

**CONSTITUTION OF THE THIRD REPUBLIC OF GHANA
(PROMULGATION) DECREE, 1979**

(2) The said Constitution shall have the force of law.

Commence-
ment of
Constitution.

2. The Constitution shall come into force on the 24th day of September, 1979.

Printing of
Constitution.

3. Whenever it becomes necessary for the Constitution to be printed the Government Printer may omit all parts of this Decree and the Constitution as so printed shall, subject to the provisions of sections 1 and 2 of this Decree have the force of law notwithstanding the omission.

Constituent
Assembly
dissolved.

4. The Constituent Assembly is hereby dissolved and accordingly the following enactments are hereby repealed—

the Constituent Assembly Decree, 1978 (S.M.C.D. 203),

the Constituent Assembly (Amendment) (No. 2) Decree, 1978 (S.M.C.D. 207),

the Constituent Assembly (Commencement of Proceedings) Proclamation, 1978 (S.M.C.D. 209), and

the Constituent Assembly (Amendment) Decree, 1979 (S.M.C.D. 220).

Decree to
replace
A.F.R.C.D.
8.

5. The provisions of this Decree shall replace all the provisions of the Constitution of the third Republic of Ghana (Promulgation) Decree, 1979 (A.F.R.C.D. 8) and accordingly, the said Constitution of the Third Republic of Ghana (Promulgation) Decree, 1979 (A.F.R.C.D. 8) shall cease to have effect.

SCHEDULE

THE CONSTITUTION OF THE REPUBLIC OF GHANA, 1979

CONSTITUTION OF THE THIRD REPUBLIC OF GHANA (PROMULGATION) DECREE, 1979

WHEREAS by the Constituent Assembly Decree, 1978 (S.M.C.D. 203) as subsequently amended a Constituent Assembly was established and section 2 of the said Decree prescribed the functions of the said Assembly as follows:—

“Functions
of Consti-
tuent Assem-
bly.

2. The Constituent Assembly—

- (a) shall have full power to deliberate upon the Constitution for the Establishment of a Transitional (Interim) National Government for Ghana drawn up by the Constitutional Commission;
- (b) may make such amendments in the said draft Constitution as may appear to it necessary in the national interest;
- (c) shall submit to the Supreme Military Council not later than the 16th day of April, 1979 a Constitution for the administration of Ghana;
- (d) shall submit by the date specified in paragraph (c) of this section or such later date as the Supreme Military Council may allow, a report of all changes made by the Constituent Assembly in the draft Constitution drawn up by the Constitutional Commission giving where possible reasons for the changes.”

AND WHEREAS the Constituent Assembly after completion of their functions under the said Decree submitted to the Supreme Military Council a Constitution for the administration of Ghana;

AND WHEREAS on the 4th day of June, 1979 the Government of the Supreme Military Council was overthrown and the Armed Forces Revolutionary Council was established as the Government of Ghana;

AND WHEREAS the Armed Forces Revolutionary Council considers it expedient to promulgate the Constitution submitted by the Constituent Assembly subject to such changes as it deems necessary in the public interest;

NOW, THEREFORE, BE IT ENACTED by the Armed Forces Revolutionary Council as follows—

1. (1) The Constitution set out in the Schedule to this Decree shall be the Constitution by which Ghana shall be governed.

Enactment of
Constitution
for Ghana.



REPUBLIC OF GHANA

CONSTITUTION
OF THE
REPUBLIC
OF
GHANA

1979

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THE CONSTITUTION OF THE REPUBLIC OF GHANA

IN THE NAME OF THE ALMIGHTY GOD

W*E the People of Ghana,*

IN EXERCISE of our natural and inalienable right to establish a framework of government which shall secure for ourselves and our posterity the blessings of liberty and prosperity,

IN A SPIRIT of friendship and peace with all peoples of the world,

AND IN SOLEMN declaration and affirmation of our Faith in

Freedom and Justice

The Principle that all powers of Government spring from the Sovereign Will of the People

The Principle of Universal Adult Suffrage, without
any distinction whatsoever

The Rule of Law

The protection and preservation of Fundamental
Human Rights, Unity and Stability for our Nation

**DO HEREBY ADOPT, ENACT AND GIVE TO OUR-
SELVES THIS CONSTITUTION.**

The Constitution

CHAPTER ONE

THE CONSTITUTION

1. (1) The sovereignty of Ghana resides in the people of Ghana in whose name and for whose welfare the powers of government are to be exercised in the manner and within the limits laid down in this Constitution.

SUPREMACY
OF THE
CONSTITUTION.

(2) This Constitution shall be the supreme law of Ghana and any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void and of no effect.

(3) All citizens of Ghana shall have the right to resist any person or persons seeking to abolish the constitutional order as established by this Constitution should no other remedy be possible.

2. (1) A person who alleges—

(a) that an enactment or anything contained in or done under the authority of that or any other enactment, or

ENFORCE-
MENT OF THE
CONSTITUTION.

(b) that any act or omission of any person,

is inconsistent with, or is in contravention of, a provision of this Constitution, may at any time bring an action in the Supreme Court for a declaration to that effect.

(2) The Supreme Court shall, for the purposes of a declaration under clause (1) of this article make such orders and give such directions as it may consider appropriate for giving effect to, or enabling effect to be given to, the declaration so made.

(3) Any person to whom an order or direction is addressed under clause (2) of this article by the Supreme Court shall duly obey and carry out the terms of the order or direction.

(4) Failure to obey or carry out the terms of an order or direction made or given under clause (2) of this article shall constitute a high crime under this Constitution.

The Constitution

(5) For a high crime under clause (4) of this article, any such person upon conviction,

- (a) shall be liable to imprisonment for a term not exceeding ten years; and
- (b) shall not be eligible for election, or for appointment, to any public office for a period of ten years beginning from the date of the expiration of the term of imprisonment.

DEFENCE OF
THE CONSTI-
TUTION.

3. (1) Parliament shall have no power to enact a law establishing a one-party state.

(2) Any activity of a person, persons or group of persons which suppresses or seeks to suppress the lawful political activity of any other person or persons generally or any class of persons shall be an unlawful act.

(3) Where any activity is found to be unlawful under clause (2) of this article, the Supreme Court shall, for the first offence,

- (a) grant an injunction against the person, persons or group of persons, as the case may be, from carrying on any further the activity complained of; and
- (b) bind the person, persons or group of persons, as the case may be, over to be of good behaviour for a period of five years;

and for a second or subsequent offence, any such person, persons or group of persons shall be liable to imprisonment for a term not exceeding ten years and in addition any person so convicted shall not be eligible for election to Parliament or for election to a local government council or be eligible for appointment to any public office for a period of ten years beginning from the date of the expiration of the term of imprisonment.

The Constitution

CHAPTER TWO

THE LAWS OF GHANA

THE LAWS
OF GHANA.

4. (1) The laws of Ghana shall comprise,

- (a) this Constitution;
- (b) enactments made by or under the authority of the Parliament established by this Constitution;
- (c) any Orders, Rules and Regulations made by any person or authority pursuant to a power conferred in that behalf by this Constitution;
- (d) the existing law; and
- (e) the common law.

(2) The common law of Ghana shall comprise the rules of law generally known as the common law, the rules generally known as the doctrines of equity and the rules of customary law including those determined by the Superior Court of Judicature.

(3) For the purposes of this article, the expression "customary law" means the rules of law which by custom are applicable to particular communities in Ghana.

(4) The existing law shall, except as otherwise provided in clause (1) of this article, comprise the written and unwritten laws of Ghana as they existed immediately before the coming into force of this Constitution, and any Act, Decree or statutory instrument issued or made before that date, which is to come into force on or after that date.

(5) Subject to the provisions of this article, the operation of the existing law after the coming into force of this Constitution shall not be affected by such commencement.

(6) For the purposes of clause (5) of this article, the existing law shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the provisions of this Constitution, or otherwise to give effect to, or enable effect to be given to, any changes effected by this Constitution.

The Constitution

(7) Any Orders, Rules or Regulations made by any person or authority under a power conferred in that behalf by this Constitution or any other law,

- (a) shall be laid before Parliament;
- (b) shall be published in the *Gazette* on the day they are so laid before Parliament; and
- (c) shall come into force at the expiration of a period of twenty-one sitting days of being so laid unless Parliament before the expiration of that period of twenty-one days, annuls any such Orders, Rules or Regulations by the votes of not less than two-thirds of all the members of Parliament.

The Constitution

CHAPTER THREE

THE TERRITORIES OF GHANA

5. (1) The sovereign state of Ghana is a unitary republic consisting of those territories comprised in the Regions which, immediately before the coming into force of this Constitution, existed in Ghana including the territorial waters and the air space. TERRITORIES
OF GHANA.

(2) Parliament may provide by law for the delimitation of the territorial waters, the contiguous zone and the exclusive economic maritime zone of Ghana.

(3) Whenever on a petition presented in that behalf the President and the Council of State are satisfied that there is a substantial demand for,

- (a) the creation of an additional Region, or
- (b) the alteration of the boundaries of a Region, whether or not the alteration involves the creation of a new Region, or
- (c) the merger of any two or more Regions,

the President shall, acting in accordance with the advice of the Council of State, appoint a commission of inquiry to inquire into the demand and to make recommendations on all the factors involved in any such creation, alteration or merger.

(4) Whenever a commission of inquiry appointed under clause (3) of this article is satisfied that there is the need and a substantial demand for the creation, alteration or merger as is referred to in that clause, it shall recommend to the President that a referendum shall be held specifying the issues to be determined by the referendum and the places where the referendum should be held.

(5) The President shall refer the recommendations to the Electoral Commission, and the referendum shall be conducted in such manner as the Electoral Commission may prescribe.

The Constitution

(6) At a referendum held pursuant to clause (4) of this article no results shall be declared by the Electoral Commission in respect of any issue for determination by the referendum unless fifty *per centum* or more of the persons entitled to vote cast their votes and of those who voted eighty *per centum* or more cast their votes in favour of, or against, any of the issues to be determined by the referendum.

(7) Where a referendum involves the merger of two or more Regions, no results shall be declared by the Electoral Commission unless sixty *per centum* or more of the persons entitled to vote at the referendum in each such Region voted in favour of, or against, the merger of the two or more Regions; and accordingly the provisions of clause (6) of this article shall not apply to any such referendum.

(8) The President shall, acting in accordance with the results of the referendum held pursuant to clauses (4) and (5) of this article, issue a constitutional instrument giving effect, or enabling effect to be given, to any such results.

The Constitution

CHAPTER FOUR

DIRECTIVE PRINCIPLES OF STATE POLICY

6. (1) It shall be the duty and responsibility of all Government organs, authorities and persons exercising legislative, executive or judicial powers to conform to, observe and apply the provisions of this Chapter of this Constitution.

IMPLEMENTATION OF PROVISIONS.

(2) The Government shall report to Parliament at least once a year all the steps it has taken to ensure the realization of the policy objectives contained in this Chapter, and in particular the realization of a healthy economy, the right to work, the right to good health care and the right to education.

7. (1) The Government shall actively encourage national integration without discrimination on the grounds of place of origin, ethnic origin, sex or religion; and accordingly Parliament shall enact such laws as will,

NATIONAL INTEGRATION AND UNITY.

(a) foster a feeling of belonging and of involvement among the various peoples of Ghana, to the end that loyalty to Ghana shall override sectional, ethnic or other loyalties;

(b) provide adequate facilities for, and encourage, free mobility of people, goods and services throughout Ghana; and

(c) decentralize the administrative machinery to the Regions and districts in order to permit, to the extent consistent with sound and effective administration and control, the transaction of Government business at the regional and district levels.

(2) The Government shall take all steps to eradicate all corrupt practices and the abuse of power.

8. (1) The Government shall, within the context of the ideals and objectives for which provision is made in this Constitution, endeavour to manage the national economy in such a manner as to secure the maximum welfare, freedom and happiness of every citizen of Ghana on the basis of social justice and equality of opportunity.

OBJECTIVES OF ECONOMIC POLICY.

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(2) For the purposes of clause (1) of this article the Government shall present to Parliament within eighteen months after assuming office a programme which shall ensure the promotion of planned and balanced economic development including planned and co-ordinated agricultural and industrial programmes at all levels and in all the Regions of Ghana.

OBJECTIVES OF SOCIAL POLICY.

9. (1) In furtherance of the social order founded on the ideals and principles of freedom, equality and justice as enshrined in Chapter Six of this Constitution, the Government shall ensure by legislation—

- (a) that every citizen shall have equality of rights, obligations and opportunities before the law;
 - (b) that the sanctity of the human person and human dignity is recognised, maintained and enhanced;
 - (c) that human exploitation in whatever form is prevented; and
 - (d) that the independence, impartiality, integrity and easy accessibility of the courts of law are secured and maintained.
- (2) Parliament shall enact such laws as will ensure,
- (a) that all citizens, without discrimination on any ground have the opportunity for securing adequate means of livelihood as well as adequate opportunities to secure suitable employment;
 - (b) that provision is made for public assistance for those in need and the conditions under which such assistance may be given;
 - (c) that conditions of work are just and humane, and that there are adequate facilities for leisure and for social and cultural life;
 - (d) that the health, safety and welfare of all persons in employment shall be safeguarded and not endangered or abused;
 - (e) that there are adequate medical and health facilities for all persons and measures to improve the environment;

The Constitution.

- (f) that there is equal pay for equal work without discrimination on account of sex;
- (g) that children, young persons, the aged, the infirm and the handicapped are protected against exploitation and against moral and material neglect;
- (h) that traditional cultural values are adapted and developed as an integral part of the growing needs of the society as a whole;
- (i) that adequate retiring awards are provided for all public servants;
- (j) that contributory schemes are instituted and maintained that will provide economic security for self-employed and other citizens of Ghana; and
- (k) the establishment and maintenance of a scheme that will provide unemployment benefits and adequate old age pensions for all citizens of Ghana.

(3) For the purposes of clauses (1) and (2) of this article, the expression "exploitation" includes the unfair utilization of the resources, performance or achievement of a person for the benefit of some other person.

10. (1) The Government shall endeavour to provide equal and adequate educational opportunities in all fields and at all levels for the people of Ghana.

OBJECTIVES OF
EDUCATIONAL
POLICY.

(2) The Government shall within two years after the coming into force of this Constitution draw up a programme for implementation within the following ten years for free, compulsory and universal primary education.

(3) The Government shall, subject to the availability of resources provide,

- (a) free and equal access to secondary and other appropriate pre-university education;
- (b) free and equal access to university or equivalent education;
- (c) free adult literacy programme;
- (d) life-long education; and
- (e) free vocational training, rehabilitation and resettlement of disabled persons.

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INTERNA-
TIONAL
RELATIONS.

11. The Government shall conduct its international affairs in consonance with the principles enshrined in the Charter of the United Nations, and the Charter of the Organisation of African Unity, in a manner consistent with the national interests of Ghana.

The Constitution

CHAPTER FIVE

CITIZENSHIP

12. Every person who, on the coming into force of this Constitution, is a citizen by law of Ghana shall continue to be such a citizen of Ghana.

CITIZENS OF
GHANA.

13. Subject to the provisions of this Constitution,

PERSONS
BORN IN OR
OUTSIDE
GHANA.

(a) a person born in Ghana after the coming into force of this Constitution shall become a citizen of Ghana at the date of his birth if either of his parents or grandparents is or was a citizen of Ghana;

(b) a person born outside Ghana after the coming into force of this Constitution shall become a citizen of Ghana at the date of his birth if either of his parents is or was a citizen of Ghana.

14. (1) A child of not more than seven years of age found in Ghana whose parents are not known shall be presumed to be a citizen of Ghana by birth.

FOUNDLINGS
ETC.

(2) A child of not more than sixteen years of age neither of whose parents is a citizen of Ghana, who is adopted by a citizen of Ghana shall, by virtue of the adoption, be a citizen of Ghana.

15. (1) A woman who, on the coming into force of this Constitution, is or has been married to a person,

PERSONS
ENTITLED
TO BE
REGISTERED
AS CITIZENS.

(a) who is or becomes a citizen of Ghana by virtue of the provisions of article 12 of this Constitution, or

(b) who, having died before the coming into force of this Constitution would, but for his death, have become a citizen of Ghana by virtue of that article,

may, upon making an application therefor in such manner as may be prescribed by Parliament, be registered as a citizen of Ghana.

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(2) A woman who is married to a person who subsequently becomes a citizen of Ghana may, upon making an application therefor in such manner as may be prescribed by Parliament, be registered as a citizen of Ghana.

(3) A woman who, after the coming into force of this Constitution, marries a citizen of Ghana may, upon making an application therefor in such manner as may be prescribed by Parliament, be registered as a citizen of Ghana.

(4) Where the marriage of any such woman as is referred to in the preceding provisions of this article is annulled, the woman having registered as a citizen of Ghana by virtue of that marriage, shall, unless she applies to the High Court of Justice for such relief as shall be determined by the Court, cease to be a citizen of Ghana.

(5) A man who, on or after the coming into force of this Constitution, is married to, or marries, a woman who is a citizen of Ghana may, upon making an application therefor in such manner, and subject to such conditions, as may be prescribed by Parliament, be registered as a citizen of Ghana where the marriage of that man—

(a) was or is contracted under a monogamous system of marriage; and

(b) has subsisted, at the time of the application, for a continuous period of not less than five years.

(6) The provisions of clause (5) of this article shall apply only where the applicant is permanently resident in Ghana.

DUAL CITIZENSHIP.

16. (1) A person who, upon the attainment of the age of twenty-one years, is a citizen of Ghana and also a citizen of some country other than Ghana shall, subject to the provisions of clause (7) of this article, cease to be a citizen of Ghana upon the specified date unless,

(a) he has renounced his citizenship of that other country; and

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- (b) he has, in the case of a citizen of Ghana born outside Ghana, made and registered such declaration of his intentions concerning residence as may be prescribed by Parliament.

(2) A person who

- (a) has attained the age of twenty-one years on the coming into force of this Constitution, and
- (b) becomes a citizen of Ghana on that day by virtue of the provisions of article 12 of this Constitution, and
- (c) is on or after that day also a citizen of some country other than Ghana,

shall, subject to the provisions of clause (7) of this article, cease to be a citizen of Ghana upon the specified date unless he has renounced his citizenship of that other country and taken the oath of allegiance.

(3) A citizen of Ghana shall cease to be a citizen of Ghana if, having attained the age of twenty-one years,

- (a) he acquires the citizenship of some country other than Ghana by voluntary act, other than marriage; or
- (b) he otherwise acquires the citizenship of some country other than Ghana and has not, by the specified date, renounced his citizenship of that other country, taken the oath of allegiance and made and registered such declaration of his intentions concerning residence as may be prescribed by Parliament.

(4) Where the law of a country, other than Ghana, requires a person who marries a citizen of that country to renounce his citizenship of his own country by virtue of that marriage, a citizen of Ghana who is deprived of his citizenship of Ghana by virtue of that marriage shall, on the dissolution of that marriage if he thus loses his citizenship acquired by that marriage, become a citizen of Ghana.

(5) A person who—

- (a) becomes a citizen of Ghana by registration under the provisions of article 15 of this Constitution, and

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(b) is, immediately after the day upon which he becomes a citizen of Ghana, also a citizen of some other country,

shall, subject to the provisions of clause (7) of this article, cease to be a citizen of Ghana upon the specified date unless he has renounced his citizenship of that other country, taken the oath of allegiance and made and registered such declaration of his intentions concerning residence as may be prescribed by Parliament.

(6) For the purposes of this article, the expression “specified date” means, in relation to a person—

(a) to whom clause (1) of this article refers, the date on which he attains the age of twenty-one years or the date of the coming into force of this Constitution whichever is later; or

(b) to whom clause (2) of this article refers, the date on which he also became a citizen of some country other than Ghana; or

(c) to whom paragraph (b) of clause (3) and clause (5) of this article refer, the date on which his citizenship will ordinarily operate; or

in the case of a person of unsound mind, such later date as may be prescribed by or under an Act of Parliament.

(7) Provision may be made by or under an Act of Parliament for extending beyond the specified date the period in which any person may make a renunciation of citizenship, take an oath or make or register a declaration for the purposes of this article; and where such provision is made that person shall not cease to be a citizen of Ghana upon the specified date but shall cease to be such a citizen upon the expiration of the extended period if he has not then made the renunciation, taken the oath or made or registered the declaration, as the case may be.

CITIZENSHIP
LAWS BY
PARLIAMENT.

17. (1) Parliament may make provision for the acquisition of citizenship of Ghana by persons who are not eligible or who are no longer eligible to become citizens of Ghana under the provisions of this Chapter.

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(2) Except as otherwise provided in article 15 of this Constitution, no person shall be registered to be a citizen of Ghana unless at the time of his application for registration he is able to speak and understand an indigenous language of Ghana.

(3) The High Court of Justice may, on an application made in that behalf by the Attorney-General, deprive a person who is a citizen of Ghana, otherwise than by birth, of that citizenship on the ground—

- (a) that the activities of that person are inimical to the security of the State or prejudicial to public morality or the public interest; or
- (b) that that citizenship was acquired by fraud, misrepresentation or any other improper or irregular practice.

(4) There shall be published in the *Gazette* by the appropriate authority and within three months thereof the name, particulars and other details, of a person who, pursuant to the provisions of this article—

- (a) applies to be registered as a citizen of Ghana; or
- (b) has been registered as a citizen of Ghana.

(5) Parliament may make provision for the renunciation by any person of his citizenship of Ghana.

18. (1) A reference in this Chapter 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 parent, be construed as a reference to the national status of the parent at the time of the parent's death.

INTERPRETA
TION.

(2) For the purposes of clause (1) of this article, where the death occurred before the coming into force of this Constitution, the national status that the parent would have had if he or she had died on the coming into force of this Constitution shall be deemed to be his or her national status at the time of his or her death.

CHAPTER SIX

FUNDAMENTAL HUMAN RIGHTS

Liberty of the Individual

FUNDAMEN-
TAL
RIGHTS AND
FREEDOMS
OF THE
INDIVIDUAL.

19. Every person in Ghana, whatever his race, place of origin, political opinions, colour, creed or sex, shall be entitled to the fundamental rights and freedoms of the individual contained in this Chapter, but subject to respect for the rights and freedoms of others and for the public interest.

PROTECTION
OF RIGHT
TO LIFE.

20. (1) No person shall be deprived of his life intentionally except in the execution of the sentence of a Court in respect of a criminal offence under the law of Ghana of which he has been convicted.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this article if he dies as the result of a lawful act of war, or if he dies as the result of the use of force to such an extent as is reasonably justifiable in the circumstances of the case, that is to say,

- (a) for the defence of any person from violence or for the defence of property; or
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
- (c) for the purposes of suppressing a riot, insurrection or mutiny; or
- (d) in order to prevent the commission by that person of a criminal offence.

PROTECTION
OF RIGHT TO
PERSONAL
LIBERTY.

21. (1) No person shall be deprived of his personal liberty except as may be authorised by law in any of the following cases, that is to say,

- (a) in execution of the sentence or order of a Court in respect of a criminal offence of which he has been convicted; or

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- (b) in execution of the order of a Court punishing him for contempt of court; or
 - (c) in execution of the order of a Court made to secure the fulfilment of an obligation imposed on him by law; or
 - (d) for the purposes of bringing him before a Court in execution of the order of a Court; or
 - (e) upon reasonable suspicion of having committed, or being about to commit, a criminal offence under the law of Ghana; or
 - (f) for the purposes of the education or welfare of a person who has not attained the age of majority; or
 - (g) for the purposes of preventing the spread of an infectious or contagious disease; or
 - (h) for the purposes of the care or treatment or the protection of the community, where a person is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant; or
 - (i) for the purposes of preventing the unlawful entry of that person into Ghana, or for the purposes of effecting the expulsion, extradition or other lawful removal of that person from Ghana or for the purposes of restricting that person while he is being lawfully conveyed through Ghana in the course of his extradition or removal from one country to another.
- (2) A person who is arrested, restricted or detained shall be informed immediately, in a language that he understands, of the reasons for his arrest, restriction or detention and of his right to consult counsel of his own choice.
- (3) A person who is arrested, restricted or detained,
- (a) for the purposes of bringing him before a Court in execution of the order of a Court, or
 - (b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of Ghana,

and who is not released, shall be brought before a Court within twenty-four hours.

(4) Where a person arrested, restricted or detained in any circumstance as is mentioned in paragraph (b) of clause (3) of this article is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him—

(a) he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial; and

(b) he shall not be arrested at any time on a charge arising from the facts in respect of which he was originally arrested.

(5) A person who is unlawfully arrested, restricted or detained by any other person shall be entitled to compensation therefor from that other person.

(6) Where a person is convicted and sentenced to a term of imprisonment any period he has spent in lawful custody before the completion of his trial shall be taken into account in imposing the term of imprisonment.

(7) Where a person who has served the whole or part of his sentence is acquitted on appeal—

(a) by a Court, other than the Supreme Court, the Court may certify to the Supreme Court that the person so acquitted be paid compensation; and the Supreme Court may, upon examination of all the facts and the certificate of the Court concerned, award such compensation as it may think fit; or

(b) by the Supreme Court, it may order compensation to be paid to the person so acquitted.

(8) Subject to the provisions of article 89 of this Constitution Parliament shall have no power to enact legislation which retroactively imposes any limitation on, or adversely affects, the personal rights and liberties of any person.

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PROTECTION
FROM
DEPRIVATION
OF
PROPERTY.

24. (1) No property of any description shall be compulsorily taken possession of, and no interest in, or right over, property of any description shall be compulsorily acquired by the State, except where the following conditions are satisfied, that is to say,

- (a) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit; and
- (b) the necessity therefor is clearly stated and is such as to afford reasonable justification for causing any hardship that may result to any person having an interest in, or right over, the property; and
- (c) provision is made by a law applicable to the taking of possession or acquisition—
 - (i) for the prompt payment of adequate compensation based on the current price of any such property; and
 - (ii) securing to any person having an interest in, or right over, the property a right of access to the High Court of Justice, whether direct or on appeal from any other authority, for the determination of his interest or right, and the amount of any compensation to which he is entitled;and for the purposes of obtaining prompt payment of that compensation.

(2) Nothing in this article shall be construed as affecting the operation of any general law so far as it provides for the taking of possession or acquisition of property,

- (a) by way of vesting or administration of trust property, enemy property or the property of persons adjudged or otherwise declared bankrupt or insolvent, persons of unsound mind,

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22. (1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

PROTECTION
FROM
SLAVERY
AND FORCED
LABOUR.

(3) For the purposes of this article, the expression "forced labour" shall not include,

(a) any labour required in consequence of the sentence or order of a Court; or

(b) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections 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; or

(c) any labour required during any period when Ghana is at war or in the event of an 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 that other emergency or calamity, for the purposes of dealing with the situation; or

(d) any labour reasonably required as part of reasonable and normal communal or other civic obligations.

23. (1) No person shall, whether or not he is arrested, restricted or detained, be subjected to—

(a) torture or inhuman or degrading punishment; or

(b) any other condition that detracts or is likely to detract from his dignity and worth as a human being.

PROTECTION
FROM
INHUMAN
TREATMENT.

(2) A person who has not been convicted of a criminal offence shall not be kept or confined in a prison or treated as a convicted person and shall be kept away from convicted persons.

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deceased persons, or bodies corporate or unincorporated in the course of being wound up; or

- (b) in the execution of judgments or orders of Courts; or
- (c) by reason of its being in a dangerous state or injurious to the health of human beings, animals or plants; or
- (d) in consequence of any law with respect to the limitation of actions; or
- (e) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry.

(3) Nothing in this article shall be construed as affecting the making or operation of any law for the compulsory taking of possession in the public interest of any property or the compulsory acquisition in the public interest of any interest in, or right over, property, where that property, interest or right is held by a body corporate established by law for public purposes in which no moneys had been invested other than moneys provided by Parliament.

(4) Any such property of whatever description compulsorily taken possession of, and any interest in, or right over, property of any description compulsorily acquired in the public interest or for public purposes, shall be used only in the public interest or for the public purposes for which it is taken or acquired.

(5) Where any such property as is referred to in clause (4) of this article is not used in the public interest or for the public purposes for which it was acquired or taken the person who was the owner immediately before the compulsory possession or acquisition, as the case may be, shall be given the first option of acquiring that property, in which event he shall be required to refund the whole or such part of the compensation paid to him as may be agreed upon between the parties thereto; and in the absence of any such agreement such amount as shall be determined by the High Court of Justice.

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PROTECTION
FOR PRIVACY
OF HOME
AND OTHER
PROPERTY.

25. (1) No person shall be subjected to the search of his person or his property nor shall his property or premises be entered into or intruded upon by others.

(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 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 the development or utilisation of any other property in such a manner as to promote the public benefit; or
- (b) that is reasonably required for the purposes of promoting the rights or freedoms of other persons; or
- (c) that authorises an officer or agent of the Government of Ghana, a local government authority or a body corporate established by law for a public purpose to enter on the premises of any person in order to carry out work connected with anything thereon for the purposes of any tax, rate or due or in order to carry out work connected with any property that is lawfully on those premises that belong to the Government, that authority or body corporate, as the case may be; or
- (d) for the purposes of enforcing the judgment or order of a Court in any civil proceedings;

and except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in terms of the spirit of this Constitution.

