

December 2005

## THE CONSTITUTION OF ZAMBIA BILL, 2005

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### MEMORANDUM

The objectives of this Bill are to provide for the –

- (a) commencement of the new Constitution of the Republic of Zambia;
- (b) printing and publication of the Constitution;
- (c) savings and transitional provisions of existing State organs, State institutions, administrations, offices, institutions and laws;
- (d) succession to assets, rights, liabilities, obligations and legal proceedings;
- (e) repeal of the Constitution of Zambia Act, 1991 and the Constitution in the Schedule to that Act; and
- (f) matters connected with or incidental to the foregoing.

**Attorney-General**

# THE CONSTITUTION OF ZAMBIA BILL, 2005

## ARRANGEMENT OF ARTICLES

1. Short title
2. Interpretation
3. Repeal of Constitution of Zambia Act, 1991 and existing Constitution Cap. 1
4. Commencement of Constitution
5. Printing and publication of Constitution
6. Existing laws
7. Executive
8. Prerogative of mercy
9. Rights, duties and obligations of Government
10. Succession of institutions, offices, assets and liabilities
11. Existing offices
12. Pensions, gratuities and other benefits
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15. Judiciary
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17. Local government
18. Political parties
19. Commissions
20. Currency
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**A BILL**

## ENTITLED

An Act to provide for the commencement of the new Constitution of the Republic of Zambia; to provide for the printing and publication of the Constitution; to provide for the savings and transitional provisions of existing State organs, State institutions, administrations, offices, institutions and laws; to provide for succession to assets, rights, liabilities, obligations and legal proceedings; to provide for the repeal of the Constitution of Zambia Act, 1991 and the Constitution in the Schedule to that Act; and to provide for matters connected with or incidental to the foregoing.

**Enactment**

**ENACTED** by the Parliament of Zambia

**Short title**

1. This Act may be cited as the Constitution of Zambia Act, 2005.

**Interpretation**

2. (1) In this Act, unless the context otherwise requires –

“Constitution” means the Constitution set out in the Schedule to this Act;

“effective date” means the date of the commencement of this Act and the Constitution as provided under section four;

“existing Constitution” means the Constitution of Zambia, 1991 in force immediately before the effective date; and

“existing law” means the Laws of Zambia as they existed immediately before the effective date, including any statutory instrument issued or made before that date which is to come into force on or after the effective date.

(2) Except where the context otherwise requires, words and expressions used in this Act have the same meaning as in the Constitution.

**Repeal of  
Constitution of  
Zambia Act, 1991  
and existing  
Constitution  
Cap. 1**

3. The Constitution of Zambia Act, 1991 and the existing Constitution in the Schedule to that Act are hereby repealed.

**Commencement  
of Constitution**

4. Subject to this Act, the Constitution shall come into operation on the date of assent of this Act.

**Printing and  
publication of  
Constitution**

5. The Constitution may be printed and published by the Government Printer separately from this Act and the production of a copy of the Constitution as printed shall be prima facie evidence in all courts and for all purposes in connection with the Constitution.

**Existing laws**

6. (1) All existing laws shall continue in force and be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(2) The National Assembly shall, within two years of the effective date, make amendments to any existing law to bring that

law into conformity with, or to give effect to, this Act or the Constitution.

**Executive**

7. (1) The President shall continue to serve as President for the unexpired term of that office as specified by the existing Constitution in accordance with the Constitution.

(2) A person holding the post of Vice-President, Minister or Deputy Minister shall continue to hold that position under the Constitution until that appointment is terminated by the President in accordance with the Constitution.

**Prerogative of mercy**

8. The prerogative of mercy bestowed on the President under this Constitution may be exercised in respect of any criminal offence committed before the effective date.

**Rights, duties and obligations of Government**

9. Subject to the Constitution, all rights, duties and obligations of the Government subsisting immediately before the effective date shall continue as rights, duties and obligations of the Government under the Constitution.

**Succession of institutions, offices, assets and liabilities**

10. (1) If any provision of the Constitution has altered the name of an office or institution existing immediately before the effective date the office or institution as known by the new name shall be the legal successor of the first named office or institution.

(2) All liabilities, property and other assets that were incurred or vested in the President, the State, Government or the Republic immediately before the effective date shall continue to be so incurred or vested after the effective date.

(3) Any property that was liable to escheat or to be forfeited to the State, Government or the Republic immediately before the effective date shall be liable to escheat or to be so forfeited after the effective date.

**Existing offices**

11. (1) A person who is holding or acting in an office established by the existing Constitution immediately before the effective date shall continue to hold or act in that office as if appointed to that office under the Constitution and shall be considered as having taken any necessary oath required to be taken under the Constitution, unless the President requires that person to take any oath specified by the Constitution or any other law.

(2) A public officer shall continue to hold or act in that office as if appointed to that position under the Constitution and shall be considered as having taken any necessary oath required to be taken under the Constitution, unless the President requires any public officer to take any oath specified by the Constitution or any other law.

(3) This section shall not -

- (a) affect the powers conferred on any person or authority under the Constitution to abolish offices or remove persons from those offices;
- (b) apply to any person who, under the existing law or existing Constitution would have been required to vacate an office at the expiry of any period or on the attainment of any age.

(4) The process of appointing any persons to fill vacancies arising after the effective date shall begin on the effective date and in accordance with the Constitution.

**Pensions,  
gratuities  
and other  
benefits**

**12.** The law applicable to pensions, gratuities or emoluments in respect of public officers 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.

**Legislature**

**13.** (1) The National Assembly existing immediately before the effective date shall continue as the National Assembly for the purposes of the Constitution and the members of the National Assembly shall continue as members until the expiry of their term of office as specified by the existing Constitution.

(2) The person holding the offices of Speaker and Deputy Speaker of the National Assembly immediately before the effective date shall continue as Speaker and Deputy Speaker until another Speaker and Deputy Speaker are elected under the Constitution and shall be considered as having taken any oath specified by the Constitution.

(3) The functions and powers vested in Parliament by the existing Constitution shall be exercised after the effective date by that Parliament for the unexpired term of that Parliament in accordance with the Constitution.

(4) The rules and orders of the National Assembly existing on the effective date shall be the rules and orders of the National Assembly after the effective date but shall be construed with such modifications, adaptations, qualifications and exceptions as are necessary to bring them into conformity with the Constitution.

(5) The National Assembly shall, within six months of the effective date, revise the Standing Orders of the National Assembly in accordance with the Constitution.

(6) All moneys granted, voted or appropriated by the Parliament existing immediately before the effective date, for the current financial year, shall be deemed to have been granted, voted or appropriated in accordance with the Constitution.

(7) The boundaries of a constituency existing immediately before the effective date shall be the boundaries of the constituency until the next delimitation is done in accordance with the Constitution.

**By-elections**

**14.** A by-election held after the effective date shall be held in accordance with the Constitution.

**Judiciary**

**15** (1) Subject to this section, a Judge or judicial officer who held office immediately before the effective date shall continue to hold office as if appointed to that office under the Constitution but may opt to retire in accordance with subsection (2), within twelve months of the effective date.

(2) A Judge who has attained the age of sixty-five years immediately before or on the effective date may retire and shall be entitled on retirement to the benefits that person would have been entitled to at the date of retirement as specified in the existing Constitution.

(3) The process of appointing the Judges of the Supreme and Constitutional Court and Court of Appeal shall commence and be finalised within twelve months of the effective date.



(4) Parliament shall, within twelve months of the effective date, enact legislation to provide for the procedures, rules and administration of the Supreme and Constitutional Court and Court of Appeal.

**Judicial and  
tribunal  
proceedings  
and pending  
matters**

16. (1) Unless otherwise provided under the Constitution, all proceedings pending before any court or tribunal shall continue to be heard and determined by the same court or tribunal or may be transferred to a corresponding court or tribunal established under the Constitution.

(2) Unless otherwise provided under the Constitution, any matter or proceeding that, immediately before the effective date, is pending before an existing commission, office or authority shall continue before the same commission, office or authority or corresponding commission, office or authority established under the Constitution.

**Local  
government**

17. (1) All local authorities shall continue to exist after the effective date until the implementation of the new structure under the Constitution and as provided by an Act of Parliament.

(2) Parliament shall enact legislation for the local government system as provided by the Constitution within two years of the effective date.

(3) All councillors of district councils shall continue as councillors after the effective date until general elections are held in accordance with the Constitution.

(4) The boundaries of a province, district or ward existing immediately before the effective date shall be the

boundaries of that province, district or ward until the next delimitation is done in accordance with the Constitution.

**Political parties**

**18.** (1) A political party in existence immediately before the effective date shall, within twelve months of the effective date, comply with the Constitution and any legislation enacted by Parliament in accordance with Part VIII of the Constitution.

(2) If on the expiry of the period of twelve months, a political party has not complied with the Constitution and any legislation enacted under subsection (1), the political party shall forthwith cease to exist as a political party.

(3) Parliament shall within six months of the effective date enact legislation for the regulation and supervision of political parties.

**Commissions**

**19.** (1) Within twelve months of the effective date the following commissions and committees shall be established or re-established -

- (a) the Civil Service Commission;
- (b) the Teaching Service Commission;
- (c) the Judicial Service Commission;
- (d) the Police and Prisons Service Commission;
- (e) the Anti-Corruption Commission;
- (f) the Anti-Drug Abuse Commission;
- (g) the Parliamentary Service Commission;
- (h) the Human Rights Commission;
- (i) the Gender Equality Commission;
- (j) the Electoral Commission of Zambia;

- (k) the National Fiscal and Emoluments Commission;
- (l) the State Audit Commission;
- (m) the Lands Commission;
- (n) the Police and Public Complaints Commission;  
and
- (o) the Judicial Complaints Commission.

**Currency**

**20.** Nothing in the Constitution affects the validity of notes and **coins** issued immediately before the effective date.

**Budget**

**21.** Parliament shall within twelve months of the effective date enact a Budget Act.

**SCHEDULE**  
**(Section 2 (1))**

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1. Supremacy of Constitution
2. Defence of Constitution
3. Continuous force and effect of Constitution

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58. Freedom not to disclose source
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# THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA

## PREAMBLE

**WE, THE PEOPLE OF ZAMBIA IN EXERCISE OF OUR  
CONSTITUENT POWER;**

**ACKNOWLEDGE** the supremacy of God Almighty;

**DECLARE** the Republic a Christian nation while upholding  
the right of every person to enjoy that person's freedom of  
conscience or religion;

**UPHOLD** the human rights and fundamental freedoms of  
every person and recognise the equal worth of different  
communities and faiths in our Nation;

**COMMITTED** to upholding the values of democracy,  
transparency, accountability and good governance and resolved to  
exercise our inherent and inviolable right as a people to decide,  
appoint and proclaim the means and method to govern ourselves;

**DETERMINED** to ensure that all powers of the State are  
exercised for the sustainable development and in our common  
interest as the people of Zambia;

**RECOGNISE** the multi-ethnic and multi-cultural character  
of our Nation;

**CONFIRM** the equal worth of women and men and their  
right to freely participate, determine and build a sustainable  
political, economic and social order;

**RESOLVE** that Zambia shall remain a free, unitary,  
indivisible, multi-ethnic, multi-cultural, multi-racial, multi -  
religious and multi-party democratic sovereign State;

**AND DIRECT** that all organs and institutions of the State  
abide by and respect our sovereign will;

**DO HEREBY SOLEMNLY ADOPT AND GIVE TO  
OURSELVES THIS CONSTITUTION :**

## PART I

### SUPREMACY AND DEFENCE OF CONSTITUTION

#### Supremacy of Constitution

1. (1) This Constitution is the supreme law of Zambia and any other law that is inconsistent with any of its provisions is void to the extent of the inconsistency.

(2) An act or omission that contravenes any provision of this Constitution is illegal.

(3) A person or a group of persons may bring an action in the Constitutional Court for a declaration that a law is inconsistent with or is in contravention of a provision of this Constitution.

(4) The Constitutional Court may, for the purposes of clause (1), make any declaration that it considers appropriate and issue any order for the implementation of the declaration.

(5) Any person who fails to obey or carry out an order issued under clause (4) commits an offence against this Constitution.

(6) Any person convicted by a court of an offence under clause (5) shall, in addition to any penalty imposed under an Act of Parliament, not be eligible for election or appointment to a public office for ten years beginning with the date that person was convicted.

#### Defence of Constitution

2. (1) Every person has the right and duty -
- (a) to defend this Constitution;
  - (b) to resist or prevent any person or group of persons from overthrowing, suspending,

abrogating or unlawfully amending or reviewing this Constitution; and

(c) to do all in that person's power to secure the continuous operation of this Constitution.

(2) A punishment imposed on a citizen for any action in defence of this Constitution is void from the date of its imposition.

(3) A person who suffers a punishment or loss arising from the defence of this Constitution is entitled to compensation, from the Government, which shall be determined by the Constitutional Court.

(4) An act of any person to establish any form of government, otherwise than as provided in this Constitution, is treason.

**Continuous  
force and  
effect of  
Constitution**

3. Where the operation of this Constitution is at any time interrupted by force or other unlawful act its provisions shall, despite the interruption, continue to have force and effect.

## **PART II**

### **REPUBLIC OF ZAMBIA AND ITS SOVEREIGNTY**

**Republican  
status of  
Zambia**

4. (1) Zambia is a sovereign Republic the territorial boundaries of which are described and delineated in the map set out in the First Schedule.

(2) The Republic of Zambia is a unitary, multi-party, multi-ethnic and multi-cultural democratic State.

(3) The Republic of Zambia shall not be ceded, in whole or in part, to another country.

**Sovereignty  
of Zambia**

5. (1) The sovereign authority of Zambia belongs to the people of Zambia which shall be exercised in accordance with this Constitution and the Laws.

(2) The people of Zambia reserve to themselves any power or authority that is not conferred on any State organ or State institution by this Constitution.

(3) The people of Zambia shall be governed through their will and consent which shall be expressed or exercised through regular, free and fair public elections or referenda.

(4) The Government shall pursue and ensure the participation of the people in the governance of the State in accordance with this Constitution.

**National  
symbols**

6. The National symbols of the Republic set out in the Second Schedule are -

- (a) the National Flag;
- (b) the National Anthem;
- (c) the Coat of Arms;
- (d) the Public Seal; and
- (e) the National Motto.

**Languages**

7. (1) The official language of Zambia is the English language.



(2) Any language, other than the official language, may be used as a medium of instruction in educational institutions or for legislative, administrative or judicial purposes, as provided by or under an Act of Parliament.

(3) All local languages in Zambia are equal and the State shall respect, promote and protect the diversity of languages of the people of Zambia.

### **PART III**

#### **NATIONAL VALUES, PRINCIPLES, OBJECTIVES AND DIRECTIVE PRINCIPLES OF STATE POLICY**

**Application of national values, principles, objectives and directive principles of State policy**

8. (1) The national values, principles, objectives and directive principles of State policy contained in this Part apply to all State organs, State institutions, public officers, citizens, political parties and private bodies whenever any of them –

- (a) applies or interprets this Constitution or any other law; or
- (b) applies, makes or implements policy decisions.

(2) The President shall, once in every year, report to the National Assembly on the progress made in the realisation of the objectives and principles under this Part.

**Political values, principles and objectives**

9. The following are the political values, principles and objectives of the Nation on which all policies and laws shall be based:

- (a) the State and citizens shall at all times defend the independence, sovereignty and territorial integrity of the Republic;

- (b) the State and citizens shall promote national unity and develop a commitment, in accordance with the National Motto, to the spirit of nationhood and patriotism;
- (c) the State shall provide a peaceful, secure and stable political environment which is necessary for economic development;
- (d) all State organs, State institutions and citizens shall work towards the promotion of peace and stability;
- (e) the State shall be based on democratic principles which empower and encourage the active participation of all citizens at all levels in their own governance;
- (f) the State shall be guided by the principle of decentralisation of governmental powers, functions and resources to the people at appropriate levels where they can best manage and direct their own affairs;
- (g) all political and civic associations aspiring to manage and direct public affairs shall retain their autonomy in pursuit of their declared objectives and conform to principles of democracy, transparency and accountability in their internal organization and practice;
- (h) all State organs, State institutions and citizens shall endeavour to build a strong democratic political order and avoid undue influence from other countries and foreign institutions;

- (i) the Government shall ensure gender balance and equitable representation of disadvantaged groups, including the youth and persons with disability, when making appointments to any constitutional office and other State institution;
- (j) the Government shall ensure full participation of women, the youth, persons with disability and all other citizens in the political, social, cultural and economic life of the country;
- (k) the Government shall implement the principle of gender equality and ensure that each gender is not less than thirty per cent of the members of elective or appointive bodies;
- (l) the Government shall recognise the role of civil society in governance and facilitate its role in ensuring the accountability of government; and
- (m) the Government shall take all necessary measures to support the distribution of functions, as well as the checks and balances provided for in this Constitution, among various State organs and State institutions, including the provision of adequate resources to ensure their effective functioning at all levels.

**Socio- economic values, principles and objectives**

**10.** The following are the socio-economic values, principles and objectives of the Nation on which all policies and laws shall be based:

- (a) the State and citizens shall endeavour to build a strong socio-economic order and avoid undue dependence on other countries and foreign institutions;
- (b) as far as possible, moneys for the annual budget shall be derived from the resources of Zambia;
- (c) the State shall endeavour to create an economic environment which encourages individual initiative and self-reliance among the people and promotes private investment;
- (d) the Government shall take all necessary steps to involve the people in the formulation and implementation of development plans and programmes which affect them;
- (e) the Government shall pursue policies that stimulate agricultural, industrial, technological and scientific development and ensure that legislation is enacted to support these policies;
- (f) the State shall protect and promote human rights and fundamental freedoms and enhance the dignity of individuals and communities;
- (g) the Government shall ensure access of the people to independent, impartial, competent and affordable institutions of justice;
- (h) the Government shall ensure and endeavour to maintain national security and peace;

- (i) the State shall endeavour to fulfill the Bill of Rights to achieve social justice and economic development;
- (j) the State shall recognize the significant role that women play in the socio-economic development of society;
- (k) the Government shall guarantee and respect institutions which are charged by the State with responsibility for protecting and promoting human rights and freedoms by providing them with adequate resources to function effectively;
- (l) the State shall give the highest priority to the enactment of legislation establishing measures that protect and enhance the right of the people to equal opportunities in development;
- (m) the Government shall make reasonable provision for the welfare and maintenance of the older members of society;
- (n) the State shall recognize the right of persons with disability to respect and human dignity;
- (o) the State shall promote recreation and sports for the citizens;
- (p) the Government shall strive to eradicate poverty and illiteracy;
- (q) the Government shall promote free and compulsory basic education;
- (r) the Government shall take appropriate measures to afford every citizen equal

opportunity to attain the highest educational standard possible;

- (s) the State shall protect the family as it is the natural and basic unit of society;
- (t) the Government shall institute adequate measures for disaster preparedness and management;
- (u) the Government shall take necessary measures to bring about balanced development of the different areas of the Republic especially between the rural and urban areas;
- (v) the State shall devise land policies which recognize ultimate ownership of land by the people;
- (w) the Government shall strive to create conditions under which all citizens are able to secure adequate means of livelihood and opportunity to obtain employment;
- (x) the Government shall recognise the right of every person to fair labour practices and to safe and healthy working conditions;
- (y) the State shall pursue policies that encourage food security;
- (z) the State shall take measures to preserve, protect and conserve the environment;
- (aa) the Government shall strive to provide clean and safe water, adequate medical and health facilities and shelter for all persons and take

measures to consistently improve such facilities and amenities; and

(bb) the State shall promote sustainable development and the utilization of national resources of Zambia in such a way as to safeguard -

(i) the bio-diversity of the country and to meet the developmental and environmental needs of present and future generations; and

(ii) the ecological balance and protect national resources, including land, water, wetlands, minerals, oil, fauna and flora.

**Cultural values, principles and objectives**

**11.** The following are the cultural values, principles and objectives of the Nation on which all policies shall be based:

(a) the State shall recognise the diversity of the people and promote the different cultures of the country consistent with this Constitution and, in particular, with the Bill of Rights;

(b) the Government shall take measures that are practically possible to promote the use, development and preservation of local languages and promote the development of sign language and braille;

(c) the State and citizens shall endeavour to preserve, protect and generally promote the

culture of maintenance and preservation of public property and Zambia's heritage;

- (d) the State shall devise policies that promote  
Zambian art and music; and
- (e) the citizens shall promote a culture of cooperation, understanding, appreciation, tolerance and respect for each other's customs, traditions and beliefs.

**Foreign policy, principles and objectives**

**12.** The State shall pursue a foreign policy based on the following principles and objectives:

- (a) the promotion of national interest;
- (b) respect for international law and treaty obligations;
- (c) the promotion of regional integration and African unity;
- (d) the settlement of international disputes by peaceful means;
- (e) the promotion of a just world economic order; and
- (f) opposition to all forms of domination, racism and other forms of oppression and exploitation.

**Principles and objectives of accountability and transparency**

**13.** The State shall be governed democratically based on the following principles and objectives:

- (a) the State shall ensure open and transparent government and accountability of public officers, State organs and State institutions;



- (b) all State organs, State institutions and public officers are accountable to the people; and
- (c) the Government shall put in place effective measures to expose and eradicate corruption both in the public and private sectors.

**PART IV**  
**LAWS OF ZAMBIA**

**Laws of Zambia**

**14. The Laws of Zambia consist of -**

- (a) this Constitution;
- (b) laws made by or under the authority of Parliament;
- (c) any orders, rules, regulations and other statutory instruments made by any person or authority under a power conferred by this Constitution or any other law;
- (d) the British laws and statutes which apply or extend to Zambia as prescribed by an Act of Parliament;
- (e) Zambian customary law which is consistent with this Constitution;
- (f) the common law of England which is consistent with this Constitution;
- (g) the rules of law generally known as the doctrines of equity; and
- (h) the law as determined by the superior courts.

**PART V**  
**CITIZENSHIP**

**Existing  
citizenship**

15. Every person who was a citizen of Zambia immediately before the commencement of this Constitution shall continue to be a citizen of Zambia and shall retain the same citizenship status as from that date.

**Acquisition of  
citizenship**

16. Citizenship may be acquired by birth, descent, registration or adoption in accordance with this Part.

**Citizenship  
by birth**

17. Every person born in Zambia is a citizen by birth if, at the date of that person's birth, at least one parent of that person is a citizen.

**Citizenship  
by descent**

18. Every person born outside Zambia is a citizen by descent if, at the date of that person's birth, at least one parent of that person is a citizen by birth.

**Citizenship  
by  
registration**

19. (1) Subject to clauses (4) and (5), a person shall be entitled to apply to the Citizenship Board to be registered as a citizen if that person was born in Zambia but neither of whose parents is a citizen.

(2) Subject to clause (4), a person shall be entitled to apply to the Citizenship Board to be registered as a citizen if that person was born in or outside Zambia and had a grandparent who is or was a citizen.

(3) Subject to clauses (4) and (5), a person shall be entitled to apply to be registered as a citizen if that person has -

- (a) attained the age of twenty-one years; and
  - (b) been ordinarily resident in the Republic for a continuous period of not less than twelve years immediately preceding that person's application for registration.
- (4) A person who applies to be registered as a citizen under this Article and whose application is successful shall -
- (a) in the case of clause (1), renounce the citizenship of any other country on attaining the age of twenty-one years; or
  - (b) in the case of clauses (2) and (3), renounce the citizenship of any other country within a period of not more than three months from the date the application was successful; and, upon such renunciation, the Citizenship Board shall register that person as a citizen by registration.
- (5) A child of a diplomat accredited to Zambia or a person with refugee status in Zambia shall not be entitled to be registered as a citizen.

**Citizenship  
by adoption**

20. (1) A child who is not a citizen and who is adopted by -
- (a) a citizen by birth or descent shall be a citizen on the date of the adoption but that child shall renounce the citizenship of any other country on attaining the age of twenty-one years failure to which that child shall cease to be a citizen; and

(b) a citizen by registration, shall not acquire citizenship by adoption.

(2) An Act of Parliament shall provide for further restrictions on the adoption by a citizen of a child who is not a citizen.

**Dual  
citizenship**

**21.** (1) A citizen, by birth or descent, shall not lose that citizenship by acquiring the citizenship of another country.

(2) A citizen, by birth or descent, and who, before the commencement of this Constitution, acquired the citizenship of another country and as a result ceased to be a Zambian citizen shall be entitled to apply to the Citizenship Board to regain that citizenship.

**Renunciation and  
deprivation of  
citizenship**

**22.** (1) Subject to clause (2), citizen may renounce Zambian citizenship or shall be deprived of that citizenship only if that person acquired citizenship by means of fraud, false representation or concealment of any material fact.

(2) A citizen by registration or adoption may be deprived of that citizenship if that person acquires citizenship of any other country other than by marriage.

**Citizenship  
Board**

**23.** (1) There shall be established the Citizenship Board of Zambia which shall implement this Part.

(2) Parliament shall enact legislation which provides for the composition of, appointment of members to, tenure of office and procedures to be followed by, the Citizenship Board.

**Entitlements  
of citizen**

**24.** A citizen is entitled to-

- (a) the rights, privileges and benefits of citizenship, subject to the limitations set out in this Constitution; and
- (b) to any document of registration and identification issued by the State to citizens.

**Responsibilities  
of citizen**

- 25.** A citizen shall –
- (a) acquire basic understanding of this Constitution and promote its ideals and objectives;
  - (b) uphold and defend this Constitution and the Laws;
  - (c) register and vote , if eligible, in all National and local elections and referenda;
  - (d) be patriotic and loyal to Zambia, promote its development and good image and render national service whenever required to do so;
  - (e) develop one’s abilities to the greatest possible extent through acquisition of knowledge, continuous learning and the development of skills;
  - (f) contribute to the welfare and advancement of the community where that citizen lives;
  - (g) contribute to the welfare and advancement of the nation by paying all taxes and duties lawfully due and owing to the State;
  - (h) strive to foster national unity and live in harmony with others;

- (i) promote democracy, good governance and the rule of law;
- (j) protect and safeguard public property from being damaged, wasted or misused;
- (k) protect and conserve the environment and utilise natural resources in a sustainable manner and maintain a clean and healthy environment;
- (l) co-operate with the law enforcement agencies for the maintenance of law and order and assist in the enforcement of the law at all times;
- (m) provide defence and military service when called upon;
- (n) desist from acts of corruption, anti-social and criminal activities; and
- (o) understand and enhance the Republic's place in the international community.

**Legislation on citizenship**

- 26.** Parliament shall enact legislation -
- (a) providing for the powers of the Citizenship Board to enable the Board give effect to this Part.
  - (b) for the acquisition and deprivation of citizenship of Zambia by persons who are not eligible to become citizens under this Part.

## PART VI

### BILL OF RIGHTS

#### Status, application and interpretation

#### Fundamental rights and freedoms

27. (1) The Bill of Rights is fundamental to Zambia's democratic State and shall be the framework for the adoption of social, political, economic and cultural policies.

(2) The purpose of the Bill of Rights is to fulfill the National goals, values and principles by preserving the dignity of individuals and communities, promoting social justice and realising the potential of all human beings.

(3) The rights and freedoms set out in this Part -

(a) are inherent in each individual and -

(i) are not granted by the State; and

(ii) cannot be taken away by the State;

(b) do not exclude other rights that are not expressly mentioned in this Part; and

(c) are subject only to the limitations contained or contemplated in this Constitution.

#### Duty of State to promote rights and freedoms

28. (1) It is a fundamental duty of every State organ and **State** institution to respect, protect, promote and fulfill the Bill of Rights.

(2) The State shall allow civil society to play its role in the promotion and protection of the Bill of Rights.

(3) Relevant State institutions, including the Human Rights Commission, shall equip themselves to meet the needs of different sectors of the society with respect to the Bill of Rights.

(4) The President shall, when addressing the National Assembly each year, report on the measures taken and the achievements of the State in giving effect to, and the progress achieved by the Nation in the realization of the Bill of Rights.

**Application  
of Bill of  
Rights**

**29.** (1) This Part applies to the interpretation and application of the Laws and binds all State organs, State institutions and all persons.

(2) A natural or juristic person enjoys the benefit of any right or freedom in this Part, to the extent possible, given the nature of the right or freedom and of the person.

(3) This Part binds a natural or juristic person, to the extent possible, given the nature of the right or freedom and the nature of any duty imposed by that right or freedom.

(4) A person shall exercise a right or freedom in a manner consistent with this Bill of Rights.

(5) When applying this Bill of Rights a court –

(a) shall apply and, if necessary, develop the Law to the extent where legislation does not give effect to a right or freedom; and

(b) may develop rules of the Law to interpret a right or freedom in a manner consistent with the limitations and derogations permitted under this Bill of Rights.

**Interpretation  
of Bill of  
Rights**

**30.** (1) When interpreting and applying a provision of this Bill of Rights, a court, tribunal, the Human Rights Commission or any other body shall promote the values that underlie an open



and democratic society based on human dignity, equality and freedom.

(2) When interpreting any legislation and when developing the Law, every court, tribunal, the Human Rights Commission or other body shall promote the spirit, purpose and objectives of the Bill of Rights.

### **Civil, Political and Cultural Rights**

#### **Right to life**

31. (1) Every person has, subject to clause (2), the right to life, which begins at conception.

(2) A person shall not be deprived of life intentionally, except in the execution of a sentence of a court in respect of a criminal offence under the law in force of which that person has been convicted.

(3) Without limiting any liability for a contravention of any other law with respect to the use of force, a person shall not be regarded as having been deprived of that person's life in contravention of this Article if that person dies as a result of the use of force to such extent as is reasonably justifiable in the circumstances of the case -

- (a) in the defence of a person's property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing a riot, insurrection, mutiny or due to a lawful act of war; or
- (d) in order to prevent the commission by that person of a criminal offence.

**Human dignity**

**32.** (1) Every person has an inherent dignity and the right to have that dignity respected and protected.

(2) Every person has the right not to have their reputation disparaged.

**Equality before law**

**33.** (1) Every person is equal before the law and has the right to equal protection and benefit of the law.

(2) Equality includes the full and equal enjoyment of all rights and freedoms.

**Fair administration**

**34.** (1) Every person has the right to administrative action that is expeditious, lawful, reasonable and procedurally fair.

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

(3) Parliament shall enact legislation to -

(a) give effect to clauses (1) and (2);

(b) provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal; and

(c) promote an efficient public administration.

**Right to refuse unlawful instructions**

**35.** (1) Every person has a right to refuse to obey any unlawful instruction.

(2) A person who instigates or induces another to carry out an unlawful instruction or who, being able to prevent the carrying out of an unlawful instruction, fails to do so, shall be an accomplice and shall be

liable to prosecution and to pay damages to any injured party.

(3) A person shall not be convicted or punished under any law for disobeying an unlawful instruction.

**Right to Justice**

36. (1) Every person has the right to have any dispute resolved and decided timely and to have a fair public hearing before a court or, where appropriate, another independent and impartial tribunal.

(2) Where a person has any claim or judgement against the State -

(a) the claim may be instituted by proceedings against the State; and

(b) the judgment may be enforced by execution against the State, a local authority or other public institution after six months of the delivery of the judgement.

(3) The State shall be liable in tort to the same extent as a private person of full age and capacity.

(4) The courts shall not order any security for costs on matters of public interest litigation.

(5) All offences are bailable but a court shall have the power to determine whether or not bail should be granted in any particular case either unconditionally or subject to reasonable conditions.

(6) Illegally obtained evidence shall not be admissible in a trial against an accused person, unless excluding that evidence would be detrimental to the administration of justice.

