

THE CONSTITUTION OF ZAMBIA BILL, 2010

MEMORANDUM

The objectives of this Bill are to provide for -

- (a) the commencement of the new Constitution of the Republic of Zambia;
- (b) the printing and publication of the Constitution;
- (c) the savings and transitional provisions of existing State organs, State institutions, administrations, offices, institutions and laws;
- (d) the succession to assets, rights, liabilities, obligations and legal proceedings;
- (e) the 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.

ABYUDI J. SHONGA JNR, SC,
Attorney-General

THE CONSTITUTION OF ZAMBIA BILL, 2010

ARRANGEMENT OF SECTIONS

1. Short title
2. Interpretation
3. Repeal of Constitution of Zambia Act, 1991, and existing Constitution
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
13. Legislature
14. By-elections
15. Judiciary
16. Judicial and tribunal proceedings and pending matters
17. Local government
18. Political parties
19. Commissions
20. Currency

**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, 2010.

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 laws" 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) Parliament shall, within such period as it shall determine, 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; or
- (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.

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 persons 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 such period as it shall determine, 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.

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.

(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.

Commissions

19. The Commissions existing immediately before the effective date shall continue to exist as if established under the Constitution.

Currency

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

SCHEDULE
(Section 2 (1))

THE CONSTITUTION OF ZAMBIA

ARRANGEMENT OF ARTICLES

PREAMBLE

PART I

**SUPREMACY AND DEFENCE OF
CONSTITUTION**

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

PART II

**THE REPUBLIC OF ZAMBIA AND ITS
SOVEREIGNTY**

4. Republican status of Zambia
5. Sovereignty of Zambia
6. National symbols
7. Languages

PART III

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

8. Application of national values, principles, objectives and directive principles

- of State policy
9. Directives not to be justiciable
 10. Political values, principles and objectives
 11. Equal access to institutions of justice
 12. Principles and objectives of accountability and transparency
 13. Socio-economic values, principles and objectives
 14. Foreign policy, principles and objectives
 15. Cultural values, principles and objectives
 16. Christian values and principles
 17. Gender equality
 18. Equitable representation of disadvantaged groups
 19. Promotion of sport

**PART IV
LAWS OF ZAMBIA**

20. Laws of Zambia

**PART V
CITIZENSHIP**

21. Existing citizenship, etc.
22. Acquisition of citizenship
23. Citizenship by birth
24. Citizenship by descent
25. Citizenship by registration
26. Citizenship by marriage
27. Citizenship by adoption
28. Renunciation of citizenship other than Zambian

29. Dual citizenship
30. Renunciation and deprivation of Zambian citizenship
31. Citizenship Board of Zambia
32. Entitlements of citizen
33. Responsibilities of citizen
34. Person born on ship, aircraft etc.
35. Legislation on citizenship

PART VI

BILL OF RIGHTS

Status, application and interpretation

36. Fundamental rights and freedoms
37. Duty of State to promote rights and freedoms
38. Application of Bill of Rights
39. Interpretation of Bill of Rights

Civil and Political Rights

40. Right to life
41. Protection from inhuman treatment
42. Equality before law
43. Fair administration
44. Right to justice
45. Rights of suspects and arrested persons
46. Rights of persons detained or in custody
47. Fair trial
48. Protection from discrimination on ground of race etc.

49. Equality of both gender
50. Children
51. Protection of young persons from exploitation
52. Family
53. Persons with disabilities
54. Protection of right to personal liberty
55. Protection form slavery, servitude and forced labour
56. Protection of privacy of person, home and other property
57. Protection of freedom of conscience
58. Freedom of expression
59. Access to information
60. Freedom of media
61. Protection of freedom of assembly and association
62. Protection of freedom of movement
63. Protection from deprivation of property

Economic, Social and Cultural Rights

64. Progressive realisation of economic, social and cultural rights
65. Right to pension, gratuity and retrenchment benefits
66. Labour relations
67. Social protection
68. Health
69. Education
70. Language and culture

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

- 71. Derogation from fundamental rights during war etc.
- 72. Restriction and detention during emergency
- 73. Review by High Court

Enforcement of Bill of Rights

- 74. Enforcement of Bill of Rights

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

- 75. Conflict of interest
- 76. Declaration of assets and liabilities
- 77. Codes of ethics for professions and other vocations

**PART VIII
REPRESENTATION OF THE PEOPLE
Electoral Systems and Principles**

- 78. Basic electoral system
- 79. Election systems for Presidential, National Assembly and local government elections
- 80. Losing candidates not eligible for certain appointments
- 81. Independent candidates
- 82. Unopposed candidate

83. Election date for general elections
84. By-elections
85. Franchise
86. Electoral process
87. Establishment and composition of Electoral Commission of Zambia
88. Selection of members of Electoral Commission
89. Appointment of members of Electoral Commission
90. Tenure of office of members of Electoral Commission
91. Independence and functions of Electoral Commission
92. Funds of Electoral Commission
93. Delimitation of constituencies or wards
94. Matters to be taken into account when delimitating constituencies and wards
95. Legislation on elections

Political Parties

96. Political parties
97. Political Parties Commission
98. Regulation of political parties
99. Political Parties' Fund
100. Purpose of Fund
101. Other sources of funds and maximum donations
102. Audit of accounts
103. Annual report
104. Party discipline
105. Prohibition on use of public resources to promote party interests
106. Prohibition on use of public resources during election period

PART IX
EXECUTIVE

107. Office of President
108. Qualifications of presidential candidate
109. Nomination for election as President
110. Election of President
111. Swearing in and handing over
112. Election petition
113. Tenure of office of President
114. Removal of President on grounds of incapacity
115. Impeachment of President
116. Vacancy in office of President
117. Performance of executive functions during absence or illness of President
118. Oath of President
119. Emoluments of President
120. Protection of President from legal proceedings
121. Functions of President
122. Declaration of war
123. Declaration of state of public emergency
124. Declaration of threatened state of public emergency
125. Declaration of National disasters
126. Validity of emergency
127. Ratification of appointments by National Assembly
128. Vice-President
129. Functions of Vice-President
130. Ministers
131. Provincial Ministers

- 132. Deputy Ministers
- 133. Cabinet
- 134. Functions of Cabinet
- 135. Accountability of Cabinet and Deputy Minister
- 136. Oaths of office
- 137. Code of conduct
- 138. Secretary to Cabinet
- 139. Prerogative of mercy
- 140. Advisory Committee

PART X
LEGISLATURE

- 141. Establishment of Parliament
- 142. Legislative power of Parliament and other functions of National Assembly
- 143. Composition of National Assembly
- 144. Qualifications and disqualifications of members of National Assembly
- 145. Nomination for election of National Assembly
- 146. Nominated Members
- 147. Tenure of office and vacation of office of member of National Assembly
- 148. Removal of nominated member
- 149. Vacancies and by-elections for National Assembly
- 150. Emoluments of members
- 151. Determination of questions as to membership of National Assembly
- 152. Speaker and Deputy Speakers of National Assembly
- 153. Presiding in National Assembly
- 154. Leader of opposition
- 155. Clerk of National Assembly
- 156. Exercise of legislative power

157. Retrospective legislation
158. Money Bills
159. Presidential assent and referral
160. Challenge of Bill and reference to Constitutional Court
161. Coming into force of laws
162. Acts of Parliament and enactment clause
163. Right to petition and make comments
164. Quorum
165. Voting in National Assembly
166. Procedure and committees of National Assembly
167. Power to call evidence
168. Public access and participation
169. Power, privileges and immunities
170. Sittings of National Assembly
171. Life and prorogation of Parliament
172. President may address National Assembly
173. Statutory instruments
174. Oaths to be taken by Speaker, Deputy Speaker and members
175. Officers of National Assembly
176. Parliamentary Service Commission
177. Financial independence of National Assembly

PART XI
JUDICIARY

178. Establishment of courts of Judiciary
179. Vesting of judicial powers
180. Independence of Judiciary

181. Code of conduct
182. Finances of Judiciary
183. Supreme and Constitutional Court
184. Composition for sittings of Supreme Court
185. Jurisdiction of Supreme Court
186. Composition for sittings of Constitutional Court
187. Jurisdiction of Constitutional Court
188. Chief Justice
189. Deputy Chief Justice
190. Court of Appeal
191. Jurisdiction of Court of Appeal
192. Sittings of Court of Appeal
193. High Court
194. Jurisdiction of High Court
195. Supervisory jurisdiction of High Court
196. Divisions of High Court
197. Industrial Relations Court
198. Appointment of judges of superior courts
199. Acting appointments
200. Qualification for appointment of judges of superior courts
201. Tenure of office of judge of superior court
202. Removal of judge from office
203. Procedure for removal of judge
204. Remuneration of judges
205. Oath of office of judges
206. Appointment, retirement and removal of judicial officers
207. Jurisdiction and divisions of lower courts
208. Judicial Service Commission

- 209. Chief Administrator of Judicial Service
- 210. Judicial Oath
- 211. Rules of court

PART XII
LOCAL GOVERNMENT

- 212. Establishment and objectives of local government
- 213. Structures and principles of decentralised government
- 214. Districts and district councils
- 215. Functions of district councils
- 216. Election of councillors and composition of district councils
- 217. Vacation of office of councillor
- 218. Vacancies and by-elections for district councils
- 219. Expulsion of councillor
- 220. Qualifications and disqualifications for election to district council
- 221. Petitions and Local Government Elections Tribunal
- 222. Funds for district council

Provinces and Provincial Administration

- 223. Provinces
- 224. Provincial administration

PART XIII
CHIEFTAINCY AND HOUSE OF CHIEFS

- 225. Institution of Chieftaincy
- 226. Concepts and principles relating to Chieftaincy
- 227. Participation of Chiefs in public affairs
- 228. House of Chiefs
- 229. Functions of House of Chiefs
- 230. Tenure of office and vacancy
- 231. Oaths of members of House of Chiefs
- 232. Staff of House of Chiefs
- 233. Regulations for House of Chiefs

PART XIV
PUBLIC SERVICE AND COMMISSIONS
Values and Principles

- 234. Values and principles of public service

Public Offices

- 235. Offices for Republic
- 236. Attorney-General
- 237. Solicitor-General
- 238. Director of Public Prosecutions
- 239. Performance of functions of Director of Public Prosecutions during absence, illness or other cause
- 240. Tenure of office of Director of Public Prosecutions

241. Permanent Secretaries

Commissions

- 242. Public Service Commission and other Service Commissions
- 243. Establishment of Human Rights Commission and its independence
- 244. Establishment of Gender Equality Commission
- 245. Establishment of investigative commissions etc.
- 246. Participation in politics
- 247. Retirement of public officers
- 248. Pension, gratuity and retrenchment benefits for public officers
- 249. Pension to be reviewed
- 250. Legislation on pension, gratuity and retrenchment benefits for public officers

PART XV

INVESTIGATOR-GENERAL

- 251. Establishment of office of Investigator-General
- 252. Qualification for appointment and conditions of service
- 253. Independence of Investigator-General
- 254. Accountability

PART XVI

DEFENCE AND NATIONAL SECURITY

- 255. Zambia Defence Force
- 256. Functions of Defence Force
- 257. Legislation on Defence Force

- 258. Zambia Police Service
- 259. Functions of Zambia Police Service
- 260. Legislation on Zambia Police Service
- 261. Prisons Service
- 262. Legislation on Zambia Prison Service
- 263. Establishment of Police and Prisons Service Commission
- 264. Zambia Security Intelligence Service

PART XVII
PUBLIC FINANCE AND BUDGET

- 265. Imposition of tax
- 266. National Treasury Account
- 267. Withdrawal from National Treasury Account
- 268. Compensation Fund
- 269. Annual financial estimates
- 270. Legislation on budgeting and planning
- 271. Appropriation Bill and Supplementary Appropriation Bill
- 272. Grants, donations, etc.
- 273. Borrowing and lending by Government
- 274. Management of public debt
- 275. Remuneration of certain officers and expenses of office
- 276. Financial report of Government
- 277. Disposal of State assets
- 278. Auditor-General
- 279. Functions of Auditor-General
- 280. Independence of Auditor-General
- 281. Funding of Auditor-General

282. Reference by Auditor-General

PART XVIII
CENTRAL BANK

283. Central Bank

284. Independence of Central Bank

285. Governor of Central Bank

286. Legislation on Central Bank

PART XIX
LAND AND PROPERTY

287. Basis of land policy

288. Classification of land

289. State land

290. Customary land

291. Vesting of land

292. Land tenure

293. Minerals and petroleum

294. Regulation of land use and development of property

295. Commissioner of Lands

296. Legislation on land

PART XX
ENVIRONMENT AND NATURAL RESOURCES

297. Basis of environment and natural resources policy

298. Protection of environment

299. Conservation of environment

300. Legislation on environment and natural resources

301. Agreements relating to natural resources

PART XXI

REVIEW, ADOPTION AND AMENDMENT OF CONSTITUTION

302. Review and adoption of Constitution

303. Amendment by referendum

304. Amendment without referendum

305. Certificate of compliance

PART XXII

GENERAL PROVISIONS

306. Legal aid

307. Interpretation of Constitution

308. Definitions

Schedule

THE CONSTITUTION OF THE
REPUBLIC OF ZAMBIA

PREAMBLE

WE, THE PEOPLE OF ZAMBIA, BY OUR REPRESENTATIVES ASSEMBLED
IN OUR PARLIAMENT;

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;

HONOUR and respect freedom fighters who fought for our independence
and emancipation from colonialism, thereby enabling us to exercise our right to
self-determination;

UPHOLD the human rights and fundamental freedoms of every person and
recognise the equal worth of different communities 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
methods to govern ourselves;

FURTHER COMMITTED to promoting African unity and solidarity, world
peace and international co-operation and understanding and the strengthening
of mutual respect and friendship among peoples and States;

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 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 ENACT 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 High Court for a declaration that a law is inconsistent with or is in contravention of a provision of this Constitution.

(4) The High 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.

Defence of Constitution

2. (1) Every person has the right and duty to defend and protect this Constitution.

(2) A person who suffers a punishment or loss arising from the defence of this Constitution as provided for under clause (1) is entitled to compensation, from the Government, which shall be determined by the Constitutional Court.

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
THE 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 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.

(4) For purposes of clause (3), the joining of a union or other form of inter-State organisation by the Republic of Zambia shall not be treated as ceding of the Republic.

(5) The establishment of a new State within the territory of the Republic of Zambia is prohibited.

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) All power resides in the people who shall exercise it through the democratic institutions of the State in accordance with 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 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 Flag, the National Anthem, the Coat of Arms, the Public Seal, and the National Motto shall be such as may be prescribed by or under an Act of Parliament.

Languages

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

(2) Any language, including sign 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, including sign language.

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 values, objectives and principles under this Part.

Directives not to be justiciable

9. The Directive Principles of State Policy set out in this Part shall not be justiciable and shall not thereby, by themselves, despite being referred to as rights in certain instances, be legally enforceable in any court, tribunal or administrative institution or entity.

Political values, principles and objectives

10. 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; and
- (d) all State organs, State institutions and citizens shall work towards the promotion of peace and stability.

Equal access to institutions of justice

11. The Government shall ensure access of the people to independent, impartial and competent institutions of justice.

Principles and objectives of accountability and transparency

12. 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) the State shall be guided by the

principle of decentralisation of governmental powers, functions and resources to the people at appropriate levels;

- (c) the State shall put in place effective measures to expose and eradicate corruption both in the public and private sectors;
- (d) the State shall promote ethics and fair play in the conduct of public life;
- (e) the Government shall endeavour to provide adequate resources to State organs and State institutions to ensure their effective functioning at all levels;
- (f) the Government shall recognise the role of civil society in governance and facilitate its role in ensuring the accountability of public and private institutions; and
- (g) the State shall ensure that all political parties aspiring to manage and direct public affairs, and all religious bodies and civic associations aspiring to participate in public affairs, shall retain their autonomy in pursuit of their declared objectives and conform to principles of democracy,

transparency and accountability in their internal organisation and practices.

Socio-economic values, principles and objectives

13. 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) the State shall promote the economic empowerment of citizens, equal opportunities in development and the effective participation of citizens in the economy in order to contribute to sustainable economic growth;
- (c) the State shall pursue policies that encourage food security;
- (d) the Government shall strive to create conditions under which all citizens are able to secure adequate means of livelihood and opportunity to obtain or create employment;
- (e) the Government shall recognise the right of every person to fair labour practices and to safe and healthy

- working conditions;
- (f) the Government shall involve the people in the formulation and implementation of development plans and programmes which affect them;
 - (g) the Government shall pursue policies and laws that stimulate agricultural, industrial, technological, scientific and human resource development and shall ensure that legislation is enacted to support these policies;
 - (h) the Government shall make reasonable provision for the welfare and maintenance of the older members of society;
 - (i) the Government shall strive to eradicate poverty;
 - (j) the Government shall institute adequate measures for disaster preparedness and management;
 - (k) the Government shall devise land policies which recognise ultimate ownership of land by the citizens; and
 - (l) the State 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.

Foreign policy,
principles and
objectives

14. 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;
- (f) opposition to all forms of domination, discrimination, racism and other forms of oppression and exploitation; and
- (g) the avoidance by State organs, State institutions and citizens of undue influence from other countries and foreign institutions.

