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**ANNEXURE B TO POWER-SHARING AGREEMENT
OF 15th SEPTEMBER 2008**

CONSTITUTION OF ZIMBABWE

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BILL

To provide for a new Constitution for Zimbabwe and to provide for related matters.

PREAMBLE

Acknowledging the supremacy of God, and recognising our diversity,

We the people of Zimbabwe,

Recalling our heroic resistance to slavery, colonialism, racism and domination,

Exalt and extol the brave men and women who sacrificed their lives during the Chimurenga/Umvukela and national liberation struggles,

Honour compatriots who have toiled for the progress of our country,

Celebrate the richness of our natural resources and the vibrancy of our traditions and cultures, which were bequeathed to us by Providence and our forebears,

Cherish freedom, peace, justice, tolerance, prosperity and patriotism in search of new and different frontiers under a common destiny,

We therefore make this democratic Constitution and commit ourselves to it as the fundamental law of our beloved land.

NOW, THEREFORE, this Constitution is enacted by the President and the Parliament of Zimbabwe:—

CHAPTER I

THE REPUBLIC AND THE CONSTITUTION

1 The Republic

Zimbabwe is one sovereign and democratic republic and is to be known as "The Republic of Zimbabwe".

2 National flag

The national flag of Zimbabwe is as described and depicted in an Act of Parliament.

3 National anthem

The national anthem of Zimbabwe is as provided for in an Act of Parliament.

4 Coat of arms

The coat of arms of Zimbabwe is as described and depicted in an Act of Parliament.

5 Public seal

(1) There must be a public seal of Zimbabwe, showing the coat of arms of Zimbabwe with the inscription "The Republic of Zimbabwe".

(2) The public seal of Zimbabwe must be kept by the President.

6 Languages

(1) All indigenous languages spoken in Zimbabwe, that is to say Shona, Sindebele, Venda, Nambya, Shangaan, Kalanga, Suthu and Tonga, are recognised.

(2) The official languages are English, Shona and Sindebele.

7 Supremacy of Constitution

This Constitution is the supreme law of Zimbabwe, and if any other law, custom, conduct or measure. is inconsistent with this-Constitution that law, custom, conduct or measure is invalid to the extent of the inconsistency.

8 Promotion of public awareness of Constitution

The State must promote public awareness of this Constitution by—

- (a) translating it into the languages that are used by substantial numbers. of people in Zimbabwe and disseminating it as widely as possible;
- (b) requiring this Constitution to be taught in educational institutions and as part of the training of members of the Defence Forces, the Police Service, the Prison Service, the Public Service and members and employees of public authorities; and
- (c) encouraging civic organisations to disseminate awareness and knowledge of this Constitution throughout society.

CHAPTER 11

FUNDAMENTAL CONSTITUTIONAL PRINCIPLES AND NATIONAL OBJECTIVES

PART I

FUNDAMENTAL CONSTITUTIONAL PRINCIPLES

9 Authority of the people

(1) The legal and political authority of the State derives from the people of Zimbabwe and must be exercised, in accordance with this Constitution, solely to serve and protect the people's interests.

(2) Everyone who exercises State power does so on trust for the people of Zimbabwe and must exercise that power within the bounds of lawful authority and in accordance with his or her responsibilities to the people.

10 National unity, peace and stability

(1) All organs and agencies of the State and Government, including local government, and all the people of Zimbabwe, must promote national unity, peace and stability.

(2) The State and Government must make every effort to—

- (a) integrate all the peoples of Zimbabwe while recognising their ethnic, religious, political and cultural diversity; and

- (b) promote a culture of co-operation and understanding in which there is appreciation and tolerance of and respect for the customs, traditions and beliefs of others.

11 Democratic principles

(1) The State is based on democratic principles which empower all citizens and encourage their active participation at all levels of government.

(2) Subject to this Constitution, all the people of Zimbabwe should have access to leadership positions at all levels. of government.

(3) Institutions of Government should be broad-based and national in character.

(4) The policies of the State must be guided by the principle of devolution of governmental functions and responsibilities, and the provision of necessary resources, to the people at appropriate levels.

12 Rule of law

All organs and agencies of the State and Government, including local government, and all persons must observe and uphold this Constitution and the rule of law, and no institution or person stands above the law.

PART II

NATIONAL OBJECTIVES

13 Objectives to guide all organs and agencies of State and Government

The objectives set out in this Part guide all organs and agencies of the State and Government, including local government, 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 and fulfilled lives.

14 Nature of objectives

The objectives set out in this Part are directory in nature.

15 Good governance

(1) The State must adopt and implement policies and legislation to develop accountability, openness, personal integrity and financial probity in the Government and all public institutions.

(2) In particular–

- (a) measures must be taken to expose, combat and eradicate corruption and abuse of power by those holding political and other public offices; and

- (b) the State must encourage the publication of information about its processes, decisions and policies, in so far as publication of that information is consistent with good government and public security.

(3) The State must ensure that all 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 as envisaged by this Constitution.

16 Development

(1) The State must endeavour to facilitate rapid and equitable development, and in particular must take measures to–

- (a) promote public sector participation in development;
- (b) promote private initiative and self-reliance;
- (c) stimulate agricultural, commercial, industrial, technological and scientific development;
- (d) bring about balanced development of the different areas of Zimbabwe and a proper balance in the development of rural and urban areas; and
- (e) redress 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 to equal opportunities in development.

(4) The State must ensure that, where appropriate and practicable, the people of an area benefit from the resources in that area.

17 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.

18 Environment

(1) The State must take appropriate measures, within the resources available to it, to provide the people of Zimbabwe with a clean, safe, healthy and sustainable environment.

(2) The State must promote ecologically sustainable development and the management of natural resources in a balanced manner for the benefit of present and future generations.

(3) In particular, the State must take all practical measures to–

- (a) conserve natural resources;
- (b) prevent or minimise degradation and destruction of land, air and water resources arising from excessive use, pollution or other causes;
- (c) promote at all levels an efficient system for the storage of water and the management of water resources;
- (d) ensure that people have access to adequate supplies of clean potable water;
- (e) promote and implement energy policies that will ensure that people's basic needs and the needs of environmental protection are met; and
- (f) safeguard the bio-diversity of Zimbabwe.

(4) The State must promote the creation, preservation and development of parks, nature reserves and recreation areas.

(5) Provincial councils and local authorities, within the limits of their resources and powers, must ensure the adoption of measures to achieve the objectives set out in this section.

19 Cultural objectives

- (1) The State must—
 - (a) promote and preserve cultural values and practices which enhance the dignity and well-being of Zimbabweans; and
 - (b) encourage the preservation, development and enrichment of all indigenous languages spoken in Zimbabwe.
- (2) The State and all citizens must endeavour to preserve and protect Zimbabwe's heritage.

20 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 and treaty obligations;
 - (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 co-operation 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.

21 Gender balance and fair representation of marginalised groups

- (1) The State must ensure gender balance and a fair representation of marginalised groups on all constitutional and other governmental bodies.
- (2) The State must promote full participation of women in all spheres of Zimbabwean society on the basis of equality with men.
- (3) The State must take all practical measures to ensure that women have access to land and other resources on the basis of equality with men.

22 Children

- (1) The State must adopt reasonable policies and measures, within the resources available to it, to ensure that children—
 - (a) have a nationality from birth;
 - (b) enjoy family or parental care, or appropriate alternative care when removed from the family environment;
 - (c) receive shelter and basic nutrition, health care and social services; and
 - (d) are protected from maltreatment, neglect, violence, abuse, exploitation, corruption or degradation.
- (2) The State must take appropriate legislative and other measures to—
 - (a) protect children from exploitative labour practices; and
 - (b) 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.

23 Elderly persons

(1) The State and society must take reasonable measures to secure respect, support and protection for elderly persons and to encourage their participation in the life of the community.

(2) In particular, the State must endeavour, within the resources available to it, to—

- (a) provide facilities, food and care for elderly persons who are unable to provide for themselves;
- (b) 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) foster social organisations aimed at improving the quality of life of elderly persons.

24 Persons with disabilities

(1) The State and society must recognise the right of persons with physical, mental or other disabilities to be treated with respect for their dignity as human beings.

(2) The State must endeavour, within the resources available to it, to assist persons with physical, mental or other disabilities to achieve their full potential and to minimise the disadvantages suffered by them.

(3) In particular, the State must endeavour to—

- (a) develop programmes for persons with physical, mental or other disabilities, especially work programmes consistent with their capabilities and acceptable to them or their legal representatives;
- (b) consider the specific requirements of persons with physical, mental or other disabilities as one of the priorities in development plans;
- (c) encourage the use and development of sign language and other forms of communication suitable for use by persons with physical, mental or other disabilities; and
- (d) foster social organisations aimed at improving the quality of life of persons with physical, mental or other disabilities.

25 Work and labour relations

(1) The State must adopt reasonable policies and measures, within the resources available to it, 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, the State 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.

26 Protection of the family

(1) The State must protect and foster the institution of the family as the basic unit of society and must take appropriate measures to ensure that everyone's right to found a family is recognised.

(2) In particular, the State must endeavour, within the resources available to it, to adopt measures to—

- (a) provide care and assistance to mothers, fathers and other family members who have charge of children; and
- (b) prevent domestic violence.

27 Marriage

The State must take appropriate measures to ensure that—

- (a) everyone of marriageable age is free to marry another such person of the opposite sex;
- (b) no marriage is entered into without the free and full consent of the intending spouses;
- (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, provision is made for the necessary protection of any children and spouses.

28 Education

(1) The State must take all practical measures to promote free and compulsory basic education for children.

(2) The State must take appropriate measures, within the resources available to it to—

- (a) afford adults access to basic and continuing education; and
- (b) afford equitable access to higher education.

29 Shelter

The State must take reasonable legislative and other measures, within the resources available to it, to enable everyone to have access to adequate shelter.

30 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.

31 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 in need of it, in particular war veterans, as may be specified in an Act of Parliament.

32 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.

CHAPTER III FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

PART I PRELIMINARY

33 Duty to respect fundamental human rights

All persons, including juristic persons and all- organs and agencies of the State and Government, including local government, must respect, protect, promote and fulfil the rights and freedoms set out in this Chapter.

34 Application of Chapter III

(1) This Chapter binds the Executive, Parliament, the Judiciary and all organs of the State and Government, including local government.

(2) This Chapter binds human beings and juristic persons to the extent that it is applicable to them, taking into account the right or freedom concerned and any duty imposed by it.

(3) Human beings and juristic persons are entitled to the rights and freedoms set out in this Chapter to the extent that those rights and freedoms can appropriately be extended to them.

35 Interpretation of Chapter III

(1) When interpreting this Chapter, a court, tribunal or forum must–

- (a) give full effect to the rights and freedoms set out in this Chapter;
- (b) promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
- (c) consider international law, treaties and conventions; and
- (d) pay due regard to the other provisions of this Constitution, in particular the principles and objectives set out in Chapter II;

in addition to considering all other relevant factors that are to be taken into account in the interpretation of a Constitution.

(2) When interpreting a written law, and when developing the common law or traditional customary law, every court, tribunal and forum must be guided by the spirit and objects of this Chapter.

36 Chapter III does not preclude existence of other rights

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

PART II

INDIVIDUAL HUMAN RIGHTS AND FREEDOMS

37 Right to life

- (1) Every human being has the right to life and may not be deprived of it intentionally.
- (2) A law may permit the death penalty to be imposed on persons convicted of murder, but—
 - (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 for an offence committed when he or she was less than eighteen 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.

38 Right to personal liberty

- (1) Everyone 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 contractual obligation.
- (3) Anyone who is arrested or detained—
 - (a) must be informed promptly of the reason for the arrest or detention;
 - (b) must be permitted, without delay—
 - (i) to contact their next of kin or close relative; and
 - (ii) at their own expense, to choose, contact and consult with a legal practitioner;
 - (c) must be treated with humanity and with respect for their inherent human dignity;
 - (d) must be permitted to challenge the lawfulness of the arrest or detention before a court, either in person or through a legal practitioner of their choice, and must be released promptly if the detention is unlawful.
- (4) Anyone may challenge the lawfulness of another person's arrest or detention under subsection (3)(d) if there are reasonable grounds to believe that the arrested or detained person is unable to do so.
- (5) Anyone who is arrested or detained—
 - (a) for the purpose of bringing him or her before a court; or
 - (b) for allegedly committing or being about to commit an offence;

and who is not released must be brought before a court as soon as reasonably possible and in any event not later than forty-eight hours after the arrest was effected or the detention began, as the case may be.

(6) Anyone who is detained pending trial for an 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 the person—

- (a) attends the trial;
- (b) does not interfere with the evidence to be given at the trial; and
- (c) does not commit any other offence before the trial begins..

(7) 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.

39 Right to personal security

Everyone has the right to security of the person, which includes the right—

- (a) to be free from all forms of violence from both public and private sources; and
- (b) not to be subjected to medical or scientific experiments without their informed consent.

40 Freedom from slavery and forced labour

(1) No one may be held in slavery or servitude or be made to perform forced or compulsory labour.

(2) The following forms of labour are not to be regarded as forced or compulsory labour for the purposes of this section—

- (a) labour required as part of a sentence or order of a court;
- (b) labour which is required of a person who is lawfully detained and which, though not part of a sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance or management of the place where the person is detained;
- (c) labour which is required of a person under the age of eighteen years who is lawfully detained, where the labour, though not part of a sentence or order of a court, is reasonably required for the person's education, training or discipline;
- (d) labour required of a member of a disciplined force in the performance of his or her duties as such a member;
- (e) labour which an Act of Parliament requires a person to perform instead of serving as a member of a disciplined force;
- (f) labour reasonably required by way of parental discipline;
- (g) labour required by law during a period of public emergency or in the event of any other emergency or disaster that threatens the life or well-being of the community, to the extent that it is reasonably justifiable in the circumstances to require the labour; or

- (h) any work or service that forms part of normal civil obligations, including any military or other service or training that Zimbabwean citizens or residents are required to undergo in terms of an Act of Parliament.

41 Freedom from torture and inhuman or degrading treatment

(1) No one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

(2) For the sake of clarity, it is declared that cruel, inhuman or degrading treatment includes gender-based violence.

(3)) The following treatments or punishments are not to be regarded as cruel, inhuman or degrading for the purposes of this section–

- (a) reasonable measures taken to prevent the escape of persons who are legally detained; or
- (b) the carrying out of the death penalty, no matter what the delay in carrying it out, where–
 - (i) the persons executed have been sentenced to death by a competent court on conviction for murder; and
 - (ii) the penalty is carried out in the manner prescribed by law immediately before the appointed day.

42 Right to dignity and reputation

(1) Everyone has inherent dignity and the right to have their dignity and reputation respected and protected.

(2) Anyone who is injured by an inaccurate or offensive statement or idea disseminated to the general public by a newspaper, journal, broadcast or other medium of communication has a right to reply or to have a correction published, using the same medium of communication.

(3) A law must establish the way in which the right of reply or to correction is to be exercised.

43 Freedom from discrimination

(1) Everyone has a right not to be treated in an unfairly discriminatory manner on such grounds as their race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, political or other opinion, culture, sex, gender, marital status, pregnancy, age, disability or natural difference or condition.

(2) A person is treated in a discriminatory manner for the purposes of subsection (1) if he or she is prejudiced–

- (a) by being subjected to a condition, restriction or disability to which other people are not subjected; or
- (b) through other people being accorded a privilege or advantage which he or she is not accorded.

(3) Discrimination on one or more of the grounds listed in subsection (1) is unfair unless it is established that the discrimination is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.

(4) Any law which, in itself or in its effect, discriminates unfairly between people on one or more of the grounds listed in subsection (1) is void.

(5) To promote the achievement of equality, legislative and other measures may be taken by way of affirmative action to protect or advance people or classes of people who have been disadvantaged by unfair discrimination.

44 Freedom of conscience

(1) Everyone has the right to freedom of conscience, which includes—

- (a) freedom of thought, opinion, religion or belief;
- (b) freedom to change their thought, opinion, religion or belief; and
- (c) 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) Religious observances may be conducted and religious instruction may be given at public institutions, including State or State-aided institutions, if—

- (a) the observances follow reasonable rules made by the appropriate public authorities; and
- (b) the observances are conducted on an equitable basis and with due regard to the rights and sensibilities of others.

(4) Any religious community may ensure that religious instruction is given in educational courses or institutions provided by the community, even if the community receives a subsidy or other financial assistance from the State.

45 Freedom of speech and expression

(1) Everyone has the right to freedom of speech and expression, which includes

- (a) freedom to hold opinions;
- (b) freedom to seek, receive and communicate ideas and information regardless of frontiers;
- (c) freedom of the press and other media of communication;
- (d) freedom of artistic creativity;
- (e) freedom from interference with correspondence or other forms of communication, including electronic and telephonic communication; and
- (f) academic freedom and freedom of scientific research.

(2) Freedom of speech and expression does not include—

- (a) incitement to violence;
- (b) advocacy of hatred which is based on nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, culture, sex, gender, marital status, pregnancy, age, disability or natural difference or condition, and which amounts to incitement to unfair discrimination, hostility or violence.

46 Right to language and cultural life

Everyone has the right to use the language and to participate in the cultural life of their choice, but this right must be exercised in a manner that is consistent with the other provisions of this Part.

47 Freedom of assembly and association

Everyone has the right to freedom of assembly and association, which includes–

- (a) the right, peacefully and unarmed, to assemble, to demonstrate, to present petitions and, generally, to associate with other people;
- (b) the right to form or belong to political parties, trade unions, civic organisations and other associations for the promotion or protection of their interests; and
- (c) the right not to belong to any association.

48 Freedom of movement and residence

(1) Every Zimbabwean citizen has–

- (a) the right to enter Zimbabwe;
- (b) immunity from expulsion from Zimbabwe; and
- (c) the right to a passport or other travel document.

(2) Every Zimbabwean citizen and everyone else who is legally in Zimbabwe has–

- (a) the right to move freely within Zimbabwe;
- (b) the right to reside in any part of Zimbabwe; and
- (c) the right to leave Zimbabwe.

49 Protection of law: equality before the law

Everyone is equal before the law and has the right to equal protection and benefit of the law.

50 Protection of law: fairness in criminal cases

(1) Everyone accused of an offence has the right to a fair trial within a reasonable time before an independent and impartial court established by law.

