STATUTORY INSTRUMENTS

1979 No. 1600

SOUTHERN RHODESIA

The Zimbabwe Constitution Order 1979

Made - - - *6th December* 1979

Laid before Parliament *7th December* 1979

Coming into Operation on the day referred to in section 1(2)

At the Court at Buckingham Palace, the 6th day of December 1979

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 1 of the Southern Rhodesia Act 1979(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Zimbabwe Constitution Order 1979.

(2) This Order shall come into operation on the day on which, in accordance with such provision in that behalf as may be made by Act of Parliament, Southern Rhodesia becomes independent as a Republic under the name of Zimbabwe.

2.—(1) Subject to such transitional provision as is made by Order in Council under section 1 of the Southern Rhodesia Act 1979, the Constitution set out in the Schedule to this Order shall come into effect in Zimbabwe on the coming into operation of this Order.

(2) This section is without prejudice to any provision that Her Majesty may by Order in Council make under section 2 of that Act for bringing particular provisions of that Constitution into force before the coming into operation of this Order.

N. E. Leigh,
Clerk of the Privy Council.

(a) 1979 c. 52.

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THE CONSTITUTION OF ZIMBABWE

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THE CONSTITUTION OF ZIMBABWE

CHAPTER I

THE REPUBLIC AND THE CONSTITUTION

The Republic.

1. Zimbabwe is a sovereign republic.

Public seal.

2. There shall be a public seal of Zimbabwe, showing the coat of arms of Zimbabwe with the inscription "Zimbabwe", which shall be kept by the President.

Supreme law.

3. This Constitution is the supreme law of Zimbabwe and if any other law is inconsistent with this Constitution that other law shall, to the extent of the inconsistency, be void.

CHAPTER II

CITIZENSHIP

Citizens of Zimbabwe on Independence.

4. A person who, immediately before the appointed day, was or was deemed to be a citizen by birth, descent or registration shall, on and after that day, be a citizen of Zimbabwe by birth, descent or registration, as the case may be.

Citizenship by birth.

5.—(1) A person born in Zimbabwe on or after the appointed day shall be a citizen of Zimbabwe by birth unless—

(*a*) at the time of his birth, his father—

(i) possesses such immunity from suit and legal process as is accorded to the envoy of a foreign sovereign power accredited to Zimbabwe; and

(ii) is not a citizen of Zimbabwe;

or

(*b*) at the time of his birth—

(i) his father is an enemy alien; and

(ii) his mother is interned in a place set aside for the internment of enemy aliens or the birth occurs in a place then under occupation by the enemy;

or

(*c*) at the time of his birth, his father or, in the case of an illegitimate child, his mother is residing in Zimbabwe in contravention of the provisions of any law:

Provided that, if subsequent to his birth his father or mother, as the case may be, is accepted for permanent residence in Zimbabwe under any law in force in Zimbabwe, he shall be a citizen of Zimbabwe by birth; or

(*d*) at the time of his birth, his father or, in the case of an illegitimate child, his mother is—

(i) not a citizen of Zimbabwe; and

(ii) not ordinarily resident in Zimbabwe.

(2) A person born outside Zimbabwe on or after the appointed day shall be a citizen of Zimbabwe by birth if—

(*a*) his father or, in the case of an illegitimate child, his mother is at the time of his birth—

(i) a citizen of Zimbabwe and resident outside Zimbabwe by reason of the service of his father or his mother, as the case may be, under the Government; or

(ii) lawfully ordinarily resident in Zimbabwe,

and

(*b*) his birth is registered in accordance with the law relating to the registration of births.

Citizenship by descent.

6. Save as is otherwise provided by section 5(2), a person born outside Zimbabwe on or after the appointed day shall be a citizen of Zimbabwe by descent if—

(*a*) his father or, in the case of an illegitimate child, his mother is at the time of his birth a citizen of Zimbabwe otherwise than by descent; and

(*b*) his birth is registered in accordance with the law relating to the registration of births.

Citizenship by registration.

7.—(1) Any person who, immediately before the appointed day, possessed such qualifications prescribed by the law then in force relating to citizenship as would have entitled the Minister as defined in that law, upon application duly made and subject to the applicant satisfying the Minister as to certain matters, to authorize his registration as a citizen shall be entitled—

(*a*) upon making application at any time during the period of five years from the appointed day in such manner as may be prescribed by or under an Act of Parliament; and

(*b*) after satisfying the Minister for the time being responsible for citizenship as to those matters,

to be registered as a citizen of Zimbabwe.

(2) Any woman who—

(*a*) is, on the appointed day, married to a person who—

(i) is, on the appointed day, a citizen of Zimbabwe by virtue of the provisions of section 4; or

(ii) after the appointed day, becomes a citizen of Zimbabwe while the marriage still subsists;

or

(*b*) prior to the appointed day, was married to a person who—

(i) is, on the appointed day, a citizen of Zimbabwe by virtue of the provisions of section 4; or

(ii) having died before the appointed day, would, but for his death, have been a citizen of Zimbabwe by virtue of the provisions of section 4;

or

(*c*) on or after the appointed day, marries a person who is a citizen of Zimbabwe or who becomes a citizen of Zimbabwe while the marriage still subsists,

shall be entitled, upon making application in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Zimbabwe.

(3) Any person, one of whose parents is a citizen of Zimbabwe at the date of his application, shall be entitled, upon making application in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Zimbabwe:

Provided that, if the person is not of full age and capacity, the application shall be made on his behalf by his responsible parent or by his guardian or other lawful representative.

(4) A person adopted on or after the appointed day by order made under the law relating to the adoption of children who was not, at the date of the order, a citizen of Zimbabwe shall become a citizen of Zimbabwe on the date of the order if the adopter or, in the case of a joint adoption, the male adopter was, at the date of the order, a citizen of Zimbabwe, and such adopted person shall be regarded as a citizen of Zimbabwe by registration.

(5) The registration as a citizen of Zimbabwe of a person referred to in subsection (1), (2) or (3) who is of full age shall not be effected unless and until the person has taken and subscribed the oath of loyalty in the form set out in Schedule 1, and such person shall be registered and become a citizen of Zimbabwe by registration on the date he takes and subscribes the oath of loyalty.

(6) A person referred to in subsection (1) who has not been registered as a citizen of Zimbabwe shall, for the period referred to in that subsection, enjoy the same rights and privileges, other than those which relate to the acquisition of citizenship or which relate to qualifications for Senators, members of the House of Assembly or voters, as a citizen of Zimbabwe.

(7) In subsection (3), " responsible parent ", in relation to a child, means—

(*a*) if the father is dead or the mother has been given custody of the child by order of a court or has custody of the child by virtue of the provisions of a law relating to the guardianship of children or the child is illegitimate, the mother of the child;

(*b*) in any other case, the father of the child.

(8) For the purposes of this section, a person shall be regarded as—

(*a*) of full age if he has attained the age of majority or if, being under that age, he is or has been married; and

(*b*) of full capacity if he is not of unsound mind.

Dual citizenship.

8.—(1) A person who, on the appointed day, is a citizen of Zimbabwe or entitled to be registered as such and is also a citizen of some other country or entitled to be registered as such shall not, on and after that day, solely on the ground that he is or becomes a citizen of that other country, be—

(*a*) deprived of his citizenship of Zimbabwe;

(*b*) refused registration as a citizen of Zimbabwe; or

(*c*) required to renounce his citizenship of that other country,

by or under any law:

Provided that a person referred to in this subsection may be required to take and subscribe the oath of loyalty in the form set out in Schedule 1.

(2) A person referred to in subsection (1) shall not—

(*a*) be refused a passport of Zimbabwe or have such a passport withdrawn, cancelled or impounded solely on the ground that he is in possession of a passport issued by some other country of which he is a citizen; or

(*b*) be required to surrender or be prohibited from acquiring a passport issued by some other country of which he is a citizen before being issued with a passport of Zimbabwe or as a condition of retaining such a passport.

Powers of Parliament in relation to citizenship.

9. An Act of Parliament may make provision, not inconsistent with this Chapter, in respect of citizenship and, without prejudice to the generality of the foregoing, for—

(*a*) the acquisition of citizenship of Zimbabwe by persons who are not eligible or who are no longer eligible to become citizens of Zimbabwe under this Chapter;

(*b*) subject to the provisions of section 8 and provided that a person shall not thereby be rendered stateless—

(i) the circumstances in which a person who is a citizen of Zimbabwe, other than a citizen by birth, and who becomes a citizen of some other country or a person who is a citizen of some other country and who becomes a citizen of Zimbabwe shall cease to be a citizen of Zimbabwe;

(ii) depriving any person, other than a citizen by birth or descent, of his citizenship of Zimbabwe; and

(*c*) the renunciation by any person of his citizenship of Zimbabwe.

Interpretation.

10.—(1) In this Chapter, "child" means a legitimate child and "father" shall be construed accordingly.

(2) For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place at which the ship or aircraft was registered or, as the case may be, in that country.

CHAPTER III

THE DECLARATION OF RIGHTS

Fundamental rights and freedoms of the individual.

11. Whereas every person in Zimbabwe is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, tribe, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely—

(*a*) life, liberty, security of the person and the protection of the law;

(*b*) freedom of conscience, of expression and of assembly and association; and

(*c*) protection for the privacy of his home and other property and from the compulsory acquisition of property without compensation,

and whereas it is the duty of every person to respect and abide by the Constitution and the laws of Zimbabwe, the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained herein, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the rights and freedoms of others or the public interest.

Protection of right to life.

12.—(1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.

(2) A person shall not be regarded as having been deprived of his life in contravention of subsection (1) if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable in the circumstances of the case—

(*a*) for the defence of any person from violence or for the defence of property;

(*b*) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(*c*) for the purpose of suppressing a riot, insurrection or mutiny or of dispersing an unlawful gathering; or

(*d*) in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war.

(3) It shall be sufficient justification for the purposes of subsection (2) in any case to which that subsection applies if it is shown that the force used did not exceed that which might lawfully have been used in the circumstances of that case under the law in force immediately before the appointed day.

Protection of right to personal liberty.

13.—(1) No person shall be deprived of his personal liberty save as may be authorized by law in any of the cases specified in subsection (2).

(2) The cases referred to in subsection (1) are where a person is deprived of his personal liberty as may be authorized by law—

(*a*) in consequence of his unfitness to plead to a criminal charge or in execution of the sentence or order of a court, whether in Zimbabwe or elsewhere, in respect of a criminal offence of which he has been convicted;

(*b*) in execution of the order of a court punishing him for contempt of that court or of another court or tribunal or in execution of the order of the Senate or the House of Assembly punishing him for a contempt;

(*c*) in execution of the order of a court made in order to secure the fulfilment of an obligation imposed on him by law, including any African customary law;

(*d*) for the purpose of bringing him before a court in execution of the order of a court or an officer of a court or before the Senate or the House of Assembly in execution of the order of the Senate or that House;

(*e*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence;

(*f*) in execution of the order of a court or with the consent of his parent or guardian, for the purposes of his education or welfare during a period beginning before he attains the age of twenty-one years and ending not later than the date when he attains the age of twenty-three years;

(*g*) for the purpose of preventing the spread of an infectious or contagious disease;

(*h*) if he is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care, treatment or rehabilitation or the protection of the community; or

(*i*) for the purpose of preventing his unlawful entry into Zimbabwe or for the purpose of effecting his expulsion, extradition or other lawful removal from Zimbabwe or the taking of proceedings relating thereto.

(3) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language that he understands, of the reasons for his arrest or detention and shall be permitted at his own expense to obtain and instruct without delay a legal representative of his own choice and to hold communication with him.

(4) Any person who is arrested or detained—

(*a*) for the purpose of bringing him before a court in execution of the order of a court or an officer of a court; or

(*b*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence,

and who is not released, shall be brought without undue delay before a court; and if any person arrested or detained upon reasonable suspicion of his having committed or being about to commit a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, 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.

(5) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person or from any person or authority on whose behalf or in the course of whose employment that other person was acting:

Provided that—

(*a*) any judicial officer acting in his judicial capacity reasonably and in good faith; or

(*b*) any other public officer, or person assisting such public officer, acting reasonably and in good faith and without culpable ignorance or negligence,

may be protected by law from liability for such compensation.

Protection from slavery and forced labour.

14.—(1) No person shall be held in slavery or servitude or required to perform forced labour.

(2) For the purposes of subsection (1), " forced labour " does not include—

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

(*b*) labour required of any person while he is lawfully detained which, though not required in consequence of the sentence or order of a court—

(i) is reasonably necessary in the interests of hygiene or for the maintenance or management of the place at which he is detained; or

(ii) is reasonably required for the purposes referred to in section 13(2)(*f*) or (*h*);

(*c*) any labour required of a member of a disciplined force in pursuance of his duties as such or any labour required of any person by virtue of a written law in place of service as a member of such force;

(*d*) any labour required by way of parental discipline; or

(*e*) any labour required by virtue of a written law during a period of public emergency or in the event of any other emergency or disaster that threatens the life or well-being of the community, to the extent that 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 disaster, for the purpose of dealing with that situation.

Protection from inhuman treatment.

15.—(1) No person shall be subjected to torture or to inhuman or degrading punishment or other such treatment.

(2) No treatment reasonably justifiable in the circumstances of the case to prevent the escape from custody of a person who has been lawfully detained shall be held to be in contravention of subsection (1) on the ground that it is degrading.

Protection from deprivation of property.

16.—(1) No property of any description or interest or right therein shall be compulsorily acquired except under the authority of a law that—

(*a*) requires the acquiring authority to give reasonable notice of the intention to acquire the property, interest or right to any person owning the property or having any other interest or right therein that would be affected by such acquisition;

(*b*) requires that the acquisition is reasonably necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning, the utilization of that or any other property for a purpose beneficial to the public generally or to any section thereof or, in the case of land that is under-utilized, the settlement of land for agricultural purposes;

(*c*) requires the acquiring authority to pay promptly adequate compensation for the acquisition;

(*d*) requires the acquiring authority, if the acquisition is contested, to apply to the General Division or some other court before, or not later than thirty days after, the acquisition for an order confirming the acquisition; and

(*e*) enables any claimant for compensation to apply to the General Division or some other court for the prompt return of the property if the court does not confirm the acquisition and for the determination of any question relating to compensation, and to appeal to the Appellate Division.

(2) A law referred to in subsection (1) shall, in the case of the acquisition of land or any interest or right therein, provide that the court may, in fixing adequate compensation, ignore any reduction in the value of such land, interest or right resulting from any unusual or extraordinary circumstances existing immediately prior to such acquisition.

(3) Where any person, by virtue of a law, contract or scheme relating to the payment of pensions benefits, has a right, whether vested or contingent, to the payment of pensions benefits or any commutation thereof or a refund of contributions, with or without interest, payable in terms

of such law, contract or scheme, any law which thereafter provides for the extinction of or a diminution in such a right shall be regarded for the purposes of subsection (1) as a law providing for the acquisition of a right in property.

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

(*a*) requires the acquiring authority promptly to give reasonable notice of the taking of possession to any person owning or possessing the property;

(*b*) enables any such person to notify the acquiring authority in writing that he objects to the taking of possession;

(*c*) requires the acquiring authority to apply within thirty days of such notification to the General Division or some other court for a determination of its entitlement to take possession;

(*d*) requires the General Division or other court to order the acquiring authority to return the property unless it is satisfied that the taking of possession is reasonably justifiable, in the circumstances of any situation arising or existing during that period or as a result of that other emergency or disaster or that may lead to such emergency or disaster, for the purpose of dealing with that situation;

(*e*) requires—

(i) when possession is no longer reasonably justifiable as referred to in paragraph (*d*), wherever possible, the prompt return of the property in the condition in which it was at the time of the taking of possession; and

(ii) the prompt payment of adequate compensation for the taking of possession and, where appropriate, for the failure to return the property in accordance with subparagraph (i) or for any damage to the property; and

(*f*) enables any claimant for compensation to apply to the General Division or some other court for the prompt return of the property and for the determination of any question relating to compensation, and to appeal to the Appellate Division.

(5) In the case of compensation payable under subsection (1) in respect of the loss of ownership or enjoyment of a piece of land or a substantial portion thereof to—

(*a*) an individual who is a citizen of or ordinarily resident in Zimbabwe, such individual shall not be prevented from remitting, within a reasonable time after he has received any amount of that compensation, the whole of that amount;

(*b*) a company all or the majority by value of the shareholders in which, not being nominee shareholders, are at the date of such loss individuals who are citizens of or ordinarily resident in Zimbabwe, any such shareholder who is a citizen of or ordinarily resident in Zimbabwe shall not be prevented from remitting, within a reasonable time after the company has received any amount of that compensation, such portion of that amount as is paid to him by virtue of his shareholding in that company,

to any country of his choice outside Zimbabwe free from any deduction, tax or charge, other than ordinary bank charges, made or levied in respect of its remission.

(6) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (5) to the extent that the law in question authorizes the attachment, by order of a court, of any amount of compensation to which a person is entitled to secure the jurisdiction of the court for the purpose of any civil proceedings or in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party or imposes reasonable restrictions as to the manner in which the payment is to be remitted.

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

(*a*) in satisfaction of any tax or rate;

(*b*) by way of penalty for breach of any law, including any African customary law, whether under civil process or after conviction of an offence, or forfeiture in consequence of a breach of the law or in pursuance of any order referred to in section 13(2)(*b*);

(*c*) upon the removal or attempted removal of the property in question out of or into Zimbabwe in contravention of any law;

(*d*) as an incident of a contract, including a lease or mortgage, which has been agreed between the parties to the contract, or of a title deed to land fixed at the time of the grant or transfer thereof or at any other time with the consent of the owner of the land;

(*e*) in execution of the judgment or order of a court in proceedings for the determination of civil rights or obligations;

(*f*) by reason of the property in question being in a dangerous state or prejudicial to the health or safety of human, animal or vegetable life or having been constructed or grown on any land in contravention of any law relating to the occupation or use of that land;

(*g*) in consequence of any law with respect to the limitation of actions, acquisitive prescription or derelict land;

(*h*) as a condition in connection with the granting of permission for the utilization of that or other property in any particular manner;

(*i*) by way of the taking of a sample for the purposes of a law;

(*j*) where the property consists of an animal, upon its being found trespassing or straying;

(*k*) for so long only as may be necessary for the purpose of any examination, investigation, trial or inquiry;

(*l*) in the case of land, for so long only as may be necessary for the purpose of the carrying out thereon of—

(i) work for the purpose of the conservation of natural resources of any description; or

(ii) agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable or lawful excuse refused or failed, to carry out;

(*m*) in consequence of any law requiring copies of any book or other publication published in Zimbabwe to be lodged with the National Archives or a public library;

(*n*) for the purposes of, or in connection with, the prospecting for or exploitation of minerals, mineral oils, natural gases, precious metals or precious stones which are vested in the President on terms which provide for the respective interests of the persons affected;

(*o*) for the purposes of, or in connection with, the exploitation of underground water or public water which is vested in the President on terms which provide for the respective interests of the persons affected,

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

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

(*a*) for the purpose of the administration, care or custody of any property of a deceased person or a person who is unable, by reason of any incapacity, to administer it himself, on behalf and for the benefit of the person entitled to the beneficial interest therein;

(*b*) by way of the vesting or administration of any property belonging to or used by or on behalf of an enemy or an organization which is, in the interests of defence, public safety or public order, proscribed or declared by a written law to be an unlawful organization;

(*c*) by way of the administration of moneys payable or owing to a person outside Zimbabwe or to the government of some other country where restrictions have been placed by law on the transfer of such moneys outside Zimbabwe;

(*d*) as an incident of—

(i) a composition in insolvency accepted or agreed to by a majority in number of creditors who have proved claims

and by a number of creditors whose proved claims represent in value more than fifty *per centum* of the total value of proved claims; or

(ii) a deed of assignment entered into by a debtor with his creditors;

(*e*) by way of the acquisition of the shares, or a class of shares, in a body corporate on terms agreed to by the holders of not less than nine-tenths in value of those shares or that class thereof.

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

(*a*) the orderly marketing of any agricultural produce or mineral or any article or thing prepared for market or manufactured therefor in the common interests of the various persons otherwise entitled to dispose of that property or for the reasonable restriction of the use of any property in the interests of safeguarding the interests of others or the protection of lessees or other persons having rights in or over such property; or

(*b*) the taking of possession or acquisition in the public interest of any property or any interest or right therein where that property, interest or right is held by a body corporate established directly by law for a public purpose in which no moneys have been invested other than moneys provided from public funds.

(10) In this section—

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

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

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

(*a*) which is payable from the Consolidated Revenue Fund to any person;

(*b*) for any person in respect of his service with an employer or for any spouse, child or dependant of such person in respect of such service;

(*c*) for any person in respect of his ill-health or injury arising out of and in the course of his employment or for any spouse, child or dependant of such person upon the death of such person from such ill-health or injury; or

(*d*) for any person upon his retirement on account of age or ill-health or other termination of service;

" piece of land " means a piece of land registered as a separate entity in the Deeds Registry.