PROVISIONS
TO SECURE
PROTECTION
OF LAW.

26. (1) Whenever a person is charged with a criminal offence, then, unless the charge is withdrawn, that person shall be afforded a fair hearing within a reasonable time by a Court.

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- (2) A person who is charged with a criminal offence—
- (a) shall, in the case of an offence, other than treason, the punishment for which is death or imprisonment for life, be tried by a Judge and jury whose verdict shall be unanimous; and
 - (b) shall be presumed to be innocent until he is proved or has pleaded guilty; and
 - (c) shall be informed immediately in a language that he understands, and in detail, of the nature of the offence charged; and
 - (d) shall be given adequate time and facilities for the preparation of his defence; and
 - (e) shall be permitted to defend himself before the Court in person or by counsel of his own choice; and
 - (f) shall be afforded facilities to examine in person or by his counsel the witnesses called by the prosecution before the Court, and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the Court on the same conditions as those applying to witnesses called by the prosecution; and
 - (g) shall be permitted to have, without payment by him, the assistance of an interpreter where he cannot understand the language used at the trial of the charge; and
 - (h) shall, in the case of the offence of treason, be tried by the High Court of Justice duly constituted by three Justices thereof;

and except with his own consent, the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the Court has ordered him to be removed and the trial to proceed in his absence.

(3) Whenever a person is tried for a criminal offence the accused person or a person authorised by him in that behalf shall, if he so requires, be given, within a reasonable time not exceeding six months after judgment, a copy for the use of the accused person of any record of the proceedings made by or on behalf of the Court.

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(4) No person shall be held to be guilty of a criminal offence on account of an act or omission that did not at the time it took place constitute an offence.

(5) No penalty shall be imposed for a criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(6) No person who shows that he has been tried by a competent Court for a criminal offence and either convicted or acquitted shall again be tried for that offence or any other criminal offence of which he could have been convicted at the trial for the offence, except upon the order of a superior Court in the course of appeal or review proceedings relating to the conviction or acquittal.

(7) Notwithstanding the provisions of clause (6) of this article, an acquittal of a person on a trial for treason shall not be a bar to the institution of any proceedings for any other offence against that person.

(8) The provisions of paragraph (a) of clause (2) of this article shall not apply in the case of trials by courts-martial or other military tribunals.

(9) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(10) No person shall be convicted of a criminal offence unless that offence is defined and the penalty therefor is prescribed in a written law.

(11) Nothing contained in clause (10) of this article shall prevent a Court of record from punishing a person for contempt of itself notwithstanding that the act or omission constituting the contempt is not defined in a written law and the penalty therefor is not so prescribed.

(12) An adjudicating authority for the determination of the existence or extent of a civil right or obligation shall, subject to the provisions of this Constitution, be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by a person before any such adjudicating authority the case shall be given a fair hearing within a reasonable time.

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(13) Except as may be otherwise ordered by the adjudicating authority in the interests of public morality, public safety, or public order the proceedings of any such adjudicating authority shall be in public.

(14) Nothing contained in this article shall prevent an adjudicating authority from excluding from the proceedings persons, other than the parties thereto and their counsel, to such an extent as that authority—

(a) may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or any interlocutory proceedings; or

(b) may be empowered by law so to do in the interests of defence, public safety, public order, public morality, the welfare of persons under the age of majority or the protection of the private lives of persons concerned in the proceedings.

(15) Nothing contained in or done under the authority of any law shall be held to be inconsistent with, or in contravention of, the following provisions—

(a) paragraph (b) of clause (2) of this article, to the extent that the law in question imposes upon a person charged with a criminal offence the burden of proving particular facts; or

(b) clause (6) of this article, to the extent that the law in question authorises a Court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of the force, so however, that any Court so trying that member and convicting him shall, in sentencing him to any punishment, take into account any punishment awarded him under that disciplinary law.

(16) Subject to the provisions of clause (17) of this article, treason shall consist only

(a) in levying war against Ghana or assisting any state or person or inciting or conspiring with any person to levy war against Ghana; or

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- (b) in attempting by force of arms or other violent means to overthrow the organs of government established by or under this Constitution; or
- (c) in taking part or being concerned in or inciting or conspiring with any person to make or take part or be concerned in, any such attempt.

(17) An act which aims at procuring by constitutional means an alteration of the law or of the policies of the Government shall not be considered as an act calculated to overthrow the organs of government.

(18) Notwithstanding any other provision of this article, but subject to the provisions of clause (19) of this article, Parliament may, by or under an Act of Parliament, establish military courts or tribunals for the trial of offences against military law committed by persons subject to military law.

(19) A person subject to military law, who, not being on active service, commits an offence cognisable by a civil Court, shall not be tried by a court-martial or military tribunal for any such offence unless the offence so committed is cognisable by the court-martial or other military tribunal under any law for the enforcement of military discipline.

(20) For the purposes of this article, the expression "criminal offence" means a criminal offence under the law of Ghana.

PROTECTION OF FREEDOM OF CONSCIENCE.

27. (1) No person shall be hindered in the enjoyment of his freedom of conscience; and for the purposes of this article freedom of conscience shall include freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and to propagate his religion or belief in worship, teaching, practice and observance.

(2) No person who, by reason of tender years, minority, sickness or any other sufficient cause, is unable to give his consent shall be deprived by any other person of his right to medical treatment or education or to any other social or economic benefit by reason only of a religious or philosophical doctrine or belief.

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(3) No person attending a place of education shall, except with his own consent, or, where he is a minor, the consent of his parents or guardian, be required to receive religious instruction or take part in or attend a religious ceremony or observance where that instruction, ceremony or observance relates to a religion or denominational practice other than his own.

(4) No religious community or denomination shall be prevented from providing religious instruction for persons of that community or denomination in any educational institution.

(5) No person shall be compelled to take an oath which is contrary to his religion or belief or to take an oath in a manner which is contrary to his 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 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 practise any religion without the unsolicited intervention of members of any other religion;

and except so far as the provision or, as the case may be, the thing done under the authority thereof, is shown not to be reasonably justifiable in terms of the spirit of this Constitution.

(7) Parliament shall have no power to legislate for the adoption of any religion as the religion of the Republic of Ghana.

28. (1) There shall be no censorship in Ghana; and no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

PROTECTION
OF FREEDOM
OF EXPRES-
SION.

The Constitution

(2) A person responsible for a state-owned medium for the dissemination of any kind of information to the public shall afford equal opportunities and facilities for the representation of opposing or differing views.

(3) All agencies of the mass media shall at all times be free to uphold the principles, provisions and objectives of this Constitution and shall uphold the responsibility and accountability of the Government to the people of Ghana.

(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 the law in question makes provision—

(a) that is reasonably required—

- (i) in the interests of defence, public safety, public order, public morality or public health, or to safeguard information the disclosure of which would be prejudicial to the security of the State; or
- (ii) for the purposes of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the Courts or regulating telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainments; or

(b) that imposes restrictions upon public officers; and except so far as that provision or, as the case may be, the thing done under the authority thereof, is shown not to be reasonably justifiable in terms of the spirit of this Constitution.

PROTECTION
OF FREEDOM
OF ASSEMBLY
AND ASSO-
CIATION.

29. (1) No person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons

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and in particular to form or belong to trade unions or other associations, national and international, for the protection of his 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 the law in question makes provision—

(a) that is reasonably required in the interests of defence, public safety, public order, public morality, public health or the running of essential services; or

(b) that is reasonably required for the purposes of protecting the rights or freedoms of other persons;

and except so far as that provision or, as the case may be, the thing done under the authority thereof, is shown not to be reasonably justifiable in terms of the spirit of this Constitution.

(3) For the purposes of this article, freedom of assembly shall include freedom to hold peaceful processions and demonstrations.

30. (1) No person shall be deprived of his freedom of movement; and for the purposes of this article freedom of movement means the right to move freely throughout Ghana, the right to reside in any part of Ghana, the right to leave and to enter Ghana and immunity from expulsion from Ghana.

PROTECTION
OF FREEDOM
OF
MOVEMENT.

(2) A restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with, or in contravention of, this article.

(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 the law in question makes provision—

(a) for the imposition of restrictions, by order of a Court, that are reasonably required in the

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interests of defence, public safety or public order, on the movement or residence within Ghana of any person; or

- (b) for the imposition of restrictions, by order of a Court, on the movement or residence within Ghana of any person either in consequence of his having been found guilty of a criminal offence under the law of Ghana or for the purposes of ensuring that he appears before a Court at a later date for trial for such criminal offence or for proceedings relating to his extradition or lawful removal from Ghana; or
- (c) for the imposition of restrictions that are reasonably required in the interests of defence, public safety, public order, public morality, public health or the running of essential services, on the movement or residence within Ghana of any person or persons generally, or any class of persons, and except so far as that provision or, as the case may be, the thing done under the authority thereof, is shown not to be reasonably justifiable in terms of the spirit of this Constitution; or
- (d) for the imposition of restrictions on the freedom of entry into Ghana, or of movement in Ghana, of a person who is not a citizen of Ghana; or
- (e) for the removal from Ghana, in accordance with the law governing extradition for the time being in force, of a person who is not a citizen of Ghana; or
- (f) for any of the purposes specified in paragraph (i) of clause (1) of article 21 of this Constitution.

(4) Whenever a person whose freedom of movement has been restricted by the order of a Court by virtue of such a provision as is referred to in paragraph (a) of clause (3) of this article so requests at any time during the period of that restriction not earlier than fourteen days after the

The Constitution

order was made or three months after he last made such request, as the case may be, his case shall be reviewed by that Court.

(5) On a review by a Court in pursuance of the provisions of clause (4) of this article of the case of a person whose freedom of movement has been restricted, the Court may, subject to the right to appeal therefrom, make such order for the continuation or termination of the restriction as it may consider necessary or expedient.

31. (1) Subject to the provisions of clauses (4) and (5) of this article, no law shall make any provision that is discriminatory either in itself or in its effect.

PROTECTION
FROM
DISCRIMINA-
TION, ETC.

(2) Subject to the provisions of clauses (4), (5), (6), (7) and (8) of this article, no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or any public authority.

(3) For the purposes of this article, the expression "discriminatory" means affording different treatment to different persons attributable only or mainly to their respective descriptions by race, place of origin, political opinions, colour, sex, occupation or creed whereby persons of one such description are subjected to disabilities 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.

(4) The provisions of clause (1) of this article shall not apply to any law, so far as that law makes provision—

- (a) for the appropriation of public revenues or other public funds; or
- (b) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law; or
- (c) for the application in the case of members of a particular race or community 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

The Constitution

(d) whereby persons of such description as is mentioned in clause (3) of this article may be subjected to any disability 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 justifiable in terms of the spirit of this Constitution.

(5) The provisions of clause (1) of this article shall not apply to any law, so far as that law makes provision—

(a) with respect to persons who are not citizens of Ghana; or

(b) for the imposition of restrictions on the acquisition of land by, or on the economic and political activities of, a person who is not a citizen of Ghana.

(6) The provisions of clause (2) of this article shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in clauses (4) and (5) of this article.

(7) 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 the law in question makes provision whereby persons of any such description as is mentioned in clause (3) of this article may be subjected to any restriction on the rights and freedoms guaranteed by articles 25, 27, 28, 29 and 30 of this Constitution, being such a restriction as is authorised by clause (2) of article 25, clause (6) of article 27, clause (4) of article 28, clause (2) of article 29, or clause (3) of article 30, as the case may be.

(8) Nothing contained in clause (2) of this article shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any Court that is vested in any person by or under this Constitution or any other law.

The Constitution

32. (1) Where assistance, special care and facilities necessary for the maintenance, safety and development of a woman as a mother are provided by or at the expense of the State, such assistance, special care and facilities shall be available to all mothers without discrimination.

EQUAL
RIGHTS OF
MOTHERS,
SPOUSES
AND OF
CHILDREN.

(2) No spouse may be deprived of a reasonable provision out of the estate of a spouse whether the estate be testate or intestate.

(3) Parliament shall enact such laws as are necessary to ensure—

- (a) that every child shall have the right to the same measure of special care, assistance and maintenance as is necessary for its development from its natural parents, except where such parents have effectively surrendered their rights and responsibilities in respect of the child in accordance with law;
- (b) that every child, whether or not born in wedlock, shall be entitled to reasonable provision out of the estate of its parents;
- (c) that parents undertake their natural right and obligation on care, maintenance and upbringing of their children in co-operation with such institutions as Parliament may by law prescribe in such manner that in all cases the interests of the children are paramount;
- (d) that children and young persons receive special protection against exposure to physical and moral hazards; and
- (e) that the protection and advancement of the family as the unit of society are safeguarded.

Emergency Powers

33. (1) The President may, acting in accordance with the advice of the Council of State, by Proclamation published in the *Gazette*, declare that a state of public emergency exists in Ghana or in any part of Ghana for the purposes of the provisions of this Chapter.

PROVISIONS
FOR TIMES
OF WAR AND
PUBLIC
EMERGENCY.

The Constitution

(2) Notwithstanding any other provision of this article, where a Proclamation is published under clause (1) of this article, the President shall place immediately before Parliament the facts and circumstances leading to the declaration of the state of public emergency.

(3) Parliament shall, within seventy-two hours thereof, decide whether the Proclamation shall remain in force or shall be revoked; and the President shall act in accordance with the decisions of Parliament made in that behalf.

(4) A declaration of a state of public emergency under the provisions of this article, if not sooner revoked, shall cease to have effect at the expiration of a period of seven days beginning with the date of publication of the declaration unless, before the expiration of that period, it is approved by a resolution passed in that behalf by a majority of all the members of Parliament.

(5) Subject to the provisions of clause (7) of this article, a declaration of a state of public emergency approved by a resolution of Parliament under the provisions of clause (4) of this article shall continue in force until the expiration of a period of three months beginning with the date of its being so approved or until such earlier date as may be specified in the resolution.

(6) Parliament may, by resolution, extend its approval of the declaration for periods of not more than one month at a time.

(7) Parliament may, by a resolution passed in that behalf by a majority of all the members of Parliament, at any time revoke a declaration of a state of public emergency approved by Parliament under the provisions of this article.

(8) For the avoidance of doubt, it is hereby declared that the provisions of any enactment, other than an Act of Parliament, dealing with a state of public emergency declared under clause (1) of this article shall apply only to that part of Ghana where any such emergency exists.

The Constitution

(9) For the purposes of this article, a state of public emergency includes any action that has been taken or is immediately threatened by any persons or body of persons—

- (a) which is calculated to deprive the community of the essentials of life; or
- (b) which renders necessary the taking of measures which are requisite for securing the public safety, the defence of Ghana and the maintenance of public order and of supplies and services essential to the life of the community.

(10) Nothing contained in or done under the authority of an Act of Parliament shall be held to be inconsistent with, or in contravention of articles 19 to 32 inclusive of this Constitution, to the extent that the Act in question authorises the taking during any period when a declaration of a state of public emergency under the provisions of this article is in force, of measures that are reasonably justifiable for the purposes of dealing with the situation that exists during that period.

34. (1) Where a person is restricted or detained by virtue of such a law as is referred to in clause (10) of article 33 of this Constitution, the following provisions shall apply, that is to say,

PERSONS
DETAINED
UNDER
EMERGENCY
LAWS.

- (a) he shall as soon as practicable and in any case not later than twenty-four hours after the commencement of the restriction or detention, be furnished with a statement in writing specifying in detail the grounds upon which he is restricted or detained, which statement shall be read or interpreted to the person restricted or detained as appropriate;
- (b) the spouse, parent, child or other available next of kin of any person so restricted or detained shall be informed of the detention or restriction within twenty-four hours of the commencement of the detention or restriction and be permitted access to the person at the earliest practicable opportunity and in any case within seventy-two hours of the commencement of the restriction or detention;

The Constitution

- (c) not more than ten days after the commencement of his restriction, or detention, a notification shall be published in the *Gazette* stating that he has been restricted or detained and giving particulars of the provision of law under which his restriction or detention is authorised and the grounds of his restriction or detention;
 - (d) not more than ten days after the commencement of his restriction or detention and thereafter during his restriction or detention at intervals of not more than three months, his case shall be reviewed by a tribunal composed of not less than three Justices of the Supreme Court appointed by the Chief Justice and presided over by the Chief Justice or a Justice of the Supreme Court appointed by the Chief Justice; so however that the same tribunal shall not review more than once, the case of a person restricted or detained;
 - (e) he shall be afforded every possible facility to consult counsel of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the restricted or detained person;
 - (f) at the hearing of his case he shall be permitted to appear in person or by counsel of his own choice.
- (2) On a review by a tribunal in pursuance of this article of the case of a restricted or detained person, the tribunal shall have power to order the release of the person and the payment to him of adequate compensation or uphold the grounds of his restriction or detention and the authority by which the restriction or detention was ordered shall act accordingly.
- (3) In every month in which there is a sitting of Parliament a Minister of State authorised by the President shall make a report to Parliament of the number of persons restricted or detained by virtue of such a law as is referred to in clause (10) of article 33 of this Constitution and the

The Constitution

number of cases in which the authority that ordered the restriction or detention has acted in accordance with the decisions of the tribunal appointed in pursuance of this article.

(4) Notwithstanding the provisions of clause (3) of this article the Minister referred to therein shall publish every month in the *Gazette*,

- (a) the number and the names and addresses of persons restricted or detained;
- (b) the number of cases reviewed by the tribunal; and
- (c) the number of cases in which the authority which ordered the restriction or detention has acted in accordance with the decisions of the tribunal appointed pursuant to the provisions of this article.

(5) For the avoidance of doubt, it is hereby declared that at the end of an emergency declared under clause (1) of article 33 of this Constitution, a person in restriction or detention or in custody who has been detained, restricted or arrested as a result of the declaration of the emergency shall forthwith be released.

Protection of Rights by the Courts

35. (1) Where a person alleges that a provision of articles 19 to 34 inclusive of this Constitution has been, or is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter that is lawfully available, that person may apply to the High Court of Justice for redress.

ENFORCE-
MENT OF
PROTECTIVE
PROVISIONS.

(2) The High Court of Justice shall, under clause (1) of this article, have power to issue such directions or orders or writs including writs or orders in the nature of *habeas corpus*, *certiorari*, *mandamus* prohibition, and *quo warranto* as it may consider appropriate for the purposes of enforcing, or securing the enforcement of any of the provisions of articles 19 to 34 inclusive to the protection of which the person concerned is entitled.

The Constitution

(3) A person aggrieved by a determination of the High Court of Justice under the provisions of this article may appeal therefrom to the Court of Appeal with the right of a further appeal to the Supreme Court.

(4) The Rules of Court Committee may, by constitutional instrument, make Rules of Court with respect to the practice and procedure of the Superior Court of Judicature for the purposes of this article.

(5) The rights, duties, declarations and guarantees relating to the fundamental human rights specifically mentioned in this Chapter shall not be regarded as excluding others not specifically mentioned which are considered to be inherent in democracy and intended to secure the freedom and dignity of man.

The Constitution

CHAPTER SEVEN

REPRESENTATION OF THE PEOPLE

36. A citizen of Ghana not being less than eighteen years of age and of sound mind shall have the right to vote; and accordingly he shall be entitled to be registered as a voter for the purposes of public elections and referenda.

THE RIGHT
TO VOTE.

37. (1) There shall be an Electoral Commission which shall consist of a sole Commissioner who shall be known as the Electoral Commissioner and who shall be responsible for the conduct and supervision of the registration of voters, the conduct and supervision of all public elections and referenda and the demarcation of electoral boundaries and such other functions as may be prescribed by law.

THE
ELECTORAL
COMMISSION.

(2) The Electoral Commissioner shall be appointed by the President, acting in accordance with the advice of the Council of State.

(3) A person shall not be qualified—

(a) for appointment as the Electoral Commissioner if he is not qualified to be elected as a member of Parliament; or

(b) to hold office as the Electoral Commissioner while he still holds any other public office or is a member of Parliament or if he has attained the age of sixty-five years.

(4) The Electoral Commissioner when appointed shall enjoy the terms and conditions of service, other than such terms and conditions as relate to retiring awards, of a Justice of the Court of Appeal.

(5) The provisions of article 205 of this Constitution relating to the declaration of assets and liabilities shall apply to the Electoral Commissioner.

(6) Whenever the Electoral Commissioner dies, resigns, is removed from office or is absent from Ghana, or is by reason of illness unable to perform the functions of his office the President shall, acting in accordance with the advice of the Council of State, appoint a person qualified to be appointed Electoral Commissioner to perform

The Constitution

those functions until the assumption of office of the Electoral Commissioner, or until the appointment of a new Electoral Commissioner.

(7) In the performance of any of his functions the Electoral Commissioner shall be subject only to this Constitution and shall not be subject to the direction or control of any other person or authority.

(8) The Electoral Commissioner shall,

(a) in the demarcation of the boundaries of constituencies and of wards for elections to Parliament and to local government councils, and

(b) in the demarcation of the boundaries of the areas of authority of local government councils,

be assisted by two *ad hoc* Commissioners who shall be appointed for that purpose by the President, acting in accordance with the advice of the Council of State.

(9) A person aggrieved by a decision of the Electoral Commission in respect of the demarcation of a boundary under the provisions of clause (1) of this article may appeal to a tribunal consisting of three persons appointed by the Chief Justice.

(10) The appointment of officers and other employees of the staff of the Electoral Commission shall be made by the Electoral Commissioner acting in consultation with the Public Services Commission.

(11) The administrative expenses of the Electoral Commission including all salaries, allowances and pensions payable to, or in respect of, persons serving with the Commission shall be a charge upon the Consolidated Fund.

SUPERVISION
OF
ELECTIONS
AND
REFERENDA.

38. (1) The Electoral Commissioner shall make Regulations, by constitutional instrument,

(a) for the registration of voters, the conduct of public elections and referenda; and

(b) for the efficient supervision of elections and referenda; and

The Constitution

(c) for the matters connected therewith, including regulations for voting by proxy.

(2) At a referendum, other than a referendum held pursuant to clauses (4) and (5) of article 5 of this Constitution, no results shall be declared by the Electoral Commission unless fifty *per centum* or more of the persons entitled to vote cast their votes, and at least forty *per centum* of the persons entitled to vote cast their votes in favour of, or against any, of the issues to be determined by the referendum.

39. (1) Ghana shall be divided into as many constituencies as there are members of Parliament in such manner as the Electoral Commission may prescribe.

CONSTITUENCIES.

(2) No constituency shall fall within more than one Region.

(3) The boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable.

(4) For the purposes of clause (3) of this article, the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features, density of population and area and boundaries of the Regions and other administrative or traditional areas.

(5) The Electoral Commission shall review the division of Ghana into constituencies—

(a) at intervals of not less than seven years, or

(b) within twelve months of the publication of the enumeration figures after the holding of a census of the population of Ghana,

whichever is earlier and may, subject to the provisions of article 75 of this Constitution, alter the constituencies in accordance with the provisions of this article to such an extent as it may consider desirable in the light of the review or by reason of the holding of the census of the population of Ghana.

The Constitution

(6) Where the boundaries of a constituency established pursuant to the provisions of this article are altered, the alteration shall come into effect upon the next dissolution of Parliament.

(7) For the purposes of this article the expression "population quota" means the number obtained by dividing the number of inhabitants of Ghana by the number of constituencies into which Ghana is divided pursuant to the provisions of this article.

VOTING AT
ELECTIONS
AND
REFERENDA.

40. (1) At any public election or referendum voting shall be by secret ballot.

(2) Immediately after the close of the poll, the presiding officer shall, in the presence of such of the candidates or their representatives and their polling agents as attend, proceed to count, at that polling station, the ballot papers and record the votes cast in favour of each candidate or question.

(3) The presiding officer, the candidates or their representatives and the polling agents shall then sign a declaration stating,

- (a) the total number of voters entitled to vote at that polling station; and
- (b) the number of votes cast in favour of each candidate or question;

and the presiding officer shall, there and then, announce the results of the voting at that polling station before communicating them to the returning officer.

ELECTION OF
CANDIDATES.

41. (1) Subject to the provisions of this article, where at the close of nominations on the nomination day preceding a public election,

- (a) two or more candidates have been nominated the election shall be held and the candidate receiving the largest number of the votes cast shall be declared elected;
- (b) where only one candidate is nominated there shall be no election and that candidate shall be declared elected.

The Constitution

(2) Where for the purposes of a public election two or more candidates are nominated but at the close of nominations on the nomination day preceding the election only one candidate stands nominated, a further period of ten days shall be allowed for nomination of other candidates, and it shall not be lawful for any person so nominated within that period of ten days to withdraw his nomination.

(3) Where at the close of nominations under clause (2) of this article only one candidate stands nominated there shall be no election and that candidate shall be declared elected.

(4) Where at the close of nominations but before the election one of the candidates dies, a further period of ten days shall be allowed for nominations and where the death occurs at any time within twenty-five days of the election, the election in that constituency or ward shall be postponed.

42. (1) Subject to the provisions of this article and of article 29 of this Constitution, a political party shall be free to participate in shaping the political will of the people, to disseminate information on political ideas, social and economic programmes of a national character, and to sponsor candidates for election to any public office.

THE ORGANI-
ZATION OF
POLITICAL
PARTIES.

(2) The internal organization of a political party shall conform to democratic principles, and its aims and purposes shall not contravene, or be inconsistent with, any provision of this Constitution.

(3) The sources of income and the accounts of a political party shall be published annually in the *Gazette*.

(4) No political party shall have as a founding member or leader or member of its executive a person who is not qualified to be elected as a member of Parliament or to hold any other public office.

(5) Notwithstanding the generality of clause (2) of this article, no political party shall be registered, or be permitted to operate as such, if—

(a) the membership or leadership of that party is restricted to members of any particular tribal or ethnic group or religious faith; or

The Constitution

- (b) the name, symbol, colour or motto of that party has any exclusive or particular significance or connotation to the members of any particular tribal or ethnic group or religious faith; or
 - (c) that party is formed, for the sole purpose of securing, whether directly or indirectly, the welfare, advancement or interests of the members of any particular tribal or ethnic group, religious faith or community; or
 - (d) the internal organization of that party does not conform to the principles of openness, fairness and impartiality.
- (6) Subject to the provisions of this Constitution, and in furtherance of the preceding provisions of this article, Parliament shall, by law, regulate the functioning of political parties.
- (7) For the purposes of this article, the expression "political party" includes any association of persons, by whatever name called, and whether corporate or unincorporated, established or operated with the object, through the electoral processes,
- (a) of supporting or bringing about the election of candidates to public office; or
 - (b) of striving for power and thereby gain control of, or influence, the actions of the Government.
- RESTRICTIONS ON CERTAIN PROPAGANDA. 43. Parliament shall have no power to enact a law to establish or authorise the establishment of a body or movement having the right or power to formulate or propagate a common programme or a set of objectives of a religious or political nature for the country.

The Constitution

CHAPTER EIGHT

THE EXECUTIVE

The President

44. (1) There shall be a President of the Republic of Ghana who shall be the Head of State and Head of Government and Commander-in-Chief of the Armed Forces of Ghana. THE
PRESIDENT
OF GHANA.

(2) The President shall take precedence over all other persons in Ghana; and in descending order the Vice-President, the Speaker of Parliament and the Chief Justice, shall take precedence over all other persons in Ghana.

(3) The President shall receive such salary and allowances, and on retirement such gratuity or other allowances, as may be determined in accordance with the provisions of article 58 of this Constitution.

(4) On retiring from office, the President shall be entitled to receive a pension together with such facilities as may be prescribed by Parliament on the recommendation of the Committee referred to in clause (2) of article 58 of this Constitution.

(5) Where the President is removed from office under paragraph (c) of clause (1) of article 56 of this Constitution, he shall be entitled to such pension and other retiring awards and facilities as Parliament may prescribe on the recommendation of the Committee referred to in clause (2) of article 58 of this Constitution.

(6) The salary and allowances payable to the President and any pension or gratuity payable to him on retirement shall be a charge upon the Consolidated Fund.

(7) The salary, allowances and privileges of the President shall not be varied to his disadvantage while he holds office.

(8) The pension payable to the President and the facilities available to him shall not be varied to his disadvantage during his lifetime.

The Constitution

(9) Without prejudice to the provisions of article 2 of this Constitution, and subject to the operation of the prerogative writs, the President shall not, while in office, be liable to proceedings in any Court for the performance of his functions, or for any act done or omitted to be done, or purported to have been done or purporting to be done, in the performance of his functions, under this Constitution or any other law.

(10) Subject to the provisions of clause (9) of this article, the President shall not, while in office, be personally liable to any civil or criminal proceedings whatsoever in any Court.

(11) Without prejudice to the provisions of clause (10) of this article, and notwithstanding any provision in any law relating to the limitation of actions, it shall be lawful to institute proceedings whether civil or criminal in any Court in Ghana against a former President within three years after his ceasing to hold office as President.

(12) Before assuming office the President shall take and subscribe before Parliament, the oath of allegiance, and the presidential oath set out in the Second Schedule to this Constitution.

THE
EXECUTIVE
AUTHORITY
OF GHANA.