(2) The right to a fair trial under subsection (1) includes the right–

- (a) to be presumed innocent until the accused person has been proved guilty;
- (b) to be informed promptly of the charge, in sufficient detail to enable the accused person to answer it;
- (c) to be given adequate time to prepare a defence;
- (d) to be present when being tried, unless the accused person's conduct makes it impracticable to continue the proceedings in his or her presence;
- (e) to choose a legal practitioner and, at the accused person's own expense, to be represented by that legal practitioner;
- (f) if the accused person is liable to be sentenced to death or to life imprisonment, to have a legal practitioner assigned by the State at State expense, and to be represented by that legal practitioner;
- (g) to be informed of the rights conferred by paragraphs (e) and (f);

- (h) to adduce and challenge evidence;
- (i) to have the proceedings of the trial interpreted so that the accused person understands them;
- (j) not to be compelled to give evidence;
- (k) not to be convicted on account of an act or omission that was not an offence when it took place;
- (1) not to be tried in respect of an act or omission for which the accused person has been pardoned or either acquitted or convicted on the merits in previous criminal proceedings, unless—
 - (i) a court has set aside those earlier proceedings on the grounds of a procedural irregularity or defect; or
 - (ii) for some other reason, a court has ordered a retrial;
- (m) 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.

(3) 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 he or she understands it.

(4) 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.

(5) Criminal proceedings, including the announcement of the court's decision, must be held in public.

(6) Anyone who has been tried for an offence has the right, on payment of a reasonable fee, to be given a copy of the record of the proceedings within a reasonable time after judgment is delivered in the trial.

(7) Anyone who has been tried and convicted of an offence by a court 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.

(8) A law may impose on a person charged with an offence the burden of proving particular facts which are or ought to be within the person's knowledge or readily ascertainable by the person.

(9) A law may allow a court to draw whatever inferences are proper from an accused person's refusal to answer a question, and to treat the refusal, on the basis of those inferences, as evidence corroborating any other evidence given against the accused person.

51 Protection of law: fairness in civil proceedings

(1) Everyone is entitled to have the existence or extent of their civil rights or obligations decided, within a reasonable time and after a fair hearing, by an independent and impartial court or tribunal established by law.

(2) The proceedings in which a court or tribunal decides the existence or extent of a person's civil rights and obligations, including the announcement of its decision, must be held in public.

52 Right to information

(1) Everyone has the right of access to information which is held by any person, including any organ or agency of the State or Government or local government, if the information is required for the exercise or protection of any right or in the interests of public accountability.

(2) A law may prohibit or restrict access to information in the interests of defence, public security, justice, the protection of individual privacy or the public interest.

53 Right to just administrative action

(1) Everyone has the right to administrative action that is prompt, legal, reasonable, impartial and procedurally fair.

(2) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons for that action.

54 Rights of children, their parents and guardians

(1) In this section—

"child" means a human being under the age of eighteen years.

(2) Every child has the right to a name from birth.

(3) A child's best interests are of paramount importance in every matter concerning the child.

(4) Children under the age of ten years lack criminal capacity and are exempt from criminal liability for anything done by them at that age.

(5) Trials of children accused of committing offences must be conducted according to procedures that take account of the children's age and the desirability of promoting their rehabilitation.

(6) Parents and guardians have the right to ensure the religious and moral education of their children in conformity with their own convictions.

(7) Parents and guardians have the right, at their own expense, to send their children to educational institutions of their choice.

55 Right to establish and maintain educational institutions

Everyone has the right to establish and maintain independent educational institutions at their own expense, but a written law may require the institutions to be registered with the State, a provincial council or a local authority and to maintain reasonable standards prescribed in or under the law.

56 Right to property

(1) Subject to section 57, everyone's right to own or hold property and to use and enjoy their property is protected, although this right may be subordinated in the public interest or for public purposes under the authority of a law that —

(a) requires—

(i) in the case of land or any interest or right therein, that the acquisition is reasonably necessary for the utilisation of that or any other land -

- A. or settlement for agricultural or other purposes; or
 - B. for purposes of land reorganisation, forestry, environmental conservation or the utilisation of wild life or other natural resources; or
 - C. for the relocation of persons dispossessed in consequence of the utilisation of land for a purpose referred to in subparagraph A or B; or
- (ii) in the case of any property, including land, or any interest or right therein, that the acquisition is reasonably necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the utilisation of that or any other property for a purpose beneficial to the public generally or to any section of the public;

and

- (b) requires the acquiring authority to give reasonable notice of the intention to acquire the property, interest or right to any person owning the property or having any other interest or right therein that would be affected by such acquisition; and
- (c) requires the acquiring authority to pay fair compensation for the acquisition before or within a reasonable time after acquiring the property, interest or right; and
- (d) requires the acquiring authority, if the acquisition is contested, to apply to the High Court or some other court before, or not later than thirty days after, the acquisition for an order confirming the acquisition; and
- (e) enables any person whose property has been acquired to apply to the High Court or some other court for the prompt return of the property if the court does not confirm the acquisition, and to appeal to the Supreme Court; and
- (f) enables any claimant for compensation to apply to the High Court or some other court for the determination of any question relating to compensation and to appeal to the Supreme Court:

Provided that the law need not make such provision where —

- (i) the property concerned is land or any interest or right therein; and
- (ii) the land is substantially unused or is used wholly or mainly for agricultural purposes or for environmental conservation or the utilisation of wild life or other natural resources; and
- (iii) the land or interest or right therein, as the case may be, is acquired for a purpose referred to in paragraph (a)(i).

(2) Where any person, by virtue of a law, contract or scheme relating to the payment of pensions benefits, has a right, whether vested or contingent, to the payment of pensions benefits or any commutation thereof or a refund of contributions, with or without interest, payable in terms of such law, contract or scheme, any law which thereafter provides for the extinction of or a diminution in such a right shall be regarded for the purposes of subsection (1) as a law providing for the acquisition of a right in property.

(3) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question authorises the taking of possession of property compulsorily during a period of public emergency or in the event of any other emergency or disaster that threatens the life or well-being of the community or where there is a situation that may lead to such emergency or disaster and makes provision that—

- (a) requires the acquiring authority promptly to give reasonable notice of the taking of possession to any person owning or possessing the property;
- (b) enables any such person to notify the acquiring authority in writing that he objects to the taking of possession;
- (c) requires the acquiring authority to apply within thirty days of such notification to the High Court or some other court for a determination of its entitlement to take possession;
- (d) requires the High Court or other court to order the acquiring authority to return the property unless it is satisfied that the taking of possession is reasonably justifiable, in the circumstances of any situation arising or existing during that period or as a result of that other emergency or disaster or that may lead to such emergency or disaster, for the purpose of dealing with that situation;
- (e) requires—
 - (i) when possession is no longer reasonably justifiable as referred to in paragraph (d), wherever possible, the prompt return of the property in the condition in which it was at the time of the taking of possession; and
 - (ii) the payment within a reasonable time of fair compensation for the taking of possession and, where appropriate, for the failure to return the property in accordance with subparagraph (i) or for any damage to the property;
- (f) enables any claimant for compensation to apply to the High Court or some other court for the prompt return of the property and for the determination of any question relating to compensation, and to appeal to the Supreme Court.

(4) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question imposes or authorises the imposition of restrictions or limitations, to the extent permitted by paragraph 2 of Schedule 5, on the remittability of any commutation of a pension.

(5) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision for the acquisition of any property or any interest or right therein in any of the following cases—

- (a) in satisfaction of any tax or rate;
- (b) by way of penalty for breach of any law, including any law of a foreign country which, by or in terms of an Act of Parliament, is recognised or applied for any purpose in Zimbabwe, whether under civil process or after conviction of an offence, or forfeiture in consequence of a breach of the law or in pursuance of the order of court punishing him or her for contempt of that court or of another court or tribunal or in execution of the order of the Senate or the National Assembly punishing him or her for a contempt;
- (c) upon the removal or attempted removal of the property in question out of or into Zimbabwe in contravention of any law;
- (d) as an incident of a contract, or of a title deed to land fixed at the time of the grant between the parties to the contract, or of a title deed to land fixed at the time of the grant or transfer thereof or at any other time with the consent of the owner of the land;
- (e) in execution of the judgement or order of a court in proceedings for the determination of civil rights or obligations;

- (f) by reason of the property in question being in a dangerous state or prejudicial to the health or safety of human, animal or vegetable life or having been constructed or grown on any land in contravention of any law relating to the occupation or use of that land;
- (g) in consequence of any law with respect to the limitation of actions, acquisitive prescription or derelict land;
- (h) as a condition in connection with the granting of permission for the utilisation of that or other property in any particular manner;
- (i) by way of the taking of a sample for the purposes of a law;
- (j) where the property consists of an animal, upon its being found trespassing or straying;
- (k) for so long only as may be necessary for the purpose of any examination, investigation, trial or inquiry;
- (l) in the case of land, for so long only as may be necessary for the purpose of the carrying out thereon of –
 - (i) work for the purpose of the conservation of natural resources of any description; or
 - (ii) agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable or lawful excuse refused or failed, to carry out;
- (m) in consequence of any law requiring copies of any book or other publication published in Zimbabwe to be lodged with the National Archives or a public library;
- (n) for the purposes of, or in connection with, the prospecting for or exploitation of minerals, mineral oils, natural gases, precious metals or precious stones which are vested in the President on terms which provide for the respective interests of the persons affected;
- (o) for the purposes of, or in connection with, the exploitation of underground water or public water which is vested in the President on terms which provide for the respective interests of the persons affected;

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(6) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision for the acquisition of any property or any interest or right therein in any of the following cases–

- (a) for the purpose of the administration, care or custody of any property of a deceased person or a person who is unable, by reason of any incapacity, to administer it himself on behalf and for the benefit of the person entitled to the beneficial interest therein;
- (b) by way of the vesting or administration of any property belonging to or used by or on behalf of an enemy or any organisation. which is, in the interests of defence, public safety or public order, prescribed or declared by a written law to be an unlawful organisation;
- (c) by way of the administration of moneys payable or owing to a person outside Zimbabwe or to the government of some other country where restrictions have been placed by law on the transfer of such moneys outside Zimbabwe;

(d) as an incident of —

- (i) a composition in solvency accepted or agreed to by a majority in number of creditors who have proved claims and by a number of creditors whose proved claims represent in value more than fifty per centum of the total value of proved claims; or
 - (ii) a deed of assignment entered into by a debtor with his creditors;
- (e) by way of the acquisition of the shares, or a class of shares, in a body corporate on terms agreed to by the holders of not less than nine-tenths in value of those shares or that class thereof.

(7) Nothing in this section shall affect the making or operation of any law in so far as it provides for —

- (a) the orderly marketing of any agricultural produce or mineral or any article or thing prepared for market or manufactured therefore in the common interests of the various persons otherwise entitled to dispose of that property or for the reasonable restriction of the use of any property in the interests of safeguarding the interests of others or the protection of lessees or other persons having rights in or over such property; or
- (b) the taking of possession or acquisition in the public interest of any property or any interest or right therein where that property, interest or right is held by a body corporate established directly by law for a public purpose in which no moneys have been invested other than moneys provided from public funds.

(8) Nothing in this section shall affect the making or operation of any Act of Parliament in so far as it provides for the extinction of any debt or other obligation gratuitously assumed by the State or any other person.

(9) Nothing in this section shall affect or derogate from —

- (a) any obligation assumed by the State; or
- (b) any right or interest conferred upon any person;

in relation to the protection of property and the payment and determination of compensation in respect of the acquisition of property, in terms of any convention, treaty or agreement acceded to, concluded or executed by or under the authority of the President with one or more foreign states or governments or international organisations.

(10) In this section—

"acquiring authority" means the person or authority compulsorily taking possession of or acquiring the property or interest or right therein;

"agricultural purposes" includes forestry, fruit-growing and animal husbandry, including the keeping of poultry, bees or fish;

"land" includes anything permanently attached to or growing on land;

"pensions benefits" means any pension, annuity, gratuity or other like allowance—

- (a) which is payable from the Consolidated Revenue Fund to any person;
- (b) for any person in respect of his service with an employer or for any spouse, child or dependant of such person in respect of such service;

- (c) for any person in respect of his ill-health or injury arising out of and in the course of his employment or for any spouse, child or dependant of such person upon the death of such person from such ill-health or injury; or
- (d) for any person upon his retirement on account of age or ill-health or other termination of service;

"piece of land" means a piece of land registered as a separate entity in the Deeds Registry:
 "property" includes property of any description and any right or interest in property.

57 Agricultural land acquired for resettlement and other purposes

(1) Notwithstanding anything contained in this Chapter;

(a) all agricultural land –

- (i) which was itemised in schedule 7 to the Constitution of Zimbabwe, 1980; or
- (ii) that, before the commencement of this Constitution was identified in terms of section 16B(2)(a)(ii) and (iii) of the Constitution of Zimbabwe, 1980 continues to be vested in the State;

(b) all agricultural land that is identified in terms of this section by the acquiring authority after the appointed day in the *Gazette* or *Gazette Extraordinary* for whatever purpose including; but not limited to

- A. settlement for agricultural or other purposes; or
- B. the purposes of land reorganisation, forestry, environmental conservation or the utilisation of wild life or other natural resources; or
- C. the relocation of persons dispossessed in consequence of the utilisation of land for a purpose referred to in subparagraph A or B;

is acquired by and vested in the State with full title therein with effect from the date it is identified in the manner specified in that paragraph; and

(c) no compensation shall be payable for the land referred to in paragraph (a) and (b) except for any improvements effected on such land before it was acquired.

(2) The provisions of any law referred to in section 56(1) regulating the compulsory acquisition of land that is in force on the appointed day, and the provisions of sections 49, 50 and 51 shall not apply in relation to land referred to in subsection (1) except for the purpose of determining any question related to the payment of compensation referred to in subsection (1)(c), that is to say, a person having any right or interest in the land–

- (a) shall not apply to a court to challenge the acquisition of the land by the State, and no court shall entertain any such challenge;
- (b) may, in accordance with the provisions of any law. referred to in section 56(1) regulating the compulsory acquisition of land that is in force on the appointed day, challenge the amount of compensation payable for any improvements effected on the land before it was acquired.

(3) As soon as practicable after the appointed day, or after the date when the land is identified in the manner specified in subsection 1(b), as the case may be, the person responsible under any law providing for the registration of title over land shall, without further notice, effect the necessary endorsements upon any title deed and entries in any register kept in terms of that

law for the purpose of formally cancelling the title deed and registering in the State title over the land.

(4) Any inconsistency between any thing contained in—

- (a) a notice itemised in Schedule 7 to the Constitution of Zimbabwe, 1980; or
- (b) a notice relating to land referred to in subsection (1)(a)(ii) or (1)(b);

and the title deed to which it refers or is intended to refer, and any error whatsoever contained in such notice shall not affect the operation of subsection (1) or invalidate the vesting of title in the State in terms of that provision.

(5) An Act of Parliament may make it a criminal offence for any person, without lawful authority, to possess or occupy land referred to in this section or other State land.

(6) This section applies without prejudice to the obligation of the former colonial power to pay compensation for land referred to in this section that was acquired for resettlement purposes.

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

- (a) under colonial domination the people of Zimbabwe were unjustifiably dispossessed of their land and other resources without compensation;
- (b) the people consequently took up arms in order to regain their land and political sovereignty, and this ultimately resulted in the Independence of Zimbabwe in 1980;
- (c) the people of Zimbabwe must be enabled to reassert their rights and regain ownership of their land; and accordingly
 - (i) the former colonial power has an obligation to pay compensation for agricultural land compulsorily acquired for resettlement, through an adequate fund established for the purpose; and
 - (ii) if the former colonial power fails to pay compensation through such a fund, the Government of Zimbabwe has no obligation to pay compensation for agricultural land compulsorily acquired for resettlement.

(8) In view of the overriding considerations set out in subsection (7), where agricultural land is acquired compulsorily for the resettlement of people in accordance with a programme of land reform, the following factors shall be taken into account in the assessment of any compensation that may be payable —

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

(h) any other relevant factor that may be specified in an Act of Parliament.

(9) In this section—

"acquiring authority" means the Minister responsible for lands or any other Minister whom the President may appoint as an acquiring authority for the purposes of this section;

58 Freedom from arbitrary eviction

Everyone has the right not to be evicted from their home and not to have their home demolished, unless an order of court, made after consideration of all the relevant circumstances, has authorised the eviction or demolition.

59 Right to privacy

(1) Everyone has the right to privacy, which includes the right not to have—

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

(2) A search of a person's body and the clothing he or she is wearing—

- (a) must be made by someone of the same sex; and
- (b) must be conducted with strict regard to decency.

60 Political rights

(1) Subject to this Constitution, every Zimbabwean citizen has the right to—

- (a) free, fair and regular elections for any legislative body, including a local authority, established under this Constitution or any Act of Parliament;
- (b) free, fair and regular elections to the office of President and to any other elective office; and
- (c) -free and fair referendums, whenever they are called in terms of this Constitution or an Act of Parliament.

(2) Subject to this Constitution, every adult Zimbabwean citizen has the right to—

- (a) vote in referendums and in elections for any legislative body established under this Constitution, and to do so in secret; and
- (b) stand for public office and, if elected, to hold such office.

PART III

LIMITATIONS ON FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

61 Extent to which fundamental rights and freedoms may be limited

Except as provided in this Part or in any other provision of this Constitution, no law may limit any right set out in Part II.

62 General limitations

(1) The rights and freedoms set out in Part II must be exercised reasonably and with due regard for the rights and freedoms of other persons under that Part.

(2) Subject to this Constitution, and in particular to subsection (4), the rights and freedoms set out in Part II may be limited in terms of a law that is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.

(3) In determining whether or not a law limiting a right or freedom is reasonable and justifiable for the purposes of subsection (1), all relevant factors must be taken into account, including—

- (a) the nature of the right or freedom;
- (b) the purpose of the limitation, in particular whether it is imposed in the interests of defence, public safety, public order, public morality, public health, regional or town planning or the general public interest;
- (c) the extent of the limitation, in particular whether it permits due recognition to be given to the rights and freedoms of others;
- (d) the relation between the limitation and its purpose, in particular whether it imposes greater restrictions on the right or freedom concerned than are necessary to achieve its purpose; and
- (e) whether there are any less restrictive means of achieving the purpose of the limitation.

(4) The following rights may not be limited, except to an extent permitted by the sections in which the rights are set out

- (a) the right to life set out in section *thirty-seven*;
- (b) the rights, set out in section *thirty-eight*—
 - (i) to be treated with humanity and respect for inherent human dignity;
 - (ii) to challenge the lawfulness of arrest or detention;
- (c) the right not to be subjected to medical or scientific experiments, set out in section *thirty-nine*;
- (d) the right not to be held in slavery or servitude, set out in section *forty*;
- (e) the right not to be tortured or subjected to cruel or inhuman treatment or punishment, set out in section *forty-one*;
- (f) the right to inherent dignity set out in section *forty-two*;
- (g) the right to a fair trial set out in section *fifty*;
- (h) the rights of children set out in section *fifty-four*.

63 Limitations during emergency

In addition to the limitations permitted by section *sixty-two*, the rights and freedoms set out in Part II 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 the Second Schedule.