**Rights of suspects  
and arrested  
persons**

37. Subject to Article 79, a person who is a suspect, arrested or detained for allegedly committing an offence has the right -

- (a) to remain silent;
- (b) to be informed in a language which that person understands of the -
  - (i) right to remain silent; and
  - (ii) consequences of remaining silent;
- (c) not to be compelled to make any confession or admission that could be used in evidence against that person and, if a person freely chooses to make a confession, to do so before a court;
- (d) to be held separately from persons who are serving a sentence;
- (e) to be brought before a court -
  - (i) within forty-eight hours after being arrested or detained;
  - (ii) not later than the end of the first court day after the expiry of the forty-eight hours, if the forty-eight hours expires outside ordinary court hours or on a day that is not an ordinary court day;
  - (iii) as speedily as possible, if that person is arrested or detained far from a court; or
  - (iv) to be tried within ninety days or be released on bail;

- (f) to be arraigned before a court after being arrested or detained or to be released; and
- (g) to be released on bond or bail, pending a charge or trial, on reasonable conditions, unless there are compelling reasons to the contrary.

**Rights of persons  
detained or in  
custody**

38. (1) A person who is held in custody, whether sentenced or not, retains all that person's rights and freedoms under this Constitution, except to the extent that a right or freedom is incompatible with the fact of being in custody.

(2) A person who is held in custody has the right -

- (a) to be treated in a manner that respects that person's inherent human dignity and not to be subjected to discrimination;
- (b) if detained under any law relating to the preservation of public security, to be furnished with the reasons for that person's detention within fourteen days of being taken into custody;
- (c) not to be exploited or abused by the staff of the prison service or fellow prisoners;
- (d) to accommodation and facilities that satisfy the standards of decent clothing, housing, food, health and sanitation guaranteed in this Bill of Rights;
- (e) to reasonable health care at public expense and to pay for their own health care by their own doctors if they so choose;

- (f) to exercise and to work in return for reasonable remuneration;
- (g) to communicate with their legal practitioners, other persons whose assistance they consider necessary, religious advisers and close family;
- (h) to send and receive letters and to visits of reasonable frequency and duration to the extent compatible with the preservation of law, order and prison discipline;
- (i) to be separated, women from men and children from adults;
- (j) to be informed of the rules and decisions that affect them;
- (k) to fair consideration for parole or remission of sentence and for other rehabilitative measures;
- (l) to compensation for wrongful detention; and
- (m) to complain to the prison authorities, the Human Rights Commission or any similar institution.

(3) The State shall ensure that prisons and the prison system are maintained and operated within minimum international standards.

**Fair trial**

**39.** (1) Every accused person has the right to a fair trial which includes the right -

- (a) to be presumed innocent until the contrary is proved;
- (b) to be informed as soon as is reasonably practicable and in a language that person

- understands of the charge with sufficient detail to answer it;
- (c) to have adequate time and facilities to prepare a defence;
  - (d) to a public trial before an independent and impartial court or tribunal;
  - (e) to have the trial commenced and concluded and judgement given without unreasonable delay;
  - (f) to compensation for wrongful detention or imprisonment;
  - (g) to choose, and be represented by, a legal practitioner and to be informed of this right promptly;
  - (h) to have a legal practitioner assigned to the accused person by the State and at public expense, if substantial injustice would otherwise result, and to be informed of this right promptly;
  - (i) to remain silent and not to testify during the proceedings;
  - (j) to adduce and challenge evidence;
  - (k) not to be compelled to give self-incriminating evidence;
  - (l) not to be compelled to make any confession or admission that could be used in evidence against that person;

- (m) to have, without payment, the assistance of an interpreter if the accused person cannot understand the language used at the trial;
- (n) not to be convicted for an act or omission that was not, at the time it was committed or omitted, an offence under the written Laws;
- (o) not to be tried for an offence in respect of an act or omission for which that person has previously been either acquitted or convicted;
- (p) to the benefit of the least severe of the prescribed punishments if the prescribed punishment for an offence has been changed between the time that offence was committed and the time of sentencing; and
- (q) of appeal to, or review by, a higher court.

(2) Where this Article requires information to be given to a person, that information shall be given in a language which that person understands.

(3) An accused person charged with an offence is entitled on request to a copy of the record of the proceedings of the trial.

(4) An accused person has the right to a copy of the record of proceedings of the trial within fourteen days after they are transcribed in return for a reasonable fee if prescribed by law.

(5) A person who is convicted of a criminal offence and whose appeal has been dismissed by the highest court, to which that person is entitled to appeal, may petition the Supreme Court for a new trial if new and compelling evidence has become available.



(6) The entry of a *nolle prosequi* is not an acquittal and shall be valid for twelve months.

(7) Where a person in respect of whom a *nolle prosequi* has been entered is not charged on the same facts, within twelve months of the entry of the *nolle prosequi*, that person shall be deemed to have been acquitted.

**Protection from  
discrimination**

40. Every person has the right not to be discriminated against, directly or indirectly, on any grounds including race, sex, pregnancy, health, marital, ethnic, tribal, social or economic status, origin, colour, age, disability, religion, conscience, belief, culture, language or birth.

**Equality of both  
gender**

41. (1) Women and men have the right to equal treatment including the right to equal opportunities in cultural, political, economic and social activities.

(2) Women and men are entitled to be accorded the same dignity and respect of the person.

(3) Women and men have an equal right to inherit, have access to, own, use, administer and control land and other property.

(4) Women and men shall have equal rights with respect to marriage.

(5) Any law, culture, custom or tradition that undermines the dignity, welfare, interest or status of women or men is prohibited.

(6) The Government shall provide reasonable facilities and opportunities to enhance the welfare of women and men to enable them to realise their full potential and advancement.

(7) The Government shall take special measures aimed at achieving equality between both gender which measures shall not be construed as discrimination in so far as the measures are not maintained beyond what is required to achieve equality between both gender.

(8) Parliament shall enact legislation to give effect to this Article.

**Further rights  
for women**

**42.** (1) The State shall ensure that women are not discriminated against as guaranteed in this Constitution.

(2) All laws, customary or regulatory, that permit or have the effect of discriminating against women are hereby declared void.

(3) Without limiting any right or freedom guaranteed under this Bill of Rights, women shall have and be accorded the right -

- (a) to reproductive health, including family planning and access to related information and education;
- (b) to acquire, change or retain their nationality including the nationality of their children;
- (c) to choose residence and domicile;
- (d) to guardianship and adoption of children;
- (e) to choose a family name; and
- (f) to non-custodial sentences if pregnant or are nursing mothers, except as a measure of last

resort for serious offences and for those women who pose a danger to the community.

(4) Parliament shall enact legislation to provide for the protection of women against all forms of violence.

(5) For the purposes of this Article -

(a) "discrimination against women" means a distinction or exclusion made on the basis of sex which has the effect of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of marital status, of human rights and fundamental freedoms in all areas of human endeavour to which persons of another description are not made subject or are accorded privileges or advantages which are not accorded to persons of another description.

(b) "violence" includes -

(i) physical, sexual and psychological violence that occur in the family;

(ii) violence related to female genital mutilation or any traditional or religious practice that is harmful to women;

(iii) non-spousal violence or exploitation or physical, sexual or psychological violence that occurs within the general community;

(iv) rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere;

(v) trafficking in women and forced prostitution; and

(vi) economic and social deprivation.

(6) Parliament shall enact legislation to regulate matrimonial causes and court proceedings dealing with sexual offences so as to ensure anonymity and protection of the lives and dignity of the parties but without prejudice to the due process of the law.

**Older members of society**

**43.** (1) Older members of society are entitled to enjoy all the rights and freedoms set out in this Bill of Rights, including the right to –

- (a) participate fully in the affairs of society;
- (b) pursue their personal development and retain their autonomy;
- (c) freedom from all forms of discrimination, exploitation or abuse;
- (d) live in dignity and respect; and
- (e) receive care and assistance from the family and the Government.

(2) Parliament shall enact legislation to provide for a sustainable social security system for the older members of society.

**Children**

**44.** (1) It is the duty of parents, wider family, society and the State to nurture, protect and educate children for the benefit of society as a whole.

(2) All children, whether born in or outside wedlock, are equal before the law and have equal rights under this Constitution.

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

(4) A child's mother and father, whether married to each other or not, have an equal duty to protect and provide for the child.

(5) Every child has a right -

(a) to a name and a nationality from birth and to have the birth registered;

(b) to parental care or to appropriate alternative care where the child is separated from its parents;

(c) to free basic education;

(d) to be protected from discrimination, neglect, abuse and harmful cultural rites and practices, including female circumcision, tattooing and early marriage before attaining the age of eighteen years;

(e) to be protected from all forms of exploitation and any work that is likely to be hazardous or adverse to the child's welfare;

(f) to adequate nutrition, shelter, basic health care services, social security and social services;

(g) not to be subjected to corporal punishment or any other form of violence or cruel and inhumane treatment in schools and other institutions responsible for the care of children;

(h) to be protected in times of armed conflict and not to be recruited and used in armed conflict;

(i) not to take part in hostilities;

- (j) not to be incarcerated on account of the mother's incarceration;
- (k) to a standard of living adequate for the child's physical, mental, spiritual, moral and social development;
- (l) to development and an individual development plan, where appropriate;
- (m) to protection from all forms of sexual exploitation or abuse;
- (n) not to be arrested or detained, except as a measure of last resort, in which case that child has the right to be -
  - (i) detained only for the shortest appropriate period of time;
  - (ii) kept separate from adults in custody;
  - (iii) accorded legal assistance by the State;
  - (iv) treated in a manner and be kept in conditions that take account of the child's gender and age; and
  - (v) tried in a juveniles court;
- (o) to know of decisions affecting the child, to express an opinion and have that opinion taken into account, having regard to the age and maturity of the child and the nature of the decision;
- (p) to protection of the child's identity and not be exposed by the media during criminal proceedings; and
- (q) generally to survival and development.

(6) Children with special needs, especially girls, orphans, a child whose parent is in prison, children with disability, refugee children and homeless children, are entitled to the special protection of the State and society.

(7) In this Article “child” means a person who is below the age of eighteen years.

(8) Parliament shall enact legislation to give effect to this Article.

## Youth

**45. (1)** The youth constitute an integral part of society and, taking into account their unique needs, are entitled to enjoy all the rights and freedoms set out in this Bill of Rights, including –

(a) access to quality and relevant education and training in order to achieve personal development and serve the community;

(b) participation in governance;

(c) access to gainful employment;

(d) adequate opportunities in the social, economic and other spheres of national life;

(e) freedom of association to further their legitimate interests;

(f) protection from any culture, custom or tradition that undermines their dignity or quality of life; and

(g) freedom from discrimination, exploitation or abuse.

(2) In this Article “youth” means a person who is eighteen years of age but below the age of thirty-five years.

(3) Parliament shall enact legislation to give effect to this Article.

**Protection  
of young  
persons**

**46.** (1) A young person shall not be -

(a) employed;

(b) caused or permitted to engage in an occupation or employment which would prejudice the health or education or interfere with the physical, mental or moral development of that young person; except that an Act of Parliament may provide for the employment of a young person for a wage under certain conditions specified in that Act.

(2) In this Article, "young person" means a person under the age of fifteen years.

**Family**

**47.** (1) The Republic recognizes the family as the natural fundamental unit of society and as the necessary basis of the social order.

(2) The family is entitled to the respect and protection of the State.

(3) A person who is eighteen years of age or older has the right to freely choose a spouse of the opposite sex and marry.

(4) Parties to a marriage are entitled to equal rights in the marriage, during the marriage and at the dissolution of the marriage.

(5) Recognising the importance of children to the future of society, the maternal role of women and the nurturing role of both parents, the Government shall -

(a) ensure the right of women to adequate maternity leave;

(b) ensure the availability of adequate paternal leave;



- (c) ensure the availability of adequate maternal and reproductive health care and child health care; and
- (d) promote the availability of adequate childcare facilities.

**Persons with disability**

48. (1) Persons with disability are entitled to enjoy all the rights and freedoms set out in this Bill of Rights and shall have the right –

- (a) to education and facilities that are integrated into society as a whole to the extent compatible with the interests of persons with disability;
- (b) to effective access to places and public transport;
- (c) to use sign language, braille or other appropriate means of communication;
- (d) to be addressed and referred to, in official or private contexts, in a manner that is not demeaning, derogatory or discriminatory;
- (e) to access materials, facilities and devices to enable them overcome constraints due to disability;
- (f) to equal treatment, including the right to equal opportunities in cultural, political, economic and social activities; and
- (g) to inherit, have access to, own and control property.

(2) Any practice, custom or tradition that undermines the dignity, welfare, interest or status of persons with disability is prohibited.

(3) Parliament shall enact legislation to give affect to this Article.

**Special measures  
for persons with  
disabilities**

- 49.** (1) The State shall -
- (a) promote measures to educate communities and the society on the causes of disability and the need to respect the dignity and rights of all persons;
  - (b) promote and ensure the use of sign language, braille or any other appropriate means of communication for the disabled; and
  - (c) not tax any device used by persons with disability.

(2) Parliament shall enact legislation to provide for the promotion of the rights of persons with disability and in particular establish a social security scheme for persons who are totally impaired.

**Language  
and culture**

**50.** (1) Every person has the right to use the language and to participate in the cultural life of that person's choice.

(2) A person who belongs to a cultural or linguistic community shall not be denied the right, with other members of that community -

- (a) to enjoy that person's culture and use that person's language; or

- (b) to form, join and maintain cultural and linguistic associations.
- (3) A person shall not be compelled -
  - (a) to perform, observe, participate in or be subjected to any cultural practice or rite; or
  - (b) to form, join, contribute, maintain or pay allegiance to any cultural, traditional or linguistic association, organisation, institution or entity.

**Freedom and security of person**

**51.** Every person has the right to freedom and security of the person which includes the right -

- (a) not to be deprived of freedom arbitrarily or without just cause;
- (b) not to be the subject of human trafficking;
- (c) not to be detained without trial, except during a state of war, public emergency or state of threatened public emergency;
- (d) to be free from all forms of violence;
- (e) not to be tortured in any manner, whether physically or psychologically; and
- (f) not to be subjected to corporal punishment or to be treated or punished in a cruel, inhuman or degrading manner.

**Slavery, servitude and forced labour**

**52.** (1) A person shall not be held in slavery or servitude.

(2) A person shall not be required to perform forced labour.

(3) Parliament shall enact legislation specifying what constitutes “forced labour”.

**Privacy**

**53.** All persons have the right to privacy, which includes the right not to have -

- (a) their person, home or property searched;
- (b) their possessions seized;
- (c) information relating to their family, health status or private affairs unnecessarily required or revealed; or
- (d) the privacy of their communications infringed.

**Freedom of  
worship and  
conscience**

**54.** (1) Every person has the right to freedom of conscience, religion, thought, belief and opinion.

(2) Every person has a right, either individually or in community with others, in public or in private, to manifest any religion or belief through worship, observance, practice or teaching.

(3) Every religious community shall be entitled at its own expense to establish, maintain and manage educational institutions, facilities and programmes for, and to provide religious instruction to, members of that community.

(4) Religious observance and instruction may be conducted at State or State-aided institutions so long as -

(a) the facilities of that institution are made available or the observance and instruction are conducted on an equitable basis, having regard to the beliefs of the population served by that institution; and

(b) attendance at the observance or instruction is free and voluntary.

(5) A person shall not be deprived of access to any institution, employment facility or the enjoyment of any right or freedom because of that individual's religious beliefs.

(6) A person shall not be compelled -

- (a) to take an oath that is contrary to that individual's religion or belief or that involves expressing a belief that the individual does not hold;
- (b) to take an oath in a manner that is contrary to that individual's religion or belief;
- (c) to receive instruction in a religion that is not that individual's religion or to attend a ceremony or observance of that religion;
- (d) by a public body to disclose that individual's religious conviction or belief; or
- (e) to do any other act that is contrary to that individual's religion or belief.

**Freedom of expression**

55. (1) Every person has the right to freedom of expression which includes -

- (a) freedom to hold an opinion;
- (b) freedom to receive or impart information or ideas;
- (c) freedom of artistic creativity; and
- (d) academic freedom, including freedom of scientific research.

(2) Clause (1) does not extend to -

- (a) propaganda for war;
- (b) incitement to violence; or

- (c) advocacy of hatred that -
  - (i) vilifies and disparages others or incites harm; or
  - (ii) is based on any prohibited ground of discrimination specified in this Constitution.

**Access to  
information**

- 56.**
- (1) Every citizen has the right of access to -
    - (a) information held by the State; and
    - (b) any information that is held by another person which is required for the exercise or protection of any right or freedom.
  - (2) The President shall within six months of the submission of a report of any commission of inquiry, appointed by the President in the exercise of the President's executive functions, publish the report.
  - (3) Every person has the right to demand the correction or deletion of untrue or misleading information affecting that person.
  - (4) The State has the obligation to publicise any important information affecting the welfare of the Nation.

(5) Parliament shall enact legislation to provide for access to public information.

**Freedom of media**

57. (1) There shall be freedom of the press and other media.

(2) Subject to this Constitution, a law shall not make any provision that derogates from freedom or independence of the press and other media.

(3) Broadcasting and other electronic media are subject only to fair licensing procedures that are –

(a) administered by a body that is independent of control by the Government, political interests or commercial interests; and

(b) designed to ensure -

(i) the reasonable allocation of broadcast frequencies; and

(ii) adherence to codes of good practice.

(4) The registration or licensing of any media shall not unreasonably be withheld, withdrawn or refused.

(5) A person, State organ or State institution shall not -

(a) require prior licensing for any form of publication, broadcast or dissemination of information, comment or opinion;

(b) impose censorship on any form of publication, broadcast or dissemination of information, comment or opinion;

(c) otherwise interfere with the freedom of expression of any writer, editor, publisher or broadcaster; or

(d) harass or penalise a person for any opinion or view or the content of any publication, broadcast or dissemination.

(6) Parliament shall enact legislation that regulates freedom to broadcast in order to ensure fair election campaigning.

**Freedom not to disclose source**

58. (1) A journalist shall not be compelled to disclose a source of information, except as may be determined by a court.

(2) An agent of the media is free, at all times, to uphold the principle, provisions and objectives of this Constitution and the responsibility and accountability of the Government to the people of Zambia.

**Independence of public media**

59. (1) All public media shall -

(a) be independent and impartial; and

(b) afford fair opportunities and facilities to all persons for the presentation of divergent views and dissenting opinions.

(2) Parliament shall enact legislation to -

(a) promote the independence and impartiality of the

public media; and

(b) provide for reasonable allocation of air time and space by the public media to political parties, either generally or during election campaigns, on the recommendation of the Electoral Commission.



**Freedom of association**

**60.** (1) Every person has the right to freedom of association.

(2) Freedom of association shall apply to the formation, operation and continued existence of any association.

(3) A person shall not be compelled to join an association of any kind.

**Assembly, demonstration, picketing, lock out and petition**

**61.** Every person has the right, peacefully and unarmed, to assemble, demonstrate, picket or lock out and present petitions to public authorities.

**Right to participate in politics**

**62.** (1) Subject to this Constitution, every citizen has a right to make political choices which includes the right -

(a) to form or participate in forming a political party;

(b) to participate in the activities of, or recruit members for, a political party; and

(c) to campaign for a political party or cause.

(2) Subject to this Constitution, every citizen has the right to be elected -

(a) to any elective public body or office established by or under this Constitution; and

(b) to an office of a political party of which the citizen is a member.

(3) Every citizen aged eighteen years and above has the right to be registered as a voter and to vote by secret ballot in elections or referenda, as provided by or under this Constitution.

(4) The State shall put in place measures to ensure that eligible citizens exercise their right to register as voters and to vote.

**Freedom of movement and residence**

- 63.** (1) Every person has the right to freedom of movement.
- (2) Every person has the right to leave the Republic.
- (3) Every citizen has the right to enter into, remain and reside anywhere in the Republic.
- (4) Every citizen has a right to a passport.
- (5) Parliament shall enact legislation for the imposition of restrictions on the entry, movement or residence of persons who are not citizens.

**Refugees and asylum**

- 64.** (1) An individual who has sought asylum or refuge in Zambia has a right not to be returned to the country of origin if that person has a well-founded fear of -
- (a) persecution in the country of origin; or
- (b) other treatment in that country that would justify that person being regarded as a refugee.
- (2) Parliament shall enact legislation governing persons who seek refuge or asylum in Zambia.

**Land and other property**

- 65.** (1) Every person has a right to access, acquire and own land and other property either individually or in association with others.
- (2) The State shall not deprive a person of property of any description or of any interest in or right over property, except under an Act of Parliament.
- (3) Legislation shall not authorise deprivation of any interest in or right over property of any description, except -

- (a) where deprivation of any interest in or right over property is justifiable balancing -
  - (i) the public benefit; and
  - (ii) hardship that may result to any person who has an interest in or right over the property;
- (b) where the legislation specifies the consequence for non-compliance with the law;
- (c) where a property consists of a licence or permit; and
- (d) to the extent permitted under this Constitution.
- (4) Subject to this Constitution, prompt payment of full and fair compensation shall be made prior to acquiring, assuming occupation or possession of any property, as provided under an Act of Parliament.
- (5) Every owner of -
  - (a) a leasehold interest in land has the right to be issued a certificate of title setting out that interest and, at the expiry of the lease, to a renewal of the lease; and
  - (b) any other right or interest in land has the right to register that right or interest.
- (6) The rights recognised and protected under this Article do not apply to any property that has been unlawfully acquired.

**Consumer rights**

- 66. (1) Consumers have the right to -
  - (a) goods and services of appropriate quality, quantity and use;
  - (b) information necessary for them to gain full benefit from the goods and services;

(c) protection of their health, safety and economic interests;  
and

(d) adequate compensation for defects that cause them loss or injury.

(2) This Article applies to goods and services offered by any person, State organ or State institution, whether in return for consideration, taxes or other form of revenue or free of any charge.

(3) Parliament shall enact legislation to provide for consumer protection and for fair, honest and decent advertising.

### **Economic and Social Rights**

#### **Progressive realisation of economic and social rights**

67. (1) Parliament shall enact legislation which provides measures which are reasonable in order to achieve the progressive realization of the economic and social rights under this Bill of Rights.

(2) The Government shall take measures, including –

(a) affirmative action programmes designed to benefit disadvantaged persons or groups;

(b) legislation –

(i) that promotes equity, equality and freedom from discrimination and establishes or provides for standards relating to the achievement of those measures;

(ii) that ensures that State organs and State institutions fulfill the obligations of the State under this Bill of Rights; and

(iii) that ensures that persons fulfill their obligations under this Bill of Rights.

(3) Where a claim is made, by the State, that the State does not have the resources to implement a particular right or freedom –

- (a) it is the responsibility of the State to show that the resources are not available; and
- (b) a court, tribunal or the Human Rights Commission shall not interfere with a decision by a State organ or State institution concerning the allocation of available resources solely on the basis that the court, tribunal or Human Rights Commission would have reached a different conclusion.

**Freedom to choose trade, occupation and profession**

**68.** Every person has the right to choose a trade, occupation or profession.

**Labour relations and pensions**

**69.** (1) A person has the right to employment and to just and fair labour practices.

(2) A worker has the right to -

- (a) fair remuneration and equal pay for equal work;
- (b) work under satisfactory, safe and healthy conditions;
- (c) equal opportunity for promotion;
- (d) rest, leisure and reasonable limitation of working hours;
- (e) periodic holidays with pay and remuneration for public holidays;

- (f) form, join or participate in the activities and programmes of a trade union, including the right to strike;
- (g) withdraw labour in accordance with the law; and
- (h) a reasonable pension or gratuity commensurate with that worker's status, salary and length of service.

(3) Where pension or retrenchment benefit is not paid promptly the retiree's or retrenchee's name shall be retained on the payroll until the pension or benefit is paid.

(4) Every employer has the right to -

- (a) form and join an employers' organisation;
- (b) participate in the activities and programmes of an employers' organisation; and
- (c) lock out.

(5) Every trade union and every employers' organisation has the right to -

- (a) determine its own administration, programmes and activities;
- (b) organise; and
- (c) form and join a federation.

(6) A trade union, an employer's organisation and an employer have the right to engage in collective bargaining.

(7) Parliament shall enact legislation to regulate pensions and pension schemes and in particular to make provision for -

- (a) persons over sixty-five years of age to receive welfare support;
- (b) all workers to subscribe to pension schemes;

- (c) equitable representation of both employees and employers on any supervisory or policy board established for a pension scheme; and
- (d) the prudent investment of pension funds.

**Social security**

70. Every person has the right to social security, including, where appropriate, social welfare for that person and dependants of that person.

**Health**

71. (1) Every person has the right to health which includes the right to health care services and reproductive health care.

(2) A person shall not be refused emergency medical treatment.

**Education**

72. (1) Every person has the right to education.

(2) The State shall -

(a) ensure the right of every child to free and compulsory basic education; and

(b) make secondary, post-secondary, technical and vocational education progressively available and accessible.

(3) Every person has the right to establish and maintain, at that person's own expense, independent educational institutions that meet standards provided by or under an Act of Parliament.

**Shelter and housing**

73. (1) Every person has the right to have access to adequate shelter and housing.

(2) Parliament shall not enact any legislation that permits or authorises arbitrary eviction.

**Food, water and sanitation**

74. (1) Every person has the right to be free from hunger and to have access to food in adequate quantities, of adequate quality and cultural acceptability.

(2) Every person has the right to water in adequate quantities and of satisfactory quality.

(3) Every person has the right to a reasonable standard of sanitation.

**Environment**

75. Every person has the right to -

(a) an environment that is safe for life and health;

(b) free access to information about the environment;

(c) the protection of the environment for present and future generations; and

(c) compensation for damage arising from the violation of the rights recognised under this Article.

### **Limitations on Rights and Freedoms and Non-Derogable Rights**

**Limitations on rights and freedoms**

76. (1) A right or freedom set out in this Bill of Rights

(a) is limited by any limitation or qualification expressly set out in the provision containing that right or freedom; and



(b) may be otherwise limited only by a law of general application which is subject to clauses (2), (3) and (4).

(2) A law that has the effect of limiting a right or freedom is inconsistent with this Constitution unless -

(a) that enactment specifically expresses the intention to limit that specific right or freedom; and

(b) the limitation satisfies the requirements of clause (3).

(3) A limitation made under clause (1) (b) or (2) shall be invalid if it negates the core or the essential content of the right or freedom and is not reasonable and justifiable in an open and democratic society -

(a) based on human dignity, equality and freedom;

(b) taking into account all relevant factors including -

(i) the nature of the right;

(ii) the importance of the purpose of the limitation;

(iii) the value and extent of the limitation;

(iv) the relation between the limitation and its purpose; and

(v) whether there are less restrictive means to achieve the purpose.

(4) A limitation made under clause (1) (b) or (2) shall be valid only to the extent that the limitation -

- (a) is reasonably required in the interest of defence and security, public safety, public order, public morality, public health, town and country planning, taxation, the development, management and utilization of natural and mineral resources;
- (b) relates to the acquisition of property to secure the development, management or utilization of the property for a purpose beneficial to the community or the public;
- (c) forms or is an incident of a contract, including a lease, trust, settlement, deed, letter of administration, tenancy, mortgage, charge, pledge, bill of sale or title deed to land or other instruments provided under law;
- (d) relates to property which consists of a licence or permit;
- (e) is required to enforce a judgement or an order of a court or tribunal; or
- (f) imposes restrictions on defence and security officers and other public officers.

(5) The State or any person claiming that a particular limitation is permitted under this Article shall prove to a court, tribunal, the Human Rights Commission or any other appropriate body that the requirements of this Article have been satisfied.

**Non-derogable  
rights and  
freedoms**

**77.** Notwithstanding any other provision in this Constitution, the following rights and freedoms shall not be derogated from :

(a) freedom from torture, cruel, inhuman or degrading treatment or punishment;

(b) freedom from slavery or servitude;

(c) the right to a fair hearing; and

(d) the right to an order of *habeas corpus*.

**Derogation of  
rights and  
freedoms during  
emergency or  
National disaster**

**78.** (1) A provision contained in, or an act or a thing done under, an Act of Parliament shall not be inconsistent with or in contravention of this Part if –

(a) the law in question authorizes the taking, when a declaration of war, state of public emergency or threatened state of public emergency or a National disaster is in force, of measures for dealing with such situations; and

(b) the measures taken are reasonably justifiable for dealing with the war, state of public emergency, threatened state of public emergency or National disaster.

(2) Legislation enacted under clause (1) may provide for the detention of persons when it is necessary for purposes of dealing with the war or other state of public emergency.

**Restriction and  
detention during  
emergency**

**79.** (1) Where a person's freedom of movement is restricted or that person is detained, during a war, state of public emergency or threatened state of public emergency, the following shall apply:

(a) that person shall, as soon as is reasonably practicable and in any case not more than fourteen days after the commencement of the detention or restriction, be furnished with a statement in writing in a language which that person understands

specifying in detail the grounds of the restriction or detention;

- (b) not more than fourteen days after the commencement of the restriction or detention, a notification shall be published in the *Gazette* stating the restriction or detention and giving particulars of the place of the restriction or detention and the provision of the law under which the restriction or detention is authorised;
- (c) if that person so requests, at any time during the period of the restriction or detention or not later than twenty-one days after the commencement of the restriction or detention and at intervals of not more than thirty days, the case shall be reviewed by the Constitutional Court;
- (d) that person shall be afforded reasonable facilities to consult a legal practitioner of that person's own choice who shall be permitted to make representations to the authority by which the restriction or detention was ordered or to the Constitutional Court; and
- (e) at the hearing of the case, by the Constitutional Court, that person shall be permitted to appear in person or by a legal practitioner of that person's own choice and may, in addition to any grounds challenging that person's detention or restriction, challenge the validity or genuineness of the declaration of the state of public emergency or threatened state of public emergency and the measures taken during that period.

(2) On a review by the Constitutional Court under this Article, the Court shall advise the authority, by which the detention or restriction of the person was ordered, on the necessity or expediency of continuing the restriction or detention and that authority shall act in accordance with that advice.

(3) The President may, at any time, refer to the Constitutional Court the case of a person who has been or is being restricted or detained under a restriction or detention order under any law.

(4) Clause (1) (d) or (e) shall not be construed as entitling a person to legal representation at public expense.

### **Enforcement of Bill of Rights**

#### **Enforcement of Bill of Rights**

**80.** (1) Where a person alleges that any provision of this Bill of Rights has been, is being or is likely to be contravened in relation to that person, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply for redress to the Constitutional Court.

(2) Any person or organisation may bring an action against the violation of another person's or a group's human rights and freedoms.

(3) Parliament shall enact legislation for the enforcement of the Bill of Rights.

### **Human Rights Commission and Gender Equality Commission**

#### **Establishment and composition of Human Rights Commission**

**81.** (1) There is hereby established a Human Rights Commission which shall have offices in all of the provinces and progressively in the districts.

- (2) The Commission shall consist of the following members:
- (a) a person qualified to be appointed a Judge of the High Court, nominated by the Judicial Service Commission, as the chairperson;
  - (b) a person qualified to be appointed a Judge of the High Court, nominated by the Judicial Service Commission, as the vice-chairperson; and
  - (c) three persons, who have qualifications and proven experience in human rights issues, nominated by human rights civil society organisations.
- (3) A member of the Commission shall be appointed by the President, subject to ratification by the National Assembly.