Cultural values,
principles and
objectives

15. 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 State and citizens shall preserve, protect and promote the conservation of ancient, cultural and natural heritage, relics and other objects of aesthetic, historical, prehistorical, archeological or scientific interest;
 - (c) the State and citizens shall preserve, protect and promote a culture of maintenance and preservation of public property;
 - (d) the State shall devise policies that promote Zambian arts, individual creativity and innovation in the development of art and the cultural industry;
 - (e) the citizens shall promote a culture of cooperation, understanding, appreciation, tolerance and respect for each other's customs, traditions and beliefs; and
 - (f) traditional leaders shall preserve, protect and promote customs, traditions and cultural practices that encourage the values of community solidarity and protect and respect the dignity, welfare and interests of the

family.

Christian values and principles

16. The State shall direct the policies and laws towards securing and promoting Christian values, beliefs, ethics and morals consistent with this Constitution, and shall prohibit any religious practices that de-humanise or are injurious to the physical and mental well-being of a human being.

Gender equality

17. The State shall direct the policies and laws towards securing and promoting gender equality.

Equitable representation of disadvantaged groups

18. (1) The Government shall ensure full participation, gender balance and equitable representation of disadvantaged groups, including the youth and persons with disabilities, in elective and appointive bodies and in the political, social, cultural and economic development of the country.

(2) All political parties and civic associations shall ensure full participation, gender balance and equitable representation of disadvantaged groups, the youth and persons with disabilities in their organisations and practices.

Promotion of sport

19. The Government shall promote recreation and sports for the citizens.

PART IV
LAWS OF ZAMBIA

Laws of Zambia

20. 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, etc.

21. (1) 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.

(2) A person who was entitled to citizenship of Zambia before the commencement of this Constitution subject to the performance of any conditions following the happening of a future event, shall become a citizen upon the performance of such conditions.

Acquisition of
citizenship

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

Citizenship by birth

23. (1) Every person born in Zambia is a citizen by birth if, at the date of the person's birth, at least one parent of that person is or was a citizen.

(2) A child of not more than five years of age found in Zambia, whose parents are not known, shall be presumed to be a citizen of Zambia by birth.

Citizenship
by descent

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

25. (1) Subject to clauses (4) and (5), a person may apply to the Citizenship Board of Zambia to be registered as a citizen if that person was born in Zambia but neither of the person's parents is or was a citizen.

(2) Subject to clause (5), a person may apply to the Citizenship Board of Zambia to be registered as a citizen, if that person was born in or outside Zambia and has a grandparent who is or was a citizen.

(3) Parliament shall enact legislation for the expeditious entry into and residence in Zambia of persons to whom clause (2) applies.

(4) Subject to clause (5), a person may 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 fifteen years immediately preceding that person's application for registration.

(5) 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 (4), renounce the citizenship of any other country within a period of not more than three months from the date of approval of the application; and, upon such renunciation, the Citizenship Board of Zambia shall register that person as a citizen by registration.

(6) A child of a diplomat accredited to Zambia or a person with refugee status in Zambia shall not be registered as a citizen.

Citizenship by
marriage

26. (1) A woman married to a man who is a citizen, or a man married to a woman who is a citizen, may, upon making an application in the manner prescribed by an Act of Parliament, be registered as a citizen of Zambia.

(2) Clause (1) shall apply only if the applicant has been ordinarily resident in the Republic for a continuous period of not less than fifteen years immediately preceding that person's application.

(3) Clause (1) applies to a person who was married to a person who, but for that person's death, would have continued to be a citizen of Zambia under clause (1) of Article 21.

(4) Where the marriage of a person is annulled or dissolved after the person has been registered as a citizen of Zambia under clause (1), that person shall,

unless the person renounces that citizenship, continue to be a citizen of Zambia.

(5) Where on an application for registration under clause (1), the Citizenship Board of Zambia has reasonable grounds to believe that a marriage has been entered into primarily with a view to obtaining the registration, the Citizenship Board of Zambia shall not effect the registration.

Citizenship by adoption

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

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

Renunciation of citizenship other than Zambian

28. For purposes of this Part, where, under the law of a country other than Zambia, a person cannot renounce the citizenship of that other country, the person shall make such declaration concerning that citizenship as may be prescribed by, or under an Act of Parliament.

Dual citizenship

29. (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 may apply to the Citizenship Board of Zambia to regain that citizenship.

Renunciation and
deprivation of Zambian
citizenship

30. (1) A citizen may renounce Zambian citizenship.

(2) Subject to clause (3), a person shall be deprived of that person's Zambian citizenship only if the person acquired that citizenship by means of fraud, false representation or concealment of any material fact.

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

Citizenship Board of
Zambia

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

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

Entitlements of
citizen

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

Responsibilities
of citizen

33. A citizen shall -
- (a) be patriotic and loyal to Zambia and promote its well-being;
 - (b) acquire basic understanding of this Constitution and promote its ideals and objectives;
 - (c) contribute to the well-being of the community where that citizen lives, including the observance of health controls;
 - (d) foster national unity and live in harmony with others;
 - (e) be entitled to register and vote, if eligible, in all national and local elections and referenda;
 - (f) promote democracy and the rule of law;
 - (g) provide defence and military service when called upon;

- (h) carry out with discipline and honesty legal public functions;
- (i) pay all taxes and duties legally due and owing to the State;
- (j) assist in the enforcement of the law at all times;
- (k) develop one's abilities to the greatest possible extent through acquisition of knowledge, continuous learning and the development of skills;
- (l) protect and safeguard public property from being damaged, wasted or misused;
- (m) protect and conserve the environment, utilise natural resources in a sustainable manner and maintain a clean and healthy environment;
- (n) desist from acts of corruption, anti-social and criminal activities; and
- (o) understand and enhance the Republic's place in the international community.

Person born on ship,
aircraft, etc.

34. (1) For the purpose of this Part, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the

Government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or in that country, as the case may be.

(2) Any reference in this Part to the national status of the parent of a person at the time of the birth of that person shall, in relation to a person born after the death of the person's parent, be construed as a reference to the national status of the parent at the time of the parent's death.

Legislation on
citizenship

35. Parliament shall enact legislation -
- (a) for the acquisition and deprivation of citizenship of Zambia; and
 - (b) for the expeditious entry into and residence in Zambia of persons who, before or after the commencement of this Constitution, have lost their citizenship of Zambia as a result of the acquisition or possession of the citizenship of another country.

PART VI

BILL OF RIGHTS

Status, Application and Interpretation

Fundamental rights and
freedoms

36. (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 are -

- (a) inherent in each individual and
 -
 - (i) are not granted by the State; and
 - (ii) cannot be taken away by the State; and
- (b) subject only to the limitations contained in this Constitution.

Duty of State to promote rights and freedoms

37. (1) It is a fundamental duty of the State 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) Subject to this Constitution, the State shall equip relevant State institutions and State organs, 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 realisation of the Bill of Rights.

Application of Bill of Rights

38. (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

39. (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 and Political Rights

Right to life

40. (1) Every person has, subject to clauses (2) and (3), 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) A person shall not deprive an unborn child of life by termination of pregnancy except in accordance with the conditions laid down by an Act of Parliament for that purpose.

(4) 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) for the defence of any person from violence or for 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.

Protection from
inhuman treatment

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

(2) A person shall not be subjected to torture, or inhuman or degrading punishment or other like treatment.

(3) Notwithstanding any other provision in this Constitution, the protection from inhuman or degrading punishment or other like treatment shall

not be derogated from.

Equality before law

42. (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

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

(2) Administrative bodies and administrative officials shall act fairly and reasonably and comply with requirements imposed upon such bodies and officials by common law and any relevant legislation, and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a competent court or tribunal.

Right to justice

44. (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 judgment against the State the claim may be instituted by proceedings against the State.

Rights of suspects
and arrested persons

45. Subject to Article 62, 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 not remaining silent;
- (c) to be informed as soon as reasonably practicable, in a language that the person understands, of the reasons for the arrest or detention, and in the case of a visually impaired person, in Braille, and a deaf person, in sign language;
- (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; and
- (f) 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

46. (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) Without limiting clause (1), 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 reasonable health care at public expense and to pay for that person's health care by the person's doctor if the person so chooses;
 - (e) to communications and visits of reasonable frequency and duration to the extent compatible with the preservation of law, order and prison discipline;
 - (f) to be separated, women from men and children in conflict with the law from adults;
 - (g) to be informed of the rules and decisions that affect that person in a language that the person understands, and in the case of a visually impaired person, in Braille, and a deaf person, in sign language;
 - (h) to fair consideration for parole or remission of sentence and for other rehabilitative measures;
 - (i) to compensation for wrongful detention; and
 - (j) to complain to the prison authorities, visiting Judges and Magistrates, the Court, the Human Rights

Commission or any similar institution.

Fair trial

47. (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 the 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 judgment given without unreasonable delay;
- (f) to choose, and be represented by, a legal practitioner and to be informed of this right promptly;
- (g) 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;

- (h) to remain silent and not to testify during the proceedings;
- (i) to adduce and challenge evidence;
- (j) not to be compelled to give self-incriminating evidence;
- (k) not to be compelled to make any confession or admission that could be used in evidence against that person;
- (l) to have, without payment, the assistance of an interpreter if the accused person cannot understand the language used at the trial, and in the case of a deaf person, a sign language interpreter;
- (m) not to be convicted for an act or omission that was not, at the time it was committed or omitted, an offence under any law;
- (n) 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, or for any other offence of which the person could have been convicted at the trial for that offence, except upon the order of a superior court in the course of appeal or review

proceedings relating to the conviction or acquittal;

- (o) 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;
- (p) of appeal to, or review by, a higher court; and
- (q) to compensation for wrongful detention or imprisonment.

(2) Where this Article requires information to be given to a person, that information shall be given in a language which that person understands, and in the case of a visually impaired person, in Braille, and a deaf person, in sign language.

(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.

Protection from
discrimination on
grounds of race, etc.

48. (1) Every person has the right not to be discriminated against, directly or indirectly, on the grounds of race, tribe, sex, pregnancy, origin, colour, age, disability, religion, conscience, belief, political opinion, culture, language, birth or health, marital, ethnic, social or economic status.

(2) Clause (1) shall not apply to any law so far as that law makes provision -

- (a) for the appropriation of the general revenues of the Republic;
- (b) for qualifications for service as a public officer or as a member of a disciplined force or for the service of a district council or body corporate established directly by any law;
- (c) with respect to persons who are not citizens of Zambia;
- (d) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;
- (e) for the application in the case of members of a particular race or tribe, of customary law with respect to any matter to the exclusion of any law with respect to that matter

which is applicable in the case of other persons; or

(f) whereby persons of any such description as is mentioned in clause (3), may be subjected to any disadvantage or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justified in a democratic society.

(3) For the purposes of this Article, “discrimination” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions, race, tribe, sex, origin, political opinion, colour, pregnancy, culture, conscience, age, disability, religion, belief, birth or health, marital, ethnic, social or economic status whereby persons of one such description are subjected to disadvantages or restrictions to which persons of another such description are not made subject, or

are accorded privileges or advantages which are not accorded to persons of another such description.

Equality of both
gender

49. (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 have equal rights to -
- (a) inherit, have access to, own, use, administer and control land and other property;
 - (b) choose residence and domicile;
 - (c) choose a family name;
 - (d) acquire, change or retain the nationality of their children; and
 - (e) guardianship and adoption of children.

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

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

Children

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

(2) A child's mother and father, whether

married to each other or not, have an equal duty to protect and provide for the child.

- (3) 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 be protected from all forms of exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development:

Provided that an Act of Parliament may provide for the employment of children for a wage under certain conditions;

- (d) to adequate nutrition, shelter, basic health care services and other social services; and
 - (e) to protection from all forms of sexual exploitation or abuse.
- (4) Parliament shall enact legislation to

provide for-

- (a) the promotion and protection of the rights of children; and
- (b) the regulation of child health care services and child care facilities.

Protection of young persons from exploitation

51. (1) A young person shall not be employed and shall in no case be caused or permitted to engage in any occupation or employment, which would prejudice the young person's health or education or interfere with the young person's physical, mental or moral development, except that an Act of Parliament may provide for the employment of a young person for a wage under certain conditions.

(2) All young persons shall be protected against physical or mental ill-treatment, all forms of neglect, cruelty or exploitation.

(3) A young person shall not be the subject of traffic in any form.

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

Family

52. (1) The State recognises the family as the natural and 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) Clause (3) shall apply to statutory and customary law marriages.

(5) Marriage between persons of the same sex is prohibited.

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

(7) Recognising the importance of children to the future of society, the maternal and paternal role of women and men 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.

- (9) Parliament shall enact legislation to-
- (a) specify what constitutes a family;
 - (b) regulate customary law and statutory marriages;
 - (c) provide for the rights of parties during and at the dissolution of a

marriage; and

- (d) 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.

Persons with disabilities

53. (1) Persons with disabilities are entitled to enjoy all the rights and freedoms set out in this Bill of Rights on an equal basis with others.

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

(3) The State shall recognise, protect and promote the rights, dignity, welfare and interests of persons with disabilities.

(4) Parliament shall enact legislation to provide for-

- (a) the promotion and protection of the rights of persons with disabilities;
- (b) effective access by persons with disabilities to the physical environment, facilities and services open or provided to the public;
- (c) the education and health needs of persons with disabilities, including

- early identification and intervention;
- (d) the use of sign language, Braille or other appropriate means of communication;
- (e) access to assistive devices and technologies, support services and facilities to enable persons with disabilities live independently and participate fully in all aspects of life; and
- (f) the establishment of a social security scheme for persons who are totally impaired.

Protection of right to personal liberty

54. A person shall not be deprived of that person's personal liberty except as may be authorised by law in any of the following cases:

- (a) in execution of a sentence or order of a court, whether established for Zambia or some other country, in respect of a criminal offence of which that person has been convicted;
- (b) in execution of an order of a court of record punishing that person for contempt of that court or of a court inferior to it;
- (c) in execution of an order of a court

- made to secure the fulfillment of any obligation imposed on that person by law;
- (d) for the purpose of bringing that person before a court in execution of an order of a court;
 - (e) upon reasonable suspicion of that person having committed, or being about to commit, a criminal offence under the law in force in Zambia;
 - (f) under an order of a court or with the consent of that person's parent or guardian, for that person's education or welfare during any period ending not later than the date when that person attains the age of eighteen years;
 - (g) for the purpose of preventing the spread of an infectious or contagious disease;
 - (h) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol or a vagrant, for the purpose of that person's care or treatment or the protection of the community;
 - (i) for the purpose of preventing the unlawful entry of that person into

Zambia, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person while that person is being conveyed through Zambia in the course of that person's extradition or removal as a convicted prisoner from one country to another; or

(j) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Zambia or prohibiting that person from being within such area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that the person is permitted to make to any part of Zambia in which, in consequence of any such order, that person's presence would otherwise be unlawful.

Protection from
slavery, servitude and
forced labour

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

(2) Notwithstanding any other provision in this Constitution, the protection from slavery or servitude shall not be derogated from.

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

(4) For purposes of this Article, "forced labour" does not include-

- (a) any labour required in consequence of a sentence or order of a court;
- (b) labour required of any person while that person is lawfully detained that, though not required in consequence of a sentence or order of a court, is reasonably necessary in the interest of hygiene or for the maintenance of the place at which the person is detained;
- (c) any labour required of a member of a disciplined force in pursuance of that person's duties as such or, in the case of a person who objects, on religious grounds, to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place

of such service;

- (d) any labour required during any period when the Republic is at war, under a state of public emergency, a threatened state of public emergency, a national disaster or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period, or as a result of the emergency or calamity; or
- (e) any labour required as part of reasonable and normal communal or other civic obligations.

Protection of privacy
of person, home and
other property

56. (1) A person has 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 required or revealed; or
 - (d) the privacy of their communications

infringed.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision-

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilisation of mineral resources, or in order to secure the development or utilisation of any property for a purpose beneficial to the community;
- (b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;
- (c) that authorises an officer or agent of the Government, a district council or a body corporate established by law for a public purpose to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax or rate due, or in order to carry out work connected with any

property that is lawfully on those premises and that belongs to the Government, district council or body corporate, as the case may be; or

- (d) that authorises, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or entry upon any premises by such order.

Protection of freedom
of conscience

57. (1) A person shall not, except with that person's own consent, be hindered in the enjoyment of that person's freedom of conscience.

(2) For the purposes of this Article, "freedom of conscience" includes freedom of thought and religion, freedom to change the person's religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate the person's religion or belief in worship, teaching, practice and observance.

(3) Except with the person's own consent, or, if the person is a minor, the consent of that person's guardian, a person attending any place of education shall not be required to receive religious instruction or to take part in or attend any religious ceremony or

observance if that instruction, ceremony or observance relates to a religion other than the person's own.

(4) A religious community or denomination shall not be prevented from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination or from establishing and maintaining instructions to provide social services for such persons.

(5) A person shall not be compelled to take any oath which is contrary to that person's religion or belief or to take any oath in a manner which is contrary to that person's religion or belief.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision which is reasonably required-

- (a) in the interests of defence, public safety, public order, public morality or public health; or
- (b) for the purposes of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the interference of members of any other religion;

and except so far as that provision or, the thing done

under the authority thereof as the case may be, is shown not to be reasonably justifiable in a democratic society.

Freedom of expression

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

- (a) freedom to hold an opinion; and
- (b) freedom to receive or impart information or ideas.

