
- (2) No one may be compelled to take an oath that is contrary to their religion or belief or to take an oath in a manner that is contrary to their religion or belief.
- (3) Parents and guardians of minor children have the right to determine, in accordance with their convictions, the moral and religious upbringing of their children, provided they do not prejudice the rights to which their children are entitled under this Constitution, including their rights to education, health, safety and welfare.
- (4) Any religious community may establish institutions where religious instruction may be given, even if the institution receives a subsidy or other financial assistance from the State.

**4.12 Freedom of expression and freedom of the media**

- (1) Everyone has the right to freedom of expression, which includes-
  - (a) freedom to seek, receive and communicate ideas and other information;
  - (b) freedom of artistic expression and scientific research and creativity; and
  - (c) academic freedom.
- (2) Everyone is entitled to freedom of the press and other media of communication, which freedom includes protection of the confidentiality of journalists' sources of information.
- (3) Broadcasting and other electronic media of communication have freedom of establishment, subject only to licensing procedures that-
  - (a) are necessary to regulate the airwaves and other forms of signal distribution; and
  - (b) are independent of control by government or by political or commercial interests.
- (4) All State-owned media of communication must-
  - (a) be free to determine independently the editorial content of their broadcasts or other communications;
  - (b) be impartial; and
  - (c) afford fair opportunity for the presentation of divergent views and dissenting opinions.
- (5) Freedom of expression and freedom of the press do not include -
  - (a) incitement to violence;
  - (b) advocacy of hatred or hate speech; or
  - (c) malicious injury to a person's reputation.

**4.13 Access to information**

- (1) Everyone, including the press and other media of communication, has the right of access to-
  - (a) any information held by all institutions and agencies of the State and Government at all levels, in so far as the information is required for the exercise or protection of a right or in the interests of public accountability; and
  - (b) information held by any other person, in so far as the information is required for the exercise or protection of a right.
- (2) Every person has a right to the correction of information, or the deletion of untrue, erroneous or misleading information, that is held by any institution or agency of the State and relates to that person.
- (3) Legislation must be enacted to give effect to this right, but may restrict access to information in the interests of defence, public security or professional confidentiality, to the extent that the restriction is reasonable and is necessary and justifiable in an open, just and democratic society.

**4.14 Language and culture**

Everyone has the right to use the language, and to participate in the cultural life, of their choice, but no one exercising these rights may do so in a way that is inconsistent with this Chapter.

**4.15 Freedom of profession, trade or occupation**

Everyone has the right to choose and carry on any profession, trade or occupation, but the practice of a profession, trade or occupation may be regulated by law.

**4.16 Labour relations**

- (1) Everyone has the right to fair and safe labour practices and standards and to be paid a fair and reasonable wage.
- (2) Everyone has the right to form and join trade unions and employee or employers' organisations of their choice, and to participate in the lawful activities of those unions and organisations.
- (3) Every employee has the right to strike, sit in, picket, withdraw their labour, or to take other similar concerted action, but a law may-
  - (a) prohibit or restrict the exercise of this right by members of the Defence Forces, the Police Service and the Correctional Service, in the interests of discipline and the maintenance of public order and security;
  - (b) restrict the exercise of this right by other persons in order to maintain essential services.
- (4) Every employee, employer, trade union, and employee or employer's organisation has the right to-
  - (a) engage in collective bargaining;
  - (b) determine their own administration, programmes and activities;
  - (c) organise; and
  - (d) form and join federations of such unions and organisations.
- (5) Women and men have a right to equal remuneration for similar work.
- (6) Women employees have a right to fully paid maternity leave for a period of at least three months.

**4.17 Freedom of residence and movement**

- (1) Everyone has the right to freedom of movement and the right to leave Zimbabwe.
- (2) Every citizen of Zimbabwe has the right to enter, to remain in and to reside

anywhere in Zimbabwe.

- (3) Every citizen of Zimbabwe has the right to a passport or other travel documents to enable them to exercise their rights under this section.

#### 4.18 Political rights

- (1) Every citizen of Zimbabwe has the right-
  - (a) to free, fair and regular elections for any elective public office established in terms of this Constitution or any other law; and
  - (b) to make political choices freely.
- (2) Subject to this Constitution, every citizen of Zimbabwe has the right-
  - (a) to form, to join and to participate in the activities of a political party or organisation of their choice;
  - (b) to campaign peacefully for a political party or cause;
  - (c) to participate in peaceful political activity; and
  - (d) to participate, individually or collectively, in gatherings or groups or in whatever manner, in peaceful activities to influence, challenge or support the policies of the Government or any political or whatever cause.
- (3) Subject to this Constitution, every citizen of Zimbabwe who is of or over eighteen years of age has the right-
  - (a) to vote in all elections and referendums to which this Constitution applies, and to do so in secret; and
  - (b) to stand for election for public office and, if elected, to hold such office.
- (4) For the purpose of promoting multi-party democracy, an Act of Parliament must provide for the funding of political parties, but such funding may be withheld from political parties which do not uphold the principles and values of this Constitution or whose internal structures and procedures are not reasonably democratic.

#### 4.19 Right to administrative justice

- (1) Every person has a right to administrative conduct that is lawful, prompt, efficient, reasonable, proportionate, impartial and both substantively and procedurally fair.
- (2) Any person whose right, freedom, interest or legitimate expectation has been adversely affected by administrative conduct has the right to be given promptly written reasons for the conduct.
- (3) An Act of Parliament must give effect to these rights, and must-
  - (a) provide for administrative conduct to be reviewed by a court or, where appropriate, by an independent and impartial tribunal;
  - (b) impose a duty on the State to give effect to the rights in subsections (1) and (2); and
  - (c) promote an efficient administration.

#### 4.20 Right to a fair hearing

- (1) Everyone accused of an offence has the right to a fair and public trial within a reasonable time before an independent and impartial court. established by law.
- (2) In the determination of civil rights and obligations, everyone has a right to a fair, speedy and public hearing within a reasonable time before an independent and impartial court, tribunal or other forum established by law.
- (3) Everyone has the right of access to the courts, or to some other tribunal or forum established by law for the resolution of any dispute.

#### 4.21 Rights of arrested and detained persons

- (1) Anyone who is arrested or detained-
  - (a) must be informed at the time of arrest of the reason for the arrest or detention;
  - (b) must be permitted, without delay-
    - (i) at the expense of the State, to contact their spouse or partner, or their next of kin or a close relative or legal practitioner, or anyone else of their choice; and
    - (ii) at their own expense, to consult with a legal practitioner and a medical practitioner of their choice;
 and must be informed of this right promptly;
  - (c) must be treated humanely and with respect for their inherent dignity; and
  - (d) must be permitted to challenge the lawfulness of the arrest or detention in person before a court and must be released promptly if the detention is unlawful.
- (2) Anyone who is arrested or detained-
  - (a) for the purpose of bringing him or her before a court; or
  - (b) for allegedly committing, having committed or being about to commit an offence;
 and who is not released must be brought before a court as soon as possible and in any event not later than forty-eight hours after the arrest took place or the detention began, as the case may be, whether or not the period ends on a Saturday, Sunday or public holiday.

- (3) Anyone who is arrested or detained for allegedly committing, having committed or being about to commit an offence has the right-
  - (a) to remain silent;
  - (b) to be informed promptly-
    - (i) of their right to remain silent; and
    - (ii) of the consequences of remaining silent and of not remaining silent;
  - (c) not to be compelled to make any confession or admission; and
  - (d) at the first court appearance after being arrested, to be charged or to be informed of the reason for the detention to continue, or to be released.
- (4) Anyone who is detained, including a sentenced prisoner, has the right
  - (a) to be informed promptly of the reason for their being detained;
  - (b) at their own expense, to consult with a legal practitioner of their choice, and to be informed of this right promptly;
  - (c) to communicate with, and be visited by, their
    - (i) spouse or partner;
    - (ii) next of kin;
    - (iii) chosen religious counsellor; and
    - (iv) chosen legal or medical practitioner;
  - (d) to conditions of detention that are consistent with human dignity, including exercise and the provision, at State expense, of adequate accommodation, nutrition, reading material and medical treatment; and
  - (e) to challenge the lawfulness of their detention in person before a court and, if the detention is unlawful, to be released.
- (5) Anyone who is detained pending trial for an alleged offence and is not tried within a reasonable time must be released from detention, either unconditionally or on reasonable conditions to ensure that after being released they-
  - (a) attend trial;
  - (b) do not interfere with the evidence to be given at the trial; and
  - (c) do not commit any other offence before the trial begins.
- (6) If there are reasonable grounds to believe that a person is being detained illegally or if it is not possible to ascertain the whereabouts of a detained person, anyone may approach the High Court for an order-
  - (a) declaring the detention to be illegal and ordering the person's release;
  - (b) of habeas corpus, that is to say an order requiring the person responsible for the detention to bring the detained person before the court and to justify the detention or, as the case may be, to disclose the whereabouts of the detained person;
 and the High Court may make whatever order is appropriate in the circumstances.
- (7) An arrest or detention which contravenes this section, or in which the conditions set out in this section are not met, is illegal.
- (8) Anyone who has been illegally arrested or detained is entitled to compensation from the person responsible for the arrest or detention, but a law may protect the following persons from liability under this section-
  - (a) a judicial officer acting in a judicial capacity reasonably and in good faith;
  - (b) any other public officer acting reasonably and in good faith and without culpable ignorance or negligence.

#### 4.22 Rights of accused persons

- (1) Anyone accused of an offence has the following rights -

- (a) to be presumed innocent until proved guilty;
  - (b) to be informed promptly of the charge, in sufficient detail to enable them to answer it;
  - (c) to be given adequate time and facilities to prepare a defence;
  - (d) to choose a legal practitioner and, at their own expense, to be represented by that legal practitioner;
  - (e) to be represented by a legal practitioner assigned by the State and at State expense, if substantial injustice would otherwise result;
  - (f) to be informed promptly of the rights conferred by paragraphs (d) and (e);
  - (g) to be present when being tried;
  - (h) to adduce and challenge evidence;
  - (i) to remain silent and not to testify or be compelled to give self-incriminating evidence;
  - (j) to have the proceedings of the trial interpreted into a language that they understand;
  - (k) not to be convicted of an act or omission that was not an offence when it took place;
  - (l) not to be convicted of an act or omission that is no longer an offence, either because the offence has been abrogated by disuse or, in the case of an offence under a statutory provision, because the provision has expired or been repealed and has not been substantially re-enacted;
  - (m) not to be tried for an offence in respect of an act or omission for which they have previously been pardoned or either acquitted or convicted on the merits;
  - (n) to be sentenced to the lesser of the prescribed punishments if the prescribed punishment for the offence has been changed between the time the offence was committed and the time of sentencing.
- (2) Where this section requires information to be given to a person-
    - (a) the information must be given in a language the person understands; and
    - (b) if the person cannot read or write, any document embodying the information must be explained in such a way that the person understands it.
  - (3) In any criminal trial, evidence that has been obtained in a manner that violates any provision of this Chapter must be excluded if the admission of the evidence would render the trial unfair or otherwise be detrimental to the administration of justice or the public interest.
  - (4) Anyone who has been tried for an offence has the right to be given a copy of the record of the proceedings within a reasonable time after judgment is delivered in the trial.
  - (5) Anyone who has been tried and convicted of an offence has the right, subject to reasonable restrictions that may be prescribed by law, to-
    - (a) have the case reviewed by a higher court; or
    - (b) appeal to a higher court against the conviction and any sentence that may have been imposed.

#### 4.23 Property rights

- (1) In this section- "property" means property of any description and any interest in or right over property.
- (2) Subject to section 4.24, everyone has the right, in any part of Zimbabwe, to acquire, hold and dispose of all forms of property, either individually or in association with others.
- (3) Subject to section 4.24, no one may be compulsorily deprived of their property except where the following conditions are satisfied-
  - (a) the deprivation must be in terms of a law of general application;
  - (b) the deprivation is necessary for any of the following reasons-
    - (i) in the interests of defence, public safety, public order, public morality, public health or town and country planning;
    - (ii) in order to develop or use that or other property for a purpose beneficial to the community; and
  - (c) provision is made by law-
    - (i) for the prompt payment of adequate compensation; and
    - (ii) for anyone affected by the deprivation to have a right of access to the High Court, either directly or on appeal from another tribunal or authority, for determining-
      - A. the existence, nature and value of their interest in the property concerned;
      - B. the legality of the deprivation; and
      - C. the amount of any compensation to which they are entitled, and for obtaining prompt payment of that compensation.

#### 4.24 Agricultural land

- (1) In this section- "agricultural land" means land used or suitable for agriculture, that is to say for horticulture, viticulture, forestry or aquaculture or for any purpose of husbandry, including-
  - (a) the keeping or breeding of livestock, game, poultry, animals or bees; or
  - (b) the grazing of livestock or game;
 but does not include land within the boundaries of an urban local authority or within a township established under a law relating to town and country planning or as defined in a law relating to land survey.
- (2) On and after the effective date-
  - (a) no agricultural land may be compulsorily acquired by the State or any other public authority; and
  - (b) no person may be compulsorily deprived of an interest or right in agricultural land by the State or any other public authority;
 except in accordance with an Act of Parliament which-
  - (i) requires the acquisition or deprivation to be reasonably necessary in the interests of defence, public safety, public order, public morality, public health or town and country planning, or for a public purpose such as-
    - A. settlement of people;
    - B. land reorganisation, forestry, environmental conservation or the utilisation of wild life or other natural resources; or
    - C. redressing the unjust and unfair pattern of land ownership that was brought about by colonialism; and
  - (ii) provides for anyone affected by the acquisition or 'deprivation to have a right of access to the High Court or another independent court, either directly or on appeal from another tribunal or authority, for determining-
    - A. the existence, nature and value of their interest in the land concerned;
    - B. the legality of the acquisition or deprivation; and
    - C. the amount of any compensation to which they are entitled;
  - (iii) provides for the prompt payment of compensation assessed by the Land Commission established in terms of section 16.8, which compensation must reflect a just and equitable balance between the public interest and the interests of those affected by the acquisition or deprivation, having regard in particular to the following circumstances-
    - A. the current use of the agricultural land;
    - B. the history of the acquisition and use of the agricultural land;
    - C. the value of the agricultural land;
    - D. the extent of any investment made in the acquisition and improvement of the agricultural land; and
    - E. the purpose of the acquisition.
- (3) Where the State or a public authority acquires agricultural land compulsorily from a person whose property rights are guaranteed or protected by an agreement concluded by the Government of Zimbabwe with the government of another country, the person is entitled to compensation from the State or the public authority for the land and any improvements in accordance with that agreement.

*[Written instructions may be given to the drafters regarding alterations to this*

*clause]*

#### 4.25 Environmental rights

- Everyone has the right-
- (a) to an environment that is not harmful to their health or well-being; and
  - (b) to have the environment protected for the benefit of present and future generations,
- through reasonable legislative and other measures that-
- (i) prevent pollution and ecological degradation;
  - (ii) promote conservation; and
  - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

#### 4.26 Right to shelter

- (1) Everyone has the right to have access to adequate and safe housing, and the State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.
- (2) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances.

#### 4.27 Right to education

- (1) Everyone has a right to-
  - (a) a basic State-funded education, including adult basic education; and
  - (b) further education, which the State, through reasonable legislative and other measures, must make progressively available and accessible.
- (2) Everyone has the right to establish and maintain, at their own expense, independent educational institutions of reasonable standards, provided they do not discriminate on any ground prohibited by this Constitution.
- (3) A law may provide for the registration of educational institutions referred to in subsection (2) and for the closing of any such institutions that do not meet reasonable standards prescribed for registration.

#### 4.28 Right to health care

- (1) Everyone has the right to have access to basic health-care services, including reproductive health-care services, provided or funded by the State.
- (2) Everyone living with a chronic illness has the right to have access to basic health-care services, provided or funded by the State, to treat the illness.
- (3) No one may be refused emergency medical treatment.
- (4) The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of the rights set out in this section.

#### 4.29 Right to food and water

- Everyone has the right to safe and sufficient food and water, and the State must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the realisation of this right.

#### 4.30 Marriage

- (1) Everyone who has attained the age of eighteen years has the right to marry a person of the opposite sex who is of marriageable age, and no such person may be prevented from entering into such a marriage.
- (2) Everyone who has attained the age of eighteen years has the right to found a family.
- (3) No one may be compelled to enter into marriage against their will.

### PART 2

#### ELABORATION OF CERTAIN RIGHTS

#### 4.31 Application of Part 2

- (1) This Part elaborates certain rights and freedoms to ensure greater certainty as to the application of those rights and freedoms to particular classes of people.
- (2) This Part must not be construed as limiting any right or freedom set out in Part 1.

#### 4.32 Rights of women

- (1) Every woman has full and equal dignity of the person with men and this includes equal opportunities in political, economic and social activities.
- (2) Women have the same rights as men regarding the guardianship of children.
- (3) All laws, customs, traditions and cultural practices that infringe the rights of women are void to the extent of the infringement.

#### 4.33 Rights of children

- (1) Every child, that is to say every person under the age of eighteen years, has the right
  - (a) to equal treatment before the law, including the right to be heard;
  - (b) to be given a name and family name;
  - (c) in the case of a child who is a citizen of Zimbabwe by birth, to the prompt provision of a birth certificate;
  - (d) to family or parental care, or to appropriate alternative care when removed from the family environment;
  - (e) to be protected from economic and sexual exploitation, from child labour, and from maltreatment, neglect, abuse and degradation;
  - (f) to education, health care services, nutrition and shelter; and
  - (g) not to be detained except as a measure of last resort and, if detained
    - (i) to be detained for the shortest appropriate period;
    - (ii) to be kept separately from detained persons over the age of eighteen years; and
    - (iii) to be treated in a manner, and kept in conditions, that take account of the child's age.
- (2) A child's best interests are paramount in every matter concerning the child .

#### 4.34 Rights of the elderly

- People over the age of sixty-five years have the right
- (a) to participate fully in the affairs of society;
  - (b) to live in dignity and be free from abuse;
  - (c) to receive reasonable care and assistance from their families and the State;
  - (d) to receive health care and medical assistance; and
  - (e) to receive financial support by way of social security and welfare;
- and the State must take reasonable legislative and other measures, having regard to its available resources, to achieve the progressive realisation of this right.

#### 4.35 Rights of persons living with disabilities

- The State must take appropriate measures to ensure that persons living with disabilities realise their full mental and physical potential including measures-
- (a) to enable them to become self reliant;
  - (b) to enable them to live with their families and participate in social, creative or recreational activities;
  - (c) to protect them from all forms of exploitation; and
  - (d) to give them access to medical, psychological and .functional treatment.

#### 4.36 Rights of liberation war veterans

- (1) War veterans, that is to say-
  - (a) those who fought in Zimbabwe's war of liberation and those who assisted the fighters;
  - (b) those who were detained for political reasons during Zimbabwe's war of liberation;
 are entitled to due recognition for their contribution to the liberation of Zimbabwe, and to suitable welfare such as pensions and access to basic health care.
- (2) An Act of Parliament must make provision for conferring on war veterans the entitlements due to them under subsection (1).

### PART 3

#### APPLICATION, INTERPRETATION AND ENFORCEMENT OF CHAPTER 4

#### 4.37 Application of Chapter 4

- (1) The fundamental human rights and freedoms enshrined in this Chapter bind the executive, the legislature and the judiciary and all institutions and agencies of government at every level, and must be respected and upheld by

- them.
- (2) Where applicable, the fundamental human rights and freedoms enshrined in this Chapter bind all natural and juristic persons and must be respected and upheld by them.
- (3) Juristic persons are entitled to the rights and freedoms enshrined in this Chapter to the extent that those rights and freedoms can be appropriately extended to them.

**4.38 Interpretation of Chapter 4**

- (1) When interpreting this Chapter a court, tribunal, forum or body-
  - (a) must give full effect to the rights and freedoms enshrined in this Chapter;
  - (b) must promote the values that underlie an open, just and democratic society based on human dignity, equality and freedom, and in particular, the principles and values set out in section 3;
  - (c) must take into account international law and all treaties and conventions to which Zimbabwe is a party; and
  - (d) may consider relevant foreign law;
 in addition to considering all other relevant factors that are to be taken into account in the interpretation a Constitution.
- (2) When interpreting an enactment, and when developing the common law and customary law, every court, tribunal, forum or body must promote and be guided by the spirit and objects of this Chapter.

**4.39 Saving of other rights**

This Chapter does not preclude the existence of other rights and freedoms that may be recognised or conferred by law, to the extent that they are consistent with this Chapter.

**4.40 Enforcement of rights**

- (1) Any of the following persons, namely
  - (a) anyone acting in their own interests;
  - (b) anyone acting on behalf of another person who cannot act for themselves;
  - (c) anyone acting as a member, or in the interests, of a group or class of persons;
  - (d) anyone acting in the public interest;
  - (e) any association acting in the interests of its members;
 is entitled to approach a court, alleging that a fundamental right or freedom enshrined in this Chapter has been, is being or is likely to be infringed, and the court may grant appropriate relief, including a declaration of rights and an award of compensation.
- (2) The fact that a person has contravened a law does not debar him or her from approaching a court for relief under subsection (1).
- (3) The rules of every court must provide for the procedure to be followed in cases where relief is sought under subsection (1), and those rules must ensure that-
  - (a) the right to approach the court under subsection (1) is fully facilitated;
  - (b) formalities relating to the proceedings, including their commencement, are kept to the minimum;
  - (c) no fee may be charged for commencing the proceedings;
  - (d) the court, while observing the rules of natural justice, is not unreasonably restricted by procedural technicalities; and
  - (e) a person with particular expertise may, with the leave of the court, appear as a friend of the court.
- (4) The absence of rules referred to in subsection (3) does not limit the right to commence proceedings under subsection (1) and to have the case heard and determined by a court.

**PART 4**

**LIMITATION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS**

**4.41 Limitation of rights and freedoms**

- (1) The fundamental rights and freedoms set out in this Chapter may be limited only in terms of a law of general application and to the extent that the limitation is reasonable and is necessary and justifiable in an open, just and democratic society, taking into account all relevant factors, including-
  - (a) the nature of the right or freedom concerned;
  - (b) the purpose of the limitation;
  - (c) the nature and extent of the limitation;
  - (d) the need to ensure that the enjoyment of rights and freedoms by any person does not prejudice the rights and freedoms of others;
  - (e) the relationship between the limitation and its purpose; and
  - (f) whether there are any less restrictive means of achieving the purpose of the limitation.
- (2) No law may limit the following rights enshrined in this Chapter, and no one may violate them-
  - (a) the right to life, except to the extent specified in section 4.1;
  - (b) the right to human dignity;
  - (c) the right not to be tortured or subjected to inhuman or degrading punishment or treatment;
  - (d) the right not to be placed in slavery or servitude;
  - (e) the right to a fair trial;
  - (f) the right to obtain an order of habeas corpus, that is to say an order requiring a detained person to be released, or to be brought before a court, or requiring the whereabouts of a detained person to be disclosed.

**4.42 Limitations during public emergency**

- (1) In addition to the limitations permitted by section 4.41, the fundamental rights and freedoms set out in this Chapter may be further limited by a written law providing for measures to deal with situations arising during a period of public emergency, but only to the extent permitted by this section and the First Schedule.
- (2) Any written law referred to in subsection (1) and any measures taken under that law
  - (a) must be consistent with Zimbabwe's obligations under international law; and
  - (b) in the case of legislative measures, must be enacted by publication in the Gazette.
- (3) Any limitation which a written law referred to in subsection (1) imposes on a fundamental right or freedom set out in this Chapter must not be greater than is strictly required by the emergency.
- (4) No law that provides for a declaration of a state of emergency, and no legislative or other measure taken in consequence of such a declaration, may-
  - (a) indemnify or permit or authorise an indemnity for the State or any governmental institution or agency, or any other person, in respect of any unlawful act; or
  - (b) limit, or permit or authorise the violation of, any of the rights referred to in section 4.41(2).

**CHAPTER 5  
TIERS OF GOVERNMENT**

**5.1 Devolution of functions and responsibilities**

Zimbabwe is a unitary State that is guided by principles of devolution of governmental functions and responsibilities to the people at all appropriate levels.

**5.2 Tiers of government**

- (1) Government in Zimbabwe is constituted into national, provincial and local tiers of government which are interrelated.
- (2) All tiers of government must observe and adhere to the principles in this Chapter.

**5.3 Objects of devolution**

The objects of the devolution of governmental functions and responsibilities are-
 

- (a) to give powers of local governance to the people and enhance their participation in the exercise of the powers of the State and in making decisions affecting them;
- (b) to promote democratic, effective, transparent, accountable and coherent

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- government of Zimbabwe as a whole;
- (c) to preserve and foster the peace, national unity and indivisibility of Zimbabwe;
- (d) to recognise the right of communities to manage their own affairs and to further their development;
- (e) to ensure the equitable sharing of local and national resources throughout Zimbabwe;
- (f) to facilitate the decentralisation of State institutions, their functions and services.

**5.4 General principles of national, provincial and local governmental relations**

- (1) All tiers of government and all institutions of State within each tier must-
  - (a) ensure good governance by being effective, transparent, accountable and institutionally coherent;
  - (b) be loyal to Zimbabwe and respect its sovereignty;
  - (c) respect this Constitution and promote its principles;
  - (d) respect the constitutional status, institutions, powers and functions of government in the other tiers;
  - (e) assume only those functions conferred on them in accordance with this Constitution;
  - (f) exercise and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another tier;
  - (g) co-operate with one another in mutual trust and good faith by-
    - (i) assisting and supporting one another;
    - (ii) informing one another of, and consulting one another on, matters of common interest;
    - (iii) harmonising and co-ordinating their actions and legislation;
    - (iv) adhering to agreed procedures; and
    - (v) avoiding legal proceedings against one another;
  - (h) preserve the peace, national unity and the indivisibility of Zimbabwe;
  - (i) secure the public welfare;
  - (j) accept that national resources must be allocated fairly and equitably between the tiers of government;
  - (k) ensure the fair and equitable representation of people within their respective tiers.
- (2) An Act of Parliament must-
  - (a) establish or provide for structures and institutions to promote and facilitate relations between the tiers of government;
  - (b) provide for appropriate mechanisms and procedures to facilitate settlement of disputes between tiers of government.

**5.5 Functions and competences of tiers of government [PARKED]**

**5.6 Devolution of legislative authority [PARKED]**

Subject to this Constitution, the legislative authority of-
 

- (a) the national sphere of government is vested in Parliament, as set out in sections 7.1 and 7.2;
- (b) the provincial sphere of government is vested in provincial assemblies, as set out in section 15.x;
- (c) the local sphere of government is vested in local authorities, as set out in section 15.y.

**5.7 Conflict between national and provincial legislation [PARKED]**

- (1) This section applies to conflicts between national and provincial legislation in respect of matters within the concurrent jurisdiction of both spheres of government.
- (2) National legislation prevails over provincial legislation if-
  - (a) the national legislation applies uniformly throughout Zimbabwe and any of the conditions prescribed in subsection (3) is satisfied; or
  - (b) the national legislation is aimed at preventing unreasonable action by a provincial government which-
    - (i) is prejudicial to the economic, health or security interests of Zimbabwe or of another provincial government; or
    - (ii) impedes the implementation of national economic policy.
- (3) The conditions referred to in subsection (2)(a) are-
  - (a) the national legislation provides for a matter that cannot be regulated effectively by legislation enacted by the individual provincial governments;
  - (b) the national legislation provides for a matter which, to be dealt with effectively, requires uniformity across Zimbabwe, and the national legislation provides that uniformity by establishing norms, standards or national policies;
  - (c) the national legislation is necessary for-
    - (i) The maintenance of national security
    - (ii) the maintenance of economic unity;
    - (iii) the protection of the common market in respect of the mobility of goods, services, capital and labour;
    - (iv) the promotion of economic activity across the boundaries of the provinces;
    - (v) the promotion of equal opportunity or equal access to government services; or (vi) the protection of the environment.
- (4) Provincial legislation prevails over national legislation if neither of the circumstances referred in section (2) apply.
- (5) In considering an apparent conflict between legislation of different spheres of government, a court must prefer a reasonable interpretation of the legislation that avoids a conflict to an alternative interpretation that results in conflict.
- (6) A decision by a court that a provision of legislation of one sphere of government prevails over a provision of legislation of another sphere of government does not invalidate the other provision, but the other provision is inoperative to the extent of the inconsistency.

**5.8 Power of Parliament to nullify provincial legislation [PARKED]**

- (1) A joint sitting of the Senate and the House of Assembly may, by a resolution passed by the affirmative votes of at least two-thirds of all the members of Parliament, declare that any provincial legislation is void on the ground that the law-
  - (a) is prejudicial to the economic or security interests of another province or of Zimbabwe as whole; or
  - (b) is grossly unreasonable;
 and upon the passing of the resolution the provincial law becomes void.
- (2) A provincial assembly that is aggrieved by a resolution under subsection (1) may, through its presiding officer, apply to the Constitutional Court for the resolution to be set aside, and the Constitutional Court may give such ruling in the matter as the Court considers just.