**Functions of  
Human Rights  
Commission**

82. (1) The functions of the Human Rights Commission shall be to -
- (a) investigate, at its own initiative or on a complaint made by a person or group of persons, an allegation of a violation of any human right or freedom;
  - (b) investigate complaints in State institutions relating to allegations of abuse of human rights or freedoms;
  - (c) establish a continuing programme of research, education, information, dissemination and rehabilitation of victims of human rights

- abuses in order to enhance awareness and the protection of human rights and freedoms;
- (d) recommend to the National Assembly measures to promote human rights and freedoms, including the provision of compensation to victims of violations of human rights and their families;
  - (e) promote civic education and public awareness of the Bill of Rights;
  - (f) monitor the Government's compliance with international treaties and conventions on human rights and freedoms;
  - (g) formulate and implement programmes intended to inculcate, in the citizen, an awareness of civic responsibilities and an appreciation of the rights, freedoms and obligations under this Constitution;
  - (h) visit prisons and places of restriction or detention or related facilities in order to assess and inspect conditions of the inmates and make recommendations to appropriate authorities;
  - (i) investigate complaints against practices and actions, by persons, private enterprises and any other institution on alleged violations of the Bill of Rights;
  - (j) take appropriate action to call for remedying, correction and reversal of instances of breach of the Bill of Rights;

- (k) prosecute cases of human rights violations, subject to the approval of the Director of Public Prosecutions; and
- (l) report regularly to the National Assembly on the performance of its functions.

(2) Clause (1) shall not prevent any person, on behalf of any other person unable to act, from bringing an action to the Constitutional Court in a case of a violation of the Bill of Rights.

- (3) The Commission shall not investigate a matter -
- (a) which is pending before a court or quasi-judicial tribunal;
  - (b) that involves the relations or dealings between the Government and any foreign government or an international organisation; or
  - (c) that relates to the exercise of the prerogative of mercy.

**Independence  
of human  
Rights  
Commission**

83. In the performance of its functions, the Human Rights Commission shall be subject only to this Constitution and the Laws and shall not be subject to the direction or control of any person or authority.

**Tenure of office  
of members of  
Human Rights  
Commission**

84. (1) A member of the Human Rights Commission shall hold office on full-time basis for a term of four years and shall be eligible for re-appointment for only one further term.

(2) A member of the Commission may in writing resign from office and may be removed from office on the same grounds and procedure as applies to a Judge of a superior court.



(3) A member of the Commission shall not hold any other office of profit or emolument while serving as a member of the Commission.

**Funds of  
Human  
Rights  
Commission**

85. (1) The funds of the Human Rights Commission shall include -

- (a) moneys appropriated by Parliament for the purposes of the Commission; and
- (b) any other moneys received by the Commission for the performance of its functions.

(2) The Commission shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance on matters relating to its finances.

(3) The Commission shall, in any financial year, be adequately funded in order to enable it to effectively carry out its mandate.

**Expenses of  
Human Rights  
Commission**

86. The expenses of the Human Rights Commission, including emoluments payable to or in respect of persons serving with the Commission, shall be a charge on the Consolidated Fund.

**Legislation on  
powers of  
Human Rights  
Commission**

87. Parliament may enact legislation to give effect to this Part, including the power of the Human Rights Commission to -

- (a) issue subpoenas requiring the attendance of a person before the Commission;
- (b) require the production of documents or records relevant to an investigation by the Commission;
- (c) cause a person contemptuous of the Commission to be prosecuted before a court;

- (d) question a person in respect of a subject matter under investigation by the Commission;
- (e) require a person to disclose any information, within that person's knowledge, relevant to an investigation by the Commission;
- (f) make regulations providing for the manner and procedure for bringing complaints before it and for the investigation of complaints; and
- (g) appoint the employees of the Commission and determine their terms and conditions of service.

**Establishment of Gender Equality Commission**

**88.** (1) There is hereby established the Gender Equality Commission.

(2) Parliament shall enact legislation to provide for the functions, composition, appointment, tenure of office, procedures, operations, administration, finances and financial management of the Gender Equality Commission established under this Article.

**PART VII  
CODE OF ETHICS AND CONDUCT OF  
PUBLIC OFFICERS**

**Conflict of interest**

**89.** A public officer shall not act in a manner or be in a position where the personal interest of that officer conflicts or is likely to conflict with the performance of the functions of office.

**Declaration of assets**

90. (1) An Act of Parliament shall specify the categories of public officers who shall make declarations of their assets and liabilities, the form and manner of making the declaration and to whom the declaration shall be submitted to.

(2) A public officer specified in an Act of Parliament shall, in accordance with that Act, make a written declaration of the assets or liabilities of that public officer, whether owned or owed directly or indirectly-

- (a) within three months after the commencement of this Constitution or before taking office;
- (b) annually; and
- (c) at the end of the term of office.

(3) A public officer who fails to make and submit a declaration as required by clauses (1) and (2) or knowingly makes a false declaration commits an offence and shall be liable to any penalty imposed by an Act of Parliament.

(4) A declaration made and submitted under clauses (1) and (2) shall, on demand, be produced in evidence before -

- (a) a court or tribunal;
- (b) the Anti-Corruption Commission; or
- (c) any other investigative body established by or under an Act of Parliament.

**Spouse of  
public officer**

91. A spouse of a public officer shall declare that spouse's assets and liabilities, as provided under an Act of Parliament.

**Appointment to  
public body**

92. Parliament shall enact legislation prohibiting -  
(a) a member of the governing body of a statutory body or company in which the Government has a controlling interest from holding

any other office in the service of that body or company, except for the Governor of the Central Bank and the Commissioner of Lands; and

(b) a member of the National Assembly from being appointed to or hold office in a statutory body or company in which the Government has a controlling interest.

**Codes of ethics  
for professions  
and other  
vocations**

**93.** Parliament shall enact legislation providing for the compiling and publication of a code of conduct and ethics for any profession or vocation that involves the provision of services to the public.

## **PART VIII**

### **REPRESENTATION OF THE PEOPLE**

#### **Electoral systems and principles**

**Basis of  
electoral system**

**94.** (1) The electoral system is based on the right of all citizens, who are eligible under this Constitution and any other law, to vote in any direct election or stand for any office in a direct election, as provided under this Constitution.

(2) Subject to this Constitution, voting in any direct election shall be by universal adult suffrage and secret ballot.

(3) The electoral system and process shall be such as will ensure a free and fair election.

(4) The electoral system shall ensure that -

(a) the representation of each gender is not less than thirty per cent of the total number of seats in the National Assembly, district council or other public elective body; and

(b) there shall be equitable representation of persons with disabilities and the youth at all levels of governance.

(5) An Act of Parliament shall provide a formula for achieving the purposes under clause (4).

**Election systems for Presidential, National Assembly and local government elections**

**95.** (1) Elections to the office of President shall be conducted on the basis of a majoritarian system where the winning candidate must receive not less than fifty per cent plus one vote of the valid votes cast and in accordance with Article 125.

(2) Elections to the National Assembly and a district council shall be conducted under a mixed member representation system and as provided under Articles 159 and 235 (b) and (c), respectively.

(3) Subject to clause (4), Parliament may enact legislation prescribing a different electoral system for election of members of the National Assembly or a district council.

(4) Any Bill providing for a different electoral system, for purposes of clause (3), shall not be passed by the National Assembly unless the Bill is supported on second and third reading by the votes of not less than two-thirds of all the members of the Assembly.

**Losing candidates not eligible for certain appointments**

**96.** (1) Any person who was a candidate for election as President, member of the National Assembly or district council and who lost the direct election is not eligible for appointment as Vice-President, Minister, Provincial Minister or Deputy Minister during the term of that National Assembly.

(2) Parliament may enact legislation to provide for other offices to which a person who has lost a direct election is not eligible for appointment.

**Independent candidates**

97. Subject to the qualifications and disqualifications specified for election as a member of the National Assembly or a district council, a person shall be eligible to stand as an independent candidate for election as a member of the National Assembly for a constituency-based seat or councillor for a ward-based seat.

**Unopposed candidates**

98. (1) If in any direct election only one candidate is nominated by the date and time set by the Electoral Commission for receiving nominations that candidate shall be declared duly elected.

(2) Nothing in clause (1) shall prevent an aggrieved person from challenging the nomination and declaration made under clause (1).

**Election date for general elections**

99. (1) Subject to clause (2) and the other provisions of this Constitution, a general election shall be held every five years on the last Wednesday of September after the last general election.

(2) The Electoral Commission may vary the dates for a general election by not more than fourteen days, of the day specified by clause (1), when prevailing circumstances justify a variation of the date.

(3) The day on which a general election is held shall be a public holiday.

**By-elections**

**100.** (1) Where a vacancy occurs in a constituency - based seat or ward-based seat a by-election shall be held within ninety days of the occurrence of that vacancy.

(2) A by-election shall not be held within the hundred and eighty days period that precedes a general election.

(3) The Electoral Commission shall prescribe the date and time when a by-election shall be held.

**Franchise**

**101.** (1) A citizen shall be registered as a voter for direct elections or referenda if at the date of the application for registration as a voter that citizen has attained the age of eighteen years and qualifies for registration as a voter as prescribed by an Act of Parliament.

(2) A citizen who is registered as a voter in accordance with clause (1) shall, unless disqualified from voting under an Act of Parliament, be entitled to vote in any direct election in accordance with an Act of Parliament.

**Electoral process**

**102.** Parliament shall enact legislation regulating every direct election and providing for -

- (a) the continuous registration of voters;
- (b) a voting procedure that is simple;
- (c) transparent ballot boxes that are serially marked;
- (d) ballot papers written in braille for the use of blind persons who can read braille;
- (e) votes to be counted, tabulated and the results announced promptly at polling stations;

- (f) the accurate collation and prompt announcement of election results;
- (g) special arrangements for members of the Defence Forces, the Police Service, the Prisons Service, election officials and other special sectors of society to vote;
- (h) facilities to enable citizens living abroad to vote;
- (i) appropriate structures and mechanisms to eliminate all forms of electoral malpractices including the safe keeping of all election material; and
- (j) any matter dealing with the electoral process so as to ensure free and fair elections.

**Establishment  
and composition  
of Electoral  
Commission of  
Zambia**

**103.** (1) There is hereby established the Electoral Commission of Zambia which shall have offices in all provinces.

(2) The Electoral Commission shall consist of the following members who shall serve on a full-time basis:

(a) a Chairperson and Vice-Chairperson who shall be persons qualified to be appointed as Judges of a superior court; and

(b) five other members.

**Selection of  
members of  
Electoral  
Commission**

**104.** (1) The President shall constitute an ad hoc selection committee, as provided under clause (2), for purposes of recruiting and selecting persons for appointment as members of the Electoral Commission.



(2) The selection committee, constituted under clause (1), shall consist of the following members who shall be appointed by the President, subject to ratification by the National Assembly:

- (a) one member of the Supreme and Constitutional Court, nominated by the Chief Justice;
- (b) a member of the Civil Service Commission, nominated by the Chairperson of the Commission;
- (c) a member of the Judicial Service Commission, nominated by the Chairperson of the Commission;
- (d) a representative from the Church bodies; and
- (e) the Ombudsman.

(3) The selection committee, constituted under clause (1), shall -

- (a) advertise the names of all short listed candidates for public scrutiny; and
- (b) forward the names of the short listed candidates for appointment by the President.

(4) Parliament shall enact legislation prescribing the rules and procedures for advertising the names of short listed candidates and selecting members for appointment to the Electoral Commission.

**Appointment of members of Electoral Commission**

**105.** The President shall appoint members of the Electoral Commission from the names submitted by the selection committee under Article 104, subject to ratification by the National Assembly.

**Tenure of office**

**106.** (1) A member of the Electoral Commission shall hold office for a term of five years and shall be eligible for re-appointment for only one further term.

(2) A member of the Electoral Commission may be removed from office on the same grounds and same procedure as applies to a Judge of a superior court.

**Independence  
and functions of  
Electoral  
Commission**

**107.** (1) The Electoral Commission shall be autonomous and impartial and shall not in the performance of its functions be subject to the direction or control of any person or authority.

(2) The Electoral Commission shall be responsible for -

- (a) the registration of voters;
- (b) the delimitation of constituencies and wards for National Assembly and local government elections;
- (c) the efficient conduct and supervision of elections and referenda;
- (d) the review of electoral laws and the making of recommendations for their amendment;
- (e) the registration and supervision of political parties;
- (f) the promotion of co-operational harmony between and among political parties;
- (g) the settlement of minor electoral disputes;
- (h) dealing with any malpractices before or during an election;
- (i) the promotion of voter education and a culture of democracy;

- (j) facilitating of the observance, monitoring and evaluation of elections and referenda;
- (k) the recommendation, to the President, of administrative boundaries, including the fixing, reviewing and variation of boundaries of provinces, districts and wards; and
- (l) any other function provided by or under an Act of Parliament.

(3) The Electoral Commission shall determine all electoral disputes and issues of malpractices occurring before or during an election within twenty-four hours of receiving a complaint.

- (4) The Electoral Commission shall have powers to -
- (a) prohibit a person or political party from doing any act proscribed by or under an Act of Parliament;
  - (b) exclude a person or agent of any person, candidate or political party from entering a polling station;
  - (c) reduce or increase the number of votes cast in favour of a candidate after a recount;
  - (d) disqualify the candidature of any person;
  - (e) determine that the votes cast at a polling station did not tally in whole or in part;
  - (f) provide for the filing of a complaint or objection;
  - (g) submit a report on an election to a court or tribunal handling any electoral petition; or

(h) cancel an election or election result and call a fresh election where the electoral malpractice is of a nature that would affect the final electoral results.

(5) A decision of the Electoral Commission on any matter, referred to in clause (4), shall be final only for purposes of proceeding with an election and is subject to judicial review where appropriate.

(6) Any complaint connected with a direct election raised after the election shall be dealt with under an election petition as provided by and under this Constitution.

**Funds of Electoral Commission**

**108.** (1) The funds of the Electoral Commission shall include -

- (a) moneys appropriated by Parliament for the purposes of the Commission; and
- (b) any other moneys received by the Commission for the performance of its functions.

(2) The Electoral Commission shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance on matters relating to its finances.

(3) The Electoral Commission shall be adequately funded, in any financial year, in order for it to effectively carry out its mandate.

(4) The expenses of the Electoral Commission, including the emoluments payable to or in respect of persons serving with the Commission, shall be a charge on the Consolidated Fund.

**Delimitation of constituencies or wards**

**109.** (1) The Electoral Commission shall determine the names and boundaries of the constituencies and wards for National Assembly and local government elections.

(2) In determining the boundaries and the naming of constituencies or wards, the Electoral Commission shall—

- (a) ensure that Zambia is divided into constituencies or wards so that the number of constituencies or wards are equal to the number of seats of members elected under the first-past-the-post segment of the mixed member representation system;
- (b) seek to achieve an approximate equality of constituency or ward population, subject to the need to ensure adequate representation for urban and sparsely populated areas; and
- (c) ensure that the number of inhabitants in each constituency or ward is as nearly equal to the population quota as is reasonably practicable.

(3) The Electoral Commission shall, at intervals of not more than ten years, review and, where necessary, alter the names and boundaries of constituencies or wards.

(4) The names and details of the boundaries of constituencies or wards, determined under clause (1), shall be published in the *Gazette* and shall come into effect on the next dissolution of Parliament or district councils.

(5) Any person may apply to the Constitutional Court for review of a decision of the Electoral Commission made under this Article.

**Matters to be taken into account when delimiting constituencies and wards**

**110.** In determining the boundaries of constituencies and wards the Electoral Commission shall take into account the history, diversity and cohesiveness of the constituency or ward having regard to -

- (a) population density, population trends and projections;
- (b) geographical features and urban centres;
- (c) community interest, historical, economic and cultural ties;
- (d) means of communication; and
- (e) the need to ensure that constituencies or wards are wholly within districts.

**Legislation on elections**

**111.** (1) Parliament shall enact legislation for the conduct of direct and general elections and referenda including the

-

- (a) nomination of candidates;
- (b) registration of citizens as voters;
- (c) manner of voting at elections and referenda;
- (d) efficient supervision of elections and referenda;
- (e) election campaigns; and
- (f) voter and civic education.

(2) Legislation enacted under clause (1) shall provide for the -

- (a) appointment of electoral officers;
- (b) functions of electoral officers; and
- (c) terms and conditions of employment of electoral officers.

## Political Parties

### Political parties

- 112.** (1) A political party shall -
- (a) have a national character;
  - (b) have a democratically elected governing body;
  - (c) promote and uphold national unity;
  - (d) abide by the democratic principles of good governance and promote and practice democracy through regular, fair and free elections within the party;
  - (e) respect the right of others to participate in the political process, including women and persons with disabilities;
  - (f) promote and respect human rights and gender equality and equity;
  - (g) promote the objectives and principles of this Constitution and the rule of law; and
  - (h) subscribe to and observe any code of conduct for political parties prescribed by or under an Act of Parliament.
- (2) A political party shall not -
- (a) be founded on a religious, linguistic, racial, ethnic, gender or provincial basis or seek to engage in propaganda based on any of those matters;
  - (b) engage in or encourage violence or intimidation of its members, supporters, opponents or any other person;

- (c) establish or maintain a paramilitary force, militia or similar organization; or
- (d) engage in bribery or other forms of corrupt practices.

**Regulation of  
political parties**

**113.** (1) The Electoral Commission shall be responsible for the registration, deregistration and regulation of political parties.

(2) A person or group of persons shall not operate as a political party unless that party conforms to the principles laid down in this Constitution and is registered by the Electoral Commission in accordance with an Act of Parliament.

(3) Any person or group of persons who desires to form a political party shall furnish the Electoral Commission with a copy of its constitution and the names and addresses of its officers and satisfy the Commission that -

- (a) the party will, upon registration or soon thereafter, have branches in at least one half of the number of provinces of Zambia; and
- (b) the party name, emblem, colour, motto or any other symbol has no ethnic, provincial or other sectional connotations or gives the appearance that its activities are confined only to a part of Zambia.

(4) A political party is entitled to present its programmes to the public and the State shall ensure equal access to the public media.

(5) A political party and every candidate for election to the office of President, the National Assembly or any district



council has the right to conduct their campaign freely and in accordance with the law.

(6) Political parties may form a coalition.

(7) A political party shall, as may be provided by an Act of Parliament, submit to the Electoral Commission evidence of its revenues and other assets and their source.

(8) A political party shall be entitled to financial support from the State through the Political Parties' Fund established under this Part.

(9) Parliament shall enact legislation for the regulation and registration of political parties.

**Political  
Parties' Fund**

**114.** (1) There is hereby established a Political Parties' Fund.

(2) The Fund shall be administered by the Electoral Commission.

(3) The sources of the Fund shall be -

(a) moneys appropriated annually by Parliament, as determined by the Emoluments Commission; and

(b) contributions and donations made to the Fund from any other source.

(4) The moneys in the Fund, not immediately required for payment to political parties, shall be invested in such manner as may be approved by the Ministry responsible for finance.

**Purpose of Fund**

**115.** (1) The purpose of the Political Parties' Fund shall be to provide financial support to registered political parties with seats in the National Assembly.

(2) Notwithstanding Article 120, moneys allocated to a political party from the Fund shall be used -

- (a) to assist political parties disseminate their policies;
- (b) for conducting civic and voter education;
- (c) subject to clause (3), generally for the administrative expenses of the party which expenditure shall not exceed ten per cent of the money allocated; and
- (d) for any other legitimate purpose approved by the Electoral Commission.

(3) Moneys allocated to a political party shall not be used for -

- (a) paying, directly or indirectly, remuneration, emoluments, fees, rewards or any other benefit to a member, officer or supporter of the party; or
- (b) any other purpose incompatible with the promotion of a multi-party democracy.

(4) Parliament shall enact legislation to provide for the formula to give effect to this Article.

**Other sources  
of funds and  
maximum  
donations**

**116.** (1) A political party may receive subscriptions, donations and contributions from the members and supporters of the party.

(2) An Act of Parliament shall specify -

- (a) the sources from which political parties shall not receive subscriptions, donations or contributions; and

- (b) the maximum donation that an individual, institution or body can make to a political party.

**Audit of accounts**

**117.** (1) A political party shall keep proper books and records of account.

(2) Within three months after the end of the Government's financial year a political party, that is funded under this Part, shall submit its books and records of account to the Auditor-General for audit.

(3) The Auditor-General shall, within three months of the submission of the accounts under clause (2), audit the accounts and submit the report on the audit to the National Assembly and to the political party concerned.

(4) Within one month after receipt of the audited accounts and the Auditor-General's report, a political party shall-

- (a) publish the accounts and the report in the *Gazette* and in at least one newspaper circulating nationally; and
- (b) submit the accounts and report to the Electoral Commission.

**Party supervision**

**118.** (1) The Electoral Commission shall supervise the general conduct of political parties.

(2) A political party shall, within seven months after the end of the Government's financial year, submit to the Electoral Commission an annual report of its activities, as provided by an Act of Parliament.

(3) The annual report of a political party may be inspected by any person, during normal office hours, at any branch of the party and at the offices of the Electoral Commission.

(4) The Electoral Commission shall prescribe the maximum amount of money that may be spent by, or on behalf of, a candidate in respect of any direct or general election.

**Party discipline**

**119.** (1) A political party shall ensure internal party discipline is enforced in accordance with the rules of natural justice and democratic principles.

(2) A political party shall not take disciplinary action against a member of the party for anything done or said by that member in the National Assembly or district council.

**Prohibition on use of public resources to promote party interests**

**120.** (1) Except as provided for under this Constitution, a person shall not use public resources to promote the interests of a political party.

(2) Parliament shall enact legislation to give effect to clause (1).

**Prohibition on use of public resources during election period**

**121.** (1) Subject to clause (2), a person shall not use or permit any person to use any public resources, during an election period, for any purpose relating to the elections.

(2) Notwithstanding clause (1), the President and the Vice-President shall be entitled to use any public resource, during an election period, for their security, transportation and sustenance.

- (3) In this Article “election period” means the period which begins on the day nominations are filed and ends on the day of the announcement of election results.
- (4) Parliament shall enact legislation to give effect to this Article.

## PART IX EXECUTIVE

### Office of President

**122.** (1) There shall be a President of the Republic of Zambia who shall be the Head of State and Government and the Commander-in-Chief of the Defence Forces.

(2) The executive power of the Republic vests in the President and, subject to this Constitution, shall be exercised directly by the President or through officers subordinate to the President.

### Qualifications of presidential candidate

**123.** (1) A person shall be qualified to be a candidate for election as President if that person -

- (a) is a citizen by birth or descent;
- (b) does not have dual citizenship;
- (c) has been ordinarily resident in Zambia for a continuous period of ten years immediately preceding the election;
- (d) is not less than thirty-five years of age;
- (e) has obtained, as a minimum academic qualification, a grade twelve certificate or its equivalent.
- (f) is conversant with the official language; and
- (g) declares that person’s assets and liabilities as provided by this Constitution and by or under an Act of Parliament.

(2) A person shall be disqualified from being elected as President if that person -

- (a) holds or is acting in any office that is specified by an Act of Parliament the functions of which involve or are connected with the conduct of elections;
- (b) is of unsound mind;
- (c) is an undischarged bankrupt or insolvent;
- (d) is serving a sentence of imprisonment or is under a sentence of death;
- (e) has, at any time in the immediate preceding five years, served a term of imprisonment for the commission of an offence the sentence for which was a period of at least three years;
- (f) has been removed from public office on grounds of gross misconduct; or
- (g) has been found guilty of corruption by any court or tribunal.

(3) A person holding or acting in any of the following posts or office of appointment shall not qualify for election as a President:

- (a) the Defence Forces and national security agencies;
- (b) the public service;
- (c) a commission;
- (d) a statutory body or company in which the Government has a controlling interest ; or any other post or office specified by or under an Act of Parliament.

(4) A person shall not be eligible to be elected as President unless that person -

(a) has paid the election fee specified by or under an Act of Parliament on or before the date fixed for the delivery of nomination papers; and

(b) has been nominated and supported by not less than one thousand registered voters.

**Nomination for  
election as  
President**

**124.** (1) A presidential candidate shall deliver nomination papers to the Returning Officer in the manner, on the day, at the time and place, as may be prescribed by the Electoral Commission.

(2) A presidential candidate's nomination papers, delivered under clause (1), shall be supported by an affidavit certifying that the candidate is qualified for election as President.

(3) The information contained in a presidential candidate's nomination papers shall be published in the *Gazette* and in at least one electronic media and print media that are circulated nationally.

**Election of  
President**

**125.** (1) The President shall be elected directly in accordance with this Article, Article 95 and as may be provided by or under an Act of Parliament.

(2) The Returning Officer shall declare the presidential candidate who receives not less than fifty percent plus one of the valid votes cast as President-elect.

(3) If at the initial ballot a presidential candidate does not receive fifty per cent plus one vote of the valid votes cast -

(a) a second ballot shall be held, within thirty days, where the only candidates shall be those who obtained -

(i) the highest and second highest number of valid votes cast in the initial ballot; or

(ii) an equal number of valid votes cast having been the highest of the valid votes cast in the initial ballot; and

(b) the candidate who obtains fifty per cent plus one vote of the valid votes cast in the second ballot shall be declared President-elect.

(4) If at the second ballot there is a tie between or among the presidential candidates, the Speaker shall summon the National Assembly to elect, by secret ballot, the President from the candidates and the candidate who obtains the highest number of the valid votes cast by the members of the Assembly shall be declared President-elect.

(5) If there is a tie between or among the presidential candidates in the voting in the National Assembly the Speaker shall cast a vote.

(6) A petition to challenge a presidential election may only be instituted after the election of the President-elect.

(7) The Chairperson of the Electoral Commission shall be the Returning Officer in a presidential election.

**Swearing in and handing over**

**126.** (1) The President-elect shall be sworn in by the Chief Justice and shall assume office ninety days after the declaration of the presidential election results.

(2) The incumbent President shall from the date the presidential election results are declared -

(a) perform any of the executive functions, except the power to

-

(i) make an appointment; or

(iii) dissolve the National Assembly;



(b) prepare handing over notes which shall include a statement on the state of the Nation for the President-elect; and

(c) complete the procedural and administrative handing over process within sixty days.

(3) If the President-elect dies or is for any other reason unable to be sworn in and assume the office of President, under this Article, the Vice-President-elect shall become the President-elect and clauses (1) and (2) shall apply.

(4) The President, who assumed office as a result of clause (3), shall appoint a Vice-President subject to the approval of the National Assembly signified by a vote of not less than two-thirds of all the members of the Assembly.

#### **Election petition**

**127.** (1) Any person may file an election petition before the Constitutional Court, which shall be presided over by the Chief Justice, to challenge the election of the President-elect on any question as to whether –

(a) that person has been validly elected as President; or

(b) any provision of this Constitution or any other law relating to presidential elections has been complied with.

(2) A petition under this Article shall be filed within seven days after the date of the declaration of the presidential election results.

(3) Where any person files an election petition under clause (1) and the incumbent President is the President-elect, the Speaker shall discharge the executive functions and if the Speaker is, for any reason, not able to discharge the executive functions the First Deputy Speaker shall discharge those functions.

(4) The Constitutional Court shall, within ninety days of the filing of an election petition, determine the petition.

(5) A decision of the Constitutional Court to nullify or not to nullify the election of the President-elect shall be final.

(6) Where the election of the President-elect is nullified by the Constitutional Court -

(a) the Speaker shall perform the executive functions; or

(b) if the Speaker is for any reason unable to discharge the executive functions, the First Deputy Speaker shall perform those functions; and

(c) a presidential election shall be held within ninety days from the date of the nullification.

**Tenure of office  
of President**

**128.** (1) Subject to clauses (2) and (4), a President shall hold office for five years and shall not hold any other office of profit or emolument.

(2) Notwithstanding anything in this Constitution or any other law, a person who has twice been elected as President shall not be eligible for election as President for a third or any other subsequent term.

(3) The President may, at any time in writing, signed personally, addressed to the Speaker of the National Assembly, resign from office.

(4) Subject to this Constitution, the President shall continue in office until the President-elect assumes office.

**Removal of  
President on  
grounds of  
incapacity**

**129.** (1) The members of the Cabinet may resolve, by a vote supported by two-thirds of the members, that the physical or mental capacity of the President to perform the executive functions ought to be investigated.

(2) Where a resolution is passed under clause (1) the Secretary to the Cabinet shall send a copy of the resolution to the Chief Justice.

(3) The Chief Justice shall, on receipt of a copy of the resolution submitted under clause (1), appoint a medical board which shall inquire into the matter specified under clause (1).

(4) A medical board shall consist of not less than three persons selected from among persons who are registered as medical practitioners under the Laws.

(5) The President shall, within seven days of a summons from the medical board appointed under clause (3), submit to examination by the board and failure to do so constitutes a ground for removal from office.

(6) A medical board, appointed under clause (3), shall examine the President and report to the Chief Justice, within fourteen days of the appointment of the medical board, as to whether or not the President is capable of discharging the executive functions.

(7) Where the medical board reports that the President is capable of performing the executive functions, the Chief Justice shall inform the National Assembly and the President shall accordingly continue to perform the executive functions.

(8) Where the medical board reports that the President is not capable of performing the executive functions, the Chief Justice shall forward a copy of the medical report to the Speaker for the approval of the National Assembly.

(9) The National Assembly shall by a simple majority vote of the members of the National Assembly taken by secret ballot resolve that the President should cease to hold office.

(10) Where the President ceases to hold office by virtue of clause (9) the Vice-President shall assume the office of President for the un-expired term of that office.

(11) Where the Vice-President assumes the office of President under clause (10), the President shall appoint a Vice-President, subject to the approval of the National Assembly signified by a vote of not less than two-thirds of all the members of the Assembly.

**Impeachment of President for violation of Constitution or gross misconduct**

**130.** (1) A notice in writing to the Speaker, signed by not less than one-third of all the members of the National Assembly, may allege that the President has committed a violation of this Constitution or gross misconduct.

(2) An act or omission which constitutes gross misconduct includes -

(a) conduct which brings the office of President into hatred, ridicule or contempt;

(b) an act or omission that involves dishonesty or moral blame;

(c) an act or omission which is prejudicial or inimical to the economy or security of Zambia;

(d) flagrant failure to perform an executive function;

(e) gross negligence;

(f) gross mismanagement of the public resources resulting in a substantial loss to the Republic; or

(g) failure to obey an order of the Constitutional Court.

(3) A notice under clause (1) shall specify the particulars of the allegations and propose that a tribunal be established to investigate the allegations.

**Procedure for impeachment**

**131.** (1) The Speaker shall, after receipt of the notice submitted under Article 130, if the National Assembly –

(a) is sitting, cause a motion for the impeachment of the President to be considered by the Assembly within seven days of the notice; or

(b) is adjourned or prorogued, summon the Assembly to meet within five days of the summons and cause a motion to impeach the President to be considered forthwith.

(2) The National Assembly shall debate a motion under clause (1) and if the motion is supported, by a secret ballot of not less than two-thirds of all the members of the National Assembly, the motion is passed.

(3) Where a motion is passed under clause (2) the Chief Justice shall appoint a tribunal -

(a) consisting of a chairperson and not less than two other members selected by the Chief Justice from among persons who hold or have held office as Judges of a superior court; and

(b) to investigate the matter and report to the National Assembly whether it finds the particulars of the allegations specified in the motion to have been substantiated.

(4) The President shall have the right to appear and be represented before the tribunal during the investigation of the allegations.

(5) Where the tribunal, appointed under clause (3), reports to the National Assembly that an allegation against the President specified in the motion has -

(a) not been substantiated, the National Assembly shall resolve that -

(i) the President was not guilty of the allegations; and

(ii) further proceedings shall not be taken under this Article in respect of that allegation; or

(b) been substantiated, the National Assembly shall, on a motion supported by the votes of not less than two-thirds of all the members of the Assembly, by a secret vote, resolve that -

(i) the President has been guilty of the allegation; and

(ii) the conduct of the President is incompatible with the continuance in office of the President.

(6) On the passing of the resolution under clause (5) (b) the President shall cease to hold office on the third day following the passing of the resolution.

**Vacancy in  
office of  
President**

**132.** (1) Subject to this Constitution, where the office of President becomes vacant for any reason -

(a) the Vice-President shall assume the office of President for the unexpired term; or

(b) if the Vice-President is unable for any reason or cause to assume the office of President, the Speaker or in the absence of the Speaker, the First Deputy Speaker shall perform the executive functions and a presidential election shall be held within ninety days from the date of the vacancy.