(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.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with, or in contravention of, this Article to the extent that it is shown that the law in question makes provision that is reasonably required for the purpose of

- (a) the interests of defence, public safety, public order, public morality or public health;
- (b) protecting the reputations, rights

and freedoms of other persons or the private lives of persons concerned in legal proceedings;

- (c) preventing the disclosure of information received in confidence;
- (d) maintaining the authority and independence of the courts;
- (e) regulating educational institutions in the interests of persons receiving instruction therein; or
- (f) the registration of, or regulating the technical administration or the technical operation of, newspapers and other publications, telephony, telegraphy, posts, wireless broadcasting or television;

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

Access to information

59. (1) Every person has the right to demand the correction or deletion of untrue or misleading information affecting that person.

(2) The State has the obligation to publicise any important information affecting the welfare of the nation.

(3) Parliament shall enact legislation to

provide for access to information.

Freedom of media

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

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

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision that is reasonably required for the purpose of -

- (a) in the interests of defence, public safety, public order, public morality or public health;
- (b) protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings;
- (c) preventing the disclosure of information received in confidence;
- (d) maintaining the authority and independence of the courts;
- (e) regulating educational institutions in the interests of persons receiving instruction therein; or
- (f) the registration of, or regulating the technical administration or the

technical operation of, newspapers and other publications, telephony, telegraphy, posts, wireless broadcasting or television;

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

(4) 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.

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

(6) Parliament shall enact legislation to-

- (a) establish an independent authority to regulate broadcasting in the public interest;
- (b) ensure fairness and diversity of views broadly representing Zambian

society; and

- (c) specify the role of the Government in securing and protecting the public interest in broadcasting.

Protection of freedom
of assembly and
association

61. (1) A person shall not, except with the person's own consent, be hindered in the enjoyment of that person's freedom of assembly and association, that is to say, the person's right to assemble freely and associate with other persons and in particular to form or belong to any political party, trade union or other association for the protection of that person's interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with, or in contravention of, this Article to the extent that it is shown that the law in question makes provision-

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;
- (b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;
- (c) that imposes restrictions upon public officers; or
- (d) for the registration of political parties or trade unions in a register

established by or under a law and for imposing reasonable conditions relating to the procedure for entry on such a register including conditions as to the minimum number of persons necessary to constitute a trade union qualified for registration; and except so far as that provision or, the thing done under the authority thereof, as the case may be, is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of movement

62. (1) Subject to the other provisions of this Article and except in accordance with any written law, a citizen shall not be deprived of the citizen's freedom of movement.

(2) For the purposes of this Article, "freedom of movement" means-

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

(3) Any restrictions on a person's freedom of movement that relates to the person's lawful detention shall not be held to be inconsistent with or in contravention of this Article.

(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with, or in contravention of, this Article to the extent that it is shown that the law in question makes provision-

- (a) for the imposition of restrictions that are reasonably required in the interests of defence, public safety, public order, public morality or public health or the imposition of restrictions on the acquisition or use by any person of land or other property in Zambia, and except so far as that provision or, the thing done under the authority thereof, as the case may be, is shown not to be reasonably justifiable in a democratic society;
- (b) for the imposition of restrictions on the freedom of movement of any person who is not a citizen of Zambia;
- (c) for the imposition of restrictions upon the movement or residence within Zambia of public officers; or
- (d) for the removal of a person from Zambia to be tried outside Zambia, for a criminal offence or to undergo

imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law in force in Zambia of which that person has been convicted.

Protection from deprivation of property

63. (1) Subject to this Constitution, every citizen has a right to access, acquire and own land either individually or in association with other citizens.

(2) Subject to this Constitution, a person has a right to access, acquire and own other property, either individually or in association with others.

(3) Except as provided in this Article, property of any description shall not be compulsorily taken possession of, and interest in or right over property of any description shall not be compulsorily acquired, unless by or under the authority of an Act of Parliament which provides for payment of adequate compensation for the property or interest or right to be taken possession of or acquired.

(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of clause (3) to the extent that it is shown that such law provides for the taking possession or acquisition of any property or interest therein or right thereover-

(a) in satisfaction of any tax, rate or

- due;
- (b) by way of penalty for breach of any law, whether under civil process or after conviction of an offence;
 - (c) in execution of judgments or orders of courts;
 - (d) upon the attempted removal of the property in question out of or into Zambia in contravention of any law;
 - (e) as an incident of contract including a lease, tenancy, mortgage, charge, pledge or bill of sale or of a title deed to land;
 - (f) for the purpose of its administration, care or custody on behalf of, and for the benefit of, the person entitled to the beneficial interest therein;
 - (g) by way of the vesting of enemy property or for the purpose of the administration of such property;
 - (h) for the purpose of-
 - (i) the administration of the property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the benefit of the persons entitled to the beneficial

- interest therein;
- (ii) the administration of the property of a person adjudged bankrupt or a body corporate in liquidation, for the benefit of the creditors of such bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property;
 - (iii) the administration of the property of a person who has entered into a deed of arrangement for the benefit of that person's creditors; or
 - (iv) vesting any property subject to a trust in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust;
- (i) in consequence of any law relating to the limitation of actions;
 - (j) in terms of any law relating to abandoned, unoccupied unutilised or undeveloped land, as defined in

- such law;
- (k) in terms of any law relating to absent or non-resident owners, as defined in such law, of any property;
 - (l) in terms of any law relating to trusts or settlements;
 - (m) by reason of a dangerous state or prejudicial to the health or safety of human beings, animals or plants;
 - (n) as a condition in connection with the granting of permission for the utilisation of that or other property in any particular manner;
 - (o) for the purpose of, or in connection with, the prospecting for, or exploitation of, minerals belonging to the Republic on terms which provide for the respective interests of the persons affected;
 - (p) in pursuance of a provision for the marketing of property of that description in the common interests of the various persons otherwise entitled to dispose of that property;
 - (q) by way of the taking of a sample for the purposes of any law;
 - (r) by way of the acquisition of the

shares, or a class of shares, in a body corporate on terms agreed to by the holders of not less than nine-tenths in value of those shares or that class of shares;

- (s) where the property consists of an animal, upon its being found trespassing or straying;
- (t) for so long as may be necessary for the purpose of any examination, investigation, trial or inquiry or, in the case of land, the carrying out thereon-
 - (i) of work for the purpose of the conservation of natural resources of any description; or
 - (ii) of agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable and lawful excuse refused or failed, to carry out;
- (u) where the property consists of any licence or permit;
- (v) where the property consists of wild animals existing in their

natural habitat or the carcasses of wild animals;

- (w) where the property, is held by a body corporate established by law for public purposes and in which no moneys have been invested other than moneys provided by Parliament;
- (x) where the property is any mineral, mineral oil or natural gases or any rights accruing by virtue of any title or licence for the purpose of searching for or mining any mineral, mineral oil or natural gases-
 - (i) upon failure to comply with any provision of such law relating to the title or licence or to the exercise of the rights accruing or to the development or exploitation of any mineral, mineral oil or natural gases; or
 - (ii) terms of any law vesting any such property or rights in the President;
- (y) for the purpose of the administration or disposition of such property or interest or right by the President in implementation of a comprehensive land policy or a policy designed to

ensure that the statute law, the common law and the doctrines of equity relating to or affecting the interest in or rights over land, or any other interests or rights enjoyed by chiefs and persons claiming through or under them, shall apply with substantial uniformity throughout Zambia;

- (z) in terms of any law providing for the conversion of titles to land from freehold to leasehold and the imposition of any restriction on subdivision, assignment or sub-letting; or
- (aa) in terms of any law relating to
 - (i) the forfeiture or confiscation of the property of a person who has left Zambia for the purpose or apparent purpose, of defeating the ends of justice; or
 - (ii) the imposition of a fine on, and the forfeiture or confiscation of the property of, a person who admits a contravention of any law relating to the imposition or

collection of any duty or tax or to the prohibition or control of dealing or transactions in gold, currencies or securities.

(5) An Act of Parliament such as is referred to in clause (3) shall provide that in default of agreement, the amount of compensation shall be determined by a court of competent jurisdiction.

Economic, Social and Cultural Rights

Progressive
realisation of
economic, social and
cultural rights

64. (1) Parliament shall enact legislation which provides measures which are reasonable in order to achieve the progressive realisation of the economic, social and cultural 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.

Right to pension,
gratuity and
retrenchment
benefits

65. (1) Every worker has the right to a pension, gratuity or retrenchment benefits.

(2) Any benefit to which a person is entitled under this Article shall not be withheld or altered to that person's disadvantage, except to an upward adjustment to the extent provided by law.

(3) Pension, gratuity and retrenchment benefits in respect of service is exempt from tax.

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

- (a) all workers to subscribe to pension schemes;
- (b) equitable representation of both employees and employers on any supervisory or policy board established for a pension scheme;
- (c) the prudent investment of pension funds; and
- (d) the prompt payment of pension or retrenchment benefits to a worker who retires or is retrenched or, where a worker who retires or is retrenched is not paid promptly, the retention on the pay roll of that worker, until payment of the pension or retrenchment benefits.

Labour relations

66. (1) A person has the right to work and to just and fair labour practices.

(2) Parliament shall enact legislation to provide for a worker's rights.

Social protection

67. (1) Every person has the right to access

social protection, including, if the person is unable to support themselves and their dependants, social assistance for that person and dependants of that person.

(2) Parliament shall enact legislation to regulate the provision of social protection.

Health

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

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

Education

69. (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;
- (b) ensure the right of an adult to free adult basic education; and
- (c) make secondary, post-secondary, adult education, 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.

70. (1) 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.

(2) 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.

Limitations on Rights and Freedoms and Non-Derogable Rights

Derogation from fundamental rights during war, etc.

71. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of Articles 48, 51, 54, 56, 57, 58, 61, 62 or 63 to the extent that it is shown that the law in question authorises the taking, during any period when the Republic is at war or when a declaration under Article 123 is in force, of measures for the purpose of dealing with any situation existing or arising during that period, and nothing done by any person

under the authority of any such law shall be held to be in contravention of any of the said provisions if it is shown that the measures taken were, having due regard to the circumstances prevailing at the time, reasonably required for the purpose of dealing with the situation in question.

Restriction and
detention during
emergency

72. (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:

Provided that if the person is visually impaired, the statement shall be in Braille;

- (b) the spouse or next of kin of, or other person named by, the person restricted or detained, shall be informed of the restriction or

detention and allowed access to the person within forty-eight hours after the commencement of the restriction or detention;

- (c) not more than fourteen days after the commencement of the restriction or detention, a notification shall be published in the Gazette and in a daily newspaper of general circulation in Zambia, stating that the person has been restricted or detained 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;
- (d) that person shall be afforded reasonable facilities and opportunity 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 High Court; and
- (e) at the hearing of the case, by the High 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) The President may, at any time, refer to the High Court, the case of a person who has been or is being restricted or detained under a restriction or detention order under any law.

(3) Clause (1) (d) shall not be construed as entitling a person to legal representation at public expense, except that a person may be granted legal aid if substantial injustice would otherwise result.

Review by High
Court

73. (1) The High Court shall review the case of a person who is restricted or detained and to whom Article 72 applies, not later than fourteen days after the commencement of the restriction or detention, and after that, at intervals of not more than thirty days.

(2) On a review by the High Court, the Court may order the authority by which the detention or restriction of the person was ordered-

(a) on the necessity or expediency of continuing the restriction or detention;

- (b) to release the detained or restricted person; or
- (c) to take such other action as the Court may consider necessary;

and the authority shall act in accordance with that order.

Enforcement of Bill of Rights

Enforcement of Bill
of Rights

74. (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 High Court.

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

Provided that the person or organisation that may bring an action under this clause is-

- (a) a person acting on behalf of another person who cannot bring an action in their own name;
- (b) a person acting as a member of, or in the interest of, a group or class of persons; and

- (c) an association in the interest of its members.

PART VII
CODE OF ETHICS AND CONDUCT OF PUBLIC OFFICERS

Conflict of interest

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

Declaration of assets and liabilities

76. (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.

(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 -

- (a) within three months after the commencement of this Constitution or upon 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 a penalty imposed by an Act of Parliament.

Codes of ethics for professions and other vocations

77. Parliament shall enact legislation to provide 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

Basic electoral system

78. (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 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) Parliament shall enact legislation -
 - (a) to ensure the conduct of free and fair elections; and
 - (b) to provide a formula for achieving the purposes under clause (4).

Election systems for Presidential, National Assembly and local government elections

79. (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 percent plus one vote of the valid votes cast and in accordance with Article 110.

(2) Elections to the National Assembly and a district council shall be conducted under a mixed member representation system and as provided under Articles 143 and 216 (2)(b) and (c), respectively.

(3) Subject to clause (4), Parliament may enact legislation prescribing a different electoral system for the 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 National Assembly.

Losing candidates not eligible for certain appointments

80. 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 nomination as a member of the National Assembly or appointment as Vice-President, Minister, Provincial Minister or Deputy Minister during the term of that National Assembly.

Independent candidates

81. 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 candidate

82. (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

83. (1) Subject to clause (2) and 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

84. (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

85. (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

86. Parliament shall enact legislation regulating every direct election.

Establishment and
composition of
Electoral Commission
of Zambia

87. (1) There is hereby established the Electoral Commission of Zambia.

(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

88. (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 Public 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 nominated by the church mother bodies; and
 - (e) the Investigator-General.

(3) 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

89. The President shall appoint a Chairperson, Vice-Chairperson and members of the Electoral Commission from the names submitted by the selection committee under clause (2) of Article 88, subject to ratification by the National Assembly.

Tenure of office of members of Electoral Commission

90. (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

91. (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 settlement of minor electoral disputes;
- (f) dealing with any malpractices before or during an election within twenty-four hours of receiving a complaint;
- (g) the promotion of voter education and a culture of democracy;
- (h) facilitating of the observance, monitoring and evaluation of elections and referenda; and
- (i) any other function provided by or under an Act of Parliament.

(3) The Electoral Commission shall determine 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) correct errors made by electoral

- officers in an election;
- (b) determine that the votes cast at a polling station did not tally in whole or in part;
- (c) provide for the filing of a complaint or objection;
- (d) submit a report on an election to a court or tribunal handling any electoral petition; or
- (e) 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 only subject to judicial review after the election.

(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

92. (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 National Treasury Account.

Delimitation of
constituencies or
wards

93. (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 the 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 the review of a decision of the Electoral Commission made under this Article.

Matters to be taken into account when delimitating constituencies and wards

94. 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:

Provided that the constituencies shall be so delimited that there shall be at least twenty constituencies in each administrative Province.

Legislation on elections

95. (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

96. (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 the women, youth 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 organisation; or
 - (d) engage in bribery or other forms of corrupt practices.

Political Parties'
Commission

97. (1) There is hereby established the Political Parties' Commission which shall consist of five part-time members who shall be appointed by the President subject to ratification by the National Assembly.

- (2) The Political Parties' Commission shall be responsible for -
- (a) the registration and regulation of political parties;
 - (b) monitoring the general conduct of political parties;
 - (c) the promotion of co-operational harmony between and among political parties;
 - (d) the arbitration of disputes between

members of a political party, and
between and among political parties;
and

(e) any other function provided by, or
under an Act of Parliament.

(3) Parliament shall enact legislation to provide
for the functions, composition, tenure of office,
procedures, operations, administration, finances and
financial management of the Political Parties'
Commission.

Regulation of political
parties

98. (1) 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 Political Parties'
Commission in accordance with an Act of Parliament.

(2) Any person or group of persons who desires
to form a political party shall satisfy the
Political Parties' Commission that -

(a) the party shall, within a period of
twelve months from the date of its
registration, have party structures in
at least two-thirds of the number of
provinces of Zambia; and

(b) the party name, objectives or motto
has no ethnic, provincial or other
sectional connotations or gives the
appearance that its activities are
confined only to a part of Zambia.

(3) A political party is entitled to present its

programmes to the public and the State shall ensure equal access to the public media.

(4) 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.

(5) Political parties may form a coalition.

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

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

(8) The Political Parties' 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.

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

Political Parties' Fund

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

(2) The Fund shall be administered by the Political Parties' Commission.

(3) The sources of the Fund shall be -

(a) moneys appropriated annually by Parliament; 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, may be invested in such manner as shall be approved by the Minister responsible for finance.

Purpose of Fund

100. (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 105, 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 Political Parties' 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

101. (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

102. (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 Political Parties' Commission.

Annual report

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

(2) 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 Political Parties' Commission.

Party discipline

104. (1) A political party shall ensure that 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

105. (1) Except as provided for under this Constitution, a person shall not use any public resource or institution 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

106. (1) Subject to clause (2), a person shall not use or permit any person to use any public resource or institution, 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 or institution during an election period, for their security, transportation and sustenance.

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

PART IX EXECUTIVE

Office of President

107. (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 Force.

(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

108. (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 first degree or its equivalent from a recognised university or institution;
- (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 shall not qualify for election as a President:

- (a) the Defence Force 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) 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

109. (1) A presidential candidate shall deliver nomination papers to the Returning Officer in the manner, on the day, and 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 Electoral Commission shall publish the information contained in a presidential candidate's nomination papers in the Gazette and in at least one electronic medium that is broadcast, and one print medium that is circulated, nationally.

Election of President

110. (1) The President shall be elected directly in accordance with this Article, Article 79 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 percent 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 percent 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

111. (1) The President-elect shall be sworn in by the Chief Justice and shall assume office immediately but not later than twenty-four hours from the time of declaration of the presidential election results.

(2) The incumbent President shall immediately hand over the office of President to the President-elect and shall complete the procedural and administrative handing over process within twenty-one days from the date the President-elect is sworn in.