45. (1) The executive authority of Ghana shall vest in the President and shall be exercised in accordance with the provisions of this Constitution.

(2) The executive authority of Ghana shall extend to the execution and maintenance of this Constitution and all laws made under this Constitution.

(3) Subject to the provisions of this Constitution, the functions conferred upon the President by the provisions of clause (1) of this article may be exercised by him either directly or through officers subordinate to him.

(4) Except as otherwise provided in this Constitution or by a law in accordance with this Constitution all executive acts of Government shall be expressed to be taken in the name of the President.

(5) A constitutional or statutory instrument or any other instrument made, issued or executed in the name of the President shall be authenticated by the signature of a

The Constitution

Minister and the validity of that instrument which is so authenticated shall not be called in question on the grounds that it is not made, issued or executed by the President.

46. The President shall not leave Ghana without prior notification issued under his hand and addressed to the Speaker of Parliament.

ABSENCE
FROM GHANA.

47. (1) There shall be a Vice-President of Ghana who shall perform such functions as may be assigned to him by this Constitution or by the President.

THE VICE-
PRESIDENT,
AND SUCCESSION TO THE
PRESIDENCY.

(2) A candidate for the office of Vice-President shall be designated by the President before the election of the President.

(3) The provisions of article 49 of this Constitution shall apply to a candidate for election as Vice-President.

(4) A candidate shall be deemed to be duly elected as Vice-President if the candidate who designated him as candidate for election to the office of Vice-President has been duly elected as President in accordance with the provisions of article 50 of this Constitution.

(5) The Vice-President shall, before commencing to perform his functions as Vice-President, take and subscribe the oath of allegiance and the vice-presidential oath set out in the Second Schedule to this Constitution.

(6) Whenever the President dies, resigns or is removed from office, the Vice-President shall assume office as President for the unexpired term of office of the President with effect from the date of the death, resignation or removal of the President.

(7) Whenever the President is absent from Ghana or is for any other reason unable to perform the functions of his office the Vice-President shall perform the functions of the President until the President is able to perform his functions.

(8) The Vice-President shall, before commencing to perform the functions of the President under the provisions of clause (6) of this article, take and subscribe the oath in relation thereto set out in the Second Schedule to this Constitution.

The Constitution

(9) The Vice-President shall, upon assuming office as President under clause (6) of this article nominate a person to the office of Vice-President subject to approval by Parliament.

(10) Where the President and the Vice-President are both unable to perform the functions of the President the Speaker of Parliament shall perform those functions until the President or Vice-President is able to perform those functions or a new President assumes office, as the case may be.

(11) The Speaker shall, before commencing to perform the functions of the President under the provisions of clause (10) of this article, take and subscribe the oath of office in relation thereto.

(12) Where the Speaker of Parliament assumes the office of President as a result of the death, resignation or removal from office of the President and the Vice-President, there shall be a presidential election within three months of that assumption of office.

(13) The provisions of article 56 of this Constitution shall apply to the removal from office of the Vice-President.

PUBLIC AND
PRESIDENTIAL
SEALS.

48. There shall be a public seal and a presidential seal, the use and custody of which shall, subject to the provisions of this Constitution, be regulated by law.

QUALIFICA-
TIONS OF
PRESIDENT.

49. No person shall be qualified for election as the President of Ghana unless—

- (a) he is a citizen of Ghana by birth, by reason of both of his parents being citizens of Ghana by birth, and does not in any way owe allegiance to any other country;
- (b) he has attained the age of forty years; and
- (c) he is a person who is otherwise qualified to be elected as a member of Parliament, except that the disqualifications set out in paragraphs (c), (d), (e) and (j) of clause (2) of article 76 of this Constitution shall not be removed, in respect of any such person, by a presidential pardon or the lapse of time as provided for in clause (3) of that article.

The Constitution

50. (1) A person shall not be a candidate in a presidential election unless he is nominated for election as President by a document which—

ELECTION OF
PRESIDENT.

- (a) is signed by him; and
- (b) is signed by not less than one hundred and twenty-eight persons qualified to be elected as members of Parliament two at least of whom come from, and are resident in, the area of authority of each district council; and
- (c) is delivered to the Electoral Commissioner on or before the day appointed as nomination day; and
- (d) designates a person to serve as Vice-President.

(2) The election of the President shall be on the terms of universal adult suffrage and shall, subject to the provisions of this Constitution, be conducted in accordance with such Regulations as may be prescribed in that behalf by constitutional instrument by the Electoral Commissioner and shall be held so as to begin—

- (a) where a President is in office, not earlier than four months nor later than one month before his term of office expires; and
- (b) in any other case, within three months after the office of President becomes vacant; and

shall be held at such place and shall begin on such date as the Electoral Commissioner shall, by constitutional instrument, specify.

(3) A person shall not be elected as President of Ghana unless at the presidential election the number of votes cast in his favour is more than fifty *per centum* of the total number of valid votes cast at the election.

(4) Where at a presidential election there are more than two candidates and no candidate obtains the number or percentage of votes specified in clause (3) of this article a second election shall be held within twenty-one days after the previous election.

(5) The candidates for a presidential election held under clause (4) of this article shall be the two candidates who obtained the two highest numbers of votes at the previous election.

The Constitution

(6) Where at a presidential election three or more candidates obtain the two highest numbers of votes referred to in clause (5) of this article and unless there are withdrawals such that only two candidates remain, Parliament shall, within one week after the presidential election, select two of such persons to be candidates at the second election to be held under clause (4) of this article.

(7) A person qualified to be a candidate for a presidential election under clause (5) of this article or for selection to be a candidate by Parliament under clause (6) of this article may, by writing under his hand, withdraw his candidature at any time before the date of the selection by Parliament or the date of such election.

(8) For the selection of candidates under clause (6) of this article, Parliament shall vote by secret ballot and without prior debate.

(9) Where after a second presidential election held under clause (4) of this article the two candidates obtain an equal number of votes, Parliament shall elect one of the two candidates as President by secret ballot and without prior debate.

(10) An instrument which—

(a) is executed under the hand and seal of the Electoral Commissioner, and

(b) states that the person named in the instrument was declared elected as the President of Ghana at the election of the President,

shall be *prima facie* evidence that the person named was so elected.

CHALLENG- ING ELECTION OF PRESIDENT.

51. (1) The validity of the election of the President may be challenged only by a citizen of Ghana who may present a petition in that behalf to the Supreme Court within twenty-one days of the declaration of the result of the election in respect of which the petition is presented.

(2) A declaration by the Supreme Court that the election of the President is not valid shall be without prejudice to anything done by the President before that declaration.

The Constitution

(3) The Rules of Court Committee shall, by constitutional instrument, make Rules of Court for the practice and procedure for petitions to the Supreme Court challenging the election of a President.

52. The Electoral Commissioner shall, by constitutional instrument, make Regulations for the purposes of giving effect to the provisions of article 50 of this Constitution.

THE PRESIDENTIAL
ELECTION
REGULATIONS.

53. (1) A person elected as President shall, subject to the provisions of clause (3) of this article, hold office for a term of four years beginning with the date on which he is sworn in as President.

TERM OF
OFFICE.

(2) No person shall be elected to hold office as President of Ghana for more than two terms.

(3) The office of President shall become vacant—

- (a) on the expiration of the period specified in clause (1) of this article; or
- (b) if the incumbent dies or resigns from the office or ceases to hold office under article 56 of this Constitution.

(4) The President may, by writing under his hand addressed to the Speaker of Parliament, resign from his high office of President.

54. The President shall, at the beginning of each session of Parliament and before a dissolution of Parliament, deliver to Parliament a message on the state of Ghana.

PRESIDENTIAL
MESSAGES.

55. (1) The President shall not, while he continues in office as President,

CONDITIONS
OF OFFICE.

- (a) hold any other office of profit or emolument whether private or public and either directly or indirectly;
- (b) hold the office of chancellor or head of any university in Ghana.

(2) The President shall not, on retiring from office as President, hold any office of profit or emolument except with the permission of Parliament, in any establishment either directly or indirectly, other than that of the State.

The Constitution

REMOVAL OF
PRESIDENT.

56. (1) The President shall be removed from office if he is found, in accordance with the provisions of this article—

- (a) to have acted in wilful violation of the oath of allegiance and the presidential oath set out in the Second Schedule to, or of any other provision of, this Constitution; or
- (b) to have conducted himself in a manner
 - (i) which brings or is likely to bring the high office of President into hatred, ridicule or contempt; or
 - (ii) prejudicial or inimical to the economy or the security of the State; or
- (c) to be incapable of performing the functions of his office by reason of physical or mental incapacity.

(2) For the purposes of the removal from office of the President, a notice in writing,

- (a) signed by not less than one-third of all the members of Parliament, and
- (b) stating that the conduct or the physical or mental capacity of the President be investigated on any of the grounds specified in clause (1) of this article,

shall be given to the Speaker who shall immediately inform the Chief Justice and deliver the notice to him.

(3) The notice referred to in clause (2) of this article shall be accompanied by a statement in writing setting out in detail the facts, supported by the necessary documents, on which it is claimed that the conduct or the physical or mental capacity of the President be investigated for the purposes of his removal from office.

(4) Subject to the provisions of clause (5) of this article the Chief Justice shall, by constitutional instrument, forthwith convene a tribunal consisting of the Chief Justice as chairman and the four most senior Justices of the Supreme Court which tribunal shall inquire, *in camera*, whether there is a *prima facie* case for the removal of the President.

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(5) Where a notice under the provisions of clause (2) of this article is delivered to the Chief Justice in respect of the removal from office of the President on the grounds of physical or mental incapacity, the Chief Justice shall, in consultation with the professional Head of the Ghana Health Services, cause a medical board to be convened which shall consist of not less than four eminent medical specialists.

(6) The President shall submit himself for examination by the medical board within fourteen days of the appointment of the board.

(7) The President shall be entitled during the proceedings of the tribunal or medical board to be heard in his defence either by himself or by counsel or other expert person as the case may be, of his own choice.

(8) The Rules of Court Committee shall, by constitutional instrument, make Rules for the practice and procedure of the tribunal or medical board for the removal of the President.

(9) Where the tribunal or medical board specified in clauses (4) and (5) of this article determines that there is a *prima facie* case for the removal of the President or that the President is by reason of physical or mental incapacity unable to perform the functions of his office, the findings shall forthwith be submitted to the Speaker of Parliament.

(10) Parliament shall, within fourteen days of the date of the findings of the tribunal or medical board, move a resolution whether the President shall be removed from office.

(11) The resolution for the removal from office of the President shall be supported, on a secret ballot, by the votes of not less than two-thirds of all the members of Parliament after prior debate.

(12) The proceedings of Parliament for the removal of the President shall not be held *in camera*, except where Parliament otherwise orders in the interest of national security.

The Constitution

(13) The President shall cease to hold office as President on the date Parliament decides that he be removed from office.

APPOINT-
MENTS BY THE
PRESIDENT.

57. The President shall, acting in accordance with the advice of the Council of State, appoint—

- (a) the Ombudsman;
- (b) the Auditor-General;
- (c) the Electoral Commissioner and the *ad hoc* Electoral Commissioners;
- (d) the chairman and the other members of,
 - (i) the Public Services Commission;
 - (ii) the Lands Commission;
 - (iii) the Local Government Grants Commission;
 - (iv) the governing body of a public corporation;
 - (v) the Council for Higher Education.
- (e) the members of the Press Commission who shall appoint the chairman of the Commission; and
- (f) the Governor and the other members of the governing body of the Bank of Ghana and of any bank, banking or financial institution established wholly out of public funds by or under an Act of Parliament.

DETERMINA-
TION OF
CERTAIN
EMOLUMENTS.

58. (1) The salaries and allowances payable, and the facilities and privileges available, to

- (a) the Speaker, the Deputy Speakers and members of Parliament;
- (b) the Chief Justice and the other Justices of the Superior Court of Judicature;
- (c) the Auditor-General, the Electoral Commissioner and the *ad hoc* Electoral Commissioners, and the Ombudsman;
- (d) the chairman, vice-chairman and the other members of,
 - (i) the Council for Higher Education;

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- (ii) the Public Services Commission;
- (iii) the Press Commission;
- (iv) the Lands Commission; and
- (v) the Local Government Grants Commission,

being expenditure charged upon the Consolidated Fund shall be determined by the President on the recommendations of a committee of not more than five persons appointed in that behalf by the President, acting in accordance with the advice of the Council of State.

(2) The salaries and allowances payable, and the facilities available, to the President, the Vice-President, the chairman and the other members of the Council of State, Ministers of State and Deputy Ministers, being expenditure charged upon the Consolidated Fund shall be determined by Parliament on the recommendations of the committee referred to in clause (1) of this article.

(3) For the purposes of this article, and except as otherwise provided in this Constitution, the expression "salaries" includes retiring benefits or awards.

59. (1) The President may, acting in consultation with the Council of State,

PREROGATIVE OF
MERCY.

- (a) grant to a person convicted of an offence a pardon either free or subject to lawful conditions; or
- (b) grant to a person a respite, either indefinite or for a specified period, for the execution of a punishment imposed on that person for an offence; or
- (c) substitute a less severe form of punishment for a punishment imposed on a person for an offence; or
- (d) remit the whole or part of a punishment imposed on a person or of a penalty or forfeiture otherwise due to Government on account of any offence.

(2) Where a person has been sentenced to death for an offence a written report of the case from the trial judge

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together with such other information derived from the record of the case or elsewhere as may be necessary shall be submitted to the President.

(3) For the avoidance of doubt, it is hereby declared that a reference in this article to a conviction or the imposition of a punishment, penalty, sentence or forfeiture includes a conviction or the imposition of a punishment, penalty, sentence or forfeiture by a court-martial or other military tribunals.

PROFES-
SIONAL
ORGANISA-
TIONS.

60. (1) The President shall, acting in accordance with the advice of the Council of State, make Regulations by constitutional instrument for the registration of professional bodies.

(2) Regulations made under clause (1) of this article shall provide—

- (a) for the recognition by the President of any such body as is registered; and
- (b) that no person shall practise as a member of a profession unless he has been duly registered in accordance with Regulations so made; and
- (c) for the right of a professional body so registered to promulgate rules and regulations governing the admission, and the code of ethics, of its members compatible with its traditions.

(3) The President shall, acting in accordance with the advice of a professional body recognised by him, establish by constitutional instrument, the governing body of that professional body which shall regulate and supervise the practice of the profession concerned.

(4) For the purposes of this article, the expression “professional body” includes a society, an institution, or a group of persons, by whatever name called, the members of which are—

- (a) trained and qualified in a profession recognised as such; and
- (b) united in a common interest for the purposes of pursuing research and other activities concerned with the progress of knowledge in any such profession; and

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- (c) organised for maintaining and advancing a code of ethics and conduct among its members and generally for the maintenance of the highest standards compatible with the ideals and principles of the profession concerned.

International Relations

61. (1) The President shall, acting in consultation with the Council of State, appoint Ambassadors, High Commissioners, and Ministers Plenipotentiary to represent Ghana abroad.

DIPLOMATIC
REPRESENTATION.

(2) The President may receive envoys accredited to Ghana.

62. (1) The President may execute or cause to be executed treaties, agreements or conventions in the name of Ghana.

EXECUTION
OF
TREATIES.

(2) A treaty, agreement or convention executed by or under the authority of the President shall be subject to ratification by Parliament,

(a) by the enactment of an Act of Parliament; or

(b) by a resolution of Parliament supported by the votes of not less than one-half of all the members of Parliament.

The Cabinet

63. (1) There shall be a Cabinet which shall consist of the President, the Vice-President and not less than ten nor more than nineteen Ministers of State.

THE CABINET.

(2) The Cabinet shall assist the President in the determination of the general policy of the Government.

(3) There shall be a Secretary to the Cabinet who shall be appointed by the President.

64. (1) The Cabinet shall be summoned by the President who shall preside at all meetings thereof; and in the absence of the President, the Vice-President or such other Minister as the Vice-President may nominate shall preside.

MEETINGS
OF THE
CABINET.

(2) The Cabinet shall regulate its own procedure at its meetings.

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MINISTERS OF STATE.

65. (1) Ministers of State shall be appointed by the President with the prior approval of Parliament from among persons who are qualified to be elected as members of Parliament.

(2) A member of Parliament appointed a Minister of State shall resign from Parliament before he assumes office.

(3) The total number of Ministers of State including those in the Cabinet shall not at any time exceed thirty.

(4) A Minister of State shall not while he continues in office hold any other office of profit or emolument whether private or public and either directly or indirectly.

DEPUTY MINISTERS.

66. (1) The President may, in consultation with a Minister of State, and with the prior approval of Parliament, appoint one or more Deputy Ministers to assist the Minister in the performance of his functions.

(2) A person shall not be appointed a Deputy Minister unless he is qualified to be elected as a member of Parliament.

(3) A Deputy Minister shall not, while he continues in office, hold any other office of profit or emolument whether private or public and either directly or indirectly.

(4) A member of Parliament appointed a Deputy Minister shall resign from Parliament before he assumes office.

OATHS.

67. A Minister of State or a Deputy Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance, the oath of minister of state and the cabinet oath, as the case may be, set out in the Second Schedule to this Constitution.

TENURE OF OFFICE OF MINISTERS, ETC.

68. The office of a Minister of State or of a Deputy Minister shall become vacant,

(a) if his appointment is revoked by the President;
or

(b) if he is elected as Speaker or member of Parliament; or

(c) if he resigns from office or dies.

The Constitution

69. (1) Parliament may, by a resolution supported by the votes of not less than two-thirds of all the members of Parliament pass a vote of censure on a Minister of State.

VOTE OF
CENSURE.

(2) A motion for the resolution referred to in clause (1) of this article shall not be moved in Parliament unless—

(a) seven days' notice has been given of the motion; and

(b) the notice for the motion has been signed by not less than one-third of all the members of Parliament;

and shall be debated in Parliament within fourteen days after the receipt by the Speaker of the notice for the motion.

(3) A Minister of State in respect of whom a vote of censure is debated pursuant to clause (2) of this article shall be entitled, during the debate, to be heard in his defence.

The National Security Council

70. (1) There shall be established a National Security Council which shall be responsible to the President.

THE
NATIONAL
SECURITY
COUNCIL.

(2) The National Security Council shall consist of

(a) the President and the Vice-President;

(b) the Ministers for the time being holding the portfolios of foreign affairs, defence, interior, and finance and such other ministers as the President may determine; and

(c) such other persons, not being more than five in number as may be appointed by the President.

(3) The President shall preside at the meetings of the National Security Council and in the absence of the President the Vice-President shall preside.

(4) The President may, acting in consultation with the National Security Council, invite such persons as he may consider necessary for any deliberations of the Council.

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(5) The National Security Council shall regulate its own procedure at its meetings.

(6) The Secretary to the Cabinet shall be the Secretary to the National Security Council.

FUNCTIONS OF THE NATIONAL SECURITY COUNCIL

71. The functions of the National Security Council shall include the taking of measures—

- (a) to ensure the collection of information relating to the national security and the integration of the domestic, foreign and military policies relating thereto so as to enable the military services and other departments and agencies of the Government to co-operate more effectively in matters relating to the national security; and
- (b) to assess and appraise the objectives, commitments and risks of Ghana in relation to the actual and potential military power in the interest of national security; and
- (c) regarding the consideration of policies on matters of common interest to the departments and agencies of the Government concerned with the national security.

ESTABLISH- MENT OF SECURITY SERVICES.

72. No agency, establishment or other organisation concerned with national security shall be established except as provided for under this Constitution.

The National Development Commission

NATIONAL DEVELOPMENT COMMISSION.

73. (1) There shall be established a National Development Commission.

- (2) The Commission shall consist of—
 - (a) the Vice-President, who shall be chairman;
 - (b) such number of Ministers of State as the President may appoint;
 - (c) the Government Statistician;
 - (d) one representative each from each Region of Ghana appointed by the Regional Councils;

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- (e) such other persons as may be appointed by the President having regard to their knowledge and experience of the relevant areas of economic or social planning.
- (3) The Commission shall advise the President on planning and developmental policy and strategy and shall ensure that the planning and development strategy of the President is effectively carried out.
- (4) The Commission shall, at the request of the President or Parliament or on its own initiative, study and make—
 - (a) recommendations on the contribution of agriculture, industry and science and technology in general to the national development and make proposals designed to reinforce the essential role of agriculture in the national economy; and
 - (b) proposals for ensuring the even development of the Regions of Ghana by the effective utilization of available resources.
- (5) The National Development Commission shall be responsible to the President.

The Attorney-General

74. (1) There shall be an Attorney-General who shall be a Minister of State and the principal legal adviser to the Government. THE ATTORNEY-GENERAL.
- (2) The Attorney-General shall discharge such other duties of a legal nature as may be referred or assigned to him by the President or imposed on him by this Constitution or any other law.
- (3) The Attorney-General shall be responsible for the initiation and conduct of all prosecutions of criminal offences.
- (4) All offences prosecuted in the name of the Republic of Ghana shall be at the suit of the Attorney-General or some other person authorised by him in accordance with any law.
- (5) The Attorney-General shall have audience in all Courts in Ghana.

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CHAPTER NINE

THE LEGISLATURE

Composition of Parliament

THE PARLIAMENT OF GHANA.

75. (1) There shall be a Parliament of Ghana which shall consist of not less than one hundred and forty elected members.

(2) Subject to the provisions of this Constitution, the legislative power of Ghana shall vest in the Parliament of Ghana and shall be exercised in accordance with the provisions of this Constitution.

QUALIFICATIONS AND DISQUALIFICATIONS.

76. (1) Subject to the provisions of this article, a person shall not be qualified to be a member of Parliament unless—

- (a) he is a citizen of Ghana and has attained the age of twenty-one years; and
- (b) he is resident in the constituency for which he stands as a candidate for election to Parliament or has resided, in the aggregate, for a period of not less than five years in that constituency or he hails from, or is registered to vote in that constituency; and
- (c) he is able to speak and, unless incapacitated by blindness or other physical causes, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of Parliament.

(2) No person shall be qualified to be a member of Parliament who—

- (a) owes allegiance to a country other than Ghana; or
- (b) has been adjudged or otherwise declared—
 - (i) a bankrupt under any law in force in Ghana and has not been discharged;
 - (ii) to be of unsound mind or is detained as a criminal lunatic under any law in force in Ghana; or

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- (c) has been convicted,
 - (i) for high crime under this Constitution or treason or for an offence involving the security of the State, fraud, dishonesty or moral turpitude; or
 - (ii) for any other offence on indictment; or
- (d) has been found by the report of a commission or a committee of inquiry to be incompetent to hold public office or in respect of whom a commission or committee of inquiry has found that while being a public officer he acquired assets unlawfully or defrauded the State or misused or abused his office, or wilfully acted in a manner prejudicial to the interests of the State, and such findings have not been set aside on appeal or judicial review; or
- (e) has had his property confiscated as the result of the findings of a commission or committee of inquiry; and such findings have not been set aside on appeal or judicial review; or
- (f) is under sentence of death or other sentence of imprisonment imposed on him by any court; or
- (g) is not qualified to be registered as a voter under the provisions of the electoral law; or
- (h) is disqualified for election by a law in force in Ghana by reason of his holding or acting in an office the functions of which involve a responsibility for, or in connection with, the conduct of an election or a responsibility for the compilation or revision of an electoral register; or
- (i) is a party to, or is a partner in a firm which is a party to, a contract with the Government of Ghana for or on account of the public service, and has not later than one month before the day of the election, published in the *Gazette* a notice setting out the nature of the contract, and his interest or the interest therein of such firm; or

- (j) has been convicted of an offence relating to, or connected with, election under a law in force in Ghana at any time; or
- (k) is a member of the Police Service, the Prisons Service, the Armed Forces, the Judicial Service, the Civil Service, the Audit Service, the Parliamentary Service, the Statistical Service, the Fire Service or the Customs and Preventive Service; or
- (l) is otherwise disqualified by a law in force at the time of the coming into force of this Constitution, not being inconsistent with a provision of this Constitution.

(3) For the purposes of paragraph (c), of paragraph (d), of paragraph (e) and of paragraph (j) of clause (2) of this article, if ten years or more have elapsed since the end of the sentence or the date of the publication of the report of the commission or committee of inquiry or he has been pardoned, that person shall not be disqualified to be a member of Parliament by reason only of the provisions of that paragraph.

THE SPEAKER. 77. (1) There shall be a Speaker of Parliament who shall be elected by the members of Parliament from among persons who are members of Parliament or who are qualified to be elected as such.

- (2) The Speaker shall vacate his office,
 - (a) if he becomes a Minister of State or a Deputy Minister; or
 - (b) if he resigns from office by writing under his hand addressed to the Clerk to Parliament; or
 - (c) if any circumstances arise that, if he were not Speaker, would disqualify him for election as such; or
 - (d) if he is removed from office by a resolution of Parliament supported by the votes of not less than three-quarters of all the members thereof.

(3) No business shall be transacted in Parliament other than an election to the office of Speaker at any time when the office of Speaker is vacant.

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(4) A person elected to the office of Speaker shall, before entering upon the duties of his office, take and subscribe before Parliament the oath of allegiance and the Speaker's oath set out in the Second Schedule to this Constitution.

(5) The Speaker shall, on assuming office, make a declaration of his assets and liabilities in accordance with article 205 of this Constitution.

(6) The Speaker shall receive such salary and allowances, and on retirement, such retiring awards as may be determined in accordance with the provisions of article 58 of this Constitution.

(7) The salary and allowances payable to the Speaker and any retiring awards payable to him on retirement shall be a charge upon the Consolidated Fund.

(8) The salary and other allowances payable to the Speaker shall not be varied to his disadvantage during the tenure of his office.

78. (1) There shall be two Deputy Speakers of Parliament— DEPUTY
SPEAKERS.

(a) who shall be elected by the members of Parliament from among the members of Parliament; and

(b) both of whom shall not be members of the same political party.

(2) The members of Parliament shall elect a person to the office of Deputy Speaker when Parliament first meets after a dissolution of Parliament and, if the office becomes vacant otherwise than by reason of a dissolution of Parliament, at the first sitting of Parliament after the office becomes vacant.

(3) The provisions of clause (2) of article 77 of this Constitution shall apply, *mutatis mutandis*, to a Deputy Speaker.

79. A member of Parliament shall vacate his seat in Parliament— TENURE OF
OFFICE OF
MEMBERS.

(a) upon a dissolution of Parliament; or

(b) if he is elected as Speaker of Parliament; or

(c) if he ceases to be a citizen of Ghana; or

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- (d) if he accepts appointment as a Minister of State or a Deputy Minister; or
- (e) if he is absent, without the permission in writing of the Speaker, and he is unable to offer a reasonable explanation to the Privileges Committee, from fifteen sittings of a meeting of Parliament during any period that Parliament has been summoned to meet and continues to meet; or
- (f) if he is expelled from Parliament after having been found guilty of contempt of Parliament by a committee of Parliament; or
- (g) if any circumstances arise that, if he were not a member of Parliament, would cause him to be disqualified for election, under the provisions of article 76 of this Constitution; or
- (h) if he resigns from office as a member of Parliament by writing under his hand addressed to the Speaker; or
- (i) if he leaves the party of which he was a member at the time of his election to Parliament to join another party.

EMOLUMENTS OF MEMBERS.

80. (1) A member of Parliament shall be paid such salary and allowances and provided with such facilities as may be determined in accordance with the provisions of article 58 of this Constitution.

(2) A member of Parliament shall not hold any office of profit or emolument, whether private or public and either directly or indirectly, unless otherwise permitted by the Speaker acting on the recommendations of a committee of Parliament on the ground—

- (a) that holding any such office will not be to the prejudice of the work of a member of Parliament; and
- (b) that no conflict of interest arises or would arise as a result of the member holding such office.

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81. (1) The High Court of Justice shall have jurisdiction to hear and determine any question whether,

(a) a person has been validly elected as a member of Parliament or the seat of a member has become vacant; or

DETERMINA
TION OF
QUESTION
AS TO
MEMBERSHIP.

(b) a person has been validly elected as a Speaker of Parliament or, having been so elected, has vacated the office of Speaker.

(2) The Rules of Court Committee shall, by constitutional instrument, make Rules of Court for the practice and procedure of the High Court of Justice with respect to the jurisdiction conferred upon the High Court of Justice by the provisions of clause (1) of this article.

(3) A person aggrieved by the determination of the High Court of Justice under this article may appeal in accordance with the Rules made under clause (2) of this article.

Procedure in Parliament

82. (1) A member of Parliament shall, before taking his seat therein, take and subscribe before the Speaker and in the presence of the members of Parliament, the oath of allegiance and the oath of a member of Parliament set out in the Second Schedule to this Constitution.

OATH OF
MEMBERS.

(2) A member may, before taking the oaths referred to in clause (1) of this article take part in the election of the Speaker.

83. There shall preside at any sitting of Parliament—

(a) the Speaker; or

(b) in the absence of the Speaker, a Deputy Speaker.

PRESIDING
IN
PARLIAMENT.