(2) A person performing the executive functions under clause (1) (b) shall not dissolve the National Assembly and shall not, except on the advice of Cabinet, revoke an appointment that had been made by the President.

(3) The President and the Vice-President shall not at any one time both be out of the country.

(4) Where the Vice-President assumes office under clause (1) (a), the President shall appoint a Vice-President, subject to the approval of the National Assembly signified by a vote of not less than two-thirds of all the members of the Assembly.

**Performance of executive functions during absence or illness of President**

**133.** (1) If the President leaves Zambia or is ill, the President shall, by direction in writing, authorize the Vice-President to perform the executive functions, as specified by the President, until that authority is revoked.

(2) Where the Vice-President is incapable of performing the executive functions, as provided under clause (1), the President shall appoint, subject to the ratification of the National Assembly, a member of the Cabinet to perform the functions of the Vice-President until such a time as the Vice-President is able to perform those functions.

**Oath of President**

**134.** A person who assumes the office of President shall, before that person performs any executive function, take the Presidential Oath, as set out in the Third Schedule.

**Emoluments of President**

**135.** (1) The emoluments of the President shall be emoluments as recommended by the Emoluments Commission and specified in an Act of Parliament.

(2) The emoluments of the President shall be a charge on the Consolidated Fund and shall not be altered to the disadvantage of the President during the term of office.

(3) Subject to Article 136, a person who has held the office of President shall be paid, at the end of each term of office, such emoluments recommended by the Emoluments Commission, and specified by an Act of Parliament.

(4) The emoluments of a person who has held the office of President shall be a charge on the Consolidated Fund and shall not be altered to the disadvantage of that person.

(5) In addition to the emoluments specified in clause (3), a person who has held the office of President shall be paid a living allowance, recommended by the Emoluments Commission and specified in an Act of Parliament, if that person -

- (a) has completed a term of office as President;
- (b) does not participate in active party political activities as prescribed by an Act of Parliament; or
- (c) has not been convicted of a criminal offence as a result of the National Assembly removing that person's immunity under Article 136.

(6) Subject to clause (7), a person referred to under clause (5) shall, for purposes of clause (5) (a), be deemed to have completed a term of office if that person served for at least three years as President.

(7) If a President is removed from office under Article 131 that person shall not be entitled -

- (a) to the living allowance specified under clause (5); and
- (b) to the portion of any gratuity or other benefits remaining to be accrued to that person for the unexpired term of office.

**Protection of  
President from  
legal  
proceedings**

**136.** (1) Civil proceedings shall not be instituted or continued against the President or a person performing the executive



functions in respect of anything done or omitted to be done in the performance of an executive function.

(2) The President or a person performing the executive functions shall, subject to clauses (3) and (6), be immune from criminal proceedings in respect of the performance of those executive functions.

(3) Where there is prima facie evidence that a person who held the office of President committed any criminal offence when performing the executive functions, the President shall submit a report of such evidence to the National Assembly.

(4) Where the National Assembly receives a report under clause (3), the Assembly shall constitute an ad hoc select committee to look into the matter and determine whether or not the immunity of the person who held the office of President should be removed and recommend its decision to the National Assembly.

(5) The person who held the office of President shall have the right to appear and be represented before the ad hoc select committee constituted under clause (4).

(6) The National Assembly may, on the recommendation of the select committee constituted under clause (4), remove the immunity from legal proceedings granted under this Article, from any person who has held office as President by a resolution supported by a vote of not less than two-thirds of all the members of the Assembly.

#### **Functions of President**

**137.** (1) The President shall perform with dignity and integrity the acts that are necessary or expedient for, or reasonably incidental to, the performance of the executive functions of the State, subject to the overriding terms and spirit of this Constitution and the Laws which the President is obliged to protect, administer and execute.

(2) Without limiting clause (1), the President may preside over the meetings of the Cabinet and may, subject to this Constitution -

- (a) accredit and appoint Ambassadors, High Commissioners, plenipotentiaries, diplomatic representatives and consuls;
- (b) receive and recognise foreign ambassadors and heads of international organisations;
- (c) pardon or reprieve offenders, unconditionally or subject to any condition;
- (d) negotiate international agreements and treaties and, subject to the National Assembly approving the final draft of the agreements or treaties, ratify or accede to such international agreements and treaties;
- (e) establish and dissolve Government ministries and departments, subject to the approval of the National Assembly;
- (f) confer honours on citizens, residents and friends of Zambia, after consultation with relevant interested persons and institutions;
- (g) initiate Bills for submission to, and consideration by, the National Assembly; and
- (h) perform any other function specified by this Constitution or by or under any other law.

**Declaration of war**

**138.** (1) The President may, in consultation with Cabinet and subject to the prior approval of the National Assembly, signified by a resolution supported by not less than two-thirds of all the members of the Assembly, declare war between Zambia and any other country.

(2) A declaration made under clause (1) shall be by proclamation in the *Gazette* and shall continue in force until the cessation of hostilities.

(3) An Act of Parliament shall provide for the circumstances under which a declaration may be made under clause (1).

(4) Where it is impracticable to seek the approval of the National Assembly before making the declaration under clause (1), the President may declare war without the prior approval of the National Assembly but the President shall seek ratification of the Assembly as soon as is reasonably practicable after the declaration.

**Declaration of  
state of public  
emergency**

**139.** (1) When there is a state of war, an invasion, general insurrection, disorder and other similar public emergency, the President may, in consultation with Cabinet, declare a state of public emergency.

(2) A declaration made under clause (1) shall -

- (a) be by proclamation in the *Gazette*;
- (b) continue in force until the cessation of hostilities or other public emergency; and
- (c) cease to have effect after such cessation and the President or the National Assembly shall declare the end of the state of public emergency.

(3) An Act of Parliament shall provide for the circumstances under which a declaration may be made or continued under clause (1).

(4) Any emergency laws or powers in force during a state of public emergency shall cease to have effect after the cessation of hostilities or other public emergency.

(5) The President may take such measures as are necessary to respond to a state of public emergency and shall, as soon as is reasonably practicable after the declaration, seek the ratification of the National Assembly for the measures that have been undertaken.

(6) Any legislation that concerns a state of public emergency or any legislation enacted or any action taken in consequence of a declaration of a state of public emergency shall not permit or authorize indemnifying the State or any person in respect of an unlawful act.

**Declaration of  
threatened state  
of public  
emergency**

**140.** (1) The President may, in consultation with Cabinet and subject to the prior approval of the National Assembly, signified by a resolution supported by not less than two-thirds of all the members of the Assembly, declare that a threatened state of public emergency exists.

(2) A declaration made under this Article shall be by proclamation published in the *Gazette*.

(3) A declaration made under clause (1) and any legislation enacted or any other action taken in consequence of that declaration shall be effective only -

- (a) prospectively; and
- (b) for not more than twenty-one days from the date of the declaration, unless the National Assembly resolves to extend the period of the threatened state of public emergency.

(4) Any extension of a threatened state of public emergency shall be effective only if it is approved by the National Assembly signified by the votes of at least two-thirds of all the members of the Assembly.

(5) Any legislation that concerns a threatened state of public emergency or any legislation enacted or any action taken in consequence of a declaration of a threatened state of public emergency shall not permit or authorize indemnifying the State or any person in respect of an unlawful act.

**Declaration  
of National  
disasters**

**141.** (1) The President may, in consultation with Cabinet, declare that a National disaster exists, which includes a natural or man-made disaster.

(2) The President may take such measures as are necessary to respond to a National disaster.

(3) A declaration made under this Article shall be by proclamation published in the *Gazette*.

(4) Parliament shall enact legislation to give effect to this Article.

**Validity of  
emergency**

**142.** The Constitutional Court shall have jurisdiction to decide on the validity of a declaration of a state of public emergency or threatened state of public emergency, including the determination of whether any measures taken as a result of the declaration are reasonable.

**Ratifications of  
appointments by  
National  
Assembly**

**143.** (1) Where any appointment to be made by the President is expressed by this Constitution to be subject to ratification by the National Assembly, the National Assembly shall not unreasonably refuse or delay the ratification.

(2) Where the ratification is refused, the President shall appoint another person to that office and shall submit the appointment for ratification by the National Assembly.

(3) Where the National Assembly refuses to ratify the second appointment, the President shall invite the National Assembly to approve another appointment for the third time but if the Assembly does not ratify the third appointment, the appointment -

(a) shall take effect from the date of the submission of the name to the Assembly, if the office to which the appointment relates is under this Part; or

(b) shall not take effect if the office to which the appointment relates is not under this Part and the President shall -

(i) appoint another person to that office and submit the appointment for ratification; and

(ii) continue to submit an appointment for ratification until the National Assembly ratifies the appointment.

**Vice-President,  
election to office  
and swearing in**

**144.** (1) There shall be an office of Vice-President of the Republic.

(2) The Vice-President shall be elected as a running mate to a presidential candidate.

(3) The qualifications and disqualifications which apply for election to the office of President shall apply to the person who is a running mate to the presidential candidate.

(4) An election to the office of Vice-President shall be conducted at the same time as that of an election to the office of President so that a vote cast for a presidential candidate is a vote cast for the vice-presidential candidate and if the presidential candidate is elected the vice-presidential candidate is also elected.

(5) A person elected as Vice-President under this Article shall be sworn into office by the Chief Justice and shall assume office on the same day that the President assumes office.

(6) Where a vacancy occurs in the office of Vice-President through death, resignation or removal from office due to incapacity or gross misconduct, the President shall appoint a person to be Vice-President and the National Assembly shall, by a resolution supported by the votes of not less than two-thirds of all the members of the Assembly, ratify the appointment of the Vice-President who shall serve for the unexpired term of office.

(7) In the absence of the Vice-President or if the Vice-President is unable to perform the functions of office for any reason, the President shall appoint, subject to the ratification of the National Assembly, a member of the Cabinet to perform the functions of the Vice-President until such a time as the Vice-President is able to perform those functions.

(8) The emoluments of the Vice-President shall be as recommended by the Emoluments Commission and prescribed in an Act of Parliament.

(9) The emoluments of the Vice-President shall be a charge on the Consolidated Fund.

**Functions of  
Vice-President**

**145.** In addition to the functions of the Vice-President, specified in this Constitution or under any other law, the Vice-President shall -

(a) perform the functions that are assigned to the Vice-President by the President;

(b) act as President when the President is unable to carry out the executive functions as provided under this Constitution; and

(c) be the leader of Government business in the National Assembly.

**Removal from  
office of Vice-  
President**

**146.** Articles 129, 130 and 131 shall apply to the removal from office of the Vice-President.

**Ministers**

**147.** (1) The President shall appoint not more than twenty-one persons as Ministers or such number of Ministers as the National Assembly may approve, who are qualified to be elected as members of the National Assembly but are not members of the Assembly.

(2) A Minister shall be responsible, under the direction of the President, for the business of the Government, including the administration of a Ministry and other State institutions as assigned by the President.

(3) The emoluments of a Minister shall be as recommended by the Emoluments Commission and specified in an Act of Parliament and shall be a charge on the Consolidated Fund.

(4) A Minister shall only attend the sittings of the National Assembly where it is necessary for the performance of a particular function specified under this Constitution or any other law or when required to do so by the Speaker and the Minister shall, while in attendance in the Assembly, take part in the proceedings of the Assembly but shall have no vote.

**Provincial  
Ministers**

**148.** (1) The President shall appoint a Provincial Minister for each province from persons who are qualified to be elected as members of the National Assembly but are not members of the Assembly.

(2) The emoluments of a Provincial Minister shall be as recommended by the Emoluments Commission and specified in an Act of Parliament and shall be a charge on the Consolidated Fund.

**Deputy  
Ministers**

**149.** (1) Subject to this Constitution, the President shall appoint not more than twenty-one Deputy Ministers or such number of Deputy Ministers as the National Assembly may approve.



(2) Article 147 (1), (2), (3) and (4) shall apply to Deputy Ministers.

(3) A Deputy Minister shall perform any function assigned to the Deputy Minister by the President or the Minister.

**Cabinet**

**150.** There shall be a Cabinet consisting of the -

- (a) President and the Vice-President;
- (b) Ministers; and
- (c) Provincial Ministers.

**Functions of Cabinet**

**151.** (1) The President shall preside at the meetings of Cabinet and in the absence of the President the Vice-President shall preside.

(2) The Cabinet may perform its functions although there is a vacancy in its membership.

(3) The Cabinet shall formulate Government policy and shall be responsible for advising the President with respect to the policy of the Government and any other matter.

**Oaths of office**

**152.** A Minister, Provincial Minister and Deputy Minister shall not carry out the duties of office unless that person takes the Oath of Minister, Provincial Minister or Deputy Minister and the Oath of Secrecy, as set out in the Third Schedule.

**Code of conduct**

**153.** A Minister, Provincial Minister and Deputy Minister shall act in accordance with a code of conduct prescribed by this Constitution or any other law.

**Secretary to Cabinet**

**154.** (1) There shall be a Secretary to the Cabinet whose office is a public office and who shall, subject to ratification by the

National Assembly, be appointed by the President in consultation with the Civil Service Commission.

- (2) The Secretary to the Cabinet shall -
  - (a) be chief advisor to the President on public service management;
  - (b) be the head of the public service and responsible to the President for securing the general efficiency of the public service;
  - (c) have charge of the Cabinet Office;
  - (d) be responsible, in accordance with the instructions of the President, for arranging the business for, and keeping the minutes of, the Cabinet and conveying decisions made by Cabinet to the appropriate authorities; and
  - (e) perform any other function prescribed by or under an Act of Parliament or as directed by the President.
- (3) The Secretary to the Cabinet shall not be less than forty-five years of age.
- (4) The term of office of the Secretary to the Cabinet shall be three years, subject to renewal for further terms, on such terms and conditions as may be specified by or under an Act of Parliament.
- (5) The Secretary to the Cabinet shall be removed from office by the President only for misconduct or inability to perform the functions of office or for infirmity of mind or body.

**Prerogative  
of mercy**

**155.** The President may -

- (a) grant a pardon to a person convicted of an offence, with or without conditions;
- (b) grant to a person a respite, indefinitely or for a specified period, of the execution of a punishment imposed on that person for an offence;
- (c) substitute a less severe form of punishment for a punishment imposed on a person for an offence committed by that person;
- (d) remit the whole or part of a punishment imposed on a person for an offence committed by that person; and
- (e) remit the whole or part of a penalty, forfeiture or confiscation imposed on a person for an offence committed by that person.

**Advisory  
committee**

**156.** (1) There shall be an **Advisory Committee** on the prerogative of mercy which shall consist of persons appointed by the President.

(2) The **Advisory Committee** shall give advice to the President on persons convicted of an offence by any court or court-martial, for purposes of Article 155.

(3) A member of the advisory committee shall hold office at the pleasure of the President.

(4) The President may preside at any meeting of the **Advisory Committee**.

(5) The **Advisory Committee** may determine its own procedure for meetings.

**PART X  
LEGISLATURE**

**157. (1)** There is hereby established a Parliament of Zambia which shall consist of the National Assembly and the President.

(2) The National Assembly may, by a resolution supported by the votes of two-thirds of all the members of the Assembly, refer to a referendum a question on the need to establish a House of Representatives as a component of Parliament.

(3) If a referendum approves the establishment of a House of Representatives, Parliament shall enact legislation to provide for the establishment, composition, functions and procedures of the House.

(4) The expenses of the House of Representatives established under clause (3), including the emoluments payable to, or in respect of, members of the House, shall be a charge on the Consolidated Fund.

**Legislative  
power and other  
functions of  
National  
Assembly**

**158. (1)** The legislative power of the Republic is vested in Parliament.

- (2) The National Assembly shall be responsible for –
- (a) enacting legislation, as provided under this Constitution;
  - (b) deliberating and resolving issues of concern to the people;
  - (c) considering and passing amendments to this Constitution, subject to this Constitution;
  - (d) approving the sharing of revenue between the National government and the local government and appropriating funds for expenditure by the departments of the

- Government, other State organs, State institutions and other bodies;
- (e) ensuring equity in the distribution of national resources and opportunities among all parts and communities of Zambia;
  - (f) scrutinising public expenditure, including defence, constitutional, special expenditure and public debt;
  - (g) scrutinizing and overseeing actions of the executive organ of the State;
  - (h) ratifying any appointment as required by this Constitution or by or under an Act of Parliament;
  - (i) approving an increase or decrease in the number of Ministers and Deputy Ministers as provided under this Constitution on the request of the President;
  - (j) approving international treaties and international agreements before these are ratified or acceded to and where necessary incorporating these international instruments into national laws;
  - (k) approving the emoluments of the President and other officers specified under this Constitution;
  - (l) summoning and dissolving the National Assembly;
  - (m) impeaching the President as provided for in this Constitution;

- (n) approving or ratifying declarations of war, state of public emergency or threatened state of public emergency and measures undertaken during these periods; and
- (o) any other function prescribed by this Constitution or by or under an Act of Parliament.

(3) A person or body, other than Parliament, shall not have power to enact legislation, except under the authority conferred by this Constitution or by or under an Act of Parliament.

**Composition of  
National  
Assembly**

- 159.** (1) The National Assembly shall consist of –
- (a) two hundred members directly elected on the basis of a simple majority under the first-past-the-post segment of the mixed member representation system provided for by this Constitution and as may be provided by or under an Act of Parliament;
  - (b) forty per cent of the total number of constituency-based seats on the basis of the proportional representation segment of the mixed member representation system from a list of candidates submitted to the Electoral Commission by each political party contesting the elections, as provided by this Constitution and by or under an Act of Parliament;
  - (c) the Speaker;
  - (d) the First Deputy Speaker; and
  - (e) the Vice-President.

(2) Clause (1) (a) and (b) shall be subject to Article 95 (3).

**Qualifications and  
disqualifications of  
members of  
National Assembly**

**160.** (1) Unless disqualified under clauses (2) and (3), a person shall be eligible to be elected as a member of the National Assembly if that person -

- (a) is a citizen;
- (b) is not less than twenty-one years;
- (c) is registered as a voter;
- (d) has obtained, as a minimum academic qualification, a grade twelve certificate of education or its equivalent;
- (e) has been ordinarily resident in the constituency or district for at least three years; and
- (f) declares that person's assets and liabilities as provided under this Constitution and by or under an Act of Parliament.

(2) A person shall be disqualified from being elected as a member of the National Assembly if that person -

- (a) holds, or is validly nominated as a candidate in an election for, the office of President;
- (b) holds or is acting in any office that is specified by an Act of Parliament the functions of which involve or are connected with the conduct of elections;
- (c) is of unsound mind;
- (d) is an undischarged bankrupt or insolvent;
- (e) is serving a sentence of imprisonment or is under a sentence of death;

- (f) has, at any time in the immediate preceding five years, served a term of imprisonment for the commission of an offence the sentence for which was a period of at least three years;
- (g) has been removed from public office on grounds of gross misconduct; or
- (h) has been found guilty of corruption by any court or tribunal.

(3) A person holding or acting in any of the following posts or office of appointment shall not qualify for election as a member of the National Assembly:

- (a) the Defence Forces and National security agencies;
- (b) the public service;
- (c) a commission;
- (d) a statutory body or company in which the Government has a controlling interest ; or
- (e) any other post or office specified by or under an Act of Parliament.

(4) In this Article, a reference to a sentence of imprisonment shall not include a sentence of imprisonment the execution of which is suspended or a sentence of imprisonment in default of payment of a fine.

(5) A person shall not be disqualified under clause (2) (g) and (h) unless all possibility of appeal or review of the sentence or decision has been exhausted.

**161.** (1) Nominations for election to the National Assembly shall be delivered to a returning officer on a day, at a



time and place specified by the Electoral Commission under an Act of Parliament.

(2) A nomination for election to the National Assembly shall not be valid unless –

- (a) the candidate has paid the election fee specified by or under an Act of Parliament; and
- (b) in the case of a candidate for a constituency - based seat the nomination is supported by not less than nine persons registered as voters in the constituency in which the candidate is standing for election.

**Tenure of office  
and vacation of  
office of member  
of National  
Assembly**

**162.** (1) Every member of the National Assembly, except the Speaker and the First Deputy Speaker, shall vacate the seat in the National Assembly upon a dissolution of Parliament.

(2) The office of member of the National Assembly becomes vacant if –

- (a) the member ceases to be a citizen;
- (b) the member resigns in writing addressed to the Speaker;
- (c) the member becomes disqualified for election under Article 160 (3);
- (d) the result of an election for that member is nullified by the Parliamentary Election Tribunal constituted under Article 165;
- (e) the member acts contrary to a code of conduct provided by this Constitution or by or under an Act of Parliament;

- (f) the member resigns from the political party for which the member stood as a candidate for election to the National Assembly or resigns from a coalition of parties to which that member belongs;
- (g) having been elected to the National Assembly as an independent candidate, the member joins a political party;
- (h) the member is recalled in accordance with Article 189; and
- (i) the member dies.

(3) A constituency-based member of the National Assembly who causes a vacancy in the Assembly due to the reasons specified under clause (2) (b), (c), (e), (f), (g) and (h) shall not be eligible to contest any direct election for the duration of the term of that Parliament.

(4) Where a member of the National Assembly who holds a proportional representation seat causes a vacancy, in the National Assembly, due to death or resignation, that vacancy shall be filled by the next candidate on the political party's list as provided by an Act of Parliament.

(5) Where a member of the National Assembly, who occupies a proportional representation seat, is expelled from the political party that has been allocated that seat, the seat shall be filled by the next candidate on the political party's list as provided by an Act of Parliament.

(6) Where a member of the National Assembly, who occupies a constituency-based seat, is expelled by the political party

which sponsored that member for election, the member shall not lose the seat unless the expulsion is confirmed by a court.

(7) Where a court confirms the expulsion of a member who occupies a constituency-based seat, a by-election shall be held to fill the vacancy.

(8) If a political party is dissolved -

(a) a member holding a constituency-based seat shall retain the seat as an independent member; and

(b) a member holding a proportional representation-seat shall cease to be a member and the party shall lose the seat which seat shall be re-allocated to another political party based on the next highest national aggregate vote obtained by that party in relation to the other parties who contested the election.

(9) The creation or dissolution of a coalition of parties of which a member's political party forms part of, or a merger of two or more parties does not amount to a member resigning from the party for the purposes of clause (2)(f).

**Vacancies and  
by-elections  
for National  
Assembly**

**163.** (1) Where a vacancy occurs in the office of a member of the National Assembly, as specified under Article 162 (2) and (3), the Speaker shall, within seven days of the occurrence of the vacancy, inform, in writing, the Electoral Commission of the vacancy.

(2) Where a vacancy occurs for a constituency-based seat as specified under Article 162 and subject to Article 100 (3), a by-

election shall be held within ninety days of the occurrence of the vacancy.

**Emoluments  
of members**

**164.** (1) A member of the National Assembly shall be paid emoluments and provided with facilities as recommended by the Emoluments Commission and specified in or by an Act of Parliament.

(2) The emoluments paid to, and the funds provided for facilities for, a member of the National Assembly shall be a charge on the Consolidated Fund.

**Parliamentary  
Election  
Tribunal**

**165.** (1) A person may file an election petition to challenge the election of a candidate as a member of the National Assembly.

(2) The Chief Justice shall, for purposes of hearing and determining any question whether -

(a) any person was validly elected as a member of the National Assembly; or

(b) the seat of any member has become vacant;

constitute an ad hoc Parliamentary Election Tribunal.

(3) A Parliamentary Election Tribunal shall consist of -

(a) a Judge of the High Court as Chairperson; and

(b) four other persons who have held the office of, or are qualified to be appointed as, Judges of the High Court.

(4) A Parliamentary Election Tribunal shall, within ninety days of the lodging of an election petition, hear and determine the petition.

(5) A decision of the Parliamentary Election Tribunal shall be final and the Tribunal shall stand dissolved on the determination of the election petition.

(6) The expenses of a Parliamentary Election Tribunal shall be a charge on the Consolidated Fund.

**Speaker and  
Deputy  
Speakers of  
National  
Assembly**

**166.** (1) There shall be a Speaker of the National Assembly who shall be elected by the members of the National Assembly.

(2) A person is qualified to be a candidate for election as Speaker of the National Assembly if that person -

- (a) is a citizen by birth or descent;
- (b) does not have dual citizenship;
- (c) has been ordinarily resident in Zambia for a continuous period of ten years immediately preceding the election;
- (d) is not less than forty-five years of age;
- (e) has obtained, as a minimum academic qualification, a grade twelve certificate or its equivalent;
- (f) declares that person's assets and liabilities as provided by this Constitution and by or under an Act of Parliament; and
- (g) is not a member of the National Assembly.

(3) There shall be two Deputy Speakers of the National Assembly -

- (a) one of whom shall be elected by the members of the Assembly, from among persons who are qualified to be elected as members of the

Assembly but are not members of the Assembly, as First Deputy Speaker;

- (b) one of whom shall be elected by the members of the National Assembly, from among their number, as Second Deputy Speaker; and
- (c) both of whom are not members of the same political party and of the same gender.

(4) The members of the National Assembly shall elect a person to the office of Speaker and First and Second Deputy Speakers -

- (a) when the Assembly first sits after any dissolution of Parliament; and
- (b) if any of those offices become vacant, otherwise than by reason of the dissolution of Parliament, at the first sitting of the Assembly after the office becomes vacant.

(5) The office of Speaker and First Deputy Speaker shall become vacant -

- (a) when a new National Assembly first sits after a general election;
- (b) if the office holder becomes disqualified under Article 160 (2);
- (c) if the National Assembly resolves, by a resolution supported by the votes of not less than two-thirds of its members, to remove the Speaker or First Deputy Speaker on any of the following grounds:
  - (i) violation of this Constitution;

- (ii) incapacity to discharge the duties of the office of Speaker or First Deputy Speaker due to infirmity of body or mind; or
- (iii) misconduct;
- (d) if the office holder dies; or
- (e) if the office holder resigns from office in a letter addressed to the President.

(6) The Speaker and the First and Second Deputy Speakers shall be elected by a secret vote.

(7) The Speaker and the First Deputy Speaker shall retire at the age of seventy-five years.

(8) When the offices of Speaker and Deputy Speakers become vacant, business shall not be transacted in the National Assembly, other than an election to the offices of Speaker and Deputy Speakers.

(9) The Speaker and the Deputy Speakers shall be entitled to emoluments recommended by the Emoluments Commission and specified in an Act of Parliament.

(10) The emoluments of the Speaker and Deputy Speakers shall be a charge on the Consolidated Fund.

**Presiding in  
National  
Assembly**

**167.** There shall preside at any sitting of the National Assembly –

- (a) the Speaker;
- (b) in the absence of the Speaker, the First Deputy Speaker;
- (c) in the absence of the First Deputy Speaker, the Second Deputy Speaker; or

- (d) in the absence of the Speaker and both Deputy Speakers any other member of the National Assembly as the Assembly may elect for that sitting.

**Leader of  
Opposition**

**168.** (1) The opposition political party with the largest number of seats in the National Assembly or a coalition of opposition political parties in the Assembly shall elect, from amongst the members of the Assembly, the leader of the opposition, except that where an opposition political party has formed a coalition with the party in Government a member of the National Assembly of that political party shall not be eligible for election as the leader of the opposition.

(2) The Standing Orders of the National Assembly shall provide for the effective participation in the Assembly of the leader of the opposition.

**Clerk of National  
Assembly**

**169.** (1) There shall be a Clerk of the National Assembly who shall be appointed by the Parliamentary Service Commission, subject to ratification by the National Assembly.

(2) A person shall not be appointed Clerk of the National Assembly unless that person is at least forty-five years of age and has the academic qualifications, experience and skills specified by an Act of Parliament.

(3) Subject to clause (4), the Clerk of the National Assembly shall retire on attaining the age of sixty-five years.

(4) The National Assembly may, by a resolution supported by the votes of not less than two-thirds of all the members of the Assembly, remove the Clerk of the National



Assembly on the same grounds that apply to the removal of a Judge of a superior court.

**Exercise of  
legislative  
power**

**170.** (1) Parliament shall enact legislation through Bills passed by the National Assembly and assented to by the President.

(2) Any member of the National Assembly or a member of the Cabinet may introduce Bills in the National Assembly.

(3) The expenses of drafting and introducing a Bill under clause (2) shall be a charge on the Consolidated Fund and a member of the National Assembly shall not be required to pay for any expenses attaching to the drafting of the Bill and introduction and passage of the Bill in the National Assembly.

(4) A Bill that would confer a pecuniary benefit on members of the National Assembly, the President, Vice-President, a Minister, Provincial Minister or Deputy Minister shall not be introduced in the National Assembly unless it has been recommended by the Emoluments Commission.

- (5) A Bill introduced in the National Assembly shall be -
- (a) accompanied by an explanatory memorandum, signed by the proposer or the Attorney-General, if the Bill has been initiated by the Government, outlining -
    - (i) the objectives of the proposed legislation;
    - (ii) any Bill of Rights limitation, derogation or any other constitutional implication;
    - (iii) any relevant provisions of Part III that have been taken into account;

- (iv) any public consultation undertaken during the preparation of the Bill;
- (iv) any further public consultation that is recommended before the Bill is enacted; and
- (v) any other matter relevant to the Bill; and
- (b) published in the *Gazette* at least fourteen days before the date of its introduction in the Assembly, unless due to the urgency of the matter, the Speaker otherwise determines.

(6) After a Bill is read the first time in the National Assembly it shall be referred to a standing committee of the Assembly which shall examine the Bill in detail and make inquiries in relation to it as the committee considers expedient or necessary.

(7) A Bill that has been deliberated upon by a standing committee shall be reported to the National Assembly which shall debate the Bill and procedurally pass the Bill, with or without amendments, or reject the Bill.

(8) A Bill that has been referred to a standing committee under clause (5) shall not be held at that committee for more than sixty days.

**Retrospective  
legislation**

**171.** Parliament may make laws with retrospective effect but does not have the power to enact any law which operates retrospectively to impose any limitations on, or to adversely affect the personal rights and freedoms of, any person or to impose a burden, liability or an obligation on any person.

**Money Bills**

**172.** (1) A Money Bill shall only be introduced by a Minister.

(2) In this Part “Money Bill” includes a Bill that provides for –

- (a) the imposition, repeal, remission, alteration or regulation of taxes;
- (b) the imposition of charges on the Consolidated Fund or any other public fund or the variation or repeal of any of those charges;
- (c) the appropriation, receipt, custody, investment, issue or audit of accounts of public moneys;
- (d) the grant of moneys to any person or authority or the variation or revocation of the grant of public moneys;
- (e) the raising or guaranteeing of any loan or the repayment of it; or
- (f) subordinate matters incidental to any of the matters specified under this clause.

**Presidential assent and referral**

**173.** (1) Where a Bill is presented to the President for assent the President shall, within twenty-one days after receipt of the Bill –

- (a) assent to the Bill; or
- (b) refer the Bill back to the Speaker for re-consideration by the National Assembly, indicating any reservation that the President has concerning the Bill.

(2) If the President refers the Bill back for re-consideration by the National Assembly, the Assembly may -

- (a) amend the Bill in the light of the President's reservations; or
- (b) pass the Bill a second time, without amendment, by a vote supported by at least two-thirds of all of the members of the National Assembly.

(3) If the National Assembly amends the Bill, in the light of the President's reservation, the Speaker shall submit the Bill to the President for assent.

(4) If the National Assembly, after considering the President's reservation, passes the Bill a second time by a vote supported by two-thirds of all of the members of the National Assembly, without amending the Bill -

- (a) the Speaker shall within seven days re-submit it to the President; and
- (b) the President shall within seven days assent to the Bill;

unless the President's reservation is on a question of the constitutionality of the Bill, in which case the President shall refer the Bill to the Constitutional Court whose decision on the matter shall be final.