**CHAPTER 6**

**THE EXECUTIVE**

**PART 1**

**EXECUTIVE AUTHORITY**

**6.1 Executive authority**

- (1) Executive authority derives from the people of Zimbabwe and must be exercised in accordance with this Constitution.
- (2) The national executive authority of Zimbabwe vests in the President and the Cabinet.

**PART 2**

**THE PRESIDENT AND VICE PRESIDENT(S)**

**6.2 The President**

The President is the Head of State and Government and the Commander-in-Chief of the Defence Forces.

**6.3 Duty of President to uphold Constitution**

The President must-

- (a) uphold, defend, obey and respect this Constitution as the supreme law of the nation and must ensure that this Constitution and all the other laws are faithfully observed;
- (b) promote unity and peace in the nation for the benefit and well-being of all the people of Zimbabwe;
- (c) ensure protection of the fundamental human rights and freedoms and the rule of law; and
- (d) respect the diversity of the people and communities of Zimbabwe.

**6.4 Qualifications for election as President**

- (1) A person qualifies for election as President if he or she
  - (a) is a citizen of Zimbabwe by birth;
  - (b) has attained the age of forty years; and
  - (c) is qualified for election to Parliament.
- (2) A person is disqualified for election as President if he or she has already held office as President under this Constitution for one or more periods, whether continuous or not, amounting to ten years.

**6.5 Election of President**

- (1) The election of a President must take place not more than ninety days-
  - (a) before the expiry of a President's term of office; or
  - (b) after a President dies, resigns or is removed from office.
- (2) The President is elected directly by registered voters in a national election and the procedure for the election is as prescribed in the Electoral Law.

**6.6 Challenge to presidential election**

- (1) Subject to this section, any aggrieved person or organisation may challenge the validity of a presidential election by lodging a petition or application with the Constitutional Court within seven days after the date of the declaration of the results of the election.
- (2) The Constitutional Court must hear and determine a petition or application challenging the validity of a presidential election within fourteen days after the petition or application was lodged, and the court's decision is final.
- (3) In determining a petition or application challenging the validity of a presidential election, the Constitutional Court may-
  - (a) declare a winner;
  - (b) invalidate the election, in which case a fresh election must be held within sixty days after the determination; or
  - (c) make any other order it considers just and appropriate.

**6.7 Assumption of office by President-elect**

- (1) Before assuming office, the President-elect must take the Presidential oath in the form set out in the Second Schedule-
  - (a) on the ninth day after the date of the declaration of the result of the presidential election, if no application or petition has been filed under section 6.6; or
  - (b) within forty-eight hours after the date on which the Constitutional Court renders a decision under section 6.6.
- (2) The incumbent President continues in office until the assumption of office by the President-elect.

**6.8 Term of office of President**

- (1) Subject to section 6.7(2), the term of office of the President is a period of five years.
- (2) A person must not hold office as President for more than two terms, whether continuous or not, under this Constitution, and for the purpose of this subsection three or more years' service is deemed to be a full term.

**6.9 Resignation of President**

The President may resign his or her office by written notice to the Speaker, who must give public notice of the resignation as soon as it is possible to do so.

**6.10 Removal of President from office**

- (1) The National Assembly, by a resolution passed by at least two-thirds of its total membership, may resolve to impeach the President for-
  - (a) serious misconduct;
  - (b) failure to obey, uphold or defend this Constitution;
  - (c) wilful violation of this Constitution; or
  - (d) inability to perform the functions of the office because of physical or mental incapacity.
- (2) As soon as possible after the National Assembly has passed a resolution in terms of subsection (1), the Senate, presided over by the Chief Justice, must sit as a court and decide whether or not the President should be removed from office on any of the grounds referred to in that subsection.
- (3) A resolution to remove the President from office must be passed by at least two-thirds of the membership of the Senate.
- (4) If the Senate resolves in terms of this section that the President should be removed from office, the office of President thereupon becomes vacant, unless the Constitutional Court, on application, sets aside the proceedings on the ground of procedural unfairness.

**6.11 Presidential immunity**

- (1) While in office, the President is not liable to civil or criminal proceedings in any court for things done or omitted to be done in his or her personal capacity.
- (2) After leaving office as President, civil proceedings may be instituted against him or her for things done and omitted to be done-
  - (a) before he or she became President;
  - (b) in his or her personal capacity while he or she was President.
- (3) The running of prescription in relation to any debt or liability of the President arising before or during his or her term of office is suspended while he or she remains in office.

**6.12 Vice-President [Single Vice-President]**

- (1) As soon as practicable after assuming office, the President must appoint a person to be Vice-President, to assist the President in the discharge of his or her functions and to perform any other functions, including the administration of any Ministry or Act of Parliament, which the President may assign to him or her.
- (2) A person is qualified to be Vice-President if he or she is qualified to be President and, in addition, is a member of Parliament.
- (3) In appointing a Vice-President, the President must be guided by ethnic, regional and gender balance considerations.
- (4) Before taking office, a person appointed as Vice-President must take the Vice-Presidential oath in the form set out in the Second Schedule.
- (5) The office of a Vice-President becomes vacant
  - (a) upon a new person assuming office as President;
  - (b) if the President removes him or her from office;
  - (c) if he or she resigns from office by notice in writing to the President; or
  - (d) if he or she ceases to be a Member of Parliament.

*Alternatively:*

**6.12 Vice-Presidents [Two Vice-Presidents]**

- (1) As soon as practicable after assuming office, the President must appoint two persons to be Vice-Presidents to assist the President in the discharge of his or her functions and to perform any other functions, including the administration of any Ministry or Act of Parliament assigned to them.
  - (2) A person is qualified to be a Vice-President if he or she is qualified to be President and, in addition, is a Member of Parliament.
  - (3) In appointing a Vice-President, the President must be guided by ethnic, regional and gender balance considerations.
  - (4) Before taking office, a person appointed as a Vice-President must take the Vice-Presidential oath in the form set out in the Second Schedule.
  - (5) The office of a Vice-President becomes vacant
    - (a) upon a new person assuming office as President;
    - (b) if the President removes him or her from office;
    - (c) if he or she resigns from office by notice in writing to the President; or
    - (d) if he or she ceases to be a Member of Parliament.
- 6.13 Acting President**
- (1) Whenever the office of President is vacant or the President is absent



from Zimbabwe or is unable to exercise his or her official functions through illness or any other cause, those functions must be assumed and exercised-

- (a) by the Vice-President; or
- (b) if the Vice-President is unable to exercise them, by a Minister
  - (i) designated for such an eventuality by the President; or
  - (ii) nominated by the Cabinet, where no Minister has been designated by the President in terms of subparagraph (i).

*Alternatively, if there are to be two Vice-Presidents:*

- (a) by the Vice-President whom the President has designated for such an eventuality;
  - (b) by the Vice-President who last acted as President in terms of this section, where neither Vice-President has been designated for such an eventuality in terms of paragraph (a); or
  - (c) if both Vice-Presidents are unable to exercise the functions, by a Minister
    - (i) designated for such an eventuality by the President; or
    - (ii) nominated by the Cabinet, where no Minister has been designated by the President in terms of subparagraph (i).
- (2) Except in accordance with a resolution passed by a majority of the total membership of the Cabinet, a person exercising the functions of the office of President in terms of subsection (1) must not exercise the power of the President-
- (a) to deploy the Defence Forces;
  - (b) to enter into any international convention, treaty or agreement;
  - (c) to appoint or revoke the appointment of a Vice-President, Minister or Deputy Minister; or
  - (d) to assign or reassign functions to a Vice-President, Minister or Deputy Minister, including, in the case of a Vice-President or Minister, the administration of any Act of Parliament or of any Ministry or department, or to cancel any such assignment of functions.

## 6.14 Remuneration of President and Vice-President(s)

- (1) The President and the Vice-President(s) are entitled to the salaries, allowances, pensions and other benefits that are prescribed under an Act of Parliament.
- (2) The salaries and allowances of the President and the Vice-President(s) must be charged upon and paid out of the Consolidated Revenue Fund.

## 6.15 President and former President not to hold other office or employment

The President and any former President must not, directly or indirectly, hold any other public office or be employed by anyone else while he or she is in office or is receiving a pension from the State as former President.

### PART 3

#### MINISTERS, DEPUTY MINISTERS AND CABINET

##### 6.16 Appointment of Ministers and Deputy Ministers

- (1) The President appoints Ministers and assigns functions to them, including the administration of any Act of Parliament or of any Ministry or department.
- (2) The President may appoint Deputy Ministers to assist any Minister in the exercise of his or her functions.
- (3) Ministers and Deputy Ministers are appointed from among Senators or Members of the National Assembly, but up to three may be appointed from outside Parliament if their appointment is approved by a majority of the total membership of the Senate.
- (4) In appointing Ministers and Deputy Ministers, the President must be guided by ethnic, regional and gender balance considerations.
- (5) Not more than-
  - (a) twenty-five Ministers; and
  - (b) fifteen Deputy Ministers;
 may be appointed or hold office at anyone time unless the Senate and the National Assembly, sitting separately, by resolutions passed by a majority of the total membership of each House, resolve that the number of Ministers and Deputy Ministers may be increased.
- (6) Ministers and Deputy Ministers who are not Members of Parliament may sit and speak, but not vote, in the Senate or the National Assembly.
- (7) Before taking office, a person appointed as Minister or Deputy Minister must take before the President the appropriate Ministerial oath in the form set out in the Second Schedule .

##### 6.17 Cabinet

- (1) There is a Cabinet consisting of the President, as head of the Cabinet, the Vice President(s) and such Ministers as the President may appoint to the Cabinet.
- (2) Cabinet meetings are presided over by the President or a [the] Vice-President or, if they are both absent, by a Minister elected by those present at the meeting.

##### 6.18 CONDUCT OF VICE-PRESIDENT(S), MINISTERS AND DEPUTY MINISTERS

- (1) Vice-Presidents [The Vice-President], Ministers and Deputy Ministers must
  - (a) act in accordance with this Constitution; and
  - (b) provide Parliament with full and regular reports concerning matters under their control.
- (2) Ministers and Deputy Ministers may not, during their tenure of office-
  - (a) directly or indirectly, hold any other public office or undertake any other paid work;
  - (b) act in any way that is inconsistent with their office, or expose themselves to any situation involving the risk of a conflict between their official responsibilities and private interests; or
  - (c) use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person.
- (3) An Act of Parliament may prescribe a code of conduct for Vice-Presidents [the VicePresident], Ministers and Deputy Ministers.

##### 6.19 Accountability of Vice-President(s), Ministers and Deputy Ministers

- (1) Subject to this Constitution, Vice-Presidents [The Vice-President], Ministers and Deputy Ministers are accountable, collectively and individually, to the President for the performance of their functions.
- (2) Vice-Presidents [the Vice-President], Ministers and Deputy Ministers must attend Parliament and parliamentary committees in order to answer questions concerning matters for which they are collectively or individually responsible.

##### 6.20 Tenure of office of Ministers and Deputy Ministers

- (1) The office of a Minister or Deputy Minister becomes vacant
  - (a) if the President removes him or her from office;
  - (b) if he or she resigns from office by notice in writing to the President;
  - (c) upon the assumption of office by a new President.
- (2) Subject to subsection (4), a Minister or Deputy Minister who was a Member of Parliament on appointment as Minister or Deputy Minister vacates his or her office as such upon ceasing to be a Member of Parliament.
- (3) Subject to subsection (4), a Minister or Deputy Minister who was not a Member of Parliament on appointment as Minister or Deputy Minister vacates his or her office as such if circumstances arise that would result in his or her seat becoming vacant were he or she a Member of Parliament.
- (4) Subject to this Constitution, in the event of a dissolution of Parliament Ministers and Deputy Ministers continue to hold office as such until Parliament first meets after the dissolution.

##### 6.21 Vote of no confidence in Government

- (1) Parliament may, by resolution passed by at least two-thirds of all its members at a joint sitting, pass a vote of no confidence in the Government.
- (2) A motion for the resolution for a vote of no confidence may be moved only if
  - (a) at least seven days' notice of the motion has been given to the Speaker; and
  - (b) the notice of motion has been signed by at least one-third of all the Members of the National Assembly.
- (3) A motion for a vote of no confidence-

- (a) must be debated in a joint sitting of the two Houses of Parliament within twenty-one days after the Speaker received the notice of the motion; and
  - (b) must be voted on within seven consecutive sittings after it was moved, otherwise it is regarded as lost.
- (4) Where Parliament passes a vote of no confidence in the Government, the President must, within fourteen days, remove every Minister from office, unless they have already resigned as a result of the resolution, and appoint new Ministers.
- (5) If the President does not act in accordance with subsection (4) within fourteen days after the passing of the vote of no confidence in the Government, the President is deemed to have been impeached by the National Assembly in terms of section 6.10 (1), and subsections (2), (3) and (4) of that section apply accordingly.

### PART 4

#### EXECUTIVE FUNCTIONS

##### 6.22 Executive functions of President and Cabinet

- (1) The President has the powers conferred by this Constitution and by any Act of Parliament or other law including those necessary to exercise the functions of Head of State.
- (2) Subject to this Constitution, the President is responsible for-
  - (a) assenting to and signing Bills;
  - (b) referring a Bill to the Constitutional Court for an opinion or advice on its constitutionality;
  - (c) summoning the National Assembly, the Senate or Parliament to an extraordinary sitting to conduct special business;
  - (d) making appointments which the Constitution or legislation requires the President to make;
  - (e) calling elections and referendums on any matter in accordance with the law;
  - (f) deploying the Defence Forces;
  - (g) conferring honours and awards;
  - (h) appointing ambassadors, plenipotentiaries, and diplomatic and consular representatives; and
- (i) receiving and recognising foreign diplomatic and consular representatives.
- (3) Subject to this Constitution, the Cabinet is responsible for
  - (a) directing the operations of Government;
  - (b) conducting Government business in Parliament;
  - (c) preparing, initiating and implementing national legislation; and
  - (d) developing and implementing national policy.

- (4) Subject to this Constitution, the President may conclude or execute conventions, treaties and agreements with foreign states and governments and international organisations.
- (5) A decision by the President must be in writing if it is taken in terms of legislation.
- (6) [*Parked issue: which of the President's functions he should exercise on the advice of Cabinet and which he should exercise on other advice or independently*]

##### 6.23 Power of mercy

- (1) The President may exercise the power of mercy, that is to say, may-
  - (a) grant a pardon to anyone concerned in or convicted of an offence against any law;
  - (b) grant a respite from the execution of a sentence for any offence for an indefinite or specified period;
  - (c) substitute a less severe punishment for that imposed for any offence; or
  - (d) suspend for a specified period or remit the whole or part of a sentence for any offence or any forfeiture imposed in respect of any offence; and may impose conditions on any such pardon, respite, substitution or suspension.
- (2) Where a person who is resident in Zimbabwe has been convicted in another country of an offence against a law in force in that country, the President may declare that the conviction is not to be regarded as a conviction for the purposes of this Constitution or any other law in force in Zimbabwe.
- (3) When exercising his or her powers under this section, the President must consult an Advisory Committee on the Power of Mercy consisting of-
  - (a) the Minister responsible for justice; and
  - (b) five other members, appointed by the Minister responsible for justice with the approval of the Senate, none of whom must be in the full-time employment of the State.
- (4) The terms of office of members of the Advisory Committee on the Power of Mercy, other than the Minister responsible for justice, must be fixed on their appointment by the Senate but no such member may serve as a member of the Committee for one or more periods exceeding five years in aggregate.
- (5) The grant of a pardon or respite from execution of sentence or the substitution or suspension of a sentence must be published in the Gazette.

##### 6.24 States of public emergency

- (1) The President may by proclamation in the Gazette declare that a state of public emergency exists in the whole or any part of Zimbabwe if-
  - (a) the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency; and
  - (b) the declaration is necessary to restore peace and order.
- (2) A state of public emergency ceases after fourteen days, beginning with the day of publication of the proclamation in the Gazette, unless the declaration is approved by at least two-thirds of all the members of Parliament at a joint sitting of the Senate and the National Assembly.
- (3) If Parliament is dissolved during the period of fourteen days after a state of public emergency has been declared, the declaration ceases to have effect after twenty-one days, beginning with the day of publication of the proclamation in the Gazette, unless within that period the declaration is approved by a majority of all the members of the new Parliament at a joint sitting of the Senate and the National Assembly.
- (4) If a declaration of a state of public emergency is approved by Parliament in terms of subsection (2), it remains in effect for three months from the date on which the proclamation was published in the Gazette unless it is earlier revoked or ceases to have effect under this section.
- (5) If a declaration of a state of public emergency is not approved after consideration by Parliament, or if it is not considered by Parliament within the period specified in this section, the President must, within forty-eight hours, by proclamation in the Gazette, revoke the declaration and persons detained as a consequence of the declaration are entitled to their immediate release.
- (6) If the Senate and the National Assembly, sitting separately, each resolve by a majority of their total membership that a declaration of a state of public emergency should be continued for a further period not exceeding three months, the President must, by proclamation in the Gazette, extend the declaration for that further period.
- (7) If the Senate and the National Assembly, sitting separately, each resolve that a declaration of a state of public emergency should be revoked or that it should apply within a smaller area, the President must, by proclamation in the Gazette, revoke the declaration or provide that the declaration then relates to that smaller area.
- (8) The Constitutional Court, on the application of any interested person, may determine the validity of-
  - (a) a declaration of a state of public emergency;
  - (b) any extension of a declaration of a state of public emergency.
- (9) Any court may determine the validity of any legislation enacted, or other action taken, in consequence of a declaration of a state of public emergency.

### PART 5

#### ATTORNEY-GENERAL

##### 6.25 Attorney-General

- (1) There is an Attorney-General appointed by the President.
- (2) A person who has been appointed as Attorney-General does not assume

office until he or she has taken before the President, or a person designated by the President, the oaths of loyalty and office in the forms set out in the Second Schedule.

- (3) A person is qualified for appointment as Attorney-General if he or she is qualified for appointment as a judge of the High Court.
  - (4) The functions of the Attorney-General are--
    - (a) to act as the principal legal adviser to the Government;
    - (b) to represent the Government in civil and constitutional proceedings;
    - (c) to draft legislation on behalf of the Government;
    - (d) to promote, protect and uphold the rule of law and to defend the public interest; and
  - (e) to exercise any other functions that may be assigned to the Attorney-General by an Act of Parliament;
- and the Attorney-General may exercise those functions in person or through subordinate officers acting under the Attorney-General's general or specific instructions.
- (5) The Attorney-General may-
    - (a) attend Cabinet meetings, but has no vote;
    - (b) sit and speak in the Senate and the National Assembly, but has no vote; and
    - (c) with the leave of the court concerned, appear as a friend of the court in any civil proceedings to which the Government is not a party.

##### 6.26 Removal from office of Attorney-General

The President may at any time remove the Attorney-General from office .

### CHAPTER 7

#### PARLIAMENT

##### PART 1

#### NATIONAL LEGISLATIVE AUTHORITY

##### 7.1 National legislative authority

- (1) The national legislative authority of Zimbabwe is derived from the people and is vested in and exercised by Parliament.
- (2) In exercising its legislative authority, Parliament is bound by this Constitution,

##### 7.2 Extent of Parliament's legislative authority

The legislative authority vested in Parliament confers on it the power

- (a) to amend this Constitution in accordance with section 18,12;
- (b) in accordance with this Constitution, to make laws for the peace, order and good governance of Zimbabwe; and
- (c) in accordance with section 7,19, to confer subordinate legislative powers upon another legislative body or authority,

### PART 2

#### NATURE AND ROLE OF PARLIAMENT

##### 7.3 Parliament

Parliament consists of the Senate and the National Assembly.

##### 7.4 Role of Parliament

- (1) Parliament must protect this Constitution and promote democratic governance in Zimbabwe.
- (2) In addition to their legislative functions both Houses of Parliament have power to ensure that the provisions of this Constitution are upheld and that all institutions and agencies of the State and Government act constitutionally and in the national interest.
- (3) For the purposes of subsection (2), all institutions and agencies of the State and Government are accountable to both Houses of Parliament.

### PART 3

#### THE SENATE

##### 7.5 Composition of senate

*(It was agreed that clear instructions would be provided to the drafters as to the composition of the Senate, in particular: (a) whether the proportionally-elected senators will be elected on the basis of votes cast for members of the National Assembly in general elections; (b) how the disabled members will be elected; (c) whether it is the intention to exclude independent candidates from standing for election to the Senate.)*

- (1) The Senate consists of ... Senators.
- (2) Of the ... Senators-
  - (a) ... are elected by registered voters in each province by a system of proportional representation based on the votes cast in the general election for members of the National Assembly;
  - (b) ... are chiefs, ... elected by the Council of Chiefs from each of the ... provinces into which Zimbabwe is divided; and
  - (c) the President and Vice-President of the Council of Chiefs;
  - (d) two are elected in the manner prescribed in the Electoral Law to represent persons living with disabilities.
- (3) Elections of Senators must be conducted in accordance with the Electoral Law.
- (4) The Electoral Law, or some other Act of Parliament, must make provision to ensure that, so far as practicable, at least half the total number of Senators referred to in subsection (2)(a) and (d) are women.

##### 7.6 Qualifications and disqualifications for election as Senator

- (1) A person is qualified for election as a Senator referred to in section 7.5(2)(a) if he or she-
  - (a) is registered as a voter; and
  - (b) is of or over the age of forty years; unless he or she is disqualified under subsection (4) or (5).
- (2) A person is qualified for election as a Senator Chief referred to in section 7.5(2)(b) if he or she-
  - (a) holds the office of Chief; and
  - (b) is registered as a voter; unless he or she is disqualified under subsection (4) or (5).
- (3) A person is qualified for election as a Senator referred to in section 7.5(2)(c) if he or she is living with a disability as defined in the Electoral Law, unless he or she is disqualified under subsection (4) or (5).
- (4) A person is disqualified for election as a Senator if-
  - (a) he or she is disqualified under the Fourth Schedule for registration as a voter; or
  - (b) within five years before the election, he or she vacated a seat in the Senate or the National Assembly in terms of section 7.13(1)(i) through having been convicted of an offence.
- (5) A person is disqualified for election at an election for filling a casual vacancy in the Senate if he or she is already a member of Parliament.

##### 7.7 President of Senate

- (1) At its first sitting after a general election and before proceeding to any other business, the Senate must elect a presiding officer to be known as the President of the Senate.
- (2) Whenever there is a vacancy in the office of President of the Senate, the Senate must without delay elect a person to fill the vacancy.
- (3) A person is qualified for election as President of the Senate if he or she is a Senator or is qualified to be elected to the Senate.
- (4) Elections to the office of President of the Senate must be conducted by the chairperson of the Electoral Commission or his or her nominee, by secret ballot in accordance with Standing Orders, and the results must be announced forthwith.
- (5) Before commencing his or her duties as such, the President of the Senate must take before the Chief Justice or a judge of the Constitutional Court the oaths of loyalty and office in the forms set out in the Second Schedule.
- (6) A Senator who is elected as President of the Senate ceases to be a Senator, and the vacant seat must be filled in accordance with the Electoral Law.
- (7) The President of the Senate may resign by announcing his or her resignation in person to the Senate or, if the Senate is not sitting, by giving written notice to the Clerk of Parliament.

- (8) The President of the Senate must vacate his or her office-
  - (a) on the day on which the Senate first meets after a general election;
  - (b) upon accepting any other public office or upon entering employment with any other person;
  - (c) upon becoming a member of Parliament or the Speaker;
  - (d) upon becoming a Minister or Deputy Minister;
  - (e) if circumstances arise that would oblige him or her to vacate his or her seat, if he or she were a Senator; or
  - (f) if a resolution for his or her removal from office is passed by at least two-thirds of the total membership of the Senate.

**7.8 Deputy President of Senate**

- (1) As soon as practicable after electing a President of the Senate following a general election, the Senate must elect a Senator to be the Deputy President of the Senate.
- (2) Whenever there is a vacancy in the office of Deputy President of the Senate, the Senate must without delay elect a person to fill the vacancy.
- (3) Elections to the office of Deputy President of the Senate must be conducted by the chairperson of the Electoral Commission or his or her nominee, by secret ballot in accordance with Standing Orders, and the results must be announced forthwith.
- (4) Before commencing his or her duties as such, the Deputy President of the Senate must take before the Chief Justice or a judge of the Constitutional Court the oaths of loyalty and office in the forms set out in the Second Schedule.
- (5) The Deputy President of the Senate may resign his or her office by announcing his or her resignation in person to the Senate or, if the Senate is not sitting, by giving written notice to the President of the Senate or, in the absence of the President of the Senate, to the Clerk of Parliament.
- (6) The Deputy President of the Senate must vacate his or her office-
  - (a) upon ceasing to be a Senator;
  - (b) upon becoming a member of the National Assembly or the Speaker;
  - (c) upon becoming a Minister or Deputy Minister;
  - (d) if a resolution for his or her removal from office is passed by at least two-thirds of the total membership of the Senate.

**PART 3**

**THE NATIONAL ASSEMBLY**

**7.9 Composition of National Assembly**

- (1) The National Assembly consists ... members, of whom-
  - (a) two hundred and ten are elected by secret ballot from the two hundred and ten constituencies into which Zimbabwe is divided; and
  - (b) ... are elected through a system of proportional representation based on the votes cast at a general election for the members referred to in paragraph (a)
- (2) Elections of members of the National Assembly must be conducted in accordance with the Electoral Law.
- (3) The Electoral Law, or some other Act of Parliament, must make provision to ensure that, so far as practicable, at least half the membership of the National Assembly consists of women.

**7.10 Qualifications and disqualifications for election to National Assembly**

- (1) A person is qualified for election as a member of the National Assembly if he or she-
  - (a) is registered as a voter; and
  - (b) is of or over the age of twenty-one years; unless he or she is disqualified under subsection (2) or (3).
- (2) A person is disqualified for election as a member of the National Assembly if
  - (a) he or she is disqualified under the Fourth Schedule for registration as a voter; or
  - (b) within five years before the election, he or she vacated a seat in the Senate or the National Assembly in terms of section 7.13(1)(i) through having been convicted of an offence.
- (3) A person is disqualified for election at an election for filling a casual vacancy in the National Assembly if he or she is already a member of Parliament.

**7.11 Speaker of National Assembly**

- (1) At its first sitting after a general election, and before proceeding to any other business, the National Assembly must elect a presiding officer to be known as the Speaker.
- (2) Whenever there is a vacancy in the office of Speaker, the National Assembly must without delay elect a person to fill the vacancy.
- (3) A person is qualified for election as Speaker if he or she is a member of the National Assembly or is qualified to be elected to the National Assembly.
- (4) Elections to the office of Speaker must be conducted by the chairperson of the Electoral Commission or his or her nominee, by secret ballot in accordance with Standing Orders, and the results must be announced forthwith.
- (5) Before commencing his or her duties as such, the Speaker must take before the Chief Justice or a judge of the Constitutional Court the oaths of loyalty and office in the forms set out in the Second Schedule.
- (6) A member of the National Assembly who is elected as Speaker ceases to be a member of the National Assembly, and the vacant seat must be filled in accordance with the Electoral Law.
- (7) The Speaker may resign by announcing his or her resignation in person to the National Assembly or, if the National Assembly is not sitting, by giving written notice to the Clerk of Parliament.
- (8) The Speaker must vacate his or her office-
  - (a) on the day on which the National Assembly first meets after a general election;
  - (b) upon accepting any other public office or upon entering employment with any other person;
  - (c) upon becoming a member of Parliament or the President of the Senate;
  - (d) upon becoming a Minister or Deputy Minister;
  - (e) if circumstances arise that would oblige him or her to vacate his or her seat, if he or she were a member of the National Assembly; or
  - (f) if a resolution for his or her removal from office is passed by at least two-thirds of the total membership of the National Assembly.

**7.12 Deputy Speaker of National Assembly**

- (1) As soon as practicable after electing a Speaker following a general election, the National Assembly must elect one of its members to be the Deputy Speaker.
- (2) Whenever there is a vacancy in the office of Deputy Speaker, the National Assembly must without delay elect a person to fill the vacancy.
- (3) Elections to the office of Deputy Speaker must be conducted by the chairperson of the Electoral Commission or his or her nominee, by secret ballot in accordance with Standing Orders, and the results must be announced forthwith.
- (4) Before commencing his or her duties as such, the Deputy Speaker must take before the Chief Justice or a judge of the Constitutional Court the oaths of loyalty and office in the forms set out in the Second Schedule.
- (5) The Deputy Speaker may resign by announcing his or her resignation in person to the National Assembly or, if the National Assembly is not sitting, by giving written notice to the Speaker or, in the absence of the Speaker, to the Clerk of Parliament.
- (6) The Deputy Speaker must vacate his or her office-
  - (a) upon ceasing to be a member of the National Assembly;
  - (b) upon becoming a Senator or the President of the Senate;
  - (c) upon becoming a Minister or Deputy Minister; or
  - (d) if a resolution for his or her removal from office is passed by at least two-thirds of the total membership of the National Assembly.