84. Where objection is taken by a member of Parliament present that there are present in Parliament, besides the person presiding, less than one-third of all the members of Parliament, and after such interval as may be prescribed in the rules of procedure of Parliament, the person presiding ascertains that the number of members present is still less than one-third of the number of all the members of Parliament, he shall thereupon adjourn Parliament.

QUORUM IN
PARLIAMENT.

85. (1) At the first meeting of Parliament there shall be appointed, after the election of the Speaker, and the Deputy Speakers—

- (a) the Public Accounts Committee;
- (b) the Business Committee;
- (c) the Standing Orders Committee;
- (d) the Committee of Privileges;
- (e) the Subsidiary Legislation Committee;
- (f) the Finance Committee;
- (g) the Foreign Affairs Committee; and
- (h) such other committees of Parliament as the rules of procedure of Parliament shall provide.

(2) In addition to the committees referred to in clause (1) of this article, Parliament shall appoint other committees which shall perform the functions specified in clause (3) of this article.

(3) It shall be the duty of any such committee as is referred to in clause (2) of this article to investigate and inquire into the activities and administration of such ministries or departments as may be assigned to it and such investigation and inquiry may extend to proposals for legislation.

(4) Notwithstanding anything contained in clauses (1) and (2) of this article, Parliament may at any time appoint any other committee to investigate any matter of public importance.

(5) Every member of Parliament shall be appointed to at least one of the committees appointed under clause (1) of this article.

(6) The composition of each of the committees appointed under clauses (1), (2) and (4) of this article shall, as much as possible, reflect the different shades of opinion in Parliament.

(7) For the purposes of effectively performing its functions each of the committees shall have all such powers,

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rights and privileges as are vested in the High Court of Justice or a Justice thereof at a trial in respect of—

- (a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
- (b) compelling production of documents; and
- (c) the issue of a commission or request to examine witnesses abroad.

86. (1) Except as otherwise provided in this Constitution, no question for decision in Parliament shall be proposed for determination unless there are present in Parliament not less than one-half of all the members of Parliament, and except as otherwise provided in this Constitution, the question proposed shall be determined by the majority of the votes of the members so present and voting.

VOTING IN
PARLIAMENT.

(2) The Speaker shall have neither an original nor a casting vote and where upon any question before Parliament the votes are equally divided the motion shall be lost.

(3) There shall be secret voting in Parliament in respect of—

- (a) a bill for an Act of Parliament to amend any provision of this Constitution; or
- (b) the election or removal of a person holding office under this Constitution or a law made under this Constitution.

(4) A member who is a party to, or is a partner in a firm which is a party to a contract with the Government shall, in any proceedings in Parliament relating to that contract, declare his interest or the interest therein of that firm and shall not vote on any question relating to that contract.

87. A person who sits or votes in Parliament knowing or having reasonable grounds for knowing that he is not entitled so to do commits an offence and shall be liable on conviction to such penalty as shall be prescribed by or under an Act of Parliament.

UNQUALIFIED
PERSON
SITTING OR
VOTING.

88. (1) The power of Parliament to make laws shall be exercised by bills passed by Parliament and assented to by the President.

MODE OF
EXERCISING
LEGISLATIVE
POWER.

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(2) No bill, other than such a bill as is referred to in paragraph (a) of article 90 of this Constitution, shall be introduced in Parliament unless—

(a) it is accompanied by an explanatory memorandum setting out in detail the policy and principles of the bill, the defects of the existing law, the remedies proposed to deal with those defects and the necessity for its introduction; and

(b) it has been published in the *Gazette* fourteen days before the date of its introduction in Parliament.

(3) No bill affecting the institution of chieftaincy shall be introduced in Parliament without prior reference to the National House of Chiefs.

(4) Whenever a bill is read the first time in Parliament, it shall be referred to the appropriate committee appointed under article 85 of this Constitution which shall examine the bill in detail and make all such inquiries in relation thereto as the committee considers expedient or necessary.

(5) Where a bill has been deliberated upon by the appropriate committee it shall then be reported to Parliament; and the report of the committee together with the explanatory memorandum to the bill shall form the basis for a full debate on the bill for its passage, with or without amendments, or its rejection, by Parliament.

(6) Where a bill passed by Parliament is presented to the President for assent he shall signify, within seven days thereof, to the Speaker that he assents to the bill or that he refuses to assent to the bill unless the Council of State indicates that it is considering the bill.

(7) Where the President refuses to assent to a bill he shall, within fourteen days of the refusal—

(a) state in a memorandum to the Speaker any specific provisions of the bill which in his opinion should be reconsidered by Parliament including his recommendations for amendments; or

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(b) inform the Speaker that he has referred the bill to the Council of State for consideration and comments or that the Council of State is considering the bill in accordance with the provisions of article 107 of this Constitution.

(8) Parliament shall reconsider a bill taking into account the comments made by the President or the Council of State, as the case may be, under clause (7) of this article.

(9) Where a bill reconsidered under clause (8) of this article is passed by Parliament by a resolution in that behalf supported by the votes of not less than one half of all the members of Parliament, the President shall assent thereto within thirty days of the passing of the resolution.

(10) Without prejudice to the power of Parliament to postpone the operation of a law, a bill shall not become law until it has been duly passed and assented to in accordance with the provisions of this Constitution and shall not come into force unless it has been published in the *Gazette*.

(11) The provisions of clauses (6) to (9) inclusive of this article shall not apply to a bill certified by the Speaker as a bill to which the provisions of article 90 of this Constitution apply; and accordingly the President shall give his assent to any such bill when presented for assent.

(12) Where it is determined by a committee of Parliament appointed in that behalf that a particular bill is of an urgent nature, the provisions of the preceding clauses of this article, other than clause (1) and paragraph (a) of clause (2) shall not apply, and accordingly the President shall give his assent thereto on its presentation for assent.

(13) Notwithstanding the provisions of clause (12) of this article the Council of State shall consider all bills passed under a certificate of urgency.

(14) No bill introduced into Parliament by or on behalf of the President shall be delayed for more than three months in any committee of Parliament.

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RETROACTIVE
LEGISLATION.

89. (1) Parliament shall have no power to enact a law—

- (a) which has the effect of a legislative judgement;
or
- (b) which is to operate retrospectively either in intent or content.

(2) The provisions of paragraph (b) of clause (1) of this article shall not affect a law enacted pursuant to articles 140 to 145 of this Constitution.

SETTLEMENT
OF FINANCIAL
MATTERS.

90. Parliament shall not, unless the bill is introduced or the motion is introduced by, or on behalf of, the President—

- (a) proceed upon a bill including an amendment to a bill, that, in the opinion of the person presiding, makes provision for any of the following, that is to say,
 - (i) the imposition of taxation or the alteration of taxation otherwise than by reduction; or
 - (ii) the imposition of a charge upon the Consolidated Fund or other public funds of Ghana or the alteration of any such charge otherwise than by reduction; or
 - (iii) the payment, issue or withdrawal from the Consolidated Fund or other public funds of Ghana of any moneys not charged upon the Consolidated Fund or any increase in the amount of such payment, issue or withdrawal; or
 - (iv) the composition or remission of any debt due to the Government of Ghana; or
- (b) proceed upon a motion, including an amendment to a motion, the effect of which, in the opinion of the person presiding, would be to make provision for any of the purposes specified in paragraph (a) of this article.

STANDING
ORDERS OF
PARLIAMENT.

91. (1) Subject to the provisions of this Constitution, Parliament may regulate its own procedure.

The Constitution

(2) Parliament may act notwithstanding a vacancy in its membership, including a vacancy not filled when Parliament first meets after a dissolution of Parliament, and the presence or participation of a person not entitled to be present or to participate in the proceedings of Parliament shall not invalidate those proceedings.

92. Subject to the provisions of article 87 of this Constitution, a Minister of State may, with the permission of the Speaker and at the request of the President, or the Speaker, or twenty or more members of Parliament, take part without a vote in the deliberations of Parliament or a committee thereof in order—

ATTENDANCE
BY A
MINISTER OF
STATE, ETC.

- (a) to give an account of any matter falling within his portfolio; or
- (b) to explain any aspect of Government policy; or
- (c) to introduce a bill.

Summoning, Dissolution, etc.

93. (1) A session of Parliament shall be held at such place within Ghana and shall commence at such time as the Speaker may, by constitutional instrument, appoint.

SESSIONS OF
PARLIAMENT.

(2) There shall be a session of Parliament at least once in every year, so however, that a period of twelve months shall not intervene between the last sitting of Parliament in one session and the first sitting thereof in the next session.

(3) Notwithstanding any other provision of this article, any twenty members of Parliament may request a meeting of Parliament and the Speaker shall, within seven days after the receipt of that request, summon Parliament.

(4) Subject to the provisions of clause (2) of article 94 of this Constitution, a general election of members of Parliament shall be held within the thirty days before the expiration of the period specified in clause (1) of article 94 of this Constitution; and a session of Parliament shall be appointed to commence within fourteen days after such expiration.

(5) Whenever a vacancy occurs in Parliament, the Clerk to Parliament shall notify the Electoral Commissioner

The Constitution

in writing within seven days after the vacancy occurred and a by-election shall be held within thirty days after the vacancy occurred.

(6) Notwithstanding the provisions of clause (5) of this article, a by-election shall not be held within three months before the holding of a general election.

DISSOLUTION.

94. (1) Subject to the provisions of clause (2) of this article, Parliament shall continue for five years from the date of its first sitting and shall then stand dissolved.

(2) At any time when Ghana is actually engaged in war Parliament may, from time to time by resolution passed in that behalf and supported by the votes of not less than two-thirds of all the members of Parliament, extend the period of five years specified in clause (1) of this article for not more than twelve months at a time, so however, that the life of Parliament shall not be extended under this clause for more than five years.

(3) Where, after a dissolution of Parliament and before the holding of a general election, the President is satisfied that owing to the existence of a state of war or of a state of public emergency in Ghana or any part thereof it is necessary to recall Parliament, the President shall cause to be summoned the Parliament that has been dissolved to meet, and unless the life of Parliament is extended under the provisions of clause (2) of this article, the general election of members of Parliament shall proceed and the Parliament that has been recalled shall, if not sooner dissolved, again stand dissolved on the date appointed for the nomination of candidates for the general election.

GRATUITY FOR MEMBERS OF PARLIAMENT.

95. (1) A person who has served as a member of Parliament for a period of not less than five years shall be eligible, on ceasing to be a member or on his death, for the payment of such gratuity to him or his personal representatives, as the case may be, as shall be determined by the President, acting in consultation with the Council of State.

(2) For the purposes of clause (1) of this article the period of five years specified therein shall be interpreted to mean five continuous years, and accordingly any period when the member is out of office, otherwise than by dissolution of Parliament as such, shall not be taken into account.

The Constitution

Privileges and Immunities

96. There shall be freedom of speech, debate and proceedings in Parliament and that freedom shall not be impeached or questioned in any Court or place out of Parliament.

FREEDOM OF
SPEECH AND
PROCEEDINGS.

97. (1) Subject to the provisions of this article, but without prejudice to the generality of the provisions of article 96 of this Constitution, no civil or criminal proceedings shall be instituted against a member of Parliament in any Court or place out of Parliament for any matter or thing brought by him in or before Parliament by petition, bill, motion or otherwise.

IMMUNITY
FROM
PROCEEDINGS
FOR ACTS IN
PARLIAMENT.

(2) Whenever in the opinion of the person presiding in Parliament a statement made by a member is *prima facie* defamatory of any person, the person presiding shall refer the matter for inquiry to the Committee of Privileges which shall report its findings to Parliament not later than thirty days of the matter being so referred.

(3) Where the Committee of Privileges reports to Parliament that the statement made by the member is defamatory of any person, the member who made the statement shall, within seven days after that report, render an apology at the bar of Parliament, the terms of which shall be approved by the Committee of Privileges and communicated to the person who has been defamed.

(4) Where a member refuses to render an apology in accordance with the provisions of clause (3) of this article, the Speaker shall suspend that member for the duration of the session of Parliament in which the defamatory statement was made and a member so suspended shall lose his parliamentary privileges, immunities and remuneration which shall be restored to him if at any time before the end of the session he renders the apology as required by clause (3) of this article.

(5) A person who has made a contemporaneous report of the proceedings in Parliament, including a statement which has been the subject of an inquiry under clause (2) of this article, shall publish the apology referred to in clause (3) of this article or the suspension or the apology referred to in clause (4) of this article with the same

The Constitution

prominence as he published the first report; and where any such person fails to publish that apology he shall not be protected by privilege.

IMMUNITY
FROM
SERVICE OF
PROCESS AND
ARREST.

98. No civil or criminal process coming from any Court or place out of Parliament shall be served on, or executed in relation to, the Speaker or a member or the Clerk to Parliament while he is on his way to, attending at or returning from, any proceedings of Parliament.

IMMUNITY
FROM
WITNESS
SUMMONS.

99. (1) Neither the Speaker nor a member of, nor the Clerk to, Parliament shall be compelled, while attending Parliament to appear as a witness in any Court or place out of Parliament.

(2) The certificate of the Speaker that a member or the Clerk is attending the proceedings of Parliament shall be conclusive evidence of attendance at Parliament.

IMMUNITY
FROM
SERVICE AS
JURYMAN.

100. Neither the Speaker nor a member of, nor the Clerk to, Parliament shall be required to serve on a jury in any Court or place out of Parliament.

IMMUNITY
FOR
PUBLICATION
OF
PROCEEDINGS.

101. Subject to the provisions of this Constitution, no person shall be under any civil or criminal liability in respect of the publication of—

(a) the text or a summary of any report, papers, minutes, votes or proceedings of Parliament, or

(b) a contemporaneous report of the proceedings of Parliament,

unless it is shown that the publication was effected maliciously or otherwise in want of good faith.

PRIVILEGES
OF
WITNESSES.

102. (1) A person summoned to attend to give evidence or to produce a paper, book, record or other document before Parliament shall be entitled, in respect of his evidence, or the production of the document, as the case may be, to the same privileges as if he were appearing before a Court.

(2) No public officer shall be required to produce before Parliament a document where—

(a) the Speaker certifies—

(i) that the document belongs to a class

The Constitution

of documents which it is injurious to the public interest to produce; or

- (ii) that disclosure of the contents thereof will be injurious to the public interest; or

(b) the National Security Council certifies—

- (i) that the document belongs to a class of documents which it is prejudicial to the security of the State to produce; or
- (ii) that disclosure of the contents thereof will be prejudicial to the security of the State.

(3) Where there is a doubt as to whether a document referred to in clause (2) of this article is injurious to the public interest or prejudicial to the security of the State, the Speaker or the National Security Council, as the case may be, shall refer the matter to the Supreme Court for determination by the Supreme Court whether the production or the disclosure of the contents of any such document would be injurious to the public interest or prejudicial to the security of the State.

(4) An answer by a person to a question put by Parliament shall not be admissible in evidence against him in any civil or criminal proceedings out of Parliament, not being proceedings for perjury brought under the criminal law.

Contempt of Parliament

103. An act or omission which obstructs or impedes Parliament in the performance of its functions or which obstructs or impedes a member or officer thereof in the discharge of his duties or affronts the dignity of Parliament or which tends either directly or indirectly to produce such a result shall be contempt of Parliament.

GENERAL
CONTEMPT.

104. Where an act or omission which constitutes contempt of Parliament is an offence under the criminal law, the exercise by Parliament of the power to punish for contempt shall not be a bar to the institution of proceedings under the criminal law.

CRIMINAL
PROCEEDINGS.

The Constitution

The Parliamentary Service

THE PARLIA-
MENTARY
SERVICE.

105. (1) There shall be a Parliamentary Service which shall form part of the public services of Ghana.

(2) There shall be a Parliamentary Service Board which shall consist of—

- (a) the Speaker, as chairman; and
- (b) four other members all of whom shall be appointed by the Speaker, acting in accordance with the advice of a committee of Parliament; and
- (c) the Clerk to Parliament, who shall be an *ex officio* member of the Board.

(3) There shall be a Clerk to Parliament who shall be the head of the Parliamentary Service.

(4) The appointment of the Clerk and the other members of his staff in the Parliamentary Service shall be made by the Parliamentary Service Board in consultation with the Public Services Commission.

(5) The Parliamentary Service Board shall with the prior approval of Parliament make Regulations, by constitutional instrument, prescribing the terms and conditions of service of the officers and other employees in the Parliamentary Service and generally for the effective and efficient administration of the Parliamentary Service.

The Constitution

CHAPTER TEN

THE COUNCIL OF STATE

106. (1) There shall be a Council of State to aid and counsel the President and Parliament in the performance of their respective functions. THE COUNCIL
OF STATE.

(2) The Council of State shall consist of—

- (a) any person who has held the office of President or Head of State and did not leave office in disreputable or other circumstances imputing moral turpitude, able and willing to act as a member of the Council of State;
- (b) not more than five persons each of whom has held the office of Chief Justice, or Speaker of Parliament, or Chief of Defence Staff, or Inspector-General of Police, or Governor of the Bank of Ghana, or Vice-Chancellor of a recognised University or Secretary to the Cabinet or Head of the Civil Service, who did not leave office in disreputable or other circumstances imputing moral turpitude, able and willing to act as a member of the Council of State, appointed by the President with the prior approval of Parliament;
- (c) not more than eight persons appointed by the President from recognised professional bodies with the prior approval of Parliament;
- (d) the President of the National House of Chiefs; and
- (e) not more than twelve persons each of whom is a citizen of Ghana of proven eminence and merit, one each of whom shall, at least, be resident in each Region of Ghana, appointed by the President with the prior approval of Parliament.

(3) The Council of State shall elect a chairman, from among its members.

(4) A member of the Council of State shall, at the first meeting thereof which he attends as a member, take

and subscribe the oath of secrecy and the oath of a councillor of state set out in the Second Schedule to this Constitution.

(5) A member of the Council of State appointed by the President, unless he previously resigns by writing under his hand and addressed to the President, becomes permanently incapacitated, is removed from office or dies, shall hold office until another person is elected as President and assumes office as such.

(6) The appointment of a member of the Council of State may be terminated by the President on any ground of stated misbehaviour and with the prior approval of Parliament.

(7) The chairman and members of the Council of State shall receive such allowances as may be determined in accordance with the provisions of article 58 of this Constitution.

(8) The allowances and privileges of the chairman and of the other members of the Council of State shall be a charge upon the Consolidated Fund and shall not be varied to the disadvantage of any such member while he holds office.

CONSIDERA-
TION OF
BILLS BY THE
COUNCIL OF
STATE.

107. (1) A bill which has been published in the *Gazette* or passed by Parliament shall be considered by the Council of State—

- (a) if the President so requests; or
- (b) if the chairman of the Council of State so determines; or
- (c) if not less than five members of the Council of State so demand; or
- (d) if the bill was passed under a certificate of urgency.

(2) A request from the President for consideration of a bill may be accompanied by a statement setting forth the amendments or changes which the President proposes for consideration by the Council of State.

(3) Consideration of a bill under clause (1) of this article shall be completed within thirty days after the third reading in Parliament of that bill, except that where the bill was passed under a certificate of urgency the Council

The Constitution

of State shall consider it and report to the President and Parliament within seventy-two hours.

(4) The chairman of the Council of State shall forthwith inform the President and the Speaker of Parliament whenever there is a request for consideration of a bill in accordance with the provisions of this article.

(5) Where the Council of State decides not to propose an amendment to a bill the chairman shall, within seven days of the decision of the Council, transmit the bill with a certificate to that effect addressed to the President and the Speaker of Parliament.

(6) Where the Council of State decides to propose amendments to a bill, the bill, with a memorandum setting forth the amendments proposed on the bill shall be transmitted by the chairman to the President and the Speaker of Parliament within fifteen days of the conclusion of the consideration by the Council of State.

108. (1) The Council of State shall consider and advise the President or any other authority in respect of any appointment which is required by this Constitution or any other law relating to the same to be made in accordance with the advice of, or in consultation with, the Council of State which advice shall be given not later than thirty days after the receipt of the request from the President or other authority.

OTHER
FUNCTIONS OF
THE COUNCIL
OF STATE.

(2) The Council of State may, upon request or at its own initiative consider and make recommendations on any matter being considered or dealt with by the President, a Minister of State, Parliament or any other authority established by this Constitution, so however, that the President, Minister of State, Parliament or other authority shall not be required to act in accordance with any recommendations made by the Council of State pursuant to this clause.

(3) The Council of State shall perform such other functions as may be assigned to it by this Constitution or any other law in accordance with this Constitution.

109. (1) The Council of State shall meet whenever it is requested to meet by the President or by its chairman or

PROCEDURE
IN THE
COUNCIL OF
STATE.

The Constitution

by at least five members, so however, that the Council shall meet at least four times in each year.

(2) The Council of State shall hold its meetings *in camera* but may admit the public to any meetings whenever it thinks it appropriate.

(3) There shall preside at any sitting of the Council of State—

(a) the chairman; or

(b) in the absence of the chairman such member of the Council of State as the Council shall elect for that purpose.

(4) No question for decision in the Council of State shall be proposed for determination unless there are present in the Council not less than one-half of all the members of the Council, and except as otherwise provided in this Constitution, the question proposed shall be determined by the majority of the members present and voting.

(5) The Council of State may at any time appoint such committees as it thinks appropriate and assign to such committees any matter or investigation which the Council may determine.

(6) The Council of State may commission experts and consultants to advise it or to assist it in dealing with specific issues upon such terms and conditions as the Council may determine.

(7) A member who is a party to, or is a partner in a firm which is a party to, a contract with the Government shall, in any proceedings in the Council of State relating to that contract, declare his interest or the interest therein of that firm and shall not vote on any question relating to that contract.

(8) The Council of State may act notwithstanding a vacancy in its membership, including a vacancy not filled when the Council first meets after a dissolution of the Council, and the presence or participation of a person not entitled to be present or to participate in the proceedings of the Council shall not invalidate those proceedings.

(9) Subject to the provisions of this Constitution the Council of State may regulate its own procedure.

The Constitution

CHAPTER ELEVEN

THE OMBUDSMAN

110. There shall be an Ombudsman who shall be appointed by the President, acting in consultation with the Council of State, and with the approval of Parliament.

ESTABLISH-
MENT OF
OMBUDSMAN.

111. (1) The Ombudsman may investigate any action taken or omitted to be taken by or on behalf of—

FUNCTIONS OF
OMBUDSMAN.

- (a) a department or ministry of State,
- (b) a public corporation,
- (c) a member of the Armed Forces or the Police Service, or the Prisons Service; and
- (d) a member of the public services,

being an action taken or omitted to be taken in the exercise of the administrative functions of that department, ministry, corporation, authority or person.

(2) The Ombudsman shall not investigate—

- (a) a matter which is *sub judice* before a Court or judicial tribunal; or
- (b) a matter involving the relations or dealings between the Government of Ghana and any other Government or an international organisation; or
- (c) a matter relating to the exercise of the prerogative of mercy.

112. (1) Subject to the provisions of this Constitution, Parliament shall, within six months after the coming into force of this Constitution, by or under an Act of Parliament,

LEGISLATION
RELATING TO
OMBUDSMAN.

- (a) specify the other matters which shall be subject to investigation by the Ombudsman; and
- (b) provide for the establishment of regional and district offices of the Ombudsman; and

The Constitution

- (c) set out the procedure for the lodging of complaints and the procedure in respect of investigations; and
- (d) specify the powers of the Ombudsman in respect of,
 - (i) the furnishing of information and the production of documents to the Ombudsman;
 - (ii) the attendance and the examination of witnesses; and
 - (iii) the making of recommendations in respect of appropriate remedies;

and generally for the purposes of enabling the Ombudsman to perform the functions conferred upon him by this Constitution or any other law.

(2) The Ombudsman shall, in each session of Parliament, submit a report to Parliament which shall contain a summary of the matters investigated, and the action taken thereon by him during the preceding session of Parliament.

QUALIFICATIONS OF THE OMBUDSMAN.

113. (1) A person shall not be qualified—

- (a) for appointment as Ombudsman unless he is qualified to practise as counsel in accordance with the provisions of clause (3) of article 127 of this Constitution and has been so qualified for a period of not less than twelve years; or
- (b) to hold office as the Ombudsman while he still holds any other public office or is a member of Parliament or has attained the age of sixty-five years.

(2) The Ombudsman when appointed shall enjoy the terms and conditions of service, other than such terms and conditions as relate to retiring awards, of a Justice of the Court of Appeal.

(3) Whenever the Ombudsman dies, resigns or is removed from office or is absent from Ghana or is for any other reason unable to perform the functions of his office, the President shall, acting in accordance with the advice of

The Constitution

the Council of State, appoint a person qualified to be appointed Ombudsman to perform those functions until the resumption of office of the Ombudsman, or until the appointment of a new Ombudsman.

(4) In the performance of any of his functions the Ombudsman shall be subject only to this Constitution and shall not be subject to the direction or control of any other person or authority.

(5) The appointment of officers and other employees of the staff of the Ombudsman shall be made by the Ombudsman acting in consultation with the Public Services Commission.

(6) The administrative expenses of the Ombudsman, including all salaries, allowances and pensions payable to, or in respect of, persons serving with the Ombudsman shall be a charge upon the Consolidated Fund.

(7) The procedure for the removal of the Ombudsman shall be the same as that provided for the removal of Justice of the Superior Court of Judicature under the provisions of article 128 of this Constitution.

(8) For the purposes of performing his functions under this Constitution and any other law the Ombudsman may bring actions before any Court in Ghana and to seek any and all remedies which may be available from such Court.

(9) Subject to the provisions of this Constitution and to an Act enacted by Parliament pursuant to the provisions of article 112 of this Constitution, the Ombudsman shall make, by constitutional instrument, Regulations regarding the manner and procedure for bringing complaints before him and the investigation thereof.

The Constitution

CHAPTER TWELVE

THE JUDICIARY

The Superior Court of Judicature

THE JUDICIAL
POWER OF
GHANA.

114. (1) The judicial power of Ghana shall be vested in the Judiciary of which the Chief Justice shall be the Head; and accordingly no organ or agency of the executive or the legislature shall be given any final judicial power.

(2) The Judiciary shall have jurisdiction in all matters civil and criminal including matters relating to this Constitution, and such other matters in respect of which Parliament may, by or under an Act of Parliament, confer jurisdiction on the Judiciary.

(3) In the exercise of the judicial power of Ghana the Judiciary in both its judicial and administrative functions including financial administration, shall be subject only to this Constitution and shall not be subject to the control or direction of any other person or authority.

(4) The administrative expenses of the Judiciary including all salaries, allowances and pensions payable to, or in respect of, persons serving in the Judiciary shall be a charge upon the Consolidated Fund.

(5) The Judiciary shall consist of the Supreme Court of Ghana, the Court of Appeal and the High Court of Justice which shall be the superior courts of record and which shall constitute one Superior Court of Judicature, and such other inferior Courts and traditional Courts as Parliament may by law establish.

(6) The Superior Court of Judicature shall have the power to commit for contempt to themselves and all such powers as were vested in a court of record immediately before the coming into force of this Constitution.

(7) Except as otherwise provided in clause (14) of article 26 of this Constitution, or as may otherwise be ordered by a Court in the interests of public morality, public safety or public order the proceedings of every Court, including the announcement of the decision of the Court shall be held in public.

The Constitution

(8) In the exercise of the judicial power conferred upon the Judiciary by this Constitution or any other law, the Superior Court of Judicature may, in relation to any matter within its jurisdiction, issue such orders as may be necessary to ensure the enforcement of any judgment, decree or order of the Court.

(9) A Justice of the Superior Court of Judicature shall not be liable to any action or suit for any matter or thing done by him in the performance of his function as such Justice.

(10) For the purposes of clause (3) of this article, the expression "financial administration" means the management, including the operation of banking facilities, by the Judiciary without the interference of any person or authority, other than for the purposes of audit by the Auditor-General, of the funds voted by Parliament or charged upon the Consolidated Fund by this Constitution or any other law for the purposes of defraying the expenses of the Judiciary in respect of which the funds were voted or so charged.

The Supreme Court

115. (1) The Supreme Court shall consist of
- (a) the Chief Justice, who shall be the president thereof; and
 - (b) not less than six other Justices of the Supreme Court.

COMPOSITION
OF THE
SUPREME
COURT.

(2) The Supreme Court shall, except as otherwise provided in article 120 of this Constitution, be duly constituted for the despatch of its business by not less than five Justices thereof.

(3) The Chief Justice shall preside at the sittings of the Supreme Court and in his absence the most senior of the Justices of the Supreme Court as constituted for the time being shall preside.

116. (1) The Supreme Court shall be the final court of appeal in and for Ghana and shall have such appellate and other jurisdiction as may be conferred upon it by this Constitution or any other law.

GENERAL
JURISDICTION
OF THE
SUPREME
COURT.

The Constitution

(2) The Supreme Court shall not be bound to follow the decisions of any other Court.

(3) The Supreme Court may, while treating its own previous decisions as normally binding, depart from a previous decision when it appears right so to do; and all other Courts shall be bound to follow the decisions of the Supreme Court on questions of law.

(4) For the purposes of hearing and determining a matter within its jurisdiction and the amendment, execution or the enforcement of a judgment or order made on any such matter, and for the purposes of any other authority, expressly or by necessary implication given to the Supreme Court by this Constitution or any other law, the Supreme Court shall have all the powers, authority and jurisdiction vested in any Court established by this Constitution or any other law.