Protection from arbitrary search or entry.

17.—(1) Except with his own consent or by way of parental discipline, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision—

(*a*) in the interests of defence, public safety, public order, public morality, public health or town and country planning;

(*b*) without derogation from the generality of the provisions of paragraph (*a*), for the enforcement of the law in circumstances where there are reasonable grounds for believing that the search or entry is necessary for the prevention, investigation or detection of a criminal offence, for the seizure of any property which is the subject-matter of a criminal offence or evidence relating to a criminal offence, for the lawful arrest of a person or for the enforcement of any tax or rate;

(*c*) for the purposes of a law which provides for the taking of possession or acquisition of any property or interest or right therein and which is not in contravention of section 16;

(*d*) for the purpose of protecting the rights and freedoms of other persons;

(*e*) that authorizes any local authority or any body corporate established directly by or under an Act of Parliament for a public purpose to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax or rate or in order to carry out work connected with any property of that authority or body which is lawfully on those premises; or

(*f*) that authorizes, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order,

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

(3) A law referred to in subsection (2) which makes provision for the search of the person of a woman shall require that such search shall, unless made by a medical practitioner, only be made by a woman and shall be conducted with strict regard to decency.

Provisions to secure protection of law.

18.—(1) Every person is entitled to the protection of the law.

(2) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(3) Every person who is charged with a criminal offence—

(*a*) shall be presumed to be innocent until he is proved or has pleaded guilty;

(*b*) shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged;

(*c*) shall be given adequate time and facilities for the preparation of his defence;

(*d*) shall be permitted to defend himself in person or, save in proceedings before a local court, at his own expense by a legal representative of his own choice;

(*e*) shall be afforded facilities to examine in person or, save in proceedings before a local court, by his legal representative 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

(*f*) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge,

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.

(4) When a person is tried for any criminal offence, the accused person or any person authorized by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time 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.

(5) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any 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 upon a good indictment, summons or charge upon which a valid judgment could be entered and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save—

(*a*) where a conviction and sentence of the General Division or of a court subordinate to the General Division are set aside on appeal or review on the ground that evidence was admitted which should not have been admitted or that evidence was rejected which should have been admitted or on the ground of any other irregularity or defect in the procedure; or

(*b*) otherwise upon the order of the High Court in the course of appeal or review proceedings relating to the conviction or acquittal.

(7) No person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

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

(9) Every person is entitled to be afforded a fair hearing within a reasonable time by an independent and impartial court or other adjudicating authority established by law in the determination of the existence or extent of his civil rights or obligations.

(10) Except in the case of a trial such as is referred to in subsection (14) or with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.

(11) Nothing in subsection (10) shall prevent—

(*a*) the court or other adjudicating authority from excluding from the proceedings, except the announcement of its decision, persons other than the parties thereto and their legal representatives to such extent as the court or other authority—

(i) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice, or in interlocutory proceedings, or in the interests of public morality, the welfare of persons under the age of twenty-one years or the protection of the private lives of persons concerned in the proceedings; or

(ii) may by law be empowered or required so to do in the interests of defence, public safety, public order or the economic interests of the State;

or

(*b*) the court from excluding from proceedings preliminary to trial in respect of a criminal offence persons other than the accused person and his legal representative when so required by law, unless the accused person otherwise requests.

(12) Notwithstanding anything contained in subsection (4), (10) or (11), if in any proceedings before such court or other adjudicating authority as is referred to in subsection (2) or (9), including any proceedings by virtue of section 24, a certificate in writing is produced to the court or other authority signed by a Minister that it would not be in the public interest for any matter to be publicly disclosed, the court or other authority shall make arrangements for evidence relating to that matter to be heard *in camera* and shall take such other action as may be necessary or expedient to prevent the disclosure of that matter.

(13) Nothing contained in or done under the authority of any law shall be held to be in contravention of—

(*a*) subsection (2), (3)(*e*) or (9) to the extent that the law in question makes reasonable provision relating to the grounds of privilege or public policy on which evidence shall not be disclosed or witnesses are not competent or cannot be compelled to give evidence in any proceedings;

(*b*) subsection (3)(*a*) to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

(*c*) subsection (3)(*e*) to the extent that the law in question imposes reasonable conditions which must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;

(*d*) subsection (6) to the extent that the law in question authorizes 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 appropriate disciplinary law, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law; or

(*e*) subsection (8) to the extent that the law in question authorizes a court, where the person who is being tried refuses without just cause to answer any question put to him, to draw such inferences from that refusal as are proper and to treat that refusal, on the basis of such inferences, as evidence corroborating any other evidence given against that person.

(14) In the case of a person who is held in lawful detention, the provisions of subsection (2) shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention, save that the case of such person shall be afforded a fair hearing within a reasonable time, and the person or authority conducting the trial shall be regarded as a court for the purposes of this section.

(15) For the purposes of this section, a local court shall not be regarded as not being an independent and impartial court by reason of—

(*a*) the fact that a member of the court has an interest in the proceedings because of his position in the tribal society; or

(*b*) the traditional or customary tribal practices and procedures.

Protection of freedom of conscience.

19.—(1) Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of conscience, that is to say, freedom of thought and of religion, freedom to change his religion or belief, and freedom, whether alone or in community with others, and whether in public or in private, to manifest and propagate his religion or belief through worship, teaching, practice and observance.

(2) Except with his own consent or, if he is a minor, the consent of his parent or guardian, no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.

(3) No religious community shall be prevented from making provision for the giving by persons lawfully in Zimbabwe of religious instruction to persons of that community in the course of any education provided by that community, whether or not that community is in receipt of any subsidy, grant or other form of financial assistance from the State.

(4) No person shall be compelled to take any oath that is contrary to his religion or belief or to take any oath in a manner that is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) or (3) to the extent that the law in question makes provision—

(*a*) in the interests of defence, public safety, public order, public morality or public health;

(*b*) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion or belief without the unsolicited intervention of persons professing any other religion or belief; or

(*c*) with respect to standards or qualifications to be required in relation to places of education, including any instruction, not being religious instruction, given at such places,

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

(6) References in this section to a religion shall be construed as including references to a religious denomination and cognate expressions shall be construed accordingly.

Protection of freedom of expression.

20.—(1) Except with his own consent or by way of parental discipline, 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.

(2) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision—

(*a*) in the interests of defence, public safety, public order, the economic interests of the State, public morality or public health;

(*b*) for the purpose of—

(i) protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings;

(ii) preventing the disclosure of information received in confidence;

(iii) maintaining the authority and independence of the courts or tribunals or the Senate or the House of Assembly;

(iv) regulating the technical administration, technical operation or general efficiency of telephony, telegraphy, posts, wireless broadcasting or television or creating or regulating any monopoly in these fields;

(v) in the case of correspondence, preventing the unlawful dispatch therewith of other matter;

or

(*c*) that imposes restrictions upon public officers,

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

(3) No religious denomination and no person or group of persons shall be prevented from establishing and maintaining schools, whether or not that denomination, person or group is in receipt of any subsidy, grant or other form of financial assistance from the State.

(4) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (3) to the extent that the law in question makes provision—

(*a*) in the interests of defence, public safety, public order, public morality, public health or town and country planning; or

(*b*) for regulating such schools in the interests of persons receiving instruction therein,

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

(5) No person shall be prevented from sending to any school a child of whom that person is parent or guardian by reason only that the school is not a school established or maintained by the State.

(6) The provisions of subsection (1) shall not be held to confer on any person a right to exercise his freedom of expression in or on any road, street, lane, path, pavement, side-walk, thoroughfare or similar place which exists for the free passage of persons or vehicles.

Protection of freedom of assembly and association.

21.—(1) Except with his own consent or by way of parental discipline, 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 and in particular to form or belong to political parties or trade unions or other associations for the protection of his interests.

(2) The freedom referred to in subsection (1) shall include the right not to be compelled to belong to an association.

(3) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision—

(*a*) in the interests of defence, public safety, public order, public morality or public health;

(*b*) for the purpose of protecting the rights or freedoms of other persons;

(*c*) for the registration of companies, partnerships, societies or other associations of persons, other than political parties, trade unions or employers' organizations; or

(*d*) that imposes restrictions upon public officers,

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

(4) The provisions of subsection (1) shall not be held to confer on any person a right to exercise his freedom of assembly or association in or on any road, street, lane, path, pavement, side-walk, thoroughfare or similar place which exists for the free passage of persons or vehicles.

Protection of freedom of movement.

22.—(1) No person shall be deprived of his freedom of movement, that is to say, the right to move freely throughout Zimbabwe, the right to reside in any part of Zimbabwe, the right to enter and to leave Zimbabwe and immunity from expulsion from Zimbabwe.

(2) Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be in contravention of subsection (1).

(3) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision—

(*a*) for the imposition of restrictions on the freedom of movement of persons generally or any class of persons that are required in the interests of defence, public safety, public order, public morality or public health;

(*b*) for the imposition of restrictions on the acquisition or use of land or other property in Zimbabwe;

(*c*) for the imposition of restrictions by order of a court on the movement or residence within Zimbabwe of any person or on any person's right to leave Zimbabwe—

(i) in consequence of his having been found guilty of a criminal offence under the law of Zimbabwe or for the purpose of ensuring that he appears before a court for trial for such a criminal offence or for proceedings preliminary to trial;

(ii) for proceedings relating to his extradition or lawful removal from Zimbabwe; or

(iii) for the purpose of ensuring that he appears before a court as a witness for the purposes of any criminal proceedings;

(*d*) for the imposition of restrictions on the movement or residence within Zimbabwe of persons who are neither citizens of Zimbabwe nor regarded by virtue of a written law as permanently resident in Zimbabwe or for excluding or expelling from Zimbabwe any person who is not a citizen of Zimbabwe;

(*e*) for the imposition of restrictions by order of a court on the right of any person to leave Zimbabwe that are required for the purpose of ensuring that he appears before a court or other adjudicating authority as a party or a witness or to secure the jurisdiction of the court or other adjudicating authority for the purposes of any civil proceedings; or

(*f*) for the imposition of restrictions on the residence within Tribal Trust Land of persons who are not tribespeople to the extent that such restrictions are reasonably required for the protection of the interests of tribespeople or their well-being,

except, in the case of any provision referred to in paragraphs (*a*) to (*e*), so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) The provisions of subsection (3)(*a*) shall not be construed as authorizing a law to make provision for preventing any person from leaving Zimbabwe or excluding or expelling from Zimbabwe any person who is a citizen of Zimbabwe.

Protection from discrimination on the grounds of race, etc.

23.—(1) Subject to the provisions of this section—

(*a*) no law shall make any provision that is discriminatory either of itself or in its effect; and

(*b*) no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(2) For the purposes of subsection (1), a law shall be regarded as making a provision that is discriminatory and a person shall be regarded as having been treated in a discriminatory manner if, as a result of that law or treatment, persons of a particular description by race, tribe, place of origin, political opinions, colour or creed are prejudiced—

(*a*) by being subjected to a condition, restriction or disability to which persons of another such description are not made subject; or

(*b*) by the according to persons of another such description of a privilege or advantage which is not accorded to persons of the first-mentioned description,

and the imposition of that condition, restriction or disability or the according of that privilege or advantage is wholly or mainly attributable to the description by race, tribe, place of origin, political opinions, colour or creed of the persons concerned.

(3) Nothing contained in any law shall be held to be in contravention of subsection (1)(*a*) to the extent that the law in question relates to any of the following matters—

(*a*) adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;

(*b*) the application of African customary law in any case involving Africans or an African and one or more persons who are not Africans where such persons have consented to the application of African customary law in that case;

(*c*) restrictions on entry into or employment in Zimbabwe or on the enjoyment of services provided out of public funds in the case of persons who are neither citizens of Zimbabwe nor regarded by virtue of a written law as permanently resident in Zimbabwe;

(*d*) qualifications, not being qualifications specifically relating to race, tribe, place of origin, political opinions, colour or creed, for service as a public officer or as a member of a disciplined force or for service with any public authority or any body corporate established directly by or under an Act of Parliament for a public purpose;

(*e*) the appropriation of public revenues or other public funds; or

(*f*) the according to tribespeople to the exclusion of other persons of rights or privileges relating to Tribal Trust Land.

(4) The provisions of subsection (1)(*b*) shall not apply to—

(*a*) anything that is expressly or by necessary implication authorized to be done by section 75(2), 94(2) or 98(2), or by any provision of a law that is referred to in subsection (3); or

(*b*) the exercise of any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court vested in any person by or under this Constitution or any other law.

Enforcement of protective provisions.

24.—(1) If any person alleges that the Declaration of Rights has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may, subject to the provisions of subsection (3), apply to the Appellate Division for redress.

(2) If in any proceedings in the General Division or in any court subordinate to the General Division any question arises as to the contravention of the Declaration of Rights, the person presiding in that court may, and if so requested by any party to the proceedings shall, refer the question to the Appellate Division unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(3) Where in any proceedings such as are mentioned in subsection (2) any such question as is therein mentioned is not referred to the Appellate Division, then, without prejudice to the right to raise that question on any appeal from the determination of the court in those proceedings, no application for the determination of that question shall lie to the Appellate Division under subsection (1).

(4) The Appellate Division shall have original jurisdiction—

(*a*) to hear and determine any application made by any person pursuant to subsection (1) or to determine without a hearing any such application which, in its opinion, is merely frivolous or vexatious; and

(*b*) to determine any question arising in the case of any person which is referred to it pursuant to subsection (2),

and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of the Declaration of Rights:

Provided that the Appellate Division may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under other provisions of this Constitution or under any other law.

(5) If in any proceedings it is alleged that anything contained in or done under the authority of any law is in contravention of section 16, 17, 19, 20, 21 or 22 and the court decides, as a result of hearing the parties, that the complainant has shown that the court should not accept that the provision of the law concerned is reasonably justifiable in a democratic society on such of the grounds mentioned in section 16(7), 17(2), 19(5), 20(2) and (4), 21(3) or 22(3)(*a*) to (*e*), as the case may be, as are relied upon by the other party without proof to its satisfaction, it shall issue a rule *nisi* calling upon the responsible Minister to show cause why that provision should not be declared to be in contravention of the section concerned.

(6) If in any proceedings it falls to be determined whether any law is in contravention of the Declaration of Rights, the Attorney-General shall be entitled to be heard by the court on that question and if in any such proceedings any law is determined by the court to be in contravention of the Declaration of Rights, then, whether or not he has exercised his right to be heard in those proceedings, the Attorney General shall have the like right with respect to an appeal from that determination as if he had been a party to the proceedings.

(7) Where any law is held by a competent court to be in contravention of the Declaration of Rights, any person detained in custody under that law shall be entitled as of right to make an application to the Appellate Division for the purpose of questioning the validity of his further detention, notwithstanding that he may have previously appealed against his conviction or sentence or that any time prescribed for the lodging of such an appeal may have expired.

(8) A written law may confer upon the Appellate Division powers additional to those conferred by this section for the purpose of enabling the Appellate Division more effectively to exercise the jurisdiction conferred upon it by this section.

(9) A written law may make provision with respect to the practice and procedure—

(*a*) of the Appellate Division in relation to the jurisdiction and powers conferred upon it by or under this section; and

(*b*) of subordinate courts in relation to references to the Appellate Division under subsection (2),

including provision with respect to the time within which any application or reference shall or may be made or brought.

Savings in the event of public emergencies.

25. Notwithstanding the foregoing provisions of this Chapter, an Act of Parliament may in accordance with Schedule 2 derogate from certain provisions of the Declaration of Rights in respect of a period of public emergency or a period when a resolution under section 68(6) is in effect.

Interpretation and other savings.

26.—(1) In this Chapter, unless the context otherwise requires—

"child" includes a stepchild and a lawfully adopted child and "parent" and cognate expressions shall be construed accordingly;

"court" means any court of law in Zimbabwe, including a tribal court, but does not, except for the purposes of section 12 or 14, include a court established by or under a disciplinary law;

"legal representative", in relation to—

(*a*) proceedings before a court, means a person entitled to practise as an advocate or, except in relation to proceedings before a court in which an attorney has no right of audience, as an attorney;

(*b*) any matter not referred to in paragraph (*a*), means a person entitled to practise as an advocate or attorney,

and who is lawfully in Zimbabwe;

"parental discipline" includes school or other quasi-parental discipline.

(2) Subject to the provisions of subsection (3), nothing contained in or done under the authority of any written law shall be held to be in contravention of the Declaration of Rights to the extent that the law in question—

(*a*) is a law with respect to which the requirements of section 52 were applicable and were complied with;

(*b*) is a law (hereinafter in this section referred to as an existing law) that had effect as law immediately before the appointed day and has continued to have effect as law since that day;

(*c*) repeals and re-enacts an existing law without alteration; or

(*d*) alters an existing law and does not thereby render that law in contravention of the Declaration of Rights in a manner in which or to an extent to which it did not previously contravene the Declaration of Rights.

(3) The provisions of subsection (2)(*b*), (*c*) and (*d*)—

(*a*) shall not apply in respect of any law relating to the compulsory acquisition of property of any description or of any interest or right therein; and

(*b*) shall cease to apply after the expiration of a period of five years beginning on the appointed day.

(4) For the purposes of this section, the reference—

(*a*) in subsection (2)(*d*) to altering an existing law includes references to repealing it and re-enacting it with modifications or making different provisions in lieu thereof and to modifying it;

(*b*) in subsection (2) to a written law includes any instrument having the force of law,

and the reference to re-enacting an existing law shall be construed accordingly.

(5) In relation to any person who is a member of a disciplined force of Zimbabwe, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be in contravention of any of the provisions of the Declaration of Rights, other than sections 12, 14, 15, 16 and 23.

(6) In relation to any person who is a member of a disciplined force that is not a disciplined force of Zimbabwe and who is present in Zimbabwe under arrangements made between the Government and the government of some other country or an international organization, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be in contravention of the Declaration of Rights.

(7) No measures taken in relation to a person who is a member of a disciplined force of a country with which Zimbabwe is at war or with which a state of hostilities exists and no law, to the extent that it authorizes the taking of any such measures, shall be held to be in contravention of the Declaration of Rights.

CHAPTER IV

THE PRESIDENT

The President.

27. There shall be a President of Zimbabwe who shall be Commander-in-Chief of the Defence Forces.

Election of President.

28.—(1) The President shall be elected as provided in this section.

(2) If the office of President becomes vacant by reason of the termination of the period of office of the President or by reason of his death or resignation or his removal from office in accordance with section 29(3), the members of the Senate and the House of Assembly shall meet as an electoral college within sixty days of such vacancy occurring in order to elect a person to the office of President:

Provided that, if Parliament has been dissolved, the members of the Senate and the House of Assembly shall meet in accordance with this subsection within sixty days of the election of the Senators referred to in section 33(1)(*a*), (*b*) or (*c*), whichever takes place last.

(3) In an election of a President—

(*a*) each candidate shall be a person qualified in accordance with Schedule 3 for election or appointment to the Senate and shall be nominated by not less than ten members of the House of Assembly;

(*b*) if only one candidate is duly nominated he shall be declared to be duly elected without the necessity of a ballot;

(*c*) if two or more candidates are duly nominated, a ballot shall be taken, each member of the electoral college present having one vote and no debate being allowed, and the candidate who receives a majority of all the votes cast shall be declared to be duly elected;

(*d*) if no candidate receives a majority of all the votes cast at a ballot under paragraph (*c*), the candidate or candidates who received the least number of votes shall, subject to the provisions of subsection (4), be eliminated and a further ballot shall be taken under paragraph (*c*) in respect of the remaining candidates, and if no candidate receives a majority of all the votes cast at such subsequent ballot this procedure shall be repeated until a candidate does receive such a majority;

(*e*) the votes of members of the electoral college shall be given by secret ballot.

(4) If after any particular ballot—

(*a*) the application of the provisions of subsection (3)(*d*) would result in two or more candidates being eliminated and only one candidate remaining, only one of the first-mentioned candidates, who shall be determined by the drawing of lots in the presence of the electoral college, shall be eliminated and the other candidate or candidates shall remain for the subsequent ballot;

(*b*) an equality of votes is found to exist between two candidates who were the only candidates at that ballot—

(i) the Prime Minister shall have a casting vote; or

(ii) where there is no Prime Minister or the Prime Minister or any Acting Prime Minister is not present, the candidate who is entitled to be declared elected shall be determined by the drawing of lots in the presence of the electoral college.

(5) A person holding public office who is elected as President shall vacate such public office with effect from the day on which he is so elected.