(5) If the National Assembly fails to pass the Bill for a second time as required under (2) (b) the Bill shall not again be presented for assent.

(6) If the President refuses or fails to assent to a Bill, within the periods prescribed in clauses (1) and (4), without further action being taken in accordance with those clauses, the Bill shall be

taken to have been assented to upon the expiration of those periods.

(7) Subject to Article 174, where thirty or more members of the National Assembly or any person, with leave of the Constitutional Court, challenges a Bill on a question of the constitutionality of the Bill, the President shall not assent to the Bill until the Constitutional Court has determined the matter.

**Challenge of  
Bill and  
reference to  
Constitutional  
Court**

**174.** (1) Thirty or more members of the National Assembly or any person, with leave of the Constitutional Court, may challenge a Bill for its constitutionality within three days after the final reading of the Bill in the Assembly.

(2) Where the Constitutional Court considers that a challenge of a Bill under this Article is frivolous or vexatious, the Court shall not decide further on the question as to whether the Bill would be or is inconsistent with this Constitution and shall dismiss the action.

(3) Where the Constitutional Court determines that any provision of a Bill would be or is inconsistent with any provision of this Constitution the Court shall so inform the Speaker and the President.

(4) Nothing in clauses (1), (2) and (3) shall apply to a Money bill or a Bill containing only proposals for amending this Constitution or the Constitution of Zambia Act.

(5) The Standing Orders of the National Assembly shall provide for the procedure to be followed by members who intend to challenge a Bill.

**Coming into  
force of laws**

**175.** A Bill passed by the National Assembly and assented to by the President –

- (a) shall be published in the *Gazette* within seven days of the assent; and
- (b) shall come into force on the fourteenth day after its publication in the *Gazette* unless the Act otherwise provides.

**Acts of Parliament and enactment clause**

**176.** All laws enacted by Parliament shall be styled “Acts” and the words of enactment shall be “Enacted by the Parliament of Zambia.”

**Right to petition and make comments**

**177.** (1) Every person has a right to petition Parliament to enact, amend or repeal any legislation.

(2) Every citizen may make any comment on the deliberations, statements and decisions of the National Assembly.

**Quorum**

**178.** The quorum for a meeting of the National Assembly shall be one-third of all the members of the Assembly.

**Voting in National Assembly**

**179.** (1) Except as otherwise provided in this Constitution, any question proposed for decision in the National Assembly shall be determined by a majority of the members present and voting.

(2) Except as provided under Article 125 (5), on a question proposed for decision in the National Assembly –

- (a) the Speaker shall have no vote; and
- (b) in the case of a tie the question shall be lost.

**Procedure and committees of National Assembly**

180. (1) The National Assembly may –
- (a) regulate its own procedure and shall make Standing Orders for the orderly conduct of its proceedings; and
  - (b) establish standing committees and any other committee in the manner and for the general or special purposes that it considers necessary and shall regulate the procedure of any committee established under this Article.

(2) The standing committees of the National Assembly shall be established at the first sitting of the National Assembly after a general election and after the election of the Speaker and the Deputy Speakers.

(3) In electing members of a committee the National Assembly shall ensure that there is equitable representation of the political parties or groups that are represented in the National Assembly as well as of the members not belonging to any political party or group.

(4) The proceedings of the National Assembly shall not be invalid because of –

- (a) a vacancy in its membership; or
- (b) the presence or participation of any person not entitled to be present at, or to participate in, the proceedings of the National Assembly.

(5) Parliament shall enact legislation providing for the functions of a standing committee which shall include the following:

- (a) investigate or inquire into the administration of Government ministries and departments;

- (b) examine and make recommendations on Bills that are referred to the committee;
- (c) initiate any Bill within its area of competence;
- (d) assess and evaluate estimates of revenue and expenditure, including the management of revenue and expenditure, by the Government and other bodies who directly or indirectly receive services or resources from the Government;
- (e) carry out research and studies in its area of competence; and
- (f) report to the National Assembly on its functions and activities.

**Power to call evidence**

- 181.** (1) In the performance of its functions –
- (a) the National Assembly or any of its committees may call any Minister, any person holding a public office or any private individual to submit memoranda or appear before it to give evidence;
  - (b) a committee of the National Assembly may co-opt any member of the National Assembly or engage qualified persons to assist it in the performance of its functions; and
  - (c) the National Assembly or any of its committees has the powers of –
    - (i) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;



- (ii) compelling the production of documents; and
- (iii) issuing a commission or request to examine witnesses abroad.

(2) A person summoned to attend to give evidence or produce a document before the National Assembly or any of its committees is entitled, in respect of that evidence or the production of the document, to the same privileges and protections as those that a person would be entitled to before a court.

(3) An answer by any person to a question put by the National Assembly or any of its committees is not admissible in evidence against that person in any civil or criminal proceedings in any court, except for perjury under criminal law.

**Public access and participation**

- 182.** (1) The National Assembly shall –
- (a) facilitate public involvement in the legislative process; and
  - (b) conduct its business in an open manner and hold its sittings and those of its committees in public.

(2) The National Assembly or any of its committees shall not exclude the public or any public or private media from any of its sittings unless, in exceptional circumstances, the Speaker determines that there are justifiable reasons for doing so.

**Powers, privileges and immunities**

**183.** (1) There shall be freedom of speech and debate in the National Assembly and that freedom shall not be impeached or questioned in any court or tribunal.

(2) The National Assembly shall, for the purpose of the orderly and effective discharge of the business of the National Assembly, have the powers, privileges and immunities specified by an Act of Parliament.

**Sittings of  
National  
Assembly**

**184.** (1) After members of the National Assembly are elected in a general election the Speaker shall, by notice in the *Gazette*, appoint a date, not more than thirty days after the general election, for the first sitting of the Assembly.

(2) There shall be a session of Parliament at least once every year so that a period of twelve months shall not intervene between the last sitting of the National Assembly in one session and the commencement of the next session.

(3) The sittings of the National Assembly in any session of Parliament after the commencement of that session shall be held at such times and on such days as the Speaker shall appoint.

(4) The President may in writing request the Speaker to summon a special meeting of the National Assembly to consider extraordinary or urgent business and when so requested the Speaker shall summon the National Assembly within fourteen days.

(5) Notwithstanding this Article, two-thirds of the members of the National Assembly may request a meeting and on receipt of that request the Speaker shall summon the National Assembly within seven days.

(6) Where the Speaker fails to summon the National Assembly when requested to do so under this Article, two-thirds of the members of the Assembly may sit to consider the motion to summon the National Assembly and shall for that purpose elect

one member from amongst their number to preside over the proceedings and that member shall have all the powers of the Speaker for purposes of that motion.

(7) A motion to summon the National Assembly, under clause (6), shall be passed by a vote supported by two-thirds of the members present and voting.

**Life and  
prorogation of  
Parliament**

**185.** (1) The life of Parliament shall be five years from the date of the declaration of the results of a general election and Parliament shall stand prorogued ninety days before the holding of the next general election.

(2) At any time when the Republic is at war the National Assembly may, by resolution supported by a simple majority vote of the members of the Assembly, extend the term of Parliament for not more than twelve months at a time.

(3) The President shall dissolve Parliament -

(a) if the situation is such that the Executive cannot effectively govern the Republic with the current National Assembly; and

(b) the Constitutional Court determines that the situation specified under paragraph (a) exists.

(4) If Parliament is dissolved by virtue of clause (3), presidential and National Assembly elections shall be held within ninety days of the dissolution.

(5) After a dissolution of Parliament and before the holding of general elections the President may, due to a state of war or state of public emergency or threatened state of public emergency, recall the National Assembly that was dissolved to meet.

(6) The Speaker may, in consultation with the President, prorogue Parliament by proclamation.

**President may  
address National  
Assembly**

**186.** (1) The President may at any time attend and address the National Assembly.

(2) The President may send messages to the National Assembly and the message shall be read at the first convenient sitting of the National Assembly, after it is received, by the Vice-President or by a Minister designated by the President.

**Statutory  
instruments**

**187.** (1) Nothing in Article 158 or 170 shall prevent Parliament from conferring on any person or authority power to make statutory instruments.

(2) Every statutory instrument shall be published in the *Gazette* not later than twenty-eight days after it is made or, in the case of a statutory instrument which will not have the force of law unless it is approved by some person or authority other than the person or authority by which it was made, not later than twenty-eight days after it is so approved and if it is not so published it is void from the date on which it was made.

(3) Thirty or more members of the National Assembly or any person, with the leave of the Constitutional Court, may challenge a statutory instrument for its constitutionality within fourteen days of the publication of the instrument in the Gazette.

(4) Where the Constitutional Court considers that a challenge of a statutory instrument under this Article is frivolous or vexatious, the Court shall not decide further on the question as to whether the statutory instrument would be or is inconsistent with this Constitution and shall dismiss the action.

(5) Where the Constitutional Court determines that any provision of a statutory instrument would be or is inconsistent with any provision of this Constitution that statutory instrument shall be void from the date on which it was made.

(6) The Standing Orders of the National Assembly shall provide for the procedure to be followed by members who intend to challenge a statutory instrument.

**Censure of  
Minister**

**188.** (1) The National Assembly may censure a Minister by resolution supported by two-thirds of the votes of all the members of the National Assembly in accordance with this Article.

(2) Any proceedings for the censure of a Minister shall be by a petition to the President, through the Speaker, which has been signed by not less than one-third of all the members of the National Assembly giving notice that the members are dissatisfied with the conduct or performance of the Minister and intend to move a motion for a resolution to censure the Minister and setting out the particulars of the grounds in support of the motion.

(3) The President shall, on receipt of the petition under clause (2), cause a copy of the petition to be given to the Minister in question.

(4) The motion for the resolution to censure a Minister shall not be debated until after the expiry of thirty days from the date the petition was sent to the President.

(5) A Minister who is the subject of a petition shall be entitled to be heard in the Ministers' defence during the debate of a motion under this Article.

(6) If a vote of censure is passed, in accordance with clause (1), against a Minister, the President shall, unless the Minister resigns, take appropriate action in the matter.

**Recall of member  
of National  
Assembly**

**189.** (1) A member of the National Assembly who holds a constituency-based seat may be recalled by the electorate in that constituency as follows:

- (a) a recall shall only be initiated where the member of the National Assembly has persistently neglected to perform the member's responsibilities in the constituency as required of the member by law;
- (b) a recall shall be initiated by petition signed by at least fifty per cent of the registered voters in the constituency; and
- (c) the petition shall be presented to the Chairperson of the Electoral Commission who shall constitute a tribunal to inquire into the matter and report back within thirty days with its recommendation.

(2) A member of the National Assembly who is the subject of an inquiry under clause (1), shall have the right to be heard, be present and have representation before the tribunal constituted under clause (1).

(3) The Chairperson of the Electoral Commission shall, within fourteen days of the receipt of the recommendation, submitted under clause (1), act in accordance with the recommendations of the tribunal.

(4) An Act of Parliament shall provide for -

(a) the functions and duties of a member of the National Assembly in relation to the constituency the member represents;

(b) grounds on which a member of the National Assembly may be recalled; and

(c) the composition, powers, sittings and procedures of a tribunal constituted under this Article.

**Oaths to be taken  
by Speaker,  
Deputy Speakers  
and members**

**190.** (1) The Speaker and the Deputy Speakers, before carrying out the duties of office, shall take the Oath of Speaker or Deputy Speaker, as set out in the Third Schedule.

(2) A member of the National Assembly, before taking the member's seat in the Assembly, shall take the Oath of a member of the National Assembly, as set out in the Third Schedule.

**Officers of  
National  
Assembly**

**191.** (1) There shall be appointed officers in the department of the Clerk of the National Assembly, as may be provided by an Act of Parliament.

(2) The office of Clerk and offices of members of staff are offices in the Parliamentary Service.

**Parliamentary  
Service  
Commission**

**192.** (1) There is hereby established a Parliamentary Service Commission which shall consist of the following part-time members:

(a) the Speaker, as Chairperson;

(b) five members appointed by the National Assembly from amongst its members of whom

-

(i) three shall be nominated by the political party forming the Government; and

- (ii) two other persons of opposite gender who shall be nominated by the other political parties in the National Assembly which do not form the Government; and
  - (c) two members of the opposite gender appointed by the National Assembly from among persons who are not members of the National Assembly but are experienced in public affairs, to serve for a period of five years
- (2) A member of the Parliamentary Service Commission shall vacate office if that member is -
  - (a) a member of the National Assembly-
    - (i) upon the dissolution of Parliament; or
    - (ii) on that person ceasing to be a member of the Assembly; or
  - (b) a member appointed under clause (1) (c), on the revocation of that person's appointment by the National Assembly.
- (3) The Parliamentary Service Commission shall have the following functions:
  - (a) the appointment of the Clerk of the National Assembly, in accordance with this Constitution;
  - (b) providing necessary services and facilities to ensure efficient and effective functioning of the National Assembly;
  - (c) constituting offices in the Parliamentary Service and appointing office holders;



- (d) preparing, jointly with the Government, the annual estimates of expenditure for the Parliamentary Service and for the National Assembly;
- (e) exercising budgetary control over the Parliamentary Service and the National Assembly;
- (f) undertaking, on its own or jointly with other relevant organisations, programmes to promote the ideals of parliamentary democracy; and
- (g) carrying out other functions –
  - (i) necessary for the well-being of the staff of the National Assembly; or
  - (ii) provided by or under an Act of Parliament.

(4) The office of Clerk shall be the secretariat for the Parliamentary Service Commission.

(5) The Parliamentary Service Commission shall, with the prior approval of the National Assembly, make regulations, by statutory instrument, providing for the terms and conditions of service of the officers and other employees in the Parliamentary Service and generally for the effective and efficient administration of the Parliamentary Service.

(6) The Parliamentary Service Commission shall be a self-accounting institution which shall deal directly with the Ministry responsible for finance on matters relating to its finances.

(7) The Parliamentary Service Commission shall be adequately funded to enable it to effectively carry out its mandate.

(8) The expenses of the Parliamentary Service and the Parliamentary Service Commission shall be a charge on the Consolidated Fund.

## PART XI JUDICIARY

**Establishment  
of courts of  
Judiciary**

- 193.** (1) There is hereby established –
- (a) the superior courts of the Judiciary comprising –
    - (i) the Supreme and Constitutional Court;
    - (ii) the Court of Appeal; and
    - (iii) the High Court;
  - (b) the subordinate courts;
  - (c) the local courts; and
  - (d) any other court established by an Act of Parliament.

(2) The superior courts and subordinate courts shall be courts of record.

(3) Except as otherwise provided in this Constitution or as may be ordered by a court, in the interest of public morality, public security, public order or the protection of children or other vulnerable persons, proceedings, including the delivery of a decision by a court, shall be in public.

**Vesting of  
judicial  
powers**

**194.** (1) The judicial power of Zambia shall vest in the courts and shall be exercised by the courts in accordance with this Constitution and the Laws.

(2) The Judiciary shall have jurisdiction, subject to this Constitution, in:

- (a) civil and criminal matters;
- (b) matters relating to, and in respect of, this Constitution; and
- (c) any other matter specified by or under an Act of Parliament.

(3) In exercising its jurisdiction the courts shall be guided by the following principles:

- (a) justice shall be done to all, irrespective of social status;
- (b) justice shall not be delayed;
- (c) adequate compensation shall be awarded to victims of wrong; and
- (d) reconciliation, mediation or arbitration between parties, where appropriate, shall be promoted.

(4) In the exercise of the judicial power, a court may, in any matter within its jurisdiction, issue orders to ensure the enforcement of a judgement or other decision of the court.

**Independence  
of Judiciary**

**195.** (1) The Judiciary, in exercise of its judicial and administrative functions and management of its financial affairs, shall be subject only to this Constitution and the Laws and shall not be subject to the control or direction of any person or authority.

(2) A member of the Executive, Legislature, State institution or any other person shall not interfere with the Judges or judicial officers in the exercise of their judicial powers.

(3) The Executive, Legislature and all State institutions shall accord to the Judiciary the assistance required by the Judiciary to protect the independence, dignity and effectiveness of the Judiciary.

(4) A person exercising judicial power shall not be liable for any act or omission done or omitted to be done in the exercise of any judicial power.

(5) The office of a Judge of any of the superior courts shall not be abolished while there is a substantive holder of the office.

**Financial  
independence  
of Judiciary**

**196.** (1) The Judiciary shall annually prepare and submit its budget estimates to the Minister responsible for finance who, taking into consideration equitable sharing of national resources, shall determine the budget for the Judiciary.

(2) The Judiciary shall be adequately funded in any financial year to enable it to effectively carry out its mandate.

(3) The Judiciary shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance in matters relating to its finances.

(4) The expenses of the Judiciary, including emoluments payable to or in respect of a Judge or Judicial officer, shall be a charge on the Consolidated Fund.

**Supreme and  
Constitutional  
Court**

**197.** The Supreme and Constitutional Court shall consist of -

- (a) the Chief Justice;
- (b) the Deputy Chief Justice; and

- (c) not more than nine Judges, at least three of whom are persons with -
  - (i) a law degree;
  - (ii) specialist training or experience in constitutional and human rights law; and
  - (iii) not less than ten years experience in the field of constitutional law.

**Composition for sittings of Supreme Court**

**198.** (1) The Supreme and Constitutional Court, when sitting as a Supreme Court and determining a matter, other than an interlocutory matter, shall be duly constituted by an uneven number of not less than three Judges of the Supreme and Constitutional Court.

(2) The Supreme Court shall not be bound by its previous decisions if it considers it necessary in the interest of justice and the development of the law.

**Jurisdiction of Supreme Court**

**199.** (1) The Supreme Court is the final court of appeal of Zambia, except in constitutional matters.

(2) The Supreme Court shall have -

- (a) appellate jurisdiction to hear and determine appeals from -
  - (i) the Court of Appeal; and
  - (ii) any other court or tribunal, except the Parliamentary Election Tribunal and the Local Government Election Tribunal whose decisions are final, prescribed by an Act of Parliament; and

(b) any other jurisdiction conferred on it by this Constitution or any other law.

(3) Subject to Article 206 (3), an appeal shall lie to the Supreme Court from a decision of the Court of Appeal with leave of the Court of Appeal.

**Composition  
for sittings of  
Constitutional  
Court**

**200.** (1) The Supreme and Constitutional Court, when sitting as the Constitutional Court, shall be duly constituted by an uneven number of not less than three and not more than nine of the Judges of the Supreme and Constitutional Court, which number shall include at least one Judge with specialization in constitutional and human rights law.

(2) The Constitutional Court shall be constituted by the full bench when reviewing a decision made by it.

**Jurisdiction of  
Constitutional  
Court**

**201.** (1) Subject to clause (2), the Constitutional Court shall have original and final jurisdiction -

- (a) in all matters of interpretation of this Constitution;
- (b) to determine an election petition challenging the election of a President-elect;
- (c) to determine whether any provision of this Constitution or any law relating to election of a President has been complied with;
- (d) to determine a question of violation of any provision of the Bill of Rights;
- (e) to determine whether an Act of Parliament, a Bill or statutory instrument contravenes this Constitution;

- (f) to determine disputes between State organs or State institutions at National or local government level concerning their constitutional status, powers or functions;
- (g) to determine whether or not a matter falls within the jurisdiction of the Court; and
- (h) in any constitutional matter provided for by this Constitution or an Act of Parliament.

(2) The Constitutional Court shall not have original or final jurisdiction over any matter that is within the jurisdiction of the Parliamentary Elections Tribunal and the Local Government Election Tribunal, as provided by this Constitution

(3) The Constitutional Court may review a decision made by it.

(4) A person or group of persons who alleges that -

- (a) an Act of Parliament, a Bill or any other law or anything done under the authority of any law; or
- (b) any act of or omission by any person or group of persons or authority;

is inconsistent with or in contravention of this Constitution, may petition the Constitutional Court for a declaration to that effect and for redress.

(5) Where upon the determination of a petition under clause (4), the Constitutional Court considers that there is need for redress, in addition to the declaration sought, the Court may -

- (a) make an order for redress; or
- (b) refer the matter to the High Court to determine the appropriate redress.

(6) Where in any proceedings in any court a question arises as to an interpretation of any provision of this Constitution the court shall refer the question to the Constitutional Court for determination.

(7) Where a question is referred to the Constitutional Court under clause (6), the Court shall give its decision on the question and the court in which the question arose shall dispose of the case in accordance with that decision.

(8) Where a petition is submitted under clause (4) or a question is referred under clause (6), the Constitutional Court shall proceed to hear and determine the petition or question as soon as possible and may, for that purpose, suspend any other matter pending before it.

(9) The Constitutional Court shall not order security for costs on matters relating to public interest litigation.

**Production of  
official  
documents**

**202.** (1) When in proceedings in a court, other than the Supreme Court, a question arises as to the production of an official document and the person or authority that has custody, legal or otherwise of the document, refuses, on request, to produce that document on the ground –

- (a) that the document belongs to a class of documents which is prejudicial to the security of the State or injurious to the public interest;  
or
- (b) that the disclosure of the contents will be prejudicial to the security of the State or injurious to the public interest;



the court shall stay the proceedings and refer the question to the Supreme Court for determination.

- (2) The Supreme Court may -
  - (a) order the person who or the authority that has custody of the document to produce it for inspection by the Supreme Court; and
  - (b) determine whether or not the document shall be produced in the court, from which the reference was made, after hearing the parties or their legal representatives or after having given them the opportunity of being heard.

(3) Where the Supreme Court considers that the document shall be produced, it shall make an order for that person or authority to produce the document or so much of the contents of it as is essential for the proceedings.

(4) Where the question of the discovery of an official document arises in any proceedings in the Supreme Court, in the circumstances mentioned in clause (1), the Supreme Court shall be governed by clauses (2) and (3) for the determination of the question that has arisen.

**Chief Justice**

- 203.** (1) There shall be a Chief Justice who shall be -
- (a) the head of the Judiciary; and
  - (b) the president of the Constitutional Court.

(2) The Chief Justice may issue orders and give directives considered necessary by the Chief Justice for the efficient administration of the Judiciary.

(3) In the absence of the Chief Justice or in the event of a vacancy in the office, the Deputy Chief Justice shall perform the

functions of the Chief Justice until the Chief Justice resumes office or an appointment is made to the office of Chief Justice.

**Deputy Chief Justice**

- 204** (1) There shall be a Deputy Chief Justice who shall, unless otherwise provided in this Part -
- (a) perform the functions of the Chief Justice as stated under Article 203;
  - (b) be the president of the Court of Appeal;
  - (c) assist the Chief Justice in the performance of the administrative functions of the Chief Justice; and
  - (d) perform any other function assigned by the Chief Justice.
- (2) Where -
- (a) the office of the Deputy Chief Justice is vacant;
  - (b) the Deputy Chief Justice is acting as Chief Justice; or
  - (c) the Deputy Chief Justice is for any reason unable to perform the functions of that office;
- the President shall, in consultation with the Judicial Service Commission, designate a Judge of the Supreme Court to perform the functions of the Deputy Chief Justice until the Deputy Chief Justice resumes duty or a substantive appointment is made to the office.

**Court of Appeal**

- 205.** The Court of Appeal shall consist of -
- (a) the Deputy Chief Justice; and
  - (b) not more than six Judges.

**Jurisdiction  
of Court of  
Appeal**

**206** (1) The Court of Appeal, as appellate court, shall have jurisdiction to determine, as provided under an Act of Parliament -

- (a) appeals from the High Court; and
- (b) appeals from other courts or tribunals, except the Parliamentary Election Tribunal and the Local Government Election Tribunal whose decisions are final.

(2) Subject to Article 199 (3) an appeal shall lie to the Supreme Court from a decision of the Court of Appeal with leave of the Court of Appeal.

(3) If the Court of Appeal refuses to grant leave to appeal to the Supreme Court on any matter, that decision shall be final and binding.

**Sittings of Court  
of Appeal**

**207** The Court of Appeal when determining an appeal, other than an interlocutory appeal, shall be -

- (a) constituted by an uneven number of not less than three judges of the Court; and
- (b) presided over by the Deputy Chief Justice and in the absence of the Deputy Chief Justice the most senior Judge of the Court as constituted shall preside.

**High Court**

**208.** (1) The High Court shall consist of -

- (a) the Chief Justice, as an ex-officio member; and
- (b) such number of Judges as shall be specified by an Act of Parliament.

(2) The High Court shall be duly constituted by a single Judge of the Court.

**Jurisdiction of High Court**

**209.** The High Court shall have, subject to this Constitution -

- (a) unlimited and original jurisdiction in any civil or criminal matter; and
- (b) appellate and review jurisdiction as conferred on it by or under an Act of Parliament.

**Supervisory jurisdiction of High Court**

**210.** (1) The High Court shall have supervisory jurisdiction over courts subordinate to the High Court and over any body or authority that exercises a judicial or quasi - judicial power.

(2) The High Court, in the exercise of its supervisory powers under clause (1), may make orders and give directions to ensure the fair administration of justice.

**Divisions of High Court**

**211.** (1) The Industrial Relations Court and Commercial Court **shall be** established as divisions of the High Court.

(2) The Industrial Relations Court shall have exclusive jurisdiction in industrial and labour relations matters, as provided by an Act of Parliament.

(3) Parliament may enact legislation to provide for the composition, powers, sittings and procedures of the Industrial Relations Court and Commercial Court.

(4) Parliament may enact legislation to create other courts as divisions of the High Court -

- (a) to sit and adjudicate in any part of the country; and
- (b) to adjudicate over specified subject areas, within the jurisdiction of the High Court, and provide for the composition, powers, sittings and procedures of those courts.

**Accessibility  
to courts**

**212.** Parliament shall enact legislation to provide for accessibility to the courts, including the lowest levels of administration as far as is necessary and practicable.

**Appointment of  
Judges of  
superior courts**

**213.** The President, after consultation with the Judicial Service Commission and subject to ratification by the National Assembly, shall appoint the -

- (a) Chief Justice;
- (b) Deputy Chief Justice;
- (c) other Judges of the Supreme and Constitutional Court;
- (d) Judges of the Court of Appeal; and
- (e) Judges of the High Court.

**Acting  
appointments**

**214.** Except with respect to the Chief Justice and the Deputy Chief Justice, where -

- (a) the office of a Judge of the superior court becomes vacant; or
- (b) the Chief Justice informs the President that there is a need to make an acting appointment;

the President, in consultation with the Judicial Service Commission, shall appoint a person qualified to act in the respective court until

the appointment is revoked by the President acting in accordance with the advice of the Judicial Service Commission.

**Qualification  
for appointment  
of Judges of  
superior courts**

**215.** (1) A person shall not qualify for appointment as a Judge of the superior courts unless that person has attained the age of forty-five years, is of proven integrity and –

- (a) holds or has held high judicial office; or
- (b) has been an advocate, in the case of –
  - (i) the Supreme and Constitutional Court, for not less than fifteen years;
  - (ii) the Court of Appeal, for not less than twelve years; or
  - (iii) the High Court, for not less than ten years.
- (c) in the case of a Judge of the Constitutional Court, has the qualifications specified by Article 197 (c).

(2) A person appointed as Judge to a specialized court shall have the relevant expertise in the area of jurisdiction of that court, as provided by an Act of Parliament.

**Tenure of office  
of Judges of  
superior courts**

**216.** (1) Subject to clause (3), the Chief Justice and the Deputy Chief Justice shall hold office until they attain the age of seventy-five years and shall then retire.

(2) Any other Judge of the superior courts shall retire from office on attaining the age of seventy-five years.

(3) A Judge of a superior court may retire at any time after attaining the age of sixty-five years.

(4) A person who has retired as a Judge shall not be eligible for appointment as a Judge.

(5) Where a Judge of a superior court has attained the prescribed retirement age specified under this Article and there are proceedings that were commenced before the Judge attained the age of retirement, the Judge may continue in office, for a period not exceeding six months, to deliver judgement or to perform any other function in relation to those proceedings.

**Removal of  
Judges from  
office**

**217.** A Judge of a superior court may be removed from office only on the following grounds:

- (a) inability to perform the functions of office arising from infirmity of body or mind;
- (b) breach of any code of conduct provided for in this Constitution or by an Act of Parliament;
- (c) corruption;
- (d) incompetence;
- (e) bankruptcy or insolvency;
- (f) stated misbehaviour or misconduct; or
- (g) undue or unreasonable delay in the delivery of a judgement.

**Procedure  
for removal  
of Judge**

**218.** (1) A person who has a complaint against a Judge of a superior court, based on the grounds specified under Article 217, may submit a petition to the Judicial Complaints Commission established under this Constitution.

(2) The Judicial Complaints Commission shall, on receipt of a petition, determine whether the petition is not frivolous,

vexatious or malicious and thereafter submit the petition and a report on the matter to the President within twenty-one days.

(3) The President shall, within fourteen days of receipt of the petition and the report submitted under clause (2), refer the petition and the report to the National Assembly.

(4) On the receipt of the petition and the report by the National Assembly, the Speaker shall constitute a committee of the Assembly to examine whether -

- (a) the petition is not frivolous, vexatious or malicious; and
- (b) the grounds do or do not relate to the physical or mental incapacity of the judge;

and submit a report to the Speaker.

(5) Where the report of the committee, constituted under clause (4), states that the petition is not frivolous, vexatious or malicious and the grounds do not relate to the physical or mental incapacity of the Judge -

- (a) the Speaker shall constitute a tribunal, as provided under clause (6), to investigate the complaint against the judge; and
- (b) the National Assembly may recommend to the President the suspension of the Judge from office.

(6) A tribunal to investigate a complaint against a Judge, as provided under clause (5), shall be composed of-

- (a) a retired Judge of the Supreme Court or the Supreme and Constitutional Court who shall be the Chairperson;



- (b) a legal practitioner who qualifies to be appointed a Judge of the Court of Appeal; and
- (c) one other person with experience in public service matters.

(7) Where a complaint relating to the removal of a Judge is based on the physical or mental incapacity of the Judge, the Speaker shall constitute a medical board composed of not less than three medical practitioners, nominated by the body responsible for the registration of medical practitioners, registered under the Laws, to examine the Judge.

(8) A tribunal or medical board, constituted under this Article, shall conduct an investigation of the complaint or medically examine the Judge, as the case may be, and submit its recommendations, in writing, to the National Assembly, within thirty days of being constituted.

(9) Proceedings under this Article shall be held in camera and the Judge being investigated or examined shall be entitled to appear and be heard and to be represented by a legal practitioner or other expert.

(10) Where a tribunal or medical board, constituted under this Article, recommends to the National Assembly that the Judge -

- (a) should be removed from office on the grounds specified in the recommendation; or
- (b) should not be removed from office for the reasons specified in the recommendation;

the Assembly shall endorse the recommendation and the Speaker shall inform the President about the recommendation made by the tribunal or medical board.

(11) Where a medical board or a tribunal constituted under this Article recommends that a Judge be removed from office the President shall remove the Judge from office.

**Remuneration  
of Judges**

**219.** (1) The Judicial Service Commission shall review and submit recommendations for the emoluments and other conditions of service of Judges to the Emoluments Commission.

(2) The Emoluments Commission shall review recommendations from the Judicial Service Commission and make appropriate recommendations for the emoluments of Judges for ratification by the National Assembly.

(3) The National Assembly shall enact legislation providing for the emoluments and the other terms and conditions of service for Judges, taking into consideration the recommendations of the Emoluments Commission.

(4) The emoluments of a Judge shall not be reduced to the disadvantage of the Judge during the Judge's tenure of office.

(5) A Judge shall not, while the Judge continues in office, hold any other office of profit or emolument.