(3) The incumbent President shall not, within the period referred to in clause (2), perform any functions of the office of President under this Constitution or any other law.

Election petition

112. (1) An election petition to challenge the election of a President 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;

may be filed before the Constitutional Court by one or more of the following persons:

- (i) a person who lawfully voted or had a right to vote at the election to which the election petition relates;
- (ii) a person claiming to have had a right to be nominated as a candidate for election as President at the election to which the election petition relates; or
- (iii) a candidate for election as President at the election to which the election petition relates.

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

(3) The Constitutional Court shall -

- (a) when sitting to determine a petition under this Article be

presided over by the Chief Justice;
and

- (b) within ninety days of the filing of an election petition, determine the petition.

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

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

- (a) the Vice-President shall perform the executive functions; or
- (b) if the Vice-President is for any reason unable to discharge the executive functions, such member of the Cabinet as the Cabinet shall elect shall perform the executive functions; and
- (c) a presidential election shall be held within ninety days from the date of the nullification.

Tenure of office of
President

113. (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 Chief Justice, resign from office.

(4) Subject to this Constitution, the President shall continue in office until the person elected at the next election to the office of President assumes office, unless -

- (a) the President resigns; or
- (b) the President ceases to hold office by virtue of Article 112, 114 or 115.

Removal of President
on grounds of
incapacity

114. (1) Not less than one-third of all the members of the National Assembly may, by notice in writing to the Speaker, petition the Speaker that the physical or mental capacity of the President to perform executive functions ought to be investigated.

(2) The notice under clause (1) shall specify the particulars of the allegation.

(3) The Speaker shall, after receipt of the notice submitted under clause (1), if the National Assembly -

- (a) is sitting, cause a motion for the investigation of the President's incapacity to perform the executive functions to be considered by the

National Assembly within seven days of the notice; or

- (b) is adjourned or prorogued, summon the National Assembly to meet within fourteen days of the summons, and cause a motion for the investigation of the President's incapacity to perform the executive functions to be considered immediately.

(4) The National Assembly shall debate the motion under clause (3), and if the motion is supported by a vote of not less than two-thirds of all the members of the National Assembly, taken by secret ballot, the motion shall be passed.

(5) Where a motion is passed under clause (4), the Speaker of the National Assembly shall, within seven days of the resolution, send a copy of the resolution to the Chief Justice.

(6) The Chief Justice shall, within fourteen days of receipt of a copy of the resolution submitted under clause (5), in consultation with the relevant professional body regulating medical practitioners, appoint a medical board which shall consist of not less than three persons who are medical practitioners, registered with the relevant professional body, to inquire into the matter specified under clause (1).

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

(8) The Chief Justice shall submit the report referred to under clause (7) to the National Assembly within seven days of receiving the report.

(9) Where the medical board appointed under clause (6) reports to the National Assembly that-

(a) the alleged physical or mental incapacity of the President to perform the executive functions has not been substantiated, the National Assembly shall resolve that-

(i) the President is capable of performing executive functions; and

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

(b) the alleged physical or mental incapacity of the President to perform the executive functions has 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 National Assembly, by secret ballot, resolve that the President should cease to hold office.

(10) Where a notice is submitted to the Speaker under this Article, the President shall not dissolve Parliament.

(11) Where the National Assembly resolves that the question of the physical or mental capacity of the President to perform the executive functions should be investigated, the President shall, until another person assumes the office of President or the medical board appointed under clause (6) reports that the President is not incapable of performing the executive functions, whichever is the earlier, cease to perform the executive functions and those functions shall be performed by-

- (a) the Vice-President; or
- (b) in the absence of the Vice-President or if the Vice-President is unable, by reason of physical or mental infirmity, to perform the functions of the office, by such member of the Cabinet as the

Cabinet shall elect:

Provided that any person performing the functions of the office of President under this clause shall not dissolve the National Assembly or, except on the advice of the Cabinet, revoke any appointment made by the President.

Impeachment of
President

115. (1) If notice in writing is given to the Speaker of the National Assembly signed by not less than one-third of all the members of the National Assembly of a motion alleging that the President has committed any violation of the Constitution or any gross misconduct and specifying the particulars of the allegations and proposing that a tribunal be established under this Article to investigate those allegations, the Speaker shall -

- (a) if Parliament is then sitting or has been summoned to meet within five days, cause the motion to be considered by the National Assembly within seven days of the notice;
- (b) if Parliament is not then sitting,

and notwithstanding that it may be prorogued, summon the National Assembly to meet within twenty-one days of the notice and cause the motion to be considered at that meeting.

(2) Where a motion under this Article is proposed for consideration by the National Assembly, the National Assembly shall debate the motion and if the motion is supported by the votes of not less than two thirds of all the members of the National Assembly, the motion shall be passed.

(3) If the motion is declared to be passed under clause (2)-

- (a) the Chief Justice shall appoint a tribunal which shall consist of a Chairperson and not less than two other members selected by the Chief Justice from among persons who hold or have held high judicial office;
- (b) the tribunal shall investigate the matter and shall report to the National Assembly whether it finds the particulars of the allegations specified in the motion to have been substantiated; and
- (c) the President shall have the right

to appear and be represented before the tribunal during its investigation of the allegations against the President.

(4) If the tribunal reports to the National Assembly that the tribunal finds that the particulars of any allegation against the President specified in the motion have not been substantiated, further proceedings shall not be taken under this Article in respect of that allegation.

(5) If the tribunal reports to the National Assembly that the tribunal finds that the particulars of any allegation specified in a motion have been substantiated, the National Assembly may, on a motion supported by the votes of not less than three quarters of all members of the National Assembly, resolve that the President has been guilty of such violation of the Constitution or, as the case may be, such gross misconduct as is incompatible with the President's continuance in office as President and, if the National Assembly so resolves, the President shall cease to hold office on the third day following the passage of the resolution.

(6) No proceedings shall be taken or continued under this Article at any time when Parliament is dissolved.

Vacancy in office of
President

116. (1) If the office of President becomes vacant by reason of the death, or the resignation from office, of the President, or by reason of the President ceasing to hold office by virtue of Article 112, 114 or 115 -

- (a) an election to the office of President shall be held in accordance with Article 110 within ninety days from the date of the office becoming vacant; and
- (b) the Vice-President or, in the absence of the Vice-President or if the Vice-President is unable, by reason of physical or mental infirmity, to perform the executive functions, a member of the Cabinet elected by the Cabinet, shall perform the executive functions until a person elected as President in accordance with Article 110 assumes office:

Provided that if a vacancy in the office of President occurs at a time when less than twelve months are remaining before the expiry of the term of office of the President, the

Vice-President shall assume the office of President for the unexpired term and no election to the office of President shall be held.

(2) If the Vice-President is unable, for any reason or cause, to assume the office of President under the proviso to clause (1), such member of Cabinet, as Cabinet shall elect, shall perform the executive functions and a presidential election shall be held within ninety days from the date of the vacancy.

(3) The Vice-President or, the member of the Cabinet as the case may be, performing the executive functions under this Article shall not dissolve the National Assembly or, except on the advice of the Cabinet, revoke any appointment made by the President.

(4) Where a person assumes office as President under the proviso to clause (1), the President shall appoint another person as Vice-President.

Performance of executive functions during absence or illness of President

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

(2) If the President is incapable by reason of physical or mental infirmity of discharging the executive functions, and the infirmity is of such a nature that the President is unable to authorise another person under this Article to perform those functions -

- (a) the Vice-President; or
- (b) if the Vice-President is absent from Zambia or is for any reason unable to discharge the executive functions, such member of the Cabinet as Cabinet shall elect shall perform the executive functions:

Provided that any person performing the executive functions under this clause shall not dissolve Parliament or, except on the advice of the Cabinet, revoke any appointment made by the President.

(3) Any person performing the functions of the office of President by virtue of clause (2) shall cease to perform those functions if the person is notified by the Speaker that the President is about to resume those functions or if another person is elected

as, and assumes the office of, President.

(4) For the purpose of clause (2), a certificate of the Chief Justice that -

(a) the President is incapable by reason of physical or mental infirmity of discharging the functions of the office and that the infirmity is of such a nature that the President is unable to authorise another person under this Article to perform those functions; or

(b) the Vice-President is by reason of physical or mental infirmity unable to discharge the functions of the Vice-President's office;

shall be of no effect until such certificate is ratified by the National Assembly:

Provided that any such certificate as is referred to in paragraph (a) shall cease to have effect if the Speaker notifies any person under clause (3) that the President is about to resume the functions of the office of the President or if another person is elected as, and assumes the office of, President.

Oath of President

118. A person assuming the office of President shall, before entering the office, take and subscribe to such oaths as may be prescribed by or under an Act of Parliament.

Emoluments of President

119. (1) The President shall receive such emoluments as may be prescribed by or under an Act of Parliament.

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

(3) Subject to clause (5), a person who has held the office of President shall receive such emoluments as may be prescribed by or under an Act of Parliament.

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

(5) A person who has held the office of President shall be entitled to receive the emoluments provided for under clause (3) if that person -

- (a) has completed a term of office as President; or
- (b) does not participate in active politics as prescribed by an Act of Parliament.

(6) A person referred to in clause (5) shall, for purposes of clause (5) (a), be deemed to have completed a term of office if that person serves for such period as may be prescribed by an Act of Parliament, and any payment for the period served which is less than the prescribed period, shall be made on a pro rata basis.

Protection of President
from legal proceedings

120. (1) Civil proceedings shall not be instituted or continued against a person holding the office of President or performing the functions of that office in respect of which relief is claimed against that person in respect of anything done or omitted to be done in that person's private capacity.

(2) A person holding the office of President or performing the functions of that office shall not be charged with any criminal offence or be amenable to the criminal jurisdiction of any court in respect of any act done or omitted to be done during that person's tenure of office or, as the case may be, during that person's performance of the functions of that office.

(3) Subject to the other provisions of this Article, a person who has held, but no longer holds, the office of President shall not be charged with a criminal offence or be amenable to the criminal jurisdiction of any court, in respect of any act done or omitted to be done by that person in that person's personal capacity while the person held office of

President, unless the National Assembly has, by resolution under clause (9), determined that such proceedings would not be contrary to the interests of the State.

(4) 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 a person who held the office of President committed a criminal offence in that person's personal capacity during that person's tenure of office.

(5) A notice under clause (4) shall specify the particulars of the allegation.

(6) The Speaker shall, after receipt of the notice submitted under clause (4), within seven days of the notice -

- (a) cause a copy of the notice to be served on the person who held the office of President; and
- (b) if the National Assembly is sitting, submit such notice to the National Assembly:

Provided that if at the time the notice under clause (4) is received by the Speaker, the National Assembly is adjourned or prorogued, the Speaker shall submit the notice to the

National Assembly within seven days after the National Assembly is convened.

(7) Where the National Assembly receives a notice under clause (6) (b), the National 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.

(8) 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 (7).

(9) The National Assembly may, on the recommendation of the select committee constituted under clause (7), 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 National Assembly.

(10) Where the immunity from legal proceedings is removed from a person who held the office of President under clause (9), a court shall try the person only on the criminal charges for which the immunity is removed by the National Assembly.

(11) For the avoidance of doubt, where a Court

acquits a person who held the office of President of the criminal charges for which the immunity from legal proceedings was removed by the National Assembly, the immunity of that person shall, without further proceedings, immediately be restored.

(12) Where provision is made by law limiting the time within which proceedings of any description may be brought against any person, the term of any person in the office of President shall not be taken into account in calculating any period of time prescribed by that law which determines whether any proceedings referred to in clauses (1) and (3) may be brought against the person.

Functions of President

121. (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 prejudice to the generality of clause (1), the President may preside over meetings of the Cabinet and shall have the power, subject to this Constitution to-

- (a) dissolve the National Assembly as provided in Article 171;
- (b) accredit and appoint Ambassadors,

High Commissioners,
plenipotentiaries, diplomatic
representatives and consuls;

- (c) receive and recognise foreign
ambassadors and heads of
international organisations;
- (d) pardon or reprieve offenders,
unconditionally or subject to any
condition;
- (e) 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;
- (f) establish and dissolve Government
ministries and departments, subject
to the approval of the National
Assembly;
- (g) confer honours on citizens,
residents and friends of Zambia,
after consultation with relevant
interested persons and institutions;
- (h) initiate Bills for submission to, and
consideration by, the National
Assembly; and
- (i) perform any other function specified

by this Constitution or by, or under any other law.

Declaration of war

122. (1) The President may, in consultation with Cabinet, at any time, by Proclamation published in the Gazette, declare war.

(2) A declaration made under clause (1) shall continue in force until the cessation of hostilities.

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

Declaration of state of public emergency

123. (1) The President may, in consultation with Cabinet, at any time, by Proclamation published in the Gazette, declare that a state of public emergency exists.

(2) A declaration made under clause (1) of this Article shall cease to have effect on the expiration of a period of seven days commencing with the day on which the declaration is made unless, before the expiration of such period, it has been approved by a resolution of the National Assembly supported by a majority of all the members thereof not counting the Speaker.

(3) In reckoning any period of seven days for the purposes of clause (2), account shall not be taken of any time during which Parliament is dissolved.

(4) A declaration made under clause (1) may,

at any time before it has been approved by a resolution of the National Assembly, be revoked by the President by Proclamation published in the Gazette.

(5) Subject to clause (6), a resolution of the National Assembly under clause (2) shall continue in force until the expiration of a period of three months commencing with the date of its being approved or until revoked at such earlier date of its being so approved or until such earlier date as may be specified in the resolution:

Provided that the National Assembly may, by majority of all the members thereof, not counting the Speaker, extend the approval of the declaration for periods of not more than three months at a time.

(6) The National Assembly may, by resolution, at any time revoke a resolution made by it under this Article.

(7) Whenever an election to the office of President results in a change of the holder of that office, any declaration made under this Article and in force immediately before the day on which the President assumes office shall cease to have effect on the expiration of seven days commencing with that day.

(8) The expiration or revocation of any declaration or resolution made under this Article shall not affect the validity or anything previously done in reliance on such declaration.

124. (1) The President may, at any time by Proclamation published in the Gazette, declare that a situation exists which, if allowed to continue, may lead to a state of public emergency.

(2) A declaration made under clause (1) of this Article shall cease to have effect on the expiration of a period of seven days commencing with the day on which the declaration is made unless, before the expiration of such period, it has been approved by a resolution of the National Assembly supported by a majority of all the members thereof, not counting the Speaker.

(3) In reckoning any period of seven days for the purposes of clause (2), account shall not be taken of any time during which Parliament is dissolved.

(4) A declaration made under clause (1) may, at any time before it has been approved by a resolution of the National Assembly, be revoked by the President by Proclamation published in the Gazette.

(5) Subject to clause (6) a resolution of the National Assembly under clause (2) shall continue in force until the expiration of a period of three months commencing with the date of its being approved or, until revoked on an earlier date of its being so approved or until such earlier date as may be specified in the resolution.

(6) The National Assembly may by resolution, at any time revoke a resolution made by it under this

Article.

(7) Whenever an election to the office of President results in a change of the holder of that office, any declaration made under this Article and in force immediately before the day on which the President assumes office, shall cease to have effect on the expiration of seven days commencing with that day.

(8) The expiration or revocation of any declaration or resolution made under this Article shall not affect the validity of anything previously done in reliance on such declaration.

(9) 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 authorise indemnifying the state or any person in respect of an unlawful act.

Declaration of
National disasters

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

Validity of
emergency

126. 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.

Ratification of
appointments by
National Assembly

127. (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 ratify another appointment for the third time, but the third appointment shall take effect irrespective of whether the National Assembly refuses the ratification, or delays it for a period of more than fourteen days.

(4) Subject to the other provisions of this Constitution and any other law, any person appointed by the President under this Constitution or that other law may be removed by the President.

(5) Nothing in this Article shall prevent Parliament from conferring functions on persons or authorities other

than the President.

Vice-President

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

(2) The Vice-President shall be appointed by the President from amongst the members of the National Assembly.

(3) 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, 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.

(4) The emoluments of the Vice-President shall be prescribed by or under an Act of Parliament and shall be a charge on the National Treasury Account.

Functions of Vice-President

129. 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.

Ministers

130. (1) The President shall appoint not more than twenty-one persons as Ministers, or such number of Ministers as the National Assembly may approve, from amongst members of the National 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 prescribed by or under an Act of Parliament and shall be a charge on the National Treasury Account.

Provincial Ministers

131. (1) The President shall appoint a Provincial Minister for each province from persons who are members of the National Assembly.

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

(3) The emoluments of a Provincial Minister shall be prescribed by or under an Act of Parliament and shall be a charge on the National Treasury Account.

Deputy Ministers

132. (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, from amongst members of the National Assembly.

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

(3) The emoluments of a Deputy Minister shall be prescribed by or under an Act of Parliament and shall be a charge on the National Treasury Account.

Cabinet

133. There shall be a Cabinet consisting of the -

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

Functions of
Cabinet

134. (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.

Accountability of
Cabinet and
Deputy Ministers

135. The Cabinet and Deputy Ministers shall be accountable collectively to the National Assembly.

Oaths of office

136. 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 may be prescribed by or under an Act of Parliament.

Code of conduct

137. A Minister, Provincial Minister and Deputy Minister shall act in accordance with a code of conduct prescribed by or under an Act of Parliament.

Secretary to Cabinet

138. (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 relevant State institutions.

(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 thirty-five years of age.