PART IV
ENFORCEMENT OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

64 Application to Constitutional Court for redress

(1) Anyone listed in subsection (2) may apply to the Constitutional Court for a remedy if they consider that a right or freedom set out in Part II has been, is being or is likely to be infringed.

(2) The persons who may make an application under subsection (1) are-

- (a) anyone acting in their own interest;
- (b) anyone acting in the interests or on behalf of human beings or juristic persons that cannot act in their own name;
- (c) anyone acting as a member of, or in the interest of, a group or class of persons;
- (d) an association acting in the interest of its members;
- (e) anyone acting in the public interest.

65 Reference of question to Constitutional Court

If an issue arises in legal proceedings as to whether or not a right or freedom set out in Part II has been, is being or is likely to be infringed, the court hearing the proceedings-

- (a) may decide the issue itself or, on its own initiative, refer the issue to the Constitutional Court for decision;
- (b) must refer the issue to the Constitutional Court for decision if requested to do so by any party to the proceedings, unless the court considers the raising of the issue to be frivolous or vexatious.

66 Jurisdiction of Constitutional Court

(1) The Constitutional Court has power to decide any issue arising on an application or reference to it under this Part and to make whatever orders and give whatever directions the court considers appropriate in order to enforce the right or freedom at issue.

(2) The Constitutional Court may decline to exercise its powers under subsection (1) if it considers that the person whose right or freedom is alleged to have been infringed has adequate means of redress under another provision of this Constitution or under another law.

(3) In addition to any other powers it may have, the Constitutional Court may dismiss an application or reference without hearing the parties if the court considers that the application or reference is frivolous or vexatious, but if it does so it must provide the parties with its reasons.

(4) A written law may-

- (a) confer additional powers on the Constitutional Court;
- (b) provide for the practice and procedure of the Constitutional Court and other courts in applications and references under this Part;
- (c) fix reasonable time-limits within which applications may be brought to the Constitutional Court.

67 Jurisdiction of all courts in constitutional matters

(1) This Part does not limit the power of any court to decide, under its ordinary jurisdiction, whether or not a right or freedom set out in Part II has been, is being or is likely to be infringed.

(2) Where a court declares that a law or administrative act is invalid on the ground that it infringes or is likely to infringe a right or freedom set out in Part II, the court may make either or both the following orders

- (a) limiting the retrospective effect of the declaration of invalidity; or
- (b) suspending the declaration of invalidity for any period and on any conditions, to allow the competent authority to correct the defect;

if the court considers it just and equitable to do so.

(3) Where a court, other than the Constitutional Court, has declared that a law or administrative act is invalid on the ground that it infringes or is likely to infringe a right or freedom set out in Part II, any person with sufficient interest may appeal to the Constitutional Court to confirm or vary the declaration or any order made in connection with the declaration.

(4) A written law may fix reasonable time-limits within which appeals must be made to the Constitutional Court under subsection (3).

68 Right of Attorney-General to be heard in constitutional cases

(1) If an issue arises in legal proceedings as to whether or not a law infringes a right or freedom set out in Part II, the Attorney-General is entitled to—

- (a) be heard by the court on that issue; and
- (b) appeal to the Constitutional Court against the decision, if the court decides that the law or action does infringe a right or freedom set out in Part II.

(2) The Attorney-General may exercise his or her right of appeal under subsection (1)(b) even if he or she did not appear in the proceedings concerned.

69 Right of Minister to make representations in certain constitutional cases

A court must not decide that a law infringes a right or freedom set out in Part II on the ground that the law is not reasonable or justifiable in an open and democratic society based on human dignity, equality and freedom, unless the court has given the Minister responsible for that law a reasonable opportunity to make representations on the issue.

70 Right of persons detained under law declared unconstitutional

If a competent court has declared that a law infringes a right or freedom set out in Part II, anyone detained by virtue of that law may apply as of right to the Constitutional Court for a decision on whether or not their continued detention is valid, and they may make such an application whether or not they are entitled to appeal against their detention under any other law.

CHAPTER IV

CITIZENSHIP

71 Zimbabwean citizenship

(1) There is a common Zimbabwean citizenship and all citizens are equal, that is to say citizens are entitled, subject to this Constitution, to the rights, privileges and benefits of citizenship and are subject to the duties and obligations of citizenship.

(2) It is the duty of every Zimbabwean citizen—

- (a) to observe this Constitution and to respect its ideals and institutions;

- (b) to respect the national flag and the national anthem; and
- (c) to the best of his or her ability, to defend Zimbabwe in time of need.

(3) Every Zimbabwean citizen is entitled to the protection of the State wherever he or she may be.

(4) Zimbabwean citizenship may be acquired by birth, descent or registration.

72 Citizenship by birth

(1) Everyone born in Zimbabwe is a Zimbabwean citizen by birth if, when he or she was born

- (a) either of his or her parents was a Zimbabwean citizen; or
- (b) either of his or her grandparents was a Zimbabwean citizen by birth or descent.

(2) Anyone born outside Zimbabwe is a Zimbabwean citizen by birth if, when he or she was born, either of his or her parents was a Zimbabwean citizen and was—

- (a) ordinarily resident in Zimbabwe; or
- (b) working outside Zimbabwe for the State or an international organisation.

73 Citizenship by descent

(1) Anyone born outside Zimbabwe is a Zimbabwean citizen by descent if, when he or she was born—

- (a) either of his or her parents or grandparents was a Zimbabwean citizen by birth or descent; or
- (b) either of his or her parents was a Zimbabwean citizen by registration;

and the birth is registered in Zimbabwe in accordance with the law relating to the registration of births.

(2) This section does not affect a person's right to citizenship by birth under section *seventy-two*.

74 Citizenship by registration

(1) Anyone who has been voluntarily and ordinarily resident in Zimbabwe for at least ten years, or for a shorter period fixed in an Act of Parliament, may apply to become a Zimbabwean citizen by registration.

(2) If a Zimbabwean citizen legally adopts someone who is not a Zimbabwean citizen, the adopted person becomes a Zimbabwean citizen on the date of the adoption order and must be regarded as a citizen by registration.

(3) A minor child of a person who has become a Zimbabwean citizen by registration is entitled, on application, to become a Zimbabwean citizen by registration.

(4) A person who is married to a Zimbabwean citizen and who has been ordinarily resident in Zimbabwe for at least five years since the marriage, is entitled, on application, to become a Zimbabwean citizen by registration.

(5) An Act of Parliament may provide for—

- (a) the acquisition of citizenship by registration by persons other than those mentioned in subsections (1), (2), (3) and (4); and
- (b) the procedure for acquiring citizenship by registration.

75 Citizenship and Immigration Board

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.

76 Powers of Parliament in relation to citizenship

An Act of Parliament may provide for–

- (a) the prohibition of dual citizenship;
- (b) procedures for the renunciation of citizenship;
- (c) the circumstances in which persons qualify for or lose their citizenship by descent or by registration; and
- (d) any other matters regarding citizenship.

77 Interpretation and supplementary provisions regarding citizenship

(1) A reference in this Chapter to the citizenship of a person's parent or grandparent at the time of the person's birth must be construed, in relation to a person born after the death of the parent or grandparent, as a reference to the citizenship of the parent or grandparent when he or she died.

(2) Where a person became a citizen of Zimbabwe by virtue of his or her marriage to a citizen, the person remains a citizen of Zimbabwe even if the marriage is subsequently annulled or dissolved.

CHAPTER V THE EXECUTIVE

PART I EXECUTIVE AUTHORITY

78 Executive authority

The executive authority of Zimbabwe vests in the President and the Cabinet.

PART II THE PRESIDENT AND VICE-PRESIDENTS

79 Office of President

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

(2) The President takes precedence over all other persons in Zimbabwe.

80 Duty of President to uphold Constitution

It is the duty of the President to obey, uphold and defend this Constitution and to ensure that the provisions of this Constitution and of all other laws in force in Zimbabwe are faithfully observed.

81 Qualifications and disqualifications for election as President

(1) A person qualifies for election as President if he or she is—

- (a) a citizen of Zimbabwe by birth or descent;
- (b) a registered voter; and
- (c) at least forty years old.

(2) A person is disqualified for election as President if he or she has already held office as President after the appointed day for two terms as defined in section *eighty-four*.

(3) The period served in the office of President pursuant to an election in terms of section 92 is not to be taken as a term of office for purposes of disqualifying a person from election as President in terms of subsection (2).

82 Election of President

(1) Except in the circumstances set out in section ninety-two, the President is directly elected by registered voters throughout Zimbabwe and the procedure for that election is as described in the Electoral Law.

(2) The qualifications for registration as a voter and for voting at an election of a President are set out in the Third Schedule.

(3) The election of a President must take place concurrently with every general election of Members of Parliament and members of the governing bodies of Local Authorities.

83 Assumption of office by President

(1) A person elected as President assumes office on the day he or she is declared to be elected.

(2) Before exercising any of the functions of office, a person elected as President must take the oath or affirmation of a President in the appropriate form set out in the First Schedule.

(3) A person who has been elected as President, and all public officers concerned, must take all possible steps to ensure that he or she takes the oath or affirmation of a President within forty-eight hours after he or she was declared to be so elected.

84 Tenure of office of President

The term of office of the President shall be a period of five years concurrent with the life of Parliament referred to in section 143; or

- (a) a lesser period where the President earlier dissolves Parliament in terms of section 143;
or
- (b) a longer period where the life of Parliament referred to in section 143 is extended under section 143(2) or (3)

in which event the term of office of the President shall terminate on the expiration of such lesser or longer period, as the case may be:

Provided that the President shall continue in office until the person elected as President at the next election of President enters office.

85 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 a person has left office as President, civil or criminal proceedings may be instituted against that person for things done or omitted to be done

- (a) before he or she became President; or
- (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 President.

86 Remuneration of President

(1) The President is entitled to the salary, allowances, pension and other benefits that are prescribed under an Act of Parliament.

(2) The salary and allowances of the President must be charged upon and paid out of the Consolidated Revenue Fund.

(3) The salary, allowances and other benefits of the President must not be reduced during the period he or she holds office as such.

87 President and former President not to hold other office or employment

(1) The President must not, directly or indirectly, hold any other public office or be employed by any other person while he or she is in office.

- (2) If a former President, directly or indirectly—
- (a) holds any public office; or
 - (b) is employed by any other person;

any pension or other retirement benefit due to him or her from the State as a former President ceases while he or she holds that office or remains in that employment.

88 Vice-Presidents

(1) As soon as practicable after assuming office, the President must appoint at least one and not more than two qualified persons to be Vice-President or Vice-Presidents, as the case may be, 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, that the President may assign 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) Before taking office, a person appointed as Vice-President must take the Vice-Presidential oath or affirmation in the form set out in the First Schedule.

- (4) 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.

(5) The salary and allowances of a Vice-President must be charged upon and paid out of the Consolidated Revenue Fund and must not be reduced during the period he or she holds office as such.

(6) A Vice-President must not, directly or indirectly, hold any other public office or be employed by any other person while he or she is in office.

89 Resignation of President

The President may resign his or her office by written notice to the Speaker, who must immediately give public notice of the resignation.

90 Removal from office of President

(1) The Senate, sitting as a court, at the request of at least two-thirds of the Members of the National Assembly, may—

(a) impeach and remove the President from office for-

(i) serious misconduct;

(ii) failure to obey, uphold and defend this Constitution; or

(iii) wilful violation of this Constitution; or

(b) remove the President from office on the ground that he or she is unable to exercise the functions of the office because of physical or mental incapacity.

(2) A resolution to remove the President from office must be passed by at least two-thirds of all the members of the Senate.

(3) The Chief Justice presides over any proceedings in the Senate for the impeachment or removal from office of the President.

(4) After the National Assembly has requested the impeachment or removal from office of the President in terms of subsection (1), the President has no power to dissolve Parliament under this Constitution until the proceedings are completed.

91 Vacation of office, absence or incapacity of President

(1) Whenever the office of the President is vacant or the President is absent from Zimbabwe or is unable to perform the functions of his office by reason of illness or any other cause, his functions shall be assumed and performed –

(a) where there is only one Vice President, by that Vice President; or

(b) where there are two Vice Presidents—

(i) by the Vice President whom the President has designated for such an eventuality; or

(ii) 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 subparagraph (i); or

(c) during the absence or incapacity of the Vice President or of both Vice Presidents, as the case may be, by such Minister as may be designated for such an eventuality –

(i) by the President; or

- (ii) by the Cabinet, where no Minister has been designated by the President in terms of subparagraph (i);

but subject to section 92, the Vice President or Member concerned must not act as President. for a continuous period of more than ninety days.

(2) Except in accordance with a resolution passed by a majority of the whole membership of the Cabinet, a person performing the functions of the office of the President in terms of subsection (1) shall not exercise the power of the President—

- (a) to declare war or to make peace; or
- (b) to enter into any international convention, treaty or agreement; or
- (c) to dissolve or prorogue Parliament; or
- (d) to appoint or revoke the appointment of a Vice President, Minister or Deputy Minister; or
- (e) to assign or reassign functions to a Vice President, Minister or Deputy Minister, including the administration of any Act of Parliament or of any Ministry or department, or to cancel any such assignment of functions.

92 Succession in the event of death, resignation or removal from office of President

If the President dies, resigns or is removed from office, an election to the office of President shall take place in accordance with the Electoral Law by members of the Senate and the National Assembly sitting jointly as an electoral college within ninety days after the office of President becomes vacant by reason of his death or his resignation or removal from office in terms of this Constitution.

PART III THE GOVERNMENT

93 Appointment of 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) Ministers are appointed from among Members of Parliament.

(3) Before taking office, a person appointed as Minister must take the Ministerial oath or affirmation in the form set out in the First Schedule.

94 Minister not to hold other office or employment

During his or her tenure of office, a Minister must not, directly or indirectly, hold any other public office or be employed by any other person.

95 Tenure of office of Ministers

(1) The office of a 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; or
- (c) upon a new person assuming office as President.

(2) A Minister vacates his or her office as Minister upon ceasing to be a Member of Parliament, unless he or she ceased to be a Member of Parliament as a result of a dissolution of Parliament, in which event he or she may continue to hold office as Minister until a person assumes office as President upon being elected or re-elected following the dissolution.

96 Cabinet

(1) There must be a Cabinet consisting of the President, the Vice-President or Vice-Presidents, and such Ministers as the President may determine.

(2) A Minister holds office as a member of the Cabinet at the President's pleasure, but a Minister—

- (a) ceases to hold office as a member of the Cabinet if he or she ceases to be a Minister;
- (b) may, by notice in writing to the President, resign from the Cabinet.

(3) Cabinet meetings are presided over—

- (a) by the President;
- (b) in the absence of the President, by the Vice-President or, if there are two Vice-Presidents, by a Vice-President designated by the President; or
- (d) in the absence of the President and every Vice-President, by a Minister designated by the President.

97 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 of the Senate and the National Assembly, 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 Senate and the National Assembly within twenty-one days after the Speaker received the notice of the motion; and
- (b) must be voted on within seven consecutive sitting days 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, either

- (a) remove every Vice-President and Minister from office, unless they have already resigned as a result of the resolution, and appoint new persons in their place in accordance with this Constitution; or
- (b) dissolve Parliament, in which event a presidential election and a general election must be held in accordance with sections *eighty-two* and *one hundred and forty-four*.

PART IV

EXECUTIVE FUNCTIONS

98 Executive functions of President

(1) The President has the powers conferred by this Constitution and by any Act of Parliament or other law, including any powers necessary to exercise the functions of Head of State and Head of Government, and those powers may be exercised by him directly or through the Vice-President, the Cabinet or a Minister.

(2) Without limiting subsection (1) and subject to this Constitution, the President may act in his or her own deliberate judgement and has powers—

- (a) to prorogue or dissolve Parliament;
- (b) to make appointments to public offices that this Constitution or any Act of Parliament requires or permits the President to make;
- (c) to appoint, accredit, receive and recognise diplomatic agents and consular officers;
- (d) to conclude or execute conventions, treaties and agreements with foreign states and governments and international organisations;
- (e) to appoint or remove a Vice President or Vice Presidents and Ministers;
- (f) to assign or reassign functions to a Vice President or Vice Presidents or any Minister;
- (g) to call a referendum on any issue;
- (h) to deploy the Defence Forces outside Zimbabwe in accordance with section 188(2);
- (i) to appoint Provincial Governors in terms of a law regulating such appointments;
- (j) to appoint Senators in terms of this Constitution.

(3) Except as otherwise provided in this Constitution, the President must act on the advice of the Cabinet in the exercise of any function other than a function that is specified in subsection (2).

99 War and peace

The President has power to declare war and make peace, but a declaration of war or peace must be revoked unless it is approved by a resolution passed within seven sitting days of the declaration by a joint sitting of the Senate and the National Assembly.

100 Prerogative of mercy

(1) The President may exercise the prerogative 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, remission 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.

101 Public emergencies

(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.

(2) A declaration of a state of public emergency ceases to have effect after fourteen days beginning with the day of publication of the proclamation in the *Gazette* unless, before the end of that period, 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) Unless it is revoked or ceases to have effect under this section, a declaration of a state of public emergency remains in effect for three months from the date on which the proclamation was published in the *Gazette*.

(4) If a declaration of a state of public emergency is not approved after consideration by Parliament, or if for any reason it is not considered by Parliament within the period specified in this section, the President must, within seven days, by proclamation in the *Gazette*, revoke the declaration.

(5) If by a resolution passed by a joint sitting of the Senate and the National Assembly, Parliament resolves that a declaration of a state of public emergency—

- (a) should be continued for a further period not exceeding three months, the President must without delay, by proclamation in the *Gazette*, extend the declaration for that further period;
- (b) should be revoked or that it should apply within a smaller area, the President must without delay, by proclamation in the *Gazette*, revoke the declaration or provide that the declaration relates to that smaller area.

102. Extent to which exercise of President's powers justiciable

(1) Where this Constitution permits the President to act on his or her own judgement when exercising a function, no court has power to inquire into any of the following—

- (a) whether any advice or recommendation was tendered to the President, and whether the President acted on any such advice or recommendation;
- (b) whether the President consulted anyone in connection with the function;
- (c) the nature of any advice or recommendation that may have been tendered to the President;
- (d) the manner in which the President has exercised his or her discretion.

(2) Where this Constitution or any other law permits or requires the President to do anything on the advice or recommendation of, or after consultation with, any person or authority, no court has power to inquire into the following—

- (a) the nature of any advice or recommendation tendered to the President; or
- (b) the manner in which the President has exercised his or her discretion.

CHAPTER VI
THE LEGISLATURE

PART I
PARLIAMENT

103 Legislative authority

(1) Subject to this Constitution, the legislative authority of Zimbabwe vests in Parliament and the President.

(2) In exercising legislative authority—

- (a) Parliament is bound by this Constitution;
- (b) Members of Parliament and the President must be guided by the national interest and by their consciences.