APPELLATE JURISDICTION OF THE SUPREME COURT.

117. (1) An appeal shall lie from a judgment, decree or order of the Court of Appeal to the Supreme Court,

- (a) as of right, in a civil cause or matter;
- (b) as of right, in a criminal cause or matter in respect of which an appeal has been brought to the Court of Appeal from a judgment, decree or order of the High Court of Justice in the exercise of its original jurisdiction;
- (c) with the leave of the Court of Appeal, in any other criminal cause or matter, where the Court of Appeal is satisfied that the case involves a substantial question of law or is of public importance.

(2) Notwithstanding the provisions of clause (1) of this article, the Supreme Court may entertain an application for special leave to appeal in any cause or matter, civil or criminal, to the Supreme Court, and may grant such leave accordingly.

(3) The Supreme Court shall have appellate jurisdiction to hear and determine any matter which has been determined by the national chieftaincy tribunal.

The Constitution

(4) The Supreme Court shall have appellate jurisdiction, to the exclusion of the Court of Appeal, to hear and determine any matter relating to the conviction of any person for treason by the High Court of Justice.

118. (1) The Supreme Court shall, except as otherwise provided in article 35 of this Constitution, have original jurisdiction, to the exclusion of all other Courts,

ORIGINAL
JURISDICTION
OF THE
SUPREME
COURT.

(a) in all matters relating to the enforcement or interpretation of any provision of this Constitution; and

(b) where a question arises whether an enactment was made in excess of the powers conferred upon Parliament or any other authority or person by law or under this Constitution.

(2) Where a question relating to a matter or question as is referred to in clause (1) of this article arises in any proceedings in any Court, other than the Supreme Court, that Court shall stay the proceedings and refer the question of law involved to the Supreme Court for determination; and the Court in which the question arose shall dispose of the case in accordance with the decision of the Supreme Court.

119. The Supreme Court shall have supervisory jurisdiction over all other Courts in Ghana and over any adjudicating authority; and in the exercise of its supervisory jurisdiction shall have power to issue such directions, orders or writs including writs or orders in the nature of *habeas corpus*, *certiorari*, *mandamus*, prohibition, and *quo warranto* as it may consider appropriate for the purposes of enforcing or securing the enforcement of its supervisory powers.

SUPERVISORY
JURISDICTION
OF THE
SUPREME
COURT.

120. A single Justice of the Supreme Court may exercise a power vested in the Supreme Court not involving the decision of the cause or matter before the Supreme Court, except that,

POWERS OF A
SINGLE
JUSTICE OF
THE SUPREME
COURT.

(a) in criminal matters, where that Justice refuses or grants an application in the exercise of any such power, a person affected thereby shall be entitled to have the application determined by the Supreme Court constituted by three Justices thereof; and

The Constitution

- (b) in civil matters, any order, direction or decision made or given in pursuance of the powers conferred by this article may be varied, discharged or reversed by the Supreme Court, constituted by three Justices thereof.

The Court of Appeal

COMPOSITION OF THE COURT OF APPEAL.

121. (1) The Court of Appeal shall consist of—

- (a) the Chief Justice;
- (b) not less than five Justices of the Court of Appeal; and
- (c) such other Justices of the Superior Court of Judicature as the Chief Justice may, for the determination of a particular cause or matter by writing under his hand, request to sit in the Court of Appeal for such period as the Chief Justice may specify or until the request is withdrawn.

(2) The Court of Appeal shall be duly constituted by any three Justices thereof and when so constituted the most senior of the Justices shall preside.

(3) Subject to the provisions of clause (3) of article 116 of this Constitution, the Court of Appeal shall be bound by its own previous decisions and all Courts inferior to the Court of Appeal shall be bound to follow the decisions of the Court of Appeal on questions of law.

(4) The Chief Justice may create such Divisions of the Court of Appeal as he may consider necessary,

- (a) consisting of such number of Justices respectively as may be assigned thereto by the Chief Justice;
- (b) sitting at such places in Ghana as the Chief Justice may, by constitutional instrument, determine; and
- (c) presided over by the most senior of the Justices of the Court of Appeal constituting the Court.

The Constitution

122. (1) The Court of Appeal shall have jurisdiction throughout Ghana to hear and determine, subject to the provisions of this article and of this Constitution, appeals from a judgment, decree or order of the High Court of Justice or a Justice thereof and such other appellate jurisdiction as may be conferred upon it by this Constitution or any other law.

JURISDICTION
OF THE
COURT OF
APPEAL.

(2) Except as otherwise provided in this Constitution, an appeal shall lie as of right from a judgment, decree or order of the High Court of Justice to the Court of Appeal in any cause or matter determined by the High Court of Justice.

(3) For the purposes of hearing and determining an appeal within its jurisdiction and the amendment, execution or the enforcement of a judgment or order made on any such appeal, and for the purposes of any other authority expressly or by necessary implication given to the Court of Appeal by this Constitution or any other law, the Court of Appeal shall have all the powers, authority and jurisdiction vested in the Court from which the appeal is brought.

123. A single Justice of the Court of Appeal may exercise a power vested in the Court of Appeal not involving the decision of the cause or matter before the Court of Appeal, except that,

POWERS OF
A SINGLE
JUSTICE
OF THE
COURT OF
APPEAL.

- (a) in criminal matters, where that Justice refuses or grants an application in the exercise of any such power a person affected thereby shall be entitled to have the application determined by the Court of Appeal as duly constituted; and
- (b) in civil matters, any order, direction or decision made or given in pursuance of the powers conferred by this article may be varied, discharged or reversed by the Court of Appeal as duly constituted.

The High Court of Justice

124. (1) The High Court of Justice shall consist of—
(a) the Chief Justice;

COMPOSITION
OF THE
HIGH COURT
OF JUSTICE.

The Constitution

- (b) not less than twelve Justices of the High Court of Justice; and
- (c) such other Justices of the Superior Court of Judicature as the Chief Justice may, for the determination of a particular cause or matter by writing under his hand, request to sit in the High Court of Justice for such period as the Chief Justice may specify or until the request is withdrawn.

(2) The High Court of Justice shall be duly constituted, as the case may be,

- (a) by any one Justice thereof; or
- (b) by any one Justice thereof and a jury,
 - (i) for the trial of an offence on indictment, or
 - (ii) in accordance with the provisions of paragraph (a) of clause (2) of article 26 of this Constitution, for the trial of an offence, other than treason, the punishment for which is death or imprisonment for life; or
- (c) by three Justices thereof, in accordance with the provisions of paragraph (h) of clause (2) of article 26 of this Constitution, for the trial of a person for the offence of treason.

(3) There shall be in the High Court of Justice such Divisions consisting of such number of Justices respectively as may be assigned thereto by the Chief Justice; and sitting in such places in Ghana as the Chief Justice may determine.

JURISDICTION
OF THE HIGH
COURT OF
JUSTICE.

125. (1) The High Court of Justice shall have jurisdiction in civil and criminal matters and such other original, appellate and other jurisdiction as may be conferred upon it by this Constitution or any other law.

(2) The High Court of Justice shall have jurisdiction to determine any matter relating to industrial and labour disputes and administrative complaints.

(3) Parliament shall, by or under an Act of Parliament, make provision for the exercise of the jurisdiction

The Constitution

conferred on the High Court of Justice by the provisions of clause (2) of this article.

(4) For the purposes of hearing and determining an appeal within its jurisdiction and the amendment, execution or the enforcement of a judgment or order made on any such appeal, and for the purposes of any other authority expressly or by necessary implication given to the High Court of Justice by this Constitution or any other law, the High Court of Justice shall have all the powers, authority and jurisdiction vested in the Court from which the appeal is brought.

(5) A Justice of the High Court of Justice may, in accordance with Rules of Court made in that behalf, exercise in Court or in Chambers all or any part of the jurisdiction vested in the High Court of Justice by this Constitution or any other law.

(6) The High Court of Justice shall have no power in a trial for the offence of treason to convict any person for any offence other than treason.

126. The High Court of Justice shall have supervisory jurisdiction over all inferior Courts in Ghana and any adjudicating authority and in the exercise of its supervisory jurisdiction shall have power to issue such directions, orders or writs including writs or orders in the nature of *habeas corpus*, *certiorari*, *mandamus*, prohibition and *quo warranto* as it may consider appropriate for the purposes of enforcing or securing the enforcement of its supervisory powers.

SUPERVISORY
JURISDICTION.

Miscellaneous

127. (1) The Chief Justice and the other Justices of the Supreme Court shall be appointed by the President by warrant under his hand and the Presidential seal,

APPOINT-
MENT OF
JUSTICES.

(a) in the case of the Chief Justice, acting in consultation with the Judicial Council;

(b) in the case of the other Justices of the Supreme Court, acting on the advice of the Judicial Council,

and with the approval of Parliament.

The Constitution

(2) The other Justices of the Superior Court of Judicature shall be appointed by the President by warrant under his hand and the Presidential seal acting in accordance with the advice of the Judicial Council.

(3) A person shall not be qualified for appointment as a Justice of the Superior Court of Judicature, unless he is a person of high moral character and has practised as counsel in a Court having unlimited jurisdiction in civil and criminal matters in Ghana or any other country having a system of law analogous to that of Ghana and approved by the Judicial Council, and has been entitled to practise as such counsel in the case of appointment to—

- (a) the Supreme Court, for not less than fifteen years; or
- (b) the Court of Appeal, for not less than twelve years; or
- (c) the High Court of Justice, for not less than ten years.

(4) For the purposes of clause (3) of this article, a person shall be regarded as entitled to practise or as having practised as counsel if he has been called, enrolled or otherwise admitted as such and has not subsequently been disbarred or removed from the Roll of counsel or legal practitioners.

(5) Where the office of the Chief Justice is vacant or where the Chief Justice is for any reason unable to perform the functions of his office, then,

- (a) until a person has been appointed to and has assumed the functions of that office, or
 - (b) until the person holding that office has resumed the functions of that office, as the case may be,
- those functions shall be performed by the most senior for the time being of the Justices of the Supreme Court.

(6) The office of a Justice of the Superior Court of Judicature shall not be abolished while there is a substantive holder thereof.

(7) The provisions of article 205 of this Constitution relating to the declaration of assets and liabilities shall apply to a Justice of the Superior Court of Judicature and the holder of a judicial office.

The Constitution

(8) Subject to the provisions of clause (9) of this article, a Justice of the Superior Court of Judicature holding office as such immediately before the coming into force of this Constitution shall be deemed to have been appointed as from the coming into force of this Constitution to hold office as such under this Constitution.

(9) A Justice to whom the provisions of clause (8) of this article apply shall, on the coming into force of this Constitution, take and subscribe the oath of allegiance and the judicial oath set out in the Second Schedule to this Constitution.

(10) Where the office of a Justice of the High Court is vacant or for any reason a Justice thereof is unable to perform the functions of his office or if the Chief Justice advises the President that the state of business in the High Court of Justice so requires, the President may, acting in accordance with the advice of the Judicial Council, appoint a person who has held office as, or a person qualified for appointment as, a Justice of the Superior Court of Judicature to act as a Justice of the High Court of Justice.

(11) A person appointed under the provisions of clause (10) of this article to act as a Justice of the High Court of Justice shall continue to act for the period of his appointment or where no such period is specified until his appointment is revoked by the President, acting in accordance with the advice of the Judicial Council.

(12) Notwithstanding the expiration of the period of his appointment or the revocation of his appointment under clause (11) of this article, a Justice so appointed may thereafter continue to act for as long as may be necessary to enable him to deliver judgment or do any other thing in relation to proceedings that were commenced before him previously thereto.

128. (1) Subject to the provisions of this article, a person holding office as a Justice of the Superior Court of Judicature— TENURE OF OFFICE.

(a) may retire as such Justice at any time after attaining the age of sixty years; and

(b) shall vacate that office—

(i) on attaining the age of sixty-five years;

The Constitution

- (ii) upon his removal from office in accordance with the provisions of this article.

(2) Notwithstanding that he has attained the age at which he is required by the provisions of this article to vacate his office, a person holding the office of a Justice of the Superior Court of Judicature may continue in office for so long after attaining that age as may be necessary to enable him to deliver judgment or do any other thing in relation to proceedings that were commenced before him previously thereto.

(3) A Justice of the Superior Court of Judicature may resign from office by writing under his hand addressed to the President.

(4) A Justice of the Superior Court of Judicature may be removed from office only for inability to perform the functions of his office arising from infirmity of body or mind or for stated misbehaviour, and shall not be so removed except in accordance with the provisions of this article.

(5) For the purposes of the removal from office of a Justice of the Superior Court of Judicature, a petition in writing, stating that the Justice be removed on any of the grounds specified in clause (4) of this article, shall be presented to the President.

(6) The petition referred to in clause (5) of this article shall set out in detail the facts, supported by the necessary documents, on which it is claimed that the Justice be removed from office.

(7) In the case of a Justice of the Superior Court of Judicature, other than the Chief Justice, the President shall, upon the receipt of the petition referred to in clause (5) of this article, refer the petition to the Chief Justice for inquiry by a tribunal consisting of three Justices of the Superior Court of Judicature appointed by the Judicial Council.

(8) In the case of the Chief Justice, the President, upon the receipt of the petition referred to in clause (5) of this article shall, acting in consultation with the Council

The Constitution

of State, appoint a tribunal to which he shall refer the petition, and which tribunal shall consist of—

- (a) three Justices of the Supreme Court, one of whom shall be appointed chairman by the President; and
- (b) two other persons who are not members of the Council of State nor members of Parliament nor legal practitioners.

(9) The tribunal appointed in accordance with the provisions of clauses (7) and (8) of this article shall inquire into the petition and recommend to the President whether the Justice or the Chief Justice, as the case may be, ought to be removed under the provisions of this article.

(10) The President shall act in accordance with the recommendations of the tribunal.

(11) The proceedings for the removal from office of a Justice of the Superior Court of Judicature shall be held *in camera*, and any such Justice shall be entitled to be heard in his defence by himself or by counsel or other expert person of his own choice.

(12) Where the question of removing a Justice of the Superior Court of Judicature under the provisions of this article has been referred to the appropriate tribunal, the President may—

- (a) in the case of the Chief Justice, acting in consultation with the Council of State, by warrant under his hand suspend the Chief Justice from performing the functions of his office; and any such suspension may at any time be revoked by the President; or
- (b) in the case of any other Justice, acting in accordance with the advice of the Judicial Council, suspend that Justice from performing the functions of his office; and any such suspension may at any time be revoked by the President, acting in accordance with the advice of the Judicial Council.

The Constitution

(13) The suspension or removal shall in any case cease to have effect if the tribunal recommends to the President that the Chief Justice or the Justice, as the case may be, shall not be removed.

SALARIES,
ETC.

129. (1) The salaries, allowances, gratuities and pension of the Justices of the Superior Court of Judicature shall be a charge upon the Consolidated Fund.

(2) The salary, allowances and privileges, his rights in respect of leave of absence, gratuity or pension and other conditions of service of a Justice of the Superior Court of Judicature shall not be varied to his disadvantage.

JUDICIAL
OATH.

130. A Justice of the Superior Court of Judicature shall, before assuming the functions of his office, take and subscribe before—

- (a) the President, in the case of the Chief Justice, and the other Justices of the Supreme Court; and
- (b) the Chief Justice, in the case of any other such Justice,

the oath of allegiance and the judicial oath set out in the Second Schedule to this Constitution.

JUDICIAL
COUNCIL.

131. (1) There shall be established a Judicial Council which shall advise the Chief Justice in the performance of his administrative functions and perform such other functions as provided by this Constitution or by any other law.

(2) The Judicial Council shall consist of—

- (a) the Chief Justice who shall be chairman; and
- (b) the most senior Justice of the Supreme Court, the most senior Justice of the Court of Appeal and the most senior Justice of the High Court of Justice;
- (c) the Attorney-General;
- (d) three persons, of not less than ten years' standing at the Bar, appointed by the Ghana Bar Association;

The Constitution

- (e) a representative of the inferior bench; and
- (f) three other persons appointed by the President acting in consultation with the Council of State.

(3) The Chief Justice shall, and except as otherwise provided in this Constitution, and subject to such advice as may be tendered by the Judicial Council, be responsible for the effective and efficient administration of the Judiciary.

132. (1) Subject to the provisions of this article, the power to appoint persons to hold or to act in a judicial office to which this article applies shall vest, subject to the approval of the President, in the Chief Justice acting in accordance with the advice of the Judicial Council.

APPOINT-
MENT OF
OTHER
JUDICIAL
OFFICERS.

(2) Subject to the provisions of this article, a person holding office as a judge or magistrate of the inferior Courts—

- (a) may retire from such office at any time after attaining the age of sixty years;
- (b) shall vacate that office on attaining the age of sixty-five years.

(3) The provisions of clause (9) of article 114 of this Constitution shall apply to a Judge of an inferior Court or a Magistrate in the same way as they apply to a Justice of the Superior Court of Judicature.

(4) The Chief Justice may, acting in accordance with the advice of the Judicial Council, and with the approval of the President, by constitutional instrument, make Regulations for the efficient performance of the functions of the Judicial Service and the Judicial Council under the provisions of this article.

(5) A person holding a judicial office shall be removed from office by the Chief Justice on grounds only of stated misbehaviour or of infirmity of mind or body upon a resolution passed in that behalf and supported by the votes of not less than two-thirds of all the members of the Judicial Council.

The Constitution

(6) For the purposes of clause (5) of this article, any such person shall be entitled to be heard in his defence by himself or by counsel or other expert person of his own choice.

(7) For the purposes of this Constitution, the expression "judicial office" means,

- (a) the office of a Judge of an inferior Court or a Magistrate;
- (b) the office of the Judicial Secretary or Registrar of the Superior Court of Judicature; and
- (c) such other offices connected with any Court as may be prescribed by constitutional instrument made in that behalf by the Chief Justice acting in accordance with the advice of the Judicial Council and with the approval of the President.

RULES OF COURT.

133. (1) There shall be established a Rules of Court Committee which shall consist of—

- (a) the Chief Justice, who shall be chairman; and
- (b) the other members of the Judicial Council; and
- (c) one practising counsel of not less than ten years' standing and one practising counsel of not more than five years' standing both of whom shall be nominated by the Ghana Bar Association.

(2) Subject to the provisions of this Constitution, the Rules of Court Committee may, by constitutional instrument, make Rules of Court for regulating the practice and procedure of all Courts in Ghana, which shall include regulations relating to the prevention of frivolous and vexatious proceedings.

OFFICERS AND SERVANTS OF COURTS.

134. (1) The appointment of officers and servants of the Courts of Ghana shall, subject to the provisions of article 132 of this Constitution, be made by the Chief Justice or such other Justice or officer of the Court as the Chief Justice may direct.

The Constitution

(2) The Judicial Council shall, acting in consultation with the Public Services Commission and with the prior approval of the President, make Regulations by constitutional instrument prescribing the terms and conditions of service of officers and other employees of the Courts established by this Constitution or any other law.

135. The fees, fines or other moneys taken by the Courts shall form part of the Consolidated Fund. FEES AND FINES.

136. (1) Whenever in any proceedings in a Court, other than the Supreme Court, a question arises as to the discovery of an official document and the person or authority having custody legal or otherwise of the document refuses, upon request, to produce that document on the ground— DISCOVERY OF OFFICIAL DOCUMENTS.

- (a) that the document belongs to a class of documents which it is prejudicial to the security of the State or injurious to the public interest to produce, or
- (b) that disclosure of the contents thereof will be prejudicial to the security of the State or injurious to the public interest,

the Court shall stay the proceedings and refer the question to the Supreme Court for determination.

(2) The Supreme Court may under clause (1) of this article—

- (a) order any person or authority having custody legal or otherwise of the document to produce it; and the person so ordered shall produce the document for the purpose of inspection by the Supreme Court; and
- (b) determine whether or not the document shall be produced in the Court from which the reference was made after hearing the parties thereto or their legal representatives or after having given them the opportunity of being heard.

(3) Where the Supreme Court is of the opinion that the document shall be produced it shall make an order

The Constitution

upon the person or authority having custody of the document to produce the same or so much of the contents thereof as is essential for the proceedings in accordance with the terms of the order.

(4) Where the question of the discovery of an official document arises in any proceedings in the Supreme Court in the circumstances mentioned in clause (1) of this article, the Supreme Court shall be governed, *mutatis mutandis*, by the preceding provisions of this article for the determination of the question that has arisen.

(5) Proceedings under clauses (2), (3) and (4) of this article shall be *in camera*.

SUCCESSION OF COURTS.

137. (1) The High Court of Justice established under clause (5) of article 114 of this Constitution, shall be the successor to the High Court of Justice in being immediately before the coming into force of this Constitution.

(2) The Court of Appeal established under clause (5) of article 114 of this Constitution, shall be the successor to the Court of Appeal in being immediately before the coming into force of this Constitution; and accordingly the Court of Appeal as established by this Constitution shall be bound to follow the decisions on questions of law binding on the Court of Appeal as it existed immediately before the coming into force of this Constitution.

The Constitution

CHAPTER THIRTEEN

FINANCE

General

138. (1) No taxation shall be imposed otherwise than by TAXATION.
or under the authority of an Act of Parliament.

(2) Where an Act, enacted pursuant to clause (1) of this article, confers power on any person or authority to waive or vary a tax imposed by that Act, the exercise of the power of waiver or variation, in favour of any person or authority, shall be subject to the prior approval of Parliament by resolution passed in that behalf.

139. (1) There shall be a Consolidated Fund into which, THE CONSO-
LIDATED
FUND
subject to the provisions of this article, shall be paid,

(a) all revenue or other moneys raised or received for the purposes of, or on behalf of, the Government; and

(b) any other moneys raised or received in trust for, or on behalf of, the Government.

(2) The revenues or other moneys referred to in clause (1) of this article shall not include revenues or other moneys,

(a) that are payable by or under an Act of Parliament into some other fund established for specific purposes; or

(b) that may, by or under an Act of Parliament, be retained by the department of government that received them for the purposes of defraying the expenses of that department.

140. (1) No moneys shall be withdrawn from the Consolidated Fund except— WITHDRAWAL
FROM THE
CONSOLI-
DATED FUND,
ETC.

(a) to meet expenditure that is charged upon the Fund by this Constitution or by an Act of Parliament; or

(b) where the issue of those moneys has been authorised,

(i) by an Appropriation Act; or

- (ii) by a supplementary estimate approved by a resolution of Parliament passed in that behalf; or
- (iii) by an Act of Parliament enacted pursuant to article 142 of this Constitution; or
- (iv) by Rules or Regulations made under an Act of Parliament in respect of trust moneys paid into the Consolidated Fund.

(2) No moneys shall be withdrawn from any public fund, other than the Consolidated Fund and the Contingency Fund, unless the issue of those moneys has been authorised by or under the authority of an Act of Parliament.

AUTHORISA-
TION OF
EXPENDITURE.

141. (1) Parliament shall cause to be prepared and laid before Parliament at least one month before the end of the financial year estimates of the revenues and expenditure of the Government of Ghana for the next following financial year.

(2) The estimates of the expenditure of all public offices and public corporations, other than those set up as commercial ventures,

(a) shall be classified under programmes or activities which shall be included in a bill to be known as an Appropriation Bill and which shall be introduced into Parliament to provide for the issue from the Consolidated Fund or such other appropriate fund of the sums of money necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein; and

(b) shall, in respect of Consolidated Fund payments, be laid before Parliament for the information of the members thereof.

(3) Parliament shall prescribe the procedure for the presentation of Appropriation Bills.

The Constitution

(4) Where, in respect of a financial year, it is found that the amount of moneys appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount of moneys has been appropriated by that Act, a supplementary estimate showing the sum of money required shall be laid before Parliament.

(5) Where, in respect of a financial year, a supplementary estimate has been approved by Parliament in accordance with the provisions of clause (4) of this article, a supplementary Appropriation Bill shall be introduced into Parliament in the financial year next following the financial year to which the estimate relates, providing for the appropriation of the sums so approved for the purposes specified in that estimate.

(6) Notwithstanding the provisions of the preceding clauses of this article, the President may cause to be prepared and laid before Parliament estimates of revenue and expenditure of Ghana for periods of over one year.

142. Where it appears to the President that the Appropriation Act in respect of any financial year will not come into operation by the beginning of that financial year, he may, with the prior approval of Parliament signified in that behalf by a resolution thereof, authorise the withdrawal of moneys from the Consolidated Fund for the purposes of meeting expenditure necessary to carry on the services of the Government in respect of the period expiring three months from the beginning of the financial year or on the coming into operation of the Act whichever is earlier.

EXPENDI-
TURE IN
ADVANCE OF
APPROPRIA-
TION.

143. (1) There shall be a Contingency Fund into which shall be paid moneys voted for that purpose by Parliament and from which advances may be authorised by the committee responsible for financial measures in Parliament appointed pursuant to the provisions of article 85 of this Constitution, whenever that committee is satisfied that there has arisen an urgent or unforeseen need for expenditure for which no other provision exists to meet that need.

CONTIN-
GENCY FUND,
ETC.

(2) Where an advance is made from the Contingency Fund a supplementary estimate shall be presented as soon

The Constitution

as possible to Parliament for the purpose of replacing the amount so advanced.

(3) Whenever in the estimates prepared pursuant to clauses (1) and (4) of article 141 of this Constitution provision is made for an item or vote other than for the Contingency Fund, not relating to a specific item of expenditure, any moneys voted by Parliament in respect of that item or vote shall be under the control and supervision of a committee which shall consist of the President, the Speaker and the chairman of the Council of State.

LOANS.

144. (1) Parliament may, by a resolution passed in that behalf and supported by the votes of a majority of all the members of Parliament, authorise the Government to enter into an agreement for the granting of a loan out of any public fund or public account.

(2) An agreement entered into pursuant to clause (1) of this article shall be laid before Parliament and shall not come into operation unless the same has been approved by a resolution of Parliament.

(3) No loan shall be raised by the Government on behalf of itself or any other public institution or authority otherwise than by or under the authority of an Act of Parliament.

(4) An Act of Parliament enacted in accordance with clause (3) of this article shall provide—

(a) that the terms and conditions of a loan shall be laid before Parliament and shall not come into operation unless the same has been approved by a resolution of Parliament; and

(b) that any moneys received in respect of that loan shall be paid into the Consolidated Fund and form part thereof or into some other public fund of Ghana either existing or created for the purposes of the loan.

(5) For the purposes of this article, the expression “loan” includes any moneys lent or given to or by the

The Constitution

Government on condition of return or repayment and any other form of borrowing or lending in respect of which—

- (a) moneys from the Consolidated Fund or any other public fund may be used for payment or repayment; or
- (b) moneys from any fund by whatever name called established for the purposes of payment or repayment whether in whole or in part and whether directly or indirectly may be used for payment or repayment.

145. (1) The public debt of Ghana shall be charged PUBLIC DEBT. upon the Consolidated Fund and other public funds of Ghana.

(2) For the purposes of this article, the public debt shall include interest on that debt, sinking fund payments and redemption moneys in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

146. (1) The Bank of Ghana shall operate as a central THE CENTRAL BANK. bank and shall be the only authority to issue the currency of the state of Ghana.

(2) The Bank of Ghana shall be the sole custodian of state funds both in and outside Ghana and may, by constitutional instrument, authorize any other person or authority to act as a custodian of such funds of the Government as may be specified in the instrument.

(3) In the performance of his functions under this Constitution or any other law, the Governor of the Bank of Ghana shall have power to disallow any transaction or transfer of any foreign exchange both in and outside Ghana, which is contrary to law.

147. (1) The committee set up under the provisions of paragraph (f) of clause (1) of article 85 of this Constitution shall monitor the foreign exchange receipts and payments or transfers of the Bank of Ghana in and outside Ghana and shall report to Parliament once in every six months. FOREIGN EXCHANGE DEALINGS.

The Constitution

(2) The Bank of Ghana shall, not later than three months,

(a) after the end of the first six months of its financial year; and

(b) after the end of its financial year,

submit to the Auditor-General for audit a statement of its foreign exchange receipts and payments or transfers in and outside Ghana.

(3) The Auditor-General shall, not later than three months after the submission of the statement referred to in clause (1) of this article, submit his report to Parliament on the statement.

(4) Parliament shall debate the report of the Auditor-General and appoint where necessary in the public interest a committee to deal with any matters arising from the report.

FOREIGN
PARTICIPATION IN
BUSINESS,
ETC.

148. (1) Any person not being a citizen of Ghana who does not bring into Ghana foreign capital, of such amount as may be specified by or under an Act of Parliament, for the purposes of establishing a business in Ghana shall not engage in the import or export trade or in any industry.

(2) The provisions of clause (1) of this article shall apply to—

(a) any such person as is referred to in clause (1) who subsequently becomes a citizen of Ghana; and

(b) any person who, on the coming into force of this Constitution, is engaged in any trade, business or industry in respect of which he did not bring into Ghana foreign capital.

(3) Parliament shall, within six months of the coming into force of this Constitution, enact a law to give effect to or enable effect to be given to the provisions of this article.

The Statistical Service

STATISTICAL
SERVICE.