(6) A person elected as President shall assume office on the day upon which he is declared to be elected and shall, before entering upon his office, take and subscribe before the Chief Justice or other judge of the High Court the oaths of loyalty and office in the forms set out in Schedule 1.

(7) The Speaker or, in his absence, the President of the Senate shall—

(*a*) convene at the House of Assembly the electoral college;

(*b*) preside over the electoral college;

(*c*) conduct any drawing of lots; and

(*d*) declare the successful candidate to be elected.

(8) The President may make regulations prescribing the procedure for the nomination of candidates for and for other matters incidental to an election under this section.

Tenure of office of President.

29.—(1) The President shall hold office for a period of six years and shall be eligible for re-election:

Provided that a President who has held office for two terms shall not be eligible for re-election for a third term.

(2) The President may resign his office by lodging his resignation in writing with the Prime Minister.

(3) The President shall cease to hold office if, after a report prepared by a joint committee of the Senate and the House of Assembly appointed at the request of the Prime Minister has recommended the removal of the President on the grounds of misconduct or inability to discharge efficiently the functions of his office, the members of the Senate and the House of Assembly sitting together have resolved by the affirmative votes of not less than two-thirds of the total number of such members that the President be removed from office.

Acting President.

30.—(1) Whenever the office of President is vacant or the President is unable to perform the functions of his office, those functions shall be assumed and performed by the President of the Senate, or failing him the holder of such other office as may be prescribed by Parliament, as Acting President.

(2) Parliament may make provision for the exercise of the functions of the office of President by an Acting President in circumstances other than those referred to in subsection (1) and may make such other provision as it may consider appropriate for the exercise of the functions of the office of President by an Acting President.

Remuneration of President and Acting President.

31.—(1) There shall be charged upon and paid out of the Consolidated Revenue Fund to the President and any Acting President such salary and allowances as may from time to time be prescribed by or under an Act of Parliament.

(2) The salary and allowances payable to the President or an Acting President shall not be reduced during the period he holds the office of the President or acts as holder thereof.

CHAPTER V

PARLIAMENT

PART 1

Parliament

Parliament.

32. The Parliament of Zimbabwe shall consist of a Senate and a House of Assembly.

PART 2

The Senate

Composition of Senate.

33.—(1) The Senate shall consist of forty Senators qualified in accordance with Schedule 3 for election or appointment to the Senate, of whom—

(*a*) fourteen shall be elected by an electoral college consisting of the members of the House of Assembly referred to in section 38(1)(*a*);

(*b*) ten shall be elected by an electoral college consisting of the members of the House of Assembly referred to in section 38(1)(*b*);

(*c*) ten shall be Chiefs of whom—

(i) five shall be Chiefs in Mashonaland elected by an electoral college consisting of those Chiefs in Mashonaland who are members of the Council of Chiefs; and

(ii) five shall be Chiefs in Matabeleland elected by an electoral college consisting of those Chiefs in Matabeleland who are members of the Council of Chiefs;

(*d*) six shall be appointed by the President, acting on the advice of the Prime Minister.

(2) The procedure for the nomination of candidates for election under subsection (1), the election of Senators and the filling of vacancies among elected Senators shall be as prescribed in the Electoral Law.

Election of President and Deputy President of Senate.

34.—(1) When the Senate first meets after any dissolution of Parliament and before it proceeds to the despatch of any other business it shall elect a presiding officer to be known as the President of the Senate; and whenever the office of the President of the Senate becomes vacant the Senate shall not transact any other business until a person to fill that office has been elected.

(2) The President of the Senate shall be elected in accordance with Standing Orders from among persons who are or have been members of the Senate or the House of Assembly who are neither Ministers nor Deputy Ministers:

Provided that a person who is not a member of the Senate shall not be elected as the President of the Senate unless he is qualified in accordance with Schedule 3 for election or appointment to the Senate.

(3) A person who has been elected as the President of the Senate shall, before he enters upon the duties of his office, unless he has already done so in accordance with section 44, take and subscribe before the Senate the oath of loyalty in the form set out in Schedule 1.

(4) When the Senate first meets after any dissolution of Parliament it shall, as soon as practicable after the election of the President of the Senate, elect in accordance with Standing Orders a Senator, not being a Minister or Deputy Minister, to be the Deputy President of the Senate and to be chairman when the Senate is in committee; and whenever the office of the Deputy President of the Senate become vacant the Senate shall, as soon as convenient, elect another such Senator to that office.

Tenure of office of President and Deputy President of Senate.

35.—(1) The President of the Senate may at any time resign his office either by announcing his resignation in person to the Senate or by notice in writing to the Secretary to Parliament.

(2) The President of the Senate shall vacate his office—

(*a*) on the dissolution of Parliament next following his election;

(*b*) if he becomes a Minister or Deputy Minister;

(*c*) if he becomes a Senator or a member of the House of Assembly or the Speaker; or

(*d*) if any circumstance arises that, if he had been a Senator—

(i) the provisions of section 41(1)(*e*), (*f*) or (*g*) would apply to him and his seat as a Senator would become vacant; or

(ii) he would be required, by virtue of the provisions of section 42, to cease to exercise his functions as a Senator.

(3) The office of the President of the Senate shall become vacant if the Senate has resolved by the affirmative votes of not less than two-thirds of its total membership that the office of the President of the Senate shall become vacant.

(4) Any function of the President of the Senate, whether authorized by law or otherwise, which is required to be performed after a dissolution of Parliament and before the President of the Senate is elected under section 34(1) shall be performed by the person who was the President of the Senate immediately before such dissolution:

Provided that, if at any time after the dissolution of Parliament the person who was the President of the Senate relinquishes the functions of that office by notice in writing to the Secretary to Parliament or is for any reason unable to perform them, those functions shall be performed by the Secretary to Parliament.

(5) The Deputy President of the Senate may at any time resign his office by notice in writing to the Secretary to Parliament and shall vacate his office if—

(*a*) he ceases to be a Senator;

(*b*) he is required, by virtue of the provisions of section 42 or 43, to cease to exercise his functions as a Senator; or

(*c*) he becomes a Minister or Deputy Minister.

Senate Legal Committee.

36.—(1) As soon as practicable after a general election the President of the Senate shall appoint a committee to be known as the Senate Legal Committee.

(2) The Senate Legal Committee shall consist of such number of Senators, being not less than three, as the President may from time to time determine, the majority of whom shall be legally qualified as provided in subsection (3).

(3) A person shall be legally qualified for the purposes of subsection (2) if he—

(*a*) has been a judge of the High Court;

(*b*) is and has been for not less than seven years, whether continuously or not, qualified to practise as an advocate or attorney in Zimbabwe; or

(*c*) has been a magistrate in Zimbabwe for not less than seven years.

Functions of Senate Legal Committee.

37.—(1) The Senate Legal Committee shall examine—

(*a*) every Bill, other than a Money Bill, a Constitutional Bill or a Bill to which the proviso to paragraph 3(1) of Schedule 4 applies,

which has been introduced into the Senate or which, having originated in the House of Assembly and been passed by the House of Assembly, is referred to the Committee before its introduction into the Senate;

(*b*) every Bill, other than a Money Bill, a Constitutional Bill or a Bill to which the proviso to paragraph 3(1) of Schedule 4 applies, which is amended after its examination by the Committee, before—

(i) the Bill is given its final reading in the Senate; or

(ii) the amendment made by the House of Assembly is agreed to by the Senate,

as the case may be;

(*c*) every draft Bill transmitted by a Minister to the Secretary to Parliament for reference to the Committee;

(*d*) every statutory instrument published in the *Gazette*; and

(*e*) every draft statutory instrument transmitted by the authority empowered to make it to the Secretary to Parliament for reference to the Committee,

and report to the Senate, Minister or authority, as the case may be, whether in its opinion any provision of the Bill, statutory instrument, draft Bill or draft statutory instrument would, if enacted, be or, as the case may be, is in contravention of the Declaration of Rights.

(2) The Senate Legal Committee shall perform such other functions in relation to the examination of and reporting on statutory instruments as may be prescribed by Act of Parliament.

(3) Standing Orders shall make provision for matters relating to the Senate Legal Committee, including the period or periods within which the Committee shall report and its powers, if any, in relation to receiving evidence.

(4) The provisions of paragraphs 4 and 8 of Schedule 4 shall apply in respect of the reports of the Senate Legal Committee on Bills and statutory instruments.

PART 3

The House of Assembly

Composition of House of Assembly.

38.—(1) The House of Assembly shall consist of one hundred members qualified in accordance with Schedule 3 for election to the House of Assembly, of whom—

(*a*) eighty shall be elected by voters registered on the common roll for eighty common roll constituencies;

(*b*) twenty shall be elected by voters registered on the white roll for twenty white roll constituencies.

(2) The procedure for the nomination of candidates for election under subsection (1), the election of members of the House of Assembly and the filling of vacancies shall be as prescribed in the Electoral Law.

Election of Speaker and Deputy Speaker.

39.—(1) When the House of Assembly first meets after any dissolution of Parliament and before it proceeds to the despatch of any other business it shall elect a presiding officer to be known as the Speaker; and whenever the office of the Speaker becomes vacant the House of Assembly shall not transact any other business until a person to fill that office has been elected.

(2) The Speaker shall be elected in accordance with Standing Orders from among persons who are or have been members of the Senate or the House of Assembly who are neither Ministers nor Deputy Ministers:

Provided that a person who is not a member of the House of Assembly shall not be elected as the Speaker unless he is qualified in accordance with Schedule 3 for election to the House of Assembly.

(3) A person who has been elected as the Speaker shall, before he enters upon the duties of his office, unless he has already done so in accordance with section 44, take and subscribe before the House of Assembly the oath of loyalty in the form set out in Schedule 1.

(4) When the House of Assembly first meets after any dissolution of Parliament it shall, as soon as practicable after the election of the Speaker, elect in accordance with Standing Orders a member of the House of Assembly, not being a Minister or Deputy Minister, to be the Deputy Speaker and to be chairman when the House of Assembly is in committee; and whenever the office of the Deputy Speaker becomes vacant the House of Assembly shall, as soon as convenient, elect another such member to that office.

Tenure of office of Speaker and Deputy Speaker.

40.—(1) The Speaker may at any time resign his office either by announcing his resignation in person to the House of Assembly or by notice in writing to the Secretary to Parliament.

(2) The Speaker shall vacate his office—

(*a*) on the dissolution of Parliament next following his election;

(*b*) if he becomes a Minister or Deputy Minister;

(*c*) if he becomes a Senator or the President of the Senate or a member of the House of Assembly; or

(*d*) if any circumstance arises that, if he had been a member of the House of Assembly—

(i) the provisions of section 41(1)(*e*), (*f*) or (*g*) would apply to him and his seat as a member would become vacant; or

(ii) he would be required, by virtue of the provisions of section 42, to cease to exercise his functions as a member.

(3) The office of the Speaker shall become vacant if the House of Assembly has resolved by the affirmative votes of not less than two-thirds of its total membership that the office of the Speaker shall become vacant.

(4) Any function of the Speaker, whether authorized by law or otherwise, which is required to be performed after a dissolution of Parliament and before the Speaker is elected under section 39(1) shall be performed by the person who was the Speaker immediately before such dissolution:

Provided that, if at any time after the dissolution of Parliament the person who was the Speaker relinquishes the functions of that office by notice in writing to the Secretary to Parliament or is for any reason unable to perform them, those functions shall be performed by the Secretary to Parliament.

(5) The Deputy Speaker may at any time resign his office by notice in writing to the Secretary to Parliament and shall vacate his office if—

(*a*) he ceases to be a member of the House of Assembly;

(*b*) he is required, by virtue of the provisions of section 42 or 43, to cease to exercise his functions as a member of the House of Assembly; or

(*c*) he becomes a Minister or Deputy Minister.

PART 4

Senate and House of Assembly

Tenure of seats of members.

41.—(1) The seat of a member of the Senate or the House of Assembly shall become vacant—

(*a*) on the dissolution of Parliament next following his election or appointment;

(*b*) if he resigns his seat by notice in writing to the President of the Senate or the Speaker, as the case may be, or to the Secretary to Parliament;

(*c*) if he becomes President, President of the Senate, Speaker or a member of the other House;

(*d*) if he is absent from twenty-one consecutive sittings during any session without the leave of the Senate or the House of Assembly, as the case may be, and the Senate or the House of Assembly has resolved by the affirmative votes of more than one-half of its total membership that the seat shall become vacant;

(*e*) if he accepts office as a member of a statutory body or employment as an employee of a statutory body;

(*f*) if, being a member or employee of a statutory body at the time he becomes a member of the Senate or the House of Assembly, he fails to terminate his appointment or employment as such within fourteen days of the date he became a member of the Senate or the House of Assembly;

(*g*) if he becomes disqualified in accordance with paragraph 2(1)(*b*) of Schedule 3 for election or appointment or in accordance with paragraph 3(2)(*a*), (*b*), (*d*) or (*f*) thereof for registration;

(*h*) in the circumstances set out in section 42;

(*i*) if he is required, by virtue of the provisions of section 43, to vacate his seat.

(2) The resignation of a member of the Senate or the House of Assembly shall not become effective to render his seat vacant under the provisions of subsection (1)(*b*) in any case in which—

(*a*) proceedings are pending in respect of his election if it is alleged that illegal or corrupt practices took place at such election; or

(*b*) proceedings in the Senate or the House of Assembly, as the case may be, are pending in respect of his conduct in or as a member of the Senate or the House of Assembly,

unless the Senate or the House of Assembly, as the case may be, by resolution accepts the resignation.

(3) For the purposes of this section—

(*a*) any person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;

(*b*) "statutory body" means—

(i) any Commission established by this Constitution;

(ii) any body corporate established directly by or under any Act of Parliament for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President or by a Minister.

Members sentenced to death or to imprisonment.

42.—(1) In the event of a member of the Senate or the House of Assembly being convicted—

(*a*) within Zimbabwe of a criminal offence; or

(*b*) outside Zimbabwe of an offence, by whatever name called, which if committed within Zimbabwe would have been a criminal offence,

and being sentenced by a court to death or imprisonment, by whatever name called, for a term of six months or more, such member shall cease forthwith to exercise his functions and to be entitled to any remuneration as a member and, subject to the provisions of this section, his seat shall become vacant at the expiration of thirty days from the date of such sentence.

(2) If, during the period of thirty days referred to in subsection (1), an application for a free pardon is made or an appeal is lodged, the question whether the member is to vacate his seat shall not be determined until the abandonment or final disposal of such application or appeal, whereupon the member shall forthwith vacate his seat unless—

(*a*) he is granted a free pardon;

(*b*) his conviction is set aside;

(*c*) his sentence is reduced to a term of imprisonment of less than six months; or

(*d*) a punishment other than imprisonment is substituted.

(3) Where as a consequence of the final disposal of the application or appeal the conviction or sentence is varied in any manner specified in subsection (2), the member shall not vacate his seat, unless he has previously resigned, but shall be entitled to resume his functions and receive remuneration as a member for the period during which he ceased to exercise his functions by reason of the provisions of this section.

(4) For the purposes of this section—

(*a*) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of such terms;

(*b*) two or more terms of imprisonment that are required to be served concurrently shall be regarded as a single term of imprisonment for the period of the longest of such terms;

(*c*) a person shall be regarded as sentenced notwithstanding that the execution of the sentence or any part thereof has been suspended;

(*d*) no account shall be taken of any sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

Expulsion or suspension of members convicted of certain offences.

43.—(1) If—

(*a*) a member of the Senate or the House of Assembly is convicted of an offence described in section 42(1) and is sentenced to imprisonment for a lesser period than that specified in that subsection or to a fine or other punishment not specified in that subsection; and

(*b*) the Senate or the House of Assembly, as the case may be, after taking into account the nature of the offence and the sentence imposed, resolves by the affirmative votes of not less than two-thirds of its total membership that the member is unfit to continue as a member or that the member should be suspended from the service of the Senate or the House of Assembly for such period, not exceeding six months, as the Senate or the House of Assembly may specify,

the member shall forthwith vacate his seat or, as the case may be, be suspended from the service of the Senate or the House of Assembly for the period so specified.

(2) A member of the Senate or the House of Assembly who is suspended from the service of the Senate or the House of Assembly in accordance with subsection (1) shall not exercise his functions or be entitled to any remuneration as a member during the period of his suspension.

Oath of loyalty.

44. Every member of the Senate or the House of Assembly shall, before taking part in any proceedings thereof, other than proceedings necessary for the purposes of this section, take and subscribe before the Senate or the House of Assembly, as the case may be, the oath of loyalty in the form set out in Schedule 1.

Remuneration of President of Senate and Speaker.

45.—(1) There shall be charged upon and paid out of the Consolidated Revenue Fund to the President of the Senate and to the Speaker such salaries and allowances as may from time to time be prescribed by or under an Act of Parliament:

Provided that the President of the Senate shall not be paid any salary or allowances referred to in this subsection in respect of any period during which he is entitled to be paid the salary and allowances fixed for the Acting President of Zimbabwe.

(2) Subject to the proviso to subsection (1), the salary payable to the President of the Senate or the Speaker shall not be reduced during the period he holds that office.

(3) A person who was the President of the Senate or the Speaker immediately before a dissolution of Parliament shall, subject to the proviso to subsection (1), continue to receive the salary and allowances of that office until such time as the Senate or the House of Assembly, as the case may be, first meets after the dissolution or until he ceases sooner to perform the functions of—

(*a*) the President of the Senate in the circumstances referred to in section 35(4); or

(*b*) the Speaker in the circumstances referred to in section 40(4).

President may address Parliament.

46.—(1) The President may at any time—

(*a*) attend and address the Senate or the House of Assembly; or

(*b*) call a joint meeting of the Senate and the House of Assembly and attend and address such joint meeting.

(2) The President may send messages to the Senate or the House of Assembly and any such message shall be read by a Minister.

(3) When acting under this section the President shall have regard to such constitutional conventions and practices referred to in section 65(3), if any, as are relevant and appropriate in the circumstances.

Ministers and Deputy Ministers in Parliament.

47. A Minister or Deputy Minister shall have the right to sit and speak in both the Senate and the House of Assembly but shall only have the right to vote in the House of which he is a member.

Secretary to Parliament and other staff thereof.

48.—(1) There shall be a Secretary to Parliament appointed by the Speaker after consultation with the President of the Senate and with the approval of the House of Assembly.

(2) A person appointed as the Secretary to Parliament shall not be removed from office unless the House of Assembly resolves by the affirmative votes of more than one-half of its total membership that he be removed from office.

(3) Subject to any wishes which may be expressed from time to time by the House of Assembly, the Speaker shall, after consulting the President of the Senate, appoint such other staff of Parliament as the Speaker may from time to time consider necessary.

(4) The staff of Parliament shall be appointed on terms of service approved from time to time by the House of Assembly and shall be deemed to be public officers but shall not form part of the Public Service.

49. Subject to the provisions of this Constitution, an Act of Parliament may make provision to determine and regulate the privileges, immunities and powers of the Senate, the House of Assembly and the members and officers thereof, including the President of the Senate and the Speaker, and to provide for penalties for a person who sits or votes in the Senate or the House of Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so. Privileges of Parliament and members and officers thereof.

PART 5

Powers and Procedure

50. Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Zimbabwe. Legislative powers.

51.—(1) Subject to the provisions of section 52 and Schedule 4, the power of Parliament to make laws shall be exercised by Bills passed by the House of Assembly and the Senate and assented to by the President. Mode of exercising legislative powers.

(2) When a Bill is presented to the President for assent he shall, subject to the law and constitutional convention, either assent or withhold his assent.

(3) Where this Constitution provides that a Bill of a specified description shall not be presented to the President for assent unless it is accompanied by a certificate, the President shall not assent to such Bill unless it is accompanied by the said certificate.

(4) All laws made by Parliament shall be styled " Acts " and the words of enactment shall be " enacted by the President and the Parliament of Zimbabwe ".

(5) An Act of Parliament shall come into operation on the day of its publication in the *Gazette* or on such other day as may be specified in or under that or some other Act.

(6) An Act of Parliament shall be deemed to come into operation immediately on the expiration of the day preceding the day on which, by virtue of the provisions of subsection (5), it comes into operation.

(7) The provisions of Schedule 4 shall apply in respect of the procedure with regard to Bills and the other matters specified therein.

52.—(1) Parliament may amend, add to or repeal any of the provisions of this Constitution: Alteration of the Constitution.

Provided that no law shall be deemed to amend, add to or repeal any provision of this Constitution unless it does so in express terms.

(2) A Constitutional Bill shall not be introduced into the Senate or the House of Assembly unless the text of the Bill has been published in the *Gazette* not less than thirty days before it is so introduced.

(3) A Constitutional Bill shall not be deemed to have been duly passed by Parliament unless—

(*a*) subject to the provisions of subsection (6), at the final vote thereon in the Senate it received the affirmative votes of not less than two-thirds of the total membership of the Senate; and

(*b*) at the final vote thereon in the House of Assembly it received the affirmative votes of—

(i) in the case of a Bill to which subsection (4) or (5) applies, all the members of the House of Assembly;

(ii) in any other case, not less than seventy members of the House of Assembly.