**PART 4**

**TENURE, ETC., OF MEMBERS OF PARLIAMENT**

**7.13 Tenure of seat of member of Parliament**

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- (1) The seat of a member of Parliament becomes vacant
  - (a) on the dissolution of Parliament;
  - (b) upon the member resigning his or her seat by notice in writing to the President of the Senate or to the Speaker, as the case may be;
  - (c) upon the member becoming President;
  - (d) upon the member becoming President of the Senate or Speaker or a member of the other House;
  - (e) if the member ceases to be qualified for registration as a voter;
  - (f) if, without leave from the Speaker or the President of the Senate, as the case may be, the member is absent from the House of which he or she is a member for twenty-one consecutive days on which the House sits, and the House concerned resolves by a vote of at least two-thirds of its total membership that the seat should become vacant;
  - (g) if the member accepts public office or office as a member of a statutory body, government-controlled entity, provincial councilor local authority or employment as an employee of a statutory body, provincial councilor local authority;
  - (h) if the member was a public officer or a member or employee of a statutory body, a government-controlled entity, a provincial councilor a local authority when he or she became a member of Parliament, and he or she fails to relinquish that office, membership or employment within fourteen days after becoming a member of Parliament;
  - (i) if the member is convicted-
    - (i) in Zimbabwe of an offence of which breach of trust, dishonesty or physical violence is an essential element; or
    - (ii) 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 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 on appeal the member's conviction is set aside or the sentence of imprisonment is reduced to less than six months or a punishment other than imprisonment is substituted;
  - (j) if the member has been declared insolvent under a law in force in Zimbabwe and has not been rehabilitated or discharged, or if the member has made an assignment under such a law with his or her creditors which has not been rescinded or set aside;
  - (k) if the member has ceased to belong to the political party of which he or she was a member when elected to Parliament and the political party concerned, by written notice to the Speaker or the President of the Senate, as the case may be, has declared that the member ceased to represent its interests in Parliament;
  - (l) if the member, not having been a member of a political party when he or she was elected to Parliament, becomes a member of a political party;
  - (m) if the member is certified to be mentally disordered or intellectually handicapped under any law in force in Zimbabwe; or
  - (n) if the member has been convicted of an offence under the Electoral Law and has been declared by the High Court to be disqualified for registration as a voter or from voting at any election.
- (2) A member referred to in subsection (1)(i) who has noted an appeal against his or her conviction may continue, until the final determination of the appeal, to exercise his or her functions as a member and to receive remuneration as a member, unless a court has ordered that he or she should be detained in prison pending the outcome of the appeal.

**7.14 Oath of member of Parliament**

- (1) Before a member of Parliament takes part in any proceedings of Parliament, except proceedings necessary for the purpose of this section, the member must take the oath of a member of Parliament in the form set out in the Second Schedule.
- (2) The oath referred to in subsection (1) must be taken before the Chief Justice or a judge of the Constitutional Court.

**PART 5**

**LEGISLATIVE AND OTHER POWERS**

**7.15 Powers and functions of Senate and National Assembly**

- (1) Except as provided in the Fifth Schedule, in the exercise of their legislative authority both the Senate and the National Assembly have power to initiate, prepare, consider or reject any legislation.
- (2) In addition to their functions under this Constitution, the Senate and the National Assembly may exercise any further functions conferred or imposed on them under any law.

**7.16 Acts of Parliament and procedure for their enactment**

- (1) Parliament's legislative authority is exercised through the enactment of Acts of Parliament.
- (2) An Act of Parliament is a Bill which has been-
  - (a) presented in and passed by both Houses of Parliament; and
  - (b) assented to and signed by the President; in accordance with this Constitution.
- (3) The words of enactment in Acts of Parliament are "Enacted by the Parliament of Zimbabwe", or words to that effect.
- (4) The procedure to be followed by the National Assembly and the Senate with regard to Bills is set out in the Fifth Schedule.
- (5) After a Bill has been passed by both Houses in accordance with the Fifth Schedule, the President of the Senate or the Speaker, as the case may be, must without delay-
  - (a) cause it to be presented to the President for assent and signature, together with any certificate which is required by this Constitution to accompany the Bill; and
  - (b) give public notice of the date on which the Bill was sent to the President.
- (6) When a Bill is presented to the President for assent and signature, he or she must, within twenty-one days, either-
  - (a) assent to it and sign it, and then cause it to be published in Gazette without delay; or
  - (b) if he or she considers it to be unconstitutional or has any other reservations about it, refer the Bill back to Parliament through the Clerk of Parliament, together with detailed written reasons for those reservations and a request that the Bill be reconsidered at a joint sitting of the National Assembly and the Senate.
- (7) Where a Bill has been referred back to Parliament in terms of subsection (6)(b), the Speaker and the President of the Senate must without delay convene a joint sitting of the National Assembly and the Senate, which must-
  - (a) reconsider the Bill and fully accommodate the President's reservations; or
  - (b) pass the Bill, with or without amendments, by a two-thirds majority of the total membership of the National Assembly and the Senate; and in either case the Speaker must cause the Bill to be presented to the President without delay for assent and signature and must give public notice of the date on which the Bill was sent to the President.
- (8) If a Bill that has been presented to the President in terms of subsection (7) fully accommodates the President's reservations, the President must assent to the Bill and sign it within twenty-one days and then cause it to be published in the Gazette without delay, but if the President still has reservations about the Bill, he or she must within that period either-
  - (a) assent to the Bill and sign it, despite those reservations; or
  - (b) refer the Bill to the Constitutional Court for advice on its constitutionality.
- (9) If on a reference under subsection (8) the Constitutional Court advises that the Bill is constitutional, the President must assent to it and sign it immediately and cause it to be published in the Gazette without delay.
- (10) If a Bill is presented to the President for assent and signature and it is not accompanied by a certificate which is required by any provision of this Constitution, the President must not assent to the Bill or sign it until the certificate is produced but must cause the Clerk of Parliament to be notified,

immediately and in writing, that the certificate was not sent with the Bill.

**7.17 Commencement of Acts of Parliament**

An Act of Parliament comes into operation at the beginning of the day on which it is published in the Gazette, or at the beginning of any other day that may be specified in the Act or some other enactment.

**7.18 Enrolment of Acts of Parliament**

- (1) When the President has assented to and signed an Act of Parliament, the Clerk of Parliament must transmit a fair copy of it, authenticated by the President's signature and the public seal of Zimbabwe, to be enrolled in the office of the Registrar of the High Court, and that copy is conclusive evidence of the provisions of the Act unless the Act is revised under an Act of Parliament referred to in subsection (2).
- (2) An Act of Parliament may provide for the statute law, or any part of it, to be published in revised form and may further provide that-
  - (a) upon being published, the revision is the sole authentic version of the statutes contained in it;
  - (b) a copy of the revision must be deposited in the office of the Registrar of the High Court; and
  - (c) the copy that is deposited in the office of the Registrar of the High Court is conclusive evidence of the provisions of the statutes contained in it.
- (3) The validity of an Act of Parliament or a revision of the statute law does not depend on its enrolment or deposit under this section.

**7.19 Subsidiary legislation**

- (1) Parliament may, in an Act of Parliament, delegate power to make statutory instruments within the scope and for the purposes laid out in that Act, but-
  - (a) Parliament's primary law-making power must not be delegated;
  - (b) statutory instruments must not infringe or limit any of the rights and freedoms set out in the Declaration of Rights;
  - (c) statutory instruments must be consistent with the Act of Parliament under which they are made;
  - (d) an Act of Parliament must require appropriate consultation with interested parties before statutory instruments are made;
  - (e) the Act must specify the limits of the power, the nature and scope of the statutory instrument that may be made, and the principles and standards applicable to the statutory instrument;
  - (f) statutory instruments do not have the force of law unless they have been published in the Gazette;
  - (g) statutory instruments must be laid before the National Assembly in accordance with its Standing Orders and submitted to the Parliamentary Legal Committee for scrutiny; and
  - (h) an Act of Parliament must make provision for statutory instruments to be repealed, revoked or cease to have effect if they are not approved by the National Assembly.
- (2) Ordinances, by-laws and regulations of provincial and local government institutions referred to in Chapter 14 must be laid before and approved by the National Assembly in terms of subsection (1).

**PART 6**

**PROCEDURE IN PARLIAMENT**

**7.20 Head of Parliament**

- (1) The Speaker is the head of Parliament and responsible for its day-to-day administration, subject to any instructions given by the Committee on Standing Rules and Orders.
- (2) The President of the Senate is the deputy head of Parliament and acts as head whenever the Speaker is for any reason unable to do so.

**7.21 Persons presiding in Parliament**

- (1) The person presiding at any sitting of the Senate must be-
  - (a) the President of the Senate or, in his or her absence, the Deputy President of the Senate; or
  - (b) in the absence of the President or Deputy President of the Senate, a Senator elected for the purpose by the Senate, but that Senator must not be a Minister.
- (2) The person presiding at any sitting of the National Assembly must be
  - (a) the Speaker or, in his or her absence, the Deputy Speaker; or
  - (b) in the absence of the Speaker or Deputy Speaker, a member of the National Assembly elected for the purpose by the National Assembly, but that member must not be a Minister.
- (3) The Speaker, or in his or her absence the President of the Senate, must preside at any joint sitting of the National Assembly and the Senate.

**7.22 Quorum in Parliament**

The Senate and the National Assembly must prescribe in Standing Orders the minimum number of members who must be present for the conduct of business.

**7.23 Voting and right of audience in Parliament**

- (1) Except where this Constitution provides otherwise-
  - (a) all questions proposed for decision in either House of Parliament are decided by a majority of the votes of the members of that House present and voting;
  - (b) the person presiding in either House of Parliament does not have either a deliberative or a casting vote on any issue before the House;
  - (c) if the votes in either House of Parliament are equally divided on any motion, the motion is lost.
- (2) [Voting rights of chiefs: to be discussed.]
- (3) Ministers and Deputy Ministers are entitled to sit and speak in both Houses of Parliament but have no right to vote in a House of which they are not members .
- (4) Members of the Parliamentary Legal Committee and any other joint committee of Parliament are entitled to sit and speak in either House of Parliament for the purpose of introducing or debating any report of that committee which is before the House, but have no right to vote in a House of which they are not members.
- (5) Where a member of Parliament, other than a Minister or Deputy Minister, has introduced a Bill in the House of which he or she is a member, and the House has passed the Bill, that member or, in his or her absence, any other member of the House concerned is entitled to sit and speak in the other House for the purpose of conducting the Bill through that House, but has no right to vote in that other House .

**7.24 Standing Orders**

- (1) The proceedings of the Senate and the National Assembly are regulated by rules known as Standing Orders, which are made by the Houses individually or jointly on the recommendation of the Committee on Standing Rules and Orders.
- (2) Standing Orders may provide for
  - (a) the passing of Bills;
  - (b) the appointment and functions of committees and the delegation of functions to them;
  - (c) the appointment of a committee to advise members of Parliament on the legal validity of Bills, draft Bills and statutory instruments;
  - (d) the way in which the powers, privileges and immunities of the Houses may be exercised and upheld; and
  - (e) generally, the regulation and orderly conduct of business and proceedings in and between the Houses.
- (3) Standing Orders must provide for-
  - (a) [for further consultation] the questioning of the President, Ministers and Deputy Ministers by members of Parliament;
  - (b) a code of conduct to be followed by members of Parliament; and (c) the exercise of the right of the public to petition Parliament.
- (4) The procedures and processes of Parliament and its committees, as provided for in Standing Orders, must promote openness, must encourage the involvement of members of minority parties and the public, and must be fair and just.

(5) Any committee established by or under Standing Orders must reflect, as closely as possible, the political and gender composition of Parliament or of the House to which the Standing Orders apply, as the case may be, and the members of the committee who represent minority political parties must be elected or appointed by those parties.

## 7.25 Presidential addresses to Parliament

- (1) The President may at any time address either House of Parliament or a joint sitting of both Houses.
- (2) At least once a year the President must address a joint sitting of both Houses of Parliament on the state of the nation, and the Speaker and the President of the Senate must make the necessary arrangements for Parliament to receive such an address.

## 7.26 Public access to and involvement in Parliament

- Parliament must-
- facilitate public involvement in its legislative and other processes and in the processes of its committees; and
  - ensure that interested parties are consulted about Bills being considered by Parliament, unless such consultation is inappropriate or impracticable;
  - conduct its business in an open manner and hold its sittings, and those of its committees, in public, though measures may be taken-
    - to preserve order in parliamentary proceedings;
    - to regulate public access, including access of the media, to Parliament and its committees;
    - to exclude the public, including the media, from sittings of committees; and
    - to provide for the searching of any person and, where appropriate, the refusal of entry to or the removal of any person;
 but those measures must be reasonable and justifiable in an open and democratic society.

## 7.27 Validity of proceedings in Parliament

- (1) A vacancy in the membership of the Senate or the National Assembly, or the suspension of a member of Parliament, does not prevent the Senate or the National Assembly from transacting its business.
- (2) The fact that a person who was not entitled to do so sat and voted in the Senate or the National Assembly or otherwise took part in the proceedings of the Senate or the National Assembly does not invalidate the proceedings.

### PART 7

#### DURATION, DISSOLUTION AND SITTINGS OF PARLIAMENT

##### 7.28 Duration and dissolution of Parliament

- (1) Parliament is elected for a term of five years running from the date of the first sitting of the National Assembly, and Parliament stands dissolved at midnight on the day before the first polling day in the general election called in terms of section 7.29.
- (2) The President must by proclamation dissolve Parliament if the Senate and the National Assembly, sitting separately, by the affirmative votes of at least two-thirds of the total membership of each House, have passed resolutions to dissolve.

##### 7.29 General election resulting from dissolution of Parliament

- (1) Where the National Assembly has not earlier passed a resolution to dissolve in terms of section 7.28(2), the President must by proclamation call and set dates for a general election to be held not more than ninety days before the expiry of the five-year period specified in section 7.28(1).
- (2) Where the National Assembly has passed a resolution to dissolve in terms of section 7.28(2), the President must by proclamation call and set dates for a general election to be held not more than ninety days after the National Assembly passed the resolution.
- (3) The dates of a general election called in terms of this section must be fixed by the President on the advice of the Electoral Commission.

##### 7.30 First sitting of Parliament following general election

- (1) The first sitting of either House of Parliament after a general election must take place at a time and date determined by the President, but the date must not be later than thirty days after the general election was held.
- (2) If for any reason a date has not been fixed in terms of subsection (1) for the first sitting of-
  - the Senate, the person who last held office as President of the Senate must summon the Senate for its first sitting within seven days after the expiry of the thirty-day period specified in subsection (1);
  - the National Assembly, the person who last held office as Speaker must summon the National Assembly for its first sitting within seven days after the expiry of the thirtyday period specified in subsection (1);
 and if those persons fail or refuse to summon the House concerned, the Chief Justice must summon the House to sit within seven days after the period prescribed in paragraph (a) or (b), as the case may be.
- (3) If for any reason none of the persons specified in subsection (2) summons a House of Parliament, the members of the House must meet, in the chamber where the House usually meets, on the seventh day after the last date on which the House should have been summoned to meet in terms of that subsection, and the business of the House may proceed as if it were meeting on a date fixed in terms of subsection (1).
- (4) Until the election of a President of the Senate or a Speaker, as the case may be, the first sitting of a House of Parliament must be presided over by the person who last held office as President of the Senate or Speaker, or by a member of the House elected by a majority of the members who are present.

##### 7.31 Sittings and recess periods

- Each House of Parliament determines the time and duration of its sittings, other than its first sitting, and its periods of recess, but-
- the President may summon Parliament at any time to conduct special business;
  - no more than one hundred and eighty days may elapse between the sittings of a House.

##### 7.32 Lapsing of Bills, motions, petitions and other business on dissolution of Parliament

On the dissolution of Parliament, all proceedings pending at the time are terminated, and every Bill, motion, petition and other business lapses.

### PART 8

#### GENERAL MATTERS RELATING TO PARLIAMENT

##### 7.33 Privileges and immunities of Parliament

- (1) The President of the Senate, the Speaker and members of Parliament have freedom of speech in the National Assembly and the Senate and in all parliamentary committees and, while they must obey the rules and orders of the House concerned, they are not liable to civil or criminal proceedings, arrest or imprisonment or damages for anything said in, produced before or submitted to Parliament or any of its committees.
- (2) An Act of Parliament may-
  - provide for other privileges, immunities and powers of Parliament and its members and officers;
  - define conduct which constitutes contempt of Parliament, whether committed by members of Parliament or other people; and
  - provide for a right of reply, through the Speaker or the President of the Senate, as the case may be, for persons who are unjustly injured by what is said about them in Parliament;
 but no such Act may permit Parliament or its members or officers to impose any punishment in the nature of a criminal penalty, other than a fine, for breach of privilege or contempt of Parliament.
- (3) Any punishment imposed by Parliament for breach of privilege or contempt is subject to review by the High Court.

##### 7.34 Right to petition Parliament

- (1) Everyone has a right to petition Parliament to consider any matter within its authority, including the enactment, amendment or repeal of legislation.
- (2) The manner in which petitions are to be presented to Parliament, and the

action that Parliament is to take on presentation of a petition, must be prescribed in Standing Orders.

##### 7.35 Venue of Parliament

Parliament may sit at places other than the ordinary seat of Parliament, but only on grounds of public interest, security or convenience.

##### 7.36 Committee on Standing Rules and Orders

- (1) Parliament must appoint a committee to be known as the Committee on Standing Rules and Orders for the purpose of-
  - supervising the administration of Parliament;
  - formulating Standing Orders;
  - considering and deciding all matters concerning Parliament; and
  - exercising any other functions that may be conferred or imposed on the committee by this Constitution or by Standing Orders or any other law.
- (2) The Committee on Standing Rules and Orders must consist of the Speaker and the President of the Senate and the following members of Parliament-
  - the Deputy Speaker;
  - the Deputy President of the Senate;
  - the Leader of Government Business in each House;
  - the Leader of the Opposition in each House;
  - the chief whips of all the political parties represented in each House;
  - four members who are not Vice-Presidents or Ministers, two being Senators appointed to the committee by the President of the Senate and two being members of the National Assembly appointed by the Speaker; and
  - ten members who are not Vice-Presidents or Ministers, five being elected to the committee by the Senate and five being elected by the National Assembly.
- (3) Members must be appointed or elected to the Committee on Standing Rules and Orders as soon as possible after the beginning of each session of Parliament, and they must be selected so that the committee reflects as nearly as possible the political and gender composition of the combined Houses of Parliament.
- (4) The Committee on Standing Rules and Orders is chaired by the Speaker or, in his or her absence, by the President of the Senate.
- (5) The procedure to be followed by the Committee on Standing Rules and Orders must be prescribed in Standing Orders.
- (6) Whenever a vacancy occurs in the Committee on Standing Rules and Orders a member must be elected or appointed, as the case may be, as soon as possible to fill the vacancy.

##### 7.37 Parliamentary Legal Committee

- (1) As soon as practicable after the beginning of each session of Parliament, the Committee on Standing Rules and Orders must appoint a committee to be known as the Parliamentary Legal Committee, consisting of at least three members of Parliament who are not VicePresidents, Ministers or Deputy Ministers.
- (2) A majority of the members of the Parliamentary Legal Committee must be qualified to practise in Zimbabwe as legal practitioners.
- (3) The Parliamentary Legal Committee must examine-
  - every Bill, other than a Constitutional Bill, before it receives its final vote in the Senate or the National Assembly;
  - any Bill which has been amended after being examined by the Committee, before the Bill receives its final vote in the Senate or the National Assembly;
  - every statutory instrument published in the Gazette;
  - every draft Bill which has been referred to the Committee by a Minister; and
  - every draft statutory instrument which has been referred to the Committee by the authority empowered to make the instrument;
 and must report to Parliament or the Minister or authority, as the case may be, whether it considers any provision in the Bill, instrument or draft contravenes or, if enacted, would contravene any provision of this Constitution.
- (4) When examining any statutory instrument or draft statutory instrument the Parliamentary Legal Committee may report to Parliament or to the Minister or authority concerned whether it considers any provision in the instrument is or, if enacted, would be ultra vires the enabling Act of Parliament.
- (5) An Act of Parliament or Standing Orders may confer further functions on the Parliamentary Legal Committee.

##### 7.38 Parliamentary Public Appointments Committee

- (1) Parliament must appoint a Parliamentary Public Appointments Committee for the purpose of confirming or selecting persons for appointment to posts or offices in terms of this Constitution and exercising any other function that is conferred or imposed on the Committee by an Act of Parliament or Standing Orders.
- (2) The Parliamentary Public Appointments Committee must consist of-
  - seven Senators who are not Vice-Presidents, Ministers or Deputy Ministers but at least one of whom must be a Senator Chief, appointed by the Senate; and
  - seven members of the National Assembly who are not Vice-Presidents, Ministers or Deputy Ministers, appointed by the National Assembly.
- (3) The membership of the Parliamentary Public Appointments Committee must so far as possible-
  - proportionally represent all groups and parties represented in Parliament; and
  - reflect the gender composition of the combined Houses of Parliament.
- (4) The procedure for the appointment of members of the Parliamentary Public Appointments Committee and their terms of office must be prescribed in Standing Orders.
- (5) The Parliamentary Public Appointments Committee must elect from among its members a chairperson and a deputy chairperson.
- (6) In the exercise of its functions the Parliamentary Public Appointments Committee must take whatever measures are appropriate to involve the public in all the processes of selecting appointees.

##### 7.39 Remuneration of President of Senate, Speaker and members of Parliament

- (1) The remuneration of the Speaker and the President of the Senate-
  - must be prescribed in an Act of Parliament and is a charge upon the Consolidated Revenue Fund;
  - must not be reduced while they hold office; and
  - must continue to be paid to them after a dissolution until Parliament first meets or until they cease to hold office, whichever occurs the sooner.
- (2) The remuneration paid to members of Parliament must be prescribed in an Act of Parliament, but the remuneration must be recommended by the Public Officers Remuneration Commission and approved by the Minister responsible for finance.

##### 7.40 Clerk of Parliament and other staff

- (1) The Parliamentary Service Commission referred to in section 7.41, with the approval of the National Assembly, must appoint an officer to be known as the Clerk of Parliament to be responsible, subject to Standing Orders and to the control of the Speaker, for the day-to-day administration of Parliament.
- (2) The Clerk of Parliament is appointed for a six-year term, and may be re-appointed for one further such term.
- (3) The Clerk of Parliament must vacate his or her office-
  - if more than half of all the members of the National Assembly resolve that the Clerk should be removed;
  - if the Clerk would be required to vacate his or her seat were he or she a member of Parliament; or
  - in any event, after holding office as Clerk for twelve years.
- (4) The Parliamentary Service Commission referred to in section 7.41 must appoint such other staff of Parliament as it considers necessary.
- (5) The Clerk of Parliament and the other staff of Parliament-
  - are appointed on terms of service approved from time to time by the Par-

liamentary Service Commission; and

- are public officers but do not form part of the Civil Service.

##### 7.41 Parliamentary Service Commission

- (1) An Act of Parliament must provide for the establishment and functions of a Parliamentary Service Commission to-
  - appoint the Clerk of Parliament and other members of the staff of Parliament;
  - fix and regulate the conditions of service of members of the staff of Parliament; and
  - exercise any other functions that may be specified in the Act.
- (2) In fixing the salaries, allowances and other benefits of senior members of the staff of Parliament, the Parliamentary Service Commission must act on the recommendation of the Public Officers Remuneration Commission and with the approval of the Minister responsible for finance .

### CHAPTER 8

#### ELECTIONS

##### PART 1

#### ELECTORAL SYSTEM AND PROCESS

##### 8.1 Principles of electoral system

- (1) Elections, which must be held regularly, and referendums, to which this Constitution applies must be-
  - free and fair;
  - conducted by secret ballot;
  - based on universal adult suffrage and equality of votes; and
  - free from violence and other electoral malpractices.
- (2) The State must take all appropriate measures, including legislative measures, to ensure that effect is given to the principles set out in subsection (1) and, in particular, must-
  - ensure that everyone who is eligible to vote in an election or referendum has an opportunity to cast a vote, and in particular must facilitate voting by persons with disabilities or special needs;
  - provide all political parties and candidates contesting an election or referendum with equal access to the electronic and print media controlled by the State; and
  - ensure the timely resolution of electoral disputes.

##### 8.2 Conduct of elections and referendums

- At every election and referendum, the Electoral Commission must ensure that-
- whatever voting method is used, the system is simple, accurate, verifiable, secure, accountable and transparent;
  - the votes cast are counted and tabulated, and the results are announced promptly, by the presiding officer at each polling station;
  - the results from each polling station are openly and accurately collated and the results of the collation announced promptly by a returning officer;
  - the results of the election or referendum are announced as soon as possible after the close of the polls, and in any event, that the results of presidential elections and referendums are announced within five days of the close of the polls; and
  - appropriate systems and mechanisms to eliminate electoral violence and other electoral malpractices are put in place, including the safekeeping of electoral materials.

##### 8.3 Electoral Law

- (1) An Act of Parliament must provide for the conduct of elections and referendums to which this Constitution applies, and in particular for the following matters-
  - the periodic delimitation of constituencies and wards;
  - the registration of voters, and requirements for registration on particular voters' rolls;
  - a code of conduct for political parties, candidates and other persons participating in elections or referendums;
  - a system of proportional representation for the election of persons to the seats in the Senate referred to in section 7.5(1)(a) and the seats in the National Assembly referred to in section 7.9(1)(b), and the procedure for filling vacancies in those seats, which vacancies must be filled by persons belonging to the same political parties as those who previously held the seats;
  - challenges to election results by political parties and candidates.
- (2) The Electoral Law may provide for the synchronisation of elections to different offices and bodies.
- (3) No amendments may be made to the Electoral Law, or to any subsidiary legislation made under that law, unless the Electoral Commission has been consulted and any recommendations made by the Commission have been duly considered.

### PART 2

#### TIMING OF ELECTIONS

##### 8.4 Timing of elections

- (1) Polling in elections to the office of President must take place within the ninety-day period specified in section 6.5.
- (2) Polling in general elections to Parliament must take place within the ninety-day period specified in section 7.29(1) or (2), as the case may be.
- (3) Polling in general elections to provincial assemblies [i.e. the legislative bodies in provinces, assuming such bodies are to be established -parked issue] must take place within the period specified in an Act of Parliament.
- (4) Polling in elections to fill casual vacancies in Parliament and in provincial assemblies must take place within ninety days after the vacancies occurred.

##### 8.5 Filling of electoral vacancies

Whenever a vacancy occurs in any elective public body established in terms of this Constitution, other than a body specified in section 8.4, the authority charged with organising elections to that body must cause an election to be held as soon as possible to fill the vacancy.

### PART 3

#### DELIMITATION OF ELECTORAL BOUNDARIES

##### 8.6 Number of constituencies, wards and other electoral divisions

- (1) The number of constituencies into which Zimbabwe is to be divided for the purpose of electing Senators and Members of the National Assembly are the numbers specified in sections 7.5 and 7.9 respectively.
- (2) The number of constituencies and wards into which provinces and local authority areas are to be divided for the purpose of elections to provincial assemblies [assuming such assemblies are to be established - parked issue] and local authorities must be determined according to the number of elected members of those provincial assemblies and local authorities.

##### 8.7 Delimitation of electoral boundaries

- (1) Once every ten years, on a date or within a period fixed by the Electoral Commission so as to fall as soon as possible after a population census, there must be a delimitation of the electoral boundaries into which Zimbabwe is to be divided for the purpose of electing members of Parliament, provincial assemblies and local authorities.
- (2) If a delimitation of electoral boundaries is completed less than six months before polling day in an election, the boundaries so delimited do not apply to that election, and instead the boundaries that existed immediately before the delimitation are applicable.
- (3) Electoral boundaries must be delimited in terms of this section by a Delimitation Commission appointed in terms of section 8.8.
- (4) The boundaries of constituencies for elections of members of the National Assembly must be such that, so far as possible, at the time of delimitation equal numbers of voters are registered in each constituency within Zimbabwe.
- (5) The boundaries of electoral divisions for elections to provincial assemblies [assuming such assemblies are to be established - parked issue] must be such that, so far as possible, at the time of delimitation equal numbers of



- voters are registered in each such division within each province.
- (6) The boundaries of wards for elections of members of local authorities must be such that, so far as possible, at the time of delimitation equal numbers of voters are registered in each ward of the local authority concerned.
  - (7) In delimiting-
    - (a) the boundaries of wards, a Delimitation Commission must ensure that no ward is divided between two or more local authority areas;
    - (b) the boundaries of electoral divisions for the purposes of elections to provincial assemblies [assuming they are to be established], a Delimitation Commission must ensure that no such division is divided between two or more provinces.
    - (c) the boundaries of constituencies, a Delimitation Commission must ensure that no ward is divided between two or more constituencies;
    - (d) the boundaries of constituencies for the purposes of elections to the Senate, a Delimitation Commission must ensure that no constituency is divided between two or more provinces.
  - (8) In dividing Zimbabwe into wards, constituencies and other electoral divisions, a Delimitation Commission must, in respect of any area, give due consideration to-
    - (a) its physical features;
    - (b) the means of communication within the area;
    - (c) the geographical distribution of registered voters;
    - (d) any community of interest as between registered voters;
    - (e) in the case of any delimitation after the first delimitation, existing electoral boundaries; and
    - (f) its population;
 and to give effect to these considerations, the Delimitation Commission may depart from the requirement that constituencies, wards and electoral divisions must have equal numbers of voters, but no constituency, ward or electoral division may have more than twenty per cent more or fewer registered voters than the other such constituencies, wards or electoral divisions.
  - (9) After delimiting wards and constituencies, a Delimitation Commission must submit to the President and the Electoral Commission a preliminary report containing-
    - (a) a list of the constituencies, wards and other electoral divisions, with the names assigned to each and a description of their boundaries;
    - (b) a map or maps showing the constituencies, wards and other electoral divisions; and
    - (c) any further information or particulars which the Commission considers necessary.
 and the President must cause the preliminary delimitation report to be laid before the Senate and the National Assembly within seven days.
  - (10) If, within seven days after a preliminary delimitation report has been laid before the House concerned, the Senate or the National Assembly resolves that it should be referred back to the Delimitation Commission for further consideration, the President must refer the report back to the Commission.
  - (11) After receiving a preliminary report back from the President under subsection (10), the Delimitation Commission may attend to any comments or concerns raised by Parliament and the Electoral Commission, and must immediately submit a final delimitation report to the President.
  - (12) Within fourteen days after receiving a Delimitation Commission's final report, the President must publish a proclamation in the Gazette declaring the names and boundaries of the constituencies, wards and other electoral divisions as finally determined by the Commission.
  - (13) If there is a discrepancy between the description of the boundaries of any constituency, ward or other electoral division and the map or maps prepared by a Delimitation Commission, the description must prevail.