**Oath of office  
of Judges**

**220.** A Judge shall, before assuming office, take the Judicial Oath, as set out in the Third Schedule.

**Appointment,  
retirement and  
removal of  
judicial officers**

**221.** (1) The Judicial Service Commission shall appoint such number of judicial officers as the Judicial Service Commission considers necessary for the proper functioning of the Judiciary.

(2) The Judicial Service Commission shall appoint judicial officers on such terms and conditions, including

emoluments, as shall be approved by the Emoluments Commission.

(3) An Act of Parliament shall provide for the qualifications for appointment to a judicial office.

(4) A judicial officer, except a local court justice, shall retire on attaining the age of sixty years.

(6) A local court justice shall retire at the age of seventy-five years.

**Jurisdiction of lower courts**

**222.** (1) Parliament shall enact legislation to provide for the jurisdiction, powers and procedures of the subordinate courts, the local courts and other lower courts.

(2) There shall be established a Family Court and Juvenile Court as divisions of the subordinate courts and local courts.

(3) The composition, jurisdiction, powers, sittings and procedures of the Family Court and Juvenile Court as divisions of the subordinate courts and local courts shall be as provided by or under an Act of Parliament.

**Judicial Service**

**223.** The office of Judge and judicial officer are offices in the Judicial Service.

**Judicial Service Commission**

**224.** (1) There is hereby established the Judicial Service Commission.

(2) The Judicial Service Commission shall consist of:

(a) the Chief Justice who shall be the Chairperson;

(b) the Attorney-General;

- (c) one person nominated by the Civil Service Commission;
- (d) the Permanent Secretary responsible for public service management;
- (e) one Judge of the Supreme and Constitutional Court nominated by the Chief Justice;
- (f) one judge of the Court of Appeal nominated by the Chief Justice;
- (g) one member of the Law Association of Zambia, with not less than fifteen years practice as a lawyer, nominated by the Association;
- (h) the Dean of the Law School of any public university in Zambia;
- (i) one member of the Human Rights Commission;
- (j) one representative of magistrates nominated by a body representing magistrates; and
- (k) the person responsible for the administration of the local courts.

(3) The members of the Judicial Service Commission shall be appointed by the President.

(4) A person nominated under clause (2) (c ) and (g), shall not qualify to be appointed a member of the Judicial Service Commission unless that person is of proven integrity.

(5) A person nominated under clause (2) (c ), (g), (i) or (j) shall hold office for a term of four years and shall be eligible for re-appointment for only one further term of four years.

(6) A member referred to in clause (6) shall vacate office -

- (a) at the expiry of the term of office specified under that clause; or
- (b) if the member is elected or appointed to an office that is likely to compromise the independence of the Judicial Service Commission, as determined by the Chief Justice.

(7) A member who represents a body or institution shall vacate office if that body or institution nominates another person to represent it.

**Functions of  
Judicial Service  
Commission**

**225.** (1) The functions of the Judicial Service Commission shall be -

- (a) to supervise the operations of the Judicial Service;
- (b) to advise the Government on the administration of justice and matters that relate to the Judiciary;
- (c) to review and make recommendations on the emoluments and other terms and conditions of service of Judges and judicial officers to the Emoluments Commission;
- (d) subject to this Constitution, to appoint, discipline and remove judicial officers and other employees of the Judicial Service;
- (e) to prepare and implement programmes for the continuing education and training of Judges, judicial officers and other employees of the Judicial Service;

- (f) to advise the Government on access to justice and legal aid; and
- (g) to perform any function conferred on it by or under this Constitution or by or under an Act of Parliament.

(2) The Judicial Service Commission shall be independent and shall not be subject to the direction or control of any person or authority in the performance of its functions under this Constitution or any other law.

**Chief  
Administrator,  
appointment  
and functions**

**226.** (1) There shall be a Chief Administrator for the Judicial Service who shall be appointed by the President on the recommendation of the Judicial Service Commission.

(2) The Chief Administrator -

- (a) shall be responsible for the day-to-day administration of the Judicial Service and for the implementation of the decisions of the Judicial Service Commission;
- (b) shall be the controlling officer for the Judicial Service; and
- (c) shall perform any other function as provided by or under an Act of Parliament.

**Secretary to  
Judicial Service  
Commission**

**227.** The Chief Administrator shall be the Secretary to the Judicial Service Commission.

**Judicial Oath**

**228.** A judicial officer shall before assuming office take the **Judicial Oath**, as set out in the Third Schedule.

**Rules of Court**

**229.** (1) Parliament shall enact legislation to empower the Chief Justice to prescribe rules and procedures for the courts and tribunals established under this Constitution or any other law.

(2) Rules made under clause (1) shall provide for expeditious determination of cases before courts and tribunals.

**PART XII**

**LOCAL GOVERNMENT**

**System of Local Government**

**Establishment  
and objectives  
of local  
government**

**230.** There is hereby established a local government system the objectives of which are to -

- (a) ensure that powers, functions, responsibilities and resources from the National Government are transferred to the district council and sub-district authorities in a co-ordinated manner;
- (b) promote the people's participation in democratic governance at the local level;
- (c) promote cooperative governance with the national Government in order to support and enhance the developmental role of local government;
- (d) enhance the capacity of district councils to plan, control, co-operate, manage and execute policies in respect of matters that affect the people within their respective localities;
- (e) promote social and economic development at the district level;

- (f) establish for each district council a sound financial base with reliable and predictable sources of revenue;
- (g) oversee the performance of persons employed by the National Government to provide services in the districts and to monitor the provision of Government services or the implementation of projects in the districts;
- (h) ensure accountability of district and sub-district authorities; and
- (i) recognize the right of the districts to manage their local affairs and to form partnerships, networks and associations to assist in management and to further their development.

**Co-operation  
between National  
Government and  
local government  
and between local  
authorities**

**231. (1)** The National Government and the local government shall –

- (a) exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of either government and shall respect the constitutional status, institutions and rights of the other; and
- (b) maintain liaison with each other for the purpose of exchange of information, co-ordination of policies, administration and enhancement of capacity.



(2) District councils shall assist, support and consult with each other and shall, as appropriate, implement the laws being issued by the other.

(3) District councils shall, to the extent necessary in any particular circumstance, co-operate in the performance of their functions and, for that purpose, may set up joint committees and joint authorities.

(4) District councils involved in an inter-district dispute shall make every reasonable effort to settle the dispute by means of procedures provided by or under an Act of Parliament for that purpose and shall exhaust all other remedies before they approach a court to resolve the dispute.

**Structures and principles of decentralised government**

**232.** (1) Parliament shall enact legislation applicable to provinces, districts and local authorities.

(2) The National Government shall ensure the decentralisation of functions, powers and responsibilities to the province, the district and such sub-districts as may be provided by or under an Act of Parliament.

(3) The principal role of a provincial council is to co-ordinate the implementation, within the districts forming the province, of programmes and projects that extend to two or more districts of the province and to provide a forum through which the local authorities recommend policy and legislation concerning the province for enactment by Parliament.

(4) The principal role of a district council is to administer the district, implement programmes and projects in the districts,

issue by-laws and recommend local Bills for enactment by Parliament.

### **Districts and District Councils**

#### **Districts and district councils**

**233.** (1) The Republic of Zambia shall be divided into districts as may be specified by or under an Act of Parliament.

- (2) The district shall be the principal unit for the decentralisation of functions to the local level.
- (3) There shall be such number of wards in each district as may be specified by or under an Act of Parliament.
- (4) There shall be established for each district a district council.
- (5) Every district council shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (6) Parliament shall enact legislation to determine the different types of district councils and their corporate names.

#### **Functions of district councils**

**234.** (1) Subject to this Constitution, a district council shall be the highest executive and legislative authority of the district.

- (2) Parliament shall enact legislation to prescribe the functions of district councils which shall include -
  - (a) the preparation of comprehensive development plans for the district for submission to the National Government for integration into the National development plan;

- (b) the formulation and execution of plans, programmes and strategies for the effective mobilisation of resources for development of the district;
- (c) the issuance of by-laws, within its jurisdiction, and recommending or initiating local Bills for enactment by Parliament;
- (d) co-ordinating the functions of wards and other sub-district authorities within the district;
- (e) providing organised fora through which the people in the district can participate in the formulation of proposals for local Bills, budget submissions, development programmes and district council by-laws;
- (f) levying and collection of prescribed taxes, rates, levies, tolls duties and fees;
- (g) developing measures for the protection of natural resources and the environment;
- (h) developing and maintaining infrastructure;
- (i) the supply of water and the provision of sanitation;
- (j) disaster management;
- (k) the management of the decentralised structures relating to health and education;
- (l) the regulation of trade and business;
- (m) the provision of agricultural extension services;
- (n) provision of community policing and prison facilities;
- (o) preparation of progress reports for the district; and
- (p) any other function provided by or under an Act of Parliament.

**235.** (1) Subject to clause (5), elections to a district council shall be conducted under the mixed member representation system specified under Article 95 and as provided under this Article.

(2) A district council shall consist of the following councillors:

- (a) a mayor;
- (b) other councillors elected directly for each of the number of wards in the district on the basis of the first past-the-post segment of the mixed member representation system, as prescribed by or under an Act of Parliament;
- (c) forty per cent of the total number of councillors elected on the basis of the proportional representation segment of the mixed member representation system from a party list submitted to the Electoral Commission by each political party contesting the elections, as prescribed by or under an Act of Parliament;
- (d) members of the National Assembly from the district;
- (e) three chiefs elected from the chiefs in the district by the chiefs to represent all the chiefs in that district;
- (f) one representative from the Defence Forces and national security agencies operating in the district; and
- (g) one representative of the business community in the district.

(3) The term of a district council shall be five years.

(4) A councillor shall be paid such allowances as may be determined by the Minister responsible for local government, subject to the ability of the district council to pay the allowances.

**Tenure of office and  
vacation of office of  
councillor**

**236.** Article 162 shall apply to the office of councillor.

**By-election  
for district  
council**

**237.** Article 163 shall apply to the office of councillor.

**Expulsion of  
councillor**

**238.** (1) A councillor who has been expelled by that councillors' political party and who has challenged the expulsion in court shall hold the seat in the district council pending the conclusion of the petition or matter.

(2) If a matter referred to under clause (1) is decided in favour of a councillor that councillor shall retain the seat in the district council as an independent.

**Qualifications  
and  
disqualifications  
for election to  
district council**

**239.** (1) A person shall qualify to be elected as a councillor of a district council, excluding councillors specified under Article 235 (2) (a), (d), (e), (f) and (g), if that person –

(a) is not a member of the National Assembly but qualifies to be elected as a member of the National Assembly, subject to this Article;

(b) is not less than eighteen years of age;

(c) has obtained, as a minimum academic qualification, a grade nine certificate of education or its equivalent;

(d) has been resident in the ward for which the election is sought for a period of five years immediately preceding the election or is resident in the district and is in possession of a certificate of title showing ownership of property in the district; and

(e) has a certificate of clearance showing the payment of council rates and rentals, where applicable.

(2) The disqualifications that apply to the election of a member of the National Assembly shall apply to an election of a councillor to a district council.

**Petitions and  
Local  
Government  
Election  
Tribunal**

**240.** (1) A person may file a petition with a Local Government Election Tribunal, established under clause (2), to challenge the election of a mayor or a councillor elected for a ward-based seat.

(2) The Chief Justice shall establish an ad hoc Local Government Election Tribunal to hear and determine whether -

(a) a person has been validly elected as a councillor; or

(b) the seat of a councillor has become vacant.

(3) A Local Government Election Tribunal shall be presided over by a magistrate of the First Class sitting with two other members, appointed by the Chief Justice from amongst legal practitioners or retired magistrates of the First Class.

(4) A petition shall be determined within ninety days of the filing of the election petition.

(5) A decision of the Local Government Election Tribunal shall be final and the Tribunal shall stand dissolved on the determination of the election petition.

(6) A councillor whose election is petitioned shall hold the seat in the district council pending the determination of the petition.

(7) The expenses of the Local Government Election Tribunal shall be a charge on the Consolidated Fund.

**Recall of  
councillor**

**241.** (1) A councillor who holds a ward-based seat may be recalled by the electorate in that ward as follows :

(a) a recall shall only be initiated where a councillor has persistently neglected to perform the councillor's responsibilities in the ward as may be required of the councillor by law;

(b) a recall shall be initiated by a petition signed by at least fifty per cent of the registered voters in the ward; and

(c) the petition shall be presented to the Chairperson of the Electoral Commission who shall constitute a tribunal to inquire into the matter and report back within thirty days with its recommendation.

(2) A councillor who is the subject of an inquiry under clause (1) shall have the right to be heard, be present and have representation before the tribunal constituted under clause (1).

(3) The Chairperson of the Electoral Commission shall, within fourteen days of the receipt of the tribunals' recommendations, act in accordance with the recommendations of the tribunal.

(4) An Act of Parliament shall provide for -

(a) the functions and duties of a councillor in relation to the ward a councillor represents;

(b) the grounds on which a councillor may be recalled; and

- (c) the composition, powers, sittings and procedures of a tribunal constituted under this Article.

**Mayor**

**242.** (1) There shall be a mayor for every district council.

(2) A mayor shall be -

(a) elected directly by universal adult suffrage through a secret ballot by registered voters resident within the district;

(b) elected for a term of five years and may be elected for only one further term of five years; and

(c) subject to the same qualifications and disqualifications that apply to an election of a member to the National Assembly.

(3) The emoluments of a mayor shall be determined by the Emoluments Commission upon recommendations of the district council.

(4) A mayor shall, for purposes of any benefits determined by the Emoluments Commission under clause (3), be deemed to have completed a term of office if the mayor served for at least three years.

**Functions of mayor**

**243.** (1) A mayor shall exercise executive functions of a district, subject to this Constitution and any other law.

(2) Without limiting clause (1), a mayor shall -

(a) preside at the meetings of the district council and the district executive committee;



(b) oversee and monitor generally the functions of the district council and give directions on matters of policy as determined by the district council; and

(c) perform any other function specified by or under an Act of Parliament.

**Conduct of  
councillors**

**244.** (1) A councillor shall act in accordance with the code of ethics provided in this Constitution and by or under an Act of Parliament.

(2) A councillor shall not act in a way that is inconsistent with a councillor's civic duties and responsibilities.

**Accountability  
of councillors**

**245.** Councillors shall be accountable, collectively and individually, to the residents in their districts and to the National Government for the exercise of their powers and performance of their functions.

**District  
executive  
committee**

**246.** (1) There shall be constituted for every district council an executive committee.

(2) An executive committee shall consist of -

(a) the mayor;

(b) the principal administrative officer of the district council; and

(c) such other officers that shall be appointed by the mayor with the approval of the district council;

**Functions of  
district  
executive  
committee**

**247.** Subject to this Constitution, an executive committee of a district council shall perform the executive functions of the district council and shall -

- (a) ensure the implementation of Acts of Parliament and district by-laws within the district; and
- (b) perform any other function provided by or under an Act of Parliament.

**Principal administrative officer and functions**

**248.** (1) There shall be appointed for every district council a principal administrative officer who shall be the administrative head of the district and shall be responsible for the day-to-day administration of the district.

(2) The principal administrative officer shall -

- (a) implement Acts of Parliament and district by-laws within the district;
  - (b) co-ordinate and supervise the activities of the district council and other sub-district authorities in the district;
  - (c) co-ordinate and monitor Government functions between or among districts and between districts and the Government; and
  - (d) perform any other function provided by or under an Act of Parliament.
- (3) In the performance of the functions under clause (2), the principal administrative officer shall be subject to the decisions and directions of the district council and shall be answerable to the council.

**Other committees of district council**

**249.** A district council -

- (a) shall appoint standing committees and assign to them such functions as the council may consider necessary for the effective and efficient administration of the district; and
- (b) may appoint ad hoc committees consisting of councillors or non-councillors or both, to

advise on any matter referred to them by the council.

**Funds for district council**

**250.** (1) There shall be established a Local Government Equalisation Fund.

(2) Parliament shall, annually, appropriate a percentage of the total annual revenues of the Republic, as may be determined by the Emoluments Commission, to the Local Government Equalisation Fund for the sustenance, development and administration of the communities in a district.

(3) The revenue referred to under clause (2) shall be in addition to revenues raised by a district council and retained by it.

(4) The Government may provide additional funds and grants beyond what is provided under clause (2) to a district council, conditionally or unconditionally.

(5) Subject to this Constitution, a district council shall be competent to levy, impose, recover and retain property rates, levies, charges, fees, taxes, tolls and tariffs as may be necessary to perform its functions.

**Staff of local government**

**251.** A district council shall appoint such staff and employees as are necessary for the effective implementation of the functions of the district council.

### **Provinces and Provincial Administration**

**Provinces**

**252.** The Republic of Zambia shall be divided into provinces as shall be provided by or under an Act of Parliament.

**Provincial  
administration**

**253.** (1) There shall be established for each province a provincial administration.

(2) A Provincial Minister shall be the political head of the province and the representative of the President in the province.

(3) A provincial Permanent Secretary shall be the administrative head of the province.

**Provincial  
council**

**254.** There shall be established a provincial council consisting of –

- (a) the Provincial Minister;
- (b) the provincial Permanent Secretary;
- (c) the mayors of the district councils in the province;
- (d) three chiefs, representing all the chiefs in the province, who shall be elected by the chiefs in the province; and
- (e) such other officers as may be specified by or under an Act of Parliament.

**Functions of  
provincial  
council**

**255.** (1) The functions of a provincial council shall be to –

- (a) co-ordinate and consolidate district plans into provincial development plans for submission to the National Government;
- (b) monitor the utilisation of resources and implement development programmes in the province;
- (c) coordinate and ensure the auditing of local government institutions in the province;

(d) prepare provincial progress reports for the National Government on the implementation of development programmes and projects;

(e) ensure implementation of the National Government's policies in the province;

(f) implement national development projects and programmes;

(g) ensure proper utilisation and maintenance of Government buildings, equipment, plant, machinery and other infrastructure in the province;

(h) retain oversight responsibility over functions of the district councils in the province in areas of -

(i) financial accountability; and

(ii) developmental programmes; and

(i) perform any other function provided by or under an Act of Parliament.

(2) A provincial Permanent Secretary shall be responsible for ensuring the implementation of the functions specified under clause (1).

**Reserved power  
over non-  
performing  
district councils**

**256.** (1) A provincial council shall assume the functions of any district council in any of the following circumstances, where:

(a) a district council requests and it is in a district council's interest to do so;

(b) it has become extremely difficult or impossible for a district council to full-fill its functions and obligations;

(c) a district council has failed to meet established minimum standards for rendering of services in the district;

(d) it is prudent to prevent a district council from taking unnecessary action that is prejudicial to the interests of another district council or to the province as a whole; and

(e) it is necessary to maintain the economic and sovereign unity of the Republic.

(2) Where a provincial council intends to assume the functions of a district council under clause (1) it shall -

(a) prior to assuming those functions obtain the written permission of the Minister responsible for local government; and

(b) issue a directive to the district council giving reasons why the provincial council is assuming the functions of the district council and stating what the district council is required to do in order to resume its operations.

(3) Where a district council fails to carry out remedial action as required under clause 2 (b), a provincial council shall perform the functions of a district council for a period not exceeding ninety days after which fresh elections shall be held to elect other councillors.

(4) The performance of the functions of a district council, by a provincial council under this Article, shall be exercised through persons or officers and under directives provided by or under an Act of Parliament.

(5) Any person may challenge the assumption by a provincial council of the functions of a district council, under this Article, in the Constitutional Court.

(6) Parliament shall enact legislation to provide for the governance and regulation of a district council during the period a provincial council is performing the functions of a district council.

**Legislation to further regulate local government**

- 257.** Parliament shall enact legislation to provide for –
- (a) wards and other sub-district authorities of the district councils;
  - (b) the financial control and accountability measures needed to be put in place for compliance by district councils;
  - (c) matters that relate to the raising of loans, grants and other financial instruments by district councils;
  - (d) the election of councillors and mayors of district councils;
  - (e) the manner in which district councils shall initiate local bills for enactment by the National Assembly; and
  - (f) the effective implementation of this Part.

PART XIII  
CHIEFTAINCY AND HOUSE OF CHIEFS

**Institution of Chieftaincy**

- 258.** (1) The institution of chieftaincy together with its traditional councils as established by customary law and its usage is hereby guaranteed, subject to this Constitution.
- (2) Parliament shall not enact legislation which –
- (a) confers on any person or authority the right to accord or withdraw recognition to or from a chief for any purpose; or

(b) in any way derogates from the honour and dignity of the institution of chieftaincy.

(3) Nothing in this Article or any other provision in this Constitution shall be construed so as to prevent Parliament from enacting legislation for -

(a) the determination by a traditional council, in accordance with the appropriate customary law and its usage, of the validity of the nomination, election, selection, installation or deposition of a person as a chief; or

(b) the registration of chiefs and the public notification in the Gazette or otherwise of the recognition of a person as chief.

(4) Subject to this Constitution, the institution of chief shall exist in any area of Zambia in accordance with the culture, customs and traditions or wishes and aspirations of the people to whom it applies.

(5) In a community where the issue of the installation of a chief has not been resolved, by the community concerned, the issue shall be referred to the House of Chiefs for resolution.

(6) If any person is aggrieved with a resolution of the House of Chiefs that person may appeal to a court.

(7) Parliament may enact legislation to provide for the succession and installation of chiefs in accordance with customary law and its usage.

**Concepts and principles relating to chieftaincy**

**259.** The following concepts and principles shall apply in relation to the chieftaincy :



- (a) the institution of chief shall be a corporation sole with perpetual succession and capacity to sue and be sued and to hold assets or properties in trust for itself and the people under a chief's jurisdiction;
- (b) a chief may own assets or properties acquired in a personal capacity; and
- (c) a chief shall enjoy privileges and benefits -
  - (i) conferred by the Government; or
  - (ii) a district council; and
  - (iii) bestowed by or under culture, custom and tradition.

**Participation  
of chiefs in  
public affairs**

- 260.** (1) A chief may -
- (a) seek and hold any public office; or
  - (b) participate in political activities and stand for any elective public office.

(2) Parliament may enact legislation to provide for the role of chiefs, other traditional leaders and the local government in the management, control and sharing of natural and other resources in their localities.

**House of  
Chiefs**

**261.** (1) There shall be established a House of Chiefs for the Republic which shall be an advisory body to the Government on traditional, customary and any other matters referred to it by the President or as may be provided by or under an Act of Parliament.

(2) The House of Chiefs shall consist of not more than five chiefs elected by the chiefs from each province.

(3) The Chairperson and Vice-Chairperson of the House of Chiefs shall be elected annually from amongst the members of the House of Chiefs.

(4) The Chairperson and the Vice-Chairperson of the House of Chiefs shall rotate annually amongst the provinces.

(5) The Emoluments of the chiefs serving in the House of Chiefs shall be as recommended by the Emoluments Commission and prescribed in an Act of Parliament.

(6) The expenses of the House of Chiefs shall be a charge on the Consolidated Fund.

**Functions of  
House of  
Chiefs**

**262.** Without limiting Article 261 (1), the House of Chiefs may -

- (a) consider and discuss any Bill, referred to it by the President, dealing with, or touching on, custom or tradition before it is introduced into the National Assembly;
- (b) discuss matters relating to national development;
- (c) initiate, discuss and decide on matters that relate to customary law and practice;
- (d) initiate, discuss and make recommendations regarding the local community's welfare;
- (e) consider and discuss any matter referred to it by the President or approved by the President for reference to the House;
- (f) submit resolutions on any Bill or matter referred to it by the President and the President shall cause the resolutions of the

House of Chiefs to be laid before the National Assembly; and

- (g) recommend to the President persons to be bestowed with honours.

**Tenure of office and vacancy**

- 263.** (1) A chief -
- (a) shall hold office in the House of Chiefs for a period of five years and is eligible for election after that term; and
  - (b) may resign from the House of Chiefs upon giving one month's notice in writing to the Chairperson.

(2) The office of chief in the House of Chiefs shall become vacant if the chief -

- (a) dies;
- (b) ceases to be a chief;
- (c) resigns;
- (d) becomes a member of the National Assembly or is appointed to any public office;
- (e) is adjudged or becomes an undischarged bankrupt; or
- (f) is declared to be or becomes of unsound mind under any law.

**Oaths of members of House of Chiefs**

**264.** Every chief elected to the House of Chiefs shall take the Oath of member of the House of Chiefs, as set out in the Third Schedule.

**Staff of House of Chiefs**

**265.** (1) There shall be a Clerk of the House of Chiefs and such other staff as may be necessary for carrying out the functions under this Part or any other law.

(2) The emoluments of the Clerk and other staff of the House of Chiefs shall be a charge on the Consolidated Fund.

**Regulations  
for House of  
Chiefs**

**266.** Subject to this Constitution, the President may make regulations -

- (a) for the appointment of the Clerk and other staff of the House of Chiefs;
- (b) for the proceedings, sittings and conduct of the House of Chiefs;
- (c) for the application of any of the privileges and immunities of the National Assembly and its members to the House of Chiefs and its members; and
- (d) providing for such other matters as are necessary or conducive to the better carrying out of the purposes of this Part.

**PART XIV**

**PUBLIC SERVICE AND COMMISSIONS**

**Values and Principles**

**Values and  
principles of  
public service**

**267.** (1) The guiding values and principles of the public service shall include –

- (a) maintenance and promotion of the highest standards of professional ethics and integrity;

- (b) promotion of efficient, effective and economic use of resources;
- (c) effective, impartial, fair and equitable provision of services;
- (d) encouragement of people to participate in the process of policy making;
- (e) prompt, efficient and timely response to people's needs;
- (f) commitment to the implementation of public policy and programmes;
- (g) accountability for administrative acts of omission and commission;
- (h) transparency fostered by providing the public with timely, accessible and accurate information;
- (i) subject to paragraph (k), merit as the basis of appointment and promotion;
- (j) adequate and equal opportunities for appointments, training and advancement of members of both gender and members of all ethnic groups; and
- (k) representation of Zambia's diverse communities and persons with disability in the composition of the public service at all levels.

(2) The values and principles stated under clause (1) apply to public service -

- (a) at National and local government; and
- (b) in all State organs and State institutions.

## Public Offices

### Offices for Republic

**268.** (1) Subject to this Constitution and any other law –

(a) the power to constitute public offices for the Republic and the power to abolish any of those offices vests in the President; and

(b) the power to appoint persons to hold or act in offices constituted for the Republic, to confirm appointments, to exercise disciplinary control over persons holding or acting in those offices and to remove any of those persons from office vests in the President.

(2) The expenses, including emoluments, of any public office constituted under this Part shall be a charge on the Consolidated Fund.

(3) In this Part “public officer” does not include persons serving in the Judiciary, a member of any Commission established by this Constitution or an Act of Parliament, any officer serving in the Parliamentary Service Commission, a member of Parliament, a councillor or any person serving under a district council.

### Attorney-General

**269.** (1) There shall be an Attorney-General of the Republic whose office is a public office and who shall be appointed by the President on the recommendation of the Judicial Service Commission, subject to ratification by the National Assembly.

(2) The person appointed Attorney-General under clause (1) shall not be appointed as a Minister or hold any other public office.

(3) The Attorney-General shall be -

- (a) an ex-officio member of the Cabinet;
- (b) not less than forty-five years of age; and
- (c) a person qualified to be appointed as a Judge of a superior court.

(4) Subject to this Article, a person holding the office of Attorney-General shall retire from office on attaining the age of sixty years and may retire on attaining the age of fifty-five years.

(5) The Attorney-General shall only be removed from office on the same grounds and same procedure as those that apply to a Judge of a superior court.

(6) The Attorney-General may resign from office on giving three months notice in writing to the President.

(7) The functions of the Attorney-General shall include -

- (a) being the principal legal adviser to the Government;
- (b) the signing of all Government Bills to be presented to the National Assembly;
- (c) representing the Government in the courts or any other legal proceedings to which Government is a party, and
- (d) any other function assigned to the Attorney-General by the President or by any other law.

(8) Subject to this Constitution, an agreement, treaty or convention shall not be concluded without the legal advice of the Attorney-General, except where the National Assembly otherwise directs and subject to the conditions provided by an Act of Parliament.

(9) The Attorney-General shall not be subject to the direction or control of any other person or authority in the performance of the Attorney-General's functions under this Constitution.

**Solicitor-General**

**270.** (1) There shall be a Solicitor-General of the Republic whose office is a public office and who shall be appointed by the President

on the recommendation of the Judicial Service Commission, subject to ratification by the National Assembly.

(2) A person shall not qualify to be appointed to the office of Solicitor-General unless that person is qualified for appointment as a Judge of a superior court.

(3) Subject to this Article, a person holding the office of Solicitor-General shall retire from office on attaining the age of sixty years and may retire on attaining the age of fifty-five years.

(4) The Solicitor-General shall only be removed from office on the same grounds and same procedure as those that apply to a Judge of a superior court.

(5) The Solicitor-General may resign from office on giving three months notice in writing to the President.

(6) A function conferred on the Attorney-General by this Constitution or any other law may be performed by the Solicitor-General -

(a) when the Attorney-General is unable to act owing to illness or absence from office for any reason; and

(b) in any case where the Attorney-General has authorised the Solicitor-General to perform that function.

**Director of Public Prosecutions**

**271.** (1) There shall be a Director of Public Prosecutions whose office is a public office and who shall be appointed by the President on the recommendation of the Judicial Service Commission, subject to ratification by the National Assembly.

(2) A person shall not qualify to be appointed to the office of Director of Public Prosecutions unless that person -

(a) is not less than forty-five years of age;

(b) has experience in criminal prosecutions; and

(c) is qualified to be appointed as a Judge of a superior court.



(3) Except as otherwise provided in this Constitution or any other law, the Director of Public Prosecutions may -

(a) institute and undertake criminal proceedings against a person before a court, other than a court-martial, in respect of an offence alleged to have been committed by that person;

(b) take over and continue criminal proceedings instituted or undertaken by any other person or authority; and

(c) discontinue, at any stage before judgment is delivered, criminal proceedings instituted or undertaken.

(4) The Director of Public Prosecutions shall not enter a nolle prosequi except with the leave of the court.

(5) The functions of the Director of Public Prosecutions under clause (3) may be exercised in person or by a public officer or class of public officers or legal practitioner, specified by the Director of Public Prosecutions, acting under the general or special instructions of the Director of Public Prosecutions.

(6) For the purposes of clause (3) -

(a) an appeal from a judgment in any criminal proceeding before a court or a case stated or question of law reserved for the purposes of proceedings to any other court, shall be part of the criminal proceedings; and

(b) the power conferred on the Director of Public Prosecutions by paragraph (c) of that clause shall not be exercised in relation to an appeal by a person convicted in a criminal proceeding, to a case stated or to a question of law reserved at the instance of that person.

(7) The Director of Public Prosecutions shall not be subject to the direction or control of any person or authority in the performance of the functions of Director of Public Prosecutions.

(8) In exercising the powers conferred by this Article the Director of Public Prosecutions shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.

**Performance of functions of Director of Public Prosecutions during absence, illness or other cause**

**272.** Where the Director of Public Prosecutions is absent from Zambia or is unable to perform the functions of office because of illness or for any other cause, the President shall, on the recommendation of the Judicial Service Commission, appoint any other person to perform the functions of the Director of Public Prosecutions until that appointment is revoked.

**Tenure of office of director of Public Prosecutions**

**273.** (1) Subject to this Article, a person holding the office of Director of Public Prosecutions shall retire from office on attaining the age of sixty years and may retire on attaining the age of fifty-five years.

(2) The Director of Public Prosecutions may be removed from office on the same grounds and procedure as those that apply to a Judge of a superior court.

(3) The Director of Public Prosecutions may resign from office on giving three months notice to the President.

(4) Parliament shall enact legislation to provide for any other function of the Director of Public Prosecutions and for the decentralisation of that office to the provinces.