(4) This subsection shall apply to any Constitutional Bill which is introduced into the House of Assembly less than ten years after the appointed day and which, if enacted, would amend, add to or repeal—

(*a*) any of the provisions specified in Schedule 5 (being provisions relating to the fundamental rights and freedoms of the individual);

(*b*) any of the provisions of Chapter III not so specified, section 68 or paragraph 1 of Schedule 2, if such Bill would derogate or further derogate from, or make or provide for any exception or further exception to, any of the provisions specified in Schedule 5;

(*c*) section 113 to the extent that it applies for the interpretation of any provision referred to in this subsection, if such Bill would—

(i) modify the application of any provision specified in paragraph (*a*), (*d*) or (*e*); or

(ii) modify the application of a provision specified in paragraph (*b*) with the effect referred to in that paragraph;

(*d*) subsection (3)(*a*) or (*b*)(i) to the extent that it applies to this subsection;

(*e*) Schedule 5 or this subsection.

(5) This subsection shall apply to any Constitutional Bill which is introduced into the House of Assembly less than seven years after the appointed day and which, if enacted, would amend, add to or repeal—

(*a*) section 33(1)(*b*);

(*b*) section 38(1)(*b*);

(*c*) any of the provisions of sections 32, 33, 38 or 51(1) to the extent that such provision provides for the legislative functions of the Senate and the House of Assembly or for the proportion of persons elected under section 33(1)(*b*) or section 38(1)(*b*) to the total membership of the Senate or the House of Assembly;

(*d*) any of the provisions of Schedule 3 to the extent that such provision provides for the qualifications of persons referred to in paragraph (*c*) or for the qualifications for voters on the white roll;

(*e*) section 113 to the extent that it applies for the interpretation of any provision referred to in this subsection, if such Bill would modify the application of such provision;

(*f*) subsection (3)(*a*) or (*b*)(i) to the extent that it applies to this subsection;

(*g*) this subsection.

(6) If in the case of a Constitutional Bill which has been passed by the House of Assembly in accordance with the provisions of subsection (3)(*b*) but has not been passed by the Senate in accordance with the provisions of subsection (3)(*a*) within a period of one hundred and eighty days beginning on the day on which the Bill was first introduced into the Senate, the House of Assembly after the expiration of that period resolves by the affirmative votes of not less than seventy members that the Bill be presented to the President for assent in the form in which it was passed by the House of Assembly, except for minor changes required by the passage of time, and with such amendments, if any, as the Senate and the House of Assembly may have agreed, the Bill shall be deemed to have been duly passed in the form in which it is presented to the President.

(7) For the purposes of subsection (6), a Constitutional Bill shall be deemed to be introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate under paragraph 2(1) of Schedule 4.

(8) A Constitutional Bill shall not be submitted to the President for assent unless—

(*a*) it is accompanied by—

(i) a certificate from the President of the Senate that at the final vote thereon in the Senate the Bill received the affirmative votes of not less than two-thirds of the total membership of the Senate; and

(ii) a certificate from the Speaker that at the final vote thereon in the House of Assembly the Bill received the affirmative votes of—

A. in the case of a Bill to which subsection (4) or (5) applies, all the members of the House of Assembly;

B. in any other case, not less than seventy members of the House of Assembly;

or

(*b*) it is accompanied by the appropriate certificate referred to in paragraph (*a*)(ii) and a further certificate from the Speaker stating that the Bill is a Bill to which the provisions of subsection (6) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

Enrolment of Acts.

53.—(1) As soon as may be after an Act of Parliament has been assented to by the President, the Secretary to Parliament shall cause a fair copy of the Act, duly authenticated by the signature of the President and the public seal, to be enrolled on record in the office of the Registrar of the High Court and such copy shall be conclusive evidence of the provisions of such Act.

(2) Notwithstanding the provisions of subsection (1), Parliament may provide that a revised edition of the laws in force on any specified day shall be compiled and published and that, upon publication, the laws therein printed shall in all courts of justice and for all purposes whatever be the sole and authentic version of such laws and be conclusive evidence thereof, and the President shall cause a duly authenticated copy of such revised edition of the laws to be deposited in the office of the Registrar of the High Court.

(3) The validity of an Act of Parliament or of a revised edition of the laws shall not depend upon the enrolment or deposit thereof pursuant to the provisions of this section.

Quorum.

54.—(1) If objection is taken by a member of the Senate present that there are present, besides the President of the Senate or the Senator presiding, fewer than fourteen Senators and, after such interval as may be prescribed in Standing Orders, the President of the Senate or Senator presiding ascertains that the number of Senators present is less than fourteen, the Senate shall thereupon be adjourned in accordance with Standing Orders.

(2) If objection is taken by a member of the House of Assembly present that there are present, besides the Speaker or the member presiding, fewer than twenty-five members and, after such interval as may be prescribed in Standing Orders, the Speaker or member presiding ascertains that the number of members present is less than twenty-five, the House of Assembly shall thereupon be adjourned in accordance with Standing Orders.

Validity of proceedings.

55. Subject to the provisions of section 54, the Senate or the House of Assembly shall not be disqualified for the transaction of business by reason of any vacancy among the members thereof or the suspension of a member in accordance with section 42 or 43, and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do sat or voted in the Senate or the House of Assembly or otherwise took part in the proceedings.

Voting.

56.—(1) Save as otherwise provided in this Constitution, all questions proposed for decision at a sitting of the Senate or the House of Assembly shall be determined by a majority of the votes of the members present and voting.

(2) If, upon any question before the Senate or the House of Assembly, the votes of the members are equally divided, the motion shall be lost.

(3) The person presiding at a sitting of the Senate or the House of Assembly shall not have a deliberative or a casting vote.

Standing Orders.

57. Subject to the provisions of this Constitution and any other law, the Senate and the House of Assembly, jointly or severally as may be appropriate, may make Standing Orders with respect to—

(*a*) the passing of Bills;

(*b*) presiding in the Senate or the House of Assembly;

(*c*) the conduct of debates or other proceedings in the Senate in Chishona and Sindebele as well as in English (in which case provision shall be made for translation);

(*d*) any matter in connection with which Standing Orders are required to be made by this Constitution; and

(*e*) generally with respect to the regulation and orderly conduct of proceedings and business in and between the Senate and the House of Assembly.

PART 6

Elections and Sessions

Elections.

58.—(1) A general election shall be held on such day or days within a period not exceeding four months after the issue of a proclamation dissolving Parliament under section 63(7) or, as the case may be, the dissolution of Parliament under section 63(4) as the President may, by proclamation in the *Gazette*, fix.

(2) Following a general election the election of members of the Senate shall be held on such day or days within a period not exceeding twenty-eight days after the last day fixed in accordance with subsection (1) for the election of the members of the House of Assembly as the President may, by proclamation in the *Gazette*, fix.

(3) The qualifications and disqualifications for registration as a voter and for voting at elections shall be as prescribed in Schedule 3 and, subject thereto, by the Electoral Law.

(4) An Act of Parliament shall make provision for the election of Senators and members of the House of Assembly, including elections for the purpose of filling casual vacancies.

Delimitation Commission.

59.—(1) From time to time, as may be required for the purposes of this Constitution, the President shall appoint a Delimitation Commission which shall consist of—

(*a*) a chairman, who shall be the Chief Justice or some other judge of the High Court appointed with the approval of the Chief Justice; and

(*b*) three other members appointed with the approval of the Chief Justice:

Provided that a person shall not be eligible for appointment if he is a member of the Senate or the House of Assembly.

(2) If a member is for any reason unable to continue to act, the President shall—

(*a*) in the case of the chairman, appoint the Chief Justice or, with the approval of the Chief Justice, some other judge of the High Court to be chairman;

(*b*) in the case of any other member, appoint in his place, with the approval of the chairman, some other person.

(3) Where the members of the Delimitation Commission are not unanimous in regard to any matter, the view of the majority shall prevail and, in the event of an equality of votes, the chairman shall have, in addition to a deliberative vote, a casting vote.

(4) Following the first delimitation for the purposes of this Constitution, a Delimitation Commission shall be convened by the President at five-yearly intervals:

Provided that a Delimitation Commission may be convened before the expiration of any five-year period if it appears to the President necessary to do so having regard to any substantial change in the distribution of voters within Zimbabwe.

Delimitation of constituencies.

60.—(1) It shall be the function of the Delimitation Commission to determine the limits of the constituencies into which Zimbabwe is to be divided in accordance with subsections (2) to (4).

(2) Zimbabwe shall be divided into eighty common roll constituencies and twenty white roll constituencies.

(3) The boundaries of the constituencies shall be such that at the time of delimitation the number of voters registered in each common roll or white roll constituency is as nearly as may be equal to the number of voters registered in each of the other common roll or white roll constituencies, as the case may be.

(4) In dividing Zimbabwe into constituencies the Delimitation Commission shall, in respect of any area, give due consideration to—

(*a*) its physical features;

(*b*) the means of communication within the area;

(*c*) the geographical distribution of voters registered on the common roll or the white roll respectively;

(*d*) any community of interest as between voters registered on the common roll or the white roll respectively; and

(*e*) in the case of any delimitation after the first delimitation, existing electoral boundaries,

and whenever it appears necessary to do so in order to give effect to the provisions of this subsection, the Commission may depart from the requirements of subsection (3), but in no case to any greater extent than twenty *per centum* more or less than the average number of registered voters in constituencies on the common roll or the white roll respectively.

(5) The Delimitation Commission shall submit to the President a report comprising—

(*a*) a list of constituencies delimited by the Commission, with the names assigned to each and a description of their boundaries;

(*b*) a map or maps showing the constituencies into which Zimbabwe has been divided by the Commission; and

(*c*) any further information or particulars which the Commission considers necessary.

(6) The President may refer back to the Delimitation Commission for its further consideration and final decision any matter arising out of its report.

(7) If there appears to be any discrepancy between the description of the boundaries of any constituency and the map or maps, the description shall prevail.

(8) As soon as may be after the Delimitation Commission has completed its report, the President shall, by proclamation in the *Gazette*, declare the names and boundaries of the constituencies as finally settled by the Commission to be the constituencies of Zimbabwe which shall have effect for the purposes of the next and any subsequent general election.

Electoral Supervisory Commission.

61.—(1) There shall be an Electoral Supervisory Commission which shall consist of—

(*a*) a chairman and two other members appointed by the President, acting on the advice of the Judicial Service Commission; and

(*b*) two other members appointed by the President, acting on the advice of the Speaker.

(2) A person shall not be eligible for appointment if—

(*a*) he is a member or has, within the period of three years of the date of the proposed appointment, been a member or been nominated for election as a member of the Senate or the House of Assembly or any local authority; or

(*b*) he is a public officer.

(3) The Electoral Supervisory Commission shall supervise the registration of voters and the conduct of elections of members of the Senate and the House of Assembly.

(4) Every proposed Bill and every proposed statutory instrument relating to the registration of voters or to the election of members of the Senate or the House of Assembly shall be referred to the Electoral Supervisory Commission at such time as shall give it sufficient opportunity to make comments thereon before the Bill is introduced in Parliament or the statutory instrument is made.

(5) The Electoral Supervisory Commission may make such reports to the President concerning the matters under its supervision or any draft Bill or statutory instrument that is referred to it as it thinks fit and, if the Commission so requests in any such report other than a report on a draft Bill or statutory instrument, the Minister shall ensure that the report concerned is laid before the House of Assembly.

Sessions.

62.—(1) Subject to the provisions of subsection (2), the sessions of Parliament shall be held in such place and shall begin at such time as the President may, by proclamation in the *Gazette*, fix.

(2) There shall be a session of Parliament beginning in every calendar year so that a period of more than one hundred and eighty days shall not intervene between the last sitting of either House in any one session and the first sitting of Parliament in the next session.

Prorogation or dissolution.

63.—(1) The President shall prorogue or dissolve Parliament when so advised by the Prime Minister.

(2) If a resolution of no confidence in the Government is passed by the House of Assembly and the Prime Minister does not within

three days either resign his office or advise the President to issue a proclamation dissolving Parliament within such period as the President, acting in his own discretion, may consider reasonable, the President, acting in his own discretion, may dissolve Parliament.

(3) If the office of Prime Minister is vacant and the President, acting in his own discretion, considers that there is no prospect of his being able within a reasonable time to appoint to that office a person who is able to command the support of a majority of the members of the House of Assembly, the President, acting in his own discretion, may dissolve Parliament.

(4) Parliament, unless sooner dissolved, shall continue for five years beginning on the date when Parliament first meets after any general election and shall then stand dissolved:

Provided that, where the period referred to in this subsection is extended under subsection (5) or (6), Parliament, unless sooner dissolved, shall stand dissolved on the expiration of that extended period.

(5) At any time when Zimbabwe is at war, Parliament may from time to time extend the period specified in subsection (4) by not more than one year at a time:

Provided that such period shall not be extended under this subsection for more than five years.

(6) At any time when there is in effect a declaration under section 68(1), Parliament may from time to time extend the period specified in subsection (4) by not more than six months at a time:

Provided that such period shall not be extended under this subsection for more than one year.

(7) Subject to the provisions of subsection (4), any prorogation or dissolution of Parliament shall be by proclamation in the *Gazette* and, in the case of a dissolution, shall take effect from the day preceding the day or first day, as the case may be, fixed by proclamation in accordance with section 58(1) for the holding of a general election.

(8) On the dissolution of Parliament all proceedings pending at the time shall be terminated and accordingly every Bill, motion, petition or other business shall lapse.

CHAPTER VI

THE EXECUTIVE

Executive authority vested in President.

64.—(1) The executive authority of Zimbabwe shall vest in the President.

(2) The Prime Minister shall keep the President fully informed concerning the general conduct of the government of Zimbabwe and shall furnish the President with such information as he may request with respect to any particular matter relating to the government of Zimbabwe.

65.—(1) The President shall have such powers as are conferred by this Constitution or by or under any Act of Parliament and, subject to any provision made by Parliament, shall, as Head of State, have such prerogative powers as were exercisable before the appointed day. Executive powers.

(2) Without prejudice to the generality of subsection (1), the President shall, subject to the provisions of this Constitution, have power—

(*a*) to appoint, accredit, receive and recognize diplomatic agents and consular officers;

(*b*) to enter into and to ratify international conventions, treaties and agreements;

(*c*) to proclaim and to terminate martial law;

(*d*) to declare war and to make peace; and

(*e*) to confer honours and precedence.

(3) Subject to the provisions of this Constitution and any Act of Parliament, the President shall do and execute all things that pertain to his office according to such constitutional conventions and practices as were applicable before the appointed day.

66.—(1) In the exercise of his functions the President shall act on the advice of the Cabinet or a Minister acting under the authority of the Cabinet except in cases where he is required by this Constitution or any other law to act on the advice of any other person or authority: Exercise of functions of President.

Provided that the President shall not be required to act on the advice of any person or authority in the exercise of his functions under subsection (2), section 46 (subject to the provisions of subsection (3) of that section), 63(2) or (3), 69(1)(*a*), 70(1) or (2), 71 (in the circumstances described in the proviso to subsection (2) of that section), 87(6) or (9), 110(3), paragraph 8 of Schedule 4 or any other case where it is expressly so provided.

(2) Where the President has in accordance with subsection (1) received the advice of the Cabinet or a Minister, other than the Prime Minister, acting under the authority of the Cabinet, he may, within the specified period, by writing under his own hand request that, for reasons which he shall specify, the Prime Minister cause such advice to be reconsidered or, as the case may be, considered at a meeting of the Cabinet, and thereupon the following provisions shall apply—

(*a*) during the specified period no act in furtherance of that advice shall be done by any other person pending reconsideration or consideration thereof unless the Prime Minister, by writing under his own hand, has certified that on grounds of urgency such act should be done;

(*b*) a meeting of the Cabinet shall be held within seven days after the receipt by the Prime Minister of the request made by the President that the advice be reconsidered or considered, as the case may be; and

(*c*) if the Cabinet, having reconsidered or, as the case may be, considered the original advice tendered to the President, resubmits the same advice to him, the President shall forthwith act in accordance with that advice.

(3) Where the President is required to act in his own discretion or on the advice of any person or authority, a court shall not, in any case, inquire into any of the following questions or matters—

(*a*) on whose advice the President acted;

(*b*) whether any advice was tendered or acted on;

(*c*) the nature of any advice tendered; or

(*d*) the manner in which the President has exercised his discretion.

(4) In subsection (2), "specified period" means the period of seven days commencing with the day upon which the President has received the advice in question or, if the President, by writing under his own hand, so directs in any case before the expiration of the said period of seven days, the period of fourteen days commencing as aforesaid.

Prerogative of mercy.

67.—(1) The President may, subject to such lawful conditions as he may deem fit—

(*a*) grant a pardon to any person concerned in or convicted of an offence against any law;

(*b*) grant a respite, either indefinite or for a specified period, from the execution of any sentence for such an offence;

(*c*) substitute a less severe punishment for that imposed by any sentence for such an offence; or

(*d*) suspend for a specified period or remit the whole or part of any sentence for such an offence or any penalty or forfeiture otherwise imposed on account of such an offence.

(2) Where a person resident in Zimbabwe has been convicted in another country of an offence against a law in force in that country, the President may declare that that conviction shall not be regarded as a conviction for the purposes of this Constitution or any other law in force in Zimbabwe.

Public emergencies.

68.—(1) The President may at any time, by proclamation in the *Gazette*, declare in relation to the whole of Zimbabwe or any part thereof that—

(*a*) a state of public emergency exists; or

(*b*) a situation exists which, if allowed to continue, may lead to a state of public emergency.

(2) A declaration under subsection (1), if not sooner revoked, shall cease to have effect at the expiration of a period of fourteen days beginning with the day of publication of the proclamation in the *Gazette* unless, before the expiration of that period, the declaration is approved by resolution of the House of Assembly:

Provided that, if Parliament is dissolved during the period of fourteen days, the declaration, unless sooner revoked, shall cease to have effect at the expiration of a period of thirty days beginning with the day of publication of the proclamation in the *Gazette* unless, before the expiration of that period, the declaration is approved by resolution of the House of Assembly.

(3) Where a declaration under subsection (1)—

(*a*) is not approved by resolution under subsection (2), the President shall forthwith after the House of Assembly has considered the resolution and failed to approve it or, if the House of Assembly has not considered the resolution, on the expiration of the appropriate period specified in subsection (2), by proclamation in the *Gazette*, revoke the declaration;

(*b*) is approved by resolution under subsection (2), the declaration shall, subject to the provisions of subsection (4), continue in effect for a period of six months beginning with the day of publication of the proclamation in the *Gazette*:

Provided that, where the House of Assembly has in the resolution under subsection (2) specified that the declaration shall continue in effect for a period of less than six months, the President shall, by proclamation in the *Gazette*, make provision that the declaration shall, subject to the provisions of subsection (4), be revoked on the expiration of the period so specified.

(4) If the House of Assembly resolves that it considers it expedient that a declaration under subsection (1) should be continued for a further period not exceeding six months, the President shall forthwith, by proclamation in the *Gazette*, extend the declaration for such further period as may be so resolved.

(5) Notwithstanding any other provision of this section, the House of Assembly may at any time—

(*a*) resolve that a declaration under subsection (1) should be revoked; or

(*b*) whether in passing a resolution under subsection (2) or (4) or subsequently, resolve that a declaration under subsection (1) should relate to such lesser area as the House of Assembly may specify,

and the President shall forthwith, by proclamation in the *Gazette*, revoke the declaration or provide that the declaration shall relate to such lesser area, as the case may be.

(6) Without prejudice to the foregoing, the House of Assembly may at any time resolve in relation to the whole of Zimbabwe or any part thereof that a situation exists which—

(*a*) if allowed to continue, may lead to a state of public emergency; and

(*b*) may require the preventive detention of persons in the interests of defence, public safety or public order.

(7) A resolution under subsection (6) shall, subject to the provisions of subsection (8) and unless the House of Assembly has specified that it shall have effect for a period of less than one year, have effect for a period of one year beginning with the day it is passed.

(8) The House of Assembly may continue a resolution under subsection (6) for a further period, not exceeding one year.

(9) Notwithstanding any other provision of this section, the House of Assembly may at any time resolve—

(*a*) that a resolution under subsection (6) shall cease to have effect;

(*b*) that a resolution under subsection (6) shall relate to such lesser area as the House of Assembly may specify.

(10) A declaration under subsection (1) or a resolution under subsection (6) may be continued in accordance with this section notwithstanding that it has previously been continued.

(11) No resolution under subsection (2), (4), (6) or (8) shall be deemed to have been duly passed unless it receives the affirmative votes of more than one-half of the total membership of the House of Assembly.