149. (1) There shall be a Statistical Service which shall form part of the public services of Ghana.

The Constitution

(2) The head of the Statistical Service shall be the Government Statistician.

(3) The Government Statistician shall be appointed by the President in consultation with the Statistical Service Board.

150. (1) There shall be a Statistical Service Board which shall consist of—

STATISTICAL
SERVICE
BOARD.

(a) a chairman and not more than five other members all of whom shall be appointed by the President having regard to their expert knowledge, in consultation with the Council of State, and

(b) the Government Statistician who shall be an *ex officio* member of the Board.

(2) The Government Statistician, under the supervision of the Statistical Service Board, shall be responsible for the collection, compilation, analysis and publication of socio-economic data on Ghana and shall perform such other functions as may be prescribed by or under an Act of Parliament.

(3) The Statistical Service Board may prescribe the manner in which data may be compiled and kept by any person or authority in Ghana.

The Auditor-General

151. (1) There shall be an Auditor-General of Ghana whose office shall be a public office.

THE AUDITOR-
GENERAL.

(2) The public accounts of Ghana and of all public offices, including the Courts, the central and local government administrations, of the Universities and public institutions of like nature, of any public corporation or other body or organisation established by an Act of Parliament shall be audited and reported on by the Auditor-General.

(3) For the purposes of clause (2) of this article, the Auditor-General or any person authorised or appointed in that behalf by the Auditor-General shall have access to all books, records, returns and other documents relating or relevant to those accounts.

The Constitution

(4) The public accounts of Ghana and of all other persons or authorities referred to in clause (2) of this article shall be kept in such form as the Auditor-General shall approve.

(5) The Auditor-General shall, within six months of the end of the immediately preceding financial year, to which each of the accounts mentioned in clause (2) of this article relates, submit his report to Parliament and shall in that report draw attention to irregularities in the accounts audited and to any other matter which in his opinion ought to be brought to the notice of Parliament.

(6) Parliament shall debate the report of the Auditor-General and appoint where necessary in the public interest a committee to deal with any matters arising therefrom.

(7) In the performance of his functions under this Constitution or any other law the Auditor-General,

(a) shall not be subject to the direction or control of any other person or authority;

(b) shall have power to disallow any item of expenditure which is contrary to law and to surcharge,

(i) the amount of any expenditure disallowed upon the person responsible for incurring or authorising that expenditure; or

(ii) any sum which has not been duly brought into account upon the person by whom the sum ought to have been brought into account; or

(iii) the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred.

(8) The provisions of paragraph (a) of clause (7) of this article shall not preclude the President, acting in accordance with the advice of the Council of State, from requesting the Auditor-General in the public interest to audit, at any particular time, the accounts of any such body or organisation as is referred to in clause (2) of this article.

The Constitution

(9) A person aggrieved by a disallowance or surcharge made by the Auditor-General may appeal to the High Court of Justice.

(10) The Rules of Court Committee may, by constitutional instrument, make Rules of Court for the purposes of clause (9) of this article.

(11) The salary and allowances payable to the Auditor-General shall be a charge upon the Consolidated Fund.

(12) The salary and allowances payable to the Auditor-General, his rights in respect of leave of absence, retiring award or retiring age shall not be varied to his disadvantage during his tenure of office.

(13) The provisions of article 128 of this Constitution relating to the removal of a Justice of the Superior Court of Judicature from office shall apply to the Auditor-General.

(14) The administrative expenses of the office of the Auditor-General including all salaries, allowances, gratuities and pensions payable to or in respect of persons serving in the Audit Service shall be a charge upon the Consolidated Fund.

(15) The accounts of the office of the Auditor-General shall be audited and reported upon by an auditor appointed by Parliament.

(16) A person appointed to be the Auditor-General of Ghana shall, before entering upon the duties of his office, take and subscribe the Oath of the Auditor-General set out in the Second Schedule to this Constitution.

The Audit Service

152. There shall be an Audit Service which shall form part of the Public Services of Ghana. THE AUDIT SERVICE.

153. (1) There shall be an Audit Service Board which shall consist of a chairman and four other members all of whom shall be appointed by the President, acting in accordance with the advice of the Council of State, the Auditor-General and the Head of the Civil Service or his representative who shall be *ex officio* members of the Audit Board. THE AUDIT SERVICE BOARD.

The Constitution

(2) The appointment of officers and other employees in the Audit Service, other than the Auditor-General, shall be made by the Audit Service Board, acting in consultation with the Public Services Commission.

(3) The Audit Service Board shall, acting in consultation with the Public Services Commission, and with the prior approval of the Council of State, make Regulations by constitutional instrument prescribing the terms and conditions of service of officers and other employees in the Audit Service and generally for the effective and efficient administration of the Audit Service.

(4) A member of the Audit Service Board, other than an *ex officio* member, may be removed from office by the President, acting in accordance with the advice of the Council of State, for inability to perform the functions of his office whether arising from infirmity of mind or body or for any other sufficient cause.

The Constitution

CHAPTER FOURTEEN

THE PUBLIC SERVICES

154. (1) The public services of Ghana shall include the Civil Service, the Judicial Service, the Audit Service, the Education Service, the Prisons Service, the Parliamentary Service, the Health Service, the Statistical Service, the Fire Service, the Customs and Preventive Service and public corporations, other than those set up as commercial ventures, which shall constitute the Public Corporations Service and such other public services established by this Constitution or as Parliament may by law prescribe.

THE PUBLIC
SERVICES.

(2) The Civil Service shall comprise service in both central and local government.

(3) Subject to the provisions of this Constitution, an Act of Parliament enacted pursuant to clause (1) of this article, shall provide—

- (a) for the governing council for the public service concerned;
- (b) for the functions of that Service; and
- (c) for the membership and staff of that Service.

155. No member of the public services shall be—

- (a) victimised or discriminated against for having discharged his duties faithfully in accordance with this Constitution;
- (b) dismissed or removed from office or reduce in rank or otherwise punished without just cause.

PROTECTION
FOR PUBLIC
OFFICERS.

156. (1) There shall be a Public Services Commission which shall perform such functions as are assigned to it by this Constitution or by any other law.

THE PUBLIC
SERVICES
COMMISSION.

(2) The Public Services Commission shall consist of—

- (a) a chairman and a vice-chairman;
- (b) the chairmen of the governing councils of the public services provided for in clause (1) of article 154 of this Constitution or their representatives as *ex officio* members; and

The Constitution

- (c) such other members as Parliament may, subject to the provisions of article 57 of this Constitution, by law prescribe.
- (3) A person shall not be qualified for appointment as a member of the Public Services Commission,
 - (a) if he is not qualified to be elected as a member of Parliament; or
 - (b) if he is otherwise disqualified from holding a public office.
- (4) A person holding a public office, other than a chief, appointed a member of the Public Services Commission, shall resign from that public office.
- (5) Subject to the provisions of clause (6) of this article the terms of service of a Justice of the Court of Appeal shall apply to the chairman and the vice-chairman of the Public Services Commission.
- (6) The provisions of article 128 of this Constitution relating to the removal from office of a Justice of the Superior Court of Judicature, shall apply,
 - (a) to the chairman and the vice-chairman of the Public Services Commission who shall retire at the age of sixty-five years; and
 - (b) to the other members of the Public Services Commission before the expiration of their period of service as provided by Parliament.
- (7) Whenever the office of the chairman of the Public Services Commission is vacant or if the person holding that office is for any reason unable to perform the functions of that office, the functions of that office shall be performed by the vice-chairman and in the absence of both the chairman and the vice-chairman by any other member of the Public Services Commission designated in that behalf by the President.

APPOINT-
MENTS, ETC.
OF PUBLIC
OFFICERS.

157. (1) Subject to the provisions of this Constitution, the power to appoint persons to hold or to act in an office in the public services, shall vest in the President, acting in accordance with the advice of the governing council of the Service concerned given in consultation with the Public Services Commission.

The Constitution

(2) The President may, subject to such conditions as he may think fit, delegate some of his functions under this article by directions in writing to the governing council concerned or to a committee thereof or to any member of that governing council or to any public officer.

(3) No person shall be appointed under the provisions of this article to an office on the personal or household staff of the President or the Vice-President except with the consent, as the case may be, of the President or the Vice-President.

(4) Before the Public Services Commission appoints to a public office a person holding or acting in an office the power to make appointment to which is not vested in the Public Services Commission, it shall consult the person or authority in whom that power is vested.

(5) The Public Services Commission shall, upon request made to it by a person or authority having power to make an appointment to an office under this Constitution or in any other public institution, make recommendations to that person or authority for the appointment of a public officer or any other person to an office the power to make appointment to which is vested by this Constitution in that person, authority or public institution.

(6) The Public Services Commission may, subject to the approval of the President, make Regulations, by constitutional instrument, for the effective and efficient performance of its functions under this Constitution or any other law.

(7) Except as otherwise provided in this Constitution, the Public Services Commission shall not be subject to the control or direction of any other person or authority in the performance of its functions under this Constitution or any other law.

(8) The power to appoint persons to hold or act in an office in a body of higher education, research or professional training shall vest in the council or other governing body of that institution or body.

(9) The provisions of article 76 of this Constitution other than paragraphs (a) and (b) of clause (1), and paragraphs (a), (g), (h) and (k) of clause (2) thereof and also,

The Constitution

paragraph (b) of clause (3) of article 156 shall with such modifications as may be appropriate, apply to the appointment of a person to be a member of a public board or a public corporation.

OTHER
FUNCTIONS
OF THE
PUBLIC
SERVICES
COMMISSION.

158. (1) It shall be the duty of the Public Services Commission—

- (a) to conduct or cause to be conducted on its behalf or on behalf of the appropriate governing council of the public services examinations for appointments to any office in the public services including service with a public corporation where examinations are prescribed by Regulations made in that behalf;
- (b) to assist in framing and operating schemes of joint recruitment to offices in the public services and public corporations for which candidates possessing special qualifications are required, including schemes for the determination and standardisation of salaries and other conditions of service in the public services and public corporations;
- (c) to prescribe the methods of recruitment to offices in the public services and public corporations in consultation with the appropriate authority responsible for appointment to such offices;
- (d) to prescribe the principles to be followed in making appointments to posts in the public services and public corporations and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers in consultation with the appropriate authority responsible for the public services or public corporation concerned; and
- (e) to prescribe the principles to be followed in the establishment and operation of joint negotiating committees and disciplinary bodies in the public services and public corporations.

The Constitution

(2) For the purposes of this article the expression "public corporation" means a public corporation established pursuant to article 159 of this Constitution other than one of the nature of a commercial venture.

159. For the avoidance of doubt it is hereby declared that no public corporation shall be established or operated except by an Act of Parliament.

ESTABLISH-
MENT OF
PUBLIC
CORPORA-
TIONS.

160. (1) The President shall, acting in accordance with the advice of the Public Services Commission, appoint a public officer as the Head of the Civil Service.

HEAD OF
THE CIVIL
SERVICE.

(2) Subject to the provisions of this Constitution, the Head of the Civil Service shall not hold any other public office.

161. A public officer holding office as such immediately before the coming into force of this Constitution shall be deemed to have been appointed under this Constitution to hold office as such in accordance with the provisions of this Constitution.

EXISTING
OFFICES.

162. (1) A public officer shall, except as otherwise provided in this Constitution, retire from the public service on attaining the age of sixty years.

RETIRING
AGE.

(2) A public officer may retire from the public service at any time after attaining the age of forty-five years.

(3) The pension payable to any person shall not be subject to income tax.

The Constitution

CHAPTER FIFTEEN

THE PRISONS SERVICE

THE PRISONS
SERVICE.

163. There shall be a Prisons Service which shall form part of the Public Services of Ghana.

THE PRISONS
SERVICE
COUNCIL.

164. (1) There shall be established a Prisons Service Council which shall consist of—

- (a) the Minister for the time being holding the portfolio of internal affairs who shall be chairman;
- (b) the Director of Prisons;
- (c) a medical officer nominated by the Ghana Medical Association;
- (d) a legal practitioner nominated by the Ghana Bar Association;
- (e) a representative of the ministry or department of State responsible for social welfare;
- (f) a representative of such religious organisations as the President may, in consultation with the Council of State, appoint; and
- (g) two other members, one of whom at least shall be a woman, all of whom shall be appointed by the President.

(2) The Director of Prisons shall be appointed by the President, acting in accordance with the advice of the Prisons Service Council.

(3) The Director of Prisons shall, subject to the provisions of this article and to the control and direction of the Prisons Service Council, be responsible for the operational control and the administration of the Prisons Service as a whole.

(4) Subject to the provisions of this Constitution, the power to appoint persons to hold or to act in an office in the Prisons Service shall vest in the President, acting in accordance with the advice of the Prisons Service Council.

(5) The President may, subject to such conditions as he thinks fit, delegate some of his functions under this article by directions in writing to the Prisons Service Council or to a committee thereof or to a member of the Council.

The Constitution

165. (1) The Prisons Service Council shall advise the President on all matters of policy relating to the organisation and maintenance of the prisons system in Ghana including the role of the Prisons Service, prisons budgeting and finance, administration and the promotion of officers above the rank of Assistant Director of Prisons or its equivalent.

FUNCTIONS
OF THE
PRISONS
SERVICE
COUNCIL.

(2) The Prisons Service Council shall, acting in consultation with the Public Services Commission and with the prior approval of the President, make Regulations, by constitutional instrument, prescribing the conditions of service of officers and other employees of the Prisons Service.

(3) The Prisons Service Council may, with the prior approval of the President, by constitutional instrument, make Regulations for the performance of its functions under this Constitution or any other law and for the effective and efficient administration of the Prisons Service.

(4) Regulations made under clause (3) of this article shall include provisions relating to—

- (a) the control and administration of the Prisons Service;
- (b) the ranks of officers of the Prisons Service, the members of each such rank and the use of uniforms by the officers;
- (c) the authority and powers of command of the officers of the Prisons Service;
- (d) the delegation to other persons of powers to discipline persons and the conditions subject to which delegations may be made;
- (e) the parole system and the review of the conditions of prisoners and all other persons in legal custody at intervals of not less than two years;
- (f) the conditions under which persons may be admitted into prisons;

The Constitution

- (g) the making of reports of unjustified treatment of, and cruelty to, prisoners and persons in legal custody and the manner in which the reports shall be dealt with;
- (h) the appointment and composition of welfare committees for prisoners and discharged prisoners and other persons released from legal custody;
- (i) ready access by legal practitioners to prisoners and other persons in legal custody; and
- (j) such measures, generally, as will ensure the welfare of prisoners and other persons in legal custody, including the provision of literature and writing material.

REGIONAL
PRISONS
COMMITTEES.

166. (1) There shall be established in each region, a regional prisons committee which shall consist of—

- (a) the Minister of State appointed for the Region, who shall be chairman;
- (b) the most senior prisons officer in the Region;
- (c) a representative of the Attorney-General;
- (d) a legal practitioner nominated by the Ghana Bar Association;
- (e) the regional medical officer of health;
- (f) the regional director of social welfare;
- (g) a representative of the Christian Council;
- (h) a representative of the National Catholic Secretariat; and
- (i) a representative of the Muslim Council.

(2) It shall be the duty of the regional prisons committee to advise the Prisons Council and the Director of Prisons on any matter relating to the administration of Prisons and of the Prisons Service in the Region.

The Constitution

CHAPTER SIXTEEN

THE ARMED FORCES OF GHANA

167. (1) There shall be the Armed Forces of Ghana which shall consist of the Army, the Navy and the Air Force and such other branches for which provision is made by Parliament. THE ARMED FORCES OF GHANA.

(2) No persons shall raise an armed force except by or under the authority of an Act of Parliament.

168. There shall be established an Armed Forces Council which shall consist of— THE ARMED FORCES COUNCIL.

- (a) the Vice-President, who shall be chairman; and
- (b) the Ministers for the time being holding the portfolios of defence, foreign affairs and internal affairs; and
- (c) the Chief of Defence Staff; and
- (d) two other persons as the President shall, acting in accordance with the advice of the Council of State, appoint.

169. (1) There shall be appointed by the President, acting in accordance with the advice of the Armed Forces Council, APPOINTMENTS, ETC.

- (a) the Chief of Defence Staff of the Armed Forces; and
- (b) the service commanders of the Army, the Navy and the Air Force.

(2) The Chief of Defence Staff of the Armed Forces shall, subject to the provisions of this article and to the control or direction of the Armed Forces Council on matters of policy, be responsible for the administration as well as the operational control and command of the Armed Forces as a whole.

(3) The President may, acting in accordance with the advice of the Armed Forces Council, appoint officers of the Armed Forces who shall be given such command as the Armed Forces Council shall determine.

The Constitution

(4) The President shall, acting in accordance with the advice of the Armed Forces Council, grant commissions to officers of the Armed Forces.

(5) Subject to the provisions of clause (4) of this article, the power to appoint persons to hold or to act in an office in the Armed Forces shall vest in the President, acting in accordance with the advice of the Armed Forces Council.

DELEGATION OF FUNCTIONS.

170. The Armed Forces Council may, subject to such conditions as it may think fit, delegate some of its functions under this article by directions in writing to a committee thereof or to a member of the Council.

FUNCTIONS OF THE ARMED FORCES COUNCIL.

171. (1) The Armed Forces Council shall advise the President on all major matters of policy relating to defence and strategy including the role of the Armed Forces, military budgeting and finance, administration and the promotion of officers above the rank of Lieutenant-Colonel or its equivalent.

(2) The Armed Forces Council may, with the prior approval of the President, by constitutional instrument, make Regulations for the performance of its functions under this Constitution or any other law, and for the effective and efficient administration of the Armed Forces.

(3) Regulations made under clause (2) of this article shall include regulations in respect of—

- (a) the control and administration of the services of the Armed Forces;
- (b) the ranks of officers and men of each Armed Force, the members in each such rank and the use of uniforms by the men;
- (c) the conditions of service, including conditions of service relating to the enrolment and to the pay, pensions, gratuities and other allowances of officers and men of each service and deductions therefrom;

The Constitution

- (d) the authority and powers of command of officers and men of each service;
- (e) the delegation to other persons of powers of commanding officers to try accused persons and the conditions subject to which delegations may be made; and
- (f) the establishment of research and development units in each service.

The Constitution

CHAPTER SEVENTEEN

THE POLICE SERVICE

THE POLICE
SERVICE.

172. (1) There shall be a Police Service of Ghana.

(2) No person or authority shall raise any Police Service except by or under the authority of an Act of Parliament.

THE POLICE
COUNCIL.

173. (1) There shall be established a Police Council which shall consist of—

- (a) the Vice-President, who shall be chairman;
- (b) the Inspector-General of Police;
- (c) a representative of the Attorney-General;
- (d) the minister responsible for internal affairs;
- (e) a legal practitioner of not less than ten years' standing nominated by the Ghana Bar Association; and
- (f) not more than three other members, one of whom shall be a person who shall have held office as a senior police officer, as the President may, acting in accordance with the advice of the Council of State, appoint.

(2) The Inspector-General of Police shall be appointed by the President acting in accordance with the advice of the Police Council.

(3) The Inspector-General of Police shall, subject to the provisions of this article and to the control and direction of the Police Council, be responsible for the operational control and the administration of the Police Service.

(4) Subject to the provisions of this Constitution, the power to appoint persons to hold or to act in an office in the Police Service shall vest in the President, acting in accordance with the advice of the Police Council.

(5) The President may, subject to such conditions as he thinks fit, delegate some of his functions under this article by directions in writing to the Police Council or to a committee thereof or to a member of the Council.

The Constitution

174. (1) The Police Council shall advise the President on all major matters of policy relating to internal security including the role of the Police Service, budgeting and finance, administration and the promotion of officers above the rank of Assistant Commissioner of Police or its equivalent.

FUNCTIONS
OF THE
POLICE
COUNCIL.

(2) The Police Council may, with the prior approval of the President, by constitutional instrument, make Regulations for the performance of its functions under this Constitution or any other law and for the effective and efficient administration of the Police Service.

(3) Regulations made under clause (2) of this article shall include regulations in respect of—

- (a) the control of administration of the Police Service;
- (b) the ranks of officers and men of each unit of the Police Service, the members of such ranks and the use of uniforms by the members;
- (c) the conditions of service including conditions of service relating to the enrolment, the pay, pension, gratuities and other allowances of officers and men of each unit and deductions therefrom;
- (d) the authority and powers of command of officers and men of the Police Service; and
- (e) the delegation to other persons of powers to discipline persons and the conditions subject to which delegations may be made.

175. (1) There shall be established for each Region a regional police committee which shall consist of—

REGIONAL
POLICE
COMMITTEES.

- (a) the Minister of State appointed for the Region, who shall be chairman;
- (b) the two most senior officers of the Police Service in the Region;
- (c) a representative of each of the administrative districts in the Region appointed by the district council in each such district; and

The Constitution

- (d) a legal practitioner nominated by the Ghana Bar Association;
- (e) a representative of the Attorney-General; and
- (f) a representative of the Regional House of Chiefs.

(2) It shall be the duty of the regional police committee to advise the Police Council on any matter relating to the administration of the Police Service in the Region.

The Constitution

CHAPTER EIGHTEEN

NATIONAL SERVICE

176. (1) Parliament shall, within one year after the coming into force of this Constitution, by or under an Act of Parliament provide for—

NATIONAL
SERVICE
BOARD.

(a) the establishment of a national service scheme which may include military training; and

(b) the establishment of a board to be known as the National Service Board.

(2) The Board shall consist of a chairman and seven other members, all of whom shall be appointed by the President, acting in accordance with the advice of the Council of State.

(3) An Act passed pursuant to clause (1) of this article shall provide—

(a) for the organisation of a national service scheme under which citizens of Ghana who have attained the age of eighteen years or more may engage in national service;

(b) for the areas of activity for the purpose of service under the scheme;

(c) for the conditions under which a person may be engaged under the scheme or be exempted from national service; and

(d) for such other purposes as Parliament may consider necessary.

(4) Subject to the provisions of this Constitution and any Act passed by Parliament pursuant to clause (1) of this article, the National Service Board shall, with the prior approval of the President, by constitutional instrument, make Regulations for the performance of its functions under this Constitution or any other law for the effective and efficient administration of the national service scheme.

The Constitution

CHAPTER NINETEEN

CHIEFTAINCY

INSTITUTION
OF
CHIEFTAINCY.

177. (1) The institution of chieftaincy together with its traditional councils as established by customary law and usage is hereby guaranteed.

(2) Pursuant to clause (1) of this article, Parliament shall have no power to enact any legislation—

- (a) which confers on any person or authority the right to accord or withdraw recognition to or from a chief; or
- (b) which in any way detracts or derogates from the honour and dignity of the institution of chieftaincy.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with, or in contravention of, the provisions of clause (2) of this article to the extent that the law in question makes provision—

- (a) for the determination, in accordance with the appropriate customary law and usage, by a traditional council, a Regional House of Chiefs or the National House of Chiefs or a chieftaincy tribunal thereof, of the validity of the nomination, election, installation or deposition of a person as a chief;
- (b) for a traditional council or a Regional House of Chiefs or the National House of Chiefs to establish and operate a procedure for the registration of chiefs and the public notification in the *Gazette* or otherwise of the status of persons as chiefs in Ghana.

NATIONAL
HOUSE OF
CHIEFS.

178. (1) There shall be established a National House of Chiefs.

(2) The House of Chiefs of each Region shall elect as members of the National House of Chiefs five paramount chiefs from the Region.

The Constitution

(3) Where in a Region there are less than five paramount chiefs, the House of Chiefs of the Region shall elect, for the purposes of clause (2) of this article, such number of divisional chiefs as shall make up the required representation of chiefs for the Region.

(4) The National House of Chiefs shall advise any person or authority charged with any responsibility under this Constitution or any other law for any matter relating to or affecting chieftaincy.

(5) Subject to the provisions of clause (2) of article 4 of this Constitution, the National House of Chiefs—

- (a) shall undertake the progressive study, interpretation and codification of customary law with a view to evolving, in appropriate cases, a unified system of rules of customary law; and
- (b) shall publish in the *Gazette*, within three years of the coming into force of this Constitution or within such period as Parliament may determine, a list of all the principal stools and skins, the applicable customary law and usage appertaining thereto, and the system of succession by the respective families and their lineages; and
- (c) shall perform such other functions, not being inconsistent with any function performable by the House of Chiefs of a Region, as Parliament may, by or under an Act of Parliament, confer on it or otherwise refer to it.

(6) Subject to the provisions of this Constitution, the National House of Chiefs existing immediately before the coming into force of this Constitution shall be deemed to have been established from the coming into force of this Constitution as the National House of Chiefs.

179. (1) The National House of Chiefs shall have appellate jurisdiction in any matter relating to chieftaincy which has been determined by the Regional House of Chiefs in a Region, from which appellate jurisdiction there shall be an appeal, with the leave of the Supreme Court or of the National House of Chiefs, to the Supreme Court.

NATIONAL
CHIEFTAINCY
TRIBUNAL.

The Constitution

(2) The appellate jurisdiction of the National House of Chiefs as provided under clause (1) of this article shall be exercised by a national chieftaincy tribunal consisting of five persons appointed by that House from among its members.

(3) A national chieftaincy tribunal appointed under clause (2) of this article shall be assisted by counsel of not less than seven years' standing appointed by the National House of Chiefs on the recommendations of the Attorney-General.

(4) A member of a national chieftaincy tribunal may be removed from office on the grounds only of stated misbehaviour or of infirmity of mind or body by the votes of not less than two-thirds of all the members of the National House of Chiefs.

(5) A national chieftaincy tribunal established under this article shall have original jurisdiction in any matter relating to chieftaincy—

- (a) which lies within the competence of two or more Regional Houses of Chiefs, or
- (b) which is not properly cognizable by a Regional House of Chiefs, or
- (c) which cannot otherwise be dealt with by a Regional House of Chiefs.

(6) An appeal shall lie in respect of any matter dealt with by a national chieftaincy tribunal under clause (5) of this article to the Supreme Court.

REGIONAL HOUSE OF CHIEFS.

180. (1) There shall be established in and for each Region a Regional House of Chiefs.

(2) The Regional House of Chiefs shall—

- (a) have original jurisdiction in all matters relating to a paramount stool or the occupant of a paramount stool, including a queen-mother to a paramount stool;
- (b) perform in and for the Region such other functions as may be conferred upon it by or under the authority of an Act of Parliament;

The Constitution

- (c) advise any person or authority charged with a responsibility under this Constitution or any other law for any matter relating to or affecting chieftaincy in the Region;
 - (d) establish a regional chieftaincy tribunal to hear and determine appeals from the highest traditional council within the area of authority of the traditional authority within which they are established in respect of the nomination, election, installation or deposition of a person as a chief;
 - (e) be the authority that shall be responsible for the recovery or delivery or custody of stool or skin property whenever there is a dispute in respect of the status of any person as a chief.
- (3) The regional chieftaincy tribunal established under clause (2) of this article shall consist of three chiefs appointed by the Regional House of Chiefs from among its members.
- (4) A regional chieftaincy tribunal shall be assisted by counsel of not less than five years' standing appointed by the Regional House of Chiefs on the recommendations of the Attorney-General.
- (5) A member of the regional chieftaincy tribunal may be removed from office on the grounds only of stated misbehaviour or of infirmity of mind or body by the votes of not less than two-thirds of all the members of the Regional House of Chiefs.
- (6) Subject to the provisions of this Constitution, the House of Chiefs of a Region existing immediately before the coming into force of this Constitution shall be deemed to have been established, from the coming into force of this Constitution as the House of Chiefs of the Region.

181. For the purposes of this Chapter, the expression "chief" means a person who, hailing from the appropriate family and lineage, has been validly nominated, elected, and enstooled, enskinned or installed as a chief or queen-mother in accordance with the requisite applicable customary law and usage.

DEFINITION
OF CHIEF.

The Constitution

CHAPTER TWENTY

LOCAL GOVERNMENT AND ADMINISTRATION

LOCAL GOVERNMENT COUNCILS.

182. (1) For the purposes of local government in Ghana there shall be established by an Act of Parliament district and other local government councils.

(2) The area of authority of a council established pursuant to clause (1) of this article shall be as determined by or under an Act of Parliament.

(3) Subject to the provisions of this article, there shall be established village, town and area development committees by or under an Act of Parliament.

(4) An Act enacted pursuant to clause (1) of the article shall provide—

- (a) for the holding of elections to such councils at intervals of not more than four years;
- (b) for the office of a clerk to the district or other local government council, who shall be responsible to the council;
- (c) for the election by a council, of a chairman and a vice-chairman from among the members of the council;
- (d) for the functions and powers of the councils and committees referred to in this article including such powers as relate to education, health, housing, town and country planning, transport, agriculture, social welfare, public works, public utilities and such other functions as may be prescribed;
- (e) the levying of taxes, rates and duties; and
- (f) for the establishment by a council of a development fund for the purposes of the execution of public works and other public utilities or development projects within the area of authority of the council.

The Constitution

183. (1) A local government council established pursuant to article 182 of this Constitution shall consist of—

DISTRICT
COUNCILS,
ETC.