**8.8 Delimitation Commission**

- (1) Whenever it is necessary for the purposes of this Constitution, a Delimitation Commission must be appointed, consisting of-
  - (a) a chairperson, who must be a judge or former judge of the Constitutional Court, the Court of Appeal or the High Court, or a person qualified for appointment as such a judge; and
  - (b) four other members;
 appointed by the President with the approval of the Senate in accordance with the Sixth Schedule.
- (2) Members of a Delimitation Commission are appointed for as long as may be necessary to enable the Commission to complete its functions in terms of this Chapter.
- (3) The functions of a Delimitation Commission are-
  - (a) to delimit constituencies, wards and electoral divisions in terms of this Chapter; and
  - (b) to exercise any other functions that are conferred or imposed on the Commission by this Constitution, the Electoral Law or any other enactment.

**CHAPTER 9 THE JUDICIARY AND THE COURTS**

**PART 1 THE COURT SYSTEM**

**9.1 Judicial authority**

- Judicial authority derives from the people of Zimbabwe and is vested in the courts, which comprise-
- (a) the Constitutional Court;
  - (b) the Court of Appeal;
  - (c) the High Court; and
  - (d) the other courts referred to in section 9.8, in particular
    - (i) the labour court;
    - (ii) the administrative court;
    - (iii) magistrates courts; and
    - (iv) customary law courts.

**9.2 The judiciary**

- (1) The judiciary of Zimbabwe consists of-
  - (a) the Chief Justice, the Deputy Chief Justice and the other judges of the Constitutional Court;
  - (b) the President of the Court of Appeal and the other judges of that court;
  - (c) the Judge President of the High Court and the other judges of that court;
  - (d) persons presiding over the other courts referred to in section 9.8, in particular
    - (i) the labour court;
    - (ii) the administrative court;
    - (iii) magistrates courts; and
    - (iv) traditional courts.
- (2) The Chief Justice is head of the judiciary and is in charge of the Constitutional Court.
- (3) The President of the Court of Appeal is in charge of that court.
- (4) The Judge President of the High Court is in charge of that court.

**9.3 Independence of judiciary**

- (1) The courts are independent and are subject only to this Constitution and the law, which they must apply impartially, expeditiously and without fear, favour or prejudice.
- (2) The independence, impartiality and effectiveness of the courts are central to the rule of law and democratic governance, and therefore-
  - (a) no institution or agency of the State or Government at any level, and no other person, may interfere with the functioning of the courts;
  - (b) institutions of the State, through legislative and other measures, must assist and protect the courts to ensure their independence, impartiality, dignity, accessibility and effectiveness and to ensure that they comply with the principles set out in section 9.4.
- (3) An order or decision issued by a court binds all persons and governmental

- institutions to which it applies, and must be obeyed by them.
- (4) Nothing in this section is to be construed as preventing an Act of Parliament from vesting functions other than adjudicating functions in a member of the judiciary, provided that the exercise of those functions does not compromise the independence of the judicial officer concerned in the performance of his or her judicial functions and does not compromise the independence of the judiciary in general.

**9.4 Principles guiding judiciary**

- (1) In exercising judicial authority members of the judiciary must be guided by the following principles-
  - (a) justice must be done to all, irrespective of status;
  - (b) justice must not be delayed, and to that end they must perform their judicial duties efficiently and with reasonable promptness;
  - (c) the role of the courts is paramount in safeguarding human rights and freedoms and the rule of law.
- (2) Members of the judiciary, individually and collectively, must respect and honour their judicial office as a public trust and strive to enhance and maintain confidence in the judicial system.
- (3) When making a judicial decision which he or she is required by law to make independently, a member of the judiciary must make it freely and without being unduly influenced by colleagues or superiors in the judicial hierarchy, but this subsection must not be construed as affecting any law that requires members of the judiciary to follow previous decisions of superior courts.
- (4) Members of the judiciary must not
  - (a) engage in any political activities;
  - (b) hold office in or be members of any political organisation;
  - (c) solicit funds for or contribute towards any political organisation; or
  - (d) attend political meetings.
- (5) Members of the judiciary must not solicit or accept any gift, bequest, loan or favour that may influence their judicial conduct or give the appearance of judicial impropriety.
- (6) Members of the judiciary must give their judicial duties precedence over all other activities, and must not engage in any activities which interfere with or compromise their judicial duties.
- (7) Members of the judiciary must take reasonable steps to maintain and enhance their professional knowledge, skills and personal qualities, and in particular must keep themselves abreast of developments in national and international law.

**9.5 Constitutional Court**

- (1) The Constitutional Court is a superior court of record and consists of the Chief Justice, the Deputy Chief Justice and no fewer than seven other judges.
- (2) If the services of an additional judge are required on the Constitutional Court for a limited period, the Chief Justice may appoint a judge or a former judge to act as a judge of the Constitutional Court for that period.
- (3) Cases before the Constitutional Court-
  - (a) concerning alleged infringements of a fundamental human right or freedom enshrined in Chapter 4 must be heard by seven judges of the Court;
  - (b) other than cases referred to in paragraph (a) must be heard by at least three judges of the Court;
 but an Act of Parliament or rules of the Court may provide for interlocutory matters to be heard by one or more judges of the Court.
- (4) The Constitutional Court-
  - (a) is the highest court in all constitutional matters, and its decisions on those matters bind all other courts;
  - (b) may decide only constitutional matters, and issues connected with decisions on constitutional matters; and
  - (c) makes the final decision whether a matter is a constitutional matter or whether an issue is connected with a decision on a constitutional matter.
- (5) Subject to this Constitution, only the Constitutional Court may-
  - (a) decide on the constitutionality of any amendment to this Constitution;
  - (b) advise on the constitutionality of any proposed legislation, but may do so only where the legislation concerned has been referred to it in terms of this Constitution;
  - (c) hear and determine disputes relating to elections to the office of President;
  - (d) decide disputes between institutions of the State and Government in the national, provincial and local tiers concerning their constitutional status or functions; or
  - (e) subject to section 6.10, determine whether Parliament or the President has failed to fulfil a constitutional obligation.
- (6) Subject to section 6.10, the Constitutional Court makes the final decision whether an Act of Parliament or conduct of the President or Parliament is constitutional, and must confirm any order of invalidity made by another court before that order has any force.
- (7) The Constitutional Court must make rules allowing a person, when it is in the interests of justice and with leave of the Constitutional Court-
  - (a) to bring a constitutional matter directly to the Constitutional Court;
  - (b) to appeal directly to the Constitutional Court from any other court;
  - (c) to appear as a friend of the court.

**9.6 Court of Appeal**

- (1) The Court of Appeal is a superior court of record and, except in matters over which the Constitutional Court has jurisdiction, is the final court of appeal for Zimbabwe.
- (2) An Act of Parliament may confer additional jurisdiction and powers on the Court of Appeal.
- (3) The Court of Appeal consists of-
  - (a) the Chief Justice, the Deputy Chief Justice and the President of the Court of Appeal;
  - (b) such other judges of the Court of Appeal, being not less than two, as may be appointed from time to time; and
  - (c) any additional judges appointed under subsection (3).
- (4) If the services of an additional judge are required on the Court of Appeal for a limited period, the Chief Justice may appoint a judge of the High Court, or a former judge to act as a judge of the Court of Appeal for that period.
- (5) Rules of court may confer on a registrar of the Court of Appeal any of the Court's jurisdiction and powers in civil cases-
  - (a) to make orders in uncontested cases, other than orders affecting status or the custody or guardianship of children;
  - (b) to decide preliminary or interlocutory matters, including applications for directions, but not matters affecting the liberty of any person;
 but the rules must give anyone affected by the registrar's order or decision a right to have it reviewed by a judge of the Court of Appeal, who may confirm it, amend it or set it aside or give any other order or decision he or she thinks fit.

**9.7 High Court**

- (1) The High Court is a superior court of record and consists of-
  - (a) the Chief Justice, the Deputy Chief Justice and the Judge President of the High Court; and
  - (b) such other judges of the High Court as may be appointed from time to time.
- (2) The High Court-
  - (a) has original jurisdiction over all civil and criminal matters throughout Zimbabwe;
  - (b) has supervisory jurisdiction over magistrates courts and other subordinate courts;
  - (c) may decide constitutional matters except matters that only the Constitutional Court may decide; and
  - (d) has such appellate jurisdiction as may be conferred on it by an Act of Parliament.

- (3) An Act of Parliament may provide for the High Court to be divided into divisions, but each such division must be able to exercise the general jurisdiction of the High Court in any matter that is brought before it.
- (4) Rules of court may confer on a registrar of the High Court any of the Court's jurisdiction and powers in civil cases-
  - (a) to make orders in uncontested cases, other than orders affecting status or the custody or guardianship of children;
  - (b) to decide preliminary or interlocutory matters, including applications for directions, but not matters affecting the liberty of any person;
 but the rules must give anyone affected by the registrar's order or decision a right to have it reviewed by a judge of the High Court, who may confirm it, amend it or set it aside or give any other order or decision he or she thinks fit.

**9.8 Other courts**

- An Act of Parliament may provide for the establishment, composition and jurisdiction of courts subordinate to the High Court, in particular-
- (a) a labour court to adjudicate on matters relating to labour and employment;
  - (b) an administrative court, to adjudicate on applications, reviews and appeals arising out of any enactment and on other matters of an administrative nature;
  - (c) magistrates courts, to adjudicate on civil and criminal cases; and
  - (d) customary law courts whose jurisdiction consists primarily in the application of customary law.

**9.9 Powers of courts in constitutional matters**

- (1) Any court may make an order concerning the constitutional validity of any law or any conduct of the President or Parliament, but such an order has no force unless it is confirmed by the Constitutional Court.
- (2) A court which makes an order of constitutional invalidity referred to in subsection (1) may grant a temporary interdict or other temporary relief to a party, or may adjourn the proceedings, pending a decision of the Constitutional Court on the validity of the law or conduct concerned.
- (3) Anyone with a sufficient interest may appeal, or apply, directly to the Constitutional Court to confirm or vary an order concerning constitutional validity by a court in terms of subsection (1).
- (4) An Act of Parliament or rules of court must provide for the referring to the Constitutional Court of an order concerning constitutional validity made in terms of subsection (1) by a court other than the Constitutional Court.
- (5) When deciding a constitutional matter within its jurisdiction a court may-
  - (a) declare that any law or conduct that is inconsistent with the Constitution is invalid to the extent of the inconsistency; and
  - (b) make any order that is just and equitable, including an order limiting the retrospective effect of the declaration of invalidity and an order suspending conditionally or unconditionally the declaration of invalidity for any period to allow the competent authority to correct the defect.

**9.10 Inherent powers of Constitutional Court, Court of Appeal and High Court**

The Constitutional Court, the Court of Appeal and the High Court have inherent power to protect and regulate their own process and to develop the common law or the customary law, taking into account the interests of justice and the provisions of this Constitution .

**PART 2**

**9.11 Qualifications of judges of Constitutional Court**

- (1) A person is qualified for appointment as a judge of the Constitutional Court if he or she is a citizen of Zimbabwe, is at least forty years old and has a sound knowledge of constitutional law and, in addition, possesses one of the following qualifications-
  - (a) for at least five years, he or she has been a judge of a court with unlimited jurisdiction in civil or criminal matters in a country in which the common law is Roman-Dutch or English, and English is an official language; or
  - (b) for at least twelve years, whether continuously or not, he or she has been qualified to practise as a legal practitioner-
    - (i) in Zimbabwe; or
    - (ii) in a country in which the common law is Roman-Dutch or English and English is an official language; and is currently so qualified to practise.
- (2) To be appointed as a judge of the Constitutional Court a person must be a fit and proper person to hold office as a judge.

**9.12 Qualifications of judges of Court of Appeal**

- (1) A person is qualified for appointment as a judge of the Court of Appeal if he or she is a citizen of Zimbabwe and at least forty years old and, in addition-
  - (a) is or has been a judge of a court with unlimited jurisdiction in civil or criminal matters in a country in which the common law is Roman-Dutch or English and English is an official language; or
  - (b) for at least seven years, whether continuously or not, he or she has been qualified to practise as a legal practitioner-
    - (i) in Zimbabwe; or
    - (ii) in a country in which the common law is Roman-Dutch or English and English is an official language; and is currently so qualified to practise.
- (2) To be appointed as a judge of the Court of Appeal a person must be a fit and proper person to hold office as a judge.

**9.13 Qualifications of judges of High Court**

- (1) A person is qualified for appointment as a judge of the High Court if he or she is at least forty years old and, in addition-
  - (a) is or has been a judge of a court with unlimited jurisdiction in civil or criminal matters in a country in which the common law is Roman-Dutch or English and English is an official language; or
  - (b) for at least seven years, whether continuously or not, he or she has been qualified to practise as a legal practitioner-
    - (i) in Zimbabwe; or
    - (ii) in a country in which the common law is Roman-Dutch or English is an official language; or
    - (iii) if he or she is a citizen of Zimbabwe, in a country in which the common law is English and English is an official language; and is currently so qualified to practise.
- (2) To be appointed as a judge of the High Court a person must be a fit and proper person to hold office as a judge.

**9.14 Appointment of Chief Justice, Deputy Chief Justice, President of the Court of Appeal, Judges of the Constitutional Court and Judge President of the High Court**

- (1) The Chief Justice, the Deputy Chief Justice, the President of the Court of Appeal, judges of the Constitutional Court and the Judge President of the High Court are appointed by the President in accordance with this section.
- (2) Whenever the office of a judge referred to in subsection (1) is vacant, the Judicial Service Commission must-
  - (a) advertise the vacancy;
  - (b) conduct interviews of prospective candidates;
  - (c) prepare a list of three qualified persons as nominees for the office; and
  - (d) submit the list to the President;
 whereupon, subject to subsection (3), the President must select one of the nominees for appointment and refer that nominee to the Parliamentary Public Appointments Committee for its approval in accordance with the Sixth Schedule.
- (3) If the President considers that none of the persons on the list submitted to him in terms of section (2)(c) are suitable for appointment to the office, he or she must require the Judicial Service Commission to submit a further list of three qualified persons, whereupon the President must select one of those nominees for appointment and refer that nominee to the Parliamentary Public Appointments Committee for its approval in accordance with the



Sixth Schedule.

- (4) If the Parliamentary Public Appointments Committee fails to approve a nominee referred to it in terms of subsection (2) or (3), the procedure set out in this section must be repeated until a nominee is found who meets with the Committee's approval.
- (5) The President must cause notice of every appointment under this section to be published in the Gazette.

### 9.15 Appointment of other judges

- (1) Judges other than the Chief Justice, the Deputy Chief Justice, the President of the Court of Appeal, judges of the Constitutional Court and the Judge President of the High Court are appointed by the President on the advice of the Judicial Service Commission in accordance with this section.
- (2) Whenever there is need to appoint a judge, the Judicial Service Commission must
  - (a) advertise each judicial post to be filled;
  - (b) conduct interviews of prospective candidates;
  - (c) prepare a list of nominees for the office consisting of twice the number of nominees as there are posts to be filled; and
  - (d) submit the list to the President;
 whereupon, subject to subsection (3), the President must appoint the judge or judges from that list.

### 9.16 Acting appointments

- (1) If the office of Chief Justice is vacant or if the office-holder is unable to perform the functions of the office, the Deputy Chief Justice acts in his or her place, but if both offices are vacant or both office-holders are unable to perform their functions, the next-most senior judge of the Constitutional Court acts as Chief Justice.
- (2) If the office of President of the Court of Appeal is vacant or if the office-holder is unable to perform the functions of that office, the next-most senior judge of the court acts as President of the Court of Appeal.
- (3) If the office of Judge President of the High Court is vacant or if the office-holder is unable to perform the functions of that office, the next-most senior judge of the court acts as Judge President of the High Court.
- (4) If-
  - (a) the office of a judge of the High Court is vacant or the office-holder is unable to perform the functions of the office; or
  - (b) the services of an additional judge of the High Court are required for a limited period; the President, acting on the advice of the Judicial Service Commission, may appoint a former judge to act in that office for a non-renewable period of not more than six months.
- (5) A person appointed to act under subsection (4) may continue to sit as a judge after his or her appointment has expired, for the purpose of dealing with any proceedings commenced before him or her while he or she was so acting.

### 9.17 Appointment of magistrates

Magistrates are appointed by the Judicial Service Commission in terms of an Act of Parliament which must-

- (a) provide for their qualifications; and
- (b) ensure that their appointment is made transparently and without favour or prejudice.

### 9.18 Appointment of other members of judiciary

Judicial officers other than judges and magistrates must be appointed in terms of an Act of Parliament which must-

- (a) provide for their qualifications; and
- (b) ensure that their appointments are made transparently and without favour or prejudice and with the approval of the Judicial Service Commission.

### 9.20 Judicial appointments to reflect society

Appointments to the judiciary must reflect broadly the ethnic diversity and gender composition of Zimbabwe.

### 9.21 Oath of office

- (1) Before judges begin to perform their functions, they must take the judicial oath in the form set out in the Second Schedule, but judges who are appointed to act as judges of the Constitutional Court or the Court of Appeal need not take the oath.
- (2) The Acts of Parliament under which magistrates and other members of the judiciary, other than judges, are appointed must prescribe the oath to be taken by those members of the judiciary.

### 9.22 Tenure of office of judges

- (1) Judges of the Constitutional Court are appointed for a non-renewable term of not more than fifteen years, but-
  - (a) they must retire earlier if they reach the age of seventy years; and
  - (b) after their retirement, they may be appointed as judges of the Court of Appeal or the High Court, at their option, if they are eligible for such appointment.
- (2) Judges of the Court of Appeal and the High Court, unless they have been appointed in accordance with subsection (3), hold office from the date of their assumption of office until they reach the age of seventy years, when they must retire.
- (3) A person may be appointed as a judge of the Court of Appeal or the High Court for a fixed term, but if a person is so appointed, other than in an acting capacity-
  - (a) he or she ceases to be a judge on reaching the age of seventy years even if the term of his or her appointment has not expired;
  - (b) he or she may not be re-appointed or again be appointed a judge of any court after the term of his or her appointment has expired.
- (4) Even though a judge has resigned or reached the age of seventy years or, in the case of a judge of the Constitutional Court or a judge referred to in subsection (3), reached the end of his or her term of office, the judge may continue to sit as a judge for the purpose of dealing with any proceedings commenced before him or her while he or she was a judge.
- (5) A judge may resign from his or her office at any time by written notice to the President given through the Judicial Service Commission.
- (6) The office of a judge must not be abolished during his or her tenure of office.

### 9.23 Removal of judges from office

- (1) A judge may be removed from office only for-
  - (a) inability to perform the functions of his or her office, whatever the reason for the inability;
  - (b) gross incompetence; or
  - (c) gross misconduct;
 and a judge cannot be removed from office except in accordance with this section.
- (2) If the President considers that the question of removing the Chief Justice from office ought to be investigated, the President must appoint a tribunal to inquire into the matter.
- (3) If the Judicial Service Commission advises the President that the question of removing any judge from office ought to be investigated, the President must appoint a tribunal to inquire into the matter.
- (4) A tribunal appointed under this section must consist of at least three members appointed by the President, of whom-
  - (a) at least one must be a person who--
    - (i) has served as a judge of the Court of Appeal or High Court in Zimbabwe; or
    - (ii) holds or has held office as a judge of a court with unlimited jurisdiction in civil or criminal matters in a country whose common law is Roman-Dutch or English, and English is an official language;
  - (b) at least one must be chosen from a list of at least three legal practitioners of seven years' standing or more who have been nominated by the association, constituted under an Act of Parliament, which represents legal practitioners in Zimbabwe.
- (5) The President must designate one of the members of a tribunal appointed

- under this section to be chairperson of the tribunal.
- (6) The association referred to in subsection (4)(b) must prepare the list referred to in that subsection when so required by the President.
- (7) A tribunal appointed under subsection (2) or (3) must inquire into the question of removing the judge concerned from office and, having done so, must report its findings to the President and recommend whether or not the judge should be removed from office.
- (8) The President must act in accordance with the tribunal's recommendation in terms of subsection (7).
- (9) A tribunal appointed under this section has the same rights and powers as commissioners under the Commissions of Inquiry Act [Chapter 10:07], or any law that replaces that Act.
- (10) If the question of removing a judge from office has been referred to a tribunal under this section, the judge is suspended from office until the President, on the recommendation of the Judicial Service Commission, revokes the suspension or removes the judge from office.
- (11) An Act of Parliament may empower the Judicial Service Commission or a tribunal appointed under this section to require any judge to submit to a medical examination by a medical board established for that purpose, in order to ascertain his or her physical or mental health.

### 9.24 Conditions of service and tenure of other members of judiciary

The conditions of service of judicial officers other than judges must be prescribed in an Act of Parliament which must ensure that their promotion, transfer and dismissal, and any disciplinary steps taken against them, take place-

- (a) with the approval of the Judicial Service Commission; and
- (b) in a fair and transparent manner and without fear, favour or prejudice.

### 9.25 Remuneration of members of judiciary

- (1) Judges are entitled to the salaries, allowances and other benefits fixed from time to time by the Judicial Service Commission on the recommendation of the Public Officers Remuneration Commission and with the approval of the Minister responsible for finance.
- (2) Parliament must act on the recommendation of the Public Officers Remuneration Commission in prescribing and appropriating, under an Act of Parliament, the salaries, allowances and other benefits referred to in subsection (1).
- (3) The salaries, allowances and other benefits of members of the judiciary are a charge on the Consolidated Revenue Fund.
- (4) The salaries, allowances and other benefits of members of the judiciary must not be reduced while they hold or act in the office concerned.

## PART 3

### JUDICIAL SERVICE COMMISSION

#### 9.26 Judicial Service Commission

- (1) There is a Judicial Service Commission which consists of
  - (a) the Chief Justice;
  - (b) the Deputy Chief Justice;
  - (c) the President of the Court of Appeal;
  - (d) the Judge President of the High Court;
  - (e) the Attorney-General;
  - (f) the chief magistrate;
  - (g) the chairperson of the Civil Service Commission;
  - (h) three practising legal practitioners of at least seven years' experience designated by the association, constituted under an Act of Parliament, which represents legal practitioners in Zimbabwe;
  - (i) one professor or senior lecturer of law designated by an association representing the majority of the teachers of law at Zimbabwean universities;
  - (j) one person who .for at least seven years has practised in Zimbabwe as a public accountant or auditor, and who is designated by an association, constituted under an Act of Parliament, which represents such persons;
  - (k) one judge nominated by the judges of the Constitutional Court, the Court of Appeal and the High Court;
  - (l) a person presiding over the labour or administrative court, nominated by the presiding officers of those courts; and
  - (m) a person nominated by the Council of Chiefs established by section 15.5.
- (2) The Chief Justice or, in his or her absence, the Deputy Chief Justice presides at meetings of the Judicial Service Commission, and in the absence of both of them at any meeting the members present elect one of their number to preside at the meeting.
- (3) The terms of office of members of the Judicial Service Commission referred to in paragraphs (h), (i), (j), (k), (l) and (m) of subsection (1) must be fixed on their appointment by the person or body that designated or nominated them, but none of those members may serve on the Commission for one or more periods exceeding six years in aggregate.

#### 9.27 Functions of Judicial Service Commission

- (1) The Judicial Service Commission may tender advice to the Government on any matter relating to the judiciary or the administration of justice, and the Government must pay due regard to any such advice.
- (2) The Judicial Service Commission must promote and facilitate the independence and accountability of the judiciary and the efficient, effective and transparent administration of justice in Zimbabwe, and has all the powers needed for this purpose.
- (3) The Judicial Service Commission may make regulations for any purpose set out in this section.
- (4) An Act of Parliament may confer on the Judicial Service Commission functions in connection with the employment, discipline and conditions of service of persons employed in-
  - (a) the Constitutional Court, the Court of Appeal, the High Court and other courts subordinate to the High Court; and
  - (b) the office of the Public Protector.

#### 9.28 Transparency of proceedings of Judicial Service Commission

The Judicial Service Commission must conduct its business in an open and transparent manner and, in particular, must ensure that all interviews of candidates for judicial office are conducted in public,

## PART 4

### GENERAL

#### 9.29 Law to be administered

The law to be administered by the courts of Zimbabwe is the law that was in force on the effective date, as subsequently modified.

#### 9.30 Criminal jurisdiction of courts

Only the following courts may exercise or be given jurisdiction in criminal cases-

- (a) the Constitutional Court, the Court of Appeal, the High Court and magistrates courts;
- (b) a court or tribunal that deals with cases under a disciplinary law, to the extent that the jurisdiction is necessary for the enforcement of discipline in the disciplined force concerned

## CHAPTER 10

### PRINCIPLES OF PUBLIC ADMINISTRATION AND LEADERSHIP

#### 10.1 Basic values and principles governing public administration

- (1) Public administration in all tiers of government, including State institutions and agencies and government-controlled entities and other public enterprises, must be governed by the democratic values and principles enshrined in this Constitution, including the following principles-
  - (a) a high standard of professional ethics must be promoted and maintained;
  - (b) efficient, economical and effective use of resources, must be promoted;
  - (c) public administration must be development -oriented;
  - (d) services must be provided impartially, fairly, equitably and without bias;
  - (e) people's needs must be responded to within a reasonable time, and the public must be encouraged to participate in policy-making;
  - (f) public administration must be accountable to Parliament and to the

- people;
  - (g) openness and transparency must be fostered by providing the public with timely, accessible and accurate information;
  - (h) good human-resource management and career-development practices, to maximise human potential, must be cultivated;
  - (i) public administration must be broadly representative of the diverse ethnic communities of Zimbabwe;
  - (j) employment, training and advancement practices must be based on merit, ability, objectivity, fairness, equality of men and women and the inclusion of persons living with disabilities;
- and all tiers of government must take measures, including legislative measures, to promote these values and principles.
- (2) Appointments to offices in all tiers of government, including State institutions and agencies and government-controlled entities and other public enterprises, must be made primarily on the basis of merit.

#### 10.2 Responsibilities of public officers and principles of leadership

- (1) Authority assigned to a public officer is a public trust which must be exercised in a manner which-
  - (a) is consistent with the purposes and objects of this Constitution;
  - (b) demonstrates respect for the people and a willingness to serve them rather than rule them; and
  - (c) promotes public confidence in the office held by the public officer.
- (2) Public officers must conduct themselves, in public and private life, so as to avoid any conflict between their personal interests and their public or official duties, and to abstain from any conduct that demeans their office.
- (3) Public officers in leadership positions must abide by the following principles of leadership-
  - (a) objectivity and impartiality in decision making;
  - (b) honesty in the execution of public duties;
  - (c) accountability to the public for decisions and actions; and
  - (d) discipline and commitment in the service of the people.

#### 10.3 Legislation to enforce this Chapter

Parliament must enact measures to enforce the provisions of this Chapter, including measures-

- (a) requiring public officers to make regular disclosures of their assets; (b) establishing codes of conduct to be observed by public officers; and
- (b) providing for punishment of public officers who contravene the provisions of this Chapter or of any code of conduct referred to in paragraph (b).

## CHAPTER 11

### CIVIL SERVICE

#### 11.1 Civil Service

- (1) There is a single Civil Service, which is responsible for the administration of Zimbabwe.
- (2) The Civil Service consists of persons employed by the State other than-
  - (a) members of the Defence Forces, the Police Service, the Prison Service, intelligence services and any other security service that may be established;
  - (b) judges, magistrates and persons presiding over courts established by an Act of Parliament;
  - (c) members of Commissions established by this Constitution; and
  - (d) anyone else whose office or post is stated, by this Constitution or an Act of Parliament, not to form part of the Civil Service.