(12) Where the House of Assembly passes a resolution under subsection (6), (8) or (9), the Secretary to Parliament shall forthwith cause to be published in the *Gazette* a notice of such resolution and the effect thereof.

Ministers and Deputy Ministers.

69.—(1) The President—

(*a*) acting in his own discretion, shall appoint a Prime Minister from among the members of the Senate and the House of Assembly and in so doing shall appoint the person who, in his opinion, is best able to command the support of a majority of the members of the House of Assembly;

(*b*) acting on the advice of the Prime Minister, shall appoint other Ministers from among the members of the Senate and the House of Assembly and may assign functions to such Ministers, including the administration of any Act of Parliament or of any Ministry or department; and

(*c*) acting on the advice of the Prime Minister, may appoint from among the members of the Senate and the House of Assembly Deputy Ministers of any specified Ministry or department or of such other description as the President may determine and may authorize any Deputy Minister to exercise or perform on behalf of a Minister any of the powers, functions and duties entrusted to such Minister under any law or otherwise.

(2) Notwithstanding any other provision of this Constitution, any party which is represented in the House of Assembly by a majority of the members referred to in section 38(1)(*b*) shall not, for the purpose of forming a government, form a coalition with any single party other than the party represented in the House of Assembly by a greater number of members referred to in section 38(1)(*a*) than the number of such members representing any other single party or, if there are two parties so represented by an equal number of such members, either such party.

(3) The provisions of subsection (1) shall apply in relation to any period between a dissolution of Parliament and the determination of the results of the next general election as if Parliament had not been dissolved.

(4) Any person appointed under this section shall, before entering upon his office, take and subscribe before the President or some person authorized by the President in that behalf oaths of loyalty and office in the forms set out in Schedule 1.

(5) Subject to the provisions of this Constitution and any Act of Parliament, where any Minister has been charged with responsibility for any Ministry he shall exercise general direction and control over that Ministry and, subject to such direction and control, the Ministry shall be under the supervision of a Secretary.

Tenure of office of Ministers and Deputy Ministers.

70.—(1) If a resolution of no confidence in the Government is passed by the House of Assembly and the Prime Minister does not within three days resign his office, the President shall remove the Prime Minister from office unless, pursuant to the provisions of section 63(1) or (2), Parliament is to be dissolved in consequence of such resolution.

(2) If at any time between the holding of a general election and the first sitting of the House of Assembly thereafter the President, acting in his own discretion, considers that, in consequence of changes in the membership of the House of Assembly resulting from that election, the Prime Minister will not be able to command the support of a majority of the members of the House of Assembly, the President, acting in his own discretion, may remove the Prime Minister from office:

Provided that the President shall not remove the Prime Minister from office within the period of ten days immediately following the last day fixed for polling at that general election unless he is satisfied that a party or party alliance in opposition to the Government has at that general election gained a majority of all the seats in the House of Assembly.

(3) The office of a Minister or Deputy Minister shall become vacant—

(*a*) if the holder of the office ceases to be a member of the Senate or the House of Assembly otherwise than by reason of the dissolution of Parliament;

(*b*) if, when Parliament first meets after a dissolution, the holder of the office is not then a member of the Senate or House of Assembly;

(*c*) if the holder of the office resigns his office by notice in writing addressed to the President and delivered, in the case of the Prime Minister, to the President or, in any other case, to the Prime Minister.

(4) The office of a Minister, other than the Prime Minister, or of a Deputy Minister shall become vacant—

(*a*) if the President, acting on the advice of the Prime Minister, so directs;

(*b*) if the Prime Minister resigns from office within three days after a resolution of no confidence in the Government is passed by the House of Assembly or is removed from office under subsection (1) or (2); or

(*c*) on the appointment of any person to the office of Prime Minister.

(5) If a Minister or Deputy Minister is required by virtue of the provisions of section 42 or 43 to cease to exercise for any period his functions as a member of the Senate or the House of Assembly, he shall not, during that period, exercise any of his functions as Minister or Deputy Minister.

Acting Prime Minister.

71.—(1) Whenever the Prime Minister is absent from Zimbabwe or is, by reason of illness or of the provisions of section 70(5), unable to exercise his functions, the President may in writing authorize some other Minister to exercise those functions, other than the functions conferred by subsection (2), and that Minister may perform those functions until his authority is revoked by the President.

(2) The powers of the President under subsection (1) shall be exercised by him on the advice of the Prime Minister:

Provided that if—

(*a*) the President, acting in his own discretion, considers that it is impracticable to obtain the advice of the Prime Minister owing to the absence or illness of the Prime Minister; or

(*b*) the Prime Minister is unable to tender advice by reason of the provisions of section 70(5),

the President may exercise those powers acting in his own discretion.

Cabinet.

72.—(1) To advise the President in the government of Zimbabwe there shall be a Cabinet consisting of the Prime Minister and such other persons, being Ministers, as the President, on the advice of the Prime Minister, may from time to time appoint.

(2) A member of the Cabinet shall hold office during the pleasure of the President and may be removed from office by the President, acting on the advice of the Prime Minister:

Provided that—

(*a*) he shall cease to hold office if he ceases to be a Minister;

(*b*) he may at any time by notice in writing addressed to the President and delivered to the Prime Minister resign his office.

(3) Any person appointed under this section shall, before entering upon his office, take and subscribe before the President or some person authorized by the President in that behalf the oath of a member of the Cabinet in the form set out in Schedule 1.

CHAPTER VII

THE PUBLIC SERVICE AND THE PRISON SERVICE

Public Service and Prison Service.

73.—(1) There shall be a Public Service for the administration of the country.

(2) There shall be a Prison Service for the administration of the prisons and that service shall be under the command of the Director of Prisons who shall be appointed by the President, acting on the advice of the Public Service Commission:

Provided that before tendering such advice the Commission shall consult the Minister for the time being responsible for prisons.

Public Service Commission.

74.—(1) There shall be a Public Service Commission which shall consist of a chairman and not less than two and not more than four other members appointed, subject to the provisions of subsection (2), by the President, acting on the advice of the Prime Minister.

(2) The persons to be appointed under subsection (1) shall be chosen for their ability and experience in administration or their professional qualifications or their suitability otherwise for appointment, and the chairman and at least one other member shall be persons who have held the post of Secretary of, or Deputy Secretary or Under Secretary in, a Ministry or a post in the Public Service of a grade equivalent to or higher than that of Under Secretary for periods which in the aggregate amount to at least five years.

(3) The chairman may delegate to another member of the Public Service Commission his functions as chairman of the Police Service Commission or Defence Forces Service Commission.

Functions of Public Service Commission.

75.—(1) The functions of the Public Service Commission shall be—

(*a*) to regulate and control the general organization of the Public Service and the Prison Service;

(*b*) to appoint persons to hold a post or grade in the Public Service, whether as officers or employees or on special contract, and to fix and regulate their conditions of service;

(*c*) to appoint persons to hold a post or rank in the Prison Service and to fix and regulate their conditions of service;

(*d*) to exercise disciplinary powers in relation to persons employed in the Public Service or the Prison Service and to remove such persons from office;

(*e*) to ensure the general well-being and good administration of the Public Service and the Prison Service and the maintenance thereof in a high state of efficiency;

(*f*) to make regulations for the purposes stated in paragraph (*e*) and for the conditions of service of members of the Public Service and the Prison Service, which may include provision for the punishment of members of the Public Service found guilty of misconduct or of members of the Prison Service found guilty of offences against discipline;

(*g*) to do such other things not inconsistent with the provisions of this Constitution as may be required by or under an Act of Parliament or regulations made under paragraph (*f*).

(2) The President may give general directions of policy to the Public Service Commission with the object of achieving a suitable representation of the various elements of the population in the Public Service and the Prison Service.

(3) When considering candidates for appointments in the Public Service or the Prison Service, the Public Service Commission shall have regard to the principle that preference should be given to that person who, in its opinion, is the most efficient and suitable for appointment to the post and in so doing shall take account of any directions given under subsection (2).

(4) The Public Service Commission shall consult the Judicial Service Commission before appointing any person to any post of magistrate or to any post in the office of the Attorney-General which is required to be held by a legally qualified person.

Attorney-General.

76.—(1) There shall be an Attorney-General whose office shall be a public office and part of the Public Service.

(2) The Attorney-General shall be appointed by the President, acting on the advice of the Prime Minister, and—

(*a*) before tendering his advice, the Prime Minister shall consult the Public Service Commission, which shall in turn consult the Judicial Service Commission, and he shall consider any recommendations the Public Service Commission may make;

(*b*) if the advice that he proposes to tender is not consistent with any such recommendations, Parliament shall be informed before the appointment is made.

(3) A person shall not be qualified to hold or act in the office of Attorney-General unless—

(*a*) he is qualified for appointment as a judge of the High Court; or

(*b*) he has served for at least six years in a post in the office of the Attorney-General which is required to be held by a legally qualified person.

(4) The Attorney-General shall have power in any case in which he considers it desirable so to do—

(*a*) to institute and undertake criminal proceedings before any court, not being a court established by a disciplinary law, and to prosecute or defend an appeal from any determination in such proceedings;

(*b*) to take over and continue criminal proceedings that have been instituted by any other person or authority before any court, not

being a court established by a disciplinary law, and to prosecute or defend an appeal from any determination in proceedings so taken over by him; and

(*c*) to discontinue at any stage before judgment is delivered any criminal proceedings he has instituted under paragraph (*a*) or taken over under paragraph (*b*) or any appeal prosecuted or defended by him from any determination in such proceedings.

(5) The powers of the Attorney-General under subsection (4) may be exercised by him in person or through other persons acting in accordance with his general or specific instructions.

(6) The powers of the Attorney-General under subsection (4)(*b*) and (*c*) shall be vested in him to the exclusion of any other person or authority:

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been arraigned before the court.

(7) In the exercise of his powers under subsection (4), the Attorney-General shall not be subject to the direction or control of any person or authority.

(8) The provisions of subsection (4) shall apply in relation to any case stated or question of law reserved for the purposes of any criminal proceedings to any other court as they apply in relation to an appeal from any determination in criminal proceedings.

Secretaries of Ministries, etc.

77. The power to appoint persons to hold the office of Secretary of a Ministry or Secretary to the Cabinet shall vest in the President, acting on the advice of the Prime Minister, and—

(*a*) before tendering his advice, the Prime Minister shall consult the Public Service Commission and consider any recommendations the Commission may make;

(*b*) if his advice is not consistent with any such recommendations, Parliament shall be informed.

Principal representatives of Zimbabwe abroad.

78. The power to appoint persons to hold the office of ambassador or other principal representative of Zimbabwe in any other country or accredited to any international organization and to remove such persons from office shall vest in the President, acting on the advice of the Prime Minister:

Provided that before advising the President to appoint to any such office a person who holds or is acting in some other public office, the Prime Minister shall consult the Public Service Commission or, if that person holds an appointment in the Police Force or Defence Forces, the Police Service Commission or Defence Forces Service Commission, as the case may be.

CHAPTER VIII

THE JUDICATURE

High Court and Chief Justice.

79.—(1) There shall be a High Court of Zimbabwe which shall consist of—

(*a*) the Appellate Division of the High Court; and

(*b*) the General Division of the High Court.

(2) There shall be a Chief Justice of Zimbabwe who shall be the head of the judiciary of Zimbabwe.

Appellate Division.

80.—(1) The Appellate Division shall be a superior court of record and shall have such jurisdiction and powers as may be conferred upon it by or under this Constitution or any Act of Parliament.

(2) The Appellate Division shall consist of—

(*a*) the Chief Justice;

(*b*) such number of other judges of appeal, being not less than two, as the President may deem necessary; and

(*c*) such judges of the Appellate Division as have been designated under subsection (3).

(3) If the services of an additional judge of appeal are required for a limited period, the Chief Justice may designate a person holding the office of puisne judge or who has held office as a judge of the High Court to be a judge of the Appellate Division for such period as may be specified by the Chief Justice.

General Division and criminal jurisdiction of other courts.

81.—(1) The General Division shall be a superior court of record and shall have such jurisdiction and powers as may be conferred upon it by or under this Constitution or any Act of Parliament.

(2) The General Division shall have power, jurisdiction and authority to review all proceedings of all inferior courts of justice and tribunals established by law.

(3) There shall be a Senior Puisne Judge who shall, subject to the directions of the Chief Justice, be in charge of the General Division.

(4) The General Division shall consist of the Senior Puisne Judge and such other puisne judges as may from time to time be appointed.

(5) No law, other than a disciplinary law, shall confer jurisdiction in criminal matters upon a court or other adjudicating authority which did not have such jurisdiction before the appointed day.

Qualifications of judges.

82.—(1) A person shall not be qualified for appointment as a judge of the High Court unless—

(*a*) he is or has been a judge of a court having unlimited jurisdiction in civil or criminal matters in a country in which the common law is Roman-Dutch or English, and English is an official language; or

(*b*) he is and has been for not less than seven years, whether continuously or not, qualified to practise as an advocate—

(i) in Zimbabwe;

(ii) in a country in which the common law is Roman-Dutch and English is an official language; or

(iii) if he is a citizen of Zimbabwe, in a country in which the common law is English and English is an official language.

(2) In computing, for the purposes of subsection (1)(*b*), the period during which any person has been qualified to practise as an advocate, any period during which he has held judicial office after having so qualified shall be included, and the reference therein to an advocate shall include a reference to persons in other jurisdictions who have comparable functions.

Oath of office.

83. A judge of the High Court, including an acting judge, shall, before entering upon his office, take and subscribe before the President or some person authorized by the President in that behalf the oath of loyalty and the judicial oath in the forms set out in Schedule 1.

Appointment of judges.

84.—(1) The Chief Justice shall be appointed by the President, acting on the advice of the Prime Minister, and—

(*a*) before tendering his advice, the Prime Minister shall consult the Judicial Service Commission and consider any recommendations the Commission may make;

(*b*) if the advice that he proposes to tender is not consistent with any such recommendations, Parliament shall be informed before the appointment is made.

(2) The other judges of the High Court shall be appointed by the President, acting on the advice of the Judicial Service Commission.

Acting judges.

85.—(1) If the office of the Chief Justice is vacant or the Chief Justice is for any reason unable to perform the functions of his office, the President may, acting on the advice of the Prime Minister tendered after consulting the Judicial Service Commission, appoint some person holding the office of judge of appeal or Senior Puisne Judge to act as Chief Justice.

(2) If the office of a judge of the High Court other than the Chief Justice is vacant or such judge is appointed to act in some other judicial capacity or is for any reason unable to perform the functions of his office, or if the services of an additional puisne judge are required for a limited period, the President may, as the case requires and acting on the advice of the Judicial Service Commission, appoint some person qualified for appointment as a judge of the High Court to act in that office.

(3) A person appointed to act under subsection (2)—

(*a*) shall, subject to the provisions of section 87, continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the President, acting on the advice of the Judicial Service Commission; and

(*b*) may, notwithstanding that the period of his appointment has expired or that his appointment has been revoked, sit as a judge for the purpose of giving judgment or otherwise in relation to any proceedings commenced before or heard by him while he was so acting.

Tenure of office of judges.

86.—(1) Subject to the provisions of section 87, a judge of the High Court shall retire when he attains the age of sixty-five years unless, before he attains that age, he has elected to retire on attaining the age of seventy years:

Provided that—

(*a*) an election under this subsection shall be subject to the submission to, and acceptance by, the President, acting on the advice of the Judicial Service Commission, of a medical report as to the mental and physical fitness of the judge so to continue in office;

(*b*) the provisions of this subsection shall not apply to an acting judge.

(2) A judge of the High Court may at any time resign his office by notice in writing to the President.

(3) The office of a judge of the High Court shall not, without his consent, be abolished during his tenure of office.

(4) A judge of the High Court may, notwithstanding that he has attained the age at which he is required by subsection (1) to retire, sit as a judge for the purpose of giving judgment or otherwise in relation to any proceedings commenced before or heard by him while he was in office.

Removal of judges from office.

87.—(1) A judge of the High Court may be removed from office only for inability to discharge the functions of his office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(2) If the President, acting on the advice of the Prime Minister, considers that the question of the removal from office of the Chief Justice ought to be investigated, the President shall appoint a tribunal to inquire into the matter.

(3) If, in the case of a judge of the High Court other than the Chief Justice, the Chief Justice advises the President that the question of removal from office of the judge concerned ought to be investigated, the President shall appoint a tribunal to inquire into the matter.

(4) A tribunal appointed under subsection (2) or (3) shall consist of not less than three members selected by the President from the following—

(*a*) persons who have held office as a judge of the High Court;

(*b*) persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil or criminal matters in a country in which the common law is Roman-Dutch or English, and English is an official language;

(*c*) advocates of not less than seven years' standing who have been nominated under subsection (5) by the association representing advocates or the majority of advocates practising in Zimbabwe;

(*d*) attorneys of not less than seven years' standing who have been nominated under subsection (5) by the association representing attorneys or the majority of attorneys practising in Zimbabwe,

one of whom shall be designated by the President as chairman.

(5) It shall be the duty of the association referred to in subsection (4)(*c*) or (*d*) to nominate a panel containing the names of not less than three duly qualified advocates or attorneys, as the case may be, for the purposes of the said paragraph when so required by the President.

(6) A tribunal appointed under subsection (2) or (3) shall inquire into the matter and report on the facts thereof to the President and recommend to the President whether or not he should refer the question of the removal of the judge from office to the Judicial Service Commission, and the President shall act in accordance with such recommendation.

(7) The provisions of the Commissions of Inquiry Act as in force at the time or any other law substituted for the same shall, *mutatis mutandis*, apply in relation to a tribunal appointed under subsection (2) or (3) as they apply to commissioners appointed under that Act. *Chapter 83*

(8) If the question of removing a judge of the High Court from office has been referred to a tribunal under subsection (2) or (3), the judge shall be suspended from performing the functions of his office until the President, on the recommendation of the tribunal or the Judicial Service Commission, revokes the suspension or the judge is removed from office in accordance with subsection (9).

(9) If the question of the removal of a judge has been referred to the Judicial Service Commission in accordance with subsection (6) and the Commission advises that the judge be removed from office, the President shall, by order under the public seal, remove that judge from office.

Remuneration of judges.

88.—(1) There shall be charged upon and paid out of the Consolidated Revenue Fund to a person who holds the office of or is acting as Chief Justice, a judge of appeal, Senior Puisne Judge or a puisne judge, such salary and allowances as may from time to time be prescribed by or under an Act of Parliament.

(2) The salary and allowances payable to a person under subsection (1) shall not be reduced during the period he holds the office concerned or acts as holder thereof.

Law to be administered.

89. Subject to the provisions of any law for the time being in force in Zimbabwe relating to the application of African customary law, the law to be administered by the High Court and by any courts in Zimbabwe subordinate to the High Court shall be the law in force in the Colony of the Cape of Good Hope on 10th June 1891, as modified by subsequent legislation having in Zimbabwe the force of law.

Judicial Service Commission.

90.—(1) There shall be a Judicial Service Commission which shall consist of—

(*a*) the Chief Justice or, if there is no Chief Justice or acting Chief Justice or the Chief Justice or acting Chief Justice is not available, the most senior judge of appeal who is available;

(*b*) the Chairman of the Public Service Commission; and

(*c*) two other members appointed, subject to the provisions of subsection (2), by the President, acting on the advice of the Prime Minister.

(2) One of the members appointed under subsection (1)(*c*) shall be a person who—

(*a*) is or has been a judge of the High Court; or

(*b*) is and has been for not less than seven years, whether continuously or not, qualified to practise as an advocate or attorney in Zimbabwe,

and a person shall not be qualified for appointment thereunder if he is a member or has, within the period of three years of the date of the proposed appointment, been a member or been nominated for election as a member of the Senate or the House of Assembly or any local authority.

Functions of Judicial Service Commission.

91. The functions of the Judicial Service Commission shall be to tender such advice to the President and to do such other things as may be required by or under this Constitution.

Persons presiding over special courts.

92.—(1) The power to appoint persons to preside over a special court shall vest in the President, acting on the advice of the Judicial Service Commission:

Provided that Parliament may provide that the Chief Justice may, after consulting the Judicial Service Commission, appoint a person holding the office of puisne judge to preside over a special court for such period as he may specify.

(2) During the term of office of a person appointed to preside over a special court his conditions of service shall not be amended and his office shall not be abolished without his consent.

(3) Notwithstanding the provisions of subsection (2), an Act of Parliament may—

(*a*) vest the functions of a special court in another special court if such Act provides that any person who has been appointed to preside over the first-mentioned court shall be deemed to have been appointed to preside over the second-mentioned court; and

(*b*) effect a change in the designation of the person referred to in paragraph (*a*).