(4) The term of office of the Secretary to the Cabinet shall be five 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 for misconduct or inability to perform the functions of office or for infirmity of body or mind.

Prerogative of
mercy

139. The President may -

- (a) grant any person convicted of any offence pardon, either free or subject to lawful 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

140. (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 139.

(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 THE LEGISLATURE

Establishment of
Parliament

141. There is hereby established a Parliament of Zambia which shall consist of the National Assembly and the President.

Legislative power of
Parliament and other
functions of National
Assembly

142. (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 Central 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 and security, constitutional and special expenditure and public debt;
- (g) scrutinising 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 the establishment or dissolution of government ministries as provided under this Constitution;
 - (k) approving international treaties and international agreements before these are ratified or acceded to and, where necessary, incorporating these international instruments into national laws;
 - (l) approving the emoluments of the President and other officers specified under this Constitution;
 - (m) summoning and dissolving the National Assembly as provided for in this Constitution;
 - (n) impeaching the President as provided for in this Constitution;
 - (o) approving or ratifying, as the case may be, in accordance with this Constitution, states of public emergency or threatened states of

public emergency and measures undertaken during these periods; and

- (p) 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

143. (1) The National Assembly shall consist of -

- (a) two hundred and forty 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) thirty 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) not more than ten members nominated by the President under Article 146; and

(d) the Speaker.

(2) Clause (1) (a) and (b) shall be subject to clause (3) of Article 79.

Qualifications and disqualifications of members of National Assembly

144. (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 of Zambia;

(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 school certificate of education or its equivalent; and

(e) 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 at any time in the immediate preceding five years, been found guilty of corruption by any court or tribunal.
- (3) Subject to clause (4), a person holding or

acting in any of the following posts or offices shall not qualify for election as a member of the National Assembly:

- (a) the Defence Force 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) A public officer shall qualify for election as a member of the National Assembly-

- (a) in the case of an officer who has served for at least twenty years, if the officer retires from the post or office not less than twelve months before the date of the election; or
- (b) in the case of an officer who has served for less than twenty years, if the officer resigns from the post or office not less than twelve months before the date of the election.

(5) A Chief is not qualified for election as a member of the National Assembly.

(6) 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.

Nomination for election of
National Assembly

145. (1) Nominations for election to the National Assembly shall be delivered to a returning officer on a day and 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.

Nominated members

146. (1) The President may, at any time after a general election to the National Assembly and before the National Assembly is next dissolved, appoint not more than ten persons as nominated members of the National Assembly to enhance the representation in the National Assembly as regards special interests or skills.

(2) Subject to this Article, a person may be appointed as a nominated member if the person is qualified under clause (1) of Article 144 and is not disqualified under clauses (2) and (3) of that Article, for election as a member of the National Assembly.

(3) The President shall not appoint a person as a nominated member if the person was a candidate for election in the last preceding general election or in any subsequent by-election.

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

147. (1) Every member of the National Assembly, except the 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 of Zambia;
- (b) the member resigns in writing addressed to the Speaker;
- (c) the member becomes disqualified for election under clause (3) of Article 144;
- (d) the result of an election for that member is nullified by the High Court under Article 151;
- (e) the member acts contrary to a code of conduct provided by or under an

Act of Parliament;

- (f) the member resigns from the political party which sponsored the member for election to the National Assembly;
- (g) having been elected to the National Assembly as an independent candidate, the member joins a political party; or
- (h) 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) and (g) shall not be eligible, for the duration of the term of that Parliament-

- (a) to contest any election; or
- (b) for nomination, by the President, as a member of the National Assembly.

(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 as provided by or under an Act of Parliament.

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

Removal of nominated member

148. The President may, at any time, terminate the appointment of any nominated member appointed under Article 146 and appoint another person in that member's stead.

Vacancies and by-elections for National Assembly

149. (1) Where a vacancy occurs in the office of a member of the National Assembly, as specified under clauses (2) and (3) of Article 147, 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 147 and subject to clause (2) of Article 84, a by-election shall be held within ninety days of the occurrence of the vacancy.

Emoluments of members

150. (1) A member of the National Assembly shall be paid emoluments and provided with facilities as determined by the Parliamentary Service Commission and specified by or under 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 National Treasury Account.

Determination of questions as to membership of National Assembly

151. (1) The High Court shall have power to hear and determine any question whether -

- (a) any person has been validly elected or nominated as a member of the National Assembly or the seat of any member has become vacant;
- (b) any person has been validly elected as Speaker or Deputy Speaker of the National Assembly or, having been so elected, has vacated the office of Speaker or Deputy Speaker.

(2) An appeal from the determination of the High Court under this Article shall lie to the Supreme Court:

Provided that an appeal shall lie to the Supreme Court from any determination of the High Court on any question of law including the interpretation of this Constitution.

(3) The High Court shall, within ninety days of the lodging of an election petition, hear and determine the petition.

Speaker and Deputy Speakers of National Assembly

152. (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 of Zambia by birth or descent;
- (b) does not have dual citizenship;
- (c) has been ordinarily resident in Zambia for a continuous period of five years immediately preceding the election;
- (d) is not less than forty-five years of age;
- (e) has obtained, as a minimum qualification, a bachelor's degree or its equivalent from a recognised university or institution;
- (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) A person does not qualify for election as Speaker 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.

(4) There shall be two Deputy Speakers of the National Assembly, both of whom shall be elected by the members of the National Assembly from among their number, as First and Second Deputy Speaker, respectively.

(5) The two Deputy Speakers of the National Assembly-

- (a) shall be persons of opposite gender; and

(b) shall not, where the Deputy Speakers are elected from among the political parties or coalition of political parties represented in the National Assembly, both belong to the same political party or coalition of political parties.

(6) Subject to clause (7), the members of the National Assembly shall elect a person to the office of Speaker and First and Second Deputy Speakers -

(a) when the National 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 National Assembly after the office becomes vacant.

(7) A person elected as Speaker and First and Second Deputy Speakers shall be conversant with the practices and procedures of Parliament.

(8) The office of Speaker shall become vacant

(a) when a new National Assembly first sits after a general election;

(b) if the office holder becomes disqualified under Clause (3);

- (c) if the National Assembly resolves, by a resolution supported by the votes of not less than two-thirds of all its members, to remove the Speaker on any of the following grounds:
 - (i) violation of this Constitution;
 - (ii) incapacity to discharge the duties of the office of Speaker due to infirmity of body or mind; or
 - (iii) misconduct;
- (d) if the office holder dies;
- (e) if the office holder resigns from office in a letter addressed to the President; or
- (f) if the office holder retires from office.

(9) The office of the First Deputy Speaker and the Second Deputy Speaker shall become vacant-

- (a) if the office holder becomes disqualified under paragraphs (c) to (h) of clause (2) of Article 144;
- (b) if the office holder ceases to be a member of the National Assembly;
- (c) if the office holder assumes the office of President or becomes the Vice-President, a Minister, a

Deputy Minister or holds or acts in any office prescribed in that behalf by, or under an Act of Parliament;

- (d) if the National Assembly resolves that the office holder should be removed from office;
- (e) if the office holder dies; or
- (f) if the office holder resigns from office in a letter addressed to the President.

(10) The Speaker and the First and Second Deputy Speakers shall be elected by a secret vote.

(11) 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.

(12) The Speaker and the Deputy Speakers shall be entitled to emoluments recommended by the Parliamentary Service Commission and specified in an Act of Parliament.

(13) The emoluments of the Speaker and Deputy Speakers shall be a charge on the National Treasury Account.

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

Presiding in National
Assembly

153. 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 National Assembly may elect
for that sitting.

Leader of opposition

154. (1) Subject to clause (2), the
opposition political party with the largest number of
seats in the National Assembly or a coalition of
opposition political parties in the National Assembly
shall elect, from amongst the members of the National
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) Clause (1) does not apply where the
opposition political party or coalition of opposition
political parties in the National Assembly holds
less than one-third of the total number of seats in the

National Assembly.

(3) The Standing Orders of the National Assembly shall provide for the effective participation in the National Assembly of the leader of the opposition.

Clerk of National
Assembly

155. (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 has attained the stipulated age and has the academic qualifications, experience and skills, as 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 National Assembly, remove the Clerk of the National Assembly in accordance with the procedures laid down in an Act of Parliament.

Exercise of legislative
power

156. (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 enacting a Government Bill or a Private Member's Bill shall be a charge on the National Treasury Account and a member of the National Assembly shall not be required to pay for any expenses attaching to the 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 Parliamentary Service Commission.

(5) For the purposes of this Article, unless the context otherwise requires-

“Government Bill” means a Bill introduced to the National Assembly by a Government Minister and which affects the public as a whole; and

“Private Member's Bill” means a Bill introduced to the National Assembly by a member who is not a Government Minister and which affects the public as a whole.

retrospective effect for the purpose of conferring a benefit or advantage 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

158. (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 National Treasury Account 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

159. (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 reconsideration by the National Assembly, indicating any reservation that the President has concerning the Bill.

(2) If the President refers the Bill back for reconsideration by the National Assembly, the Assembly may pass the Bill a second time, with or 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 passes the Bill, with amendments, 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 fourteen 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 clause (2), the Bill shall not again be presented to the National Assembly in that session of the National Assembly.

(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 160, 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.

(8) If the Constitutional Court determines that a Bill is constitutional, the President shall assent to the Bill within seven days of the decision of the

Court.

Challenge of Bill and
reference to
Constitutional Court

160. (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 National 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 declare the provision unconstitutional and 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

161. 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

162. 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

163. (1) Every citizen of Zambia has a right to petition Parliament to enact, amend or repeal any legislation.

(2) Every citizen may comment on the deliberations, statements and decisions of the National Assembly.

Quorum

164. The quorum for a meeting of the National Assembly shall be one-third of all the members of the National Assembly.

Voting in National Assembly

165. (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 110 (5),

on a question proposed for decision in the National Assembly the Speaker shall have no vote in the first instance, but in the case of a tie the Speaker shall have the casting vote.

Procedure and
committees of National
Assembly

166. (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 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.

(3) Parliament shall enact legislation providing for the functions of a standing committee.

Power to call evidence

167. In the performance of its functions, 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.

Public access and participation

168. (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.

Power, privileges and immunities

169. (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

170. (1) After members of the National Assembly are elected in a general election, the President

shall, by notice in the Gazette, appoint a date, not more than thirty days after the general election, for the first sitting of the National Assembly.

(2) There shall be a session of Parliament at least once every year so that at 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) There shall be at least three sittings of the National Assembly in any session of Parliament which 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 all 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.

Life and prorogation of
Parliament

171. (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 dissolved.

(2) The President may, in consultation with the Speaker, prorogue Parliament by proclamation.

(3) Parliament shall stand dissolved ninety days

before the holding of the next general election.

(4) At any time when the Republic is at war the National Assembly may, by resolution supported by a simple majority vote of the members present and voting extend the term of Parliament for not more than twelve months at a time.

(5) Subject to clauses (6) and (7), the President may dissolve Parliament where the President has reasonable grounds to believe that the Executive cannot effectively govern the Republic with the current National Assembly.

(6) Where the President intends to dissolve Parliament pursuant to clause (5), the President shall so inform the public and shall refer the matter to the Constitutional Court for determination that the situation exists.

(7) The Constitutional Court shall determine a matter referred to it under clause (6) within seven days of the receipt of the matter.

(8) The Constitutional Court shall, where it determines that the situation in clause (6) exists, so inform the President and the President shall dissolve Parliament.

(9) If Parliament is dissolved by virtue of clause (8), Presidential and Parliamentary elections shall be held within ninety days of the dissolution.

(10) Notwithstanding a dissolution of Parliament, the President may, due to a state of war or state of

public emergency or threatened state of public emergency, recall the Parliament that has been dissolved to meet and that Parliament shall be deemed to be the Parliament for the time being.

President may address
National Assembly

172. (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

173. (1) Nothing in Article 142 or 156 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 provision shall be void to the extent of the inconsistency, 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.

Oaths to be taken by
Speaker, Deputy
Speakers and
members

174. (1) The Speaker and the Deputy Speakers, before carrying out the duties of office, shall take the Oath of Speaker or Deputy Speaker, as prescribed by or under an Act of Parliament.

(2) A member of the National Assembly, before taking the member's seat in the National Assembly, shall take the Oath of a member of the National Assembly, as prescribed by or under an Act of Parliament.

Officers of National
Assembly

175. (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

176. (1) There is hereby established a Parliamentary Service Commission which shall consist of the following part-time members:

- (a) the Speaker, as Chairperson;
- (b) the Minister responsible for finance;
- (c) five members appointed by the National Assembly from amongst its members as follows:
 - (i) two persons of opposite gender nominated by the political party or parties forming the Government;
 - (ii) two persons of opposite gender and who are not members of the same political party nominated by the other political parties in the National Assembly which do not form the Government; and
 - (iii) an independent member of the National Assembly nominated by other independent members; and

(d) two members of opposite gender appointed by the Speaker, subject to ratification 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 National Assembly; or
- (b) a member appointed under paragraph (d) of clause (1), on the revocation of that person's appointment by the Speaker.

(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) undertaking, on its own or jointly with other relevant organisations, programmes to promote the ideals of parliamentary democracy; and
- (e) carrying out other functions -
 - (i) necessary for the well-being of the Speaker, Deputy Speakers, Members of Parliament, officers and 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 Speaker, Deputy Speakers, Members of Parliament, officers and staff in the Parliamentary Service and generally for the effective and efficient administration of the Parliamentary Service.

budget estimates to the Minister responsible for finance who, taking into consideration equitable sharing of national resources, shall determine the budget for the National Assembly.

(2) The Parliamentary Service Commission shall be adequately funded in any financial year to enable it to effectively carry out its mandate.

(3) The Parliamentary Service Commission shall exercise budgetary control over the Parliamentary Service and the National Assembly.

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

(5) The expenses of the Parliamentary Service Commission, including emoluments payable to or in respect of the Speaker, Deputy Speakers, Members of the National Assembly, officers and staff of the National Assembly, shall be a charge on the National Treasury Account.

PART XI JUDICIARY

Establishment of
courts of Judiciary

178. (1) There is hereby established -
- (a) the superior courts of the Judiciary comprising -
- (i) the Supreme and

- Constitutional Court;
- (ii) the Court of Appeal;
- (iii) the High Court; and
- (iv) the Industrial Relations 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

179. (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 law.

(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) A court may, in exercise of its judicial

power, in any matter within its jurisdiction, issue orders to ensure the enforcement of a judgment or other decision of the court.

Independence
of Judiciary

180. (1) The Judiciary is autonomous and shall be administered in accordance with the provisions of an Act of Parliament.

(2) A member of the Executive, Legislature, a State institution or any other person shall not interfere with the judges or judicial officers in the exercise of their judicial powers.

(3) 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.

(4) The office of a judge of any of the superior courts shall not be abolished while there is a substantive holder of the office.

Code of conduct

181. The judges and judicial officers of the courts referred to in clause (1) of Article 178 shall be independent, impartial and subject only to this Constitution and the law and shall conduct themselves in accordance with a code of conduct promulgated by Parliament.

Finances of Judiciary

182. (1) The Judiciary shall annually prepare and submit its budget estimates to the Minister responsible for finance who, taking into consideration

the equitable sharing of national resources, shall determine the budget for the Judiciary.

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

(3) The expenses of the Judiciary, including emoluments payable to or in respect of a judge or judicial officer, shall be a charge on the National Treasury Account.

Supreme and
Constitutional Court

183. The Supreme and Constitutional Court shall consist of -

- (a) the Chief Justice;
- (b) the Deputy Chief Justice; and
- (c) nine judges of the Supreme and Constitutional Court or such greater number of judges as shall be determined by or under an Act of Parliament.

Composition for
sittings of Supreme
Court

184. 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.

Jurisdiction of
Supreme Court

185. (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 the Court of Appeal; and

(b) any other jurisdiction conferred on it by this Constitution or any other law.

(3) Subject to Article 191 (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

186. (1) The Supreme and Constitutional Court, when sitting as a Constitutional 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 Constitutional Court shall, when determining an election petition or reviewing a decision made by it, be constituted by the full bench as shall be determined by an Act of Parliament.

Jurisdiction of
Constitutional Court

187. (1) The Constitutional Court shall have original and final jurisdiction -

(a) to determine a Presidential election petition challenging the election of a President-elect;

- (b) to determine disputes between State organs or State institutions;
- (c) to determine whether or not a matter falls within the jurisdiction of the Court; and
- (d) in any constitutional matter provided for by this Constitution or an Act of Parliament.

(2) The Constitutional Court shall have appellate jurisdiction -

- (a) in all matters of interpretation of this Constitution;
- (b) to determine whether an Act of Parliament or statutory instrument contravenes this Constitution; and
- (c) to determine a question of violation of any provision of the Bill of Rights.

(3) The Constitutional Court may review a decision made by it.

(4) Parliament shall enact legislation to provide for the powers, sittings and procedures of the Constitutional Court.

Chief Justice

188. (1) There shall be a Chief Justice who shall be the head of the Judiciary.

(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

189. (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 188;
- (b) be the head 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

190. The Court of Appeal shall consist of -

- (a) the Deputy Chief Justice; and
- (b) such number of judges of the Court of Appeal as shall be determined by an Act of Parliament.

Jurisdiction of Court of Appeal

191. (1) The Court of Appeal, as an appellate court, shall have jurisdiction to determine, as provided under an Act of Parliament, appeals from the High Court, the Industrial Relations Court and tribunals.