104 Powers Parliament

(1) Subject to this Constitution, Parliament has power to originate and pass legislation with regard to any matter.

(2) Parliament may confer legislative functions on any person or authority, but the objects for which and the circumstances in which those functions are exercisable must be stated in or be readily apparent from the legislation that confers them.

105 Composition of Parliament

Parliament consists of two Houses, namely the Senate and the National Assembly.

PART II
THE SENATE

106 Composition of Senate

The Senate consists of ninety-three Senators, of whom-

- (a) six are elected, by secret ballot in accordance with the Electoral Law, from each of the ten provinces into which Zimbabwe is divided;
- (b) ten are Provincial Governors;
- (c) two are chiefs elected, in accordance with the Electoral Law, from each of the eight provinces, other than metropolitan provinces, into which Zimbabwe is divided;
- (d) two are the President and Vice-President of the National Council of Chiefs referred to in subsection (1) of section *two hundred and fifty-four*; and
- (e) five are appointed by the President.

(2) The qualifications for election as a Senator are set out in the Third Schedule.

107 Election of 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) An election to the office of President of the Senate must be conducted in accordance with Standing Orders.

(5) Before commencing his or her duties as such, the President of the Senate must take the oath or affirmation of office in the form set out in the First Schedule.

108 President of Senate not a Senator

If a Senator is elected as President of the Senate, he or she ceases to be a Senator.

109 Resignation and vacation of office by President of Senate

(1) The President of the Senate may resign his or her office by announcing his or her resignation in person to the Senate or by giving notice in writing to the Clerk of Parliament.

(2) The President of the Senate must vacate his or her office—

(a) at the beginning of 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) if circumstances arise that would require him or her to vacate his or her seat, if he or she were a Senator; or

(e) if a resolution for his or her removal from office is passed by at least two-thirds of the total membership of the Senate.

110 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) An election to the office of Deputy President of the Senate must be conducted in accordance with Standing Orders.

(4) The Deputy President of the Senate may resign his or her office by giving notice in writing to the President of the Senate or to the Clerk of Parliament.

(5) 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 Vice-President or a Minister;

(d) upon becoming a Provincial Governor; or

(e) 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 III
THE NATIONAL ASSEMBLY

111 Composition of National Assembly

(1) The National Assembly consists of two hundred and ten members who are elected in accordance with the Electoral Law, by secret ballot, from the two hundred and ten constituencies into which Zimbabwe is divided.

(2) The qualifications for election as a Member of the National Assembly are set out in the Third Schedule.

112 Election of Speaker

(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 that House.

(4) An election to the office of Speaker must be conducted in accordance with Standing Orders.

(5) Before commencing his or her duties as such, the Speaker must take the oath or affirmation of office in the form set out in the First Schedule.

113 Speaker not a Member of National Assembly

If a Member of the National Assembly is elected as Speaker, he or she ceases to be a Member of that House.

114 Resignation and vacation of office by Speaker

(1) The Speaker may resign his or her office by announcing his or her resignation in person to the National Assembly or by giving notice in writing to the Clerk of Parliament.

(2) The Speaker must vacate his or her office—

- (a) at the beginning of 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) if circumstances arise that would require him or her to vacate his or her seat, if he or she were a Member of the National Assembly; or
- (e) 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.

115 Deputy Speaker

(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) An election to the office of Deputy Speaker must be conducted in accordance with Standing Orders.

(4) The Deputy Speaker may resign his or her office by giving notice in writing to the Speaker or to the Clerk of Parliament.

(5) 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 Vice-President or a 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 IV

GENERAL MATTERS RELATING TO PARLIAMENT

116 Privileges and immunities of Parliament

(1) The President of the Senate, the Speaker, Senators and Members of the National Assembly have freedom of speech in the Senate and the National Assembly and in any committees of the Senate or the National Assembly 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 they say in, produce before or submit to or for anything revealed as a result of anything they say, produce before or submit to, the Senate or the National Assembly.

(2) An Act of Parliament may prescribe—

- (a) other privileges and immunities of Members of Parliament;
- (b) the privileges, immunities and powers of the President of the Senate, the Speaker, the Clerk of Parliament and other officers of Parliament;
- (c) penalties for persons who sit or vote in Parliament knowing or having reasonable grounds for knowing that they are not entitled to do so;
- (d) a right of reply, through the President of the Senate or the Speaker, as the case may be, for persons who are unjustly injured by what is said about them in Parliament.

117 Oath or affirmation of Member of Parliament

Every Member of Parliament must, before taking part in any proceedings of Parliament except proceedings necessary for the purpose of this section, take the oath or affirmation of a Member of Parliament in the form set out in the First Schedule.

118 Tenure of seat of Member of Parliament

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 Speaker, as the case may be, or to the Clerk of Parliament;
- (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 is absent from twenty-one consecutive sittings of any session without leave of the President of the Senate or the Speaker, as the case may be;
- (f) if the Member accepts public office or office as a member of a statutory body, provincial council or local authority or employment as an employee of a statutory body, provincial council or local authority;
- (g) if the Member was a public officer or a member or employee of a statutory body, a provincial council or 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 thirty days after becoming a Member of Parliament;
- (h) if the Member is convicted-
 - (i) in Zimbabwe of an offence; or
 - (ii) outside Zimbabwe of conduct which, if committed in Zimbabwe, would be an offence;

and sentenced to death or to an effective term of imprisonment of six months or more without the option of a fine or without the option of any other non-custodial punishment, unless

- A. the Member has received a free pardon; or
- B. 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;
- (i) 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;
- (j) 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 President of the Senate or the Speaker, as the case may be, has declared that the Member ceased to represent its interests in Parliament;
- (k) if the Member is certified to be mentally disordered or intellectually handicapped under any law in force in Zimbabwe; or
- (l) if the Member has been convicted of an offence under the Electoral Law and has been declared by a court to be disqualified for registration as a voter or from voting at any election.

119 Expulsion or suspension of Member of Parliament

(1) If a Member of Parliament is convicted of an offence and sentenced to an effective term of imprisonment of less than six months or to a fine or other punishment, and the House of which he or she is a Member resolves by an affirmative vote of at least two-thirds of all its Members—

- (a) that the Member is unfit to continue as a Member of that House, the Member must immediately vacate his or her seat;

- (b) that the Member should be suspended from the service of that House for a period not exceeding six months, the Member is suspended for the period specified in the resolution.

(2) A Member who is suspended from the service of Parliament cannot exercise his or her functions as a Member or be entitled to any remuneration as a Member for the period of the suspension.

120 Remuneration of President of Senate, Speaker and Members of Parliament

(1) The remuneration of the President of the Senate and the Speaker—

- (a) must be prescribed in an Act of Parliament and is a charge upon the Consolidated Revenue Fund;
- (b) must not be reduced while they hold office; and.
- (c) 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.

121 Committee on Standing Rules and Orders

(1) There is, for the life of Parliament, a Committee to be known as the Committee on Standing Rules and Orders consisting of

- (a) the Speaker;
- (b) the President of the Senate;
- (c) the Deputy Speaker;
- (d) the Deputy President of the Senate;
- (e) members appointed by the Speaker and the President of the Senate from their respective Houses of Parliament which shall include the Leader of Government Business, the Leader of the Opposition and the Chief Whips;
- (f) members elected by each of the Houses of Parliament.

(2) With respect to the number of members from either House of Parliament, the number of members elected in terms of subsection (1)(f) is to be greater than that of members appointed in terms of subsection (1)(e).

(3) The election of members of the Committee on Standing Rules and Orders is to be based on political and gender composition of the Parliament and is to be conducted as soon as possible after the commencement of each session.

(4) The Speaker is the Chairperson of the Committee on Standing Rules and Orders and the President of the Senate is to be its Deputy Chairperson.

(5) A vacancy occurring in the Committee on Standing Rules and Orders is to be filled in terms of the procedure applicable to the category of the position.

(6) The Committee on Standing Rules and Orders is responsible for—

- (a) supervising the administration of Parliament;
- (b) appointing the staff of Parliament and fixing their conditions of service;
- (c) considering and deciding all matters concerning Parliament; and

(d) performing such other functions as are provided for under this Constitution.

(7) An Act of Parliament or Standing Orders may confer further functions on the Committee on Standing Rules and Orders.

122 Parliamentary Legal Committee

(1) Parliament must appoint a committee to be known as the Parliamentary Legal Committee, consisting of Senators and Members of the National Assembly.

(2) Where possible, the majority of the members of the Parliamentary Legal Committee must be qualified to practise as legal practitioners.

(3) The procedure for the appointment of members of the Parliamentary Legal Committee must be prescribed in Standing Orders of the Senate and the National Assembly.

123 Functions of Parliamentary Legal Committee

(1) The Parliamentary Legal Committee must examine--

- (a) every Bill, other than a Constitutional Bill, before it receives its final vote in the Senate or the National Assembly;
- (b) 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;
- (c) every statutory instrument published in the *Gazette*;
- (d) every draft Bill which has been referred to the Committee by a Minister; and
- (e) 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.

(2) 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.

(3) An Act of Parliament or Standing Orders may confer further functions on the Parliamentary Legal Committee.

124 Clerk of Parliament and other staff

(1) The Committee on Standing Rules and Orders must appoint an officer to be known as the Clerk of Parliament.

(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 he or she should be removed.

(4) The Committee on Standing Rules and Orders must appoint such other staff of Parliament as it considers necessary.

(5) The Clerk of Parliament and the other staff of Parliament—

- (a) are appointed on terms of service approved from time to time by the Committee on Standing Rules and Orders; and
- (b) are public officers but do not form part of the Public Service.

PART V
PROCEDURE IN PARLIAMENT

125 Person presiding in Senate

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 Vice President, a Minister or Provincial Governor.

126 Person presiding in National Assembly

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 Vice-President or a Minister.

127 Person presiding at joint sittings of Parliament

The Speaker or, in his or her absence, the President of the Senate must preside at any joint sitting of the Senate and the National Assembly.

128 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.

129 Decisions of Parliament

Except where this Constitution provides otherwise—

- (a) all questions before each House are to be decided by a majority of the votes cast;
- (b) the Speaker, the President of the Senate or anyone else presiding at a meeting of either House has no vote, either deliberative or casting, on any issue before the House;
- (c) if the votes in either House are equally divided on any motion, the motion is lost.

130 Right of Vice-Presidents, Ministers and Attorney-General to sit and speak in either House

(1) Vice-Presidents and Ministers may sit and speak in either House, but they do not have a right to vote in a House of which they are not members.

(2) The Attorney-General has the right to sit and speak, but not to vote, in either House.

131 Presidential addresses and messages to Parliament

(1) The President may at any time address either House or a joint sitting of both Houses.

(2) At least once a year the President must address a joint sitting of the Senate and the National Assembly on the state of the nation, and the President of the Senate and the Speaker must make the necessary arrangements for Parliament to receive such an address.

(3) The President may send messages to either House, and the messages must be read by a Vice-President or a Minister.

132 Standing Orders

The Senate and the National Assembly, individually or jointly, may make rules and orders with respect to—

- (a) the appointment of committees and the delegation of functions to them;
- (b) the order and conduct of business and proceedings in and between the Houses;
- (c) the passing of Bills; and
- (d) the manner in which the powers, privileges and immunities of the Houses may be exercised and upheld.

133 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 VI LEGISLATIVE POWERS

134 Bills

Parliament's power to make laws is exercised by Bills passed by the National Assembly and the Senate and assented to by the President.

135 Procedure for passing Bills

The procedure to be followed by the Senate and the National Assembly with regard to Bills is set out in the Fourth Schedule.

136 Presidential assent to Bills

(1) When a Bill is presented to the President for assent, he or she must, within twenty-one days, either assent to it or, if he or she has reservations regarding the Bill, withhold his or her assent.

(2) If the President withholds his or her assent to a Bill—

- (a) the President must ensure that the Bill is returned to the House from which it originated without delay, and in any event within fourteen days after the President withheld assent, accompanied by a statement of the President's reasons for withholding assent; and
- (b) the Bill must not be presented to the President again unless, within six months, at least two-thirds of all the members of the Senate and the National Assembly, at a joint sitting, have resolved that the Bill should be presented to the President for assent.

(3) When a Bill is presented to the President for assent following a resolution referred to in subsection (2), the President must assent to it within fourteen days.

(4) If a Bill is presented to the President for assent 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 until the certificate is produced.

(5) For the purposes of this section, a Bill is regarded as having been presented to the President for assent when Parliament transmits it to the President's office, and the date of its transmission must be recorded in the journal of the House from which it is transmitted.

137 Acts of Parliament and their commencement

(1) All laws made by Parliament are called "Acts of Parliament" and the words of enactment are "enacted by the President and the Parliament of Zimbabwe" or words to that effect.

(2) 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.

138 Enrolment of Acts

(1) When an Act of Parliament has been assented to by the President, 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.

139 Amendment of Constitution

(1) Subject to this section, an Act of Parliament may amend any or all of the provisions of this Constitution.

(2) An Act of Parliament that amends this Constitution must do so in express terms.

(3) A Constitutional Bill must not be introduced into the Senate or the National Assembly unless the text of the Bill has been published in the *Gazette* at least thirty days before it is introduced.

(4) A Constitutional Bill is not regarded as having been passed by Parliament unless, at the final vote on the Bill in each House of Parliament, it receives the affirmative votes of at least two-thirds of the total membership of the House.

(5) A Constitutional Bill that will amend any of the following provisions of this Constitution—

- (a) section *one*, which deals with the Republic;

- (b) section *seven*, which deals with the supremacy of this Constitution;
- (c) any provision of Chapter II, dealing with fundamental constitutional principles and national objectives;
- (d) any provision of Chapter 111, dealing with fundamental human rights and freedoms and their enforcement;
- (e) sections *eighty-one* and *eighty-four*, which deal with the tenure of office of the President;
- (f) section *one hundred and three*, which deals with the legislative authority of Zimbabwe;
- (g) this section;
- (h) section *one hundred and fifty-four*, which deals with the judicial authority of Zimbabwe;
- (i) section *one hundred and fifty-six*, which deals with the independence of the judiciary;
- (j) section *two hundred and fifty-six*, which deals with the independence of Commissions established by this Constitution;

must not be presented to the President for assent unless-

- (i) it has been passed by Parliament in accordance with subsection (4); and
- (ii) every amendment that it will make to any of those provisions has been approved by a majority of persons voting at a referendum.

(6) All registered voters are entitled to vote at a referendum referred to in subsection (5).

(7) When a Constitutional Bill is presented to the President for assent it must be accompanied by-

- (a) certificates from the President of the Senate and the Speaker stating the number of affirmative votes the Bill received at the final vote on it in the Senate or the National Assembly, as the case may be; and
- (b) in the case of a Constitutional Bill to which subsection (5) applies, a certificate from the chairperson of the Zimbabwe Electoral Commission stating that the amendments that will be made by the Bill have been approved by a majority of persons voting at a referendum.

(8) An Act of Parliament that provides for the revision of the statute law may permit-

- (a) the renumbering of the provisions of this Constitution to reflect amendments that have been made to them; and
- (b) the amendment of references in this Constitution to provisions that have been renumbered;

and any such amendment is valid as if it had been made by an Act of Parliament passed in accordance with this section.

PART VII
SUMMONING, PROROGATION AND DISSOLUTION OF PARLIAMENT

140 Sessions

(1) The sessions of Parliament must be held at the times and places fixed by the President by proclamation published in the *Gazette*.

(2) A session of Parliament must begin in every calendar year.

(3) The interval between the last sitting of Parliament in any one session and the first sitting of Parliament in the next session must not exceed one hundred and eighty days.

141 First and special sittings of Parliament

(1) After every general election, the President must summon Parliament to sit within twenty-one days after the result of the election has been declared.

(2) The President may, at any time, summon Parliament to a special sitting in order to conduct special business.

142 Power of Parliament to determine its sittings

During any session, Parliament has power to determine the time and duration of its sittings and recess periods.

143 Life of Parliament

(1) Unless it is dissolved sooner, Parliament continues for five years from the date on which it first met after a general election, and then stands dissolved.

(2) Whenever Zimbabwe is at war, Parliament may extend the period specified in subsection (1) by not more than a year at a time, up to a maximum of five years.

(3) While a declaration of a state of public emergency is in force, Parliament may extend the period specified in subsection (1) by not more than six months at a time, up to a maximum of one year.

144 Prorogation or dissolution of Parliament

(1) Subject to this Constitution, the President may at any time prorogue or dissolve Parliament.

(2) A prorogation or dissolution of Parliament is effected by proclamation in the *Gazette*.

(3)) A dissolution of Parliament takes effect from the day immediately before the day or first day fixed for polling in the ensuing general election.

(4) On the dissolution of Parliaments, and at the end of every session, all proceedings pending at the time are terminated, and every Bill, motion, petition and other business lapses.

PART VIII
ELECTIONS

145 When parliamentary elections must be held

(1) A general election must be held not later than four months after the publication of a proclamation dissolving Parliament.

(2) An election to fill a casual vacancy in the membership of the Senate or the National Assembly must be held not later than four months after the vacancy occurred.

146 Qualifications of voters in parliamentary elections

The qualifications for registration as a voter and for voting at Presidential and Parliamentary elections are set out in the Third Schedule.

147 Electoral Law

Subject to Part I of Chapter XIII, an Act of Parliament must provide for—

- (a) the registration of voters;
- (b) the election of President, Senators, Members of the National Assembly and members of the governing bodies of Local Authorities including elections for the purpose of filling casual vacancies in Parliament and the governing bodies of Local Authorities;
- (c) the conduct of referendums.

PART IX

DELIMITATION OF CONSTITUENCIES

148 Fixing of boundaries of National Assembly constituencies and frequency of revision

(1) Zimbabwe is, for the purpose of election of Members of the National Assembly, divided into two hundred and ten National Assembly constituencies.

(2) It is the function of the Zimbabwe Electoral Commission to determine the limits of the National Assembly constituencies into which it is to be divided.

(3) Once the Zimbabwe Electoral Commission has fixed the boundaries of National Assembly constituencies, the Commission must review them at intervals of at least five years.

149 Factors to be considered in delimiting constituencies

(1) Subject to subsections (2) and (3), the boundaries of the National Assembly constituencies shall be such that at the time of delimitation the number of voters registered in each National Assembly constituency is as nearly as may be equal to the number of voters registered in each of the other National Assembly constituencies.

(2) In dividing Zimbabwe into National Assembly constituencies, the Zimbabwe Electoral Commission shall, 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; and
- (e) in the case of any delimitation after the first delimitation consequent upon an alteration in the number of National Assembly constituencies, existing electoral boundaries;

and whenever it appears necessary to do so in order to give effect to the provisions of this subsection, the Commission may depart from the requirements of subsection (1), but in no case to any greater extent than twenty per centum more or less than the average number of registered voters in National Assembly constituencies.