#### 11.2 Conduct of members of Civil Service

- (1) Members of the Civil Service must act in accordance with this Constitution and the law, including customary international law and international agreements binding on Zimbabwe.
- (2) No member of a Civil Service may obey an order that is manifestly illegal.
- (3) No member of the Civil Service may, in the exercise of their functions-
  - (a) for partisan purposes, prejudice or further the interests of a political party; or
  - (b) violate the fundamental rights and freedoms of any person.
- (4) An Act of Parliament must make provision to ensure the political neutrality of the Civil Service, and for that purpose may prohibit any member of the Civil Service from being an active member or office bearer of a political party.

#### 11.3 Establishment and functions of Civil Service Commission

- (1) There is a Civil Service Commission which has the following functions--
  - (a) to promote throughout the Civil Service the values and principles set out in this Constitution, in particular in Chapter 10;
  - (b) to appoint qualified and competent persons to hold posts in the Civil Service;
  - (c) to fix and regulate conditions of service, including salaries, allowances and other benefits, of members of the Civil Service;
  - (d) to exercise control and disciplinary powers over members of the Civil Service;
  - (e) to investigate grievances and to remedy the grievances of members of the Civil Service concerning official acts or omissions;
  - (f) to implement measures to ensure effective and efficient performance within, and the general well-being of, the Civil Service;
  - (g) to ensure that members of the Civil Service carry out their duties efficiently and impartially; and
  - (h) to exercise any other function that is conferred or imposed on the Commission by this Constitution or an Act of Parliament.
- (2) The Civil Service Commission may make regulations for any of the purposes set out in subsection (1).
- (3) In fixing the salaries, allowances and other benefits of members of the Civil Service, the Civil Service Commission must-
  - (a) permit members of the Civil Service to engage in collective bargaining;
  - (b) act with the approval of the Minister responsible for finance; and
  - (c) in the case of the remuneration of senior members of the Civil Service, act on the recommendation of the Public Officers Remuneration Commission.

#### 11.4 Membership of Civil Service Commission

- (1) The Civil Service Commission consists of-
  - (a) a Chairperson and Deputy Chairperson appointed by the President and subject to the approval of the Senate; and
  - (b) a minimum of two and a maximum of six other members, whose number must be prescribed in an Act of Parliament, appointed by the President with the approval of the Senate, following the procedures set out in the Sixth Schedule.
- (2) The Chairperson and the Deputy Chairperson must be of different genders.
- (3) Members of the Civil Service Commission must be chosen for their knowledge of or experience in administration, management or the provision of Civil Services.

#### 11.5 Ambassadors and other principal representatives of Zimbabwe

- (1) The President may appoint persons to be ambassadors or other principal representatives of Zimbabwe in other countries or to be accredited to international organisations and may, at any time, remove those persons from their posts.
- (2) An appointment in terms of subsection (1) is subject to confirmation by the Senate in accordance with the procedures set out in Sixth Schedule.

#### 11.6 Permanent Secretaries

- (1) Permanent Secretaries of Ministries must be appointed by the President on the advice of the Civil Service Commission.
- (2) An appointment in terms of subsection (1) is subject to confirmation by the Senate in accordance with the procedures set out in the Sixth Schedule.
- (3) The term of office of a Permanent Secretary is a period of six years, subject to renewal.

**12.1 National security**

- (1) The national security objectives of Zimbabwe must reflect the resolve of Zimbabweans to live as equals in liberty, peace and harmony, free from fear and want, and to pursue a better life.
- (2) The national security of Zimbabwe must be secured in compliance with this Constitution and the law, including international law.
- (3) In particular, the protection of the national security must be pursued with the utmost respect for-
  - (a) the fundamental rights and freedoms and the democratic values and principles enshrined in this Constitution; and
  - (b) the rule of law.

**12.2 Security services**

- (1) The security services of Zimbabwe consist of-
  - (a) the Defence Forces;
  - (b) the Police Service;
  - (c) the intelligence services; and
  - (d) the Correctional Service.
- (2) The security services must be regulated by Acts of Parliament.
- (3) No one may form armed militias or paramilitary bodies outside the security services referred to in subsection (1).
- (4) Other than the security services established in terms of this Constitution, armed organisations or services may be established only in terms of an Act of Parliament.
- (5) Membership of the security services must reflect the diversity of the people of Zimbabwe.

**12.3 Conduct of members of security services**

- (1) Members of the security services must act in accordance with this Constitution and the law, including customary international law and international agreements binding on Zimbabwe.
- (2) No member of a security service may obey an order that is manifestly illegal.
- (3) Neither the security services nor any of their members may, in the exercise of their functions-
  - (a) act in a partisan manner;
  - (b) further the interests of any political party or cause;
  - (c) prejudice the lawful interests of any political party or cause; or
  - (d) violate the fundamental rights and freedoms of any person.
- (4) Members of the security services must not be active members or office bearers of any political party or organization.
- (5) An Act of Parliament must make provision to ensure the political neutrality of members of the security services.

**12.4 National Security Council**

- (1) There is a National Security Council consisting of the President as chairperson and such other Ministers and members of the security services and other persons as may be determined in an Act of Parliament.
- (2) The functions of the National Security Council are: -
  - (a) To inform and advise the President on matters relating to national security; and
  - (b) Any other functions that may be prescribed in an Act of Parliament.

**12.5 Independent complaints mechanism**

An Act of Parliament must provide an effective and independent mechanism for receiving and investigating complaints from members of the public about misconduct on the part of members of the security services and for remedying any harm caused by such misconduct.

PART 2  
DEFENCE FORCES**12.6 Defence Forces**

- (1) The Defence Forces of Zimbabwe consist of an Army, an Air Force and any other branches that may be established under an Act of Parliament.
- (2) The Defence Forces are the only lawful military forces in Zimbabwe.
- (3) The Defence Forces must be non-partisan, national in character, patriotic, professional and subordinate to the civilian authority as established by this Constitution.
- (4) The Defence Forces must be managed as disciplined military forces.
- (5) An Act of Parliament must provide for the organization, structure, management, regulation, discipline and, subject to section 12.10, the conditions of service of members of the Defence Forces.

**12.7 Function of Defence Forces**

The function of the Defence Forces is to defend Zimbabwe, its people, its national security and interests and its territorial integrity.

**12.8 Deployment of Defence Forces**

- (1) as Commander-in-Chief of the Defence Forces, and subject to this Constitution, the President has the power to determine their operational use.
- (2) With the authority of the President, the Defence Forces may be deployed in Zimbabwe in defence of Zimbabwe against external aggression, but the President must inform the National Assembly within seven days of the deployment.
- (3) With the authority of the President and the prior approval of the National Assembly, the Defence Forces may be deployed-
  - (a) in Zimbabwe, in support of-
    - (i) the Police Service in the maintenance of public order;
    - (ii) civilian authorities and the Police Service in the event of an emergency or disaster; or
  - (b) outside Zimbabwe, in fulfilment of an international commitment or in defence of Zimbabwe's national interest.
- (4) If it is not reasonably possible to obtain the prior approval of the National Assembly for a deployment of the Defence Forces, the deployment may be made without that approval but the deployment must be rescinded unless it is approved the National Assembly within fourteen days thereafter.
- (5) Whenever the President seeks the approval of Parliament for having deployed the Defence Forces without its prior approval, he must inform the National Assembly and in appropriate detail, of-
  - (a) the reasons for the deployment;
  - (b) the place in Zimbabwe or the country where the Defence Forces are deployed;
  - (c) the number of people involved; and
  - (d) the period for which the Defence Forces are expected to be deployed.

**12.9 Command of Defence Forces**

- (1) An Act of Parliament may provide that-
  - (a) the Defence Forces are to be under the command of a single Commander; or
  - (b) each branch of the Defence Forces, or any two or more of them jointly, are to be under the command of a separate Commander.
- (2) Every Commander of the Defence Forces, and every Commander of a branch of the Defence Forces, is appointed by the President on the advice of the Defence Forces Commission and the Minister responsible for defence.
- (3) Commanders of the Defence Forces and Commanders of branches of the Defence Forces, are appointed for a term of not more than five years, and a person must not serve in any one of those offices for more than two terms.
- (4) A person who has served as Commander of a branch of the Defence Forces may be appointed as Commander of the Defence Forces, but a person who has served as Commander of the Defence Forces may not be appointed as Commander of a branch of the Defence Forces or to the command of any other security service.
- (5) Every Commander of the Defence Forces, and every Commander of a branch of the Defence Forces, must exercise his or her command in accordance with the general directions of the Minister responsible for defence acting

under the authority of the President.

**12.10 Establishment and functions of Defence Forces Commission**

- (1) There is a Defence Forces Commission which has the following functions-
  - (2) Should the Commission be given the function of promoting the values of the Constitution, particularly Chapter 10, as is the case with the Civil Service Commission in clause 11.3(1)(a). )
  - (a) to appoint qualified and competent persons to hold posts or ranks in the Defence Forces;
  - (b) to fix and regulate conditions of service, including salaries, allowances and other benefits, of members of the Defence Forces;
  - (c) to determine the nature of disciplinary powers to be exercised over members of the Defence Forces, and the manner and circumstances in which they are to be exercised;
  - (d) to ensure the general well-being and administration of the Defence Forces and their maintenance in a high state of efficiency;
  - (e) to ensure that members of the Defence Forces comply with section 12.3;
  - (f) to foster harmony and understanding between the Defence Forces and civilians; and (g) to exercise any other function conferred or imposed on the Commission by this Constitution or an Act of Parliament.
- (2) The Defence Forces Commission may make regulations for any of the purposes set out in subsection (1).
- (3) In fixing the salaries, allowances and other benefits of members of the Defence Forces, the Defence Forces Commission must-
  - (a) act with the approval of the Minister responsible for finance; and
  - (b) in the case of the remuneration of senior members of the Defence Forces, act on the recommendation of the Public Officers Remuneration Commission.

**12.11 Membership of Defence Forces Commission**

- (1) The Defence Forces Commission consists of a chairperson who must be the chairperson of the Civil Service Commission or his or her delegate, and a minimum of two and a maximum of seven other members, appointed by the President and subject to the approval of Parliament, following the procedures set out in the Sixth Schedule.
- (2) Members of the Defence Forces Commission must be chosen for their knowledge or experience in administration, management, military affairs, their professional qualifications or their general suitability for appointment, and-
  - (a) at least one of them must have held senior rank in the Defence Forces for one or more periods amounting to at least five years; and
  - (b) at least half of them must be civilians.

PART 3  
POLICE SERVICE**12.12 Police Service and its functions**

- (1) There is a Police Service which is responsible for
  - (a) detecting, preventing and investigating crime;
  - (b) preserving the internal security of Zimbabwe;
  - (c) protecting and securing the lives and property of the people;
  - (d) maintaining law and order; and
  - (e) upholding this Constitution and enforcing the law without fear or favour.
- (2) The Police Service must exercise its functions in co-operation with-
  - (a) any intelligence service that may be established by law;
  - (b) any body that may be established by law for the purpose of detecting, preventing or investigating particular classes of offences; and
  - (c) regional and international bodies formed to combat crime.
- (3) The Police Service must be non-partisan, national in character, patriotic, professional and subordinate to the civilian authority as established by this Constitution.
- (4) An Act of Parliament must provide for the organisation, structure, management, regulation, discipline and, subject to section 12.14, the conditions of service of members of the Police Service.

**12.13 Commissioner-General of Police**

- (1) The Police Service is under the command of a Commissioner-General of Police appointed by the President on the advice of the Police Service Commission and the Minister responsible for the police.
- (2) The Commissioner-General of Police is appointed for a term of not more than five years and a person must not serve for more than two terms.
- (3) A person who has served as Commissioner-General of Police may not be appointed to the command of any other security service or branch of a security service.
- (4) The Commissioner-General of Police must exercise his or her command in accordance with general directions of policy given by the Minister responsible for the Police Service.

**12.14 Establishment and functions of Police Service Commission**

- (1) There is a Police Service Commission which has the following functions-
  - (a) to appoint qualified and competent persons to hold posts or ranks in the Police Service;
  - (b) to fix and regulate conditions of service, including salaries, allowances and other benefits, of members of the Police Service;
  - (c) to determine the nature of disciplinary powers to be exercised over members of the Police Service, and the manner and circumstances in which they are to be exercised;
  - (d) to ensure the general well-being and administration of the Police Service and its maintenance in a high state of efficiency;
  - (e) to ensure that members of the Police Service comply with section 12.3;
  - (f) to foster harmony and understanding between the Police Service and civilians; and
  - (g) to exercise any other function conferred or imposed on the Commission by this Constitution or an Act of Parliament.
- (2) The Police Service Commission may make regulations for any of the purposes set out in subsection (1).
- (3) In fixing the salaries, allowances and other benefits of members of the Police Service, the Police Service Commission must-
  - (a) act with the approval of the Minister responsible for finance; and
  - (b) in the case of the remuneration of senior members of the Police Service, act on the recommendation of the Public Officers Remuneration Commission.

**12.15 Membership of Police Service Commission**

- (1) The Police Service Commission consists of a chairperson or his or her delegate, who must be the chairperson of the Civil Service Commission, and a minimum of two and a maximum of seven other members, whose number must be prescribed in an Act of Parliament, appointed by the President with the approval of the Senate, following the procedures set out in the Sixth Schedule.
- (2) Members of the Police Service Commission must be chosen for their knowledge or experience in the maintenance of law and order, administration, or their professional qualifications or their general suitability for appointment, and at least one of them must have held a senior rank in the Police Service for one or more periods amounting to at least five years.

PART 4  
INTELLIGENCE SERVICES**12.16 Establishment of intelligence services**

- (1) Any intelligence service of the State, other than an intelligence division of the Defence Forces or the Police Service, must be established in terms of an Act of Parliament which, subject to this Constitution, defines the structure, powers, functions and accountability of the intelligence service.
- (2) Any intelligence service of the State must be non-partisan, national in character, patriotic, professional and subordinate to the civilian authority as established by this Constitution.

**12.17 Command or control of intelligence services**

A person in command or control of an intelligence service

- (a) must be appointed by the President; and
- (b) must exercise his or her command in accordance with general directions of policy given by the Minister specified in the Act of Parliament by which the intelligence service concerned is established.

## PART 5

## CORRECTIONAL SERVICE

**12.18 Correctional Service and its functions**

- (1) There is a Correctional Service which is responsible for-
  - (a) the protection of society from criminals through the incarceration and rehabilitation of convicted persons and others who are lawfully required to be detained;
  - (b) the rehabilitation of convicted persons and other persons who are lawfully required to be detained, their reintegration into society; and
  - (c) the administration of correctional facilities.
- (2) The Correctional Service must be non-partisan, national in character, patriotic, professional and subordinate to the civilian authority as established by this Constitution.
- (3) An Act of Parliament must provide for the organisation, structure, management, regulation, discipline and, subject to section 12.20, the conditions of service of members of the Correctional Service.

**12.19 Commissioner of Correctional Service**

- (1) The Correctional Service is under the command of a Commissioner of the Correctional Service appointed by the President on the advice of the Correctional Service Commission and the Minister responsible for correctional services.
- (2) The Commissioner of the Correctional Service is appointed for a term of not more than five years and a person must not serve for more than two terms.
- (3) A person who has served as Commissioner of the Correctional Service may not be appointed to the command of any other security service or branch of a security organ.
- (4) The Commissioner of the Correctional Service must exercise his or her command in accordance with general directions of policy given by the Minister responsible for correctional services.

**12.20 Establishment and functions of Correctional Service Commission**

- (1) There is a Correctional Service Commission which has the following functions-
  - (a) to appoint qualified and competent persons to hold posts or ranks in the Correctional Service;
  - (b) to fix and regulate conditions of service, including salaries, allowances and other benefits, of members of the Correctional Service;
  - (c) to determine the nature of disciplinary powers to be exercised over members of the Correctional Service, and the manner and circumstances in which they are to be exercised;
  - (d) to ensure the general well-being and administration of the Correctional Service and their maintenance in a high state of efficiency;
  - (e) to ensure that members of the Correctional Service comply with section 12.3;
  - (f) to foster harmony and understanding between the Correctional Service and civilians; and
  - (g) to exercise any other function conferred or imposed on the Commission by this Constitution or an Act of Parliament.
- (2) The Correctional Service Commission may make regulations for any of the purposes set out in subsection (1).
- (3) In fixing the salaries, allowances and other benefits of members of the Correctional Service, the Correctional Service Commission must-
  - (a) act with the approval of the Minister responsible for finance; and
  - (b) in the case of the remuneration of senior members of the Correctional Service, act on the recommendation of the Public Officers Remuneration Commission.

**12.21 Membership of Correctional Service Commission**

- (1) The Correctional Service Commission consists of a chairperson, who must be the chairperson of the Civil Service Commission or his or her delegate, and a minimum of two and a maximum of seven other members, whose number must be prescribed in an Act of Parliament, appointed by the President, following the procedures set out in the Sixth Schedule.
- (2) Members of the Correctional Service Commission must be chosen for their knowledge or experience in administration, management, security affairs, or for their professional qualifications or their general suitability for appointment, and at least one of them must have held senior rank in the Correctional Service for one or more periods amounting to at least five years.

## CHAPTER 13

INDEPENDENT INSTITUTIONS SUPPORTING DEMOCRACY  
PART 1  
GENERAL**13.1 Independent institutions supporting democracy**

The following are the independent institutions supporting democracy-

- (a) the Electoral Commission;
- (b) the Human Rights Commission;
- (c) the Gender Commission;
- (d) the Anti-Corruption Commission;
- (e) the Media Commission;
- (f) the Auditor-General;
- (g) the National Prosecuting Authority; and
- (h) the Public Protector.

**13.2 Objectives of institutions supporting democracy**

The independent institutions supporting democracy have the following general objectives in addition to those given to them individually-

- (a) to support and entrench human rights and democracy;
- (b) to protect the sovereignty and interests of the people;
- (c) to promote constitutionalism;
- (d) to promote transparency and accountability in public institutions;
- (e) to secure the observance, by all State institutions and agencies and government-controlled entities, of democratic values and principles; and
- (f) to ensure that injustices are remedied.

**13.3 Powers of institutions supporting democracy**

The independent institutions supporting democracy have all the powers necessary for them to fulfil their objectives and functions, including the power-

- (a) to inspect relevant documents and records held by the Government and by all State institutions and agencies and government-controlled entities;
- (b) to conduct investigations on their own initiative or on complaint made by any person;
- (c) to conduct proceedings for conciliation, mediation and negotiation.

**13.4 Staff of institutions supporting democracy**

The independent institutions supporting democracy have power to employ staff and, subject to the law, to regulate their conditions of service.

**13.5 Independence of institutions supporting democracy**

- (1) All institutions of the State, through legislative and other measures, must assist the independent institutions supporting democracy and must protect their independence, impartiality, integrity and effectiveness.
- (2) No one may interfere with the functioning of the independent institutions supporting democracy.
- (3) The Government must make adequate and suitable provision, through legislation and other appropriate means, to ensure that members of and persons employed by the independent institutions supporting democracy carry out their duties conscientiously, effectively, fairly, impartially and honestly.

**13.6 Members of Independent Commissions to be non-political**

- (1) Persons who are members of a political party or organisation on their appointment to an Independent Commission must relinquish that membership without delay and in any event within fourteen days of their appointment.

- (2) If a member of an Independent Commission-
- becomes a member of a political party or organisation; or
  - having been a member of a political party or organisation on his or her appointment to an Independent Commission, fails to relinquish that membership within fourteen days of the appointment;
- he or she ceases immediately to be a member of the Independent Commission.

### 13.7 Power to obtain evidence

The independent institutions supporting democracy, other than the National Prosecuting Authority, have the same powers to summon and question witnesses and to require their attendance and the production of evidence as are conferred on commissioners by the Commissions of Inquiry Act [Chapter 10:07] or any enactment which replaces that Act.

## PART 2 ELECTORAL COMMISSION

### 13.8 Establishment and functions of Electoral Commission

There is an Electoral Commission which has the following functions

- to prepare for, conduct and supervise-
  - elections to the office of President;
  - elections to legislative bodies in the national, provincial and local tiers of government;
  - elections of the President of the Senate and the Speaker;
  - elections of members of the Council of Chiefs established by section 15.5; and
  - referendums;
 and to declare the results of those elections and referendums without delay;
- to conduct or supervise any other elections that may be specified in an Act of Parliament;
- to register voters, to compile and maintain voters' rolls and registers and to ensure their integrity;
- to conduct voter education;
- to accredit election observers and monitors; and
- generally, to ensure the efficient, proper, free and fair conduct of elections and referendums.

### 13.9 Membership of Electoral Commission

- The Electoral Commission consists of-
  - a chairperson appointed by the President on the advice of the Judicial Service Commission and subject to the approval of Parliament; and
  - eight other members appointed by the President, following the procedures set out in the Sixth Schedule;
  - such number of additional members as there are political parties represented in Parliament, one such member being appointed by each of those parties.
- The chairperson of the Electoral Commission must be a judge or former judge of the Constitutional Court, the Court of Appeal or the High Court, or a person qualified for appointment as such a judge.
- Members of the Electoral Commission must be citizens of Zimbabwe and chosen for their integrity and experience and for their competence in the conduct of affairs in the public or private sector.
- In addition to the persons mentioned in section 18.4(3), the following persons are ineligible to be appointed to the Electoral Commission-
  - public officers, other than judges;
  - members and employees of statutory bodies and government-controlled entities; and
  - employees of provincial assemblies, provincial executives and local authorities.
- Members of the Electoral Commission are appointed for a six-year term and may be re-appointed for one further term, but no one may be appointed to or serve on the Commission after he or she has been a member for one or more periods, whether continuous or not, that amount to twelve years.

### 13.10 Electoral Commission to report on elections and referendums

In addition to the report it is required to submit in terms of section 18.8, the Electoral Commission must submit a report to the National Assembly on the conduct of every election and every referendum.

## PART 3 HUMAN RIGHTS COMMISSION

### 13.11 Establishment and functions of Human Rights Commission

- There is a Human Rights Commission which has the following functions-
  - to promote the protection, development and attainment of human rights and freedoms;
  - to monitor, assess, investigate and ensure observance of human rights and freedoms and to report on the observance of human rights;
  - to protect the public against abuse of power and maladministration by State and public institutions and by officers of those institutions;
  - to secure appropriate redress where human rights have been violated; and
  - to direct the Commissioner-General of Police to investigate cases of suspected violations of human rights and to report to the Commission on the results of any such investigation.
- The Commissioner-General of Police must comply with any directive given to him or her by the Human Rights Commission under subsection (1)(e).

### 13.12 Membership of Human Rights Commission

- The Human Rights Commission consists of a chairperson and eight other members appointed by the President, subject to the approval of Parliament, following the procedures set out in the Sixth Schedule.
- The chairperson of the Human Rights Commission must be a person who has been qualified for at least seven years to practise as a legal practitioner in Zimbabwe, and before appointing him or her the President must consult the Judicial Service Commission.
- Members of the Human Rights Commission, including the chairperson, must be chosen for their integrity and their knowledge and understanding of, and experience in, the promotion of human rights.

### 13.13 Reports to and by Human Rights Commission

- Persons in charge of all State institutions, and any other persons that may be specified in an Act of Parliament, must inform the Human Rights Commission annually of measures they have taken to give effect to the rights and freedoms set out in the Declaration of Rights.
- In addition to the report it is required to submit in terms of section 18.8, the Human Rights Commission may submit reports to the Senate and the National Assembly on particular matters relating to human rights and freedoms which, in the Commission's opinion, should be brought to the attention of Parliament.

## PART 4 GENDER COMMISSION

### 13.14 Establishment and functions of Gender Commission

There is a Gender Commission which has the following functions-

- to monitor issues concerning gender equality to ensure gender equality as provided in this Constitution;
- to investigate possible violations of rights relating to gender;
- to conduct research into issues relating to gender and social justice, and to recommend changes to laws and practices which lead to discrimination based on gender;
- to advise public and private institutions on steps to be taken to ensure gender equality;
- to recommend affirmative action programmes to achieve gender equality;
- to do everything necessary to promote gender equality and to prevent gender discrimination.

### 13.15 Membership of Gender Commission

- The Gender Commission consists of a chairperson and five other members, appointed by the President, subject to the approval of the Senate, following the procedures set out in the Sixth Schedule.
- Members of the Gender Commission must be chosen for their integrity and their knowledge and understanding of gender issues in social, cultural, economic and political life, and the genders must be equally represented on the Commission .
- One member of the Gender Commission must be nominated by the Council of Chiefs.

### 13.16 Reports by Gender Commission

In addition to the report it is required to submit in terms of section 18.8, the Gender Commission may submit reports to the Senate and the National Assembly on particular matters relating to gender issues which, in the Commission's opinion, should be brought to the attention of Parliament.

## PART 5 ANTI-CORRUPTION COMMISSION

### 13.17 Establishment and functions of Anti-Corruption Commission

- There is an Anti-Corruption Commission which has the following functions
  - to investigate cases of corruption in the public and private sectors;
  - to combat corruption, abuse of power and other improper conduct in the public and private sectors;
  - to promote honesty, financial discipline and transparency in the public and private sectors;
  - to direct the Commissioner-General of Police to investigate cases of suspected corruption and to report to the Commission on the results of any such investigation;
  - to refer matters to the National Prosecuting Authority for prosecution; and
  - to make recommendations to the Government and other persons on measures to enhance integrity and accountability in the public and private sectors.
- The Commissioner-General of Police must comply with any directive given to him or her by the Anti-Corruption Commission under subsection (1)(d) .
- The Government must ensure, through legislative and other means, that the Anti-Corruption Commission has power to direct the arrest of persons suspected of corruption, abuse of power and other improper conduct which falls within the Commission's jurisdiction.

### 13.18 Membership of Anti-Corruption Commission

- The Anti-Corruption Commission consists of a chairperson and six other members appointed by the President, subject to the approval of Parliament, following the procedures set out in the Sixth Schedule.
- Members of the Anti-Corruption Commission must be chosen for their integrity and their knowledge of and experience in administration, prosecution and investigation of crime or for their general suitability for appointment, and-
  - at least one must be qualified to practise as a legal practitioner in Zimbabwe, and have been so qualified for at least seven years;
  - at least one must be qualified to practise as a public accountant or public auditor in Zimbabwe, and have been so qualified for at least seven years; and
  - at least one must be a person with at least seven years' experience in the investigation of crime.

### 13.19 Reports by Anti-Corruption Commission

In addition to the report it is required to submit in terms of section 18.8, the Anti-Corruption Commission may submit reports to the Senate and the National Assembly on particular matters relating to improper conduct in the public and private sectors which, in the Commission's opinion, should be brought to the attention of Parliament.

## PART 6 MEDIA COMMISSION

### 13.20 Establishment and functions of Media Commission

- There is a Media Commission which has the following functions-
  - to promote and develop freedom of the press and other media of communication;
  - to regulate broadcasting in the public interest and, in particular, to ensure fairness and diversity of views broadly representing Zimbabwean society;
  - to encourage people working for the press and for other media of communication to develop codes of ethics and conduct;
  - to receive and consider complaints from the public and, where appropriate, to take appropriate action against journalists and other persons employed in the press, news media or broadcasting who are found to have breached any law or any code of conduct applicable to them;
  - to ensure that the people of Zimbabwe have equitable and wide access to information;
  - to encourage the use and development of all the indigenous languages of Zimbabwe; and
  - to promote competition and diversity in the media.
- The Media Commission must encourage self-regulation of the press and other media of communication, in preference to control by the State or an agency of the State.

### 13.21 Membership of Media Commission

- The Media Commission consists of a chairperson and six other members appointed by the President, subject to the approval of Parliament, following the procedures set out in the Sixth Schedule.
- Members of the Media Commission must be chosen for their integrity and their competence in, and knowledge and understanding of, the best practices in media matters.

### 3.22 Reports of Media Commission

In addition to the report it is required to submit in terms of section 18.8, the Media Commission may submit reports to the Senate and the National Assembly on particular matters relating to the media which, in the Commission's opinion, should be brought to the attention of Parliament.

## PART 7 AUDITOR-GENERAL

### 13.23 Auditor-General and his or her functions

- There must be an Auditor-General, whose office is a public office but does not form part of the Civil Service.
- The functions of the Auditor-General are-
  - to audit the accounts, financial systems and financial management of all departments and institutions of Government, all provincial governments and all local authorities;
  - to order the taking of measures to rectify any defects in the management and safeguarding of public funds; and
  - to exercise any other functions that may be conferred or imposed on him or her by an Act of Parliament.
- Public officers must comply with orders given to them by the Auditor-General in terms of subsection (2)(b).

### 13.24 Appointment of Auditor-General

- The Auditor-General is appointed by the President on the advice of the institute or association established by law to represent public auditors in Zimbabwe, and with the approval of the Senate in accordance with the Sixth Schedule.
- The institute or association referred to in subsection (1) must nominate one or more suitable persons when called upon to do so by the President for the purposes of that subsection.
- The term of office of the Auditor-General is a period of not more than six years and a person must not be appointed as Auditor-General after he or she

has served for one or more periods, whether continuous or not, amounting to twelve years.

- Before entering office, the Auditor-General must take the oaths of loyalty and office in the forms set out in the Second Schedule.

### 13.25 Independence of Auditor-General

In the exercise of his or her functions the Auditor-General is independent and subject only to the law.