(2) Subject to Article 185 (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

192. 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 of Appeal; 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 of Appeal.

High Court

193. (1) The High Court shall consist of -

- (a) the Chief Justice, as an ex-officio

member; and

- (b) such number of judges of the High Court as shall be determined by an Act of Parliament.

(2) The High Court shall be duly constituted by one judge of the Court.

Jurisdiction of High Court

194. (1) Subject to this Constitution, the High Court shall have -

- (a) unlimited and original jurisdiction in any civil or criminal matter:

Provided that the High Court shall not have jurisdiction with respect to -

- (i) proceedings in which the Industrial Relations Court has exclusive jurisdiction as provided by an Act of Parliament; or
 - (ii) any matter in which the Constitutional Court has original and final jurisdiction;
- (b) in all matters of interpretation of this Constitution;
 - (c) to determine whether an Act of Parliament or statutory instrument contravenes this Constitution; and
 - (d) to determine a question of violation of

any provision of the Bill of rights.

(2) The High Court shall have appellate and review jurisdiction as conferred on it by, or under an Act of Parliament.

(3) A person or group of persons who alleges that -

(a) an Act of Parliament 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 High Court for a declaration to that effect and for redress.

(4) Where upon the determination of a petition under clause (3), the High Court considers that there is need for redress, in addition to the declaration sought, the Court may make an order for redress and determine the appropriate redress.

(5) 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 High Court for determination.

(6) Where a question is referred to the High Court under clause (5), 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.

(7) Where a petition is submitted under clause (3) or a question is referred under clause (5), the High

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.

(8) The High Court shall not order security for costs on matters relating to public interest litigation.

Supervisory
jurisdiction of High
Court

195. (1) The High Court has supervisory jurisdiction over courts subordinate to it and over any body or authority that exercises a judicial or quasi-judicial power.

(2) The High Court, in the exercise of its supervisory power under clause (1), may make orders and give directions to the courts subordinate to it to ensure the fair administration of justice.

Divisions of High
Court

196. Parliament may enact legislation to create other courts as divisions of the High Court -

(a) to sit and adjudicate in any part of Zambia; 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.

Industrial Relations
Court

197. (1) The Industrial Relations Court has exclusive jurisdiction in industrial and labour relations matters as provided by an Act of Parliament.

(2) The members of the Industrial Relations

Court shall be appointed by the Judicial Service Commission.

(3) Parliament shall enact legislation to provide for the composition, powers, sittings and procedures of the Industrial Relations Court.

Appointment of
judges of superior
courts

198. (1) The President shall, on the recommendation of the Judicial Service Commission, and subject to ratification by the National Assembly, appoint -

- (a) the Chief Justice;
- (b) the Deputy Chief Justice;
- (c) the judges of the Supreme and Constitutional Court;
- (d) the judges of the Court of Appeal;
- (e) the judges of the High Court; and
- (f) the Chairperson and Deputy Chairpersons of the Industrial Relations Court.

(2) Articles 199 to 205 apply to the Chairperson and the Deputy Chairpersons of the Industrial Relations Court.

Acting appointments

199. Except with respect to the Chief Justice and the Deputy Chief Justice, where -

- (a) the office of a judge of a superior court becomes vacant; or
- (b) the Chief Justice informs the President that there is a need to

make an acting appointment;
the President shall, on the recommendation of the Judicial Service Commission, 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

200. (1) Subject to clause (2), a person shall not qualify for appointment as a judge of a superior court unless that person 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.

(2) A person appointed as judge to a specialised 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 judge of superior court

201. (1) Subject to clause (3), the Chief Justice and the Deputy Chief Justice shall hold office until they attain the age of seventy years and shall then retire.

(2) A judge of a superior court shall retire from office on attaining the age of seventy years.

(3) A judge of a superior court may retire upon attaining the age of sixty-five years.

(4) A person who retires 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 judgment or to perform any other function in relation to those proceedings.

Removal of judge from office

202. 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; or
- (b) breach of the code of conduct provided for by an Act of Parliament.

203. (1) The President shall, where the President has reasonable grounds to believe that the question of removing a judge of a superior court ought to be investigated, appoint a tribunal in accordance with this Article.

(2) A person who has a complaint against a judge of a superior court, based on the grounds specified under Article 202, may submit a petition to the Judicial Complaints Authority established under an Act of Parliament.

(3) The Judicial Complaints Authority 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.

(4) The President shall, within fourteen days of receipt of the petition and the report submitted under clause (3), if the report states that the petition is not frivolous, vexatious or malicious, and if the President considers that the question of removing the judge under this Article ought to be investigated, then -

- (a) the President shall appoint a tribunal which shall consist of a Chairperson and not less than two other members, who hold or have held high judicial office; and

(b) the tribunal shall inquire into the matter and report on the facts thereof to the President and advise the President whether the judge ought to be removed from office under this Article.

(5) Where a tribunal appointed under clause (4) advises the President that a judge of a superior court ought to be removed from office, the President shall remove such judge from office, subject to ratification by the National Assembly.

(6) If the question of removing a judge of a superior court from office has been referred to a tribunal under clause (4), the President may suspend the judge from performing the functions of office, and any such suspension may at any time be revoked by the President and shall in any case cease to have effect if the tribunal advises the President that the judge ought to be removed from office.

Remuneration of judges

204. (1) The Judicial Service Commission shall review and submit recommendations for the emoluments and other conditions of service of judges to the Minister responsible for finance.

(2) The Minister responsible for finance shall review recommendations from the Judicial

Service Commission and make appropriate recommendations for the emoluments of judges for ratification by the National Assembly.

(3) Parliament shall enact legislation to provide for the emoluments and the other terms and conditions of service of judges, taking into consideration the recommendations of the Minister responsible for finance.

(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

205. A judge shall, before assuming office, take the Judicial Oath as may be prescribed by or under an Act of Parliament.

Appointment, retirement and removal of judicial officers

206. (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 Minister responsible for finance.

(3) An Act of Parliament shall provide for

the qualifications for appointment to a judicial office.

(4) A judicial officer, except a local court magistrate, shall retire on attaining the age of sixty years and may retire with full benefits on the attainment of fifty-five years.

(5) A local court magistrate shall retire at the age of seventy years.

Jurisdiction and divisions
of lower courts

207. (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 Juvenile Court as a division of the subordinate court.

(3) The composition, jurisdiction, powers, sittings and procedures of the Juvenile Court shall be as provided by or under an Act of Parliament.

Judicial Service
Commission

208. (1) There is hereby established the Judicial Service Commission.

(2) The members of the Judicial Service Commission shall be appointed by the President.

(3) Parliament shall enact legislation to provide for the functions, powers, independence, composition, tenure of office, staff, procedures, operations, finances and financial management of the Commission.

Chief Administrator
of Judicial Service

209. (1) There shall be a Chief Administrator of the Judicial Service who shall be appointed by the President on the recommendation of the Judicial Service Commission.

(2) Parliament shall enact legislation to provide for the qualifications and functions of the Chief Administrator.

Judicial Oath

210. A judicial officer shall, before assuming office, take the Judicial Oath as may be prescribed by or under an Act of Parliament.

Rules of court

211. The Chief Justice may prescribe rules of practice and procedure for the courts and tribunals established under this Constitution or any other law.

PART XII

LOCAL GOVERNMENT

Establishment and
objectives of local
government

212. (1) There is hereby established a system of local government that shall be based on decentralisation.

(2) The objectives of local government are to –

- (a) promote the people's participation in democratic

- governance at the local level;
- (b) 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;
- (c) promote social and economic development at the district level;
- (d) promote a safe and healthy environment;
- (e) establish for each district council a sound financial base with reliable and predictable sources of revenue; and
- (f) ensure accountability of district councils.

Structures and principles
of decentralised
government

213. (1) Parliament shall enact legislation applicable to provinces, districts and local authorities.

(2) The Government shall ensure the decentralisation of functions, powers, responsibilities and resources to the province, the district and local authorities as may be provided by or under an Act of Parliament.

Districts and district
councils

214. (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

215. 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 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 the development of the district;
- (c) the issuance of by-laws, within its jurisdiction;
- (d) co-ordinating the functions of wards and other authorities within the district;
- (e) disaster prevention and management; and
- (f) any other function provided by or under an Act of Parliament.

Election of councillors
and composition of
district councils

216. (1) Subject to clause (5), elections to a district council shall be conducted under the mixed member representation system specified under Article 79 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 percent 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 Force and national security agencies operating in the district; and
 - (g) one representative of the business community in the district.

(3) The functions and duties of a councillor shall be provided for by or under an Act of Parliament.

(4) The term of a district council shall be

five years and shall run concurrently with the term of the National Assembly.

(5) The mayor, deputy mayor, chairperson or vice-chairperson of a council shall be elected by the councillors referred to in clause (2) from among the elected councillors referred to in paragraph (b) of clause (2) and as provided by or under an Act of Parliament.

(6) A councillor shall be paid -

(a) such allowances as may be prescribed by or under an Act of Parliament; and

(b) a further allowance, at the expiry of that councillor's tenure of office, as recommended by the Minister responsible for finance and prescribed by or under an Act of Parliament, in addition to any allowances payable under paragraph (a).

Vacation of office of councillor

217. (1) Subject to clause (2), a councillor shall vacate office upon the dissolution of the council.

(2) The office of a councillor shall become vacant if -

(a) the councillor ceases to be a citizen of Zambia;

- (b) the councillor resigns in writing addressed to the mayor;
- (c) the election of that councillor is nullified by the Local Government Election Tribunal;
- (d) the councillor acts contrary to a code of conduct as provided by or under an Act of Parliament;
- (e) the councillor resigns from the political party which sponsored the councillor for election to the council;
- (f) if circumstances arise that, if the holder of the office were not a councillor, would disqualify the councillor for election as such; or
- (g) the councillor dies.

(3) A councillor who causes a vacancy in a district council due to the reasons specified under paragraphs (b), (c), (d) and (e) of clause (2) is not eligible to contest in a council election for the duration of the term of that district council.

(4) Where a councillor who holds a proportional representation seat, causes a vacancy in the council due to death or resignation, the vacancy shall be filled by the next candidate on the political party's list as provided by or under

an Act of Parliament.

(5) Where a councillor, 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 councillor, who occupies a ward-based seat, is expelled by the political party which sponsored that councillor for election, the councillor shall not lose the seat unless the expulsion is confirmed by a court.

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

Provided that no by-election to fill the vacancy created by the expulsion of a councillor who occupies a ward-based seat shall be held where the period remaining before the expiry of the term of office of that councillor is less than twelve months.

- (8) If a political party is dissolved -
- (a) a councillor holding a ward-based seat shall retain the seat in the council; and
 - (b) a councillor holding a proportional representation seat shall cease to be a councillor and the party shall lose the

seat which seat shall be re-allocated to another political party as provided by or under an Act of Parliament.

(9) The creation or dissolution of a coalition of parties of which a councillor's political party forms part of does not amount to a councillor resigning from the party for the purposes of paragraph (e) of clause (2).

Vacancies and by-elections for district council

218. (1) Where a vacancy occurs in the office of a councillor as specified under clause (2) of Article 217, the mayor shall, within seven days of the occurrence of the vacancy, inform in writing, the Electoral Commission of the vacancy.

(2) Subject to clauses (2) and (3) of Article 84, where a vacancy occurs in the district council, a by-election shall be held within ninety days of the occurrence of the vacancy:

Provided that no by-election to fill the vacancy which occurs in a district council for a ward-based seat shall be held where the period remaining before the expiry of the term

of office of the councillors of that district council is less than twelve months.

Expulsion of councillor

219. A councillor who has been expelled by that councillor's 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.

Qualifications and disqualifications for election to district council

220. (1) A person shall qualify to be elected as a councillor of a district council, excluding councillors specified under Article 216

(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 twelve school certificate of education or its equivalent;
- (d) is resident in the district or has been resident in the ward for which the election is sought for a period of two years immediately preceding the election; and
- (e) has a certificate of clearance showing the payment of council rates and rentals, where applicable.

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

- (a) holds, or is validly nominated as a candidate in an election for membership of the National Assembly;
- (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) within a period of five years before that person's nomination for election, has been convicted of an offence under any law and been sentenced therefor for a period exceeding six months;
- (g) has been removed from public office on grounds of gross misconduct;
- (h) has been found guilty of corruption by any court or

tribunal;

- (i) holds the office of mayor;
- (j) is a Chief; or
- (k) is a member of the Defence Force and security agencies operating in the district.

(3) In this Article, the reference to a sentence of imprisonment shall be construed as not including a sentence of imprisonment the execution of which is suspended or a sentence of imprisonment in default of payment of a fine.

Petitions and Local
Government Election
Tribunal

221. (1) A petition to challenge the election of a councillor to a ward-based seat of a district council may be lodged with the Electoral Commission by one or more of the following persons:

- (a) a person who lawfully voted or had a right to vote at the election to which the election petition relates;
- (b) a person claiming to have had a right to be nominated as a candidate for election as councillor at the election to which the election petition relates; or
- (c) a candidate for election as councillor at the election to

which the election petition relates.

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

(3) The Electoral Commission shall, within seven days of the receipt of the petition under clause (1), submit it to the Chief Justice.

(4) The Chief Justice shall, upon receipt of a petition from the Electoral Commission under clause (3), 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) any provision of this Constitution or any other law relating to elections of councillors has been complied with.

(5) 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.

(6) A petition shall be determined within ninety days of the filing of the election petition.

(7) Any party aggrieved with a decision of

the Local Government Election Tribunal may appeal to the High Court.

(8) A councillor whose election is petitioned shall hold the seat in the district council pending the determination of the petition.

(9) The expenses of the Local Government Election Tribunal shall be a charge on the National Treasury Account.

Funds for district council

222. (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 Minister responsible for finance, 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.

Provinces and Provincial Administration

Provinces

223. The Republic of Zambia shall be

divided into provinces as shall be provided by or under an Act of Parliament.

Provincial
administration

224. (1) There shall be established for each province a provincial administration.

(2) The functions of the Provincial Administration shall be prescribed by or under an Act of Parliament.

(3) A Provincial Deputy Minister shall be responsible for the administration of any province as the President may assign to such Provincial Deputy Minister.

PART XIII

CHIEFTAINCY AND HOUSE OF CHIEFS

Institution of Chieftaincy

225. (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) 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.

(3) 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.

(4) 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.

(5) If any person is aggrieved with a resolution of the House of Chiefs that person may appeal to the High Court.

(6) 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

226. The following concepts and principles shall apply in relation to the Chieftaincy:

- (a) the institution of Chieftaincy shall be a corporation sole with

perpetual succession and with 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) nothing in paragraph (a) shall be taken to prohibit a Chief from holding any asset or property acquired in a personal capacity; and
- (c) a Chief shall enjoy such privileges and benefits as may be conferred by the Government and the local government or as that Chief may be entitled to under culture, custom and tradition.

Participation of chiefs in public affairs

227. (1) A person shall not, while remaining a Chief, join or participate in partisan politics.

(2) Parliament may enact legislation to provide for the role of Chiefs and the local authority in the management, control and sharing of natural and other resources in their localities.

House of Chiefs

228. (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 Minister responsible for finance and prescribed in an Act of Parliament.

(6) The expenses of the House of Chiefs shall be a charge on the National Treasury Account.

Functions of House
of Chiefs

229. Without limiting Article 228 (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

230. (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) is adjudged or becomes an undischarged bankrupt; or
- (e) is declared to be or becomes of unsound mind under any law.

Oaths of members
of House of Chiefs

231. Every Chief elected to the House of Chiefs shall take the Oath of member of the House of Chiefs, as may be prescribed by or under an Act of Parliament.

Staff of House of
Chiefs

232. (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 National Treasury Account.

Regulations for
House of Chiefs

233. 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

234. (1) Parliament shall enact legislation to provide for the guiding values and principles of the public service.

(2) The values and principles referred to under clause (1) shall apply to public service-

- (a) at national and local government level; and
- (b) in all State organs and State institutions.

Public Offices

Offices for Republic

235. (1) Subject to the other provisions of 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 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 National Treasury Account.

(3) In this Part “public officer” does not include a judge, a judicial officer, 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 or a councillor.

Attorney-General

236. (1) There shall be an Attorney-General of the Republic whose office is a public office and who shall be appointed by the President, 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 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) The office of Attorney-General shall become vacant if the holder of the office is removed from office by the President.

(5) The Attorney-General may resign from office on giving three months notice in writing to the President.

(6) The functions of the Attorney-General shall include-

- (a) being the principal legal adviser to the Government;
- (b) causing the drafting of and signing, all Government Bills to be presented to Parliament;
- (c) drawing and perusing agreements, contracts, treaties, conventions and documents, by whatever name called, to which the Government is a party or in respect of which the Government has an interest;
- (d) representing the Government in the courts or any other legal proceedings to which Government is a party; and
- (e) any other functions assigned to the Attorney-General by the President

or by any other law.

(7) Subject to the other provisions of this Constitution, an agreement, contract, treaty, convention or document by whatever name called, to which Government is a party or in respect of which the Government has an interest, shall not be concluded without the legal advice of the Attorney-General, except in such cases and subject to such conditions as Parliament may by law prescribe.

(8) In the exercise of the power to give directions to the Director of Public Prosecutions conferred by clause (6) of Article 238, the Attorney-General shall not be subject to the direction or control of any other person or authority.

Solicitor-General

237. (1) There shall be a Solicitor-General of the Republic whose office is a public office and who shall be appointed by the President, 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) The office of Solicitor-General shall become vacant if the holder of the office is removed from office by the President.