(4) In this section, " special court " means—

(*a*) any court or other adjudicating authority established by law which exercises all or any of the functions previously exercised by—

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(i) the Fiscal Appeal Court established by section 3 of the Fiscal Appeal Court Act;

(ii) the Special Court established by section 53 of the Income Tax Act; *Chapter 181*

(iii) the Water Court established by section 22(1) of the Water Act 1976;

(iv) the Compensation Court established by section 3 of the Land Acquisition Act 1979;

(*b*) any court or other adjudicating authority established by law, other than a local court or a court established by or under a disciplinary law, if there is no right of appeal, directly or indirectly, from a decision of that court or other adjudicating authority to the High Court;

(*c*) any court or other adjudicating authority established by law which is declared by that law to be a special court for the purposes of this section.

CHAPTER IX

THE POLICE FORCE

Police Force and Commissioner of Police.

93.—(1) For the purpose of preserving the internal security of and maintaining law and order in Zimbabwe, there shall be a Police Force and every member of that Force is charged with the general duty of maintaining law and order, of taking all steps which on reasonable grounds appear to him to be necessary for preserving the peace, for preventing crime, for protecting property from malicious injury, for the detection of crime and for apprehending offenders and of suppressing all forms of civil commotion or disturbance that may occur in any part of Zimbabwe:

Provided that nothing contained in this subsection shall be considered as authorizing any member of the Police Force to disobey the lawful order or direction of a superior officer or person placed in authority over him by the Commissioner of Police.

(2) The Police Force shall be under the command of the Commissioner of Police who shall be appointed by the President, acting on the advice of the Prime Minister, and—

(*a*) before tendering his advice, the Prime Minister shall consult the board established in accordance with subsection (6) and consider any recommendations the board may make;

(*b*) if his advice is not consistent with any such recommendations, Parliament shall be informed.

(3) The Prime Minister or such other Minister as may be authorized in that behalf by the Prime Minister may give to the Commissioner of Police such general directions of policy as he may consider necessary and the Commissioner of Police shall comply with such directions or cause them to be complied with.

(4) Subject to the provisions of subsection (3) and to regulations made under section 96, the Commissioner of Police shall be responsible for the administration of, and determining the use and controlling the operations

of, the Police Force and, save as aforesaid, shall not, in his command of the Police Force and in the exercise of his responsibilities and powers in relation thereto, be subject to the direction or control of any person or authority:

Provided that the Commissioner of Police shall not increase the number or level of posts fixed for the Police Force unless the Minister for the time being responsible for finance, having regard to the financial implications, whether direct or indirect, has agreed thereto.

(5) The Commissioner of Police may be removed from office by the President, acting on the advice of the Prime Minister, and—

(*a*) before tendering his advice, the Prime Minister shall consult the Cabinet;

(*b*) Parliament shall be informed of any such removal.

(6) The board referred to in subsection (2) shall consist of—

(*a*) the chairman of the Police Service Commission, who shall be chairman;

(*b*) the retiring Commissioner of Police, if he is available; and

(*c*) one other member (or in the absence of the member referred to in paragraph (*b*) two other members) appointed by the President from among the Secretaries of Ministries.

(7) Any recommendation of the board established in accordance with subsection (6) shall require the concurrence of a majority of all the members thereof.

Members of Police Force.

94.—(1) Subject to the provisions of this section, section 93 and section 96 and regulations made thereunder, the power to make appointments to any office or rank in the Police Force and the power of removal from office or reduction in rank shall vest—

(*a*) in relation to the rank of Inspector or any more senior rank, in the President, acting on the advice of the Commissioner of Police;

(*b*) in relation to any rank below that of Inspector, in the Commissioner of Police.

(2) The President may give general directions of policy to the Commissioner of Police with the object of achieving a suitable representation of the various elements of the population in the Police Force.

(3) When considering candidates for appointments in the Police Force, the Commissioner of Police shall have regard to the principle that preference should be given to that person who, in his opinion, is the most efficient and suitable for appointment and in so doing shall take account of any directions given under subsection (2).

(4) Except as otherwise provided in section 93 or in regulations made under section 96, a person who has served in the Police Force for more than two years shall not be removed from office or reduced in rank except with the confirmation of the Police Service Commission.

(5) Advisory boards consisting of members of the Police Force shall be established by the Commissioner of Police to consider, taking account of any directions given under subsection (2), the suitability of members for promotion within the Police Force and no member shall be promoted to a higher rank, other than that of Commissioner of Police, unless his case has been considered by such a board.

Police Service Commission.

95.—(1) There shall be a Police Service Commission which shall consist of—

(*a*) a chairman who, subject to the provisions of section 74(3), shall be the chairman of the Public Service Commission; and

(*b*) not less than two and not more than four other members appointed, subject to the provisions of subsection (2), by the President, acting on the advice of the Prime Minister.

(2) The persons to be appointed under subsection (1)(*b*) shall be chosen for their ability and experience in administration or their professional qualifications or their suitability otherwise for appointment as members, and at least one such member shall be a person who has held the rank of Assistant Commissioner or any more senior rank in the Police Force for periods which in the aggregate amount to at least five years.

Functions of Police Service Commission.

96.—(1) The functions of the Police Service Commission shall be—

(*a*) to consider any grievance by a member of the Police Force in regard to any administrative action, decision or order which has been made within the time and in the manner prescribed in regulations made under paragraph (*c*) and thereafter to make such recommendations as it thinks fit to the Commissioner of Police;

(*b*) to consider any proposal submitted to it in accordance with the requirements of section 94(4) that a person who has served in the Police Force for more than two years should be removed from office or reduced in rank and to confirm such proposal if deemed fit;

(*c*) to make regulations for the general well-being and good administration of the Police Force, the maintenance thereof in a high state of efficiency and the conditions of service of members of the Police Force, which may include provision for the punishment of members found guilty of offences against discipline;

(*d*) to make recommendations to the Commissioner of Police concerning the recruitment and promotion policy for, examinations for entry to and advancement in, and the grading of posts in, the Police Force; and

(*e*) to do such other things not inconsistent with the provisions of this Constitution as may be required by or under an Act of Parliament or regulations made under paragraph (*c*).

(2) The Commissioner of Police shall comply with any recommendation made by the Police Service Commission under subsection (1)(*a*).

(3) Regulations shall not be published in the *Gazette* until they have been approved by the Commissioner of Police.

CHAPTER X

THE DEFENCE FORCES

Defence Forces and Commanders thereof.

97.—(1) For the purposes of defending Zimbabwe, there shall be an Army, an Air Force and such other branches, if any, of the Defence Forces as may be provided for by or under an Act of Parliament, and each branch shall be under the command of a Commander.

(2) A Commander shall be appointed by the President, acting on the advice of the Prime Minister, and—

(*a*) before tendering his advice, the Prime Minister shall consult the board established in accordance with subsection (7) and consider any recommendations the board may make;

(*b*) if his advice is not consistent with any such recommendations, Parliament shall be informed.

(3) If the Prime Minister, after consulting the Commanders of the Army and the Air Force, considers that some authority should be established to co-ordinate the operations of the various branches of the Defence Forces, he may appoint a person recommended by the said Commanders, who shall be a member of the Army or the Air Force or a former Commander of the Army or the Air Force, to be Commander of Combined Operations or Deputy Commander of Combined Operations on such conditions and with such functions relating to the command and control of operations as the Prime Minister may specify.

(4) The Prime Minister or such other Minister as may be authorized in that behalf by the Prime Minister may give to a Commander such general directions of policy as he may consider necessary and the Commander shall comply with such directions or cause them to be complied with.

(5) Subject to the provisions of subsections (3) and (4) and to regulations made under section 100, the Commander concerned shall be responsible for the administration of, and determining the use and controlling the operations of, the Army, Air Force or other branch of the Defence Forces, as the case may be, and, save as aforesaid, shall not, in his command of the branch concerned and in the exercise of his responsibilities and powers in relation thereto, be subject to the direction or control of any person or authority:

Provided that the Commander shall not increase the number or level of posts fixed for the branch concerned unless the Minister for the time being responsible for finance, having regard to the financial implications, whether direct or indirect, has agreed thereto.

(6) A Commander may be removed from his command by the President, acting on the advice of the Prime Minister, and—

(*a*) before tendering his advice, the Prime Minister shall consult the Cabinet;

(*b*) Parliament shall be informed of any such removal.

(7) The board referred to in subsection (2) shall consist of—

(*a*) the chairman of the Defence Forces Service Commission, who shall be chairman;

(*b*) the retiring Commander of the branch of the Defence Forces concerned or, if he is not available, the Commander of any other branch of the Defence Forces, as the President may appoint; and

(*c*) one other member appointed by the President from among the Secretaries of Ministries.

(8) Any recommendation of the board established in accordance with subsection (7) shall require the concurrence of a majority of all the members thereof.

Members of Defence Forces.

98.—(1) Subject to the provisions of this section, section 97 and section 100 and regulations made thereunder, the power to make appointments to any office or rank in a branch of the Defence Forces and the power of removal from office or reduction in rank shall vest—

(*a*) in relation to the rank of—

(i) Second Lieutenant or any more senior rank in the Army;

(ii) Air Sub-lieutenant or any more senior rank in the Air Force; or

(iii) any rank in any other branch of the Defence Forces which is a commissioned rank,

in the President, acting on the advice of the Commander of the branch concerned;

(*b*) in relation to any rank below that referred to in paragraph (*a*), in the Commander of the branch concerned.

(2) The President may give general directions of policy to the Commander concerned with the object of achieving a suitable representation of the various elements of the population in the Defence Forces.

(3) When considering candidates for appointments in the Defence Forces, the Commander concerned shall have regard to the principle that preference should be given to that person who, in his opinion, is the most efficient and suitable for appointment and in so doing shall take account of any directions given under subsection (2).

(4) Except as otherwise provided in section 97 or in regulations made under section 100, a person who has served in the Defence Forces for more than two years shall not be removed from office or reduced in rank except with the confirmation of the Defence Forces Service Commission.

(5) Advisory boards consisting of members of the branch concerned shall be established by the Commander to consider, taking account of any directions given under subsection (2), the suitability of commissioned members for promotion within that branch and no commissioned member shall be promoted to a higher rank, other than that of Commander, unless his case has been considered by such a board.

Defence Forces Service Commission.

99.—(1) There shall be a Defence Forces Service Commission which shall consist of—

(*a*) a chairman who, subject to the provisions of section 74(3), shall be the chairman of the Public Service Commission; and

(*b*) not less than two and not more than four other members appointed, subject to the provisions of subsection (2), by the President, acting on the advice of the Prime Minister.

(2) The persons to be appointed under subsection (1)(*b*) shall be chosen for their ability and experience in administration or their professional qualifications or their suitability otherwise for appointment, and at least one such member shall be a person who has held the rank of Colonel in the Army or Group Captain in the Air Force or any more senior rank in the Defence Forces for periods which in the aggregate amount to at least five years.

Functions of Defence Forces Service Commission.

100.—(1) The functions of the Defence Forces Service Commission shall be—

(*a*) to consider any grievance by a member of the Defence Forces in regard to any administrative action, decision or order which has been made within the time and in the manner prescribed in regulations made under paragraph (*c*) and thereafter to make such recommendations as it thinks fit to the appropriate Commander;

(*b*) to consider any proposal submitted to it in accordance with the requirements of section 98(4) that a person who has served in the Defence Forces for more than two years should be removed from office or reduced in rank and to confirm such proposal if deemed fit;

(*c*) to make regulations for the general well-being and good administration of the Defence Forces, the maintenance thereof in a high state of efficiency and the conditions of service of members of the Defence Forces, which may include provision for the punishment of members found guilty of offences against discipline;

(*d*) to make recommendations to the appropriate Commander concerning the recruitment and promotion policy for, examinations for entry to and advancement in, and the grading of posts in, the Army, Air Force or other branch of the Defence Forces; and

(*e*) to do such other things not inconsistent with the provisions of this Constitution as may be required by or under an Act of Parliament or regulations made under paragraph (*c*).

(2) The appropriate Commander shall comply with any recommendation made by the Defence Forces Service Commission under subsection (1)(*a*).

(3) Regulations shall not be published in the *Gazette* until they have been approved by the Commanders of the Army and the Air Force.

CHAPTER XI

FINANCE

Consolidated Revenue Fund.

101. All fees, taxes and other revenues of Zimbabwe from whatever source arising, not being moneys that—

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

(*b*) may, by or under an Act of Parliament, be retained by the authority that received them for the purpose of defraying the expenses of that authority,

shall be paid into and form one Consolidated Revenue Fund.

Withdrawals from Consolidated Revenue Fund or other public fund.

102.—(1) No moneys shall be withdrawn from the Consolidated Revenue Fund except—

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

(*b*) where the issue of those moneys has been authorized by an Appropriation or other Act made pursuant to the provisions of section 103.

(2) Where any moneys are charged by this Constitution or an Act of Parliament upon the Consolidated Revenue Fund or any other public fund, they shall be paid out of that fund by the Government to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund, other than the Consolidated Revenue Fund, unless the issue of those moneys has been authorized by or under an Act of Parliament.

(4) An Act of Parliament may prescribe the manner in which withdrawals may be made from the Consolidated Revenue Fund or any other public fund.

(5) The investment of moneys forming part of the Consolidated Revenue Fund shall be made in such manner as may be prescribed by or under an Act of Parliament.

(6) Notwithstanding the provisions of subsection (1), provision may be made by or under an Act of Parliament authorizing withdrawals to be made from the Consolidated Revenue Fund for the purpose of making repayable advances.

Authorization of expenditure from Consolidated Revenue Fund.

103.—(1) The Minister for the time being responsible for finance shall cause to be prepared and laid before the House of Assembly, on a day on which the House sits, before or not later than thirty days after the start of each financial year estimates of the revenue and expenditure of Zimbabwe for that financial year:

Provided that if, by reason of the prorogation or dissolution of Parliament, the provisions of this subsection cannot be complied with, the estimates of the revenue and expenditure shall be laid before the House of Assembly on a day on which the House sits not later than thirty days after the date on which the House first meets after that prorogation or dissolution.

(2) When the estimates of expenditure, other than expenditure charged upon the Consolidated Revenue Fund by this Constitution or an Act of Parliament, have been approved by the House of Assembly, a Bill, to be known as an Appropriation Bill, shall be introduced into the House of Assembly providing for the issue from the Consolidated Revenue Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several heads of expenditure approved, to the purposes specified therein.

(3) If in respect of any financial year it is found that the amount appropriated by the Appropriation Act to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that Act, a supplementary estimate showing the sums required shall be laid before the House of Assembly and, when such estimates have been approved by the House of Assembly, a supplementary Appropriation Bill shall be introduced into the House of Assembly providing for the issue of such sums from the Consolidated Revenue Fund and the appropriation of those sums, under separate votes for the several heads of expenditure approved, to the purposes specified therein.

(4) An Act of Parliament may make provision for the President, where he is satisfied that there is an urgent need for expenditure which was unforeseen or the extent of which was unforeseen and for which no other provision exists, to authorize the withdrawal from the Consolidated Revenue Fund of moneys for the purpose of meeting that expenditure and any moneys so withdrawn shall be included in supplementary or additional estimates which shall be laid before the House of Assembly on one of the fourteen days on which the House of Assembly sits next after the authorization of such withdrawal and, when such estimates have been approved by the House of Assembly, a supplementary or additional Appropriation Bill shall be introduced into the House of Assembly providing that the sums so withdrawn shall be charged upon the Consolidated Revenue Fund and that they shall be appropriated, under separate votes for the several heads of expenditure approved, to the purposes specified therein:

Provided that the aggregate of all moneys so authorized to be withdrawn shall not at any one time prior to the consequential estimates having been approved by the House of Assembly exceed one and one-half *per centum* of the total amount appropriated in the last main Appropriation Act.

(5) If in respect of any financial year it is found that any moneys have been expended for any purpose in excess of the amount appropriated

to that purpose under this Chapter or for a purpose to which no amount has been appropriated under this Chapter, the Minister for the time being responsible for finance shall cause to be introduced into the House of Assembly on one of the fourteen days on which the House of Assembly sits next after the extent of the unauthorized expenditure has been established a Bill providing for the condonation of such unauthorized expenditure.

(6) An Act of Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the President may authorize the withdrawal of moneys from the Consolidated Revenue Fund for the purpose of meeting expenditure necessary to carry on the services of the Government during the period commencing with the beginning of that financial year and expiring four months thereafter or on the coming into operation of the Act, whichever is the earlier:

Provided that—

(*a*) the aggregate of all moneys so authorized to be withdrawn shall not exceed one-third of the sums included in the estimates of expenditure for the preceding financial year that have been laid before the House of Assembly;

(*b*) any moneys so withdrawn shall be included in the Appropriation Act under separate votes and shall be accounted for in accordance with the provisions thereof.

(7) An Act of Parliament may make provision under which, where at any time Parliament has been dissolved before any provision or sufficient provision is made under this Chapter for the carrying on of the government of Zimbabwe, the President may authorize the withdrawal of moneys from the Consolidated Revenue Fund for the purpose of meeting expenditure necessary to carry on the services of the Government during the period beginning on the dissolution of Parliament and expiring three months after the day on which the House of Assembly first meets after that dissolution and any moneys so withdrawn shall be included in an Appropriation Act under separate votes and shall be accounted for in accordance with the provisions thereof.

Public debt.

104.—(1) All debt charges for which the Government is liable shall be charged upon the Consolidated Revenue Fund.

(2) The costs and charges and expenses incurred incidental to the collection and management of the Consolidated Revenue Fund shall form the first charge thereon.

(3) For the purposes of this section, debt charges include interest, sinking fund charges, the repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Revenue Fund and the service and redemption of debt created thereby.

Comptroller and Auditor-General.

105.—(1) There shall be a Comptroller and Auditor-General whose office shall be a public office but shall not form part of the Public Service.

(2) The Comptroller and Auditor-General shall be appointed by the President, acting on the advice of the Public Service Commission.

(3) A person shall not be qualified to hold or act in the office of Comptroller and Auditor-General unless he has held the post of Secretary of, or Deputy Secretary or Under Secretary in, a Ministry or a post in the Public Service of a grade equivalent to or higher than that of Under Secretary for periods which in the aggregate amount to at least five years.

(4) The Comptroller and Auditor-General shall, subject to the provisions of subsection (5), hold office on such terms and conditions as are fixed by the President, acting on the advice of the Public Service Commission.

(5) The Comptroller and Auditor-General may only be removed from office by the President if the House of Assembly has resolved by the affirmative votes of more than one-half of its total membership that he be removed from office for inability to discharge the functions of his office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour.

Functions of Comptroller and Auditor-General.

106.—(1) The public accounts of Zimbabwe and of all accounting officers, receivers of revenue and other persons entrusted with public moneys or property of the State shall at least once in every financial year be examined, audited and reported on by the Comptroller and Auditor-General on behalf of the House of Assembly:

Provided that if the Comptroller and Auditor-General is of the opinion that it would not be appropriate or expedient for him to examine and audit any particular account or fund or any particular class of documents, he may, by notice in writing, inform the Speaker and the Minister for the time being responsible for finance of his opinion and, unless otherwise directed by the House of Assembly, he shall not make any examination, audit or report in relation thereto.

(2) It shall be the duty of the Comptroller and Auditor-General to satisfy himself that—

(*a*) all moneys that have been appropriated by Parliament and disbursed have been applied to the purposes for which they were so appropriated and that the expenditure conforms to the authority that governs it; and

(*b*) all reasonable precautions have been taken to safeguard the collection of all fees, taxes and other revenues of the State and to safeguard and control property of the State.

(3) The Comptroller and Auditor-General and any officer authorized by him shall have access to all books, records, returns, reports and other documents that, in his opinion, relate to any of the accounts referred to in subsection (1) and to all cash, stamps, securities, stores and other property of whatever kind that he considers it necessary to inspect in connection with any of those accounts and that is in the possession of any employee, agent or authority of the State.

(4) The Comptroller and Auditor-General shall submit every report made by him in accordance with subsection (1) to the Minister for the time being responsible for finance who shall, on one of the seven days on which the House of Assembly sits next after he has received the report, lay it before the House of Assembly.

(5) The Comptroller and Auditor-General shall exercise in relation to the accounts of the State or the accounts of any authority, body or fund established directly by or under any Act of Parliament for special purposes specified in that Act such other functions as may be prescribed by or under an Act of Parliament.

(6) In the exercise of his functions under subsections (1), (2), (3) and (4), the Comptroller and Auditor-General shall not be subject to the direction or control of any person or authority other than the House of Assembly.

CHAPTER XII

MISCELLANEOUS PROVISIONS

PART 1

General

Ombudsman.

107.—(1) There shall be an Ombudsman whose office shall be a public office but shall not form part of the Public Service.

(2) The Ombudsman shall be appointed by the President, acting on the advice of the Judicial Service Commission.