### 13.26 Remuneration of Auditor-General

- The conditions of service of the Auditor-General, including his or her remuneration, must be provided for in an Act of Parliament and is a charge of the Consolidated Revenue Fund.
- The remuneration payable to the Auditor-General must not be reduced during his or her tenure of office.

### 13.28 Removal of Auditor-General from office

- The Auditor-General may be removed from office only for-
  - inability to perform the functions of his or her office, whatever the reason for the inability;
  - gross incompetence; or
  - gross misconduct.
- If the National Assembly, by a vote of two-thirds of its membership, resolves that the question of removing the Auditor-General from office ought to be investigated, the President must appoint a tribunal to inquire into the matter.
- A tribunal appointed under subsection (2) must consist of at least three members appointed by the President, of whom-
  - at least one must be a person who has served as a judge; and
  - at least one must be chosen from a panel of at least three persons who have been nominated by the institute or association established by law to represent public auditors in Zimbabwe.
- The institute or association referred to in subsection (3)(b) must nominate the panel referred to in that subsection when called upon to do so by the President.
- A tribunal appointed under subsection (2) must inquire into the question of removing the Auditor-General from office and, having done so, must report its findings to the President and recommend whether or not the Auditor-General should be removed, and if the tribunal so recommends the President must, by order under the public seal, remove the Auditor-General from office.
- A tribunal appointed under this section has the same rights and powers as commissioners under the Commissions of Inquiry Act [Chapter 10:07], or any law that replaces that Act.

## PART 8 NATIONAL PROSECUTING AUTHORITY

### 13.29 Establishment and functions of National Prosecuting Authority

There is a National Prosecuting Authority which is responsible for instituting and undertaking criminal prosecutions on behalf of the State and to exercise any necessary functions incidental to instituting and undertaking criminal proceedings.

### 13.30 Prosecutor-General and other officers

- There is a Prosecutor-General who is the head of the National Prosecuting Authority. (2) The office of the Prosecutor-General is a public office but does not form part of the Civil Service.
- The Prosecutor-General is appointed by the President on the advice of the Judicial Service Commission following the procedure for the appointment of a judge of the Constitutional Court.
- The Prosecutor-General must be a person qualified for appointment as a judge of the High Court.
- The term of office of the Prosecutor-General is a period of not more than six years and a person must not be appointed as Prosecutor-General after he or she has served for one or more periods, whether continuous or not, amounting to twelve years.
- Before taking office, the Prosecutor-General must take the oath of office in the form set out in the Second Schedule.
- The provisions relating to the removal of a judge from office apply to the removal of the Prosecutor-General from office.
- The conditions of service of the Prosecutor-General, including his or her remuneration, must be provided for in an Act of Parliament, but the remuneration-
  - must not be fixed except on the recommendation of the Public Officers Remuneration Commission; and
  - must not be reduced during the Prosecutor-General's tenure of office.
- The remuneration of the Prosecutor-General is a charge of the Consolidated Revenue Fund.
- An Act of Parliament must provide for the appointment of persons to assist the Prosecutor-General in the exercise of his or her functions, and must also provide-
  - for the qualifications of those persons; and
  - that in exercising their functions, those persons must be independent and impartial and subject only to the law and to the direction and control of the Prosecutor-General.
- The Prosecutor-General may direct the Commissioner of Police to investigate and report to him on anything which, in the Prosecutor-General's opinion, relates to an offence or alleged or suspected offence, and the Commissioner of Police must comply with that direction.

### 13.31 Independence of Prosecutor-General

- Subject to this Constitution, the Prosecutor-General-
  - is independent and is not subject to the direction or control of anyone; and
  - must exercise his or her functions without fear, favour or prejudice; and though the Prosecutor-General is accountable to Parliament for the efficient performance of his or her functions, Parliament may not interfere with him or her in such a way as to prevent him or her from performing the functions of the office vigorously and impartially.
- The Prosecutor-General must formulate and publicly disclose the general principles by which he or she decides whether and how to institute and conduct criminal proceedings.

### 13.32 Conduct of officers of National Prosecuting Authority

- The Prosecutor-General and officers of the National Prosecuting Authority must act in accordance with this Constitution and the law, including customary international law and international agreements binding on Zimbabwe.
- No officer of the National Prosecuting Authority may obey an order that is manifestly illegal.
- No officer of the National Prosecuting Authority may, in the exercise of his or her functions-
  - for partisan purposes, prejudice or further the interests of a political party; or
  - violate the fundamental rights and freedoms of any person.
- An Act of Parliament must make provision to ensure the political neutrality of officers of the National Prosecuting Authority, and for that purpose may prohibit them from being active members or office-bearers of a political party.

### 13.33 Prosecutor-General to report annually to Parliament

- The Prosecutor-General must submit to the Senate and the National Assembly an annual report on the operations and activities of the office, the report being submitted not later than the end of January in the year following the year to which the report relates.
- An Act of Parliament may require the Prosecutor-General to submit further reports in addition to the annual report specified in subsection (1).

### 13.34 Other powers of prosecution

An Act of Parliament may confer powers of prosecution on persons other than the National Prosecuting Authority, but those powers must not limit or con-

in accordance with the Authority's powers under this Part.

**PART 9**

**OFFICE OF THE PUBLIC PROTECTOR**

**13.35 Establishment and functions of office of Public Protector**

- (1) There is a Public Protector whose office is a public office but does not form part of the Civil Service.
- (2) The Public Protector has the following functions-
  - (a) to investigate the conduct of affairs in public administration in all tiers of government, agencies of the State and public enterprises that is alleged or suspected to be improper or to result in any impropriety or prejudice;
  - (b) to report to Parliament if he or she finds that any conduct referred to in paragraph (a) is improper or has resulted in impropriety or prejudice;
  - (c) to take or recommend appropriate action to remedy any improper or prejudicial conduct in State affairs or public administration; and
  - (d) to exercise any other function conferred or imposed upon the Public Protector by this Constitution or any other enactment.
- (3) The Public Protector may investigate the conduct of judicial officers but may not investigate court decisions.
- (4) The Public Protector must be accessible to all persons and communities.
- (5) An Act of Parliament may confer additional functions on the Public Protector and may regulate the manner in which the functions of the office may be exercised provided that the Public Protector's independence and effectiveness are not compromised.
- (6) Any report issued by the Public Protector must be open to the public unless exceptional circumstances, to be determined in terms of an Act of Parliament, require that a report be kept confidential.

**13.36 Independence of Public Protector**

Subject to this Constitution, the Public Protector-

- (a) is independent and is not subject to the direction or control of anyone; and
- (b) must exercise his or her functions without fear, favour or prejudice; and though the Public Protector is accountable to Parliament for the efficient performance of his or her functions, Parliament may not interfere with him or her in such a way as to prevent him or her from performing the functions of the office vigorously and impartially.

**13.37 Appointment and tenure of Public Protector**

- (1) The Public Protector is appointed by the President on the advice of the Judicial Service Commission and subject to the approval of the Senate, following the procedures set out in the Sixth Schedule.
- (2) The Public Protector must be a person qualified for appointment as a judge of the High Court.
- (3) The term of office of the Public Protector is a period of five years and a person must not be appointed as Public Protector after he or she has served for one or more periods, whether continuous or not, amounting to ten years under this constitution.
- (4) The provisions relating to the removal of a judge from office apply to the removal of the Public Protector from office.
- (8) The conditions of service of the Public Protector, including his or her remuneration, must be provided for in an Act of Parliament, but the remuneration-
  - (a) must not be fixed except on the recommendation of the Public Officers Remuneration Commission; and
  - (b) must not be reduced during the Public Protector's tenure of office.
- (9) The remuneration of the Public Protector is a charge of the Consolidated Revenue Fund.

**13.38 Conduct of affairs of office of Public Protector**

An Act of Parliament may provide for the practices and procedures to be adopted by the Public Protector and, in any matter that is not so provided for, the Public Protector may determine the practices and procedures to be followed, but any such procedures must be fair and promote transparency.

**13.39 Public Protector to report annually to Parliament**

- (1) The Public Protector must submit to the Senate and the National Assembly an annual report on the operations and activities of the office, the report being submitted not later than the end of January in the year following the year to which the report relates.
- (2) An Act of Parliament may require the Public Protector to submit further reports in addition to the annual report specified in subsection (1).

**CHAPTER 14**

**PROVINCIAL AND LOCAL GOVERNMENT**

[Parked]

**CHAPTER 15**

**TRADITIONAL LEADERS**

**15.1 Traditional leadership**

- (1) The institution, status and role of traditional leadership according to customary law are recognised.
- (2) A traditional leader is responsible for performing the cultural, customary and traditional functions of a Chief or headperson, as the case may be, for his or her community.

**15.2 Obligations and functions of traditional leaders**

- (1) Traditional leaders must-
  - (a) act in accordance with this Constitution and the laws of Zimbabwe;
  - (b) observe the rules pertaining to traditional leadership and exercise their functions for the purposes for which the institution of traditional leadership is recognised by this Constitution; and
  - (c) treat all persons within their areas equally and fairly.
- (2) The functions of traditional leaders are to-
  - (a) promote and uphold cultural values of their communities and, in particular, to promote sound family values;
  - (b) take measures to preserve the culture, traditions, history and heritage of their communities, including sacred shrines within their areas;
  - (c) facilitate development in their areas;
  - (d) in accordance with an Act of Parliament, administer land and natural resources within their areas;
  - (e) resolve disputes amongst people in their communities in accordance with customary law; and
  - (f) exercise any other functions conferred or imposed on them by an Act of Parliament.
- (3) Traditional leaders must not-
  - (a) be members of any political party or in any way participate in partisan politics;
  - (b) act in a partisan manner;
  - (c) further the interests of any political party or cause;
  - (d) prejudice the lawful interests of any political party or cause; or
  - (e) violate the fundamental rights and freedoms of any person.
- (4) An Act of Parliament must provide for the regulation of the conduct of traditional leaders.
- (5) In the performance of his or her functions, a traditional leader is not subject to the direction or control of any person or authority, except to the extent prescribed in an Act of Parliament.

**15.3 Appointment and removal of traditional leaders**

- (1) An Act of Parliament must provide for the following, in accordance with the prevailing culture, customs, traditions and practices of the communities concerned-
  - (a) the appointment, suspension and removal of traditional leaders;
  - (b) the creation and resuscitation of chieftainships; and
  - (c) the resolution of disputes concerning the appointment, suspension and removal of traditional leaders; but-
    - (i) the appointment, removal and suspension of Chiefs must be done by the President on the recommendation of the Council of Chiefs;
    - (ii) disputes concerning the appointment, suspension and removal of

traditional leaders must be done by the President on the recommendation of the Council of Chiefs;

- (iii) the Act must provide measures to ensure that all these matters are effected fairly and without regard to political considerations;
- (iv) the Act must provide measures to safeguard the integrity of traditional institutions and their independence from political interference.

**15.4 Remuneration and benefits of traditional leaders**

- (1) The remuneration and benefits of traditional leaders must be prescribed in an Act of Parliament, but the remuneration must be recommended by the Public Officers Remuneration Commission and approved by the Minister responsible for finance.
- (2) The remuneration of a traditional leader must be charged upon and paid out of the Consolidated Revenue Fund.
- (3) The remuneration of a traditional leader must not be reduced while he or she holds or acts in the office concerned.

**15.5 Council of Chiefs**

- (1) There is a Council of Chiefs consisting of such Chiefs as may be prescribed in an Act of Parliament.
- (2) The Act of Parliament referred to in subsection (1)-
  - (a) must provide for the membership, functions and procedures of the Council of Chiefs, and in particular for-
    - (i) the qualifications and election of the President, Deputy President and members of the Council;
    - (ii) subject to subsections (4) and (5), the tenure, remuneration and removal of members of the Council;
    - (iii) the oath of office to be taken by members of the Council;
    - (iv) the establishment of a secretariat for the Council; and
  - (b) may provide for the establishment of provincial councils of chiefs.
- (3) The election of the President, the Deputy President and members of the Council of Chiefs must be conducted by the Independent Election Commission.
- (4) The President of the Council of Chiefs is elected for a term of five years, and is eligible for re-election.
- (5) An Act of Parliament must ensure that-
  - (a) the Council of Chiefs is able to carry out its functions independently and efficiently; and
  - (b) persons employed by the Council of Chiefs carry out their duties conscientiously and impartially.

**15.6 Functions of Council of Chiefs**

The Council of Chiefs has the following functions-

- (a) to protect, promote and develop Zimbabwe's culture and traditions;
- (d) to represent the views of traditional leaders and to maintain the integrity and status of traditional institutions;
- (a) to protect, promote and advance the interests of traditional leaders;
- (c) to consider representations and complaints made to it by traditional leaders;
- (e) to define and enforce correct and ethical conduct on the part of traditional leaders and to develop their capacity for leadership;
- (1) to facilitate the settlement of disputes between and concerning traditional leaders;
- (g) to perform any other functions that may be conferred or imposed on it by an Act of Parliament.

**15.7 Integrity and Ethics Committee [Parked]**

An Act of Parliament must provide for the establishment, membership and procedures of an Integrity and Ethics Committee of the Council of Chiefs, to exercise the following functions-

- (a) to develop and enforce integrity and ethical conduct on the part of traditional leaders;
- (b) to resolve disputes between traditional leaders;
- (c) to deal with complaints against traditional leaders.

**CHAPTER 16**

**AGRICULTURAL LAND**

[This Chapter is subject to further written instructions to the drafters]

**16.1 Interpretation in Chapter 16**

In this Chapter- "agricultural land" has the meaning given to it by section 4.24.

**16.2 Principles guiding policy on agricultural land**

In order to redress the unjust and unfair pattern of land ownership that was brought about by colonialism, and to bring about land reform and the equitable access by all Zimbabweans to the country's natural resources, policies regarding agricultural land must be guided by the following principles-

- (a) land is a finite natural resource that forms part of Zimbabweans' common heritage;
- (b) the allocation and distribution of agricultural land must be fair and equitable, having regard to gender balance and diverse community interests;
- (c) the land tenure system must promote increased productivity and investment by Zimbabweans in agricultural land;
- (d) the use of agricultural land should promote food security, good health and nutrition and generate employment, while protecting and conserving the environment for future generations;
- (e) no one may be deprived of their right to use and occupy agricultural land except in accordance with a law which is fair and provides for the payment of compensation that reflects a just and equitable balance between the public interest and the interests of those who have been deprived of their rights.

**16.3 Vesting of previously-acquired agricultural land in State**

All agricultural land which the State acquired during the land reform programme and which vested in the State immediately before the effective date continues to vest in the State on that date

**16.4 Alienation of agricultural land by State**

The State may alienate any agricultural land vested in it, whether through the transfer of ownership to any other person or through the grant of a lease or other right of occupation or use, but any such alienation must be in accordance with the principles specified in section 16.2.

**16.5 Continuation of rights of occupiers of agricultural land**

Subject to this Constitution, any person who, immediately before the effective date, was using or occupying, or was entitled to use or occupy, any agricultural land by virtue of a lease or other agreement with the State continues to be entitled to use or occupy that land on or after the effective date, in accordance with that lease or other agreement.

**16.6 Security of tenure for occupiers of agricultural land**

The State must take appropriate measures, including legislative measures, to give equitable security of tenure to everyone lawfully owning or occupying agricultural land.

**16.7 Compensation for acquisition of previously-acquired agricultural land**

- (1) Any indigenous Zimbabwean whose agricultural land was acquired by the State before the effective date is entitled to the return of the land or, if that is not practicable, to compensation from the State for the land and any improvements that were on the land when it was acquired.
- (2) Any person whose agricultural land was acquired by the State before the effective date and whose property rights at that time were guaranteed or protected by an agreement concluded by the Government of Zimbabwe with the government of another country, is entitled to compensation from the State for the land and any improvements in accordance with that agreement.
- (3) Any person, other than a person referred to in subsection (1) or (2), whose agricultural land was acquired by the State before the effective date is entitled to compensation from the State only for improvements that were on the land when it was acquired.
- (4) Compensation payable under subparagraphs (1), (2) and (3) must be assessed and paid in terms of an Act of Parliament referred to in section

4.24(2).

- (5) [Parked: the right to compensation of people who acquired agricultural land after Independence pursuant to certificates of no present interest]

**16.8 Establishment and functions of Land Commission**

- (1) There is a Land Commission which has the following functions-
  - (a) to ensure accountability, fairness and transparency in the administration of agricultural land that is vested in the State;
  - (b) to conduct periodical audits of publicly-owned agricultural land and Communal Land;
  - (c) to make recommendations to the Government regarding--
    - (i) the acquisition of private land for public purposes;
    - (ii) equitable access to and holding and occupation of agricultural land, in particular-
      - A. the elimination of all forms of unfair discrimination, particularly gender discrimination;
      - B. the enforcement of any policy restricting the amount of agricultural land that may be held by anyone person or family;
    - (iii) land usage and the size of agricultural land holdings;
    - (iv) the simplification of the acquisition and transfer of rights in land; and
    - (v) systems of land tenure;
  - (d) to make recommendations to the Government and to provincial and local authorities regarding levies and taxes on agricultural land;
  - (e) to investigate and determine complaints and disputes regarding the supervision, administration and allocation of agricultural land; and
  - (f) to determine fair compensation payable under any law for agricultural land and improvements that have been compulsorily acquired.
- (2) In discharging its functions, the Land Commission must be guided by the principles set out in section 16.2.
- (3) All institutions of the State, through legislative and other measures, must assist the Land Commission in carrying out its functions and must protect its independence, impartiality, integrity and effectiveness.
- (4) The Government must make adequate and suitable provision, through legislation and other appropriate means, to ensure that-
  - (a) the Land Commission is able to exercise its functions efficiently and independently; and
  - (b) persons employed by the Land Commission carry out their duties conscientiously, fairly and impartially.
- (5) If the State or a provincial or local authority disregards a recommendation made by the Land Commission in terms of subsection (1)(d) regarding a levy or tax on agricultural land, the Commission must report the matter to the Minister responsible for agricultural land, and the Minister must lay the Commission's report before the National Assembly on one of the five days that the Assembly next sits after the Minister received it.

**16.9 Membership of Land Commission**

- (1) The Land Commission consists of a chairperson and at least eleven and not more than fifteen other members appointed by the President, subject to the approval of Parliament, following the procedures set out in the Sixth Schedule.
- (2) Two members of the Land Commission must be nominated by the Council of Chiefs.
- (3) Members of the Land Commission must-
  - (a) be chosen for their integrity and competence in, and knowledge and understanding of, the best practices in land management and administration; and
  - (b) reflect the diversity of Zimbabwe's population, in particular its regional interests and gender balance.

**CHAPTER 17**

**FINANCE**

**17.1 Principles of public financial management**

- (1) The following principles must guide all aspects of public finance in the Zimbabwe
  - (a) there must be transparency and accountability in financial matters;
  - (b) the public finance system must be directed at promoting an egalitarian society, and in particular-
    - (i) the burden of taxation must be shared fairly;
    - (ii) revenue raised nationally must be shared equitably between the central government and provincial and local tiers of government; and
    - (iii) expenditure must be directed towards the development of Zimbabwe, and special provision must be made for marginalised groups and areas;
  - (c) the burdens and benefits of the use of resources and public borrowing must be shared equitably between present and future generations;
  - (d) public funds must be expended prudently, economically and effectively; and
  - (e) financial management must be responsible, and fiscal reporting must be clear.
- (2) No taxes may be levied except under the specific authority of this Constitution, an Act of Parliament, a provincial ordinance or local authority by-laws.

**17.2 Parliamentary control of State revenues and expenditure**

- (1) It is a function of Parliament to monitor and control expenditure by the State and all Commissions and institutions of Government, as well as statutory bodies and government-controlled entities, in order to ensure that-
  - (a) their expenditure has been properly made and does not exceed the amount appropriated; and
  - (b) any limits and conditions on appropriations have been observed.
- (2) An Act of Parliament must provide mechanisms for Parliament to monitor and control expenditure referred to in subsection (1), including the submission of regular reports by public officers, including Ministers and Secretaries in charge of Ministries, and by the institutions, bodies and entities referred to in that subsection.

**17.3 Limits of State borrowings, public debt and State guarantees**

- (1) An Act of Parliament must set limits on
  - (a) borrowings by the State;
  - (b) the public debt; and
  - (c) debts and obligations whose payment or repayment is guaranteed by the State.
- (2) All loan agreements negotiated by or on behalf of the Government, including loan agreements with international financial institutions, must be approved by the National Assembly before they are implemented.
- (3) An Act of Parliament must prescribe terms and conditions under which the Government may guarantee loans, and any such guarantee becomes binding only after it has been approved by the National Assembly.
- (4) Within ninety days after a loan agreement or Government guarantee has been approved by the National Assembly under subsection (3), the Speaker must cause its terms to be published in the Gazette.
- (5) The Minister responsible for finance must-
  - (a) at least twice a year, report to Parliament on the performance of
    - (i) loans raised by the State; and
    - (ii) loans guaranteed by the State;
  - (b) at the same time as the estimates of revenue and expenditure are laid before the National Assembly in terms of section 17.7, table in Parliament a comprehensive statement of the public debt and the assets of Zimbabwe.

**17.4 Sharing of revenues between national, provincial and local tiers of government**

- (1) An Act of Parliament must provide for-
  - (a) the equitable sharing of national revenues between the national government, provincial governments and local authorities;
  - (b) the determination of each provincial government's share of the revenue raised from within the province; and
  - (c) any other allocations to provinces and local authorities from the national government's share of the national revenue, and any conditions on which



those allocations may be made.

- (2) The Act referred to in subsection (1) must be enacted after consultation with provincial governments, local authorities and the Financial and Fiscal Commission, and must take into account, amongst other factors-
  - (a) the national interest;
  - (b) any provision that must be made in respect of the national debt and other national obligations;
  - (c) the needs and interests of the central government, determined by objective criteria;
  - (d) the need to ensure that provincial governments and local authorities are able to provide basic services and perform the functions allocated to them;
  - (e) the fiscal capacity and efficiency of provincial governments and local authorities;
  - (f) developmental and other needs of provincial governments and local authorities;
  - (g) economic disparities within and between Provinces;
  - (h) obligations of provincial governments and local authorities in terms of any Act of Parliament;
  - (i) the desirability of stable and predictable allocations of revenue;
  - (j) the need for flexibility in responding to emergencies and other temporary needs.
- (3) Not less than fifteen per cent of the national revenues raised in any financial year must be allocated to the provinces and local authorities as their share in that year.
- (4) A provincial government's share of national revenues is a charge on the Consolidated Revenue Fund.

## 17.5 Funding of constitutional bodies and other institutions

- (1) The Government must ensure that adequate funds are provided-
  - (a) to the Commissions and other institutions established by this Constitution, to enable them to perform their functions effectively;
  - (b) to Parliament, to enable it and its committees to meet whenever necessary; and
  - (c) to all other institutions of the State, to enable them to perform their obligations under this Constitution.
- (2) The Commissions and other institutions established by this Constitution must be given a reasonable opportunity to make representations to a parliamentary committee as to the funds to be allocated to them in each financial year.

## 17.6 Consolidated Revenue Fund

- (1) There is a Consolidated Revenue Fund into which must be paid all fees, taxes and revenues of the Government, whatever their source, unless an Act of Parliament-
  - (a) requires or permits them to be paid into some other fund established for a specific purpose; or
  - (b) permits the authority that received them to retain them, or part of them, in order to meet the authority's expenses.
- (2) No money may be withdrawn from the Consolidated Revenue Fund except to meet expenditure authorised by this Constitution or by an Act of Parliament.
- (3) Money withdrawn from the Consolidated Revenue Fund must be paid only to the person to whom the payment is due.
- (4) All debt charges for which the State is liable must be charged upon the Consolidated Revenue Fund.
- (5) The costs and expenses incurred in collecting and managing the Consolidated Revenue Fund form the first charge on the Fund.
- (6) An Act of Parliament must prescribe the way in which-
  - (a) withdrawals are to be made from the Consolidated Revenue Fund and any other public fund; and
  - (b) money in the Consolidated Revenue Fund and any other fund is to be held and invested.
- (7) For the purposes of subsection (4)-
 "debt charges" includes interest, sinking fund charges, the repayment or amortisation of debt and all expenditure related to the raising of loans on the security of the Consolidated Revenue Fund and the service and redemption of debt created by those loans.

## 17.7 Appropriation of money from Consolidated Revenue Fund

- (1) Every year the Minister responsible for finance must present to the National Assembly a statement of the estimated receipts and expenditure of the Government in the next financial year.
- (2) Separate estimates of revenue and expenditure must be given for each of the following-
  - (a) the judiciary;
  - (b) each Commission established by this Constitution;
  - (c) the office of the Public Protector;
  - (d) the office of the Auditor-General;
  - (e) the National Prosecuting Authority; and
  - (f) the Council of Chiefs .
- (3) When the National Assembly has approved the estimates of expenditure for a financial year, other than expenditure that is specifically charged on the Consolidated Revenue Fund by this Constitution or an Act of Parliament, the Minister responsible for finance must cause a Bill to be known as an Appropriation Bill to be introduced into the National Assembly, and that Bill must-
  - (a) provide for money to be issued from the Consolidated Revenue Fund to meet the approved expenditure; and
  - (b) appropriate the money to the purposes specified in the estimates, under separate votes for the different heads of expenditure that have been approved.
- (4) If the money appropriated to a purpose under an Appropriation Act is insufficient or if expenditure is needed for a purpose for which no money has been appropriated, the Minister responsible for finance must cause an additional or supplementary estimate to be presented to the National Assembly, and if the National Assembly approves the estimate the Minister must cause an additional or supplementary appropriation Bill to be introduced into the Assembly providing for the necessary money to be issued from the Consolidated Revenue Fund.

## 17.8 Authorisation of expenditure in advance of appropriation

- (1) An Act of Parliament may allow the President to authorise the withdrawal of money from the Consolidated Revenue Fund to meet expenditure which was unforeseen or whose extent was unforeseen and for which no provision has been made under any other law, but-
  - (a) the Act must not allow the withdrawal of money in excess of one and one-half per cent of the total amount appropriated in the last main Appropriation Act;
  - (b) any money withdrawn under the Act must be included in additional or supplementary estimates of expenditure laid without delay before the National Assembly and, if the Assembly approves the estimates, the money must be charged upon the Consolidated Revenue Fund by an additional or supplementary Appropriation Act.
- (2) If the Appropriation Act for a financial year has not come into operation by the beginning of that financial year, an Act of Parliament may allow the President to authorise the withdrawal of money from the Consolidated Revenue Fund to meet expenditure necessary to carry on the services of the Government for the first four months of the financial year, but-
  - (a) the Act must not allow the withdrawal of money in excess of one-third of the amounts included in the estimates of expenditure for the previous financial year;
  - (b) any money withdrawn under the Act must be included in an Appropriation Act for the financial year concerned, under separate votes for the different heads of expenditure.
- (3) If Parliament is dissolved before adequate financial provision has been made for carrying on the services of the Government, an Act of Parliament may allow the President to authorise the withdrawal of money from the Consoli-

dated Revenue Fund to meet expenditure needed to carry on those services until three months after the National Assembly first meets after the dissolution, but any money withdrawn under the Act must be included in an Appropriation Act under separate votes for the different heads of expenditure.

## 17.9 Unauthorised expenditure

- (1) If it is found that more money has been expended on a purpose than was appropriated to it in terms of this Part, or that money has been expended on a purpose for which no money was appropriated under this Part, the Minister responsible for finance must introduce a Bill into the National Assembly condoning the unauthorised expenditure.
- (2) The Bill referred to in subsection (1) must be introduced into the National Assembly without delay and in any event no later than the fourteenth day on which the National Assembly sits after the extent of the unauthorised expenditure has been established.

## 17.10 Duties of custodians of public funds

- (1) In this section-
 "public funds" includes any money owned or held by the State or any institution or agency of government, including provincial and local tiers of government, statutory bodies and government-controlled entities;
 "public property" means any property owned or held by the State or any institution or agency of government, including provincial and local tiers of government, statutory bodies and government-controlled entities.
- (2) It is the duty of everyone who is responsible for the expenditure of public funds to safeguard the funds and ensure that they are spent only on legally authorised purposes and in legally authorised amounts.
- (3) It is the duty of everyone who has custody or control of public property to safeguard the property and ensure that it is not lost, destroyed, damaged, misapplied or misused.
- (4) An Act of Parliament must provide for the speedy detection of breaches of subsections (2) and (3) and the disciplining and punishment of persons responsible for any such breaches and, where appropriate, the recovery of misappropriated funds or property.

## 17.11 Equalisation Fund

- (1) There is an Equalisation Fund into which must be paid at least two and one-half per cent of all the revenue collected by the Government in each financial year, calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.
- (2) The Government must use the Equalisation Fund to provide basic services, including educational and health facilities, water, roads, social amenities and electricity to marginalised areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of Zimbabwe, so far as possible.
- (3) The Government may use the Equalisation Fund-
  - (a) only to the extent that the expenditure of those funds has been provided for in an Appropriation Act; and
  - (b) either directly or indirectly through conditional grants to local authorities in which marginalised communities exist.
- (4) The Financial and Fiscal Commission must be consulted and its recommendations considered before Parliament passes any Bill appropriating money from the Equalisation Fund.
- (5) Any unexpended money in the Equalisation Fund at the end of a financial year must remain in the Fund for use in accordance with subsections (2) and (3) in a subsequent financial year.