(4) The Solicitor-General may resign from office on giving three months notice in writing to the President.

(5) 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

238. (1) There shall be a Director of Public Prosecutions whose office is a public office and who shall be appointed by the President 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 is qualified to be appointed as a Judge of a superior court with experience biased towards criminal law.

(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 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 practitioners, specified by the Director of Public Prosecutions, acting under the general or special instructions of the Director of Public Prosecutions.

(5) 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.

(6) 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:

Provided that when the exercise of any power in any case may, in the judgment of the Director of Public Prosecutions involve general consideration of public policy, the Director of Public Prosecutions shall bring the case to the notice of the Attorney-General and shall in the exercise of powers in relation to that case, act in accordance with any directions of the Attorney-General.

(7) 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.

- (8) Parliament shall enact legislation to -
- (a) establish a National Prosecution Authority which shall be headed by the Director of Public Prosecutions;
 - (b) provide for the functions, powers,

independence, operations, administration, finances and financial management of the National Prosecution Authority;

- (c) provide for the composition, tenure of office and procedures of the Board of the National Prosecution Authority, whose chairperson shall be the Director of Public Prosecutions;
- (d) provide for the decentralisation of the offices of the National Prosecution Authority to the provinces and progressively to the districts; and
- (e) provide for any other function of the Director of Public Prosecutions.

Performance of functions of Director of Public Prosecutions during absence, illness or other cause

239. 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

240. (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 same 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 in writing to the President.

Permanent Secretaries

241. (1) Subject to this Constitution, a province, 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 appointed by the President in accordance with the recommendation of the Public Service Commission.

(3) Parliament shall enact legislation to provide for the functions and qualifications of a Permanent Secretary.

Commissions

Public Service Commission and other service commissions

242. (1) There is hereby established the Public Service Commission.

(2) The Public Service Commission shall consist of a Chairperson and not less than four or more than six other members:

Provided that at least one member

shall be a person with a disability.

(3) The Chairperson and members of the Public Service Commission shall be appointed by the President.

(4) A person shall not qualify to be appointed as a Chairperson or member of the Public Service Commission unless that person is -

(a) a person of proven integrity; and

(b) not a member of the National Assembly or a public officer.

(5) Subject to clauses (6) and (7), the Chairperson and members of the Public Service Commission shall hold office for a term of four years and shall be eligible for reappointment for only one further term of four years.

(6) The office of Chairperson or member of the Public Service Commission shall become vacant if the holder of the office is removed from office by the President.

(7) Subject to the other provisions of this Article, a Chairperson or member of the Public Service Commission shall vacate office -

(a) at the expiry of the term of office specified under clause (5);

(b) if any circumstances arise that, if the person were not a member of the Commission, would cause the person to be disqualified for appointment as such; or

- (c) in the case of a member who represents a body or institution, if that body or institution nominates another person to represent it.

(8) The President may give to the Public Service Commission or to any person, to whom the functions or powers of the Commission are delegated by or under an Act of Parliament, such general directions with respect to the exercise of the functions or powers of the Commission, as the President may consider necessary and the Commission or that person shall comply with those directions.

(9) Except as otherwise provided by clause (8), the Public Service Commission shall not be subject to the direction or control of any other person or authority in the exercise of its functions under this Constitution.

(10) Parliament shall enact legislation to provide for the functions, powers, procedures, operations, administration, finances and financial management of the Public Service Commission.

(11) 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, powers, independence, composition, tenure of office, procedures, operations,

administration, finances and financial management of a commission established by or under this clause.

Establishment of Human Rights Commission and its independence

243. (1) There is hereby established a Human Rights Commission.

(2) The Human Rights Commission shall be autonomous.

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

Establishment of Gender Equality Commission

244. (1) There is hereby established the Gender Equality Commission which shall promote respect for gender equality and the protection, development and attainment of gender equality.

(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.

Establishment of investigative commissions, etc.

245. (1) There shall be established for the Republic investigative commissions.

(2) Parliament shall enact legislation to

provide for the functions, powers, independence, composition, tenure of office, procedures, operations, administration, finances and financial management of an investigative Commission established under clause (1).

(3) Commissions, other than investigative commissions, may be established for the Republic by or under an Act of Parliament and shall have functions and powers as may be prescribed by or under an Act of Parliament.

Participation
in politics

246. (1) A public officer shall not, while remaining a public officer, join or participate in partisan politics.

(2) 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 resigns from public service.

Retirement of public
officers

247. (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 who has retired from the public service shall not be re-engaged, except that an

officer who has special professional qualifications or has acquired special skills may be re-engaged on contract.

Pension, gratuity and retrenchment benefits for public officers

248. (1) The right of a public officer to a pension, gratuity or retrenchment benefits, to which the public officer is entitled under the terms and conditions of service or by or under an Act of Parliament, is hereby guaranteed.

(2) Any pension, gratuity or retrenchment benefits which a public officer is entitled to under the terms and conditions of service or 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, as an officer in the department of the Clerk of the National Assembly, member of the

Defence Force 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 Force 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 or retrenchment benefits, unless otherwise charged on a fund established by, or under an Act of Parliament, shall be a charge on the National Treasury Account.

(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, officers in the department of the Clerk of the National Assembly, members of the Defence Force and national security agencies or for the surviving spouses, children, dependants or personal representatives of those persons in respect of the service.

Pension to be reviewed

249. Pensions shall be reviewed upwards periodically to take into account changes in the value of money or a review of salaries.

Legislation on pension, gratuity and retrenchment benefits for public officers

250. (1) Parliament shall enact legislation to-
- (a) provide for pensions, gratuities and retrenchment benefits for service in the Public Service and for an efficient and effective system for the administration of pensions;
 - (b) specify the period, which period shall not exceed six months from the date of retirement or retrenchment, within which pension or retrenchment benefits shall be paid to a retired or retrenched public officer;
 - (c) provide for the retention on the pay roll, until payment of the pension or retrenchment benefits, of a public officer who is retired or retrenched but is not paid pension or retrenchment benefits; and
 - (d) specify what constitutes pension or retrenchment benefits for purposes of retaining a retired or retrenched public officer on the pay roll by virtue of this Article.
- (2) A public officer referred to under

paragraph (c) of clause (1) shall stop work on their last working day but shall be entitled to -

- (a) a salary and to any increment in salary given to public officers in the salary scale that the public officer was on at the date of retirement or retrenchment; and
- (b) a pension or retrenchment benefits based on the last salary received by the retired or retrenched public officer while on the pay roll by virtue of this Article.

(3) Any salary which is paid to a retired or retrenched public officer while on the pay roll by virtue of this Article shall not be deducted from that retired or retrenched public officer's pension or retrenchment benefits.

PART XV

INVESTIGATOR-GENERAL

Establishment of
office of
Investigator-General

251. (1) There is hereby established the office of the Investigator-General which shall have offices in all the provinces and progressively in the districts.

(2) The Investigator-General shall be appointed by the President on the advice of the Judicial Service Commission, subject to ratification by the National Assembly.

(3) Parliament shall enact legislation to provide for the functions, powers, procedures, staff, financial resources, financial management and operations of the office of the Investigator-General.

Qualification for
appointment and
conditions of service

252. (1) A person shall qualify to be appointed to the office of the Investigator-General 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 Investigator-General including the grounds and procedure for removal from office, shall be the same as apply to a Judge of a superior court.

(3) The Investigator-General shall not hold any other office of profit or emolument.

(4) Where the Investigator-General dies, resigns, is removed from office, is absent from Zambia or is for any other reason unable to perform the functions of office, the President shall, on the recommendation of the Judicial Service Commission, appoint a person who is qualified to be appointed as Investigator-General to act until the Investigator-General resumes office or another Investigator-General

is appointed.

Independence of
Investigator-General

253. In the performance of the functions of the Investigator-General, the Investigator-General and the staff of the office of the Investigator-General shall be subject only to this Constitution and any other law and shall not be subject to the direction or control of any person or authority.

Accountability

254. The Investigator-General shall report to the National Assembly and shall be accountable to the President.

PART XVI

DEFENCE AND NATIONAL SECURITY

Zambia Defence
Force

255. (1) There shall be an armed force to be known as the Zambia Defence Force.

(2) The Zambia Defence Force shall be non-partisan, national in character, patriotic, professional, disciplined, productive and subordinate to the civilian authorities as established under this Constitution.

(3) Members of the Zambia Defence Force shall be citizens of Zambia who do not have dual citizenship and are of good character.

(4) A person shall not raise an armed force except in accordance with this Constitution.

Functions of
Defence Force

256. The functions of the Zambia Defence Force shall be to-

- (a) preserve and defend the sovereignty and territorial integrity of Zambia;
- (b) co-operate with the civilian authorities in emergency situations and in case of natural disasters;
- (c) foster harmony and understanding between the Zambia Defence Force and civilians; and
- (d) engage in productive activities for the development of Zambia.

Legislation on
Defence Force

257. Parliament shall enact legislation to regulate the Zambia Defence Force and to provide for -

- (a) the organs and structures of the Zambia Defence Force;
- (b) the recruitment of persons into the Zambia Defence Force from every district of Zambia;
- (c) the terms and conditions of service of members of the Zambia Defence Force; and
- (d) the deployment of troops outside of Zambia.

Zambia Police
Service

258. (1) There shall be a police service to be known as the Zambia Police Service and such other police services as Parliament may by law prescribe.

(2) Subject to the other provisions of this Constitution, every police service in Zambia shall be organised and administered in such a manner and shall have such functions as Parliament may, by law, prescribe.

(3) The Zambia Police Service shall be nationalistic, patriotic, non-partisan, professional, disciplined, competent and productive and its members shall be citizens of Zambia who do not have dual citizenship and are of good character.

Functions of Zambia
Police Service

259. The functions of the Zambia Police Service shall include the following:

- (a) to protect life and property;
- (b) to preserve law and order;
- (c) to detect and prevent crime; and
- (d) to co-operate with the civilian authorities and other security organs established under this Constitution and with the population generally.

Legislation on
Zambia Police
Service

260. Parliament shall enact legislation to regulate the Zambia Police Service and to provide for-

- (a) the organs and structures of the Zambia Police Service;
- (b) the recruitment of persons into the Zambia Police Service from every

district of Zambia;

- (c) the terms and conditions of service of members of the Zambia Police Service; and
- (d) the regulation generally of the Zambia Police Service.

Prisons Service

261. (1) There shall be the Zambia Prisons Service.

(2) Members of the Zambia Prisons Service shall be citizens of Zambia who do not have dual citizenship and are of good character.

Legislation on
Zambia Prisons
Service

262. Parliament shall enact legislation to regulate the Zambia Prisons Service and to provide for-

- (a) the functions, organs and structures of the Zambia Prisons service;
- (b) the recruitment of persons to the Zambia Prisons Service from every district of Zambia;
- (c) the terms and conditions of service of members of the Zambia Prisons Service; and
- (d) the regulation generally of the Zambia Prisons Service.

Establishment of
Police and Prisons
Service Commission

263. (1) There is hereby established the Police and Prisons Service Commission.

(2) Parliament shall enact legislation to provide for the functions, powers, independence, composition, tenure of office, staff, procedures, operations, finances and financial management of the Police and Prisons Service Commission.

Zambia Security
Intelligence Service

264. (1) There shall be a Zambia Security Intelligence Service.

(2) Members of the Zambia Intelligence Service shall be citizens of Zambia who do not have dual citizenship and are of good character.

(3) Parliament shall enact legislation to regulate the Zambia Security Intelligence Service and to provide for-

- (a) the functions, organs and structures of the Zambia Security Intelligence Service;
- (b) the recruitment of persons into the Zambia Security Intelligence Service from every district of Zambia;
- (c) the terms and conditions of service of members of the Zambia Security Intelligence Service; and
- (d) the regulation generally of the Zambia Security Intelligence Service.

PART XVII
PUBLIC FINANCE AND BUDGET

Imposition of tax

265. (1) Subject to the provisions of this Article, taxation shall not be imposed or altered except by or under an Act of Parliament.

(2) Except as provided by clauses (3) and (4), Parliament shall not confer upon any other person or authority power to impose or to alter, otherwise than by reduction, any taxation.

(3) Parliament may make provisions under which the President, the Vice-President or a Minister may by order, provide that, on or after the publication of a Bill being a Bill approved by the President that it is proposed to introduce into the National Assembly and providing for the imposition or alteration of taxation, such provisions of the Bill as may be specified in the order shall, have the force of law for such period and subject to such conditions as may be prescribed by Parliament:

Provided that any such order shall, unless sooner revoked, cease to have effect -

- (a) if the Bill to which it relates is not passed within such period from the date of its first reading in the National Assembly as may be prescribed by Parliament;
- (b) if, after the introduction of the Bill to which it relates, Parliament is

prorogued or the National Assembly is dissolved;

- (c) if, after the passage of the Bill to which it relates, the President refuses to assent to it; or
- (d) at the expiration of a period of three months from the date on which it came into operation or such longer period from that date as may be specified in any resolution passed by the National Assembly after the Bill to which it relates has been introduced.

(4) Parliament may confer upon any authority established by law for the purposes of local government power to impose taxation within the area for which that authority is established and to alter taxation so imposed.

(5) Where the Appropriation Act in respect of a financial year has not come into force at the expiration of six months from the commencement of that financial year, the operation of any law relating to the collection or recovery of any tax upon any income or profits or any duty, customs or excise shall be suspended until that Act comes into force:

Provided that -

- (a) in any financial year in which the National Assembly stands dissolved

at the commencement of that year, the period of six months shall begin from the day upon which the National Assembly first sits following that dissolution instead of from the commencement of the financial year; and

- (b) the provisions of this clause shall not apply in any financial year in which the National Assembly is dissolved after the laying of estimates in accordance with Article 269 and before the appropriation by Parliament.

National Treasury
Account

266. (1) There shall be a National Treasury Account for the Republic which shall be held at the Central Bank.

(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 National Treasury Account.

(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 account operated 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
National Treasury
Account

267. (1) Moneys shall not be expended from the general revenues in the National Treasury Account of the Republic unless -

- (a) the expenditure is authorised by a warrant under the hand of the President;
- (b) the expenditure is charged by this Constitution or any other law on the general revenues of the Republic; or
- (c) the expenditure is of moneys received by a department of Government and is made under the provisions of any law which authorises that department to retain and expend those moneys for defraying the expenses of the department.

(2) A warrant shall not be issued by the President authorising expenditure from the general revenues of the Republic unless -

- (a) the expenditure is authorised by an Appropriation Act or a Supplementary Appropriation Act;
- (b) the expenditure is necessary to carry on the services of the Government in respect of any period, not exceeding three months, beginning at the commencement of a financial year during which the Appropriation Act for that financial year is not in force;
- (c) the expenditure has been proposed in a supplementary estimate approved by the National Assembly and is authorised in a Supplementary Appropriation Act;
- (d) provision does not exist for the expenditure and the President considers that there is such an urgent need to incur the expenditure that it would not be in the public interest to delay the authorisation of the expenditure until such time as a supplementary estimate can be laid before and approved by the National Assembly; or
- (e) the expenditure is incurred on capital projects continuing from the previous financial year and is so incurred before the commencement

of the Appropriation Act for the current financial year.

(3) Moneys withdrawn in any financial year from the National Treasury Account under paragraph (b) of clause (2) in respect of any service of the Republic

(a) shall not exceed twenty-five per cent of the amount shown as required in respect of that service in the budget estimates 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.

(4) The President shall, immediately after signing any warrant authorising expenditure from the general revenues of the Republic, cause a copy of the warrant to be transmitted to the Auditor-General.

(5) The issue of warrants under paragraph (d) of clause (2), the investment of moneys forming part of the general revenues of the Republic and the making of advances from such revenues shall be subject to such limitations and conditions as Parliament may prescribe.

(6) For purposes of this Article, the investment of moneys forming part of the general revenues of the

Republic or the making of recoverable advances there from shall not be regarded as expenditure, and the expression "investment of moneys" means investment in readily marketable securities and deposits with a financial institution approved by the Minister responsible for finance.

Compensation Fund

268. (1) There is hereby established the Compensation Fund for purposes of paying claims against the State.

(2) Moneys shall not be withdrawn from the Compensation Fund unless the withdrawal is authorised under an Act of Parliament.

(3) Parliament shall enact legislation to provide for-

- (a) the operation of the Compensation Fund;
- (b) the control and management of the Compensation Fund; and
- (c) any other matter necessary for the efficient and effective operation of the Compensation Fund.

Annual financial estimates

269. (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 revenue 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 swearing in of the President, estimates of revenue 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 revenue and expenditure for the following financial year to the Minister responsible for finance.

(4) In the preparation of estimates of revenue and expenditure under clause (1) or (2), the input of the people in the wards, constituencies or districts and provinces shall be sought.

(5) The estimates of revenue and expenditure prepared under clause (1) or (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 shall 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 revenue 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 revenue and expenditure, seek public opinion on the estimates and expenditure and shall take these into consideration in its recommendations to the National Assembly.

(9) The National Assembly may amend, but shall not vary, the total estimates of revenue and expenditure and shall, in any case, subject to clause (2), approve the budget not later than the thirty-first day of December.

Legislation on
budgeting and
planning

270. Parliament shall enact legislation which shall provide for matters that relate to the annual budget and to medium and long-term development plans 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 in the formulation of medium and long-term development plans and the preparation of the annual budget of -
 - (i) State organs and State institutions; and
 - (ii) the people at the ward, constituency, district and provincial levels ensuring representation of both gender; and
- (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.