(3) An Act of Parliament may make provision for the qualifications and remuneration of the Ombudsman and his staff.

Functions of Ombudsman.

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

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

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

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

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

General provisions as to Commissions, etc.

109.—(1) Save as is provided in this Constitution, a Commission shall not, in the exercise of its functions under this Constitution, be subject to the direction or control of any person or authority.

(2) An Act of Parliament may make provision for the powers and functions of a Commission and, without prejudice to the generality of the foregoing, may make provision for the disqualifications, tenure of office and remuneration of the members thereof, and may authorize the delegation by the chairman of the Public Services Commission, a Commission or other appointing authority of any power or function, other than the power to make appointments to, or to make recommendations or tender advice in respect of, any office established by this Constitution.

(3) Subject to any provision which may be made by or under an Act of Parliament, an appointing authority may delegate to a member of the Commission, Service or Force concerned any power to make appointments, to exercise disciplinary powers or to remove from office or reduce in rank.

(4) Any decision of a Commission shall require the concurrence of a majority of all the members thereof.

(5) The salary payable to a member of a Commission shall not be reduced during his tenure of office.

(6) A Commission may not, whether by way of regulations or otherwise—

(*a*) increase or authorize an increase in—

(i) the fixed salary or salary scale applicable to any post, grade or rank in the Public Service, Prison Service, Police Force or Defence Forces;

(ii) the bonuses or allowances payable to, or the privileges or benefits that may be granted to, members of any such Service or Force;

(iii) the rate of pensions, gratuities or other benefits payable to or in respect of such members;

(iv) the rate of leave that may be granted to or accrued by such members; or

(v) the number or level of posts;

or

(*b*) provide for a general decrease or permit a general decrease in the hours of work to be performed by such members,

unless the Minister for the time being responsible for finance, having regard to the financial implications, whether direct or indirect, has agreed thereto.

(7) Regulations made by a Commission may not provide for or permit a reduction in the fixed salary or salary scale applicable to any member of the Public Service, Prison Service, Police Force or Defence Forces except when such member has been found guilty of misconduct or an offence against discipline, as the case may be, or has consented to such reduction.

(8) The question whether or not any appointing authority or any delegate of an appointing authority has exercised a power of appointment in accordance with any directions or any principle, as provided by or under this Constitution, shall not be inquired into in any court.

(9) If regulations made under section 75, 96 or 100 alter the posts or grades into which the Public Service or the ranks into which the Police, Army or Air Force is divided, the appropriate Commission may, by order in the *Gazette*, specify some other post, grade or rank as being equivalent to that referred to in section 74(2), 94(1), 95(2), 98(1), 99(2) or 105(3), as the case may be, and the reference shall thereafter be construed as including a reference to the post, grade or rank for the time being so specified.

(10) A person shall not be eligible for appointment as a member of a Commission if he is a member or has, within the period of three years of the date of the proposed appointment, been a member or been nominated for election as a member of the Senate or the House of Assembly or any local authority.

(11) In this section—

"appointing authority" means the Public Service Commission, the Commissioner of Police or the Commander of any branch of the Defence Forces;

"Commission" means the Public Service Commission, the Judicial Service Commission, the Police Service Commission or the Defence Forces Service Commission.

Tenure of office of certain persons.

110.—(1) This section shall apply to—

(*a*) the Attorney-General and the Ombudsman;

(*b*) any member of the Judicial Service Commission appointed under section 90(1)(*c*); and

(*c*) any member of the Public Service Commission, the Police Service Commission or the Defence Forces Service Commission.

(2) A person to whom this section applies may be removed from office only for inability to discharge the functions of his office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) Such person shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under subsection (5) and that tribunal has advised the President that he ought to be removed from office for inability to discharge the functions of his office or for misbehaviour.

(4) If the question of removing a person to whom this section applies has been referred to a tribunal appointed under subsection (5), the President, acting on the advice of the Prime Minister, may suspend that person from performing the functions of his office and any such suspension—

(*a*) may at any time be revoked by the President; and

(*b*) shall cease to have effect if the tribunal advises the President that the person should not be removed.

(5) The tribunal referred to in this section shall consist of a chairman and two other members appointed by the President, acting on the advice of the Prime Minister, and—

(*a*) the chairman shall be a person who is or has been a judge of the High Court;

(*b*) at least one of the other members shall be a person who is and has been for not less than seven years, whether continuously or not, qualified to practise as an advocate or attorney in Zimbabwe.

Chiefs and Councils of Chiefs.

111.—(1) There shall be Chiefs to preside over the tribespeople in Zimbabwe who shall, subject to the provisions of subsection (2), be appointed by the President in accordance with an Act of Parliament.

(2) An Act of Parliament shall provide that in appointing a Chief the President shall give due consideration to the customary principles of succession of the tribespeople over which the Chief will preside and may provide for the appointment of deputy Chiefs and acting Chiefs.

(3) There shall be a Council of Chiefs which shall consist of such number of Chiefs elected by the Chiefs from each of the various areas of Tribal Trust Land in such manner as is prescribed by or under an Act of Parliament, so, however, as to secure as far as is practicable equitable representation for the various areas of Tribal Trust Land with due regard to the total number of tribespeople in each such area:

Provided that an Act of Parliament may provide for the establishment of two or more Councils of Chiefs for separate areas of Tribal Trust Land.

(4) The qualifications and disqualifications of candidates for election to any Council of Chiefs and the tenure of office of members thereof shall be as prescribed by or under an Act of Parliament.

Pensions.

112. The provisions of Schedule 6 shall apply in respect of the pension rights of public officers and the remittability of pensions.

PART 2

Interpretation

Interpretation.

113.—(1) In this Constitution, unless the context otherwise requires—

"Act of Parliament" includes—

(*a*) any law included in the Revised Edition of the Statute Law prepared under the authority of the Revised Edition of the Laws Act 1973 or which, though omitted from that Edition, continued in force notwithstanding the omission; and

(*b*) any other Act or Ordinance,

which was in force immediately before the appointed day;

"African customary law" means the tribal law and custom of Africans of a particular tribe;

"amend" includes vary, alter, modify or adapt;

"Appellate Division" means the Appellate Division of the High Court;

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

"Chief" means a Chief referred to in section 111(1);

"Constitutional Bill" means a Bill which, if enacted, would have the effect of amending, adding to or repealing any of the provisions of this Constitution;

"Council of Chiefs" means a Council of Chiefs referred to in section 111(3);

"Declaration of Rights" means the Declaration of Rights set out in Chapter III;

"disciplinary law" means any written law in so far as it provides for the regulation of the discipline of regular or full-time members of any disciplined force or any other members of a disciplined force while they are rendering service as such members or in respect of their failure to render such service;

"disciplined force" means—

(*a*) a naval, military or air force;

(*b*) a police force;

(*c*) a prison service; or

(*d*) any other body established for public purposes by or under an Act of Parliament providing for the regulation of the discipline of that body and declared by that Act to be a disciplined force for the purposes of this definition;

"Electoral Law" means the Act of Parliament having effect for the purposes of section 58(4) which is for the time being in force;

"financial year" means the period of twelve months ending on 30th June in any year;

"*Gazette*" means the official *Gazette* of the Government;

"general election" means a general election of the members of the House of Assembly;

"General Division" means the General Division of the High Court;

"Government" means the Government of Zimbabwe;

"law" means—

(*a*) any provision of this Constitution or of an Act of Parliament;

(*b*) any provision of a statutory instrument; and

(*c*) any unwritten law in force in Zimbabwe, other than African customary law,

and "lawful" and "lawfully" shall be construed accordingly;

"local authority" means any council or other such body established by or under any law to regulate the affairs of any local community and to make statutory instruments for that purpose;

"local court" means any court constituted by or under a written law for the purpose of applying African customary law;

"Mashonaland" means the area in Zimbabwe which is defined in the Electoral Law to constitute Mashonaland;

"Matabeleland" means the area in Zimbabwe which is defined in the Electoral Law to constitute Matabeleland;

"member", in relation to a disciplined force, includes any person who, in terms of any disciplinary law relating to that force, is subject to that discipline;

"Minister" includes the Prime Minister;

"Money Bill" has the meaning ascribed to it in paragraph 6(9) of Schedule 4;

"oath" includes affirmation;

"period of public emergency" means—

(*a*) any period when Zimbabwe is engaged in any war and the period immediately following thereon until such date as may be declared by the President, by proclamation in the *Gazette*, as the end of the period of public emergency caused by that war; or

(*b*) any period when a declaration under section 68(1) is in effect;

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

"President" means the President of Zimbabwe;

"public moneys" means any fees, taxes or other revenues payable to the State and any other moneys received and held by an employee of the State in his official capacity;

"public office" means a paid office in the service of the State;

"public officer" means a person holding or acting in any public office;

"Public Service" means the service of the State but does not include—

(*a*) the Prison Service, Police Force or Defence Forces;

(*b*) service as a judge of the High Court or as a person appointed to preside over a special court under section 92;

(*c*) service as a member of any Commission established by this Constitution or any body corporate established directly by or under any Act of Parliament for special purposes specified in that Act;

(*d*) service which this Constitution provides shall not form part of the Public Service;

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

"sitting" means a period during which the Senate or the House of Assembly, as the case may be, is sitting continuously without adjournment, including any period during which the Senate or the House of Assembly is in committee;

"sitting day" means any weekday which is prescribed in the Standing Orders of the House of Assembly to be a sitting day, whether or not the House of Assembly or the Senate, as the case may be, meets on that day;

"statutory instrument" means any proclamation, rule, regulation, by-law, order, notice or other instrument having the force of law made by the President, a Minister or any other person or authority under this Constitution or any Act of Parliament;

"tax" includes duty or due;

"Tribal Trust Land" means land set aside as such by the Tribal Trust Land Act 1979 or any other law substituted for the same.

(2) Any reference in this Constitution, without qualification, to—

(*a*) a section, Chapter or Schedule shall be read and construed as a reference to a section or Chapter of or Schedule to this Constitution;

(*b*) a subsection shall be read and construed as a reference to a subsection of the section in which the reference is made;

(*c*) a paragraph shall be read and construed as a reference to a paragraph of the Schedule, subsection or definition in which the reference is made;

(*d*) a subparagraph shall be read and construed as a reference to a subparagraph of the paragraph or, as the case may be, of the subparagraph in which the reference is made.

(3) In this Constitution, unless the context otherwise requires—

(*a*) words importing the masculine gender include the feminine;

(*b*) words in the singular include the plural and words in the plural include the singular;

(*c*) where a period of time is expressed—

(i) to begin on or to be reckoned from a particular day, that day shall not be included in the period;

(ii) to end on or to be reckoned to a particular day, that day shall be included in the period;

(*d*) where the time limited for the doing of any thing expires or falls upon a Saturday, Sunday or public holiday, the time so limited shall extend to and the thing may be done on the first following day that is not a Saturday, Sunday or public holiday;

(*e*) a reference to a month shall be construed as a reference to a calendar month;

(*f*) a reference without qualification to a year shall be construed as a reference to a period of twelve months.

(4) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or exercising the functions of that office.

(5) In this Constitution, unless the context otherwise requires, a reference to the power to make appointments to any public office shall be construed as including a reference to the like power to make appointments on promotion or transfer to that office and to appoint a person to act in that office.

114.—(1) Any power, jurisdiction or right conferred by this Constitution may be exercised and any duty imposed by this Constitution shall be performed from time to time as occasion requires. Supplementary provisions.

(2) Subject to the proviso to section 29(1), where any person has vacated any office established by this Constitution, he may, if qualified, again be appointed or elected to hold that office in accordance with the provisions of this Constitution.

(3) For the purposes of this Constitution, no person shall be deemed to hold public office by reason only of the fact that he is in receipt of a pension, half-pay, retired pay or any other like allowance in respect of service in an office that was at the relevant time a public office.

(4) Any reference in this Constitution to the affirmative votes of not less than two-thirds of a body shall, when the number of its membership is not a multiple of three, be interpreted to mean that the number of votes shall be not less than the integer next above two-thirds of the number of its membership.

(5) For the purposes of this Constitution, a person shall be deemed not to have attained a given age until the commencement of the relevant anniversary of the day of his birth.

(6) The Interpretation Act for the time being in force in Zimbabwe shall apply to the interpretation of any regulations made by the President, the Public Service Commission, the Police Service Commission or the Defence Forces Service Commission in the exercise of a power to make regulations conferred by this Constitution and to the interpretation of any such power.

SCHEDULE 1

Sections 7, 8, 28, 34, 39, 44, 69, 72, 83 and 113.

OATHS AND AFFIRMATIONS

Oath or Affirmation of Loyalty

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

Oath or Affirmation of Office

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

Oath or Affirmation of a Member of the Cabinet

I, ...,
being chosen and admitted to the Cabinet of Zimbabwe, do swear [or solemnly affirm] that I will to the best of my judgment, at all times when so required, freely give my counsel and advice to the President of Zimbabwe for the good management of the public affairs of Zimbabwe, that I will not, directly or indirectly, reveal such matters as may be debated in the Cabinet and committed to my secrecy, but that I will in all things be a true and faithful member thereof.
So help me God. [To be omitted in affirmation.]

Judicial Oath or Affirmation

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

SCHEDULE 2

Sections 25 and 68.

SAVINGS IN THE EVENT OF PUBLIC EMERGENCIES

Savings in the event of public emergencies.

1.—(1) Nothing contained in any law shall be held to be in contravention of section 13, 17, 20, 21, 22 or 23 to the extent that the law in question provides for the taking, during a period of public emergency, of action for the purpose of dealing with any situation arising during that period, and nothing done by any person under the authority of any such law shall be held to be in contravention of any of the said provisions unless it is shown that the action taken exceeded anything which, having due regard to the circumstances prevailing at the time, could reasonably have been thought to be required for the purpose of dealing with the situation.

(2) Nothing contained in any law shall be held to be in contravention of section 13 to the extent that the law in question provides for preventive detention, during a period when a resolution under section 68(6) is in effect, in the interests of defence, public safety or public order, and nothing done by any person under the authority of any such law shall be held to be in contravention of section 13 unless it is shown that the action taken exceeded anything which, having due regard to the circumstances prevailing at the time, could reasonably have been thought to be required for the purpose of dealing with the situation.

(3) Where a declaration under section 68(1) or a resolution under section 68(6) applies only in relation to a part of Zimbabwe, the law in question shall not provide for the taking of action or for preventive detention, as the case may be, in relation to any place outside that part.

Preventive detention.

2.—(1) Where a person is detained under any law providing for preventive detention—

(*a*) he shall be informed as soon as reasonably practicable after the commencement of the detention, and in any case not later than seven days thereafter, in a language that he understands of the reasons for his detention and shall be permitted at his own expense to obtain and instruct without delay a legal representative of his own choice and to hold communication with him;

(*b*) his case shall be submitted not later than fourteen days (or during a period of public emergency thirty days) after the commencement of the detention for review by a tribunal established under subparagraph (4) and shall be reviewed by such tribunal forthwith; and thereafter his case shall be reviewed by such tribunal at intervals of thirty days (or during a period of public emergency one hundred and eighty days) from the date on which his case was last reviewed;

(*c*) at the hearing of his case by the tribunal he shall be permitted to appear in person or at his own expense by a legal representative of his own choice; and

(*d*) if the tribunal orders, either because he satisfies the tribunal that new circumstances have arisen or because the tribunal considers it to be desirable, that his case should be submitted to the tribunal for review before the expiration of thirty days (or during a period of public emergency one hundred and eighty days) from the previous review, the case shall be submitted for review when so ordered by the tribunal.

(2) On any such review, the tribunal may make recommendations concerning the necessity or expedience of continuing the detention to the authority by which it was ordered and that authority shall be obliged to act in accordance with any such recommendation unless, during a period of public emergency, the President otherwise directs; and where the President so directs, the authority shall cause to be published in the *Gazette* a notice that he has so directed.

(3) A person who has been detained under any law providing for preventive detention and who has been released from detention in consequence of a report of a tribunal established under subparagraph (4) that there is, in its opinion, insufficient cause for his detention shall not again be detained by virtue of such law within the period of one hundred and eighty days from his release on the same grounds as those on which he was originally detained.

(4) A tribunal for the purposes of this paragraph shall be established by law and shall consist of—

(*a*) a chairman, who shall be a person who is or has been a judge of the High Court or is qualified under section 82 to be appointed as such; and

(*b*) two other persons, one of whom—

(i) is or has been a judge of the High Court or is qualified under section 82 to be appointed as such;

(ii) has been a magistrate in Zimbabwe for not less than seven years; or

(iii) is and has been for not less than seven years, whether continuously or not, qualified to practise as an attorney in Zimbabwe.

(5) No law providing for preventive detention during a period when a resolution under section 68(6) is in effect shall authorize the detention of a person for a period longer than fourteen days unless the Minister designated for the purpose has issued an order providing for the preventive detention of that person.

(6) The reference in subparagraph (1)(*b*) to a period of fourteen or thirty days in relation to a first review includes a reference to any lesser periods that amount in the aggregate to fourteen or thirty days respectively:

Provided that no two such lesser periods shall be aggregated for this purpose if the period between the expiration of the first and the commencement of the second is more than fourteen or thirty days, as the case may be.

(7) For the purposes of subparagraph (3), a person shall be deemed to have been detained on the same grounds as those on which he was originally detained unless a tribunal established under subparagraph (4) has reported that, in its opinion, there appear *prima facie* to be new and reasonable grounds for the detention, but the giving of any such report shall be without prejudice to the provisions of subparagraphs (1) and (5).

SCHEDULE 3

Sections 28, 33, 34, 38, 39, 41 and 52.

QUALIFICATIONS FOR SENATORS, MEMBERS OF THE HOUSE OF ASSEMBLY AND VOTERS

Qualifications for Senators and members of the House of Assembly.

1.—(1) Subject to the provisions of paragraphs 2 and 4, a person who—

(*a*) is registered as a voter;

(*b*) has attained the age of forty years; and

(*c*) has been ordinarily resident in Zimbabwe for not less than ten years during the period of twenty years immediately preceding his nomination or appointment, as the case may be,

shall be qualified for election or appointment as a Senator, other than a Senator to be elected pursuant to section 33(1)(*c*).

(2) Subject to the provisions of paragraph 2, a person shall be qualified for election as a Senator pursuant to section 33(1)(*c*) if he holds the office of Chief.

(3) Subject to the provisions of paragraphs 2 and 4, a person who—

(*a*) is registered as a voter;

(*b*) has attained the age of twenty-one years; and

(*c*) has been ordinarily resident in Zimbabwe for not less than five years during the period of twenty years immediately preceding his nomination,

shall be qualified for election as a member of the House of Assembly.

(4) In determining, for the purposes of this paragraph, the period during which a person has been ordinarily resident in Zimbabwe, any period of residence outside Zimbabwe during which he was occupied in the discharge of his duties while in the service of the State shall be regarded as residence in Zimbabwe.

Disqualifications for Senators or members of the House of Assembly.

2.—(1) A person shall be disqualified for election or appointment as a Senator or member of the House of Assembly if he—

(*a*) is disqualified under paragraph 3 for registration as a voter; or

(*b*) holds public office:

Provided that a person shall not be disqualified by reason of—

(i) being a Minister or Deputy Minister;

(ii) being a member of any of the Defence Forces whose services in peace-time are not wholly in the employ of the State;

(iii) being a member of the reserve forces of the Police Force whose services are not wholly in the employ of the State;

(iv) holding any office for which no remuneration is paid other than payment by way of travelling or subsistence allowances or out-of-pocket expenses;

(v) being a member of a statutory body within the meaning of section 41(3); or

(vi) in the case of a Senator to be elected pursuant to section 33(1)(*c*), being a member of a Council of Chiefs.

(2) A person shall be disqualified for election as a member of the House of Assembly at an election for filling a vacancy if he is a member of the Senate or the House of Assembly.

Qualifications and disqualifications for voters.

3.—(1) Subject to such residence qualifications as may be prescribed in the Electoral Law for inclusion on the roll of a particular constituency and to the following provisions of this paragraph, any citizen of Zimbabwe who has attained the age of eighteen years shall be qualified for registration as a voter—

(*a*) if he is on the day of registration or any other relevant day a person who would in accordance with the terms of the Electoral Act 1979 as in force immediately before the appointed day (whether or not that Act remains in force on the relevant day) be entitled to be included on the white roll, on the white roll;

(*b*) in any other case, on the common roll.