- (a) the member of Parliament within whose constituency falls the area of authority of any such council as *ex officio* member; and
- (b) such number of members as Parliament may, by or under an Act of Parliament, prescribe,
 - (i) two-thirds of whom shall be elected in accordance with Regulations made in that behalf by the Electoral Commissioner pursuant to clause (1) of article 38 of this Constitution; and
 - (ii) one-third of whom shall be chosen by the traditional authorities in the district in accordance with traditional and customary usage.

(2) Subject to the provisions of this Constitution and any other law, a district or other local government council shall be responsible—

- (a) for the administration of the area of its authority in consultation, as appropriate, with the village, town or area committees in the area of its authority; and
- (b) for the performance of such other functions as Parliament may by law prescribe.

(3) A district or other local government council may, subject to control by Parliament, levy such rates and taxes within its area of authority as may be approved by a resolution passed in that behalf by the council and supported by the votes of not less than two-thirds of all the members of the council.

(4) Nothing contained in this article shall be deemed to affect the allegiance owed under customary law and usage by a traditional authority or by a community immediately before the coming into force of this Constitution to any other traditional authority.

LOCAL
GOVERNMENT
GRANTS
COMMISSION.

184. (1) There shall be established within twelve months after the coming into force of this Constitution a Local Government Grants Commission to which the Government shall make available grants-in-aid to be allocated to regional councils and local government councils established by or under this Constitution.

(2) It shall be the duty of the Local Government Grants Commission—

- (a) to determine the proportion of grants to be allocated to regional councils and the local government councils established by this Constitution; and
- (b) to make grants to the district and other local government councils
 - (i) for specific projects approved by Government;
 - (ii) to fund projects considered to be of priority in the national development programme;
 - (iii) to augment the income of a district or other local government council whose revenue and resources are inadequate;
 - (iv) for such other purposes as Government may direct; and
- (c) to review at intervals of not more than three years grants made under paragraph (a) of this clause.

(3) The Local Government Grants Commission shall consist of—

- (a) one representative of each regional council;
- (b) one representative of the ministry responsible for finance;
- (c) one representative of the ministry responsible for local government;
- (d) one representative of the National Association of Local Councils;

The Constitution

- (e) one representative of the ministry responsible for economic planning; and
- (f) two other members appointed by the President acting in accordance with the advice of the Council of State.

(4) The chairman of the Local Government Grants Commission shall enjoy the terms and conditions of service of a Justice of the Court of Appeal.

(5) There shall be established a development fund out of which fund moneys shall be made available for the execution of projects undertaken by a local government council on behalf of the Government and for such other purposes as Parliament may prescribe.

(6) The fund established under clause (5) of this article shall be under the management of the Local Government Grants Commission and shall consist of—

- (a) grants-in-aid by Government;
- (b) grants-in-aid by each corporation, enterprise or concern operating within the area of authority of a district council;
- (c) levies imposed by Parliament on any such body as is referred to in paragraph (b) of this clause for the purposes of development; and
- (d) any other contribution in kind or in cash.

(7) Moneys paid into the fund as grants-in-aid by any enterprise, corporation or concern referred to in paragraph (b) of clause (6) of this article in cash or in kind shall be an allowable deduction for the purposes of income tax.

(8) Not less than fifteen *per centum* of the net revenue accruing to the Government from dues, rents, royalties or from the operations of any enterprise or undertaking of any person or body of persons howsoever described operating within the area of authority of a district council in respect of land or mineral resources shall be paid by the Government to that Council for the purposes of development in that area.

185. (1) There shall be established within six months after the coming into force of this Constitution a regional council in each Region which shall consist, subject to the provisions of clause (2) of this article, of—

- (a) two representatives each from the district or other local government councils in the Region;
- (b) not more than two chiefs from the House of Chiefs of the Region; and
- (c) the regional heads of the ministries in the Region as *ex officio* members who shall not have the right to vote on any matter for decision before the regional council.

(2) The chairman of the regional council shall be the Minister of State appointed for the Region under article 186 of this Constitution.

(3) A district or other local government council shall elect members to the regional council from among the members of the district or other local government council.

(4) The functions of a regional council shall include—

- (a) the co-ordination of the development plans, programmes or other functions of the district councils in the Region;
- (b) planning at the regional level, and the supervision and integration of ministerial or departmental programmes in the Region; and such functions of the Government as are performable at the regional level;
- (c) the elaboration and implementation of regional programmes for development including supervision and control of the operation of any regional development corporation or authority; and
- (d) such other functions as may be assigned to it by Parliament.

(5) A regional council shall have such administrative autonomy as is commensurate with the performance of its functions under this Constitution or any other law and with the subordination of those functions to the overall national needs.

The Constitution

186. (1) The President shall, with the prior approval of Parliament, appoint for each Region a Minister of State—

MINISTERS OF
STATE FOR
THE
REGIONS.

(a) who shall represent the President in the Region;
and

(b) who shall be responsible for the co-ordination
and direction of the administrative machinery
in the Region.

(2) The President may, in consultation with the
Minister concerned, appoint for a Region a Deputy Minister
to perform such functions as the President may determine.

187. Subject to the provisions of this Constitution,
Parliament may, by or under an Act of Parliament, provide
for the performance of functions by the councils estab-
lished under this Chapter.

LOCAL
GOVERNMENT
LEGISLATION.

The Constitution

CHAPTER TWENTY-ONE

LANDS

Public Lands

PUBLIC
LAND AND
OTHER
PUBLIC
PROPERTY.

188. (1) All public lands in Ghana shall be vested in the President on behalf of, and in trust for, the people of Ghana.

(2) For the purposes of this article, and subject to clause (3) of this article, the expression "public lands" includes any land which, immediately before the coming into force of this Constitution, was vested in the Government of Ghana in trust for, and on behalf of, the people of Ghana for the public service of Ghana, and any other land acquired in the public interest for the purposes of the Government of Ghana before, on or after that date.

(3) For the avoidance of doubt it is hereby declared that all lands in the Northern and Upper Regions of Ghana which immediately before the coming into force of this Constitution were vested in the Government of Ghana are not public lands within the meaning of clauses (1) and (2) of this article.

(4) Subject to the provisions of this Constitution, all lands referred to in clause (3) of this article shall vest in any such person who was the owner of any such land before any such vesting or in the appropriate skin without further assurance than this clause.

(5) The provisions of clauses (3) and (4) of this article shall be without prejudice to the vesting by the Government in itself of any land which is required in the public interest for public purposes.

Lands Commission

THE LANDS
COMMISSION.

189. (1) There shall be established a Lands Commission which shall consist of—

(a) a chairman, who shall not be a person who is a Minister of State or a Deputy Minister;

The Constitution

- (b) a representative of the National House of Chiefs;
 - (c) a representative of the Ghana Bar Association;
 - (d) a representative of the Ghana Institution of Surveyors; and
 - (e) not less than nine other members one each of whom shall at least come from each Region of Ghana.
- (2) An Act of Parliament enacted pursuant to clause (1) of this article shall provide for—
- (a) the creation of regional branches of the Commission; and
 - (b) the execution of documents at the regional branches.
- (3) A person shall not be qualified for appointment as a member of the Lands Commission unless he is qualified, at least, to be elected as a member of Parliament.
- (4) The office of the chairman or a member of the Lands Commission shall become vacant—
- (a) at the expiration of four years after his appointment; or
 - (b) if any circumstances arise that would cause him to be disqualified for appointment under clause (3) of this article; or
 - (c) if he is removed from office by the President for inability to perform the functions of his office or for any other sufficient cause or for stated misbehaviour.
- (5) The Lands Commission shall hold and manage, to the exclusion of any other person or authority, any land or minerals vested in the President by this Constitution or any other law, or vested in the Commission by any law or acquired by the Government, and shall have such other functions in relation thereto as may be prescribed by or under an Act of Parliament.
- (6) The provisions of clause (5) of this article shall be without prejudice to the provisions of this Constitution

The Constitution

and any other law relating to the compulsory acquisition or taking possession of any land, or mines, minerals, forests or national parks or reserves, or the tenure, use or management of land.

(7) In the performance of any of its functions under this Constitution or any other law the Lands Commission shall be subject only to this Constitution and shall not be subject to the direction or control of any other person or authority.

(8) No interest in, or right over, any land in Ghana shall be created which vests in a person who is not a citizen of Ghana a freehold interest in any land in Ghana; and accordingly an agreement, deed or conveyance of whatever nature which seeks to confer any such interest in, or right over, any such land on a person who is not a citizen of Ghana shall be void and of no effect.

(9) Where, on the twenty-second day of August, 1969, any person not being a citizen of Ghana had a freehold interest in, or right over, any land in Ghana, that interest or right shall be deemed to be a leasehold interest for a period of fifty years at a peppercorn rent commencing from the twenty-second day of August, 1969; and the freehold reversionary interest in any such land shall vest in the President in trust for, and on behalf of, the people of Ghana.

(10) No interest in, or right over, any land in Ghana shall be created which vests in a person who is not a citizen of Ghana a leasehold interest for a term of more than fifty years at any one time.

(11) Where on the twenty-second day of August, 1969, any person not being a citizen of Ghana had a leasehold interest in, or right over, any land in Ghana for an unexpired period of more than fifty years that interest in, or right over, any such land shall be deemed to be an interest or right subsisting for a period of fifty years commencing from the twenty-second day of August, 1969.

(12) Where a person in whom is vested a leasehold interest in, or right over, any land by virtue of clause (9) of this article subsequently transfers his interest in that

The Constitution

land to a citizen of Ghana that citizen shall, in addition to the interest so transferred, be entitled, as of right, to acquire, for valuable consideration, the freehold reversionary interest in the land from the President in whom resides the reversionary interest vested under clause (9) of this article.

(13) Where a person not being a citizen of Ghana has a leasehold interest in, or right over, any land vested in him by virtue of clause (11) of this article and subsequently transfers his interest in the land to a citizen of Ghana, the citizen to whom the interest is so transferred shall, in addition to the interest so transferred, be entitled, as of right, to the difference between the term of years to which the person not being a citizen of Ghana was entitled immediately before the twenty-second day of August, 1969 and the fifty-year leasehold interest vested in him by the provisions of clause (11) of this article, subject, however, to the terms and conditions of the lease under which the person not being a citizen of Ghana originally acquired his interest in the land.

(14) On the coming into force of this Constitution, any transaction, contract or undertaking involving the grant of a right or concession by or on behalf of any person including the Government of Ghana to any other person or body of persons howsoever described for the exploitation of any mineral, water or other natural resources of Ghana shall be subject to ratification by Parliament.

Stool Lands

190. (1) All stool lands in Ghana shall vest in the appropriate stool on behalf of, and in trust for, the subjects of the stool.

STOOL AND
SKIN LANDS
AND OTHER
PROPERTY.

(2) There shall be established the office of the Administrator of Stool Lands which shall be responsible—

- (a) for the establishment of a stool land account for each stool into which shall be paid all rents, dues, royalties, revenues or other payments whether in the nature of income or capital from the stool lands;

The Constitution

- (b) for the collection of all such rents, dues, royalties, revenues or other payments whether in the nature of income or capital, and to account for them to the beneficiaries specified under clause (5) of this article; and
- (c) for the disbursement of such revenues as may be determined pursuant to clauses (5) and (6) of this article.

(3) An assurance of stool land to any person shall not operate to pass an interest in or right over a stool land unless the same shall have been executed with the consent and concurrence of the Lands Commission; and where the Commission fails or refuses to give any such consent and concurrence a person aggrieved by such failure or refusal may appeal to the High Court of Justice.

(4) Subject to the provisions of this Constitution, no interest in, or right over, any stool land in Ghana shall be created which vests in any person or body of persons howsoever described a freehold interest.

(5) There shall be paid out of the stool lands account,

- (a) to the stool, through the traditional authority, for the maintenance of the stool in keeping with its status,
- (b) to the traditional authority, and
- (c) to the councils established pursuant to article 182 of this Constitution,

within whose area of authority are situate the stool lands concerned such moneys and in such proportions as may be determined by the Lands Commission.

(6) Where a stool, traditional authority, or district or other local government council is dissatisfied with the apportionment determined by the Lands Commission it may appeal to the High Court of Justice which shall determine the issue taking into consideration the relative needs of the stool, the traditional authority or the council concerned.

(7) For the purposes of this article the expression "stool" includes a "skin".

The Constitution

191. Subject to the provisions of this Constitution, Parliament shall, by or under an Act of Parliament, provide for the establishment, within six months after the coming into force of this Constitution, of a Fisheries Commission, a Forestry Commission and such other Commissions as Parliament may determine which shall be responsible for the regulation and management of the utilisation of the natural resources concerned, and the co-ordination of the policies in relation thereto.

NATURAL
RESOURCES
COMMISSIONS.

The Constitution

CHAPTER TWENTY-TWO

THE PRESS COMMISSION

ESTABLISH-
MENT OF THE
PRESS COM-
MISSION.

192. (1) There shall be established, within six months after the coming into force of this Constitution, a Press Commission which shall consist of—

- (a) one representative each nominated by—
 - (i) the Association of Recognised Professional Bodies;
 - (ii) the Ghana Bar Association;
 - (iii) the National Development Commission;
 - (iv) the Ghana National Association of Teachers;
 - (v) the Universities of Ghana;
 - (vi) the Ghana Association of Writers;
 - (vii) the owners and the proprietors of the private press;
 - (viii) the Christian Council and the National Catholic Secretariat;
- (b) two representatives nominated by the Ghana Journalists' Association; and
- (c) two other members one of whom shall be a woman.

(2) Where the chairman of the Press Commission dies, resigns, is removed from office or is absent from Ghana, or is by reason of illness unable to perform the functions of his office, the members of the Press Commission shall elect one of their number to act as chairman of the Commission until such time as the chairman is able to perform the functions of his office or until a new chairman is elected.

(3) In the performance of any of its functions the Press Commission shall be subject only to this Constitution and shall not be subject to the direction or control of any other person or authority.

The Constitution

(4) The appointment of officers or other employees of the Press Commission shall be made by the chairman of the Press Commission acting in consultation with the Public Services Commission.

(5) The administrative expenses of the Press Commission including all salaries, allowances and pensions payable to or in respect of persons serving with the Commission shall be a charge upon the Consolidated Fund.

193. The functions of the Press Commission shall include—

**FUNCTIONS
OF THE PRESS
COMMISSION.**

- (a) the appointment of the chairman and other members of the governing body of any public corporation established for sound or television broadcasting, the press or other media of mass communication or information;
- (b) the assistance, where necessary, in the procurement and distribution on an equitable and non-discriminatory basis of the facilities and services required for the efficient and independent operation of the press and other media for mass communication or information;
- (c) the making, by constitutional instrument, of Regulations for the registration of newspapers and other publications;
- (d) the making, by constitutional instrument, of Regulations for the registration and licensing of other media for mass communication;
- (e) the taking of measures to ensure the preservation of press freedom; and
- (f) the taking of measures to ensure the maintenance of the highest professional and journalistic standards in the mass media including the investigation and adjudication of complaints made against members of the press.

194. Subject to the provisions of article 193 of this Constitution, the Press Commission shall not exercise or purport to exercise any control or direction over the professional functions of a person engaged in the production of newspapers or other means of mass communication.

**INDEPEN-
DENCE OF
JOURNALISTS.**

The Constitution

PROHIBITION OF PRESS LICENCES.

195. Subject to the provisions of article 193 of this Constitution, Parliament shall have no power to enact an Act requiring or authorising any authority to require a person to obtain or maintain a licence of any kind for the establishment or operation of a newspaper, publication or institution of the press or other media for mass communication or information.

The Constitution

CHAPTER TWENTY-THREE

COMMISSIONS OF INQUIRY

196. (1) Except as otherwise provided in clause (3) of article 5 of this Constitution, the President shall, by constitutional instrument, appoint a commission of inquiry into any matter of public interest where—

APPOINTMENT
OF
COMMISSION
OF INQUIRY.

- (a) the President is satisfied that there should be appointed a commission of inquiry; or
- (b) the Council of State advises that it is in the public interest so to do; or
- (c) Parliament, by a resolution passed in that behalf, requests that a commission be appointed to inquire into any matter specified in the resolution as being a matter of public importance.

(2) A commission appointed under clause (1) of this article may consist of a sole commissioner or two or more persons one of whom shall be appointed the chairman of the commission.

(3) No person shall be appointed a sole commissioner or the chairman of a commission of inquiry under this article unless—

- (a) he is a Justice of the Superior Court of Judicature; or
- (b) he is a person qualified to be appointed a Justice of the Superior Court of Judicature; or
- (c) he is a person who has held office as a Justice of the Superior Court of Judicature; or
- (d) he is a person who possesses special qualifications or knowledge in respect of the matter forming the subject-matter of the investigation.

(4) Subject to the provisions of clause (3) of this article, where a commission of inquiry appointed under clause (1) of this article consists of more than two commissioners, other than the chairman, at least one of them shall

The Constitution

be a person who possesses special qualifications or knowledge in respect of the matter forming the subject-matter of the investigation.

POWERS OF COMMISSION OF INQUIRY.

197. (1) A commission of inquiry shall have such powers, rights and privileges as are vested in the High Court of Justice or a Justice thereof at a trial, in respect of—

- (a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise; and
- (b) compelling the production of documents; and
- (c) the issue of a commission or request to examine witnesses abroad.

(2) A sole commissioner or a member of a commission of inquiry shall not be liable to any action or suit in respect of any matter or thing done by him in the performance of his functions as such commissioner or member.

FUNCTIONS OF COMMISSION OF INQUIRY.

198. (1) A commission of inquiry shall—

- (a) make a full, faithful and an impartial inquiry into any matter specified in the commission of appointment; and
- (b) report in writing the result of the inquiry; and
- (c) furnish in the report the reasons leading to the conclusions arrived at or reported.

(2) Where a commission of inquiry makes an adverse finding against any person, the report of the commission of inquiry shall, for the purposes of this Constitution, be deemed to be a judgment of the High Court of Justice and accordingly an appeal shall lie as of right from the commission to the Court of Appeal.

(3) The President shall, subject to the provisions of clause (4) of this article, cause to be published the report of a commission of inquiry together with the white paper thereon within six months of the date of the submission of the report by the commission.

(4) Where the report of a commission of inquiry is not to be published the President shall issue a statement to that effect giving reasons why the report is not to be published.

The Constitution

199. (1) Except as may be otherwise ordered by the commission in the interest of public morality, public safety or public order, the proceedings of a commission of inquiry shall be held in public. INQUIRY
PROCEDURE.

(2) Subject to the provisions of this Chapter, the Rules of Court Committee established under article 133 of this Constitution shall, by constitutional instrument, make Rules regulating the practice and procedure of all commissions of inquiry and for appeals therefrom.

The Constitution

CHAPTER TWENTY-FOUR

CODE OF CONDUCT FOR PUBLIC OFFICERS

CONFLICT OF INTEREST.

200. A public officer shall not put himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office.

OTHER PUBLIC APPOINT- MENTS.

201. (1) A public officer shall not—

- (a) receive in respect of his services on the governing bodies of more than one public corporation, the allowances in respect of more than one such service;
- (b) receive or be paid the emoluments of any other public office at the same time as he receives or is paid the emoluments of a public office; or
- (c) engage or participate in the management or running of a private business, profession or trade.

(2) No person shall be appointed or act as the chairman of the governing body of a public corporation or authority while holding any other position in the service of that corporation or authority.

GIFTS OR BENEFITS IN KIND.

202. (1) A public officer shall not ask for, nor accept, a property or benefit of any kind for himself or any other person on account of anything done, or to be done or omitted to be done by him in the performance of his functions.

(2) A gift or donation to a public officer on a public or ceremonial occasion shall be treated as a gift to the appropriate institution represented by the public officer and shall be used as such.

(3) The receipt by a public officer of a gift or benefit from a commercial firm, business enterprise or any other person who has entered into contract or is likely to enter into a contract, or enters into a contract with the Government shall be presumed to have been received in contravention of clause (1) of this article.

The Constitution

203. No person shall offer a public officer any property, gift or benefit of any kind as an inducement for the granting of a favour or the performance of a function of the public officer.

BRIBERY OF
PUBLIC
OFFICERS.

204. A public officer shall not, without lawful excuse, do or direct to be done, an act which is prejudicial to the rights of any other person.

ABUSE OF
POWERS.

205. (1) A person who holds a public office mentioned in clause (5) of this article shall submit to the Auditor-General, a written declaration of all property or assets owned by, or liabilities owed by, him and his spouse whether directly or indirectly,

DECLARA-
TION OF
ASSETS.

(a) within three months after the coming into force of this Constitution or after taking office, as the case may be;

(b) at the end of every two years; and

(c) at the end of his term of office.

(2) A false statement in such declaration shall be a contravention of this Constitution.

(3) The declaration made under clause (1) of this article shall, on demand, be produced in evidence—

(a) before a court of competent jurisdiction;

(b) before a commission of inquiry established under article 196 of this Constitution;

(c) before an investigator appointed by the Ombudsman under clause (1) of article 207.

(4) Any property or assets acquired by a public officer after the initial declaration required by clause (1) of this article and which is not reasonably attributable to income, gift, loan, inheritance or any other reasonable source shall be deemed to have been acquired in contravention of this Constitution.

(5) A public office to which the provisions of this article apply shall be the office of—

(a) the President of the Republic;

(b) the Vice-President of the Republic;

The Constitution

- (c) the Speaker, the Deputy Speaker and a member of Parliament;
- (d) Minister of State or Deputy Minister;
- (e) Chief Justice, Justice of the Superior Court of Judicature, the Ombudsman and all judicial offices;
- (f) Ambassador or High Commissioner;
- (g) Secretary to the Cabinet;
- (h) Head of ministry or government department or equivalent office in the Civil Service;
- (i) member of the Audit Service of the rank of Principal Auditor and above;
- (j) Clerk to Parliament;
- (k) member of the Ghana Police Service of the rank of Assistant Commissioner and above;
- (l) member of the Armed Forces of Ghana of the rank of Lieutenant-Colonel or equivalent rank and above;
- (m) member of the Prisons Service of the rank of Assistant Director and above;
- (n) chairman and a clerk to the council of a local government council;
- (o) executive chairman, managing director, general manager and departmental head of a public corporation or company in which the State has a controlling interest;
- (p) Vice-Chancellor, registrar, bursar, finance officer, head or director of a school or an institute of a university, or head or director, assistant director, bursar or finance officer of a school or institution, financed out of public funds;
- (q) member or chairman of a commission, other than a commission of inquiry, established by or under the authority of this Constitution; and
- (r) such posts in the public service as Parliament may prescribe.

The Constitution

(6) The Auditor-General shall make a written declaration of his assets and liabilities to the President in the manner and subject to the conditions provided in clauses (1) to (3) of this article.

(7) Before entering upon the duties of his office, a person appointed to an office to which the provisions of this article apply, shall take and subscribe the oath of allegiance, the oath of secrecy and the official oath set out in the Second Schedule to this Constitution, or any other oath appropriate to his office.

206. (1) Before entering upon the duties of his office, the public trustee shall take over as a trustee for, and on behalf of, a person appointed full time to an office to which the provisions of article 205 of this Constitution apply, and for the period during which that person continues to hold such public office—

MANAGING
ASSETS OF
PUBLIC
OFFICERS.

(a) the interests of that person in any business, trade or undertaking; and

(b) any business, trade or undertaking solely owned by that person.

(2) Pursuant to clause (1) of this article, compensation shall be paid, as the result of the mismanagement of the public trustee which has resulted in a loss to any person whose interest, business, trade or undertaking is taken over by the public trustee.

207. (1) An allegation that a public officer has contravened or has not complied with a provision of this Chapter shall be made to the Ombudsman, who shall, unless the person concerned makes a written admission of the contravention or non-compliance, cause the matter to be investigated.

COMPLAINTS
OF CONTRA-
VENTION.

(2) The Ombudsman may take such action as he considers appropriate on the results of such investigation or on such admission.

208. A public officer who does an act prohibited by this Chapter through a nominee, trustee, or other agent shall be deemed *ipso facto* to have contravened this Constitution.

AGENTS,
NOMINEES,
ETC.

The Constitution

INTERPRETA-
TION.

209. In this Chapter, unless the context otherwise requires,

“business” includes a profession, vocation, trade and any venture or concern in the nature of trade;

“emolument” includes salary, overtime or leave pay, commission, fee, bonus, gratuity, benefit, advantage, whether or not that advantage is capable of being turned into money or money’s worth, given or granted in respect of any employment or office;

“public officer” means a person who holds a public office.

The Constitution

CHAPTER TWENTY-FIVE

AMENDMENTS TO THE CONSTITUTION

210. (1) Subject to the provisions of this article, Parliament may, by an Act of Parliament, amend any provision of this Constitution.

AMENDMENTS
TO THE
CONSTITU-
TION.

(2) No provision of this Constitution shall be amended or deemed to have been amended by an Act of Parliament or altered whether directly or indirectly by an Act of Parliament, unless that Act of Parliament shall have been enacted in accordance with the relevant provisions of this article.

(3) A bill for an Act of Parliament to amend a provision of this Constitution, other than any of the provisions enumerated in clause (4) of this article, shall not be passed in Parliament unless—

- (a) the proposal for the bill has been debated in Parliament and accepted by a resolution passed in that behalf by Parliament; and
- (b) the proposal and the bill for the amendment have been published in the *Gazette* by the Speaker for a period of not less than six months immediately preceding the introduction of the bill in Parliament; and
- (c) the proposal and the bill for the amendment have been debated in each district, or other local government council and accepted, not later than six months after the introduction of the bill in Parliament, by resolution, on a secret ballot, of not less than two-thirds of the total number of such Councils; and
- (d) the bill which seeks to effect the amendment has been approved by a resolution of the Council of State passed in that behalf and supported, not less than six months after the introduction of the bill in Parliament, on a secret ballot, by the votes of not less than two-thirds of all the members of the Council; and

The Constitution

(e) the bill which seeks to effect the amendment contained in the proposal has been approved by a resolution of Parliament passed in that behalf and supported, at the end of the second and final debates on a secret ballot, by the votes of not less than two-thirds of all the members of Parliament during the life of that Parliament.

(4) A bill for an Act of Parliament to amend this article and articles, 1, 2, 3, 4, 5, 36, 37, 40, 75, 110 to 114 inclusive, 128, 138, 151, 167, 177, 181, 182, 183, 192 to 195 inclusive; 205, 211 and 217 and the provisions of Chapters Four, Six and Eight of this Constitution shall not be introduced in Parliament unless the proposal for the bill has been approved in a referendum to which the provisions of clause (2) of article 38 of this Constitution shall apply.

(5) Parliament shall enact an Act of Parliament to give effect to an approval given pursuant to clause (4) of this article.

(6) Notwithstanding the provisions of clauses (6) to (12) of article 88 of this Constitution, the President shall not assent to a bill for an Act of Parliament to amend any provision of this Constitution unless—

(a) the bill is expressed to be a bill for an Act to amend the Constitution and only the Constitution; and

(b) the bill is accompanied by a certificate—

- (i) from the Speaker that the provisions of paragraphs (a), (b) and (e) of clause (3) of this article have been complied with;
- (ii) by the chairman of the Council of State to the effect that the provisions of paragraph (d) of clause (3) of this article have been complied with;
- (iii) from the Electoral Commissioner to the effect that the provisions of paragraph (c) of clause (3) or of clause (4) of this article, as the case may be, have been complied with.

The Constitution

CHAPTER TWENTY-SIX

MISCELLANEOUS

211. (1) Where a person has a claim against the Government that claim may be enforced as of right by proceedings taken against the Government for that purpose without the grant of a *fiat* or the use of the process known as petition of right.

CLAIMS
AGAINST
GOVERNMENT.

(2) The Government shall be subject to all those liabilities in tort to which, if it were a private person of full age and capacity, it would be subject—

- (a) in respect of torts committed by its employees or agents; and
- (b) in respect of a breach of those duties which a person owes to his employees or agents at common law or under any other law by reason of being their employer; and
- (c) in respect of a breach of the duties attaching at common law or under any other law to the ownership, occupation, possession or control of property.

(3) No proceedings shall lie against the Government by virtue of the provisions of paragraph (a) of clause (2) of this article in respect of an act or omission of an employee or agent of the Government unless the act or omission would, apart from the provisions of this article, have given rise to a cause of action in tort against that employee or his estate.

(4) Where the Government is bound by a statutory duty which is binding also upon persons other than the Government and its officers, the Government shall, in respect of a failure to comply with that duty, be subject to all those liabilities in tort which it would be so subject if the Government were a private person of full age and capacity.

(5) Where any functions are conferred or imposed upon an officer of the Government as such either by a rule of the common law or by statute and that officer commits a tort while performing or purporting to perform

The Constitution

those functions, the liabilities of the Government in respect of the tort shall be such as they would have been if those functions had been conferred or imposed solely by virtue of instructions lawfully given by the Government.

(6) No proceedings shall lie against the Government by virtue of the provisions of this article in respect of—

(a) anything done or omitted to be done by any person while discharging or purporting to discharge any responsibilities of a judicial nature vested in him; or

(b) any act, neglect or default of an officer of the Government unless that officer—

(i) has been directly or indirectly appointed by the Government and was, at the material time, paid in respect of his duties as officer of the Government wholly out of public funds or moneys provided by Parliament; or

(ii) was, at the material time, holding an office in respect of which the Public Services Commission certifies that the holder thereof would normally be so paid.