(3) In determining the limits of National Assembly Constituencies, the Commission shall ensure that no Local Authority Ward shall fall into two or more National Assembly Constituencies.

150 Delimitation of Senatorial Constituencies

After delimiting the National Assembly constituencies, the Commission shall divide each province into six senatorial constituencies by assigning to each senatorial constituency a National Assembly constituency or two or more contiguous National Assembly constituencies, and in so doing the Commission may be guided but not bound by any principle or consideration specified in subsections 149.

151 Delimitation of Wards of Local Authorities

(1) It is the function of the Zimbabwe Electoral Commission to determine the limits of wards of Local Authorities and the number of wards into which a Local Authority area is to be divided;

(2) In dividing a Local Authority area into wards, the Zimbabwe Electoral Commission shall give due consideration to the factors referred to in section 149(2) save for the percentage variation.

152 Report on Delimitation

(1) As soon as possible after determining the boundaries of National Assembly and Senatorial constituencies, the Zimbabwe Electoral Commission must give the President a preliminary delimitation report comprising—

- (a) a list of National Assembly constituencies delimited by the Commission, with the names assigned to each and a description of their boundaries;
- (b) a list of senatorial constituencies delimited by the Commission, with the names assigned to each and a description of their boundaries;
- (c) a map or maps showing the National Assembly and Senatorial constituencies into which Zimbabwe has been divided by the Commission; and
- (d) any further information or particulars which the Commission considers necessary;

and the President must cause the report to be laid before the Senate and the National Assembly within the next seven days after he or she received it.

(2) Within a reasonable time after a preliminary delimitation report has been laid before Parliament, the President may, by written notification, refer back to the Zimbabwe Electoral Commission any issue or matter arising out of the report, and the Commission must give further consideration to that issue or matter, but the Commission's decision on it is final.

(3) As soon as possible after complying with subsections (1) and (2), the Zimbabwe Electoral Commission must give the President a final delimitation report comprising—

- (a) a list of National Assembly constituencies delimited by the Commission, with the names assigned to each and a description of their boundaries;
- (b) a list of senatorial constituencies delimited by the Commission, with the names assigned to each and a description of their boundaries;
- (c) a map or maps showing the National Assembly and Senatorial constituencies into which Zimbabwe has been divided by the Commission; and
- (d) any further information or particulars which the Commission considers necessary.

(4) If there is any discrepancy in a delimitation report between the description of a constituency and its depiction on a map, the description prevails.

153 Declaration of boundaries of constituencies

Within fourteen days after receiving the Zimbabwe Electoral Commission's final delimitation report, the President must publish a proclamation in the Gazette declaring the names and boundaries of the National Assembly and Senatorial constituencies as finally determined by the Commission to be the National Assembly and Senatorial Constituencies of Zimbabwe, and those boundaries shall have effect for the purposes of every subsequent general election.

CHAPTER VII THE JUDICIARY

PART I THE JUDICIARY AND THE COURTS

154 Judicial authority

- (1) The judicial authority of Zimbabwe vests in the courts which comprise-
- (a) the Constitutional Court;
 - (b) the Supreme Court;
 - (c) the High Court;
 - (d) the Labour Court;
 - (e) the Administrative Court; and
 - (f) any other courts established by Act of Parliament, including magistrates courts and customary-law courts.
- (2) An Act of Parliament may-
- (a) subject to section *one hundred and sixty*, vest adjudicating functions in a person or authority other than a court; or
 - (b) vest functions other than adjudicating functions in any court or in a member of the judiciary.

155 The judiciary

The judiciary of Zimbabwe consists of-

- (a) the Chief Justice, who is the head of the judiciary;
- (b) the Deputy Chief Justice;
- (c) the judges of the Constitutional Court;
- (d) the judges of the Supreme Court;
- (e) the Judge President, who is in charge of the High Court;
- (f) the judges of the High Court;
- (g) persons presiding over the Labour Court, the Administrative Court and magistrates courts;

- (h) traditional leaders and other persons presiding over customary-law courts; and
- (i) persons presiding over other courts that may be established by an Act of Parliament.

156 Independence of judiciary

Members of the judiciary, when exercising their judicial authority, are independent and are subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice.

157 Constitutional Court

(1) The Constitutional Court is a superior court of record and the highest court in Zimbabwe in all constitutional matters.

(2) The Constitutional Court has the following jurisdiction and powers–

- (a) to hear and determine applications and references under Chapter III regarding infringements of the Declaration of Rights;
- (b) to determine the constitutionality of any Act of Parliament, including an Act that purportedly amends this Constitution, whether in regard to its content or the manner in which it was enacted;
- (c) to determine whether or not Parliament or the President, or any other person or authority, has fulfilled a constitutional obligation;
- (d) to determine whether or not any question or issue raised before it is a constitutional matter and within its jurisdiction; and
- (e) to exercise any other jurisdiction or power that may be conferred upon it by or under an Act of Parliament.

(3)) The Constitutional Court consists of–

- (a) the Chief Justice, who is the President of the Court;
- (b) the Deputy Chief Justice and all the other judges of the Supreme Court;
- (c) the Judge President; and
- (d) three other judges of the Constitutional Court appointed by the President in consultation with the Judicial Service Commission.-

(4) The persons appointed to the Constitutional Court in terms of subsection (3)(d) must–

- (a) be qualified in terms of section *one hundred and sixty-two* for appointment as judges; and
- (b) be chosen for their knowledge of constitutional law.

158 Supreme Court

(1) The Supreme Court is a superior court of record and the final court of appeal for Zimbabwe, except in matters over which the Constitutional Court has jurisdiction, and has the jurisdiction and powers conferred on it by or under an Act of Parliament.

(2) The Supreme Court consists of the Chief Justice, the Deputy Chief Justice and the judges of the Supreme Court.

(3)) An Act of Parliament may specify the number of judges of the Supreme Court, but there must not be more than nine or fewer than five.

(4) An Act of Parliament may specify the number of judges who constitute the Supreme Court when it sits to determine any matter, but there must be at least three.

(5) If the services of a judge are required by the Supreme Court for a limited period, the Chief Justice may appoint a judge of the High Court or a former judge of the Supreme Court or the High Court to act as a judge of the Supreme Court for that period.

159 High Court

(1) The High Court is a superior court of record and has the jurisdiction and powers conferred on it by or under an Act of Parliament.

(2) The High Court consists of—

- (a) the Chief Justice and the Deputy Chief Justice;
- (b) the Judge President, who is in charge of the High Court but is subject to the directions of the Chief Justice; and
- (c) the other judges of the High Court.

160 Other courts

An Act of Parliament may provide for the establishment, composition and jurisdiction of courts subordinate to the High Court, including—

- (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.

161 Criminal jurisdiction of courts

Only the following courts may exercise or be given jurisdiction in criminal matters—

- (a) the Supreme Court, the High Court, magistrates courts and customary-law 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; and
- (c) any other court or tribunal, provided that the jurisdiction does not permit the court to impose the death penalty or sentences of imprisonment.

PART II

APPOINTMENT AND TENURE OF JUDGES

162 Qualifications of judges

A person is qualified for appointment as a judge if he or she is at least thirty-five years old and—

- (a) has been entitled to practise as a legal practitioner for at least seven years
 - (i) in Zimbabwe; or

- (ii) if he or she is a citizen of Zimbabwe, in a country whose common law is Roman-Dutch or English and English is an official language;

or

- (b) has been 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.

163 Appointment of judges

(1) The President appoints the Chief Justice and the Deputy Chief Justice after consultation with the Judicial Service Commission.

(2) Judges other than the Chief Justice and the Deputy Chief Justice are appointed by the President either—

- (a) with the approval of the Judicial Service Commission; or
- (b) from a list of names submitted to him or her by the Judicial Service Commission.

164 Acting judges

(1) If the office of the Chief Justice is vacant or the Chief Justice is unable to exercise the functions of his or her office—

- (a) the Deputy Chief Justice must act as Chief Justice; or
- (b) if the Deputy Chief Justice is unable to do so, the most senior judge of the Supreme Court must act as Chief Justice.

(2) The President may appoint a person as an acting judge either—

- (a) with the approval of the Judicial Service Commission; or
- (b) from a list of names submitted to him or her by the Judicial Service Commission.

165 Tenure of office of judges

(1) A judge must retire at the age of sixty-five years unless, before attaining that age, he or she gives written notice to the President and the Judicial Service Commission of election to retire at the age of seventy years, in which event the judge must be permitted to continue in office

(2) A judge may resign his or her office at any time by written notice to the President and the Judicial Service Commission,

166 Removal of judges from office

(1) A judge may be removed from office on the advice of the Judicial Service Commission only for gross incompetence, misbehaviour or for mental or physical disability that incapacitates him or her from exercising the functions of a judge.

(2) The President may appoint a tribunal to inquire into the question of the Chief Justice's removal from office if the President considers that the question should be investigated.

(3) The President must appoint a tribunal without delay to inquire into the question of a judge's removal from office if the President is advised by the Judicial Service Commission that the question should be investigated.

(4) A tribunal appointed under this section must consist of at least three members appointed by the President, of whom—

- (a) one must be a person who--
 - (i) has served as a judge 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) one must be chosen from a panel of at least three legal practitioners of at least seven years' standing who have been nominated by the association, constituted under an Act of Parliament, which represents legal practitioners in Zimbabwe; and
- (c) the remainder must be persons referred to in paragraph (a) or (b).

(5) The President must designate one of the members of a tribunal appointed under this section to be chairperson of the tribunal.

(6) 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.

(7) After due inquiry a tribunal appointed under this section must report its findings to the Judicial Service Commission and the Commission, after considering the tribunal's findings, must report to the President whether or not, in its opinion, the judge concerned should be removed from office.

(8) The President must act in accordance with any recommendation of the Judicial Service Commission under this section.

(9) If the question of a judge's removal from office has been referred to a tribunal under this section, the Chief Justice must suspend the judge from office until the President, on the recommendation of the Judicial Service Commission, revokes the suspension or removes the judge from office.

PART III

PROVISIONS APPLICABLE TO MEMBERS OF JUDICIARY GENERALLY

167 Appointment of judicial officers other than judges

An Act of Parliament that provides for the appointment of members of the judiciary, apart from judges, must ensure that the appointments are made without favour or prejudice.

168 Oath of office

Before taking office, a member of the judiciary must take the judicial oath in the form set out in the First Schedule.

169 Remuneration of members of judiciary

(1) Members of the judiciary are entitled to the salaries, allowances and other benefits that are prescribed under an Act of Parliament.

(2) The salaries and allowances of members of the judiciary must be charged upon and paid out of the Consolidated Revenue Fund.

(3)) The salaries, allowances and other benefits of members of the judiciary must not be reduced during the members' tenure of office.

170 Security of tenure of members of judiciary

(1) The office of a member of the judiciary must not be abolished during his or her tenure of office.

(2) A member of the judiciary, other than a judge, must not be removed from office except by or with the approval of the Judicial Service Commission, for gross incompetence, misbehaviour or for mental or physical disability that incapacitates him or her from exercising the functions of a member of the judiciary.

(3) An Act of Parliament may provide for the procedure for removing from office a member of the judiciary other than a judge, but the procedure must be fair and open.

171 Conclusion of part-heard cases by former member of judiciary

A member of the judiciary who has resigned or retired may continue to sit as a judicial officer in order to conclude or otherwise dispose of proceedings commenced before his or her resignation or retirement.

PART IV

JUDICIAL SERVICE COMMISSION

172 Judicial Service Commission

(1) There is a Judicial Service Commission consisting of—

- (a) the Chief Justice, who is the chairperson of the Commission;
- (b) the Judge President;
- (c) the Minister responsible for the administration of justice;
- (d) the Attorney-General;
- (e) a person nominated by the Public Service Commission;
- (f) six other members appointed by the President.

(2) Of the persons appointed to the Judicial Service Commission by the President—

- (a) three must be legal practitioners chosen from a list of persons nominated by the association, constituted under an Act of Parliament, which represents legal practitioners in Zimbabwe;
- (b) two must be lecturers in law at institutions of higher learning in Zimbabwe;
- (c) one must be a traditional leader.

173 Functions of Judicial Service Commission

The Judicial Service Commission has the functions that are conferred or imposed on it by this Constitution or an Act of Parliament, and these functions may include—

- (a) appointing members of the judiciary, other than judges and traditional leaders, and fixing and regulating their conditions of service;
- (b) exercising disciplinary powers over members of the judiciary;
- (c) ensuring the general well-being and administration of the judiciary and its maintenance in a high state of efficiency; and
- (d) making regulations for any of the purposes set out in this section.

CHAPTER VIII
ATTORNEY-GENERAL

174 Appointment of Attorney-General

(1) There must be an Attorney-General, whose office is a public office but does not form part of the Public Service.

(2) The Attorney-General is appointed by the President after consultation with the Judicial Service Commission.

(3) A person is qualified for appointment as Attorney-General if he or she is qualified for appointment as a judge.

(4) Before commencing the duties of office, the Attorney-General must take the oath of office in the form set out in the First Schedule.

175 Functions and powers of Attorney-General

(1) The Attorney-General is the principal legal adviser to the Government.

(2) By virtue of office, the Attorney-General is—

- (a) a member of the Cabinet, but does not have the right to vote; and
- (b) a member of both Houses of Parliament, but has no right to vote in either House and must not be elected to any office, post or committee of either House.

(3) The Attorney-General has power—

- (a) to undertake criminal prosecutions on behalf of the State in any court, other than a court established by a disciplinary law;
- (b) to prosecute or defend appeals from decisions in criminal proceedings undertaken on behalf of the State;
- (c) to take over and continue criminal proceedings that have been instituted by other persons or authorities in courts, other than courts established by a disciplinary law;
- (d) to prosecute or defend appeals from decisions in proceedings taken over by him or her; and
- (e) at any stage before judgment is delivered, to discontinue—
 - (i) criminal proceedings he or she has undertaken or taken over; or
 - (ii) any appeal from a decision in criminal proceedings he or she has taken over;

and, subject to this Constitution, these powers are vested exclusively in the Attorney-General and in persons acting in accordance with the Attorney-General's general or specific instructions.

(4) The Attorney-General may require the Commissioner-General of Police to investigate and report on anything which, in the Attorney-General's opinion, relates to an offence or alleged or suspected offence, and the Commissioner-General of Police must comply with the requirement.

(5) In his capacity as the Government's legal adviser, the functions of the Attorney-General include—

- (a) providing the Government with legal advice and legal services;
- (b) drawing up contracts, treaties and other documents for the Government; and
- (c) providing the Government with legal representation in courts in Zimbabwe.

(6) The powers of the Attorney-General under this section may be exercised through other persons acting in accordance with his or her general or specific instructions.

(7) An Act of Parliament may confer or impose additional functions on the Attorney-General, but they must not prejudice his or her independence or otherwise be incompatible with this Chapter.

176 Independence of Attorney-General

In the exercise of his or her powers regarding criminal prosecutions, the Attorney-General is not subject to the direction or control of anyone else, and he or she must be guided by the public interest, the interests, of the administration of justice and the need to prevent abuse of legal process.

177 'Conditions of service of Attorney-General

(1) The Attorney-General is entitled to the salary, allowances and other benefits that are prescribed under an Act of Parliament.

(2) The salary and allowances of the Attorney-General must be charged upon and paid out of the Consolidated Revenue Fund.

(3) The salary, allowances and other benefits of the Attorney-General must not be reduced during his or her tenure of office.

178 Removal from office of Attorney-General

(1) The Attorney-General may be removed from office by the President on the advice of the Judicial Service Commission, but only for gross incompetence or misbehaviour or for mental or physical disability that incapacitates the Attorney-General from exercising the functions of the office.

(2) The procedure prescribed in this Constitution for the removal of judges from office must be followed for the removal of the Attorney-General from office.

179 Deputy Attorney-General

(1) To assist the Attorney-General in the exercise of his or her functions, there must be one or more Deputy Attorneys-General, whose offices are public offices but do not form part of the Public Service.

(2) The Deputy Attorney-General or, if there is more than one, a Deputy Attorney-General designated by the President, acts as Attorney-General whenever the office of Attorney-General is vacant or the Attorney-General is unable to exercise his or her functions, but when the Deputy Attorney-General acts as Attorney-General he or she does not become a member of Cabinet and has no right to sit or speak in either House of Parliament.

(3)) The provisions of this Chapter relating to the Attorney-General's appointment, qualifications, oath of office, independence, conditions of service and removal from office apply also to every Deputy Attorney-General.

CHAPTER IX
PUBLIC SERVICE

180 Public Service

(1) There is a Public Service of Zimbabwe, which is responsible for the administration of the country.

(2) The Public Service consists of persons employed by the State other than—

- (a) members of the Defence Forces, the Police Service or the Prison Service;
- (b) members of the judiciary;
- (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 Public Service.

(3) In carrying out its functions, the Public Service must be guided by the following principles

- (a) a high standard of efficiency and professionalism must be promoted and maintained;
- (b) openness must be fostered by providing the public with timely, accessible and accurate information;
- (c) public administration must be accountable;
- (d) services must be provided fairly, equitably and impartially;
- (e) efficient, economic and effective use of resources must be promoted.

181 Organisation and administration of Public Service

An Act of Parliament must provide for the organisation, administration and discipline of the Public Service, including the appointment of persons to posts or grades in the service, their removal from office or reduction in grade, their punishment for misconduct and the fixing of their conditions of service.

182 Public Service Commission

(1) There is a Public Service Commission consisting of—

- (a) a chairperson appointed by the President; and
- (b) at least two and not more than seven other members appointed by the President with the approval of the Senate.

(2) Persons appointed to the Public Service Commission must be chosen for their ability and experience in administration or their professional qualifications or their general suitability for appointment, and at least one of them must have held a post or grade in the Public Service for one or more periods amounting to at least five years.

183 Functions of Public Service Commission

The Public Service Commission has the functions that are conferred or imposed on it by this Constitution or an Act of Parliament, and these functions may include—

- (a) appointing persons to hold posts or grades in the Public Service;
- (b) fixing and regulating conditions of service of members of the Public Service;
- (c) exercising disciplinary powers over members of the Public Service;

- (d) ensuring the general well-being and administration of the Public Service and its maintenance in a high state of efficiency; and
- (e) making regulations for any of the purposes set out in this section.

184 Permanent Secretaries

The Chief Secretary to the President and Cabinet, and Permanent Secretaries of Ministries, must be appointed by the President on the advice of the Public Service Commission.

185 Ambassadors and other principal representatives of Zimbabwe abroad

(1) The President may appoint persons to hold the office of ambassador or other principal representative of Zimbabwe in other countries or accredited to international organisations.

(2) The President may at any time remove a person from the post of ambassador or principal representative of Zimbabwe.