**Permanent Secretaries**

**274.** (1) Subject to this Constitution, a ministry or department of the Government shall be under the supervision and administration of a Permanent Secretary whose office is a public office.

(2) A Permanent Secretary shall be a career civil servant appointed by the President in accordance with the advice of the

Civil Service Commission, subject to ratification by the National Assembly.

- (3) The functions of a Permanent Secretary shall include -
  - (a) the organisation and administration of a department or ministry;
  - (b) tendering advice to the responsible Minister in respect of the business and function of the department or ministry;
  - (c) implementation of the policies of the Government; and
  - (d) responsibility for the proper financial management and expenditure of public funds by or in connection with the department or ministry.

**Protection of public officers**

- 275. A public officer shall not be -
  - (a) victimized or discriminated against for having performed functions in good faith in accordance with this Constitution or any other law; or
  - (b) dismissed or removed from office or reduced in rank or otherwise punished without just cause and due process.

**Commissions**

**Services and service commissions**

- 276. (1) There shall be established the following Services:
  - (a) the Civil Service; and

(b) the Teaching Service.

(2) Parliament shall, subject to this Constitution, enact legislation to provide for each Service established under clause (1), for the establishment of a service commission for each Service and in particular to provide for -

- (a) the composition of each service commission;
- (b) the functions and powers of each service commission;
- (c) the operations, procedures and finances of each service commission;
- (d) the functions of each service;
- (e) the membership of each service; and
- (f) the structures and other provisions necessary for the proper and efficient administration and operation of each Service and service commission.

**Establishment of  
investigative  
commissions**

**277.** (1) There is hereby established the following investigative commissions -

- (a) the Anti-Corruption Commission;
- (b) the Anti-Drug Abuse Commission;
- (c) the Judicial Complaints Commission; and
- (d) the Police and Public Complaints Commission.

(2) Parliament shall enact legislation to provide for the functions, composition, tenure of office, procedures, operations, administration, finances and financial management of a Commission established under this Article.

**Other additional  
commissions**

**278.** Parliament may enact legislation to -

- (a) establish other commissions that may be necessary for the efficient and effective functioning of the public service; and
- (b) provide for the functions, composition, tenure of office, procedures, operations, administration, finances and financial management of a commission established by or under this Article.

**Membership of  
commissions**

**279.** Subject to this Constitution, Parliament shall in enacting legislation in respect of a commission established under this Part ensure that -

- (a) a commission shall be composed of not less than three persons and not more than seven persons;
- (b) at least one member is a person with disability;
- (c) a person does not qualify to be appointed to a commission unless that person is -
  - (i) a citizen;
  - (ii) permanently resident in Zambia;
  - (iii) not an office bearer or employee of any political party;
  - (iv) a person who has not been convicted of theft, fraud, forgery, perjury or any other offence that involves dishonesty; and
  - (v) a person of high moral standing and proven integrity; and

- (d) the members of a commission shall be appointed by the President, subject to ratification by the National Assembly.

**Independence and powers of commissions**

**280.** (1) In the performance of its functions under this Constitution or any other law, a commission established under this Part shall not be subject to the control or direction of any person or authority.

(2) A commission established under this Part shall be provided with adequate funding to enable it to effectively carry out its mandate.

(3) A commission established under this Part -

- (a) shall have the power to appoint its staff;
- (b) may initiate its own investigations on information available to it;
- (c) may refer matters within its powers to appropriate State organs or State institutions for action;
- (d) may receive complaints from any person or group of persons on matters within its powers; and
- (e) shall submit annual reports to the National Assembly on its activities and any other report as provided by or under an Act of Parliament.

**Appointment of chief executive of commissions**

**281.** A commission established under this Part shall have a chief executive who shall be appointed by the respective commission.

**Participation  
in politics**

**282.** A public officer who seeks election to a political office shall take early retirement in the national interest if that officer has served for at least twenty years or resign from the public service.

**Retirement of  
public officers**

**283.** (1) A public officer shall, unless otherwise provided in this Constitution, retire from the public service on attaining the age of sixty years and may retire with full benefits on the attainment of fifty-five years.

(2) A public officer may, unless otherwise provided in this Constitution, retire from the public service at any time after a continuous service of twenty years, with the approval of the Government.

(3) A public officer that has retired from the public service shall not be engaged, except that an officer that has special professional qualifications may be engaged on contract.

**Pension,  
gratuity and  
retrenchment  
benefit for  
public officers**

**284.** (1) The right of a public officer to a pension, gratuity or retrenchment benefit is hereby guaranteed.

(2) Any benefit to which a public officer is entitled to by or under an Act of Parliament shall not be withheld or altered to that officer's disadvantage, except to an upward adjustment to the extent provided by law.

(3) The law to be applied with respect to any pension benefits that were granted to any person before the commencement of this Constitution 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 favourable to that person.

(4) The law to be applied with respect to pension benefits, other than as provided in clause (2), shall -

(a) where those benefits are wholly in respect of a period of service as a public officer, member of the Defence Forces or of the national security agencies that commenced before the commencement of this Constitution, be the law in force immediately before that date; or

(b) where those benefits are wholly or partly in respect of a period of service as a public officer, member of the Defence Forces or national security agencies that commenced after the commencement of this Constitution, 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 that person.

(5) All pension benefits, unless otherwise charged on a fund established by or under an Act of Parliament, shall be a charge on the Consolidated Fund.

(6) In this Article "pension benefits" includes any pension, compensation and gratuity or similar allowance for persons in respect of their service as public officers, members of the Defence Forces and national security agencies or for the widows, children, dependants or personal representatives of those persons in respect of the service.

**Pension to  
be reviewed**

**285.** (1) Pensions shall be reviewed upwards periodically to take into account changes in the value of money or a review of salaries.



(2) Pension in respect of service in the public service is exempt from tax.

**Pension and  
retrenchment  
benefits to be  
paid promptly**

**286.** (1) The payment of pension or retrenchment benefit shall be paid on the last working day and any installments of pension benefits shall be paid regularly and shall be easily accessible to pensioners.

(2) Where pension or retrenchment benefit due is not paid on the last day of an employee's working day, the employee shall stop work but the retiree's or retrenchee's name shall be retained on the payroll until payment of the pension or retrenchment benefit.

(3) A retiree or retrenchee who does not receive the retiree's pension or retrenchee's benefits on the last working day shall be entitled to -

- (a) be retained on the payroll;
- (b) a salary and to any increment in salary given to public officers in the salary scale that the retiree or retrenchee was on at the date of retirement or retrenchment; and
- (c) a pension or retrenchment benefit based on the last salary received by the retiree or retrenchee while on the payroll by virtue of this Article.

**Legislation on  
pensions and  
gratuities**

**287.** Parliament shall enact legislation to provide for pensions and gratuities for service in the public service and for an efficient and effective system for the administration of pensions.

**PART XV**  
**PARLIAMENTARY OMBUDSMAN**

**Establishment  
of office of  
Parliamentary  
Ombudsman**

288. (1) There is hereby established the Office of the Parliamentary Ombudsman which shall have offices in all of the provinces and progressively in the districts.

(2) The Ombudsman shall be appointed by the Parliamentary Service Commission, subject to ratification by the National Assembly.

(3) Parliament shall enact legislation to provide for the procedures, staff, financial resources, financial management and operations of the office of the Parliamentary Ombudsman.

**Qualification  
for  
appointment  
and conditions  
of service**

289. (1) A person shall qualify to be appointed to the office of the Ombudsman if that person -

- (a) is qualified to be appointed as a Judge of a superior court; and
- (b) does not hold the office of President, Vice-President, Minister, Provincial Minister, Deputy Minister, member of the National Assembly or councillor.

(2) The terms and conditions of service of the Ombudsman, including the grounds and procedure for removal from office, shall be the same as apply to a Judge of a superior court.

(3) The Ombudsman shall not hold any other office of profit or emolument.

(4) Where the Ombudsman dies, resigns, is removed from office, is absent from Zambia or is for any other reason unable

to perform the functions of office the National Assembly shall, on the recommendation of the Parliamentary Service Commission, appoint a person who is qualified to be appointed as Ombudsman to act until the Ombudsman resumes office or another Ombudsman is appointed.

**Functions of  
Ombudsman**

**290.** (1) The Ombudsman may investigate an action taken or omitted to be taken, as specified under clause (2), by or on behalf of any State institution in the performance of an administrative function.

(2) An action taken or omitted to be taken under clause (1), is an action which is -

- (a) an abuse of office;
- (b) an unfair or unjust decision or action; or
- (c) an action not complying with the rules of natural justice.

(3) For the purpose of clauses (1) and (2), the Ombudsman may -

- (a) bring an action before a court and seek a remedy which is available from the court;
- (b) hear and determine an appeal by a public officer serving in the public service or an employee of any State institution relating to an act or omission taken in respect of that officer which contravenes this Article;
- (c) make any decision after investigations, and where appropriate, on any disciplinary action to be taken against a public officer serving in

the public service which decision shall be implemented by the appropriate authority; and

- (d) issue regulations regarding the manner and procedure for bringing complaints before the Ombudsman and the investigation of matters or complaints.

(4) The Ombudsman may -

- (a) issue a statement of opinion on the administration of State institutions;
- (b) make recommendations on the review, harmonisation and development of the law for the purpose of improving administrative justice in State institutions; and
- (c) perform any other function provided by an Act of Parliament.

(5) The Ombudsman shall have the powers of the High Court in -

- (a) enforcing the attendance of witnesses and examining them on oath;
- (b) compelling the production of documents; and
- (c) issuing a commission or request to examine witnesses abroad.

(6) A person summoned to attend to give evidence or to produce a document before the Ombudsman shall be entitled, in respect of that evidence or the production of the document, to the same privileges and protections as those that a person would be entitled to before a court.

(7) An answer by a person to a question put by the Ombudsman shall not be admissible in evidence against that

person in any civil or criminal proceedings in any court, except for perjury under criminal law.

**Independence  
of Ombudsman  
and funding**

**291.** (1) In the performance of functions conferred on the Ombudsman under this Constitution or any other law, the Ombudsman and the staff of the office of the Ombudsman shall be subject only to this Constitution and shall not be subject to the direction or control of any person or authority.

(2) The appointment of staff of the office of Ombudsman shall be made by the Ombudsman.

(3) The emoluments of the Ombudsman shall be determined by the Emoluments Commission and provided for in an Act of Parliament and shall be a charge on the Consolidated Fund.

(4) The Ombudsman shall take measures to educate the people on the functions of the Ombudsman.

(5) The office of the Ombudsman shall be adequately funded to enable the office to effectively carry out its mandate.

(6) The expenses of the office of the Ombudsman, including the emoluments of staff, shall be a charge on the Consolidated Fund.

**Limitation of  
powers of  
Ombudsman**

**292.** The Ombudsman shall not investigate a matter -

- (a) which is before a court or a quasi-judicial tribunal;
- (b) involving the relations or dealings between the Government and any foreign government or international organization; or

- (c) relating to the exercise of the prerogative of mercy.

**Accountability**

**293.** The Ombudsman shall be accountable to the National Assembly.

**Accounts and audit**

**294.** (1) The Ombudsman shall keep books of account and proper records in relation to the accounts in the form approved by the Auditor-General.

(2) The Ombudsman shall, within three months after the end of the financial year, submit its accounts to the Auditor-General for audit.

(3) The Auditor-General shall, within three months of the submission under clause (2), make a report on the audit to the Ombudsman with a copy of the report to the President and to the National Assembly.

**Annual report**

**295.** The Ombudsman shall, within six months after the end of each financial year, submit an annual report on the activities of the office of Ombudsman, for the previous year, to the National Assembly with a copy to the President.

(2) The annual report shall contain -

- (a) a review of all the complaints lodged with the Ombudsman;
- (b) a summary of the matters dealt with and the actions taken on them;

- (c) a summary of the remedies awarded to aggrieved persons; and
- (d) a statement on the areas where the Ombudsman failed to take action to remedy an injustice and the reasons for the failure.

**PART XVI**  
**DEFENCE AND NATIONAL SECURITY**

**Establishment of Defence Forces and functions**

**296** (1) There shall be established the Defence Forces of Zambia consisting of the -

- (a) Zambia Army;
- (b) Zambia Air Force; and
- (c) Zambia National Service.

(2) The Defence Forces shall -

- (a) preserve and defend the sovereignty and territorial integrity of the Republic;
- (b) foster harmony and understanding between the Zambia Army, Zambia Air Force and Zambia National Service and the members of the society;
- (c) co-operate with civilian authorities in times of public emergencies and National disasters;
- (d) engage in productive activities for the development of the country ; and
- (e) perform other functions provided for each force by or under an Act of Parliament.

**Establishment of national security agencies and functions**

**297.** (1) There shall be established national security agencies which shall consist of the -

- (a) Zambia Police Service;
  - (b) Zambia Security Intelligence Service; and
  - (c) Zambia Prisons Service.
- (2) The Zambia Police Service shall -
- (a) protect life and property;
  - (b) preserve peace, law and order;
  - (c) ensure the security of the people;
  - (d) prevent and detect crime;
  - (e) protect the rights and freedoms enshrined in this Constitution;
  - (f) foster and promote good relationship with members of the society; and
  - (g) perform other functions provided by or under an Act of Parliament.
- (3) The Security Intelligence Service shall be responsible for -
- (a) security intelligence and counter intelligence aimed at ensuring national security;
  - (b) defence of this Constitution against any act of sabotage or subversion; and
  - (c) other functions as provided by or under an Act of Parliament.
- (4) The Prisons Service shall be responsible for the management, control and security of prisoners and prisons and for other functions that relate to prisoners as provided by an Act of Parliament.



(2) Parliament shall enact legislation to provide for the functions, composition, tenure or office, procedures, finances and financial management of the Police and Prisons Service Commission.

(3) The provisions of Part XIV relating to the membership, independence, powers and appointment of the Chief Executive of a commission shall apply to the Police and Prisons Service Commission.

Objectives and expenses of Defence Forces and national security agencies

**300.** (1) The primary objectives of the Defence Forces and the national security agencies shall be to -

- (a) safeguard the well-being of the people of Zambia; and
- (b) secure and guard the sovereignty, peace, national unity and territorial integrity of the Republic in accordance with the Constitution and other laws.

(2) The Defence Forces and national security agencies shall be nationalistic, patriotic, professional, disciplined, competent and productive and their members shall be citizens who do not have dual citizenship.

(3) The Defence Forces and the national security agencies shall not -

- (a) act in a partisan manner;
- (b) further the interests or cause of any political party; or
- (c) act against a political interest or cause permitted under this Constitution or any other law.

(4) Clause (2) shall apply to every member of the Defence Forces and national security agencies but nothing this Constitution

shall prevent a member of those forces and agencies from registering as a voter or voting in any National elections or referenda.

- (5) The Defence Forces and national security agencies-
  - (a) shall be subject to civilian authority; and
  - (c) shall be adequately and properly equipped to enable them effectively attain their objectives and perform their functions.

(6) The expenses of the Defence Forces and national security agencies shall be a charge on the Consolidated Fund.

**Peace keeping missions**

**300.** Except where a mission or service is approved by the President, with the prior approval of the National Assembly signified by the votes of not less than two-thirds of all the members of the National Assembly, personnel of the Defence Forces shall not be deployed outside the Republic on a peace-keeping mission or other similar service.

**Deployment outside Republic**

**301.** (1) Subject to any law relating to the procedure and rules for deployment of personnel of the Defence Forces outside the Republic, the President may -

- (a) at any time order that the whole or any part of the Forces shall be deployed out of or beyond Zambia;
- (b) order any officer of the Forces to proceed to any place outside Zambia to undergo instruction, training or duty; or
- (c) where the consent of the officer or soldier of the Defence Forces is first obtained, place the

officer or soldier at the disposal of the military authorities of any other country or territory to be attached to the armed or air forces of that country or territory.

(2) Where the President intends to exercise any power under clause (1) (a), the President shall obtain the prior approval of the National Assembly signified by not less than two-thirds of the votes of all the members of the Assembly.

**Prohibition  
of certain  
activities**

**302.** Except as provided for under this Constitution or by an Act of Parliament, a person shall not -

(a) raise an armed force;

(b) establish -

(i) an air force;

(ii) a national service;

(iii) a police service;

(iv) a prisons service; or

(v) a security intelligence service; or

(c) be concerned in the raising of an armed force or the establishment of any of the Defence Forces and national security agencies.

**Legislation to  
further regulate  
Defence Forces  
and national  
security agencies**

**303.** Subject to this Constitution, Parliament shall enact legislation to provide generally for the effective operation of the Defence Forces and national security agencies and shall provide for -

(a) the regulation of the Defence Forces and national security agencies;

(b) their organs and structures;

(c) their operations and administration;

- (d) the recruitment of persons from every district of the country into the Defence Forces and national security agencies;
- (e) the appointment, qualifications, retirement, placement, transfer and discipline of defence and security chiefs and other personnel of the Defence Forces and national security agencies;
- (f) the terms and conditions of service of personnel and members;
- (g) such other functions as may be necessary for the effective operation of the Defence Forces and national security agencies;
- (h) other Defence Forces and national security agencies; and
- (i) the regulation of private security organisations.

## PART XVII

### PUBLIC FINANCE AND BUDGET

**Imposition  
of tax**

**304.** (1) A tax shall not be imposed except by or under an Act of Parliament.

(2) Where legislation, enacted under clause (1), confers powers on any person or authority to waive or vary a tax imposed by that legislation, that person or authority shall make a report to the National Assembly on the exercise of those powers as provided by or under an Act of Parliament.

**Consolidated  
Fund**

**305.** (1) There shall be established a fund to be known as the Consolidated Fund of the Republic.

(2) Subject to clause (3), all moneys raised or received for the purposes of, on behalf of, or in trust for, the Republic shall be paid into the Consolidated Fund.

(3) The moneys referred to in clause (2), do not include moneys-

(a) that are payable under this Constitution or an Act of Parliament into some other public fund established for a specific purpose; or

(b) that may, under this Constitution or an Act of Parliament, be retained by the State organ or State institution that receives it for the purpose of defraying the expenses of that State organ or State institution.

**Withdrawal  
from  
Consolidated  
Fund**

**306.** (1) Subject to Article 307, moneys shall not be withdrawn from the Consolidated Fund except -

(a) to meet expenditure charged on the Consolidated Fund by this Constitution or by an Act of Parliament; or

(b) where the issuance of those moneys have been authorized by an Appropriation Act or a Supplementary Appropriation Act.

(2) Moneys shall not be withdrawn from any other public fund of the Republic unless withdrawal has been authorized by an Act of Parliament.

(3) Moneys shall not be withdrawn from the Consolidated Fund unless the withdrawal has been approved in the manner provided by an Act of Parliament.

**Expenditure in advance of appropriation**

307. (1) Where, in any financial year, the President is satisfied that the Appropriation Act in respect of that financial year will not come into operation by the beginning of that year, the President may authorize the withdrawal of moneys from the Consolidated Fund to meet expenditure necessary to carry on the services of the Government until the expiry of four months from the beginning of that financial year or the coming into force of the Appropriation Act, whichever is the earlier.

(2) Moneys withdrawn in any financial year from the Consolidated Fund under clause (1) in respect of any service of the Republic -

- (a) shall not exceed the amount shown as required in respect of that service in the vote approved by the National Assembly for that financial year; and
- (b) shall be set off against the amount provided in respect of that service in the Appropriation Act for that financial year when that Act comes into force.

**Compensation Fund**

308. (1) Parliament shall enact legislation to establish a Compensation Fund for purposes of paying claims against the State and to provide for the operation of the Compensation Fund.

(2) Moneys shall not be withdrawn from the Compensation Fund unless the withdrawal is authorised under an Act of Parliament.

**Annual financial estimates**

309. (1) The President shall, subject to clause (2), cause to be prepared and laid before the National Assembly in each financial year, not later than ninety days before the commencement of the financial year, estimates of revenues and expenditure of the Government for the next financial year.

(2) In any year where a general election takes place and an election petition has been filed challenging the election of a President-elect, the President shall cause to be prepared and laid before the National Assembly, within ninety days of the swearing in of the President, estimates of revenues and expenditure of the Government for that financial year.

(3) Not later than six months before the end of each financial year, the heads of each State organ and State institution, shall submit estimates of revenues and expenditure for the following financial year to the Minister responsible for finance.

(4) In the preparation of estimates and expenditure under clause (2), the inputs of the people in the wards, districts and provinces shall be sought.

(5) The estimates prepared under clause (2) shall be laid before the National Assembly by the Minister responsible for finance, on behalf of the President.

(6) Notwithstanding clause (1), the President may cause to be prepared and laid before the National Assembly -

- (a) fiscal and monetary programmes and plans for economic and social development covering periods exceeding one year; and
- (b) estimates of revenue and expenditure covering periods exceeding one year.

(7) Before the National Assembly considers the estimates of revenues and expenditure, laid before it by the Minister responsible for finance, the appropriate committee of the National Assembly shall discuss and review the estimates and make appropriate recommendations to the National Assembly.

(8) The committee referred to under clause (7) shall, in considering the estimates of the revenues and expenditure, seek public opinion from the districts and provinces on the estimates and expenditure and shall take these into consideration in its recommendations to the National Assembly.

(9) The National Assembly may, subject to clause (2), amend but shall not vary the total estimates of revenues and expenditure and shall in any case approve the budget not later than the thirty-first day of December.

**Budget Act**

**310.** Parliament shall enact a Budget Act which shall provide for matters that relate to the annual budget and shall include -

- (a) the method for the preparation of the budget;
- (b) the preparation of medium and long-term development plans indicating corresponding sources of financing;
- (c) the participation of the people at the district and provincial levels, ensuring representation



from both gender, in the formulation of development plans and preparation of the annual budget;

- (d) the submission of anticipated revenues and expenditure for each financial year by the Minister responsible for finance to the appropriate committee of the National Assembly for prior consideration before the preparation and submission of the actual estimates for the financial year; and
- (e) the contents, subject to this Constitution, of the financial report of the Government provided for under Article 314.

**Appropriation  
Bill and  
Supplementary  
Appropriation  
Bill**

**311.** (1) When the estimates of expenditure have been approved by the National Assembly they shall be appropriated in an Appropriation Bill for issue from the Consolidated Fund.

(2) Where in respect of a financial year the amount appropriated under an Appropriation Act is insufficient or a need arises for expenditure for a purpose for which an amount has not been appropriated, under that Act, a supplementary estimate showing the amount required shall be laid before the National Assembly for approval.

(3) Where a supplementary estimate is approved under clause (2) a Supplementary Appropriation Bill showing the estimates approved shall be laid before the National Assembly in the next financial year.

(4) Subject to this Constitution, the Minister responsible for finance shall release adequate appropriated funds, on quarterly

basis and on time, to the institutions and bodies entitled to the appropriations.

**Borrowing by  
Government**

**312.** (1) The Government may, subject to this Article, borrow from any source.

(2) Government shall not borrow, guarantee or raise a loan on behalf of itself or any State organ, State institution, authority or person except as authorised by or under an Act of Parliament.

(3) Legislation enacted under clause (2) shall provide -

(a) that the terms and conditions of the loan shall be laid before the National Assembly and shall not come into operation unless they have been approved by a resolution of the National Assembly; and

(b) that any money received in respect of that loan shall be paid into the Consolidated Fund or into some other public fund which exists or is created for the purpose of the loan.

(4) The President shall, at such times as the National Assembly may determine, cause to be presented to the National Assembly information concerning any loan including -

(a) the source of the loan;

(b) the extent of the total indebtedness by way of principal and accumulated interest;

(c) the provision made for servicing or repayment of the loan; and

(d) the utilisation and performance of the loan.

(5) The National Assembly may, by resolution, authorize the Government to enter into an agreement for the giving of a loan or grant out of the Consolidated Fund or any other public fund or account.

(6) An agreement entered into under clause (5) shall be laid before the National Assembly and shall not come into force unless it has been approved by a resolution supported by the vote of not less than two-thirds of all the members of the National Assembly.

(7) For the purposes of this Article, "loan" includes any moneys lent or given to or by the Government on condition of return or repayment and any other form of borrowing or lending in respect of which moneys from the Consolidated Fund or any other public fund or account may be used for payment or repayment.

**Public debt**

**313.** (1) The public debt of Zambia shall be a charge on the Consolidated Fund and any other public fund.

(2) The National Assembly shall approve all direct borrowing by the Government, before these take effect, for the purposes of incurring public debt or loan guarantees.

(3) For the purposes of this Article, the public debt includes the interest on that debt, sinking fund payments in respect of that debt, the costs, charges and expenses incidental to the management of that debt.

**Financial  
report of  
Government**

**314.** (1) The Minister responsible for finance shall within six months after the end of each financial year prepare and submit to the Auditor-General the financial report of the Government in respect of the preceding financial year.

(2) The financial report, referred to under clause (1), shall include information on -

- (a) revenue and other moneys received by the Government during that financial year;
- (b) the expenditure of the Government during that financial year, including expenditure charged by this Constitution or any other law on the Consolidated Fund or other public fund;
- (c) debt repayments;
- (d) payment made in that financial year for purposes other than expenditure;
- (e) the financial position of the Republic at the end of that financial year; and
- (f) any other information as specified under the Budget Act.

(3) The Auditor-General shall examine the financial report submitted by the Minister responsible for finance under clause (1) and express an opinion on the report.

(4) The Minister responsible for finance shall within nine months after the end of the financial year lay the financial report of the Government, with the Auditor General's opinion, before the National Assembly.

**Disposal of  
State assets**

**315.** Any major State asset, such as a parastatal company or a commercial enterprise of the State, shall not be sold, transferred or disposed of, except with the prior resolution of the National Assembly supported by a vote of not less than two-thirds of all the members of the National Assembly.

**State Audit  
Commission**

**316.** (1) There is hereby established a State Audit Commission, which shall be the policy body for the Auditor General's Office.

(2) The State Audit Commission, established under clause (1), shall consist of five members who shall serve on a part-time basis.

(3) The members of the State Audit Commission shall be persons from the private sector with -

- (a) expertise and experience in state audit, internal or external audit or finance;
- (b) considerable experience in public finance; or
- (c) professional qualifications of relevance to the work of the State Audit Commission.

(4) The members of the State Audit Commission shall be nominated by the relevant professional civil society organisations with similar objectives as is relevant to the work of the State Audit Commission and appointed by the President, subject to ratification by the National Assembly.

(5) A member of the State Audit Commission shall serve for a term of three years and shall be eligible to serve for only one further term of three years.

(6) The functions of the State Audit Commission shall include-

- (a) making recommendations to the President on the appointment of the Auditor-General;
- (b) providing policy direction to the office of the Auditor-General; and

(c) performing such other functions as provided by this Constitution and by or under an Act of Parliament.

(7) The Auditor-General's Office shall be the secretariat for the State Audit Commission.

(8) The expenses of the State Audit Commission shall be a charge on the Consolidated Fund.

**Auditor-General**

**317.** (1) There is hereby established the office of the Auditor-General the holder of which is the Auditor-General.

(2) The office of Auditor-General is a public office.

(3) The Auditor-General shall be appointed by the President on the recommendation of the State Audit Commission, subject to ratification by the National Assembly.

(4) The Auditor-General may only be removed from office on the same grounds and procedure that apply to a Judge of a superior court.

(5) The Auditor-General shall retire from office on the attainment of seventy years of age.

(6) The emoluments and other terms and conditions of service of the Auditor-General shall be as recommended by the Emoluments Commission and approved by the National Assembly.

(7) Parliament shall enact legislation to provide for -

(a) the qualification and retirement from office of the Auditor-General;

(b) the operations and management of the office of the Auditor-General;

- (c) the recruitment, supervision, grading, promotion and discipline of the staff of the Auditor-General; and
- (d) the finances of the office of the Auditor-General.

**Independence of Auditor-General**

**318.** In the performance of the functions conferred on the Auditor-General under this Constitution or any other law, the Auditor-General and the staff of the office of the Auditor-General shall not be subject to the direction or control of any person or authority.

**Funding of Auditor-General**

**319.** (1) The office of Auditor-General shall be adequately funded to enable the office to effectively carry out its mandate.

(2) The expenses of the office of the Auditor-General, including the emoluments of staff, shall be a charge on the Consolidated Fund.

**Functions of Auditor-General**

- 320.** (1) The Auditor-General shall -
- (a) audit the accounts of -
    - (i) the National Government and local authorities;
    - (ii) all offices financed wholly or partly from public funds including the universities, the Central Bank, State organs and State institutions;
  - (b) audit the accounts that relate to the stocks, shares and stores of the Government;

- (c) conduct financial and value for money audits, including environmental audits, forensic audits and any other type of audit, in respect of any project that involves the use of public funds;
- (d) ascertain that money appropriated by Parliament or raised by the Government and disbursed –
  - (i) has been applied for the purpose for which it was appropriated;
  - (ii) was expended in conformity with the authority that governs it; and
  - (iii) was expended economically, efficiently and effectively;
- (e) recommend to the Director of Public Prosecutions or any other law enforcement agency any matter, within the competence and functions of the Auditor-General, that may require to be prosecuted; and
- (f) perform any other function specified by or under an Act of Parliament.

(2) For the purposes of clause (1), the Auditor-General or a person authorised or appointed by the Auditor-General shall have access to all documents that relate to or are relevant to an audit.

(3) Accounts which are subject to auditing by the Auditor-General shall be kept in the form approved by the Auditor-General.



(4) The Auditor-General shall, not later than nine months after the end of each financial year, submit a report of the accounts audited under clause (1) in respect of the immediately preceding financial year to -

(a) the President; and

(b) the National Assembly.

(5) The National Assembly shall, within three months after the submission of the report referred to in clause (4), consider the report and take appropriate action.

(6) The Auditor-General may conduct audits of public accounts at intervals and with the regularity that the Auditor-General considers necessary.

(7) The President, the National Assembly or any public officer may, at any time, in the public interest, request the Auditor-General to audit the accounts of a State organ, State institution or body that is subject to audit under this Part.

(8) The office of the Auditor-General shall be audited and the report shall be submitted to the National Assembly and the President by external auditors appointed by the State Audit Commission.

**Reference  
by Auditor-  
General**

**321.** The Auditor-General may refer any case of malpractice or financial impropriety to any public institution which is competent in the matter for action.

**National  
Fiscal and  
Emoluments  
Commission**

**322.** (1) There is hereby established the National Fiscal and Emoluments Commission of which the membership, additional functions, operations, management, finances and structures shall be provided for by an Act of Parliament.

(2) Without limiting clause (1), the functions of the National Fiscal and Emoluments Commission shall include -

- (a) assessing the financial and fiscal policies of the Government and recommending to the Government equitable financial and fiscal allocations to be appropriated to the National Government, the provinces and local authorities;
- (b) recommending for the approval of the National Assembly the emoluments of public officers specified by this Constitution and other public officers, as may be provided by or under an Act of Parliament; and
- (c) any other function specified by this Constitution or any other law.

## PART XVIII CENTRAL BANK

### Central Bank

323. (1) There is hereby established the Central Bank of Zambia.

(2) The Bank of Zambia shall be the Central Bank of Zambia and the only authority to issue the currency of Zambia.

(3) The authority of the Central Bank shall vest in the Board of Directors of the Bank as constituted by an Act of Parliament.

(4) Except as otherwise provided in this Constitution, the power to appoint, promote, discipline and determine the terms and

conditions of service of staff and other employees of the Central Bank vests in the Board of Directors.

**Independence  
of Central  
Bank**

**324.** In the performance of the functions of the Central Bank, the Governor, Deputy Governor, directors and staff of the Bank shall be subject to this Constitution and any other law and shall not be subject to the direction or control of any person or authority.