(7) Where the Government is subject to a liability by virtue of the provisions of this article, the law relating to indemnity and contribution shall be enforceable—

(a) against the Government by an employee thereof acting in the proper execution of his duties in respect of the liability to which it is so subject or by any other person in respect of the liability to which he is so subject;

(b) by the Government against any person, other than an employee of the Government, in respect of the liability to which it is so subject,

as if the Government were a private person of full age and capacity.

LEGAL AID.

212. (1) For the purposes of enforcing any provision of this Constitution, a person shall have legal aid in connection

The Constitution

with any proceedings relating thereto if he has reasonable grounds for taking, defending, prosecuting or being a party thereto.

(2) Subject to the provisions of this article, Parliament shall, by or under an Act of Parliament, prescribe—

- (a) the conditions of legal aid;
- (b) the assessment of disposable capital or income or property for the purposes of contributions towards legal aid;
- (c) the right to and the nature of legal advice;
- (d) the composition and functions of advisory committees; and
- (e) generally for the purposes of giving effect to the provisions of this article.

(3) In addition to the preceding provisions of this article, Parliament may, by or under an Act of Parliament, provide for the granting of legal aid in such matters, other than those referred to in clause (1) of this article, as may be prescribed therein.

(4) For the purposes of this article, legal aid shall consist of representation by a legal practitioner, including all such assistance as is given by a legal practitioner, in the steps preliminary or incidental to any proceedings or arriving at or giving effect to a compromise to avoid or to bring an end to any proceedings.

213. (1) In this Constitution, unless the context otherwise requires—

INTERPRETA-
TION.

“ Act of Parliament ” means an Act enacted by Parliament;

“ article ” means an article of this Constitution;

“ Civil Service ” includes service in both central and local governments;

“ commission of inquiry ” includes a committee of inquiry;

“ constitutional instrument ” means an instrument made under a power conferred in that behalf by this Constitution;

“ counsel ” includes a legal practitioner;

The Constitution

- “ Court ” means a Court of competent jurisdiction established by or under the authority of this Constitution;
- “ Decree ” includes a Decree made by the National Liberation Council, the National Redemption Council or the Supreme Military Council or the Armed Forces Revolutionary Council or under its authority and any statutory instrument made under the authority of any such Decree;
- “ enactment ” means an Act of Parliament or Decree or a constitutional instrument or a statutory instrument or any provision of an Act of Parliament or Decree or of a constitutional or of a statutory instrument;
- “ functions ” includes powers and duties;
- “ Government ” means any authority by which the executive authority of Ghana is duly exercised;
- “ judgment ” includes an order or decree of the Court;
- “ meeting ” includes a period during which Parliament is meeting continually within a session;
- “ Minister ” means a Minister appointed under article 63 of this Constitution;
- “ oath ” includes an affirmation;
- “ oath of allegiance ” means the oath of allegiance specified in the Second Schedule to this Constitution;
- “ paramount chief ” means a person who has been nominated, elected and installed as such in accordance with customary law and usage;
- “ public corporation ” means a corporation or any other body of persons established by an Act of Parliament or set up out of funds provided by Parliament or other public funds;

The Constitution

- “public interest” includes any right or advantage which enures or is intended to enure for the benefit generally of the whole of the people of Ghana;
- “public office” includes an office the emoluments attaching to which are paid directly from the Consolidated Fund or directly out of moneys provided by Parliament and an office in a public corporation established entirely out of public funds or moneys provided by Parliament;
- “public service” includes service in any civil office of Government, the emoluments attaching to which are paid directly from the Consolidated Fund or directly out of moneys provided by Parliament and service with a public corporation;
- “retiring awards” includes pension and gratuity;
- “Rules of Court Committee” means the Rules of Court Committee established by article 133 of this Constitution;
- “session” means a series of meetings of Parliament within a period of twelve months;
- “sitting” includes a period during which Parliament is sitting continuously without adjournment and a period during which it is in committee;
- “statutory instrument” means an instrument made, whether directly or indirectly, under a power conferred by an Act of Parliament;
- “stool land” includes any land or interest in, or right over, any land controlled by a stool, the head of a particular community or a family for the benefit of subjects of that stool or the members of that community or family;
- “stool” includes a skin and the person or body of persons having control over skin or family land.
- “treason” means treason as defined in clause (16) of article 26 of this Constitution.

The Constitution

(2) In this Constitution and in any other law,

(a) a reference to the holder of an office by the term designating his office, unless the context otherwise requires, shall be construed as including a reference to a person for the time being lawfully acting in, or performing the functions of, that office;

(b) references to the power to remove a public officer from his office shall be construed, subject to the provisions of clause (4) of this article, as including references to a power conferred by any law to require or permit that officer to retire from the public service.

(3) Nothing in paragraph (b) of clause (2) of this article shall be construed as conferring on any person or authority power to require a Justice of the Superior Court of Judicature or the Auditor-General to retire from the public services.

(4) A power conferred by a law to permit a person to retire from the public services shall, in the case of a public officer who may be removed from office by some person or authority, other than a commission established by this Constitution, vest in the President acting in accordance with the advice of the appropriate authority.

(5) 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 he is in receipt of a pension or other like allowance in respect of service under the Government of Ghana.

(6) A provision in this Constitution that vests in any person or authority power to remove a public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law for compulsory retirement of public officers generally or any class of public officer on attaining the age specified therein.

(7) Where power is vested by this Constitution in any person or authority to appoint a person to act in or perform the functions of an office if the holder thereof is

The Constitution

himself unable to perform those functions, no such appointment shall be called in question on the ground that the holder of the office was unable to perform those functions.

(8) No provision of this Constitution or of any other law that any person or authority shall not be subject to the direction or control of any other person or authority in the performance of any functions under this Constitution or that other law shall be construed as precluding a Court from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

(9) In this Constitution references to the alteration of any of the provisions of this Constitution or of an Act of Parliament include references to the amendment, modification, re-enactment with amendment or modification, the suspension or repeal of that provision and the making of a different provision in lieu of that provision.

214. Where in this Constitution or in any other law discretionary power is vested in any person or authority,

EXERCISE OF
DISCRE-
TIONARY
POWER.

(a) that discretionary power shall be deemed to imply a duty to be fair and candid;

(b) the exercise of any such discretionary power shall not be arbitrary, capricious or biased either by resentment, prejudice or personal dislike and shall be in accordance with due process of law; and

(c) the person or authority, not being a judge or other judicial officer in the exercise of his judicial functions, in whom the discretionary power is vested shall, by constitutional or statutory instrument, as the case may be, make and publish Regulations, not being inconsistent with any provision of this Constitution or of that other law, which shall govern the exercise of that discretionary power.

215. In this Constitution and in any other law,

IMPLIED
POWER.

(a) the power to appoint a person to hold or to act in an office in the public services shall

The Constitution

include the power to confirm appointments, to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office;

- (b) where a power is conferred or a duty is imposed, the power may be exercised and the duty shall be performed, from time to time, as occasion requires;
- (c) where a power is given to any person or authority to do or enforce the doing of an act or a thing, all such powers shall be deemed to be also given as are necessary to enable that person or authority to do or enforce the doing of the act or thing;
- (d) where a power is conferred to make any constitutional or statutory instrument, regulations or rules or pass any resolution or give any direction, the power shall be construed as including the power, exercisable in like manner, to amend or to revoke such constitutional or statutory instrument, regulations or rules or resolution or direction as the case may be;
- (e) words importing male persons shall include female persons and corporations;
- (f) words in the singular shall include the plural, and words in the plural shall include the singular;
- (g) where a word is defined, other parts of speech and tenses of that word shall have corresponding meanings;
- (h) words directing or empowering a public officer to do any act or thing, or otherwise applying to him by the designation of his office, shall include his successors in office and all his deputies or all other assistants;
- (i) words directing or empowering a Minister of State to do an act or a thing, or otherwise applying to him by the designation of his office, shall include a person acting for him,

The Constitution

or if the office is vacant a person designated to act in that office by or under the authority of an Act of Parliament and also his successors in office or all his deputies or other assistants;

- (j) where a power is conferred or a duty is imposed on the holder of an office as such, the power may be exercised and the duty shall be performed by the person for the time being charged with the performance of the functions of his office.

216. Subject to the provisions of article 210 of this Constitution, where on any matter, whether arising out of this Constitution or otherwise, there is no provision, express or by necessary implication, of this Constitution which deals with the matter that has arisen, Parliament shall, by an Act of Parliament, not being inconsistent with any provision of this Constitution, provide for that matter to be dealt with.

RESIDUAL
POWERS OF
PARLIAMENT.

217. The transitional provisions specified in the First Schedule to this Constitution shall have effect notwithstanding anything to the contrary contained in this Constitution.

TRANSITIONAL
PROVISIONS.

The Constitution

FIRST SCHEDULE

TRANSITIONAL PROVISIONS

PART I

FIRST PRESIDENT

FIRST
PRESIDENT.

1. (1) Notwithstanding anything to the contrary contained in this Constitution, the person duly elected President of Ghana under the law in force immediately before the coming into force of this Constitution shall be deemed to have been duly elected for the purposes of this Constitution.

(2) The said President shall assume office as President on the date of the coming into force of this Constitution notwithstanding anything to the contrary contained in this Constitution.

PART II

FIRST PARLIAMENT

FIRST
PARLIAMENT.

2. (1) Notwithstanding anything to the contrary contained in this Constitution, the persons duly elected as members of Parliament under the law in force immediately before the coming into force of this Constitution shall be deemed to have been duly elected members of Parliament for the purposes of this Constitution.

(2) The person who was Clerk of the Constituent Assembly established under the Constituent Assembly Decree, 1978 (S.M.C.D. 203) or such other public officer as the Armed Forces Revolutionary Council may designate shall, not later than seven days after the coming into force of this Constitution, summon a meeting of Parliament for the election of the Speaker, the taking of oaths by members of Parliament, the swearing in of the President and the approval of Ministers of State and Deputy Ministers for appointment under this Constitution.

(3) The person who was Clerk of the said Constituent Assembly or such person as is designated under subsection (2) of this section shall, notwithstanding anything to the

The Constitution

contrary contained in this Constitution, act as Clerk to Parliament until a Clerk is appointed under article 105 of this Constitution.

(4) For the avoidance of doubt any notice given before the coming into force of this Constitution summoning Parliament to meet for the purpose of subsection (2) of this section shall be deemed to be a valid notice for all purposes.

PART III

THE JUDICIARY

3. (1) The required number of Justices for a duly constituted Supreme Court as established under clause (5) of article 114 of this Constitution shall be appointed within twelve months after the coming into force of this Constitution, and until the appointments are made, the Court of Appeal as established under that clause shall perform the functions of the Supreme Court contained in articles 51, 117 and 118 only of this Constitution.

FUNCTIONS
OF SUPREME
COURT, ETC.

(2) A Justice of the Superior Court of Judicature, other than one who retires from the public service pursuant to subsection (3) of this section, on retiring from office as such Justice,

(a) shall, in addition to any gratuity payable to him, be paid a pension which is equivalent to the salary paid to a Justice of a Superior Court of Judicature under the provisions of article 58 of this Constitution in any case in which that Justice has served as such Justice for a period of ten years or more; and

(b) shall not hold any private office of profit or emolument either directly or indirectly.

(3) Notwithstanding the provisions of subsection (2) of this section, a Justice of the Superior Court of Judicature may,

(a) at any time on the completion of twenty years' service in the public service at least ten continuous years of which are in respect of service as such Justice, and

The Constitution

(b) before attaining the age of sixty years, retire from office and shall be entitled on such retirement to a gratuity and pension for the time being applicable to the public service.

(4) The provisions of subsections (2) and (3) of this section shall apply only to a Justice of the Superior Court of Judicature who, immediately before the coming into force of this Constitution, was holding office as such Justice; and shall not apply to any person who is appointed as such Justice after the coming into force of this Constitution.

CASES
PENDING
BEFORE
COURTS.

4. All proceedings pending before any court immediately before the coming into force of this Constitution may be proceeded with and completed in that court notwithstanding anything to the contrary contained in this Constitution.

REVIEWS
PENDING
BEFORE FULL
BENCH OF
COURT OF
APPEAL.

5. Any review pending before the full bench of the Court of Appeal immediately before the coming into force of this Constitution shall, subject to section 3 of this Schedule, be deemed to be an appeal pending before the Supreme Court.

PETITIONS
PENDING
BEFORE
REVIEW
TRIBUNALS.

6. All petitions pending before the Commissions and Committees of Inquiry (Findings) Review Tribunal immediately before the coming into force of this Constitution shall be transferred to the Court of Appeal and shall thereafter be treated as if they were appeals before that Court.

PART IV

MISCELLANEOUS

EXISTING
OFFICES.

7. (1) A person who immediately before the coming into force of this Constitution held or was acting in an office in existence immediately before the coming into force of this Constitution shall be deemed to have been appointed as far as is consistent with the provisions of this Constitution to hold or to act in the equivalent office under this Constitution.

(2) A person who before the coming into force of this Constitution would have been required under the law in force to vacate his office at the expiration of a period of

The Constitution

service shall, notwithstanding the provisions of subsection (1) of this section, vacate his office at the expiration of that period.

(3) The provisions of this section shall be without prejudice to any powers conferred by or under this Constitution or any other law not being inconsistent with any provision of this Constitution, upon any person or authority to make provision for the abolition of office, for the removal from office of persons holding or acting in any office and for requiring those persons to retire from office.

(4) In determining, for the purposes of any law relating to retiring benefits or otherwise to length of service, the length of service of a public officer to whom the provisions of subsections (1) and (2) of this section apply, service as a public officer under the Government which terminates immediately before the coming into force of this Constitution shall be deemed to be continuous with service as a public officer which begins immediately at such commencement.

(5) A person to whom the provisions of this section apply shall, immediately on the coming into force of this Constitution or at any convenient time thereafter, take and subscribe the oath required for that office by law.

(6) A person who was entitled to retire on his salary immediately before the coming into force of this Constitution shall have the same terms and conditions of service relating to retiring awards as he enjoyed immediately before the coming into force of this Constitution; and accordingly nothing in this Constitution or in this Schedule shall adversely affect the conditions of service of any such person.

8. Subject to subsection (1) of section 7 of this Schedule the first appointments of the persons referred to in article 57 of this Constitution shall be made within six months after the coming into force of this Constitution.

CERTAIN
APPOINT-
MENTS TO BE
MADE WITHIN
SIX MONTHS
AFTER COM-
MENCEMENT
OF CONSTITU-
TION.

9. Until provision is otherwise made by Parliament the Border Guards shall continue to be part of the Armed Forces of Ghana.

BORDER
GUARDS.

The Constitution

EXISTING
COMMISSIONS
AND
COMMITTEES
OF INQUIRY.

10. Notwithstanding anything contained in this Constitution to the contrary, any commission or committee of inquiry in existence immediately before the coming into force of this Constitution may continue in existence until the submission of its report or until it is otherwise dissolved in accordance with law.

REPORTS AND
FINDINGS OF
COMMISSIONS
AND
COMMITTEES
OF INQUIRY.

11. For the removal of doubt, the report and findings of a commission or committee of inquiry established before the coming into force of this Constitution under any enactment shall have the same effect as the report or findings of a commission of inquiry established under this Constitution.

PENDING
MATTERS.

12. Where any matter or thing has been commenced before the coming into force of this Constitution by a person or authority having power in that behalf under the existing law, that matter or thing may be carried on and completed by the person or authority having power in that behalf on or after such commencement and it shall not be necessary for any such person or authority to commence any such matter or thing *de novo*.

SUCCESSION
TO PROPERTY.

13. (1) Subject to the provisions of articles 188 and 189 of this Constitution, all property and all assets which immediately before the coming into force of this Constitution were vested in any authority or person for the purposes of, or in right of, the Government of Ghana or in the Government of Ghana shall, on the coming into force of this Constitution, without further assurance than this section, vest in the Lands Commission or the Government of Ghana under this Constitution as the case may be.

(2) A property which was liable immediately before the coming into force of this Constitution, to estreat or to be forfeited to the Government of Ghana shall, on such commencement, be liable to estreat or to be forfeited to the Government of Ghana under this Constitution.

(3) Where immediately before the coming into force of this Constitution any person held any property or assets in trust,

(a) for the President of Ghana under the Constitution that was suspended on the thirteenth day of January, 1972 or

The Constitution

- (b) for the Armed Forces Revolutionary Council or the Government of Ghana,

for the purposes of, or in right of, the Government of Ghana, that person shall, on the coming into force of this Constitution, hold such property or assets subject to the provisions of articles 188 and 189 of this Constitution, on the like trust for the Government of Ghana established under this Constitution.

(4) In this section, references to property and assets vested in or held in trust shall include property and assets vested in or held in trust immediately before the thirteenth day of January, 1972, for an interest which extended beyond the twelfth day of January, 1972, and has not been surrendered.

14. Subject to the provisions of section 13 of this Schedule,

DEVOLUTION
OF OTHER
RIGHTS.

- (a) where under an existing law, a right, prerogative, power, privilege or function is vested in the Armed Forces Revolutionary Council the right, prerogative, power, privilege and function shall, on the coming into force of this Constitution, vest in the President or such other person or authority as is specified under this Constitution who, subject to the provisions of this Constitution or any other law, shall have power to do all things necessary for the exercise or performance thereof; and
- (b) a right, power, privilege, an obligation, a duty or function vested in the Government of Ghana by an existing law shall continue to be so vested.

15. (1) It shall not be lawful for any Court to entertain any action or take any decision or order or grant any remedy or relief in any proceedings instituted against the Government of Ghana or any person acting under the authority of the Government of Ghana whether before or after the coming into force of this Constitution or against any person or persons acting in concert or individually to assist or bring about the change in government which took place on the twenty-fourth day of February, 1966, on the thirteenth

INDEMNITY.

The Constitution

day of January, 1972 and on the fourth day of June, 1979 in respect of any act or omission relating to, or consequent upon,

- (a) the overthrow of the government in power before the formation of the National Liberation Council, the National Redemption Council and the Armed Forces Revolutionary Council; or
- (b) the suspension of the Constitution which came into force on the twenty-second day of August, 1969, or any part thereof or the abrogation thereof; or
- (c) the establishment of the National Liberation Council, or the National Redemption Council or the Supreme Military Council which took office on the ninth day of October, 1975, the Supreme Military Council established on the fifth day of July, 1978 or the Armed Forces Revolutionary Council; or
- (d) the exercise referred to in section 16 of this Schedule; or
- (e) the establishment of this Constitution.

(2) For the avoidance of doubt it is hereby declared that no executive, legislative or judicial action taken or purported to have been taken by the Armed Forces Revolutionary Council or by any person in the name of that Council shall be questioned in any proceedings whatsoever, and, accordingly it shall not be lawful for any Court or other tribunal to make any order or grant any remedy or relief in respect of any such act.

(3) The provisions of subsection (2) of this section shall have effect notwithstanding that any such action as is referred to in that subsection was not taken in accordance with any procedure prescribed by any law.

(4) It shall not be lawful for any Court or other tribunal to entertain any action instituted in respect of any act or omission against any person acting or omitting to act, on the instructions or authority of the Armed Forces Revolutionary Council or any member of the Armed

The Constitution

Forces Revolutionary Council and alleged to be in contravention of any law, whether substantive or procedural, in existence before or during the administration of the Armed Forces Revolutionary Council.

16. Notwithstanding anything contained in this Constitution, any confiscation of any property and any other penalties imposed by or under the authority of the Armed Forces Revolutionary Council under any Decree made by that Council in pursuance of the exercise undertaken by the Council to purge the Armed Forces of corruption and graft and to restore the image of the Military and to deal with the accomplices of the guilty members of the Armed Forces and other persons guilty of malpractices to the detriment of the economy of Ghana or the public interest or both shall not be reversed by any authority under this Constitution.

17. (1) Notwithstanding anything contained in this Constitution to the contrary, the Special Tribunal established by the Armed Forces Revolutionary Council (Special Tribunal and Other Matters) Decree, 1979 (A.F.R.C.D. 23) shall take over and complete the trial of all cases pending immediately before the coming into force of this Constitution before all the special courts established under the Armed Forces Revolutionary Council (Special Courts) Decree, 1979 (A.F.R.C.D. 3) as amended by the Armed Forces Revolutionary Council (Special Courts) (Amendment) Decree, 1979 (A.R.F.C.D. 19) in respect of all the offences charged or which could have been charged and may impose in relation thereto any penalty which could have been imposed by a special court or by the Armed Forces Revolutionary Council, under the said Armed Forces Revolutionary Council (Special Courts) Decree, 1979 (A.F.R.C.D. 3) as so amended.

(2) The Special Tribunal shall also have exclusive jurisdiction to try all criminal offences disclosed by or arising out of the reports submitted by the committees of inquiry referred to in the said Armed Forces Revolutionary Council (Special Tribunal and Other Matters) Decree, 1979 (A.F.R.C.D. 23).

NS NOT

DED.

PRESERVA-
TION OF
CONFISCA-
TIONS AND
PENALTIES
IMPOSED BY
A.F.R.C. IN
RELATION TO
PURGING
EXERCISE.

IC
ORA-

CONTINUA-
TION OF
PURGING
EXERCISE.

The Constitution

(3) The Special Tribunal shall also have exclusive jurisdiction to review the adverse findings of the said committees of inquiry on the application of any person aggrieved by any such finding.

(4) Any such committee of inquiry which at the coming into force of this Constitution has not submitted its report to the Armed Forces Revolutionary Council shall, subject to the Provisions of the said Armed Forces Revolutionary Council (Special Tribunal and Other Matters) Decree, 1979 (A.F.R.C.D. 23) continue in existence until the submission of its report.

(5) Sections 10 and 11 of this Schedule shall not apply to any such committee of inquiry.

(6) The Special Prosecutor referred to in the Armed Forces Revolutionary Council (Special Tribunal and Other Matters) Decree, 1979, (A.F.R.C.D. 23) shall be responsible for the initiation and conduct of all prosecutions of criminal offences before the Special Tribunal established under that Decree.

(7) The provisions of the Armed Forces Revolutionary Council (Special Tribunal and Other Matters) Decree, 1979 (A.F.R.C.D. 23) shall have effect notwithstanding anything contained in this Constitution to the contrary.

ABROGATION
OF 1969
CONSTITU-
TION, ETC.

18. (1) The Constitution which came into force on the twenty-second day of August, 1969, and was subsequently suspended is hereby abrogated.

(2) Upon the coming into force of this Constitution the Armed Forces Revolutionary Council (Establishment) Proclamation, 1979 shall cease to have effect.

(3) For the avoidance of doubt, notwithstanding the abrogation of the said Constitution and the repeal of the said Proclamation any enactment or rule of law in force immediately before the coming into force of this Constitution shall in so far as it is not inconsistent with a provision of this Constitution, continue in force as if enacted, issued or made under the authority of this Constitution.

The Constitution

19. Notwithstanding anything contained in article 210 of this Constitution Parliament shall have no power to amend this section or sections 15, 16, 17 and 18 of this Schedule.

SECTIONS NOT
TO BE
AMENDED.

PART V

PUBLIC CORPORATIONS

20. Until Parliament enacts an Act of Parliament in accordance with article 159 of this Constitution for the establishment or operation of a public corporation, a public corporation in existence before the coming into force of this Constitution shall continue its operations under the enactment under which it was established.

PUBLIC
CORPORATIONS.

SECOND SCHEDULE

FORMS OF OATH

THE OATH OF ALLEGIANCE

I,do hereby
[in the name of God swear] [solemnly affirm] that I will
bear true faith and allegiance to the Republic of Ghana as
by law established; that I will uphold the sovereignty and
integrity of Ghana; and that I will preserve, protect and
defend the Constitution. [So help me God.]

*To be sworn before the President, the Chief Justice or
such other person as the President may designate.*

THE PRESIDENTIAL OATH

I..... having been elected to the high office of President of Ghana do hereby [in the name of God swear] [solemnly affirm] that I will be faithful and true to the Republic of Ghana; that I shall strive at all times to preserve, protect and defend the Constitution of the Republic of Ghana and that I do hereby dedicate myself to the service and well-being of the people of the Republic of Ghana and to do right to all manner of persons.

I further [solemnly swear] [solemnly affirm] that should I at any time break this my oath of office I shall submit myself to the laws of the Republic of Ghana and suffer the penalty therefor. [So help me God.]

To be sworn before the Chief Justice.

OATH OF THE VICE-PRESIDENT

I..... having been elected to the office of Vice-President of the Republic of Ghana, do hereby [in the name of God swear] [solemnly affirm] that I shall be faithful and true to the Republic of Ghana; that I will strive at all times to preserve, protect and defend the Constitution of the Republic of Ghana; and that I hereby dedicate myself to the service and well-being of the people of the Republic of Ghana and to do right to all manner of persons.

I further [solemnly swear] [solemnly affirm] that should I at any time break this oath of office, I shall submit myself to the laws of the Republic of Ghana and suffer the penalty therefor. [So help me God.]

To be sworn before the Chief Justice.

The Constitution

THE JUDICIAL OATH

I, having been appointed [Chief Justice, a Justice of the Supreme Court, a Justice of the Court of Appeal, a Justice of the High Court of Justice, etc.] do hereby [in the name of God swear] [solemnly affirm] that I will bear true faith of allegiance to the Republic of Ghana as by law established; that I will uphold the sovereignty and integrity of the Republic of Ghana; and that I will truly and faithfully perform the functions of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws of Ghana. [So help me God.]

To be sworn before the President, the Chief Justice or such other person as the Chief Justice may designate.

OATH OF COUNCILLOR OF STATE

I, do [solemnly swear] [solemnly affirm] that I will faithfully and conscientiously perform my duties as a member of the Council of State and uphold and defend the Constitution of the Republic of Ghana. [So help me God.]

To be sworn before the President.

THE CABINET OATH

I, having been appointed a member of the Cabinet do hereby [in the name of God swear] [solemnly affirm] that I will not directly or indirectly reveal such matters as shall be debated in the Cabinet and committed to my secrecy. [So help me God.]

To be sworn before the President.

THE OATH OF MINISTER OF STATE

I, having been appointed Minister of State [Deputy Minister] of the Republic of Ghana do hereby [in the name of God swear] [solemnly affirm] that I will at all times well and truly serve the Republic of Ghana in the office of Minister of State [Deputy Minister] that I will support and uphold the Constitution of Ghana as by law established; that I will, to the best of my judgment, at all times when thereto required freely give my counsel and advice for the good management of the public affairs of the Republic of Ghana; and that I will not directly or indirectly reveal any matters that shall come to my knowledge in the discharge of my duties and committed to my secrecy as Minister of State [Deputy Minister] [So help me God].

To be sworn before the President.

THE OATH OF SECRECY

I, holding the office of do hereby [in the name of God swear] [solemnly affirm] that I will not directly or indirectly communicate or reveal any matter to any person which shall be brought under my consideration or shall come to my knowledge in the discharge of my official duties except as may be required for the discharge of my official duties or as may be specially permitted by law. [So help me God.]

To be sworn before the President, the Chief Justice or such other person as the President may designate.

THE OFFICIAL OATH

I, do hereby [in the name of God swear] [solemnly affirm] that I will at all times well and truly serve the Republic of Ghana in the office of and that I will support and uphold the Constitution of the Republic of Ghana as by law established. [So help me God.]

To be sworn before the President or such other person as the President may designate.

The Constitution

THE SPEAKER'S OATH

I do hereby [in the name of God swear] [solemnly affirm] that I will bear true faith and allegiance to the Republic of Ghana as by law established; that I will uphold the integrity of the Republic of Ghana; that I will faithfully and conscientiously discharge my duties as Speaker of Parliament; and that I will do right to all manner of people in accordance with the Constitution of Ghana and the laws and conventions of Parliament without fear or favour or affection or ill-will. [So help me God.]

To be sworn before the Chief Justice.

THE OATH OF A MEMBER OF PARLIAMENT

I having been elected a member of Parliament do hereby [in the name of God swear] [solemnly affirm] that I will bear true faith and allegiance to the Republic of Ghana as by law established; that I will uphold and defend the Constitution of the Republic of Ghana and that I will faithfully and conscientiously discharge the duties of a member of Parliament. [So help me God.]

To be sworn before the Speaker.

THE OATH OF THE AUDITOR-GENERAL

I having been appointed Auditor-General of the Republic of Ghana do hereby [in the name of God swear] [solemnly affirm] that I will bear true faith and allegiance to the Republic of Ghana, that I will uphold and defend the Constitution of the Republic of Ghana and that I will truly and faithfully perform the functions of my office without fear or favour or affection or ill-will. [So help me God.]

To be sworn before the President, or such other person as the President may designate.

A.F.R.C.D. 24.

*CONSTITUTION OF THE THIRD REPUBLIC OF GHANA
(PROMULGATION) DECREE, 1979*

Made this 18th day of September, 1979.

FLT. LT. JERRY JOHN RAWLINGS
Chairman of the Armed Forces Revolutionary Council

Date of Gazette notification: 19th September, 1979.