(3) Before appointing or removing a person as ambassador or principal representative of Zimbabwe, the President must consult the Public Service Commission.

CHAPTER X DEFENCE FORCES

186 Defence Forces

The Defence Forces of Zimbabwe consist of an army, an air force and any other services that may be established under an Act of Parliament.

187 Primary function of Defence Forces

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

188 Deployment of Defence Forces

- (1) With the authority of the President, the Defence Forces may be deployed in Zimbabwe—
 - (a) in defence of Zimbabwe;
 - (b) in support of the Police Service in the maintenance of public order; or
 - (c) in support of the Police Service and other civilian authorities in the event of an emergency or disaster.
- (2) With the authority of the President, the Defence Forces may be deployed outside Zimbabwe—
 - (a) on peace-keeping operations under the auspices of the United Nations Organisation, African Union, Southern African Development Community or any other international or regional organisation;
 - (b) to defend the territorial integrity of a foreign country;
 - (c) in fulfilment of an international commitment; or
 - (d) in defence of Zimbabwe's national security or national interests.
- (3) A deployment of the Defence Forces outside Zimbabwe, otherwise than in peacekeeping operations or in fulfilment of multilateral international commitments, must be rescinded unless

it is approved by a resolution passed within seven sitting days of the deployment at a joint sitting of the Senate and the National Assembly.

189 Political accountability for deployment of Defence Forces

When the Defence Forces are deployed—

- (a) in Zimbabwe to assist in the maintenance of public order; or
- (b) outside Zimbabwe;

the President must cause Parliament to be informed, promptly and in appropriate detail, of the reasons for their deployment and—

- (i) where they are deployed in Zimbabwe, the place where they are deployed;
- (ii) where they are deployed outside Zimbabwe, the country in which they are deployed.

190 Command of Defence Forces

(1) The President, as Commander-in-Chief of the Defence Forces, has power to determine their operational use.

(2) An Act of Parliament may provide that—

- (a) the Defence Forces are to be under the command of a single Commander; or
- (b) each service of the Defence Forces, or any two or more of them jointly, are to be under the command of a separate Commander.

(3) Every Commander of the Defence Forces, and every Commander of a service of the Defence Forces, must be appointed by the President after consultation with the Defence Forces Service Commission and the Minister responsible for defence.

(4) Every Commander of the Defence Forces, and every Commander of a service 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.

191 Organisation and administration of Defence Forces

An Act of Parliament must provide for the organisation, administration and discipline of the Defence Forces, including the appointment of persons to offices or ranks in the Defence Forces, their removal from office or reduction in rank, their punishment for breaches of discipline and the fixing of their conditions of service.

192 Defence Forces Service Commission

(1) There is a Defence Forces Service Commission consisting of—

- (a) a chairperson, who must be the chairperson of the Public Service Commission or his or her delegate; and
- (b) at least two and not more than seven other members appointed by the President.

(2) Persons appointed to the Defence Forces Service Commission must be chosen for their ability and experience in administration or their professional qualifications or their general suitability for appointment, and 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.

(3) The Defence Forces Service Commission has the functions that are conferred or imposed on it by this Constitution or an Act of Parliament, and these functions may include—

- (a) appointing persons to hold posts or ranks in the Defence Forces;
- (b) fixing and regulating conditions of service of members of the Defence Forces;
- (c) determining 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) ensuring the general well-being and administration of the Defence Forces and their maintenance in a high state of efficiency;
- (e) making regulations for any of the purposes set out in this subsection.

CHAPTER XI POLICE SERVICE

193 Police Service and its functions

- (1) There is a Police Service of Zimbabwe, which is responsible for—
- (a) detecting, preventing and investigating crime;
 - (b) preserving internal security;
 - (c) maintaining public order;
 - (d) protecting and securing the inhabitants of Zimbabwe and their property; and
 - (e) upholding and enforcing this Constitution and 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.

194 Commissioner-General of Police

(1) The Police Service is under the command of a Commissioner-General of Police appointed by the President.

(2) 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.

195 Organisation and administration of Police Service

An Act of Parliament must provide for the organisation, administration and discipline of the Police Service, including the appointment of persons to offices or ranks in the Police Service, their removal from office or reduction in rank, their punishment for breaches of discipline and the fixing of their conditions of service.

196 Police Service Commission

- (1) There is a Police Service Commission consisting of—
- (a) a chairperson, who must be the chairperson of the Public Service Commission or his or her delegate; and
 - (b) at least two and not more than seven other members appointed by the President.

(2) Persons appointed to the Police Service Commission must be chosen for their ability and experience in administration or their professional qualifications or their general suitability for

appointment, and at least one of them must have held senior rank in the Police Service for one or more periods amounting to at least five years.

(3) The Police Service Commission has the functions that are conferred or imposed on it by this Constitution or an Act of Parliament, and these functions may include—

- (a) appointing persons to hold posts or ranks in the Police Service;
- (b) fixing and regulating conditions of service of members of the Police Service;
- (c) determining 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) ensuring the general well-being and administration of the Police Service and its maintenance in a high state of efficiency;
- (e) making regulations for any of the purposes set out in this subsection.

CHAPTER XII PRISON SERVICE

197 Prison Service and its function

There is a Prison Service of Zimbabwe, which is responsible for—

- (a) the administration of prisons in Zimbabwe; and
- (b) the protection of society from criminals through the incarceration and rehabilitation of offenders and their re-integration into society.

198 Commissioner of Prisons

(1) The Prison Service is under the command of a Commissioner of Prisons appointed by the President.

(2) The Commissioner of Prisons must exercise his or her command in accordance with general directions of policy given by the Minister responsible for prisons.

199 Organisation and administration of Prison Service

An Act of Parliament must provide for the organisation, administration and discipline of the Prison Service, including the appointment of persons to offices or ranks in the Prison Service, their removal from office or reduction in rank, their punishment for breaches of discipline and the fixing of their conditions of service.

200 Prison Service Commission

(1) There is a Prison Service Commission consisting of—

- (a) a chairperson, who must be the chairperson of the Public Service Commission or his or her delegate; and
- (b) at least two and not more than seven other members appointed by the President.

(2) Persons appointed to the Prison Service Commission must be chosen for their ability and experience in administration or their professional qualifications or their general suitability for appointment, and at least one of them must have held senior rank in the Prison Service for one or more periods amounting to at least five years.

(3) The Prison Service Commission has the functions that are conferred or imposed on it by this Constitution or an Act of Parliament, and these functions may include—

- (a) appointing persons to hold posts or ranks in the Prison Service;
- (b) fixing and regulating conditions of service of members of the Prison Service;
- (c) determining the nature of disciplinary powers to be exercised over members of the Prison Service, and the manner and circumstances in which they are to be exercised;
- (d) ensuring the general well-being and administration of the Prison Service and its maintenance in a high state of efficiency;
- (e) making regulations for any of the purposes set out in this subsection.

CHAPTER XIII
INDEPENDENT COMMISSIONS

PART I
ZIMBABWE ELECTORAL COMMISSION

201 Establishment and composition of Zimbabwe Electoral Commission

(1) There is a Zimbabwe Electoral Commission consisting of—

- (a) a chairperson appointed by the President after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders; and
- (b) eight other members appointed by the President from a list of not fewer than twelve nominees submitted by the Committee on Standing Rules and Orders.

(2) The chairperson of the Zimbabwe Electoral Commission must be a judge or former judge of the Supreme Court or the High Court, or a person qualified for appointment as such a judge.

(3) At least four members of the Zimbabwe Electoral Commission, apart from the chairperson, must be women.

(4) Persons appointed to the Zimbabwe Electoral Commission must be chosen for their integrity and their experience and competence in the conduct of affairs in the public or private sector.

(4) Members of the Zimbabwe Electoral Commission must be appointed for a term of six years, and their appointment may be renewed for one further term only.

202 Functions and powers of Zimbabwe Electoral Commission

The Zimbabwe Electoral Commission has the following functions

- (a) to prepare for, conduct and supervise—
 - (i) elections to the office of President and to Parliament; and
 - (ii) elections to the governing bodies of local authorities; and
 - (iii) referendums;

and to ensure that those elections and referendums are conducted efficiently, freely, fairly, transparently and in accordance with the law;

- (b) to register voters in consultation with the authority charged under an Act of Parliament with the responsibility of registering births, deaths, national identification and citizenship.

- (c) to compile voters' rolls and registers; and
- (d) to ensure the proper custody and maintenance of voters' rolls and registers; and
- (e) to design, print and distribute ballot papers, approve the form of and procure ballot boxes, and establish and operate polling centres; and
- (f) to determine limits of boundaries of Local Authority Wards, National Assembly Constituencies and Senatorial Constituencies; and
- (g) to conduct voter education; and
- (h) to accredit observers of elections and referendums in accordance with an Act of Parliament; and
- (i) to give instructions to persons in the employment of the State or of a local authority for the purpose of ensuring the efficient, proper, free and fair conduct of any election or referendum; and
- (j) to exercise any other functions that may be conferred or imposed on the Commission by the Electoral Law or any other law.

203 Disqualification for appointment to Zimbabwe Electoral Commission

A person who is–

- (a) a Member of Parliament;
- (b) a public officer, other than a judge; or
- (c) a member or employee of a statutory body, a Provincial council or a local authority;

is not qualified for appointment to the Zimbabwe Electoral Commission.

204 Members of Zimbabwe Electoral Commission not to be members of political parties

(1) Persons who are members of a political party on their appointment to the Zimbabwe Electoral Commission must relinquish that membership without delay and in any event within fourteen days of their appointment.

(2) If a member of the Zimbabwe Electoral Commission becomes a member of a political party, he or she ceases immediately to be a member of the Commission.

205 Remuneration, allowances and benefits of members of Zimbabwe Electoral Commission

Members of the Zimbabwe Electoral Commission are entitled to such remuneration, allowances and other benefits as may be fixed by or under an Act of Parliament.

206 Removal of member of Zimbabwe Electoral Commission from office

A member of the Zimbabwe Electoral Commission may be removed from office by the President, in the case of the chairperson, with the approval of the Judicial Service Commission and the Committee on Standing Rules and Orders and in the case of other members, with the approval of the Committee on Standing Rules and Orders–

- (a) for inability to exercise the functions of his or her office arising out of physical or mental incapacity;
- (b) for misconduct;
- (c) for incompetence; or

(d) if he or she becomes disqualified for appointment to the Commission,

207 Provisions to ensure independence of Zimbabwe Electoral Commission

The State must make adequate and suitable provision, through legislation and other appropriate means, to ensure that—

- (a) the Zimbabwe Electoral Commission is able to exercise its functions under this Constitution efficiently and independently; and
- (b) the Zimbabwe Electoral Commission's staff carry out their duties conscientiously, fairly and impartially.

208 Reports of Zimbabwe Electoral Commission

In addition to any other report the Zimbabwe Electoral Commission is required to make under this Constitution or any other law, the Commission must without delay submit a report to Parliament on the conduct of every presidential, parliamentary, provincial council and local authority election and every referendum.

PART II

ZIMBABWE HUMAN RIGHTS COMMISSION

209 Establishment and composition of Zimbabwe Human Rights Commission

There is a Zimbabwe Human Rights Commission consisting of—

- (a) a chairperson, who has been qualified for at least five years to practise as a legal practitioner and who is appointed by the President after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders; and
- (b) eight other members appointed by the President from a list of not fewer than twelve nominees submitted by the Committee on Standing Rules and Orders.

(2) If the President does not follow the recommendation of the Judicial Service Commission in appointing a chairperson of the Zimbabwe Human Rights Commission, the President must cause Parliament to be informed as soon as practicable.

(3)) At least four members of the Zimbabwe Human Rights Commission, apart from the chairperson, must be women.

(4) Persons appointed to the Zimbabwe Human Rights Commission must be chosen for their knowledge of and experience in the promotion of social justice or the protection of human rights and freedoms.

210 Functions of Zimbabwe Human Rights Commission

The Zimbabwe Human Rights Commission has the following functions—

- (a) to promote awareness of and respect for human rights and freedoms at all levels of society;
- (b) to promote the development of human rights and freedoms and social justice;
- (c) to monitor and assess the observance of human rights and freedoms in Zimbabwe;
- (d) to recommend to Parliament effective measures to promote human rights and freedoms and social justice;

- (e) to investigate the conduct of any authority or person, where it is alleged that any provision of Chapter III has been violated by that authority or person;
- (f) to assist in the preparation of reports which the Government is required to submit in terms of any international treaty for the protection of human rights and freedoms; and
- (g) to exercise any other functions that may be conferred or imposed on the Commission by or under an Act of Parliament.

211 Powers of Zimbabwe Human Rights Commission

(1) The Zimbabwe Human Rights Commission may require any person, body, organ, agency or institution, whether belonging to or employed by the State, a Local Authority or otherwise to provide the Commission—

- (a) with information on the measures they have taken towards the realisation of the rights and freedoms in Chapters II and III;
- (b) with information needed to prepare reports which the Government is required to submit in terms of any international treaty for the protection of human rights and freedoms.

(2) The Zimbabwe Human Rights Commission may—

- (a) take over and continue any investigation instituted by the Public Protector, where the investigation raises issues that are primarily the concern of the Commission;
- (b) refer to the Public Protector any matter which it considers raises issues that are primarily the concern of the Public Protector.

(3) An Act of Parliament may confer power on the Zimbabwe Human Rights Commission to—

- (a) conduct investigations on its own initiative or on receipt of complaints;
- (b) visit and inspect prisons, places of detention, refugee camps and related facilities in order to ascertain the conditions under which inmates are kept there, and to make recommendations regarding those conditions to the Minister responsible for administering the law relating to those places or facilities;
- (c) visit and inspect places where mentally disordered or intellectually handicapped persons are detained under any law in order to ascertain the conditions under which those persons are kept there, and to make recommendations regarding those conditions to the Minister responsible for administering the law; and
- (d) secure or provide appropriate redress for violations of human rights and freedoms.

PART III

ZIMBABWE ANTI-CORRUPTION COMMISSION

212 Establishment and composition of Zimbabwe Anti-Corruption Commission

(1) There is a Zimbabwe Anti-Corruption Commission consisting of at least four and not more than nine members appointed by the President in consultation with the Committee on Standing Rules and Orders.

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

- (a) at least one must be entitled to practise as a legal practitioner; and
- (b) at least one must be entitled to practise as an auditor or public accountant in Zimbabwe; and
- (c) at least one must have had at least ten years' experience in the investigation of crime.

213 Functions of Zimbabwe Anti-Corruption Commission

The Zimbabwe Anti-Corruption Commission has the following functions–

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

214 Powers of Zimbabwe of Anti-Corruption Commission

An Act of Parliament may confer powers on the Zimbabwe Anti-Corruption Commission, including power–

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

PART IV

ZIMBABWE MEDIA COMMISSION

215 Establishment of Zimbabwe Media Commission

(1) There is a Zimbabwe Media Commission consisting of a chairperson and eight other members appointed by the President from a list of not fewer than twelve nominees submitted by the Committee on Standing Rules and Orders.

(2) Persons appointed to the Zimbabwe Media Commission must be chosen for their knowledge of and experience in the press, print or electronic media, or broadcasting.

216 Functions of Zimbabwe Media Commission

The Zimbabwe Media Commission has the following functions–

- (a) to uphold and develop freedom of the press;
- (b) to promote and enforce good practice and ethics in the press, print and electronic media, and broadcasting;
- (c) to ensure that the people of Zimbabwe have equitable and wide access to information;
- (d) to ensure the equitable use and development of all indigenous languages spoken in Zimbabwe; and
- (e) to exercise any other functions that may be conferred or imposed on the Commission by or under an Act of Parliament.

217 Powers of Zimbabwe Media Commission

An Act of Parliament may confer powers on the Zimbabwe Media Commission, including power to—

- (a) conduct investigations and inquiries into--
 - (i) any conduct or circumstance that appears to threaten freedom of the press; and
 - (ii) the conduct of the press, print and electronic media, and broadcasting;

and

- (b) take disciplinary action against journalists and other persons employed in the press, print or electronic media, or broadcasting who are found to have breached any law or any code of conduct applicable to them.

CHAPTER XIV PUBLIC PROTECTOR

218 Public Protector

(1) There is a Public Protector and, where the President has deemed it desirable, a Deputy Public Protector, whose offices shall be public offices but shall not form part of the Public Service.

(2) The Public Protector and his or her deputy are appointed by the President after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders.

(3) If the President does not follow the recommendation of the Judicial Service Commission in appointing a Public Protector or Deputy Public Protector, the President must cause Parliament to be informed as soon as practicable.

(4) The Deputy Public Protector shall—

- (a) assist the Public Protector in the exercise of his or her functions and duties and the Public Protector may authorise him or her to exercise any of his or her functions or duties on his behalf;
- (b) act as Public Protector whenever the office of the Public Protector is vacant or the Public Protector is for any reason unable to perform the functions of his or her office.

(5) An Act of Parliament may make provision for the qualifications and remuneration of the Public Protector and the Deputy Public Protector.

219 Functions of Public Protector

(1) It is the function of the Public Protector to investigate action taken by any officer, person or authority referred to in subsection (2) in the exercise of the administrative functions of that officer, person or authority in any case where it is alleged that a person has suffered injustice in consequence of that action and it does not appear that there is any remedy reasonably available by way of proceedings in a court or on appeal from a court.

(2) Subject to such exceptions and conditions as may be prescribed by or under an Act of Parliament, the provisions of subsection (1) shall apply in respect of any action taken by the following officers and authorities—

- (a) any Ministry or department or any member of such Ministry or department; and

(b) such other persons or authorities as may be prescribed by or under an Act of Parliament for the purposes of this paragraph.

(3) An Act of Parliament may confer other functions on the Public Protector, and may make provision for the exercise of his functions including, without prejudice to the generality of the foregoing, the officers and authorities whose actions are not subject to investigation by him.

(a) to investigate administrative action taken by a public officer or authority where it is alleged that anyone has suffered prejudice or injustice as a result of that action and appears to have no reasonably available remedy;

(b) to attempt to rectify any prejudice or injustice that is found to have resulted from administrative action referred to in paragraph (a); and

(c) to exercise any other function that may be conferred or imposed on the Public Protector by or under an Act of Parliament.

(4) The Public Protector must exercise his or her functions without fear, favour or prejudice, and in the exercise of those functions he or she is not subject to the direction or control of anyone.

220 Conditions of service of Public Protector

The Public Protector's remuneration and other conditions of service must be provided for in an Act of Parliament.

221 Removal from office of Public Protector

(1) The Public Protector may be removed from office by the President, but only for misbehaviour or for mental or physical disability that incapacitates him or her from exercising the functions of the office.

(2) The procedure prescribed in this Constitution for the removal of judges from office must be followed for the removal of the Public Protector from office.