(2) The following shall be disqualified for registration as a voter for the periods stated hereunder—

(*a*) any person who is found or declared in accordance with any Act relating to mental health to be mentally disordered or defective as defined in that Act, for so long as he is so mentally disordered or defective;

(*b*) any person who is declared by order of the General Division to be incapable of managing his own affairs, for so long as that order remains in force;

(*c*) any person who has been convicted—

(i) within Zimbabwe of a criminal offence; or

(ii) outside Zimbabwe of an offence by whatever name called which, if committed within Zimbabwe, would have been a criminal offence,

and sentenced by a court to imprisonment, by whatever name called, for a term of six months or more, for the period of his imprisonment;

(*d*) any person who has been convicted of an offence under the Electoral Law and has been declared by the General Division under the powers conferred by the Electoral Law to be disqualified for registration as a voter or from voting at any election, for the period for which he has been so declared to be disqualified;

(*e*) any person who has been expelled from the Senate or the House of Assembly in accordance with section 43, for a period of five years from the date he vacates his seat under that section;

(*f*) any person who for a continuous period of more than six months is the subject of a preventive detention order under any law providing for the preventive detention of persons, for the period of his detention.

(3) Any person who is registered on an electoral roll shall be entitled to vote at an election which is held for the constituency for which he is so registered unless he has then ceased to be a citizen of Zimbabwe or is then, in accordance with the provisions of subparagraph (2), disqualified for registration.

(4) For the purposes of subparagraph (2)(*c*)—

(*a*) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of such terms;

(*b*) two or more terms of imprisonment that are required to be served concurrently shall be regarded as a single term of imprisonment for the period of the longest of such terms;

(*c*) a person shall be regarded as sentenced notwithstanding that the execution of the sentence or any part thereof has been suspended;

(*d*) no account shall be taken of any sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

Temporary provision.

4. The provisions of paragraph 1(1)(*c*) shall not apply in the case of any election held or appointment made under Chapter IV or Chapter V less than ten years after the appointed day, and the provisions of paragraph 1(3)(*c*) shall not apply in the case of any election held under Chapter V less than five years after the appointed day.

SCHEDULE 4

Sections 37, 51 and 52.

PROCEDURE WITH REGARD TO BILLS AND OTHER MATTERS IN PARLIAMENT

Introduction of Bills, motions and petitions.

1.—(1) Any Bill may originate in the House of Assembly.

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

(3) Subject to the provisions of this Constitution and Standing Orders—

(*a*) any member of the Senate may introduce any Bill into or move any motion for debate in or present any petition to the Senate;

(*b*) any member of the House of Assembly may introduce any Bill into or move any motion for debate in or present any petition to the House of Assembly;

(*c*) any Minister or Deputy Minister may introduce any Bill into or move any motion for debate in or present any petition to either the Senate or the House of Assembly.

(4) Except on the recommendation of a Minister or Deputy Minister, neither the Senate nor the House of Assembly shall—

(*a*) proceed upon any Bill, including any amendment to a Bill, which, in the opinion of the President of the Senate or the Speaker, as the case may be, makes provision for any of the following matters—

(i) imposing or increasing any tax;

(ii) imposing or increasing any charge on the Consolidated Revenue Fund or other public funds of the State or varying any such charge otherwise than by reducing it;

(iii) compounding or remitting any debt due to the State and condoning any failure to collect taxes;

(iv) authorizing the making or raising of any loan by the State;

(v) condoning unauthorized expenditure;

(*b*) proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the President of the Senate or the Speaker, as the case may be, is that provision should be made for any of the matters specified in subparagraph (*a*); or

(*c*) receive any petition which, in the opinion of the President of the Senate or the Speaker, as the case may be, requests that provision be made for any of the matters specified in subparagraph (*a*).

(5) The provisions of subparagraph (4) shall not apply to any Bill introduced, motion or amendment moved or petition presented by a Minister or Deputy Minister.

Procedure in regard to Bills.

2.—(1) Immediately after a Bill which originated in the House of Assembly has been passed by the House of Assembly, the Speaker shall cause an authenticated copy of the Bill to be transmitted to the Senate for consideration and the day on which it is transmitted to be recorded in the journal of the House of Assembly.

(2) A Bill transmitted to the Senate in accordance with subparagraph (1) shall be introduced forthwith into the Senate and, subject to the provisions of this Constitution, the Senate may reject the Bill or pass the Bill, with or without amendments.

(3) A Bill introduced into the Senate in accordance with subparagraph (2) which has been passed by the Senate with amendments shall be returned forthwith to the House of Assembly with the amendments duly certified by the Secretary to Parliament and the House of Assembly may reject, agree to or amend the amendments made to the Bill by the Senate.

(4) Immediately after a Bill which originated in the Senate has been passed by the Senate, the President of the Senate shall cause an authenticated copy of the Bill to be transmitted to the House of Assembly for consideration and the day on which it is transmitted to be recorded in the journal of the Senate.

(5) A Bill transmitted to the House of Assembly in accordance with subparagraph (4) shall be introduced into the House of Assembly as soon as may be convenient and the House of Assembly may reject the Bill or pass the Bill, with or without amendments.

(6) A Bill introduced into the House of Assembly in accordance with subparagraph (5) which has been passed by the House of Assembly with amendments shall be returned forthwith to the Senate with the amendments duly certified by the Secretary to Parliament and the Senate may reject, agree to or amend the amendments made to the Bill by the House of Assembly.

Disagreement between Senate and House of Assembly.

3.—(1) Subject to the provisions of this paragraph, if—

(*a*) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill which originated in the House of Assembly before the expiration of a period of ninety days beginning on the day of the introduction of the Bill into the Senate;

(*b*) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill which originated in the Senate before the expiration of a period of ninety days beginning on the day of the return of the Bill to the Senate; or

(*c*) a Bill which originated in the House of Assembly has been rejected or has not been passed by the Senate before the expiration of a period of ninety days beginning on the day of the introduction of the Bill into the Senate,

the Bill may be presented to the President for assent in the form in which it was passed by the House of Assembly, except for minor changes required by the passage of time, with such amendments, if any, as the Senate and the House of Assembly may have agreed:

Provided that if, in the opinion of the Speaker, a Bill which—

(i) originated in the House of Assembly; and

(ii) was introduced into the House of Assembly after the expiration of a period of ninety days beginning on the day of the introduction into the Senate of a previous Bill originating in the Senate,

contains provisions identical with those contained in that previous Bill, except for minor changes required by the passage of time, the provisions of this subparagraph shall be construed and have effect as though any reference in subparagraphs (*a*) and (*c*) to a period of ninety days were a reference to a period of eight sitting days.

(2) A Bill referred to in subparagraph (1) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period—

(*a*) in the case of a Bill referred to in subparagraph (*a*) or (*c*) of that subparagraph, of ninety days beginning on the day of the introduction of the Bill into the Senate;

(*b*) in the case of a Bill referred to in subparagraph (*b*) of that subparagraph, of ninety days beginning on the day of the return of the Bill to the Senate;

(*c*) in the case of a Bill referred to in the proviso to that subparagraph, of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(3) The provisions of subparagraphs (1) and (2)—

(*a*) shall not apply to a Constitutional Bill, a Money Bill or a Bill where a certificate of urgency is issued;

(*b*) shall apply to a Bill in respect of which the President of the Senate has reported under paragraph 4(4) as though any reference in subparagraphs (1) and (2) to a period of ninety days were a reference to a period of one hundred and eighty days.

(4) A Bill referred to in subparagraph (1) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the relevant provisions of subparagraphs (1) and (2) apply and that the Bill may lawfully be presented for assent by virtue of those provisions, as read with subparagraph (3)(*b*), where relevant.

(5) A Bill presented to the President for assent pursuant to a resolution of the House of Assembly referred to in subparagraph (2) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(6) In the calculation of any period of ninety days or one hundred and eighty days referred to in this paragraph, no account shall be taken of any period during which Parliament is prorogued.

(7) For the purposes of this paragraph—

(*a*) a Bill originating in the House of Assembly shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in accordance with paragraph 2(1);

(*b*) a Bill originating in the Senate shall be deemed to have been returned to the Senate on the sitting day next following the day on which the Bill is returned for the first time to the Senate in accordance with paragraph 2(6).

Reports of Senate Legal Committee on Bills.

4.—(1) The Senate shall not proceed upon a Bill, other than a Money Bill, a Constitutional Bill or a Bill to which the proviso to paragraph 3(1) applies, after the introduction of the Bill into the Senate or give such Bill its final reading after it has been amended in the Senate unless a report of the Senate Legal Committee on the Bill has been presented to the Senate:

Provided that if no report has been presented within the period specified in Standing Orders or any extension thereof granted in accordance with Standing Orders, it shall be presumed that the Committee is of the opinion that no provision of the Bill would, if enacted, be in contravention of the Declaration of Rights and the Senate may proceed upon the Bill or give the Bill its final reading, as the case may be.

(2) It shall be the duty of the Senate to consider any report presented to the Senate under section 37(1) which states that, in the opinion of the Senate Legal Committee, a provision of a Bill would, if enacted, be in contravention of the Declaration of Rights.

(3) If, after considering a report referred to in subparagraph (2), the Senate resolves that a provision of the Bill would, if enacted, be in contravention of the Declaration of Rights, the Senate shall not pass the Bill containing that provision.

(4) If the Senate, acting under subparagraph (3), does not pass a Bill or amends a Bill so that it would not, if enacted, be in contravention of the Declaration of Rights, the President of the Senate shall report to the Speaker accordingly.

Procedure in regard to Bills where certificate of urgency is issued.

5.—(1) The Prime Minister may certify that a Bill, other than a Constitutional Bill, originating in the House of Assembly which has been passed by the House of Assembly is so urgent that it is not in the national interest to delay its enactment.

(2) If—

(*a*) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill in respect of which a certificate has been issued under subparagraph (1) before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate; or

(*b*) a Bill in respect of which a certificate has been issued under subparagraph (1) has not been passed by the Senate before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate,

the Bill may, subject to the provisions of this paragraph, be presented to the President for assent in the form in which it was passed by the House of Assembly with such amendments, if any, as the Senate and the House of Assembly may have agreed.

(3) A Bill referred to in subparagraph (2) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(4) A Bill referred to in subparagraph (2) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the provisions of subparagraphs (2) and (3) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

(5) A Bill presented to the President for assent pursuant to a resolution of the House of Assembly referred to in subparagraph (3) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(6) For the purposes of this paragraph, a Bill in respect of which a certificate has been issued under subparagraph (1) shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in accordance with paragraph 2(1).

(7) If, in the case of a Bill presented to the President for assent pursuant to a resolution of the House of Assembly referred to in subparagraph (3), the Senate has not considered that Bill in the form in which it was presented to the President for assent, a copy of that Bill certified by the Secretary to Parliament to be in the form in which it was presented to the President for assent shall be transmitted to the Senate immediately after its enactment and the provisions of section 37 and paragraph 4 shall, *mutatis mutandis*, apply in relation to that Bill.

(8) The provisions of subparagraphs (9) and (10) shall apply to a Bill to which the President has assented pursuant to the provisions of this paragraph if the Senate—

(*a*) resolved before the day on which that Bill was enacted that a provision of that Bill, as enacted, was a provision which would, if enacted, be in contravention of the Declaration of Rights; or

(*b*) resolves within a period of thirty sitting days beginning on the day on which that Bill was enacted that a provision of that Bill, as enacted, is in contravention of the Declaration of Rights.

(9) If, before the expiration of a period of eight sitting days beginning on—

(*a*) the day of the resolution of the Senate referred to in subparagraph (8); or

(*b*) the day on which the Bill is enacted,

whichever is the later day, the House of Assembly has not passed a resolution such as is referred to in subparagraph (10) the President shall forthwith cause to be published in the *Gazette* a notice annulling the provision to which the resolution of the Senate relates with effect from the date of the publication of that notice.

(10) If, before the expiration of the period referred to in subparagraph (9), the House of Assembly has resolved by the affirmative votes of more than one-half of its total membership that the provision of the Bill to which the resolution of the Senate relates shall remain in force, the provision shall unless it is sooner repealed or has had its effect, subject to the provisions of section 24, continue in force for a period of two hundred and seventy days beginning on the day of the resolution or the day on which the Bill is enacted, whichever is the later day:

Provided that, if—

(*a*) the resolution of the House of Assembly referred to in this subparagraph was passed by the affirmative votes of not less than seventy of its members; or

(*b*) before the expiration of the period of two hundred and seventy days referred to in this subparagraph the House of Assembly has, by the affirmative votes of not less than seventy of its members, passed a further resolution that the provision shall remain in force,

the provision shall, unless it is sooner repealed or has had its effect, subject to the provisions of section 24, continue in force after the expiration of the period of two hundred and seventy days.

(11) Where the Senate or the House of Assembly passes a resolution under subparagraph (8), (9) or (10), the Secretary to Parliament shall forthwith cause to be published in the *Gazette* a notice of such resolution and of the effect thereof.

Money Bills.

6.—(1) The Senate shall not have power to amend a Bill which is certified by the Speaker to be a Money Bill but may recommend amendments to the House of Assembly.

(2) An amendment to a Bill referred to in subparagraph (1) which is recommended by the Senate shall be duly certified by the Secretary to Parliament and transmitted to the House of Assembly for its consideration.

(3) After the House of Assembly has considered amendments to a Bill referred to in subparagraph (1) which have been recommended by the Senate the Bill shall be presented to the President for assent in the form in which it was passed by the House of Assembly with such amendments, if any, as may have been made by the House of Assembly on the recommendation of the Senate.

(4) If a Bill referred to in subparagraph (1) has not been passed by the Senate before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate, the Bill may, subject to the provisions of this paragraph, be presented to the President for assent in the form in which it was passed by the House of Assembly.

(5) A Bill referred to in subparagraph (4) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(6) A Bill referred to in subparagraph (4) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker

stating that the Bill is a Bill to which the provisions of subparagraphs (4) and (5) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

(7) A Bill presented to the President for assent pursuant to a resolution of the House of Assembly referred to in subparagraph (5) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(8) For the purposes of this paragraph, a Bill referred to in subparagraph (1) shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in accordance with paragraph 2(1).

(9) In this Constitution, "Money Bill" means a public Bill which contains only provisions dealing with all or any of the following matters—

(*a*) the imposition, repeal, remission, alteration, administration or regulation of taxation or any exemption therefrom;

(*b*) the imposition, for the payment of debt or other financial purposes, including expenses of administration, of charges on the Consolidated Revenue Fund or any other public funds or on moneys provided by Parliament or the variation or repeal of any such charges;

(*c*) the grant of money for the services of the Government, including expenses of administration, or the grant of money to any authority or person or the variation or revocation of any such grant;

(*d*) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;

(*e*) the making or raising of any loan by the Government or the repayment thereof or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan;

(*f*) the guarantee given by or on behalf of the Government in respect of any loan raised by any person and any conditions which are attached to such guarantee;

(*g*) the compounding or remitting of any debt and the condoning of any failure to collect taxes;

(*h*) the condoning of unauthorized expenditure;

(*i*) subordinate matters which are ancillary or incidental to any of the foregoing matters,

and any reference in this subparagraph to taxation, public funds, public money, debt, taxes or expenditure shall not be construed as including a reference to any taxation by, or the funds, moneys, debt, taxes or expenditure of, a local authority or statutory body.

Provisions relating to amendments to Bills.

7. Subject to the provisions of this Constitution and Standing Orders, after a Bill has been returned to the House in which it originated, the Senate or the House of Assembly may, by message to the other House pursuant to a resolution, agree to any amendment or withdraw any amendment which has been made to the Bill:

Provided that the Senate shall not agree to or withdraw any amendment unless the Senate Legal Committee has reported thereon and the provisions of paragraph 4 shall, *mutatis mutandis*, apply in relation thereto.

Reports of Senate Legal Committee on statutory instruments.

8.—(1) If—

(*a*) after considering a report of the Senate Legal Committee that a provision of a statutory instrument is in contravention of the Declaration of Rights, the Senate resolves that the provision is in contravention of the Declaration of Rights; and

(*b*) within twenty-one sitting days after the passing of the resolution of the Senate referred to in subparagraph (*a*)—

(i) the House of Assembly has not resolved that the provision shall not be repealed; or

(ii) the Committee has not reported to the Secretary to Parliament that the provision has been repealed or amended in such a way as, in the opinion of the Committee, to remove the contravention,

the Secretary to Parliament shall report the circumstances to the President who shall forthwith, by notice in the *Gazette*, repeal the provision.

(2) The Senate Legal Committee may, at any time before a report of the Committee that a provision of a statutory instrument is in contravention of the Declaration of Rights is considered by the Senate, withdraw the report if the provision is repealed or is amended in such a way as, in the opinion of the Committee, to remove the contravention.

SCHEDULE 5

Section 52

PROVISIONS REFERRED TO IN SECTION 52(4)(*a*)

Section 12(1);
Section 13(1), (3), (4) and (5) (except the proviso thereto);
Section 14(1);
Section 15(1);
Section 16(1), (2), (3), (5) and, in so far as it affects any of the foregoing, (10);
Section 17(1) and (3);
Section 18(1) to (10);
Section 19(1) to (4) and (6);
Section 20(1), (3) and (5);
Section 21(1) and (2);
Section 22(1);
Section 23(1) and (2);
Section 24(1), (2), (4) (except the proviso thereto) and (7);
Section 26(1), in so far as it affects any of the provisions specified in this Schedule;
Schedule 2, paragraph 2.

SCHEDULE 6

Section 112

PENSIONS

Protection of pension rights of public officers.

1.—(1) The law to be applied with respect to any pensions benefits that were granted to any person before the appointed day shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to that person.

(2) The law to be applied with respect to any pensions benefits not referred to in subparagraph (1) in relation to a public officer or former public officer in respect of a period of service as a public officer, or any ill-health or injury arising out of and in the course of his official duties during a period of service as a public officer, that—

(*a*) commenced before the appointed day shall be the law that was in force immediately before that day; or

(*b*) commenced on or after the appointed day shall be the law in force on the date on which that period of service commenced,

or any law in force at a later date that is not less favourable to the person entitled to such pensions benefits.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this paragraph, be deemed to be more favourable to him than the other law or laws.

(4) All pensions benefits shall be charged upon and paid out of the Consolidated Revenue Fund.

(5) Any law which alters the age at which a person holding public office shall retire or otherwise vacate his office shall not have effect in relation to any public officer who was appointed before that law takes effect unless he consents thereto.

(6) In this paragraph—

"law" shall be construed as including the rules or other instrument setting out the terms of service of the staff of Parliament;

"pensions benefits" means any pensions, commutation of pensions, gratuities or other like allowances or refund of pension contributions, including any interest payable thereon, for persons in respect of their service as public officers or any ill-health or injury arising out of and in the course of their official duties or for the spouses, children, dependants or personal representatives of such persons in respect of such service, ill-health or injury.

(7) References in this paragraph to the law with respect to pensions benefits include, without derogation from their generality, references to the law regulating—

(*a*) the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused;

(*b*) the circumstances in which any such benefits that have been granted may be increased, withheld, reduced in amount or suspended; or

(*c*) the amount of any such benefits.

Remittability of pensions.

2.—(1) Any person who is entitled to receive a pension and who is not ordinarily resident in Zimbabwe shall not be prevented from having remitted to him outside Zimbabwe, free from any deduction, tax or charge, other than ordinary bank charges, made or levied in respect of its remission—

(*a*) any payment of a pension to which he is entitled; and

(*b*) subject to such restrictions as may be imposed by or under an Act of Parliament which are not greater than those which could have been imposed immediately before the appointed day, the amount of any commutation of a pension in such cases and to such extent as was prescribed by law immediately before that day.

(2) Any amount which a person is entitled to have remitted under this paragraph shall not be deducted from the amount of money that he may be entitled to have remitted outside Zimbabwe by or under this Constitution or any law.

(3) In this paragraph—

"pension" means any pension or annuity which is payable—

(*a*) from the Consolidated Revenue Fund to any public officer or former public officer or other person by or under this Constitution or any Act of Parliament; or

(*b*) in accordance with the rules of any pension fund to—

(i) a person who was a member of that fund upon his retirement on account of age or ill-health or other termination of service or on his attaining a specified age; or

(ii) the spouse, children or dependants of a person who was a member of that fund upon or after the death of such former member,

and which is payable for the lifetime of the recipient or for a specified period or until the happening of a specified event;

"pension fund" means any scheme or arrangement established or operating in Zimbabwe the principal object of which is to provide benefits for persons who are or have been members of the scheme or arrangement upon their retirement on account of age or ill-health or other termination of service or on attaining a specified age, whether or not such scheme or arrangement also provides for the payment of benefits in other circumstances, or for dependants or nominees of deceased members.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order provides for the Constitution of Zimbabwe, which will come into effect on the day on which Southern Rhodesia becomes independent as a Republic under the name of Zimbabwe. The Constitution provides for a Parliament, a President and a Prime Minister and Cabinet responsible to the Parliament, as well as for the judiciary, the Public Service, the Prison Service, the Police Force and the Defence Forces. The Constitution also provides for the protection of the fundamental rights and freedoms of the individual, for citizenship and for finance. Transitional and interim provisions will be made by further Orders.

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