## 17.12 Financial and Fiscal Commission

- (1) There is a Financial and Fiscal Commission which has the following functions-
  - (a) to supervise the division of revenues between the central, provincial and local tiers of government;
  - (b) to make the recommendations provided for in this Constitution and any Act of Parliament; and
  - (c) to exercise any other functions that are conferred or imposed on the Commission by an Act of Parliament.
- (2) The Financial and Fiscal Commission consists of-
  - (a) a chairperson and four other members appointed by the President with the approval of Parliament in accordance with the Sixth Schedule;
  - (b) one member from each of the ... provinces into which Zimbabwe is divided, the members being appointed by the provincial governments concerned; and
  - (c) two members to represent local authorities, the members being appointed by an association recognised under an Act of Parliament as representing local authorities.

## 17.13 Public Officers Remuneration Commission

- (1) There is a Public Officers Remuneration Commission whose function is to make recommendations as to the remuneration, allowances and benefits of-
  - (a) the following public officers-
    - (i) the President and Vice-President(s);
    - (ii) Ministers and Deputy Ministers;
    - (iii) members of Parliament;
    - (iv) members of the judiciary;
    - (v) senior members of the Civil Service and security services;
    - (vi) members of Commissions and other institutions established by this Constitution;
  - (b) traditional leaders and members of the Council of Chiefs;
  - (c) members and senior employees of provincial tiers of government; and
  - (d) members and senior employees of local authorities;
 and to exercise any other function that may be conferred on the Commission by an Act of Parliament.
- (2) The Public Officers Remuneration Commission consists of-
  - (a) a chairperson appointed by the President, acting on the advice of the Civil Service Commission; and
  - (b) at least three and not more than fifteen other members as are provided for in an Act of Parliament to represent the State and traditional leaders, as well as the various classes of persons whose interests will be affected by the Commission's decisions and recommendations.
- (3) In exercising its functions, the Public Officers Remuneration Commission must take into account the following-
  - (a) the need to ensure that the costs of remunerating public officers, as well as members and employees of provincial and local tiers of government, are financially sustainable;
  - (b) the need to ensure that the central, provincial and local tiers of government are able to attract persons with the necessary skills to enable them to carry out their functions;
  - (c) the need to recognise productivity and performance; and
  - (d) transparency and fairness.
- (4) Neither the State nor a provincial or local tier of government may increase, directly or indirectly, the remuneration, allowances or benefits of a person referred to in subsection (1) unless the Public Officers Remuneration Commission has been consulted about the increase.
- (5) If, contrary to a recommendation made by the Public Officers Remuneration Commission, the State or a provincial or local tier of government increases, directly or indirectly, the remuneration, allowances or benefits of a person referred to in subsection (1), the Commission must report the matter to the Minister responsible for finance and the Minister must lay the Commission's report before the National Assembly on one of the five days that the Assembly next sits after the Minister received it.

## 17.14 Procurement

An Act of Parliament must prescribe procedures for the procurement of goods and services by the State and all tiers of government, as well as all governmental institutions and agencies, so that procurement is effected in a manner that is transparent, fair, honest, economical and competitive.

## 17.15 Reserve Bank of Zimbabwe

- (1) There is a central bank, to be known as the Reserve Bank of Zimbabwe,

whose objects are-

- (a) to regulate Zimbabwe's monetary system;
  - (b) to protect the currency of Zimbabwe in the interest of balanced and sustainable economic growth; and
  - (c) to formulate and execute monetary policy.
- (2) An Act of Parliament must provide for the functions, structure and organisation of the Reserve Bank of Zimbabwe.

## CHAPTER 18

### GENERAL AND SUPPLEMENTARY PROVISIONS

#### PART 1

### GENERAL PROVISIONS AS TO COMMISSIONS

#### 18.1 Application of Part 1

This Part applies to every Commission established by this Constitution, and to the members of every such Commission.

#### 18.2 Commissions to be bodies corporate

The Commissions are bodies corporate with perpetual succession and are capable of suing and being sued in their own names.

#### 18.3 Commissions to be independent but subject to Constitution

The Commissions-

- (a) are independent and are not subject to the direction or control of anyone;
  - (b) must act in accordance with this Constitution; and
  - (c) must exercise their functions without fear, favour or prejudice;
- and though the Commissions are accountable to Parliament for the efficient performance of their functions, Parliament may not interfere with them in such a way as to prevent them from performing their functions vigorously and impartially.

#### 18.4 Membership of Commissions and conditions of service of members

- (1) Unless otherwise stated in this Constitution, the appointment of a member of a Commission must follow the procedures set out in the Sixth Schedule and any additional procedures, consistent with those set out in the Sixth Schedule, that may be prescribed in an Act of Parliament.
- (2) Members of a Commission must be appointed on a part-time basis unless the nature and extent of their employment by the Commission requires that they serve full-time.
- (3) Every member of a Commission, other than the Judicial Service Commission and the Electoral Commission, is appointed for a term of five years which is renewable for one additional term only, and no one may be appointed or serve or act as a member of a Commission after he or she has been a member for one or more periods, whether continuous or not, amounting to ten years.' (This subclause has been inserted to ensure that where the terms-limits of commissioners are not specified elsewhere in the draft, there will be a blanket limit. It is intended to give effect to your instruction no 6 on page 90 of 16 March, 2012)
- (4) Subject to this Constitution, members of Parliament and members of provincial assemblies, provincial executives, local authorities and Government-controlled entities are not eligible to be appointed as members of a Commission.
- (5) Subject to this Constitution, an Act of Parliament may provide for-
  - (a) further qualification of members of a Commission, but their remuneration must be subject to a recommendation by the Public Officers Remuneration Commission in terms of section 17.13.
- (6) The remuneration payable to members of Commissions must not be reduced during the members' tenure of office.

#### 18.5 Removal from office of members of Commissions

A member of a Commission may be removed from office only after the Parliamentary Public Appointments Committee has found, after due inquiry, that the member concerned-

- (a) is unable to perform the functions of his or her office, whatever the reason for the inability;
- (b) is or was grossly incompetent;
- (c) was guilty of gross misconduct; or
- (d) has become ineligible for appointment to the Commission concerned.

#### 18.6 Functions and procedure of Commissions

- (1) An Act of Parliament may confer additional functions on a Commission and may regulate the manner in which a Commission exercises its functions provided that the Commission's independence or effectiveness are not compromised.
- (2) An Act of Parliament referred to in subsection (1) may permit a Commission to delegate its functions, but a Commission must not delegate its power to make appointments to, or to make recommendations or give advice on, any office established by this Constitution.
- (3) Subject to this Constitution, any decision of a Commission requires the concurrence of a majority of the Commission's members who are present when the decision is taken, and in the event of an equality of votes the person presiding at the meeting has a casting vote in addition to a deliberative vote.
- (4) An Act of Parliament may provide for the procedures to be adopted by a Commission, and in any respect that is not so provided for the Commission may determine its own procedures, but any such procedures must be fair and promote transparency in the performance of the Commission's functions.

#### 18.7 Funding of Commissions

Parliament must ensure that sufficient funds are appropriated to the Commissions to enable them to exercise their functions effectively.

#### 18.8 Commissions to report annually to Parliament

- (1) Every Commission must submit to the Senate and the National Assembly an annual report describing fully its operations and activities, the report being submitted not later than the end of January in the year following the year to which the report relates.
- (2) An Act of Parliament may require a Commission to submit further reports in addition to the annual report specified in subsection (1), and may prescribe the way in which such reports are to be submitted.

## PART 2

### GENERAL

#### 18.9 Diligent performance of constitutional obligations

All constitutional obligations must be performed diligently and without delay.

#### 18.10 Customary international law

- (1) Customary international law is part of the law of Zimbabwe, unless it is inconsistent with this Constitution or an Act of Parliament.
- (2) When interpreting legislation, every court and tribunal must adopt any reasonable interpretation of the legislation that is consistent with customary international law, in preference to an alternative interpretation inconsistent with that law.

#### 18.11 International conventions, treaties and agreements

- (1) In this section-
 "international organisation" means an organisation whose membership consists of two or more independent States or in which two or more independent States are represented;
 "international treaty" means a convention, treaty or agreement with one or more foreign States or governments or international organisations.
- (2) Whenever an international treaty has been or is about to be concluded by the President or under his or her authority, the President must cause Parliament to be informed of that fact without delay.
- (3) An international treaty which has been concluded or executed by the President or under the President's authority-
  - (a) does not bind Zimbabwe until it has been approved by Parliament; and
  - (b) does not form part of the law of Zimbabwe unless it has been incorporated into the law through an Act of Parliament.
- (4) An agreement which is not an international treaty but which-
  - (a) has been concluded or executed by the President or under the Presi-

- dent's authority with one or more foreign organisations or entities; and
- (b) imposes fiscal obligations on Zimbabwe;
- does not bind Zimbabwe until it has been approved by Parliament.
- (5) An Act of Parliament may provide that subsections (3)(a) and (4)-
  - (a) do not apply to any particular international treaty or agreement or to any class of such treaties or agreements; or
  - (b) apply with modifications in relation to any particular international treaty or agreement or to any class of such treaties or agreements.
- (6) Parliament may by resolution declare that any particular international treaty or class of international treaties does not require approval under subsection (3), but such a resolution does not apply to treaties whose application or operation requires--
  - (a) the withdrawal or appropriation of funds from the Consolidated Revenue Fund; or
  - (b) any modification of the law of Zimbabwe.
- (7) When interpreting legislation, every court and tribunal must adopt any reasonable interpretation of the legislation that is consistent with any international convention, treaty or agreement which is binding on Zimbabwe, in preference to an alternative interpretation inconsistent with that convention, treaty or agreement.

18.12 Amendment of Constitution

- (1) In this section-
  - "Constitutional Bill" means a Bill that seeks to amend this Constitution;
  - "term-limit provision" means a provision of this Constitution which limits the length of time that a person may hold or occupy a public office.
- (2) An Act of Parliament that amends this Constitution must do so in express terms .
- (3) A Constitutional Bill that seeks to amend any provision in Chapter 4 must not be presented in the National Assembly unless it has been approved by a majority of the voters voting at a national referendum.
- (4) Before it is presented to a referendum, a Constitutional Bill referred to in subsection (3) must be supported by an affirmative vote of two-thirds of all members of the Senate and the National Assembly and may not be withdrawn or modified after it has been approved in a referendum.
- (5) A Constitutional Bill that seeks to amend any provision of this Constitution, other than a provision in Chapter 4--
  - (a) may not be presented in the National Assembly unless the Speaker has given the public at least ninety days' notice of the precise provisions of the Bill;
  - (b) must be passed, at its last reading in the National Assembly and the Senate, by the affirmative votes of two-thirds of the membership of each House.
- (6) Immediately after the Speaker has given public notice of a Constitutional Bill in terms of subsection (5), Parliament must invite members of the public to express their views on the proposed Bill in public meetings and through written submissions, and must convene meetings and provide facilities to enable the public to do so.
- (7) Notwithstanding any other provision of this section--
  - (a) an amendment to a term-limit provision, the effect of which is to extend the length of time that a person may hold or occupy any public office, does not apply in relation to anyone who held or occupied that office, or an equivalent office, at any time before the amendment;
  - (b) this subsection may be amended only by following the procedures set out in subsections (2),(3) and (4), as if this subsection were contained in Chapter 4.

18.13 Commencement of Constitution, transitional provisions and savings

The Seventh Schedule applies to the commencement of this Constitution, the repeal of the former Constitution and the transition to the new constitutional order established by this Constitution.

PART 3 INTERPRETATION

18.14 Application of Part 3

This Part applies to the interpretation of this Constitution unless the context otherwise requires.

18.15 Definitions

In this Constitution--

- "Act of Parliament" includes--
  - (a) any law included in the revised edition of the statute law of Zimbabwe prepared in 1996 under the authority of the Statute Law Compilation and Revision Act [Chapter 1:03]; and
  - (b) any other Act;
 which was in force immediately before the appointed day;
- "administrative conduct" includes any decision or act of a public officer or of a person performing a function of a public nature, and a failure or refusal of such a person to reach such a decision or to perform such an act;
- "amend" includes vary, alter, modify, add to, delete or adapt;
- "Chief" means a Chief referred to in section 15.1;
- "Commission" means a Commission established by this Constitution;
- "Communal Land" means land set aside under an Act of Parliament and held in accordance with customary law by members of a community under the leadership of a Chief;
- "Constitutional Bill" means a Bill which, if enacted, would have the effect of amending any of the provisions of this Constitution;
- "Constitutional Court" means the Constitutional Court established by section 9.1(1)(a); "constitutional matter" includes any issue involving the interpretation, protection or enforcement of this Constitution;
- "customary law" means the customary law of any section or community of Zimbabwe's people;
- "disciplinary law" means a written law that regulates the discipline of members of a disciplined force, including part-time members, while they are rendering service in the force or in respect of their failure to render service in the force;
- "disciplined force" means-
  - (a) a naval, military or air force;
  - (b) a police service;
  - (c) a correctional service; or
  - (d) any other body established for public purposes by or under an Act of Parliament and declared by that Act to be a disciplined force;
- "effective date" means the date appointed for the commencement of this Constitution; "Electoral Commission" means the Commission of that name established by section 13.7; "Electoral Law" means the Act of Parliament that regulates the election of the President and Members of Parliament;
- "financial year" means the twelve-month period ending on the 31st December;
- "function" includes power and duty;
- "Gazette" means the official Gazette of the Government and includes any supplement to that Gazette;
- "general election" means a general election of Members of Parliament; "Government" means the Government of Zimbabwe;
- "government-controlled entity" means a body corporate whose operations or activities are substantially controlled by the State or by a person on behalf of the State, whether through ownership of a majority of shares in the body corporate or otherwise;
- "House", unless otherwise qualified, means the Senate or the National Assembly;
- "Human Rights Commission" means the Commission of that name established by section 13.10;
- "Independent Commission" means a Commission established by Chapter 13;
- "judge" means a judge of the Constitutional Court, the Court of Appeal or the High Court; "Judicial Service Commission" means the Commission of that name established by section 9.26;

"law" means-

- (a) any provision of this Constitution or of an Act of Parliament; (b) any provision of a statutory instrument; or
  - (c) any unwritten law in force in Zimbabwe, including customary law; and "lawful", "lawfully", "legal" and "legally" are to be construed accordingly;
- "legal practitioner" means a person who is permitted to practise the profession of law in Zimbabwe and who has the right to represent other persons before all courts in which the right to be legally represented is permitted;
- "local authority" means a council referred to in Chapter 14;
- "member", in relation to a statutory body, provincial councilor local authority, means a person who is appointed or elected to a council, board or other authority which--
- (a) is a statutory body, provincial councilor local authority; or
  - (b) is responsible for administering the affairs of the statutory body, provincial councilor local authority;
- "member of Parliament" means a Senator or a member of the National Assembly; "Minister" includes a person exercising the functions of a Minister, whatever their title; "national legislation" means an Act of Parliament or a statutory instrument made under an Act of Parliament;
- "oath" includes affirmation; "offence" means a criminal offence;
- "Parliamentary Public Appointments Committee" means the committee of that name established by section 7.38;
- "period of public emergency" means a period when a declaration of a state of public emergency under section 6.24 is in effect;
- "person" means an individual or a body of persons, whether corporate or unincorporated; "President" means the President of Zimbabwe;
- "President of the Senate" means the President of the Senate elected in terms of section 7.7; "provincial council" means a provincial council established in terms of Chapter 14;

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- "provincial legislation" means an ordinance enacted by a provincial council, or subordinate legislation made under such a law;
- "public office" means a paid office in the service of the State; "public officer" means a person holding or acting in a public office;
- "Public Officers Remuneration Commission" means the Commission of that name established by section 17.13;
- "Civil Service" has the meaning given to it by section 11.1;
- "security service" means a security service specified or referred to in section 12.2;
- "Senator Chief" means a chief elected to the Senate in terms of section 7.5(2)(b);
- "sitting" means a period during which the Senate or the National Assembly is sitting continuously, including any period during which the Senate or the National Assembly, as the case may be, is in committee;
- "sitting day" means any weekday which is prescribed in the Standing Orders of the National Assembly or the Senate, as the case may be, to be a sitting day, whether or not the House concerned meets on that day;
- "Speaker" means the Speaker of the National Assembly elected in terms of section 7.11; "Standing Orders", in relation to anything to be done by-
  - (a) the Senate, means Standing Orders of the Senate;
  - (b) the National Assembly, means Standing Orders of the National Assembly;
  - (c) the Senate and the National Assembly jointly, means joint Standing Orders; made in terms of section 7.24;
- "statutory body" means-
  - (a) a Commission established by this Constitution; or
  - (b) a body corporate established directly by or under an Act of Parliament for special purposes specified in that Act, whose membership consists wholly or mainly of persons appointed by the President, a Minister, another statutory body or by a Commission established by this Constitution;
- "statutory instrument" means any instrument that has the force of law and that is made by the President, a Minister or any other person or authority under this Constitution or an Act of Parliament;
- "tax" includes a duty, rate, levy or due;
- "traditional leader" means a person appointed as such in terms of section 15.3; "Zimbabwe" means the Republic of Zimbabwe.

18.16 References to Chapters, sections, etc.

- Any reference in this Constitution, without qualification, to-
- (a) a Chapter, section or Schedule, is to be construed as a reference to a Chapter or section of or Schedule to this Constitution;
  - (b) a subsection, is to be construed as a reference to a subsection of the section in which the reference is made;
  - (c) a paragraph, is to be construed as a reference to a paragraph of the Schedule, section, subsection or definition in which the reference is made;
  - (d) a subparagraph, is to be construed as a reference to a subparagraph of the paragraph or subparagraph in which the reference is made.

18.17 Words in singular to include plural, and vice versa

In this Constitution, words in the singular include the plural and words in the plural include the singular.

18.18 Tables and headings

Tables of contents and headings to Chapters, Parts, sections and other provisions of this Constitution do not form part of the Constitution and are inserted for ease of reference only.

18.19 References to time

- (1) In this Constitution, whenever a period of time is expressed-
  - (a) to begin on or to be reckoned from a particular day, that day is not to be included in the period;
  - (b) to end on or to be reckoned to a particular day, that day is to be included in the period. (2)Subject to this Constitution, whenever the time for doing anything in terms of this Constitution ends or falls on a Saturday, Sunday or public holiday, the time extends to and the thing may be done on the next day that is not a Saturday, Sunday or public holiday.
- (3) A reference in this Constitution to a month is to be construed as a reference to a calendar month.
- (4) A reference in this Constitution without qualification to a year is to be construed as a reference to a period of twelve months.

18.20 Calculation of person's age

For the purposes of this Constitution, a person is not regarded as having attained a given age until the commencement of the relevant anniversary of the day on which that person was born.

18.21 References to holders of office

Whenever this Constitution refers to the holder of an office by a term designating the office, the reference includes a reference to anyone who is lawfully acting in or exercising the functions of that office.

18.22 Consultation

- Whenever this Constitution requires any person or authority to consult anyone else, or to act after consultation with anyone else, the person or authority must-
- (a) inform the other person, in writing, what he or she proposes to do and provide the other person with enough information to enable the other person to understand the nature and effect of the proposed act;
  - (b) afford the other person a reasonable opportunity to make recommendations or representations about the proposal; and
  - (c) give careful consideration to any recommendations or representations that the other person may make about the proposal;
- but the person or authority is not obliged to follow any recommendations made by the other person.

18.23 Appointments

- (1) Except as otherwise provided in this Constitution, a power under this Constitution to appoint a person to an office includes a similar power-
  - (a) to reappoint the person to that office;
  - (b) to appoint a person on promotion or transfer to that office;
  - (c) to appoint a person to act in that office;
  - (d) to appoint a person to that office while it is held by someone else who is on leave of absence pending relinquishment of the office;
  - (e) to fix and vary the person's conditions of service in that office, including the person's remuneration and period of appointment and any benefits on termination of service; and
  - (f) subject to this Constitution, to suspend or remove the person from office.
- (2) Where two or more persons hold the same office as a result of a person being appointed to it while the incumbent is on leave of absence pending relinquishment of the office, the person last appointed must be regarded as the sole holder of the office.
- (3) An Act of Parliament may provide for the appointment of one or more deputies to anyone holding an office under this Constitution and may provide for their functions and conditions of service.
- (4) Where a deputy is appointed to a person holding an office under this Constitution, the deputy may exercise any of the functions of the office whenever the office-holder is for any reason unable to perform them.
- (5) Subject to any provision of this Constitution that may limit the period or number of terms that anyone may serve in a particular office, a person who has vacated an office established by this Constitution may, if qualified, be re-appointed or re-elected to the office.
- (6) Where the approval of the Senate is required for a person's appointment to any office or post, that person cannot exercise any of the functions of the office until the Senate has approved the appointment.

18.24 Resignations

- (1) Anyone who is appointed or elected to an office established by this Constitution may resign from that office by written notice addressed to the person that appointed or elected the office-holder concerned, but in the case of-
  - (a) the President, the notice must be addressed to the Speaker;
  - (b) the President of the Senate or his deputy, the notice must be addressed to the Senate or to the Clerk of Parliament;
  - (c) the Speaker or Deputy Speaker of the National Assembly, the notice must be addressed to the National Assembly or to the Clerk of Parliament;
  - (d) a Senator, the notice must be addressed to the president of the Senate;
  - (e) a Member of the National Assembly, the notice must be addressed to the Speaker.
- (2) A person's resignation from an office established by this Constitution takes effect on the date or at the time indicated in the notice of resignation or, if no date or time is indicated, when the notice is received by the person to whom it is addressed or by anyone else who is authorised by that person to receive it.

18.25 Exercise of functions, etc.

- (1) A power, jurisdiction or right conferred by this Constitution may be exercised, and a duty imposed by this Constitution must be performed, whenever it is appropriate to do so.
- (2) Where a power, jurisdiction or right is conferred by this Constitution, any other powers or rights that are reasonably necessary or incidental to its exercise are impliedly conferred as well.

18.26 When person not regarded as holding public office

For the purposes of this Constitution, persons are not to be regarded as holding public office solely on the ground that they receive a pension, half-pay, retired pay or some other similar allowance in respect of previous service in a public office.

18.27 Quorum and provisions regarding membership of constitutional bodies

- (1) A body established by or under this Constitution may act even if there are one or more vacancies in its membership, provided that the members of the body who authorise or perform the act are a quorum.
- (2) Unless this Constitution or a law regulating the proceedings of the body concerned makes some different provision, half the total membership of any body established by or under this Constitution constitutes a quorum.
- (3) Any reference in this Constitution to the votes of-
  - (a) half of the membership of a body whose membership is not a multiple of two; or
  - (b) two-thirds of the membership of a body whose membership is not a multiple of three; or
  - (c) three-quarters of the membership of a body whose membership is not a multiple of four;
 is to be interpreted to mean that the number of votes must be not less than the whole number next above one-half, two-thirds or three-quarters, as the case may be, of the body's membership.

18.28 Interpretation of regulations, etc., made under Constitution

The Interpretation Act currently in force in Zimbabwe, and any other law that governs the Interpretation of statutory instruments generally, applies to the interpretation of any statutory instrument made under this Constitution and to the interpretation of the extent of the power to make Such a statutory instrument.

18.29 Power to make Acts of Parliament for matters dealt with under Constitution

- Where this Constitution requires or permits an Act of Parliament to provide for any thing(a) the power to enact that Act of Parliament must be exercised subject to this Constitution; and
- (b) the Act of Parliament cannot derogate from any right conferred by this Constitution, unless this Constitution expressly or by necessary implication permits the Act to do so.

18.30 Inconsistencies between different texts of Constitution

In the event of an inconsistency between different texts of this Constitution, the English text shall prevail.

FIRST SCHEDULE (Section 4.42)

LIMITATIONS ON RIGHTS DURING PUBLIC EMERGENCIES

- 1. In this Schedule-
  - "detainee" means a person who is detained under an emergency law that provides for preventive detention;
  - "emergency law" means a written law that provides for action to be taken to deal with any situation arising during a period of public emergency;
  - "fundamental human right or freedom" means a right or freedom set out in Part I of Chapter 4;
  - "review tribunal" means the tribunal referred to in paragraph 3(1).
 Extent to which fundamental human rights or freedoms may be limited
- 2. (1) An emergency law may limit any of the fundamental human rights or freedoms, but only to the extent set out in section 4.42.
  - (2) If a state of public emergency is declared under section 6.24 in relation to only a part of Zimbabwe, an emergency law may not limit fundamental human rights or freedoms under this Schedule in any other part of Zimbabwe.
- 3. (1) An emergency law that permits preventive detention must provide for the establishment of a tribunal to review the cases of detainees.
  - (2) The review tribunal must be appointed by the President on the advice of the Judicial Service Commission.
  - (3) The review tribunal must consist of-
    - (a) a chairman, who is or has been a judge or is qualified to be appointed as such; and
    - (b) two other members, one of whom-
      - (i) is or has been a judge or is qualified to be appointed as such;
      - (ii) has been a magistrate in Zimbabwe for at least seven years; or

(iii) has been qualified for at least seven years to practise as a legal practitioner in Zimbabwe.

*Basic rights of detainees*

4. (1) All detainees-
  - (a) must be informed as soon as reasonably practicable, and in any case within seven days, of the reasons for their detention;
  - (b) must be permitted without delay-
    - (i) at their own expense, to choose and consult with a legal practitioner; or
    - (ii) if they wish, to consult with a legal practitioner assigned to them by the State at State expense;
 and must be informed as soon as reasonably practicable of their rights under this paragraph; and
  - (c) must be treated humanely and with respect for their inherent dignity as human beings.
- (2) Where this paragraph requires information to be given to a detainee-
  - (a) the information must be given in a language that the detainee understands; and
  - (b) if the detainee cannot read or write, any document embodying the information must be explained in such a way that he or she understands it.

*Review of detainees' cases*

5. (1) Every detainee's case must be submitted to the review tribunal within fourteen days after his or her initial detention and the tribunal must be informed of the name of the detainee, the place where he or she is detained and the reasons for the detention.
- (2) Every detainee's case must be resubmitted to the review tribunal at intervals of sixty days from the date on which the case was last reviewed, or at shorter intervals if the tribunal so orders.
- (3) The review tribunal must proceed without delay to review all cases submitted to it.
- (4) At all hearings by the review tribunal, the detainees whose cases are being reviewed must be allowed to present their cases in person or, if they wish-
  - (a) through legal practitioners assigned to them by the State at State expense; or
  - (b) at their own expense, through legal practitioners of their choice.
- (5) The reference in subparagraph (1) to a fourteen-day period includes a reference to lesser periods of detention that amount to fourteen days, in the case of a detainee who is released within fourteen days after being initially detained and is then re-detained within fourteen days after that release.

*Recommendations of review tribunal*

6. After reviewing a detainee's case, the review tribunal may make recommendations to the authority that ordered the detention as to whether or not the detainee should continue to be detained, and the authority must act in accordance with the tribunal's recommendation.

*Released detainees not to be re-detained on same grounds*

7. (1) A detainee who has been released from detention as a result of a report of the review tribunal that there is insufficient cause for the detention must not be detained again on the same grounds as those on which he or she was originally detained.
- (2) For the purposes of this paragraph, a person is deemed to have been detained on the same grounds as those on which he or she was originally detained unless the review tribunal has reported that, in its opinion, there appear to be new and reasonable grounds for the detention.

*Preservation of detainees' access to courts*

8. This Schedule shall not be construed as limiting a detainee's right to challenge in a court the lawfulness of his or her detention, whether or not his or her case is already before the review tribunal.

**SECOND SCHEDULE**

**(Sections 6.7, 6.12, 6.16, 6.25, 7.7, 7.8, 7.11, 7.12, 7.14, 9.21, 13.23 and 13.29)**

**OATHS AND AFFIRMATIONS**

**Notes:**

1. A person who is required to take any of the following oaths may, if he or she wishes, make an affirmation instead, using the indicated wording.
2. If a person taking any of the following oaths, or making any of the following affirmations, varies the wording of the oath or affirmation to a non-material extent, the variation does not affect the validity or binding nature of the oath or affirmation.

**OATH OR AFFIRMATION OF LOYALTY**

I, swear [or solemnly affirm] that I will be faithful and bear true allegiance to Zimbabwe and observe the laws of Zimbabwe. So help me God. [To be omitted in affirmation]

This oath or affirmation is to be taken before the person specified in the appropriate legislation.

**OATH OR AFFIRMATION OF OFFICE**

I, swear [or solemnly affirm] that I will serve Zimbabwe well and truly in the office of . So help me God. [To be omitted in affirmation]

This oath or affirmation is to be taken before the person specified in the appropriate legislation.