CHAPTER XV

FINANCE

PART I

PARLIAMENTARY CONTROL OVER TAXATION, EXPENDITURE

AND BORROWING

222 Parliamentary control over taxation

(1) No taxes may be imposed by the State or by any provincial council or local authority unless they have been authorised by an Act of Parliament.

(2) An Act of Parliament may permit a Minister or other organ or agency of Government, including local government, to impose a tax.

223 Parliament to monitor and control government expenditure

(1) It is a function of Parliament to monitor and control expenditure by the State and all organs of government, as well as statutory bodies, in order to ensure that their expenditure does not exceed the amounts appropriated and that any limits and conditions on the appropriations have been observed.

(2) An Act of Parliament must provide for Ministers and Secretaries of Ministries and other divisions of the Government to give reports, on a regular basis or on demand, to the National Assembly or to a committee of the National Assembly on their Ministries' expenditure.

224 Limits of State borrowings, public debt and State guarantees

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 may be guaranteed by the State.

PART II

CONSOLIDATED REVENUE FUND

225 Consolidated Revenue Fund

All fees, taxes and revenues of Zimbabwe, whatever their source, must be paid into a single Consolidated Revenue Fund 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 in order to meet the authority's expenses.

226 Withdrawals from Consolidated Revenue Fund and other public funds

(1) Money may not be withdrawn or issued from the Consolidated Revenue Fund except—

- (a) to meet expenditure that is charged upon that fund by this Constitution or an Act of Parliament;
- (b) by an issue that has been authorised by an Appropriation Act; or
- (c) in accordance with an Act of Parliament, for the purpose of making repayable advances.

(2) Money may not be withdrawn or issued from any public fund, other than the Consolidated Revenue Fund, unless the withdrawal has been authorised by or under an Act of Parliament.

(3) If this Constitution or an Act of Parliament has charged any expenditure upon the Consolidated Revenue Fund or any other public fund, that expenditure must be paid from that fund to the person or authority to whom payment is due.

(4) An Act of Parliament may 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 public fund is to be invested.

227 Debts and other expenses to be charged upon Consolidated Revenue Fund

(1) All debt charges for which the State is liable must be charged upon the Consolidated Revenue Fund.

(2) The costs and expenses incurred in collecting and managing the Consolidated Revenue Fund form the first charge on the Fund.

(3) For the purposes of this section—

"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.

PART III

AUTHORISATION OF EXPENDITURE FROM CONSOLIDATED REVENUE FUND

228 Estimates of revenue and expenditure

(1) At least two months before the end of each financial year, the Minister responsible for finance must lay before the National Assembly estimates of the revenue and expenditure of Zimbabwe for the following financial year.

(2) If Parliament is prorogued or dissolved and it is impossible to lay estimates before the National Assembly two months before the end of a financial year, the estimates must be laid before the National Assembly within thirty days after the Assembly first meets following the prorogation or dissolution.

229 Information to be provided to National Assembly

(1) Not later than six months after the end of every financial year, the Minister responsible for finance must report to the National Assembly the amounts of the revenues and expenditures of Zimbabwe in that financial year.

(2) Either before or at the same time as he or she lays estimates of revenue and expenditure before the National Assembly in terms of section, the Minister responsible for finance must lay before the Assembly—

- (a) a report on the performance of Zimbabwe's economy during the current financial year, including estimates of the gross domestic product, the rate of inflation and the balance of payments;
- (b) details of—
 - (i) all guarantees of payment or repayment of debts and obligations that the State has given in the current financial year; and
 - (ii) all such guarantees given by the State in previous financial years that remain in operation;
- (c) a summary of the economic outlook for Zimbabwe in the coming financial year, including forecasts of the gross domestic product, the rate of inflation and the balance of payments; and
- (d) a statement of fiscal objectives and priorities for the coming financial year.

230 Appropriation Bills

(1) When the National Assembly has approved the estimates of expenditure for any financial year, other than expenditure that is specifically charged on the Consolidated Revenue Fund by this Constitution or an Act of Parliament, a Bill to be known as an Appropriation Bill must 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.

(2) An Appropriation Bill covering the issue and appropriation of money to approved expenditure must be considered and passed by Parliament without delay.

231 Additional or supplementary appropriations

(1) If the money appropriated to a purpose is not sufficient, or expenditure is necessary on a purpose to which no money has been appropriated, an additional or supplementary estimate must be laid before the National Assembly before the end of the financial year for which the money was appropriated or in which the expenditure is to be incurred, as the case may be.

(2) If the National Assembly approves additional or supplementary estimates, an additional or supplementary Appropriation Bill must be introduced into the Assembly, providing for the necessary money to be issued from the Consolidated Revenue Fund to meet the expenditure concerned and appropriating the money to the purposes specified in the estimates, under separate votes for the different heads of expenditure that have been approved.

(3) An additional or supplementary Appropriation Bill covering the issue and appropriation of money to approved expenditure must be considered and passed by Parliament without delay.

232 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 centum* 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 Consolidated 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.

233 Excess or unauthorised expenditure

(1) If it is found that more money has been expended on a purpose than was appropriated to it under 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,

PART IV

SAFEGUARDING OF PUBLIC PROPERTY AND AUDIT OF ACCOUNTS

234 Duty of custodians of public funds and property

(1) In this section

"public funds" includes any money owned or held by the State or any organ or agency of government, including local government;

"public property" means any property owned or held by the State or any organ or agency of government, including local government.

(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.

235 Auditor-General

(1) There must be an Auditor-General, whose office is a public office but does not form part of the Public Service.

(2) The Auditor-General is appointed by the President after consultation with the Committee on Standing Rules and Orders.

(3) The Auditor-General must be chosen for his or her integrity and high moral character, and must have been qualified to practise as an auditor for at least seven years.

(4) The President may remove the Auditor-General from office for inability to discharge his or her functions or for misbehaviour, but only with the approval of the Committee on Standing Rules and Orders.

236 Functions of Auditor-General

(1) The Auditor-General has the following functions—

(a) to audit the accounts, financial statements and financial management of—

(i) all Ministries and departments of the State;

(ii) organisations or persons that receive or hold public funds or property;

(iii) the Reserve Bank of Zimbabwe and other statutory bodies, unless an Act of Parliament specifically excludes them from the provisions of this section; and

- (iv) any other organisations that may be specified in an Act of Parliament;
- (b) without delay to report on the results of those audits to the National Assembly and the Minister responsible for finance;
- (c) to direct the taking of measures to rectify any defects in the safeguarding of public funds or public property; and
- (d) to exercise any other function that may be conferred or imposed on the Auditor-General by or under an Act of Parliament.

(2) In the exercise of his or her functions, the Auditor-General is not subject to the direction or control of anyone except the National Assembly.

237 Matters to be provided for in Act of Parliament

An Act of Parliament may provide for—

- (a) the appointment of persons to assist the Auditor-General in the exercise of his or her functions;
- (b) the conditions of service of the Auditor-General and the persons appointed to assist him or her;
- (c) generally, the safeguarding and control of the assets and finances of the State and of all organs or agencies of government, including local government.

238 Procurement

(1) An Act of Parliament must provide for the establishment and functions of a board or other body to—

- (a) conduct procurement of goods and services on behalf of Ministries, Departments and other agencies of the State;
- (b) control and supervise the procurement of goods and services by Ministries, Departments and other agencies of the State;
- (c) select or supervise the selection of partners for joint ventures with the State or with organs or agencies of the State; and
- (d) exercise any other functions that are conferred or imposed on it by or under an Act of Parliament.

(2) The procurement of goods and services by all Ministries, Departments and other agencies of the State and Government, including local government, must be done in accordance with a system that is fair, open, competitive and cost-effective.

PART V

RESERVE BANK OF ZIMBABWE

239 Establishment and object of Reserve Bank of Zimbabwe

1) There must be a central bank of Zimbabwe, to be called the Reserve Bank of Zimbabwe.

(2) The primary object of the Reserve Bank of Zimbabwe is to protect the value of the Zimbabwean currency in the interests of balanced and sustainable economic growth.

240 Structure and functions of Reserve Bank of Zimbabwe

(1) An Act of Parliament must provide for the structure and organisation of the Reserve Bank of Zimbabwe 3 Parliament must provide for the functions of the Reserve Bank of Zimbabwe, in particular the following–

- (a) the regulation of the monetary system;
- (b) the formulation and execution of monetary policy; and
- (c) any other function that is customarily exercised by a central bank;

and may confer or impose additional functions on the Reserve Bank, including the registration and supervision of financial institutions.

(3) In the exercise of its functions, the Reserve Bank of Zimbabwe is not subject to the direction or control of anyone, except as otherwise provided in an Act of Parliament, and must exercise its functions independently and without fear, favour or prejudice.

CHAPTER XVI LOCAL GOVERNMENT

PART I PRELIMINARY

241 Tiers of government

The tiers of government in Zimbabwe are–

- (a) the national Government;
- (b) provincial councils to represent people in the provinces into which Zimbabwe is divided; and
- (c) local authorities, that is to say–
 - (i) councils, by whatever name called, to represent and manage the affairs of people in urban areas; and
 - (ii) councils, by whatever name called, to represent and manage the affairs of people in rural areas within the districts into which the provinces are divided.

242 Principles of local government

The following principles apply to the local government system of Zimbabwe–

- (a) local authorities must be democratically elected;
- (b) provincial councils and local authorities must be given as much autonomy as is compatible with good governance;
- (c) functions and responsibilities must be decentralised and transferred from the central Government to provincial councils and local authorities in a co-ordinated manner;
- (d) decentralisation must be a principle applying to all levels of local government so that there is participation by the people and democratic control in decision-making;
- (e) each provincial council and local authority should have a sound financial base with reliable sources of revenue;

- (f) provincial councils and local authorities must be enabled to plan, initiate and execute policies in respect of all matters affecting their communities;
- (g) co-operation between and among provincial councils and local authorities and co-ordination of their activities must be encouraged; and
- (h) incorporation of traditional leaders in local government structures.

243 Local government finances

(1) The State must ensure that provincial councils and local authorities are provided with adequate finance and other resources to enable them to carry out any functions they are required to exercise by law.

(2) The budgets and budgetary processes of provincial councils and local authorities must be such as to promote openness, accountability and effective financial management.

PART II PROVINCIAL GOVERNMENT

244 Provinces

(1) Zimbabwe must be divided into ten provinces, namely—

- (a) Bulawayo;
- (b) Harare;
- (c) Manicaland;
- (d) Mashonaland Central;
- (e) Mashonaland East;
- (f) Mashonaland West;
- (g) Masvingo;
- (h) Matabeleland North;
- (i) Matabeleland South;
- (j) Midlands.

(2) An Act of Parliament may provide for the alteration of the boundaries of provinces, but—

- (a) the number of provinces in Zimbabwe must remain fixed at ten;
- (b) the boundaries of a province must not be altered unless the Zimbabwe Electoral Commission has been consulted.

245 Provincial councils

(1) An Act of Parliament must establish a provincial council for every province.

(2) A provincial council consists of—

- (a) the Provincial Governor for the province, who is the chairperson of the council;
- (b) Senators and members of the National Assembly whose constituencies fall within the province;
- (c) all the councillors of the local authority established for the province, in the case of a metropolitan province;

- (d) such representatives of each local authority in the province as are provided for in the Act of Parliament establishing the council, in the case of a province other than a metropolitan province; and
- (e) such other persons as are provided for in the Act of Parliament establishing the council.

(3) An Act of Parliament establishing a provincial council may provide for members of the Public Service to be non-voting members of the council.

246 Functions of provincial councils

(1) A provincial council is responsible for—

- (a) co-ordinating governmental activities in its province;
- (b) planning development in its province;
- (c) planning and implementing measures for the conservation, improvement and management of natural resources in its province;
- (d) encouraging tourism in its province, and developing facilities for that purpose; and
- (e) exercising any other functions that may be conferred or imposed on the council by or under an Act of Parliament.

(2) An Act of Parliament may assign to the national Government some or all of the functions referred to in subsection (1), to be exercised—

- (a) jointly with one or more provincial councils; or
- (b) exclusively by the national Government, where this is necessary in the interests of efficiency and good governance.

247 Provincial Governors

(1) For each province there is a Provincial Governor appointed by the President.

(2) The office of Provincial Governor is a public office but does not form part of the Public Service.

(3) A Provincial Governor becomes a Senator upon his appointment to the office of Provincial Governor, and remains a Senator for so long as he holds that office.

(4) Provincial Governors preside over meetings of the provincial councils for their provinces and exercise such other functions in relation to their provinces as are conferred or imposed on them by an Act of Parliament.

(5) An Act of Parliament must provide for the appointment of Provincial Governors and for their terms of office and conditions of service.

PART III

LOCAL AUTHORITIES FOR URBAN AND RURAL AREAS

248 Urban local authorities

(1) An Act of Parliament must provide for the establishment of local authorities to represent and manage the affairs of people in urban areas throughout Zimbabwe.

(2) Different classes of local authorities may be established for different urban areas.

249 Districts and district local authorities

(1) An Act of Parliament must provide for the division of provinces into districts and for the establishment of councils of local authorities to represent and manage the affairs of people in rural areas within those districts.

(2) Different classes of local authorities may be established for districts and subdivisions of districts, and two or more different districts or areas may be placed under the management of a single local authority.

250 Functions of local authorities

An Act of Parliament may confer functions on local authorities, including—

- (a) a power to make by-laws, regulations or rules for the effective administration of the areas for which they have been established;
- (b) a power to levy rates and taxes and generally to raise sufficient revenue for them to carry out their objects and responsibilities.

251 Elections to local authorities

Elections of members of local authorities must be held—

- (a) in the case of a general election of members, concurrently with a general election of Members of Parliament and President;
- (b) in the case of an election, other than a general election, to fill one or more casual vacancies, as soon as practicable after the vacancies have occurred.

CHAPTER XVII

TRADITIONAL LEADERS

252 Recognition of traditional leadership

(1) Subject to this Constitution, the institution and status of traditional leadership, in particular chieftainship, must be recognised by law in accordance with the culture, customs and traditions of the people to whom the institution applies.

(2) The functions of traditional leaders are—

- (a) to exercise the functions pertaining to their offices as traditional heads of their people;
- (b) to promote and uphold cultural values among their people, particularly the promotion of traditional family life;
- (c) in the case of Chiefs, to ensure that Communal Land is allocated amongst their people in accordance with law;
- (d) adjudicating in and resolving disputes amongst their people in accordance with law; and
- (e) exercising any other function that may be conferred or imposed on them by or under an Act of Parliament.

253 Recognition and appointment of Chiefs

The President, in accordance with an Act of Parliament, must recognise and formally appoint Chiefs selected in accordance with the laws, customs, traditions and practices of their communities.

254 Councils of Chiefs

(1) A national Council of Chiefs must be established in accordance with an Act of Parliament, to represent all chiefs in Zimbabwe.

(2) Provincial Councils of Chiefs must be established in accordance with an Act of Parliament, to represent chiefs in provinces, districts and other areas of Zimbabwe.

(3) So far as practicable the various traditional communities within the area for which a National or Provincial Council of Chiefs is established must be equitably represented in the membership of the Council.

(4) National and provincial Councils of Chiefs are entitled to elect Chiefs to the Senate in accordance with the Electoral Law.

(5) An Act of Parliament may provide for—

- (a) the election of chiefs to a Council of Chiefs, and the qualifications and disqualifications of candidates for election;
- (b) the tenure of office of members of a Council of Chiefs;
- (c) the remuneration of members of a Council of Chiefs;
- (d) additional functions of a Council of Chiefs; and
- (e) the procedure to be followed at meetings of a Council of Chiefs.

CHAPTER XVIII

GENERAL AND SUPPLEMENTARY PROVISIONS

PART I

GENERAL PROVISIONS AS TO COMMISSIONS

255 Interpretation in Part I

In this Part, unless inconsistent with the context—

"Commission" means a Commission established by this Constitution.

256 Commissions to be independent

Subject to this Constitution, the Commissions—

- (a) are independent and are not subject to the direction or control of anyone; and
- (b) must exercise their functions without fear, favour or prejudice.

257 Membership of Commissions and conditions of service of members

(1) Members of Parliament and members of provincial councils and local authorities are not eligible to be appointed as members of a Commission.

(2) Subject to this Constitution, an Act of Parliament may provide for—

- (a) further qualifications and disqualifications for membership of a Commission;
- (b) the tenure of office of members of a Commission; and
- (c) the remuneration of members of a Commission.

(3) The salaries payable to members of Commissions must not be reduced during the members' tenure of office.

258 Members of Commissions to take oaths of loyalty and office

Before exercising the functions of their office, members of Commissions must take the oaths or affirmations of loyalty and office set out in the First Schedule.

259 Functions and procedure of Commissions

(1) 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.

(2) An Act of Parliament may confer additional functions on a Commission and may regulate the manner in which a Commission exercises its functions.

(3)) An Act of Parliament referred to in subsection (2) 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.

260 Commissions to report annually to Parliament

Every Commission must submit a report to the Senate and the National Assembly, not later than the 31st December in any year, on the Commission's operations and activities during the previous year.

PART II INTERNATIONAL LAW

261 Application of 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 or any statutory instrument.

(2) When interpreting legislation, every court or tribunal must adopt any reasonable interpretation of the legislation that is consistent with international law in preference to an alternative interpretation that is inconsistent with international law.

262 Effect of international treaties, etc.

(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 officially 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 to be concluded or executed by the President or under the President's authority, the President must cause Parliament to be informed 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 President'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 their 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.

PART III
GENERAL PROVISIONS

263 Diligent performance of constitutional obligations

All Constitutional obligations must be performed diligently and without delay.

264 Disclosure of assets by public officers

- (1) An Act of Parliament must provide for the periodical disclosure of income and assets by–
- (a) persons who occupy public offices specified in this Constitution; and
 - (b) other public officers who occupy managerial posts or positions of leadership or whose functions involve the control or administration of public money.
- (2) The Act of Parliament referred to in subsection (1) may provide for–
- (a) the disclosure of income and assets by persons, other than those mentioned in that paragraph, who occupy positions of leadership in bodies in which the State or the public has a financial interest;
 - (b) penalties, including forfeiture of property, for a failure or refusal to make full disclosure under the Act.

265 Funding for political parties

To enhance multi-party democracy, an Act of Parliament–

- (a) must provide for the fair and equitable funding of political parties that contest parliamentary elections;
- (b) may regulate the funding of political parties.

266 Alteration in conditions of service of State employees

(I) In this section–

"State employee" includes–

- (a) a member of the judiciary;
- (b) a member of the Defence Forces, the Police Service, the Prison Service or the Public Service;
- (c) a member of the staff of Parliament;
- (d) a person employed on the staff of any Commission established by this Constitution; and
- (e) a person employed to assist the Auditor-General;
- (f) anyone else who is permanently employed by the State or in a service or force that is wholly controlled by the State.