**Governor of  
Central  
Bank**

**325.** (1) There shall be a Governor of the Central Bank who shall be –

- (a) a citizen by birth or descent;
- (b) not less than forty-five years old;
- (c) a person with extensive knowledge and experience in matters that relate to economics, finance or accounting, banking, law or other fields relevant to banking;
- (d) a person of proven integrity;
- (e) appointed by the President, subject to ratification by the National Assembly, for a fixed term of office as provided by or under an Act of Parliament;
- (f) the chairperson of the Board of Directors; and
- (g) removed from office only on the same grounds and procedure that apply to a judge of a superior court.

(2) The emoluments of the Governor shall be as recommended by the Emoluments Commission and approved by the National Assembly.

(3) The Governor shall before assuming office take the Official Oath, as set out in the Third Schedule.

**Legislation on  
Central Bank**

- 326.** Parliament shall enact legislation to provide for –
- (a) the functions of the Bank, its operations and management;
  - (b) the appointment, qualifications, tenure of office and other terms and conditions of service of the Board of Directors, other than the Governor;
  - (c) election of a vice-chairperson from amongst the members of the Board of Directors;
  - (d) the grounds for removal of a director of the Board, other than the Governor;
  - (e) the appointment, qualifications, retirement, tenure of office and functions of the Deputy-Governor; and
  - (f) other matters necessary for the effective performance of the functions of the Bank.

**PART XIX**

**LAND AND PROPERTY**

**Basis of  
land policy**

- 327.** The land policy of Zambia shall ensure –
- (a) equitable access to land and associated resources;
  - (b) equitable access and ownership of land by women;
  - (c) security of land rights for land holders;

- (d) sustainable and productive management of land resources;
- (e) transparent and cost effective administration of land;
- (f) sound conservation and protection of ecologically sensitive areas;
- (g) cost effective and efficient settlement of land disputes; and
- (h) that river frontages, islands and lakeshores are not leased, fenced or sold.

**Classification of land**

**328.** All land in Zambia shall be classified as customary land, State land or such other classification as may be provided by or under an Act of Parliament, and shall be delimited in accordance with an Act of Parliament.

**State land**

- 329.** (1) State land is –
- (a) land held by any person under leasehold tenure;
  - (b) land which at the commencement of this Constitution was unalienated State land as defined by an Act of Parliament;
  - (c) land lawfully held, used or occupied by any government Ministry, department, agency or local authority;
  - (d) land on or under which minerals are found as specified under law;
  - (e) land in respect of which no heir can by ordinary legal process be identified;

- (f) land occupied by, or through which, any natural resource passes including gazetted or declared national forests, game reserves and water catchment areas, rivers and other natural flowing water resources, national parks, animal sanctuaries and specially protected areas;
- (g) any land not classified as customary land under this Constitution; and
- (h) any other land declared as State land by an Act of Parliament.

(2) State land shall not be alienated or otherwise used except in terms of legislation specifying the nature and terms of that alienation or use.

**Customary  
land**

**330.** (1) Customary land is land held by communities identified on the basis of tribe, residence or community of interest.

(2) For the purposes of clause (1), customary land includes -

- (a) land customarily held, managed or used by specific communities as community forests, grazing areas or shrines;
- (b) land lawfully alienated to a specific community by any process of law;
- (c) ancestral lands traditionally occupied by an ethnic community; and
- (d) any other land declared to be customary land by an Act of Parliament.

- (3) Customary land shall not be alienated or otherwise used until the approval of the chief and local authority in whose area the land is situated has first been obtained and as may be provided by or under an Act of Parliament.
- (4) An approval under clause (3), shall not be unreasonably withheld.

**Vesting of land**

**331.** (1) Land in Zambia is vested in the President and is held by the President in trust for and on behalf of the people of Zambia.

(2) All land in Zambia shall be administered and controlled for the use or common benefit, direct or indirect, of the people of Zambia.

(3) Subject to clause (3), the President may, through the Lands Commission, chiefs or local authorities, alienate land to citizens or to non-citizens, as provided by this Constitution and by or under an Act of Parliament.

(4) Subject to Article 330 (3), land situated in a district shall be administered by the local authority in that district.

**Land tenure**

**332.** (1) Land in Zambia shall be alienated and held on the basis of customary, leasehold or other tenure, as provided by this Constitution or by or under an Act of Parliament.

(2) Subject to clause (1), State land may be held on a lease of ninety-nine years or such lesser years as may be provided by legislation for different categories of State land.

(3) A person who is not a citizen shall only be entitled to lease land for a restricted period of time, as provided by an Act of Parliament.

(4) Parliament shall enact legislation to provide for the categories of non-citizens that may hold land and the conditions under which they may do so.

**Regulation of  
land use and  
development  
of property**

**333.** (1) The State is empowered to regulate the use of any land, interest or right in land in the interest of defence, public safety, public order, public morality, public health, land use planning or the development or utilisation of property.

(2) The State shall encourage and provide a conducive social, economic, political and legal environment for the creation, development and management of property.

(3) Parliament shall enact legislation ensuring that major investments in land benefit local communities and their economy.

**Commissioner  
of lands**

**334.** (1) The office of Commissioner of Lands is a public office and the Commissioner of Lands shall be appointed by the President, subject to ratification by the National Assembly.

(2) The Commissioner of Lands shall be the chief administrator of the Lands Commission and shall perform the functions of office under the supervision of the Lands Commission.

(3) The term of office of the Commissioner of Lands shall be five years, subject to renewal or until the person attains retirement age as specified by an Act of Parliament.

**Lands  
Commission**

**335.** (1) There is hereby established a Lands Commission which shall consist of the Commissioner of Lands and four other part-time members appointed by the President, subject to ratification by the National Assembly.



(2) Parliament shall enact legislation to provide for the Lands Commission, its financial resources and financial management, procedures, administration, appointments, qualifications, promotions, transfer, retirement and discipline of staff, including the Commissioner of Lands, and generally for the functioning of the Commission.

(3) The Lands Commission shall establish offices in every province.

(4) The expenses of the Lands Commission, including the emoluments of the staff of the Commission, shall be a charge on the Consolidated Fund.

**Tenure of office**

**336.** (1) A member of the Lands Commission, except the Commissioner of Lands, shall hold office for a term of three years, subject to renewal for only one further term of three years.

(2) Parliament shall enact legislation providing for the removal from office of a member of the Lands Commission.

**Functions of Lands Commission**

**337.** The functions of the Lands Commission shall include the following:

- (a) administer, manage and alienate land on behalf of the President;
- (b) formulate and recommend to the Government a national lands policy;
- (c) advise the Government and local authorities on a policy framework for the development of selected areas of Zambia and to ensure that the development of customary land is in

accordance with the development plan for the area;

- (d) advise the Government on, and assist in the execution of, a comprehensive programme for the registration of leasehold title in land throughout Zambia;
- (e) conduct research related to land and natural resource use and make recommendations to appropriate authorities;
- (f) facilitate the participation of communities in the formulation of land policies;
- (g) monitor and have oversight responsibilities over land use planning throughout the country; and
- (h) any other function provided by or under an Act of Parliament.

**Legislation  
on land**

**338.** Parliament shall enact legislation to –

- (a) revise, consolidate and rationalise existing laws relating to land;
- (b) prohibit speculation in land;
- (c) revise sectoral land use law in accordance with national land policy;
- (d) regulate the manner in which any land may be converted from one classification or category to another;
- (e) protect, conserve and provide equitable access to all State land;
- (f) enable the settlement of landless people including the rehabilitation of spontaneous

settlements of rural and urban communities;  
and

- (g) prescribe minimum and maximum land holding acreage in arable areas.

## PART XX

### ENVIRONMENT AND NATURAL RESOURCES

**Basis of  
environment  
policy**

**339.** The management and development of Zambia's natural resources shall -

- (a) respect the integrity of natural processes and ecological communities, including conservation of habitats and species;
- (b) ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources for the present and future generations;
- (c) ensure equitable sharing of benefits, amongst the local communities, accruing from exploitation and utilisation of the environment and natural resources;
- (d) ensure equitable access to all natural resources;
- (e) recognise that natural resources have an economic and social value and this should be reflected in their use;
- (f) not bestow private ownership of any natural resource or authorise its use in perpetuity;

- (g) ensure gender mainstreaming by promoting equity between the opposite gender and involve women in decision making processes relating to the use of natural resources and ensure efforts to reduce poverty are undertaken;
- (h) ensure that social and cultural values and methods traditionally applied by local communities for the sustainable management of the environment and natural resources are observed;
- (i) ensure that planning and utilisation of the environment takes account of disadvantaged areas and their inhabitants;
- (j) promote energy saving and the use of solar energy and other renewable energy sources;
- (k) prevent pollution and ecological degradation; and
- (l) allocate adequate resources to reclaim and rehabilitate degraded areas and those prone to disasters to make them habitable and productive.

**Protection of environment**

**340.** Every person has a duty to co-operate with State organs and **State** institutions and other persons –

- (a) to ensure ecologically sustainable development and use of natural resources;
- (b) to respect, protect and safeguard the environment;

- (c) to prevent or discontinue an act which is harmful to the environment;
- (d) to direct the appropriate authority to take measures to prevent or discontinue an act or omission which is harmful to the environment; and
- (e) to maintain a clean, safe and healthy environment.

**Conservation of environment**

**341.** In the utilisation and management of the environment the State shall -

- (a) protect genetic resources and biological diversity;
- (b) discourage waste and encourage recycling;
- (c) establish systems of environmental impact assessment, environmental audit and for monitoring of the environment;
- (d) encourage public participation;
- (e) protect and enhance the intellectual property in, and indigenous knowledge of, biodiversity and genetic resources of the local communities; and
- (f) ensure that the environmental standards enforced in the Republic are of essential benefit to all citizens.

**Utilisation and development of natural resources**

**342.** (1) The State shall ensure the protection, management, promotion and sustainable development of natural

resources in accordance with the basic policy under this Part and shall –

- (a) ensure an increase in output and profits;
- (b) undertake strategic research to ensure their enhancement;
- (c) eliminate unfair trade practices in their production, processing, distribution and marketing;
- (d) regulate their exportation and importation;
- (e) regulate their origin, quality, methods of production, harvesting and processing;
- (f) eliminate processes and activities that are likely to endanger or curtail their existence; and
- (g) utilise them for the benefit of all the people of Zambia.

(2) Parliament may enact legislation to provide for the utilisation and management of a natural resource by a local authority where the resource is located and shall enact legislation to –

- (a) regulate sustainable exploitation, utilisation, management of national resources and equitable sharing of benefits accruing from natural resources; and
- (b) protect the intellectual property rights and indigenous knowledge of local communities in biodiversity and access to genetic resources.

**Agreements  
relating to  
natural  
resources**

**343.** A transaction involving the grant of a right or concession by or on behalf of any person, including the Government, to another person, for the exploitation of any natural resource of Zambia shall be in accordance with this Constitution and royalties shall be paid in respect of the exploitation of the natural resource.

**PART XXI  
REVIEW, ADOPTION AND AMENDMENT  
OF CONSTITUTION**

**Review,  
adoption and  
amendment of  
Constitution**

**344.** (1) A complete review or replacement of this Constitution shall be done by the people of Zambia exercising their constituent power in accordance with an Act of Parliament which provides for the conditions, the process and method of review.

(2) Nothing in this Constitution or any other law shall be construed as preventing the people of Zambia from adopting a Constitution in exercise of their constituent power through any means, including the use of a Constituent Assembly or referendum.

(3) Subject to this Constitution, a provision of this Constitution may be amended by an Act of Parliament.

(4) An amendment of a provision of this Constitution shall be in accordance with the procedure laid down in this Part.

(5) A Bill to amend a provision of this Constitution shall have the sole purpose of amending that provision and shall not provide for any other matter.

(6) A Bill to amend a provision of this Constitution which is on the objectives, principles or structures of local government, shall not be introduced in the National Assembly unless the Bill has been approved by a resolution supported by the votes of not less than two-thirds of all councillors of the district councils.

(7) For the purpose of this Part, “amend” means to alter, repeal, replace, vary, add to or cancel, whether in part or in whole, a provision of this Constitution.

**Amendment by referendum**

**345.** (1) A Bill to amend this Constitution in respect of any of the following areas shall be by a referendum and in accordance with this Article:

- (a) the supremacy and defence of this Constitution and the Republic of Zambia and its sovereignty, Parts I and II;
- (b) citizenship, Part V;
- (c) the Bill of Rights, Part VI;
- (d) Representation of the People, Articles 93 to 109;
- (e) the Executive, Articles 121, 122, 123, 124, 129, 130, 131, 132, 133, 135, 136, 137, 138, 139;
- (f) the Legislature, Articles 158 and 170;
- (g) the Judiciary, Articles 193, 194 and 216;
- (h) Review, adoption and amendment of Constitution, Part XXII;
- (i) Local Government, Part XII; and
- (j) Chieftaincy and House of Chiefs, Part XIII.



(2) A Bill to amend any provision of this Constitution, in the areas specified under clause (1), shall be published in the *Gazette* and shall be laid before the National Assembly for first reading at the end of one month after the publication.

(3) After the first reading, the Speaker shall suspend further action on the Bill, referred to under clause (2), and refer the Bill to the Electoral Commission for a referendum to be held on the Bill within ninety days of receipt of the Bill.

(4) If in a referendum at least fifty percent of the registered voters vote and seventy percent vote in favour of the amendment the National Assembly shall proceed to pass the Bill referred to under clause (2).

**Amendment  
without  
referendum**

**346.** (1) A Bill to amend a provision of the Constitution, other than a Bill specified in Article 345, shall be in accordance with this Article.

(2) A Bill referred to, under clause (1), shall be published in the *Gazette*.

(3) A Bill referred to, under clause (1), shall be laid before the National Assembly one month after the date of its publication,

(4) A Bill referred, to under clause (1), shall not be taken as passed by the National Assembly unless the Bill is approved at the second and third readings by the votes of at least two-thirds of all the members of the National Assembly, by a secret vote.

**Certificate of  
compliance**

**347.** A Bill for the amendment of a provision of this Constitution which has been passed in accordance with this Part shall be assented to by the President only if -

(a) it is accompanied by a certificate from the Speaker that this Part has been complied with in relation to it; and

- (b) in the case of a Bill to amend a provision that requires a referendum, it is accompanied by a certificate from the Electoral Commission, signed by the Chairperson of the Commission and bearing the seal of the Commission, signifying that the Bill was approved at a referendum in accordance with this Part.

## PART XXII MISCELLANEOUS

### Legal Aid

348. (1) For the purposes of enforcing any provision of this Constitution, a person is entitled to legal aid in connection with any proceedings relating to this Constitution and any other matter if that person has reasonable grounds for taking, defending, prosecuting or being a party to the proceedings.

(2) Parliament shall enact legislation to regulate the grant of legal aid.

### Interpretation of Constitution

349. (1) This Constitution shall be interpreted in a manner that -

- (a) promotes its purposes, values and principles;
- (b) advances the Bill of Rights and the rule of law;
- (c) permits the development of the law; and
- (d) contributes to good governance.

(2) If there is a conflict between different language versions of this Constitution the English language version shall prevail.

(3) Every provision of this Constitution shall be construed according to the doctrine of interpretation that the law is always speaking and accordingly -

(a) a power granted or duty imposed by this Constitution may be exercised or performed, as occasion requires, by the person holding the office to which the power is granted or the duty is assigned;

(b) any reference in this Constitution or any other law to a person holding an office under this Constitution or under any other law, includes a reference to the person lawfully performing the functions of that office at any particular time;

(c) a reference in this Constitution or any other law to an office, State organ or State institution or locality named in this Constitution shall be read with any formal alteration necessary to make it applicable in the circumstances;

(d) a reference in a provision applying that provision to another provision shall be read with any formal modification necessary to make it applicable in the circumstances; and

(e) a reference in this Constitution to an office, body or organisation is a reference to that office, body or organisation, or if the office, body or organisation has ceased to exist, to its

successor or to the equivalent office, body or organisation.

(4) For the purposes of this Constitution and any other law, a person shall not be considered as holding a public office by reason only of the fact that the person is in receipt of emoluments in respect of service under or for the Government.

(5) Under this Constitution or any other law, power to appoint a person to hold or to act in an office in the public service includes the power to confirm appointments, to exercise disciplinary control over the person holding or acting in the office and to remove that person from office.

(6) A provision of this Constitution or of any other law, to the effect that a person, an authority or institution is not subject to the direction or control of any other person or authority in the performance of any functions under this Constitution or that law, does not preclude a court from exercising jurisdiction in relation to any question whether that person, authority or institution has performed those functions in accordance with this Constitution or the law.

(7) Where in this Constitution or any other law, power is given to a person or an authority to do or enforce the doing of an act, the power includes the necessary and ancillary powers to enable that person or authority to do or enforce the doing of the act.

(8) Where in this Constitution or any other law, power is conferred on a person or an authority to issue orders, make rules, regulations, other statutory instrument, a resolution or direction, the power includes the power to be exercised in the same manner, to amend or revoke the orders, rules, regulations other statutory instrument, resolution or direction.

(9) In this Constitution, unless the context otherwise requires -

- (a) persons include corporations;
- (b) words in the singular include the plural and words in the plural include the singular; and
- (c) where a word or expression is defined any grammatical variation or cognate expression of that word shall be read with the changes required by the context.

(10) A person shall not be regarded as disqualified for appointment to any office to which a public officer is not qualified to be appointed by reason only that that person holds a public office if that person is on leave of absence pending relinquishment of that office.

(11) Subject to this Constitution, reference in this Constitution to the power to remove a public officer from office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from public service.

(12) Any reference in this Constitution to a law that amends or replaces any other law shall be construed as including a reference to a law that modifies, re-acts, with or without amendment or modification, or makes different provision in lieu of that other law.

(13) Subject to this Constitution, where any Act to amend a provision of this Constitution, amends any provision then, unless the contrary intention appears, the amendment shall not -

- (a) revive anything not in force or existing at the time at which the amendment takes effect;

- (b) affect the previous operation of any provision so amended or anything duly done or suffered under any provision so amended;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any provision so amended;
- (d) affect any penalty, forfeiture or confiscation or punishment incurred under the provision so amended; or
- (e) affect any investigation, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or confiscation or punishment and any investigation, legal proceeding or remedy may be instituted, continued or enforced and any penalty, forfeiture or confiscation or punishment may be imposed, as if the amending Act had not been passed.

(14) Where this Constitution confers any power or imposes any duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(15) Where by an Act which amends and re-enacts, with or without modification, any provision of this Constitution and which is not to come into force immediately on the publication of the Act there is conferred -

- (a) a power to make or a power exercisable by making statutory instruments;
- (b) a power to make appointments; or

- (d) a power to do any other thing for the purposes of the provision in question;

that power may be exercised at any time on or after the date of publication of the Act in the Gazette, except that an instrument, appointment or thing made or done under that power shall not, unless it is necessary to bring the Act into force, have any effect until the commencement of the Act.

(16) In computing time for the purposes of any provision of this Constitution, unless a contrary intention is expressed -

(a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;

(b) if the last day of the period is Sunday or a public holiday, which days are in this clause referred to as “excluded days”, the period shall include the next following day, not being an excluded day;

(c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day happens to be an excluded day the act or proceeding shall be considered as done or taken in due time if it is done or taken the next day afterwards, not being an excluded day;

(d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.

(17) Where any person is empowered to make appointments under this Constitution that person shall ensure that either gender is not less than thirty percent of the total appointments made.

(18) Where any person is empowered to make an appointment under this Constitution that person shall ensure that equitable consideration is given to persons of both gender.

**Definitions**

**352.** In this Constitution, unless the context otherwise requires -

“adult” means an individual who has attained the age of eighteen years;

“affirmative action” includes any measure designed to overcome or ameliorate an inequity or the systematic denial or infringement of a right or freedom;

“Bill” means a draft of a proposed law;

“Bill of Rights” means the rights and freedoms set out in Part VI and includes their status, application, interpretation, derogations, and enforcement as specified under that Part;

“chief” means a person recognised as chief and who derives allegiance from the fact of birth or descent in accordance with the customs, traditions, usage or consent of the people led by that chief;

“child” means a person who is below the age of eighteen years;

“citizen” means a citizen of Zambia;

“commission” means a commission established by or under this Constitution;

“constituency” means any of the constituencies into which Zambia is divided as provided by this Constitution;

“constituency-based seat” means a National Assembly seat which has been contested for or won through the first-past-the-post segment of the mixed member representation system;



“Constitutional Court” means the Supreme and Constitutional Court when it is sitting as a Constitutional Court;

“councillor” means a member of a city, municipal or district council;

“court” means a court of competent jurisdiction established by or under the authority of this Constitution;

“direct election” means an election –

- (a) to the office of President;
- (b) for a member of the National Assembly ; or
- (c) for a councillor of a district council;

“district council” includes a city or municipal council;

“disability” means any restriction resulting from an impairment or inability to perform any activity in the manner or within the range considered normal for a human being;

“election tribunal” means an ad hoc Presidential Election Tribunal, Parliamentary Election Tribunal or Local Government Election Tribunal constituted by this Constitution;

“Electoral Commission” means the Electoral Commission of Zambia established under this Constitution;

“emolument” includes salaries, allowances, benefits and rights that form an individual’s remuneration for services rendered, including

pension, gratuity and other benefits on retirement;

“Emoluments Commission” means the National Fiscal and Emoluments Commission established under this Constitution;

“executive functions” means the functions of the President set out in this Constitution;

“First Deputy Speaker” means the person elected First Deputy Speaker under Article 166 (3) (a);

“functions” includes powers and duties;

“gender” means female or male and the role individuals play in society as a result of their sex and status;

“general election” means Presidential, National Assembly and local government elections when these are held on the same day;

“individual” means a natural person;

“incumbent President” means a person who is currently in office as President and who is to hand over to the President-elect;

“judgment” includes a decision, an order or decree of a court or any authority prescribed by an Act of Parliament;

“judicial officer” includes a magistrate, local court justice and a senior employee of the Judicial Service;

“Laws” means the Laws of Zambia;

“mayor” includes a chairperson of a municipal or district council;

“Minister” means a Cabinet Minister;

“mixed member representation system” means the electoral system specified by this Constitution for –

- (a) electing a person as a member of the National Assembly or as a councillor; and
- (b) nominating a person on a part list to represent a political party that is contesting a proportional representation seat in a National Assembly election or district council election;

“oath” includes an affirmation;

“office holder” means a person who holds an office of trust as a public leader or in the public sector;

“older member of society” means an individual who is above the age of sixty-five years;

“Ombudsman” means the Parliamentary Ombudsman whose office is established under this Constitution;

“party list” means a list of candidates submitted by a political party in accordance with a law relating to elections;

“person” includes an individual, a company, an association of persons whether corporate or unincorporated;

“political party” means an association or organisation whose members are citizens and whose objectives include the contesting of election in

order to form government or influence the policy of the National or local government;

“power” includes privilege, authority and discretion;

“public office” includes an office the emoluments of which are a charge on or paid out of the Consolidated Fund, other public fund or out of moneys appropriated by Parliament;

“public officer” means a person holding or acting in a public office;

“public service” includes service in a public office or State institution;

“President-elect” means the person who has been declared by the Returning Officer as having won an election to the office of President;

“presidential candidate” means a person nominated to stand for election as President;

“presidential election” means an election to the office of President and includes the election of a Vice-President as a running mate to the President;

“proportional representation seat” means a National Assembly or district council seat contested for or won through the proportional representation segment of the mixed member representation system;

“Provincial Minister” means a Minister appointed by the President for a province;

“Republic” means the Republic of Zambia;

“Second Deputy Speaker” means the person elected  
Second Deputy Speaker under Article 166 (3)  
(b);

“State organ” means the Executive, Legislature or  
Judiciary;

“Speaker” means the person elected Speaker of the  
National Assembly under Article 166;

“State institution” includes a ministry or department  
of the Government, a public office, agency or  
institution, statutory body or company in  
which the Government has a controlling  
interest or commission or body, other than a  
State organ, established under this  
Constitution or by or under an Act of  
Parliament;

“statutory instrument” means a rule, regulation, by-  
law, order or other similar law made under a  
power conferred by an Act of Parliament;

“superior court” means the Supreme and  
Constitutional Court, the Court of Appeal and  
the High Court;

“Supreme Court” means the Supreme and  
Constitutional Court when it is sitting as a  
Supreme Court;

“taxes” includes rates, levies, charges, tariffs, tolls  
and duties;

“treason” includes -

- (a) instituting a war against the Republic or  
assisting any state or person or inciting or

conspiring with any state or person to institute war against the Republic;

(b) effecting or attempting to effect by force of arms or other violent means the overthrow of a State organ or State institution;

(c) effecting or attempting or being concerned in any act to overthrow, abrogate or suspend the operation of this Constitution;

“ward” means any of the units into which a district council area is divided under or by an Act of Parliament; and

“ward-based seat” means a district council seat contested for or won through the first-past-the-post segment of the mixed member representation system.

**FIRST SCHEDULE**

(Article 4)

**MAP OF ZAMBIA**

**SECOND SCHEDULE**

(Article 6)

**NATIONAL SYMBOLS**

**PART 1**

**NATIONAL FLAG**



**PART II**

**NATIONAL ANTHEM**

**PART III**

**COURT OF ARMS**

**PART IV**

**PUBLIC SEAL**

**PART V**

**NATIONAL MOTTO**

**THIRD SCHEDULE**

**FORMS OF OATH**

**THE PRESIDENTIAL OATH**

I, .....  
having been elected to the high office of President of the Republic of Zambia do (in the name of the Almighty God swear) (solemnly affirm)\* that I will be faithful and true to the people of Zambia; that I will at all times preserve, protect and defend the Constitution of the Republic of Zambia; and that I dedicate myself to the service and well-being of the people of Zambia and to do right to all manner of persons.

I further (solemnly swear) (solemnly affirm)\* that should I at any time break this oath of office I shall submit myself to the Laws of Zambia and suffer the penalty for it.

**SO HELP ME GOD**

*To be administered by the Chief Justice.*

**THE OATH OF VICE-PRESIDENT**

I, .....  
having been elected to the office of Vice-President of the Republic of Zambia, do (in the name of the Almighty God swear) (solemnly

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\* delete inapplicable

\* delete inapplicable

affirm)\* that I will be faithful and true to the people of Zambia; that I will at all times preserve, protect and defend the Constitution of the Republic of Zambia; and that I dedicate myself to the service and well-being of the people of Zambia and to do right to all manner of persons.

I further (solemnly swear) (solemnly affirm)\* that should I at any time break this oath of office I shall submit myself to the Laws of Zambia and suffer the penalty for it.

**SO HELP ME GOD**

*To be administered by the Chief Justice.*

**THE JUDICIAL OATH**

I, ..... having been appointed (a Judge/judicial officer)\* do (in the name of the Almighty God swear) (solemnly affirm)\* that I will bear true and faithful allegiance to the people of Zambia; that I will uphold the sovereignty and integrity of the Republic of Zambia and that I will truly and faithfully perform the functions of my office without fear or favour, affection or ill-will; and that I will at all times uphold, preserve, protect and defend the Constitution of the Republic of Zambia.

**SO HELP ME GOD**

*To be sworn before the President, the Chief Justice or such other person as the Chief Justice may designate.*

**THE OATH OF MINISTER/PROVINCIAL MINISTER/DEPUTY MINISTER\***

I, ..... having been appointed Minister/Deputy Minister\* of the Republic of

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\* delete inapplicable  
\* delete inapplicable  
\* delete inapplicable  
\* delete inapplicable  
\* delete inapplicable

Zambia, do (in the name of the Almighty God swear) (solemnly affirm)\* that I will at all times well and truly serve the people of Zambia in the office of Minister/Deputy Minister\*; that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia; that I will, to the best of my judgement, at all times when required, freely give my counsel and advice for the good governance of the Republic of Zambia; and that I will not directly or indirectly reveal matters that shall come to my knowledge in the discharge of my duties and committed to my secrecy.

**SO HELP ME GOD**

*To be sworn before the President.*

**THE OATH OF SECRECY**

I, ..... holding the office of ..... do (in the name of the Almighty God swear) (solemnly affirm)\* that I will not directly communicate or reveal to any person any matter which shall be brought under my consideration or shall come to my knowledge in the discharge of my official duties except as may be required for the discharge of my official duties or as may be specially permitted by law.

**SO HELP ME GOD**

*To be sworn before the President, the Chief Justice or such other person as the President may designate.*

**THE OFFICIAL OATH**

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\* delete inapplicable  
\* delete inapplicable  
\* delete inapplicable  
\* delete inapplicable

I, ..... do (in the name of the Almighty God swear) (solemnly affirm)\* that I will at all times well and truly serve the people of Zambia in the office of..... and that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia.

**SO HELP ME GOD**

*To be sworn before the President or such other person as the President may designate.*

**THE OATH OF SPEAKER/ DEPUTY SPEAKER\***

I, ....., do (in the name of the Almighty God swear) (solemnly affirm)\* that I will bear true faith and allegiance to the people of Zambia; that I will uphold the sovereignty and integrity of the Republic of Zambia; that I will faithfully and conscientiously discharge my duties as Speaker /Deputy Speaker\* of the National Assembly; and that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia; and that I will do right to all manner of persons; and that I will uphold and apply the laws and conventions of the National Assembly without fear, favour, affection or ill-will.

**SO HELP ME GOD**

*To be sworn before the Chief Justice.*

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\* delete inapplicable  
\* delete inapplicable  
\* delete inapplicable  
\* delete inapplicable



**THE OATH OF A MEMBER OF THE NATIONAL ASSEMBLY**

I, ....., having been elected a member of the National Assembly do (in the name of the Almighty God swear) (solemnly affirm)\* that I will bear true faith and allegiance to the people of Zambia; that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia; and that I will faithfully and conscientiously discharge the duties of a member of the National Assembly.

**SO HELP ME GOD**

*To be sworn before the Speaker*

**THE OATH OF THE AUDITOR-GENERAL**

I, ....., having been appointed Auditor-General of the Republic of Zambia do (in the name of the Almighty God swear) (solemnly affirm)\* that I will bear true faith and allegiance to the people of Zambia; that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia; and that I will truly and faithfully perform the functions of my office without fear, favour, affection or ill-will.

**SO HELP ME GOD**

*To be sworn before the President, or such other person as the President may designate.*

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\* delete inapplicable  
\* delete inapplicable

**THE OATH OF CHIEF OF THE HOUSE OF CHIEFS**

I, ....., having been appointed as a representative in the House of Chiefs do (in the name of the Almighty God swear) (solemnly affirm)\* that I will bear true faith and allegiance to the people of Zambia; that I will uphold, preserve, protect and defend the Constitution of Zambia; and that I will truly and faithfully perform the functions of my office without fear, favour, affection or ill-will.

**SO HELP ME GOD**

*To be sworn before the President or such other person as the President may designate*

**THE OATH OF THE ATTORNEY-GENERAL/  
SOLICITOR-GENERAL**

I, ....., having been appointed Attorney-General/Solicitor-General\* of the Republic of Zambia do (in the name of the Almighty God swear) (solemnly affirm)\* that I will bear true faith and allegiance to the people of Zambia; that I will uphold, preserve, protect and defend the Constitution of Zambia; and that I will truly and faithfully perform the functions of my office without fear, favour, affection or ill-will.

**SO HELP ME GOD**

*To be sworn before the President or such other person as the President may designate*

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\* delete inapplicable  
\* delete inapplicable  
\* delete inapplicable

**THE OATH OF THE DIRECTOR OF PUBLIC PROSECUTIONS**

I, ....., having been appointed Director of Public Prosecutions of the Republic of Zambia do (in the name of the Almighty God swear) (solemnly affirm)\* that I will bear true faith and allegiance to the people of Zambia; that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia; and that I will truly and faithfully perform the functions of my office without fear, favour, affection or ill-will.

**SO HELP ME GOD**

*To be sworn before the President or such other person as the President may designate*

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\* delete inapplicable