**OATH OR AFFIRMATION OF PRESIDENT AND VICE-PRESIDENT(S)**

I, swear [or solemnly affirm] that as President [or Vice-President] of Zimbabwe I will be faithful to Zimbabwe and will obey, uphold and defend the Constitution and all other laws of Zimbabwe, and-  
 " that I will promote whatever will advance, and oppose whatever may harm, Zimbabwe;  
 " that I will protect and promote the rights of the people of Zimbabwe;  
 " that I will discharge my duties with all my strength to the best of my knowledge and ability and true to the dictates of my conscience; and  
 " that I will devote myself to the well-being of Zimbabwe and its people. So help me God. [To be omitted in affirmation]

This oath or affirmation is to be taken before the Chief Justice or, in his or her absence, before the next most senior judge available.

**OATH OR AFFIRMATION OF MINISTER**

I, swear [or solemnly affirm] that I will be faithful to Zimbabwe and, in the office of Minister, will uphold the Constitution and all other laws of Zimbabwe; that I will give my advice to the President of Zimbabwe freely and to the best of my judgment whenever I am required to do so, for the good management of the public affairs of Zimbabwe; that I will not disclose, directly or indirectly, any secret that is entrusted to me in the course of my duties as Minister; and that in all respects I will perform the duties of my office faithfully and to the best of my ability.

So help me God. [To be omitted in affirmation]

This oath or affirmation is to be taken before the President or, in his or her absence, before the Chief Justice or the next most senior judge available.

**OATH OR AFFIRMATION OF DEPUTY MINISTER**

I, swear [or solemnly affirm] that I will be faithful to Zimbabwe and, in the office of Deputy Minister, will uphold the Constitution and all other laws of Zimbabwe; that I will give my advice to the President of Zimbabwe freely and to the best of my judgment whenever I am required to do so, for the good management of the public affairs of Zimbabwe; that I will not disclose, directly or indirectly, any secret that is entrusted to me in the course of my duties as Deputy Minister; and that in all respects I will perform the duties of my office faithfully and to the best of my ability.

So help me God. [To be omitted in affirmation]

This oath or affirmation is to be taken before the President or, in his or her absence, before the Chief Justice or the next most senior judge available.

**OATH OR AFFIRMATION OF MEMBER OF PARLIAMENT**

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I, .. swear [or solemnly affirm] that I will be faithful to Zimbabwe, that I will uphold the Constitution and all other laws of Zimbabwe, and that I will perform my duties as a Senator/Member of the National Assembly [whichever is appropriate] faithfully and to the best of my ability.

So help me God. [To be omitted in affirmation]

This oath or affirmation is to be taken before the Chief Justice or in his or her absence, a Judge of the Constitutional Court,

**JUDICIAL OATH OR AFFIRMATION**

I, swear [or solemnly affirm] that I will be faithful to Zimbabwe and that in the office of I will uphold and protect the Constitution and will administer justice to all persons alike without fear, favour or prejudice in accordance with the Constitution and the law.

So help me God. [To be omitted in affirmation]

Where the person taking this oath or affirmation is a judge, it is to be taken before the Chief Justice or the next most senior judge available. In all other cases it is to be taken before the person specified in the appropriate legislation.

**OATH OR AFFIRMATION OF OFFICE (MEMBER OF PROVINCIAL GOVERNMENT)**

I, swear [or solemnly affirm] that I will serve the Province of ..... [name of province] well and truly in the office of

So help me God. [To be omitted in affirmation]

This oath or affirmation is to be taken before the President.

**OATH OR AFFIRMATION OF PROVINCIAL GOVERNOR AND DEPUTY PROVINCIAL GOVERNOR**

I, swear [or solemnly affirm] that as Governor [or Deputy Governor] of the Province of [state name of Province] I will be faithful to Zimbabwe and will obey, uphold and defend the Constitution and all other laws of Zimbabwe, and-

that I will promote whatever will advance, and oppose whatever may harm, Zimbabwe; that I will protect and promote the rights of the people of Zimbabwe; that I will discharge my duties with all my strength to the best of my knowledge and ability and true to the dictates of my conscience; and  
 " that I will devote myself to the well-being of the Province of [state name of province] and its people.

So help me God. [To be omitted in affirmation]

This oath or affirmation is to be taken before the person specified in the appropriate legislation.

**OATH OR AFFIRMATION OF MEMBER OF PROVINCIAL EXECUTIVE COMMITTEE**

I, . swear [or solemnly affirm] that I will be faithful to Zimbabwe and, in the office of member of the provincial executive committee of the Province

of , [state name of province] will uphold the Constitution and all other laws of Zimbabwe; that I will give my advice to the Governor of ..... [state name of province] freely and to the best of my judgment whenever I am required to do so, for the good management of the public affairs of the Province; that I will not disclose, directly or indirectly, any secret that is debated in the provincial executive committee or any secret that is entrusted to me in the course of my duties as member of that committee; and that in all respects I will perform the duties of my office faithfully and to the best of my ability.

So help me God. [To be omitted in affirmation]

This oath or affirmation is to be taken before the person specified in the appropriate legislation.

**THIRD SCHEDULE (Section 14.x:X)**

**LEGISLATIVE POWERS OF PROVINCIAL ASSEMBLIES AND LOCAL AUTHORITIES (Parked)**

**FOURTH SCHEDULE (Sections 7.6 and 7.10) QUALIFICATIONS FOR VOTERS**

**Qualifications for registration as voter**

1. (1) Subject to subparagraph (2) and to paragraph 2, a person is qualified to be registered as a voter on the voters roll of a constituency if he or she-
  - (a) is of or over the age of eighteen years; and
  - (b) is a Zimbabwean citizen.
- (2) The Electoral Law may prescribe additional requirements to ensure that voters are registered on the most appropriate voters roll, but any such requirements must be consistent with this Constitution, in particular with section 4.18.

**Disqualifications for registration as voter 2.**

- A person is disqualified to be registered as a voter-
- (a) while he or she is detained as mentally disordered or intellectually handicapped under an Act of Parliament relating to mental health;
  - (b) if he or she has been declared by order of a court to be incapable of managing his or her affairs, for so long as the order remains in force; or
  - (c) if he or she has been convicted of an offence under the Electoral Law and declared by the High Court to be disqualified for registration as a voter or from voting, for the period he has been declared disqualified, but the period must not exceed five years.

**FIFTH SCHEDULE (Sections 7.15 and 7.16)**

**PROCEDURE AS TO BILLS AND OTHER MATTERS IN PARLIAMENT PART 1**

**INTRODUCTION OF BILLS, MOTIONS AND PETITIONS**

**Interpretation in Seventh Schedule**

1. In this Schedule-  
 "Money Bill" means a Bill that makes provision for-
  - (a) imposing, increasing or reducing a tax for the benefit of the State;
  - (b) appropriating money from, or imposing, increasing or reducing any charge on, the Consolidated Revenue Fund or any other fund vested in or controlled by the Government;
  - (c) compounding or remitting a debt due to the State;
  - (d) condoning a failure to collect a tax due to the State; or
  - (e) condoning unauthorised expenditure by the Government.

**House of origin of Bills.**

- 2 (1) Any Bill may originate in the National Assembly.
- (2) Any Bill, other than a Money Bill, may originate in the Senate.

**Members who may move Bills and motions**

3. Subject to this Constitution and Standing Orders-
  - (a) any Senator may introduce any Bill into the Senate or move any motion for debate in the Senate or present any petition to the Senate;
  - (b) any member of the National Assembly may introduce any Bill into the Assembly or move any motion for debate in the Assembly or present any petition to the Assembly;
  - (c) any Minister may introduce any Bill into or move any motion for debate in or present any petition to either the Senate or the National Assembly;
  - (d) any member of a House of Parliament which has passed a Bill introduced by a member who was not a Minister may introduce the Bill into the other House, and may sit and speak there, for the purpose of conducting the Bill through that other House.

**Parliament not to deal with Money Bills or fiscal motions or petitions except on recommendation of Minister**

4. (1) Except on the recommendation of a Minister, neither House of Parliament may-
  - (a) proceed upon any Bill, including an amendment to a Bill, which, in

the opinion of the President of the Senate or the Speaker, as the case may be, is a Money Bill;

- (b) proceed upon any motion, including an amendment to a motion, whose effect, in the opinion of the President of the Senate or the Speaker, as the case may be, is that provision should be made for any of the following matters-
  - (i) imposing, increasing or reducing a tax for the benefit of the State;
  - (ii) appropriating money from, or imposing or increasing any charge on, the Consolidated Revenue Fund or any other fund vested in or controlled by the Government;
  - (iii) compounding or remitting a debt due to the State;
  - (iv) condoning a failure to collect a tax due to the State; or
  - (v) condoning unauthorised expenditure by the Government;

or

- (c) receive any petition which, in the opinion of the President of the Senate or the Speaker, as the case may be, requests that provision be made for anything that is specified in subparagraph (b).
- (2) Subparagraph (1) does not apply to a Bill introduced, motion or amendment moved or petition presented by a Minister.

**PART 2**

**PROCEDURE REGARDING BILLS**

**Transmission of Bills between Houses**

5. (1) A Bill which originated in one House of Parliament and has been passed by that House must be transmitted to the other House without delay, and the date of its transmission must be recorded in the journal of the House from which it is transmitted.
- (2) A Bill that has been transmitted to a House of Parliament must be introduced into that House without delay, and the House may reject the Bill or pass it with or without amendment.
- (3) A Bill which, having been transmitted to a House of Parliament in accordance with this paragraph, is passed by that House with amendments must be returned to the House where it originated with the amendments duly certified by the Clerk of Parliament, and the House to which it is returned may reject, agree to or amend any of those amendments.
- (4) If, after a Bill has been returned to its originating House in terms of subparagraph (3), any amendment made to it by the other House is rejected or amended by the originating House, the other House may, by message to the originating House pursuant to a resolution, withdraw the amendment or agree to its being amended.

**Disagreement between Houses**

6. (1) If one House passes a Bill and the other House rejects the Bill or fails to introduce it within the time specified in Standing Orders or passes it with amendments to which the House where it originated does not agree, the Bill must be referred without delay to a joint committee of both Houses established by Standing Orders for the purpose of resolving such disagreements between the Houses.
- (2) The joint committee referred to in subparagraph (1) must without delay consider every Bill that has been referred to it and attempt to resolve the disagreement concerning the Bill, and-
  - (a) if the committee is able to resolve the disagreement, the Bill must be reintroduced in one or other of the Houses or both Houses, as the case may be, for it to be passed with whatever amendments are needed to give effect to the committee's resolution;
  - (b) if the committee is unable to resolve the disagreement, the Bill must be referred to a joint sitting of both Houses.
- (3) Before the joint sitting of both Houses, the Clerk of Parliament must prepare and distribute to all Members of Parliament a copy of any amendments which one House has made to the Bill concerned and to which the other House does not agree.
- (4) When a Bill is referred to it under this paragraph, a joint sitting of both Houses may pass the Bill by the affirmative votes of at least half of the total combined membership of the two Houses.
- (5) A Bill that has been passed at a joint sitting of both Houses in terms of this paragraph
  - (a) is regarded as having been passed by Parliament in the form in which it was passed by the joint sitting; and
  - (b) when it is presented to the President for signature, must be accompanied by a certificate from the Speaker stating that the Bill was passed in terms of this paragraph.
- (6) This paragraph does not apply to Constitutional Bills.

**Money Bills**

7. (1) The Senate does not have power to amend a Money Bill but may recommend that the National Assembly make amendments to it.
- (2) The Clerk of Parliament must certify every amendment which the Senate has recommended should be made to a Money Bill and must transmit the certified amendment to the National Assembly.
- (3) The National Assembly must consider any amendments transmitted to it under this paragraph and may incorporate them into the Money Bill concerned.
- (4) If the Senate does not pass a Money Bill within eight sitting days counted from the day the Bill was introduced into the Senate, the National Assembly may resolve that the Bill should be presented to the President, and the Bill may then be presented to the President in the form in which it was passed by the National Assembly.
- (5) A Money Bill that has been presented to the President pursuant to a resolution under subparagraph (4)-
  - (a) is regarded as having been passed by Parliament in the form in which it was passed by the National Assembly; and
  - (b) when it is presented to the President for signature, must be accompanied by a certificate from the Speaker stating that the Bill was passed in terms of this paragraphs.

**PART 3**

**ADVERSE REPORTS OF PARLIAMENTARY LEGAL COMMITTEE**

**Reports of Parliamentary Legal Committee on Bills**

- 8 (1) Subject to this paragraph, neither House may give a Bill its final reading unless a report of the Parliamentary Legal Committee on the Bill has been presented to the House.
- (2) Subparagraph (1) does not apply to-
  - (a) a Constitutional Bill; or
  - (b) any Bill on which the Parliamentary Legal Committee has already reported unless the Bill has been amended since that report.
- (3) If the Parliamentary Legal Committee has not reported on a Bill within the period specified in Standing Orders, or within any extension of that period granted in accordance with Standing Orders, the Committee must be presumed to be of the opinion that no provision of the Bill, if enacted, would contravene this Constitution, and the House concerned may proceed with the Bill as if the Committee had reported accordingly.
- (4) If the Parliamentary Legal Committee reports that a provision of a Bill, if enacted, would contravene this Constitution, the House concerned must consider the report and, if the House resolves that the provision concerned would contravene this Constitution, the House must not pass the Bill containing that provision.

**Reports of Parliamentary Legal Committee on statutory instruments**

9. (1) If, after considering a report of the Parliamentary Legal Committee that a provision of a statutory instrument contravenes this Constitution, the Senate or the National Assembly resolves that the provision does contravene this Constitution, the Clerk of Parliament must report the resolution to the President and the President must, within twenty-one days of the resolution, by notice in the Gazette, repeal the provision.
- (2) Before the Senate or the National Assembly considers a report of the Parliamentary Legal Committee that a provision of a statutory instrument contravenes this Constitution, the Committee may withdraw the report if

the Committee is satisfied that the provision has been repealed or amended in such a way as to remove the contravention.

- (3) A provision of a statutory instrument which has been repealed by the President in terms of this paragraph ceases to have effect from the date of the repeal.

**SIXTH SCHEDULE**

**(Sections 8.8, 9.14, 11.4, 11.5, 11.6, 12.11, 12.15, 12.22, 13.8, 13.11, 13.14, 13.17, 13.20, 13.23, 13.36, 16.9, 17.12 and 18.4)**

**PROCEDURE FOR CERTAIN APPOINTMENTS**

**Approval of appointments**

- 1.(1) Where either House of Parliament or the Parliamentary Public Appointments Committee is required to approve the appointment of any person in terms of this Constitution, the appointee does not assume office until his or her appointment has been so approved.
- (2) As soon as practicable after selecting an appointee for an appointment which is required to be approved by the Parliamentary Public Appointments Committee, the appointing authority must notify the chairperson of the Committee of the appointee's name and must provide him or her with all other relevant particulars of the appointee which are known to the appointing authority.
- (3) Upon receiving notification in terms of subparagraph (2), the chairperson of the Parliamentary Public Appointments Committee must cause the appointee to be interviewed without delay in order to assess his or her suitability for the office or post concerned.
- (4) An interview under this paragraph must be held in public, but no one other than members of the Parliamentary Public Appointments Committee may put questions to the appointee or otherwise take part in the interview.
- (5) If, after interviewing an appointee whose appointment is to be approved by the Senate, the Parliamentary Public Appointments Committee-
  - (a) considers the appointee suitable for the office or post he or she is to occupy, the chairperson of the Committee must cause a motion to be introduced in the Senate recommending that the appointee be appointed to the office or post;
  - (b) has any reservations or objections to the appointment-
    - (i) the Committee must inform the appointing authority and the appointee of them, and must give the appointing authority and the appointee an adequate opportunity to respond to them; and
    - (ii) if, after considering any response by the appointing authority and the appointee, the Committee still has reservations or objections to the appointment, the chairperson of the Committee must introduce a motion into the Senate recommending that the appointee should not be appointed to the office or post concerned, and must inform the Senate of any response received by the Committee from the appointing authority or the appointee.
- (6) If after interviewing an appointee whose appointment is to be approved by the Parliamentary Public Appointments Committee, the Committee-
  - (a) considers the appointee suitable for the office or post he or she is to occupy, the Committee must without delay approve the appointment and notify the appointing authority and the appointee accordingly;
  - (b) has any reservations or objections to the appointment, the Committee must inform the appointing authority and the appointee of them, and must not refuse to approve the appointment without having given the appointing authority and the appointee an adequate opportunity to respond to them.
- (7) If the Senate or the Parliamentary Public Appointments Committee refuses to approve an appointment, the chairperson of the Committee, as the case may be, must inform the appointing authority and the appointee, in writing, of the refusal and of the reasons for it.

**Appointment of members of Independent Commissions**

- 2.(1) Whenever there is a vacancy on an Independent Commission, the senior administrative officer of the Commission must inform-
  - (a) the President; and
  - (b) the President of the Senate;
 and the President of the Senate must cause the chairperson of the Parliamentary Public Appointments Committee to be informed of the vacancy without delay.
- (2) As soon as possible after the chairperson of the Parliamentary Public Appointments Committee has become aware of a vacancy on an Independent Commission, he or she must cause the Committee to invite the public to submit nominations of suitable persons for appointment to the Commission concerned.
- (3) After receiving nominations in response to an invitation under subparagraph (2), the Parliamentary Public Appointments Committee must assess the nominees and draw up a shortlist of suitable appointees, which short-list must contain at least fifty per cent more names than the number of vacancies to be filled, and must then submit the short-list to the Senate.
- (4) The Senate, by the affirmative votes of a majority of the Senators present, must select the required number of appointees from the short-list drawn up by the Parliamentary Public Appointments Committee, and the President of the Senate must cause the names of the selected appointees to be submitted to the President.
- (5) When drawing up a short-list of suitable appointees, and when selecting appointees from a short-list, the Parliamentary Public Appointments Committee and the Senate must try to ensure that, the selection for every Independent Commission reflects the diversity, ethnic and gender composition of the people of Zimbabwe.
- (6) The President must fill every vacancy on the Independent Commissions with a person selected by the Senate in terms of subparagraph (4), unless the President considers that the person is unsuitable for appointment, in which event the President must either-
  - (a) appoint the person notwithstanding his or her reservations about the person's suitability; or
  - (b) advise the President of the Senate of his or her reservations and the reasons for them, and request the Senate to reconsider the person taking into account those reasons.
- (7) If the President has advised the President of the Senate to reconsider a selected appointee in terms of subparagraph (6), the Senate must, through the President of the Senate, submit to the President the name of another person on the original short-list, or cause a new short-list to be prepared in accordance with this paragraph and submit to the President the name of a person on that new list.

**SEVENTH SCHEDULE (Section 18.13)**

**COMMENCEMENT OF THIS CONSTITUTION, TRANSITIONAL PROVISIONS AND SAVINGS**

**ARRANGEMENT OF PARAGRAPHS**

**PART 1**

**PRELIMINARY**

1. Interpretation.
2. Effect of this Schedule.

**PART 2**

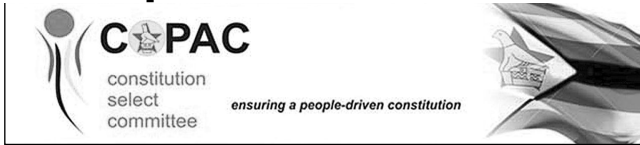
**COMMENCEMENT OF THIS CONSTITUTION AND REPEAL OF FORMER CONSTITUTION**

3. Commencement of this Constitution.
4. Repeal of former Constitution.

**PART 3**

**FIRST ELECTIONS, FIRST EXECUTIVE AND SUMMONING OF FIRST PARLIAMENT**

5. First delimitation of provinces and electoral boundaries.
6. Date by which first elections must be held.
7. Electoral Law



8. First Executive and summoning of first Parliament.

**PART 4**

**PROVINCIAL ASSEMBLIES**

9. [Parked]

**PART 5**

**SAVINGS AND TRANSITIONAL PROVISIONS**

10. Government succession.
11. Continuation of existing laws.
12. Interpretation of existing enactments.
13. Standing Orders of Parliament.
14. Existing officers.
15. Transfer of funds in old Consolidated Revenue Fund.
16. Courts and legal proceedings.
17. Criminal proceedings.
18. Truth, Justice and Reconciliation Commission.
19. Rights to pension benefits.

**PART 1**

**PRELIMINARY**

**Interpretation**

1. In this Schedule, unless inconsistent with the context-
  - "commencement day" means the day on which this Constitution, apart from this Schedule, comes into operation in terms of paragraph 3;
  - "existing enactment" means a written law that was in force in Zimbabwe immediately before the commencement day, whether as an Act of Parliament or a statutory instrument;
  - "existing law" means an existing enactment or any other law, whatever its nature, that was in force in Zimbabwe immediately before the commencement day;
  - "first elections" means-
    - (a) the first election for the office of President under this Constitution; and
    - (b) the first general election under this Constitution; held after the publication day;
  - "former Constitution" means the Constitution of Zimbabwe that came into operation on the 18th April, 1980, as subsequently amended;
  - "publication day" means the day on which this Constitution, or the statute by which it is enacted, is published in the Gazette in accordance with section 51 (5) of the former Constitution.

**Effect of this Schedule**

2. This Schedule prevails, to the extent of any inconsistency, over all other provisions of this Constitution.

**PART 2**

**Commencement of this Constitution**

3. This Schedule comes into operation on the publication day and, except as otherwise provided in this Schedule, the rest of this Constitution comes into operation on the day on which the President elected in the first elections assumes office.

**Repeal of former Constitution**

4. Subject to this Schedule, the former Constitution is repealed with effect from the commencement day.

**PART 3**

**FIRST ELECTIONS, FIRST EXECUTIVE AND SUMMONING OF FIRST PARLIAMENT**

**First delimitation of provinces and electoral boundaries**

- 5.(1) To enable the first elections to be held by the date specified in paragraph 6-
  - (a) Chapter 8 of this Constitution, section 12.3, and the provisions of Chapter 13 that relate to the Electoral Commission, come into operation on the publication day;
  - (b) anyone who, immediately before the publication day, was a member or employee of the Zimbabwe Electoral Commission established under the former Constitution is deemed, on and after the publication day, to be a member or employee, as the case may be, of the Electoral Commission;
  - (c) a Delimitation Commission must be appointed in terms of section 8.8 and must commence the first delimitation of the boundaries of provinces, wards, constituencies and electoral boundaries under this Constitution as soon as possible after the publication day.

**Date by which first elections must be held**

6. After publication day the first elections must be held in accordance with this Constitution within .

**Electoral Law**

7. The first elections must be conducted in terms of an Electoral Law in conformity with this Constitution enacted after the publication day.

**First Executive and summoning of first Parliament**

8. The person elected as President in the first election must assume office in accordance with section 6.7 of this Constitution.

**PART 4**

**PROVINCIAL ASSEMBLIES**

**First elections to Provincial Assemblies**

**9. Parked**

**PART 5**

**SAVINGS AND TRANSITIONAL PROVISIONS**

**Government succession**

10. The Government constituted under this Constitution is in all respects the successor to the former Government of Zimbabwe.

**Continuation of existing laws**

11. Subject to this Schedule, all existing laws continue in force but must be construed in conformity with this Constitution.

**Interpretation of existing enactments**

12. (1) Unless inconsistent with the context, a reference in any existing enactment to-
  - (a) the President must be construed as a reference to the President acting in accordance with this Constitution;
  - (b) Parliament must be construed as a reference to-
    - (i) the Senate, where the reference relates to a function that is to be exercised by the Senate alone under this Constitution;
    - (ii) the National Assembly, where the reference relates to any function other than one referred to in subparagraph (i) or the enactment of legislation;
  - (c) the House of Assembly must be construed as a reference to the National Assembly;
  - (d) the Zimbabwe Electoral Commission must be construed as a reference to the Electoral Commission;
  - (e) the Zimbabwe Anti-Corruption Commission must be construed as a reference to the Anti-Corruption Commission;
  - (f) the Zimbabwe Media Commission must be construed as a reference to the Media Commission;
  - (g) the Zimbabwe Human Rights Commission must be construed as a reference to the Human Rights Commission;
  - (h) the Defence Forces Service Commission must be construed as a reference to the Defence Forces Commission;

- (i) the Prison Service Commission must be construed as a reference to the Correctional Service Commission;
- (j) the Commissioner of Prisons must be construed as a reference to the Commissioner of the Correctional Service;
- (k) the Comptroller and Auditor-General must be construed as a reference to the AuditorGeneral;
- (1) the Attorney-General, in relation to criminal proceedings, must be construed as a reference to the Prosecutor-General.
- (2) Where this Constitution vests power in a particular person or authority to enact legislation on any matter, and that matter is provided for in an existing enactment made by some other person or authority, the existing enactment has effect as if it had been made by the person or authority with the power to make it under this Constitution.

**Standing Orders of Parliament**

13. The Standing Orders that were in force immediately before the commencement day continue in force as standing orders of the Senate and the National Assembly until they are replaced or amended in accordance with this Constitution.

**Existing officers**

14. Anyone who, immediately before the commencement day, held or acted in a public office under the former Constitution continues to hold or act in that office, or the equivalent office under this Constitution, on the same conditions of service until the expiry of his or her term of office under those conditions of service or until he or she resigns, retires or is removed from office in terms of this Constitution or those conditions of service, as the case may be.

**Transfer of funds in old Consolidated Revenue Fund**

15. The funds which, immediately before the commencement day, stood to the credit of the Consolidated Revenue Fund established by the former Constitution become the Consolidated Revenue Fund established by this Constitution.

**Courts and legal proceedings**

- 16.(1) In this paragraph-
  - "pending constitutional case" means-
    - (a) an appeal, application or reference in which an alleged contravention of the Declaration of Rights contained in the former Constitution is in issue; or
    - (b) any case in which a constitutional matter, as defined in section 18 15 of this Constitution, is in issue;
 and which, immediately before the Constitutional Court is constituted in accordance with this Constitution, is pending before the Court of Appeal.
- (2) The Supreme Court of Zimbabwe and the High Court of Zimbabwe, as established immediately before the commencement day, are constituted as the Court of Appeal and the High Court respectively under this Constitution, and any decision of those courts given before the commencement day has effect accordingly.
- (3) The Labour Court, the Administrative Court, magistrates courts, traditional courts and any other courts that were established by an Act of Parliament before the commencement day continue in existence on and after that day as if they had been established by an Act referred to in section 9.8, and any decision of those courts given before the commencement day has effect accordingly.
- (4) The Constitutional Court must be constituted within six months after the first elections in accordance with this Constitution.
- (5) Until the Constitutional Court is constituted, its jurisdiction is exercisable by the Court of Appeal.
- (6) As soon as the Constitutional Court is constituted, any pending constitutional case-
  - (a) in which the argument from the parties has not been heard must be transferred to the Constitutional Court;
  - (b) in which the argument from the parties has been heard must be completed by the Court of Appeal unless all the parties to the case agree to it being referred to the Constitutional Court, in which event the Court of Appeal must refer the case to that Court.
- (7) Where the Constitutional Court hears a case in which an alleged contravention of the Declaration of Rights contained in the former Constitution is in issue, whether or not the case is a pending constitutional case, the Court must determine the case as if it concerned an alleged infringement of a right or freedom set out in the corresponding provision of this Constitution.
- (8) All cases, other than pending constitutional cases, that were pending before any court before the commencement day may be continued before that Court or the equivalent court established by this Constitution, as the case may be, as if this Constitution had been in force when the cases were commenced, but-
  - (a) the procedure to be followed in those cases must be the procedure that was applicable to them immediately before the commencement day; and
  - (b) the procedure referred to in subparagraph (a) applies to those cases even if it is contrary to any provision of Chapter 4 of this Constitution.
- (9) For the purposes of subparagraph (8)-
  - (a) a criminal case is deemed to have commenced when the accused person pleaded to the charge;
  - (b) a civil case is deemed to have commenced when the summons was issued or the application was filed, as the case may be.

**Provisions relating to National Prosecuting Authority**

- 17.(1) Any decision made or action taken before the commencement day by or on behalf of the Attorney-General in relation to criminal proceedings is deemed, on and after that day, to have been made or taken by or on behalf of the Prosecutor-General.
- (2) The person who exercised the functions of Director of Public Prosecutions immediately before the commencement day acts as Prosecutor-General on and after that day, until a substantive appointment is made in terms of this Constitution.

**Truth, Justice and Reconciliation Commission**

- 18.(1) An Act of Parliament must establish a commission, to be known as the Truth, Justice and Reconciliation Commission, with the following functions in addition to any others that may be specified in the Act-
  - (a) to investigate any matter relating to pre- and post-independence political conflicts;
  - (b) to recommend remedies for victims of the conflicts referred to in paragraph (a); and
  - (c) to promote national reconciliation in order to avoid conflicts in the future.
- (2) The Act of Parliament referred to in subparagraph (1) must give the Truth, Justice and Reconciliation Commission all the powers it needs to exercise its functions, in particular the following-
  - (a) to summon and examine witnesses;
  - (b) to grant immunity from prosecution to persons who admit having committed abuses of human rights or freedoms;
  - (c) to order wrongdoers to apologise or make reparation to their victims;
  - (d) to impose penalties on anyone who obstructs, interferes with or fails to assist the Commission in its work;
  - (e) to recommend measures to prevent future conflicts or abuses of human rights or freedoms.

**Rights to pension benefits**

19. A vested or contingent right in regard to a pension benefit which existed immediately before the commencement day and was protected by the former Constitution continues to exist and enjoy the same protection under this Constitution.