(2) A law must not increase or permit an increase in–

- (a) the number or level of posts that may be occupied by State employees;
- (b) the fixed salary or salary scale applicable to any post, grade or rank held or to be held by a State employee;
- (c) the bonuses, allowances or similar benefits that may be paid or granted to State employees; or
- (d) the rate of pensions, gratuities or similar benefits that may be paid to or in respect of State employees;

unless the Minister responsible for finance, having regard to the direct or indirect financial implications of the increase, has agreed to it.

(3)) A law must not provide for or permit a general decrease in the hours of work to be performed by State employees unless the Minister responsible for finance, having regard to the direct or indirect financial implications of the decrease, has agreed to it.

(4) A law must not provide for or permit a reduction in the fixed salary or salary scale applicable to any State employee unless–

- (a) the employee has consented to the reduction; or
- (b) the reduction is imposed as a result of the employee having been found guilty of misconduct or an offence against discipline.

267 Pensions

The provisions of Schedule 5 shall apply in respect of the pension rights of public officers and the remittability of pensions.

268 Commencement of this Constitution, transitional provisions and savings

The Fifth 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 IV
INTERPRETATION

269 Application of Part III

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

270 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;

"actual sitting day" means a sitting day on which the Senate or the National Assembly actually sits;

"amend" includes vary, alter, modify, add to, delete or adapt;

"appointed day" means the day appointed for the commencement of this Constitution;

"Chief" means a Chief referred to in section *two hundred and fifty-three*;

"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 or other traditional leader;

"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 of Zimbabwe;

"Council of Chiefs" means a Council of Chiefs referred to in section *two hundred and fifty-four*;

"customary law" means the customary law of the indigenous people of Zimbabwe or of any section or community of Zimbabwe's indigenous 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 or force;
- (c) a prison 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;

"Electoral Law", in relation to--

- (a) presidential and parliamentary elections, means an Act of Parliament that regulates the election of the President;

- (b) parliamentary elections, means an Act of Parliament that regulates the election of Members of Parliament;
 - (c) local authorities, means an Act of Parliament that regulates the election of members of local authorities;
 - (d) referendums, means an Act of Parliament that regulates the conduct of referendums;
- "financial year" means the twelve-month period ending on the 31st December; "functions" includes powers and duties;
- "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 or of members of a local authority, as the case may be;
- "Government" means the Government of Zimbabwe;
- "House", unless otherwise qualified, means the Senate or the National Assembly;
- "international organisation" means an organisation whose membership consists of two or more independent states or in which two or more independent states are officially represented;
- "international treaty" means a convention, treaty or agreement with one or more foreign states or governments or international organisations;
- "judge" means a judge of the Constitutional Court, the Supreme Court or the High Court, and includes the Chief Justice, the Deputy Chief Justice and the Judge President;
- "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 or similar body established by law to regulate the affairs of a local community;
- "member", in relation to a statutory body, provincial council or local authority, means a person who is appointed or elected to a council, board or other authority which—
- (a) is a statutory body, provincial council or local authority; or
 - (b) is responsible for administering the affairs of the statutory body, provincial council or local authority;
- "Member of Parliament" means a Senator or a Member of the National Assembly;
- "metropolitan province" means the province of Bulawayo or Harare, referred to in section *two hundred and forty-four*;

"Minister" includes a person exercising the functions of a Minister, whatever his or her title;

"Money Bill" means a Bill that contains provisions dealing with—

- (a) the appropriation of money from the Consolidated Revenue Fund or from some other fund vested in or controlled by the Government; or
- (b) the imposition of a tax for the benefit of the State or the Government;

"oath" includes affirmation;

"period of public emergency" means a period when a declaration of a state of public emergency under section *one hundred* is in effect;

"person" means an individual or a body of persons, whether corporate or unincorporated;

"President" means the President of Zimbabwe;

"provincial council" means a provincial council established under an Act of Parliament referred to in section *two hundred and forty-five*;

"Provincial Governor" means a Provincial Governor referred to in section *two hundred and forty-four*;

"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 Service" has the meaning given to it by section *one hundred and eighty*;

"session" means the sittings of Parliament beginning when Parliament first meets after a prorogation or dissolution and ending when Parliament is next prorogued or is dissolved without having been prorogued;

"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 Senate or the National Assembly, as the case may be, to be a sitting day, whether or not the Senate or the National Assembly meets on that day;

"Speaker" means the Speaker of the National Assembly elected in terms of section *one hundred and twelve*;

"Standing Orders" means rules or orders made in terms of section *one hundred and thirty-two*;

"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 document 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 any Act of Parliament, and includes Standing Orders;

"tax" includes a duty, rate, levy or due;

"traditional leader" includes a Chief, headperson or village head;

"Zimbabwe" means the Republic of Zimbabwe.

271 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, 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.

272 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.

273 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.

274 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) 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.

275 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.

276 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.

277 Appointments

(1) A power under this Constitution to appoint a person to an office includes a similar power to

- (a) reappoint the person to that office;
- (b) appoint a person on promotion or transfer to that office;
- (c) appoint a person to act in that office;
- (d) 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) 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) 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) 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.

(5) 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.

278 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 President of the Senate;
- (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.

279 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.

280 When person not regarded as holding public office

For the purposes of this Constitution, a person is not to be regarded as holding public office solely on the ground that he or she receives a pension, half-pay, retired pay or some other similar allowance in respect of previous service in a public office.

281 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 maximum permissible 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.

282 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.

283 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 matter—

(a) the power to enact that Act of Parliament must be exercised subject to this Constitution;

(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; and

(c) the matter may be provided for in the Act itself or in a statutory instrument lawfully made under the Act.

284 Inconsistencies between different texts of Constitution

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

FIRST SCHEDULE (Sections 83, 88, 92, 107,112 and 117)

OATHS AND AFFIRMATIONS

PART I

OATH OR AFFIRMATION OF PRESIDENT

I, swear [or solemnly affirm] that as President of the Republic 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 endeavour to

- promote whatever will advance, and oppose whatever may harm, Zimbabwe;
- protect and promote the rights of the people of Zimbabwe;
- discharge my duties with all my strength to the best of my knowledge and ability and true to the dictates of my conscience; and
- 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 absence, before the next most senior judge available.

PART 11

OATH OR AFFIRMATION OF VICE-PRESIDENT

!, swear [or solemnly affirm] that as Vice-President of the Republic 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 assist the President to the best of my ability in the discharge of his executive functions, whenever he calls upon me to do so.

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

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

PART III

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 conscientiously and to the best of my ability.

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

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

PART IV

OATH OR AFFIRMATION OF PRESIDENT OF THE SENATE, SPEAKER, SENATOR OR MEMBER OF THE NATIONAL ASSEMBLY

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 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 Chief Justice or the next most senior judge available.

PART V

JUDICIAL OATH OR AFFIRMATION

I, do swear [or solemnly affirm] that I will well and truly serve Zimbabwe in the office of and I will do right to all manner of people after the laws and usages of Zimbabwe, without fear or favour, affection or ill-will.

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

Where the person taking this oath or affirmation is a Chief Justice, Deputy Chief Justice, Judge President or a Judge, it is to be taken before the President or Vice-President, and in the case of Presidents of the Labour and Administrative Courts, 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.

PART VI

GENERAL OATH OR AFFIRMATION OF LOYALTY

I, swear [or solemnly affirm] that I will be faithful 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.

PART VII

GENERAL 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,

SECOND SCHEDULE (Section 63)
LIMITATIONS ON RIGHTS DURING EMERGENCIES

PART I
PRELIMINARY

Interpretation in Second Schedule

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 11 of Chapter III;

"review tribunal" means the tribunal referred to in subparagraph (1) of paragraph 4.

PART II
LIMITATIONS ON FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS DURING
EMERGENCIES

Rights that may not be limited

An emergency law may limit any of the fundamental human rights or freedoms except the following—

- (a) the right to life set out in section 37;
- (b) the rights, set out in section 38-
 - (i) to be treated with humanity and respect for inherent human dignity;
 - (ii) to challenge the lawfulness of arrest or detention;
- (c) the right not to be subjected to medical or scientific experiments, set out in section 39;
- (d) the right not to be held in slavery or servitude, set out in section 40;
- (e) the right to human dignity and reputation set out in section 42;
- (f) the right, set out in section 43, not to be treated in an unfairly discriminatory manner on the ground of race, colour, tribe, place of birth, ethnic or social origin, language, class, culture, sex, gender, marital status, pregnancy, disability;
- (g) the right to a fair trial, set out in section 50;
- (h) the right to a fair hearing, set out in section 51.

Extent of limitations permitted

3. (1) Any limitation on a fundamental human right or freedom under this Schedule—
- (a) must be no greater than is strictly required by the emergency; and
 - (b) must be consistent with Zimbabwe's obligations under international law.

(2) If a state of public emergency is declared under section 101 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.

PART III
PREVENTIVE DETENTION

Detainees Review Tribunal

4. (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 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.

Basic rights of detainees

5. (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;
 - (iii) to advise or inform a family member or friend about the detention;

and must be informed as soon as reasonably practicable of their rights under this paragraph; and

- (c) must be treated with humanity 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

(1) Every detainee's case must be submitted to the review tribunal within thirty days after his or her initial 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 thirty-day period includes a reference to lesser periods of detention that amount to thirty days, in the case of a detainee who is released within thirty days after being initially detained and is then re-detained within thirty days after that release.

Recommendations of review tribunal

7. 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.

Right of detainee to apply to High Court for release

8. (1) A detainee who has been held in detention for more than six months may apply to the High Court for release, and on such an application the Court must order the detainee's release unless it is satisfied that his or her continued detention is a threat to public security.

(2) The High Court may impose reasonable conditions on a detainee's release under subparagraph (1).

(3) A detainee who has made an application under subparagraph (1) retains the right to have his or her case submitted to the Review Tribunal under paragraph 6(2)

Released detainees not to be re-detained on same grounds

9. (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.

THIRD SCHEDULE (Sections 82,106, 111 and 1.46)

QUALIFICATIONS FOR SENATORS, MEMBERS OF NATIONAL ASSEMBLY AND VOTERS

PART I

QUALIFICATIONS FOR SENATORS AND MEMBERS OF NATIONAL ASSEMBLY

Qualifications for election as Senator

1. (1) A person is qualified for election as a Senator referred to in section 106(1)(a) if he or she—

- (a) registered as a voter; and
- (b) is of or over the age of forty years;

unless he or she is disqualified under paragraph 3.

(2) A person is qualified for election as a Senator under section 106(1)(c) if he or she—

- (a) is registered as a voter; and
- (b) holds the office of Chief;

unless he or she is disqualified under paragraph 3.

Qualifications for election as Member of National Assembly

2. 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 eighteen years;

unless he or she is disqualified under paragraph 3

Disqualification for election to Parliament

3. (1) A person is disqualified for election as a Senator or Member of the National Assembly if he or she is disqualified under paragraph 5 for registration as a voter, whether or not he or she is actually registered.

(2) A person is disqualified for election at an election for filling a casual vacancy in the Senate or the National Assembly if he or she is already a Senator or Member of the National Assembly.

PART II

QUALIFICATIONS AND DISQUALIFICATIONS OF VOTERS

Qualifications for registration as voter

4. Subject to paragraph 5, a person is qualified to be registered as a voter on the voters roll of a constituency or other electoral area if he or she--

- (a) is of or over the age of eighteen years;
- (b) is a Zimbabwean citizen; and
- (c) meets any requirements as to residence in the constituency or area that may be prescribed in the Electoral Law.

Disqualifications for registration as voter

5. (1) 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;
- (c) while he or she is serving a sentence of imprisonment of six months or more imposed as a result of a conviction of-
 - (i) an offence in Zimbabwe; or
 - (ii) any conduct which, if committed in Zimbabwe, would have constituted an offence;
- (d) if he or she has been convicted of an offence under the Electoral Law and declared by a court to be disqualified for registration as a voter or from voting, for the period he or she has been declared disqualified.

(2) For the purposes of this paragraph-

- (a) two or more terms of imprisonment that are required to be served consecutively are to be regarded as a single term for the aggregate period of the terms;
- (b) two or more terms of imprisonment that are required to be served concurrently are to be regarded as a single term of imprisonment for the period of the longest of the terms;

- (c) no account must be taken of a sentence of imprisonment imposed as an alternative to or in default of—
 - (i) the payment of a fine; or
 - (ii) the undergoing of any other form of non-custodial punishment.

Right of registered voters to vote

6. Anyone registered on the voters roll of a constituency or other electoral area is entitled to vote at an election held for that constituency or area unless he or she—

- (a) has ceased to be a Zimbabwean citizen; or
- (b) has become disqualified for registration as a voter under paragraph 5; or
- (c) is serving a sentence of imprisonment.

FOURTH SCHEDULE (Section 135)

PROCEDURE AS TO BILLS AND OTHER MATTERS IN PARLIAMENT

PART I

INTRODUCTION OF BILLS, MOTIONS AND PETITIONS

House of origin of Bills

1. (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

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.

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

3. (1) Except on the recommendation of a Minister, neither House 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, deals with any of the following matters-
 - (i) imposing or increasing a tax;
 - (ii) imposing or increasing a charge on the Consolidated Revenue Fund or other public fund of the State, or varying such a charge in any other way than by reducing it;
 - (iii) compounding or remitting any debt due to the State or condoning any failure to collect taxes;
 - (iv) authorising the making or raising of a loan by the State;

- (v) condoning unauthorised expenditure;
- (b) proceed upon any motion, including an amendment to a motion, the effect of which, in the opinion of the President of the Senate or the Speaker, as the case may be, is that provision should be made for anything that is specified in subparagraph (a); 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 (a).

(2) Subparagraph (1) does not apply to a Bill introduced, motion or amendment moved or petition presented by a Minister.

PART II

PROCEDURE REGARDING BILLS

Transmission of Bills between Houses

4. (1) A Bill which originated in one House 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 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 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

5. (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 sitting of the Senate and the National Assembly.

(2) Before the joint sitting, 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.

(3) When a Bill is referred to it under this paragraph, a joint sitting of the Senate and the National Assembly may pass the Bill by the affirmative votes of at least half of the total combined membership of the Houses.

(4) A Bill that has been passed at a joint sitting of the Senate and the National Assembly 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 assent, must be accompanied by a certificate from the Speaker stating that the Bill was passed in terms of this paragraph.

(5) This paragraph does not apply to Constitutional Bills.

Money Bills

6. (1) In this paragraph—

"Money Bill" means a Bill which the Speaker has certified to be a Money Bill.

(2) The Senate does not have power to amend a Money Bill but may recommend that the National Assembly make amendments to it.

(3) 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.

(4) The National Assembly must consider any amendments transmitted to it under this paragraph and may incorporate them into the Money Bill concerned.

(5) 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.

(6) A Money Bill that has been presented to the President pursuant to a resolution under subparagraph (5)-

- (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 assent, must be accompanied by a certificate from the Speaker stating that the Bill was passed in terms of this paragraph.

PART III

REPORTS OF PARLIAMENTARY LEGAL COMMITTEE

Reports of Parliamentary Legal Committee on Bills

7. (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.

8. (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 Cleric of Parliament must report the resolution to the President and the President must as soon as possible, 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.

FIFTH SCHEDULE (Section 267)

PENSIONS

1. Protection of pension rights of public officers

(1) Subject to the provisions of paragraph 2, the law to be applied with respect to any pensions benefits that were granted to any person before the appointed day shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to that person.

(2) Subject to the provisions of paragraph 2, the law to be applied with respect to any pensions benefits not referred to in subparagraph (1) in relation to a public officer or former-public officer in respect of a period of service as a public officer, or any ill-health or injury arising out of and in the course of his official duties during a period of service as a public officer, that—

(a) commenced before the appointed day shall be the law that was in force immediately before that day; or

(b) commenced on or after the appointed day shall be the law in force on the date on which that period of service commenced;

or any law in force at a later date that is not less favourable to the person entitled to such pensions benefits.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this paragraph, be deemed to be more favourable to him than the other law or laws.

(4) All pensions benefits shall be charged upon and paid out of the Consolidated Revenue Fund.

(5) Any law which alters the age at which a person holding public office shall retire or otherwise vacate his office shall not have effect in relation to any public officer who was appointed before that law takes effect unless he consents thereto.

(6) In this paragraph—

"law" shall be construed as including the rules or other instrument setting out the terms of service of the staff of Parliament;

"pensions benefits" means any pensions, commutation of pensions, gratuities or other like allowances or refund of pension contributions, including any interest payable thereon, for persons in respect of their service as public officers or any ill-health or injury arising out of and in the course of their official duties or for the spouses, children, dependants or personal representatives of such persons in respect of such service, ill-health or injury.

(7) References in this paragraph to the law with respect to pensions benefits include, without derogation from their generality, references to the law regulating —

- (a) the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused;
- (b) the circumstances in which any such benefits that have been granted may be increased, withheld reduced in amount or suspended; or
- (c) the amount of any such benefits.

2. Remittability of pensions

(1) Any person who is entitled to receive a pension and who is not ordinarily resident in Zimbabwe shall not be prevented from having remitted to him outside Zimbabwe, free from any deduction, tax or charge, other than ordinary charges, made or levied in respect of its remission-

- (a) any payment of a pension to which he is entitled; and
- (b) subject to such restrictions as may be imposed by or under an Act of Parliament which are not greater than those which could have been imposed immediately before the appointed day, the amount of any commutation of a pension in such cases and to such extent as was prescribed by law immediately before that day.

(1a) Notwithstanding anything in subparagraph (b) of subparagraph (1), provision may be made by or under an Act of Parliament limiting the amount of any commutation of a pension which may be remitted to any person outside Zimbabwe in any period of twelve months, and any such limitation may be greater than might have been imposed or prescribed immediately before the appointed day.

(2) Any amount which a person is entitled to have remitted under this paragraph shall not be deducted from the amount of money that he may be entitled to have remitted outside Zimbabwe by or under this Constitution or any law.

(3) In this paragraph—

"pension" means any pension or annuity which is payable -

- (a) from the Consolidated Revenue Fund to any public officer or former public officer or other person by or under this Constitution or any Act of Parliament; or
- (b) in accordance with the rules of any pension fund to—
 - (i) a person who was a member of that fund upon his retirement on account of age or ill-health or other termination of service or on attaining a specified age; or
 - (ii) the spouse, children or dependants of a person who was a member of that fund upon or after the death of such former member;

and which is payable for the lifetime of the recipient or for a specified period or until the happening of a specified event;

"pension fund" means any scheme or arrangement established or operating in Zimbabwe the principal object of which is to provide benefits for persons who are or have been members of the scheme or arrangement upon their retirement on account of age or ill-health or other termination of service or on attaining a specified age, whether or not such scheme or arrangement also provides for the payment of benefits in other circumstances, or for dependants or nominees of deceased members