271. (1) When the estimates of the expenditure have been approved by the National Assembly, the heads of the estimates together with the amount approved in respect of each head shall be included in an Appropriation Bill which shall be introduced in the National Assembly to provide for the payment of those amounts, for the purposes specified, out of the general revenues of the Republic.

(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 and the sources of the revenue to cover the amount shall be laid before the National Assembly for approval by the Minister responsible for finance:

Provided that subject to paragraph (d) of clause (2) of Article 267, no supplementary expenditure shall be incurred before the approval of the supplementary estimate by the National Assembly.

(3) Where in a financial year expenditure has been authorised by a warrant issued by the President under paragraph (d) of clause (2) of Article 267, the Minister responsible for finance shall cause supplementary estimates relating to that expenditure

to be laid before the National Assembly for its approval before the expiration of a period of four months from the issue of the warrant or, if the National Assembly is not sitting at the expiration of that period, at the first sitting of the National Assembly therefor.

(4) Where a supplementary estimate is approved under clause (2), a Supplementary Appropriation Bill showing the estimates approved shall immediately be laid before the National Assembly for approval.

(5) Subject to this Constitution, the Minister responsible for finance shall release the appropriated funds on a quarterly basis and on time, to the institutions and bodies entitled to the appropriations.

Grants, donations,
etc.

272. The Minister responsible for finance shall cause to be valued all donations, gifts and aid-in-kind received in any financial year on behalf of the Republic, from any source within or outside the Republic, and shall include that value in the financial report prepared and laid before the National Assembly for that financial year under Article 276.

Borrowing and
lending by
Government

273. (1) Subject to this Article, the Minister responsible for finance may borrow from any source, on behalf of the Republic:

Provided that the Minister responsible for finance shall not, in any financial year, borrow beyond the aggregate debt stock, including interest and fees on the debt, approved by the National Assembly for that year.

(2) The Minister responsible for finance shall not borrow, guarantee or raise a loan on behalf of 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 National Treasury Account or into some other public fund which exists or is created for the purposes of the loan.

(4) The Minister responsible for finance shall, at such times as the National Assembly may

determine, present 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, authorise the Minister responsible for finance to enter into an agreement for the giving of a loan or grant out of the National Treasury Account or any other public fund or account.

(6) An agreement entered into under clause (5) shall be laid before the National Assembly by the Minister responsible for finance and shall not come into force unless it has been approved by a resolution of a simple majority, 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 Minister responsible for finance on condition of return or repayment and any other form of borrowing or lending in respect of which moneys from the National Treasury Account or any other public fund or account may be used for payment or repayment.

Management of public debt

274. (1) The public debt of Zambia shall be a charge on the National Treasury Account and any other public fund.

(2) The Minister responsible for finance shall report all borrowing by any State institution or authority in value, annually, to the National Assembly.

(3) The Minister responsible for finance shall manage the public debt of Zambia.

(4) Parliament shall enact legislation to provide for the management of public debt.

(5) 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.

Remuneration of certain officers and expenses of office

275. (1) There shall be paid to the holders of the offices to which this Article applies such salary and such allowances as may be prescribed by or under an Act of Parliament.

(2) The salary payable to the holder of any office to which this Article applies and the terms of office shall not be altered to the person's disadvantage after the person's appointment.

(3) Where a person's salary or terms of office depend upon the person's option, the salary or terms for which the person opts shall, for the purposes of

clause (2), be deemed to be more advantageous to the person than any others for which the person might have opted.

(4) This Article applies to the offices established by this Constitution and to such other offices as may be prescribed by or under an Act of Parliament.

(5) The expenses, including emoluments, of any public office constituted under this Constitution or by or under an Act of Parliament shall be a charge on the National Treasury Account.

Financial report of
Government

276. (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 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 National Treasury Account or other public fund;

- (c) the payments made in the financial year otherwise than for the purposes of expenditure;
- (d) debt repayments;
- (e) gifts, donations and aid-in-kind received on behalf of the Republic in that financial year and how they were disposed of;
- (f) loans and grants given out by the Government under Article 273;
- (g) the financial position of the Republic at the end of that financial year; and
- (h) any other information as specified under the Planning and 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 in accordance with international auditing standards.

(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

277. Parliament shall enact legislation to -

- (a) regulate the manner in which State assets shall be sold, disposed of or otherwise dealt with;
- (b) provide for the role of Parliament in the processes referred to under paragraph (a); and
- (c) provide for the effective management of State assets.

Auditor-General

278. (1) There shall be an Auditor-General for the Republic whose office shall be a public office and who shall be appointed by the President, subject to ratification by the National Assembly.

(2) Subject to the provisions of this Article, the Auditor-General shall retire from office on the attainment of sixty years of age.

(3) A person holding the office of Auditor-General may be removed from office only for inability to perform the functions of the office, whether arising from infirmity of body or mind, or for incompetence or for misbehaviour and shall not be so removed except in accordance with the provisions of this Article.

(4) If the National Assembly resolves that the question of removing a person holding the office of Auditor-General from office under this Article ought

to be investigated, then-

- (a) the National Assembly shall, by resolution appoint a tribunal which shall consist of a Chairperson and not less than two other members, who hold or have held high judicial office;
- (b) the tribunal shall inquire into the matter and report on the facts thereof to the National Assembly; and
- (c) the National Assembly shall consider the report of the tribunal at the first convenient sitting of the National Assembly after it is received and may, upon such consideration, by resolution, remove the Auditor-General from office.

(5) If the question of removing a person holding the office of Auditor-General from office has been referred to a tribunal under this Article, the National Assembly may, by resolution, suspend that person from performing the functions of the office, and any such suspension may at any time be revoked by the National Assembly by resolution and shall in any case cease to have effect if, upon consideration of the report of the tribunal in accordance with the

provisions of this Article, the National Assembly does not remove the Auditor-General from office.

(6) A person who holds or has held the office of Auditor-General shall not be appointed to hold or to act in any other public office.

(7) A person who holds the office of Auditor-General may resign upon giving three months notice to the President.

Functions of
Auditor-General

279. (1) The Auditor-General shall-
- (a) ensure that the provisions of this Part are being complied with;
 - (b) ensure that the moneys expended have been applied to the purposes for which they were appropriated by the Appropriation Act or by the Supplementary Appropriation Act, in accordance with the approved estimates or supplementary estimates, as the case may be, and that the expenditure conforms to the authority that governs it;
 - (c) audit the accounts relating to the moneys from the general revenues of the Republic appropriated by Parliament to the National Assembly and the Judiciary and the expenditure of such moneys by

those institutions;

(d) audit the accounts relating to the stocks and stores of the Government and the accounts of such other bodies as may be prescribed by or under any law; and

(e) audit the accounts relating to any expenditure charged by this Constitution or any other law on the general revenues of the Republic and submit a report thereon to the President not later than nine months after the end of each financial year.

(2) The Auditor-General and any officer authorised by the Auditor-General shall have access to all books, records, reports and other documents relating to any of the accounts referred to in clause (1) and which are relevant to an audit.

(3) The Auditor-General shall, not later than nine months after the end of each financial year, submit a report on the accounts referred to in paragraph (c) of clause (1) in respect of that financial year to the President who shall, not later than seven days after the first sitting of the National Assembly next after the receipt of such report, cause it to be laid before the National Assembly.

(4) If the President defaults in laying the report before the National Assembly, the Auditor-General shall submit the report to the Speaker of the National Assembly or, if the office of the Speaker is vacant or if the Speaker is for any reason unable to perform the functions of the office, to the Deputy Speaker, who shall cause it to be laid before 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 including referring any cases of malpractice or financial impropriety to any public institution which is competent in the matter for necessary action.

(6) The Auditor-General shall perform such other duties and exercise such other powers in relation to all accounts of the Government or the accounts of other public authorities or other bodies as may be prescribed by or under an Act of Parliament.

(7) The President, the National Assembly or any citizen may, at any time, in the public interest, request the Auditor-General to audit the accounts of 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 Minister responsible for

finance.

Independence of
Auditor-General

280. 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

281. (1) The office of Auditor-General shall be funded to enable the office to effectively carry out its mandate.

(2) The expenses of the office of the Auditor-General shall be a charge on the National Treasury Account.

Reference by Auditor-
General

282. The Auditor-General shall refer any case of malpractice or financial impropriety to any public institution which is competent in the matter for action.

PART XVIII CENTRAL BANK

Central Bank

283. (1) There is hereby established the Central Bank of Zambia.

(2) The Central Bank of Zambia shall be called the Bank of Zambia and shall be 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.

Independence of
Central Bank

284. (1) Subject to clause (2), in the performance of the functions of the Central Bank, the Governor, the Board of 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.

(2) The Minister responsible for finance may give policy direction to the Central Bank on any matter.

Governor of Central
Bank

285. There shall be a Governor of the Central Bank who shall -

- (a) be a citizen by birth or descent;
- (b) be a person of proven integrity;
- (c) be 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; and
- (d) hold such other qualifications as may be specified by or under an Act of Parliament.

Legislation on Central
Bank

286. Parliament shall enact legislation to
provide for-

- (a) the functions of the Bank, its operations and management;
- (b) the removal from office of the Governor;
- (c) the appointment, qualifications, tenure of office and other terms and conditions of service of the Board of Directors, other than the Governor; and
- (d) other matters necessary for the effective performance of the functions of the Bank.

PART XIX

LAND AND PROPERTY

Basis of land policy

287. The land policy of Zambia shall ensure -

- (a) equitable access to land and associated resources;
- (b) equitable access to and ownership of land;
- (c) security of land rights and recognition of indigenous cultural rights;
- (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 lake shores are not leased, fenced or sold.

Classification of land

288. 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

289. (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 in respect of which no heir can,

by ordinary legal process, be identified;

- (e) any land not classified as customary land under this Constitution; and
- (f) 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

290. (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 a tribal 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

291. (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) of Article 290, the President may, through the Commissioner of Lands, chiefs or local authorities, alienate land to citizens or non-citizens as provided by this Constitution and by or under an Act of Parliament.

(4) Subject to clause (3) of Article 290, land situated in a district shall be administered by the local authority in that district.

Land tenure

292. (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.

Minerals and petroleum

293. (1) All rights of ownership in, searching for, mining and disposing of, minerals and petroleum, wheresoever located in Zambia, are hereby vested in the President in trust for, and on behalf of, the people of Zambia.

(2) The provisions of this Article have effect notwithstanding any right, title or interest which any person may possess in any water body or over the soil in, on or under, which minerals and petroleum are found.

(3) A person holding land which is the subject of a mining right shall take equity in the mining which is the subject of the right in lieu of compensation.

(4) Subject to this Article, Parliament shall enact legislation regulating -

- (a) the exploitation of minerals and petroleum;
- (b) the equitable sharing of royalties

arising from mineral and petroleum exploitation;

(c) the conditions for payment of indemnities arising out of exploitation of minerals and petroleum; and

(d) the conditions regarding the restoration of derelict lands.

(5) Minerals, mineral ores and petroleum shall be exploited taking into account the interest of the individual landowners, local communities and the Government.

Regulation of land use
and development of
property

294. (1) Subject to Article 63, 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

295. (1) There shall be a Commissioner of Lands whose office is a public office and who shall be appointed by the President, subject to ratification by the National Assembly.

(2) The Commissioner of Lands shall -

- (a) administer, manage and alienate land on behalf of the President; and
- (b) perform any other function provided by or under an Act of Parliament.

(3) The term of office of the Commissioner of Lands shall be as specified by an Act of Parliament.

Legislation on land

296. 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;
- (g) prescribe minimum and maximum

- extent of land holding;
- (h) address imbalances in the alienation of land;
- (i) provide for a periodic audit of land holding and tenure; and
- (j) provide for security of tenure for customary land, which shall be issued by a chief.

PART XX

ENVIRONMENT AND NATURAL RESOURCES

Basis of environment
and natural resources
policy

297. The environment and natural resources policy of Zambia shall provide that the management and development of Zambia's environment and natural resources shall ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources for the present and future generations.

Protection of
environment

298. 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

299. In the utilisation and management of the environment the State shall -

- (a) protect genetic resources and biological diversity;
- (b) discourage waste and encourage recycling and carbon trading;
- (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.

Legislation on environment and natural resources

300. Parliament shall enact legislation to -

- (a) provide for the utilisation and management of a natural resource by a local authority in the area where the natural resource is located;
- (b) regulate sustainable exploitation, utilisation, management of natural resources and equitable sharing of benefits accruing from natural resources;
- (c) regulate the origin, quality, methods of production, harvesting and processing of natural resources; and
- (d) protect the intellectual property rights and indigenous knowledge of local communities in biodiversity and access to genetic resources.

Agreements relating to natural resources

301. 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:

Provided that -

- (a) where the right or concession is in respect of a renewable natural resource, the holder of the right or concession shall replenish the natural resource that is exploited; and
- (b) there is equitable sharing of the royalties paid in respect of the exploitation of the natural resource.

PART XXI

REVIEW, ADOPTION AND AMENDMENT

OF CONSTITUTION

Review and adoption of
Constitution

302. (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 in accordance with an Act of Parliament.

(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) 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 in this Constitution.

Amendment by
referendum

303. (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) Articles 4 and 5;
- (b) the Bill of Rights, Part VI, except Articles 64 to 70 inclusive;
- (c) Article 113 (1) and (2) on the tenure of office of the President of Zambia;
- (d) the institution of Chieftaincy, Article 225 (1); and
- (e) the review, adoption and amendment of the Constitution, Part XXI.

(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 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, the majority of all the persons registered as voters vote in favour of the Bill, the National Assembly shall proceed to pass the Bill.

Amendment without
referendum

304. (1) A Bill to amend a provision of the Constitution, other than a Bill specified in Article 303, shall be in accordance with this Article.

(2) A Bill referred to in clause (1), shall be published in the Gazette and shall be laid before the National Assembly one month after the date of its publication.

(3) A Bill referred to in 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 not less than two-thirds of all the members of the National Assembly.

Certificate of
compliance

305. 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 GENERAL PROVISIONS

Legal aid

306. (1) For the purposes of enforcing any provision of this Constitution, a person may be granted legal aid in accordance with an Act of Parliament, 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

307. (1) If there is a conflict between different language versions of this Constitution the English language version shall prevail.

(2) In this Constitution -

(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 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 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 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) 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.

(11) 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-enacts, with or without amendment or modification, or makes different provision in lieu of that other law.

(12) Where any Act passed after the commencement of this Constitution, repeals any provision thereof then, unless the contrary intention appears, the repeal shall not -

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of any provision so repealed or anything duly done or suffered under any provision so repealed;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any provision so repealed;
- (d) affect any penalty, forfeiture or confiscation or punishment incurred under the provision so repealed; 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 repealing Act had not been passed.

(13) Where this Constitution confers any power or imposes any duty, the power may be exercised and the duty shall be performed as occasion requires.

(14) Where by an Act which amends, repeals or 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
- (c) 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.

(15) Parliament shall enact legislation to provide for the computation of time for purposes of this

Constitution.

(16) 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

308. In this Constitution, unless the context otherwise requires -

“Act of Parliament” means a law enacted by Parliament;

“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;

“Article” means an Article of this Constitution;

“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 a permanent physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder the person’s full and effective participation in society on an equal basis with others;

“election period” means the period which begins on the day nominations are filed and ends on the day of announcement of election results;

“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;

“executive functions” means the functions of the President set out in this Constitution;

“financial year” means the period of twelve months ending on the 31st December in any year or on such other day as may be prescribed by or under an Act of Parliament:

Provided that by an Act of Parliament prescribing a day other than the 31st December as the terminal day of the financial year, the period of twelve months may be

extended or reduced for any one financial year for the purposes of effecting such prescribed change;

“First Deputy Speaker” means the person elected First Deputy Speaker under Article 153(4);

“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;

“Investigator-General” means the Investigator-General whose office is established under this Constitution;

“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 magistrate and a senior employee of the Judicial Service;

“laws” means the Laws of Zambia;

“Local Government Election Tribunal” means an ad hoc Local Government Election Tribunal

constituted by this Constitution;

“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 party 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;

“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 unincorporate;

“person with disabilities” means a person who has a permanent physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder that person’s full and effective participation in society on an equal basis with others;

“political party” means an association or organisation whose members are citizens and whose objectives include the contesting of elections in order to form government or influence the policy of the National or local government;

“power” includes privilege, authority and discretion;

“public fund” includes moneys donated to non-governmental organisations;

“public office” includes an office the emoluments of which are a charge on, or paid out of, the National Treasury Account, other public fund or out of moneys appropriated by Parliament;

“public officer” means a person holding or acting in a public office, commission or a statutory body in which the government has a controlling interest;

“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;

“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 152 (4) (b);

“session” means the sitting of the National Assembly beginning when it first sits after the coming into operation of this Constitution or after Parliament is prorogued or dissolved at any time and ending when Parliament is prorogued or is dissolved without having been prorogued;

“sitting” means a period during which the National Assembly is sitting without adjournment

and includes any period during which it is in committee;

“State organ” means the Executive, Legislature or Judiciary;

“Speaker and Deputy Speaker of National Assembly” means the persons elected Speaker and Deputy Speaker of the National Assembly under Article 152 (1) and (4) respectively;

“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, the High Court and the Industrial Relations 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.

SCHEDULE

(Article 4)

MAP OF ZAMBIA

