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DEPARTMENTAL DRAFT

CONSTITUTION OF ZIMBABWE

CONSTITUTION OF ZIMBABWE

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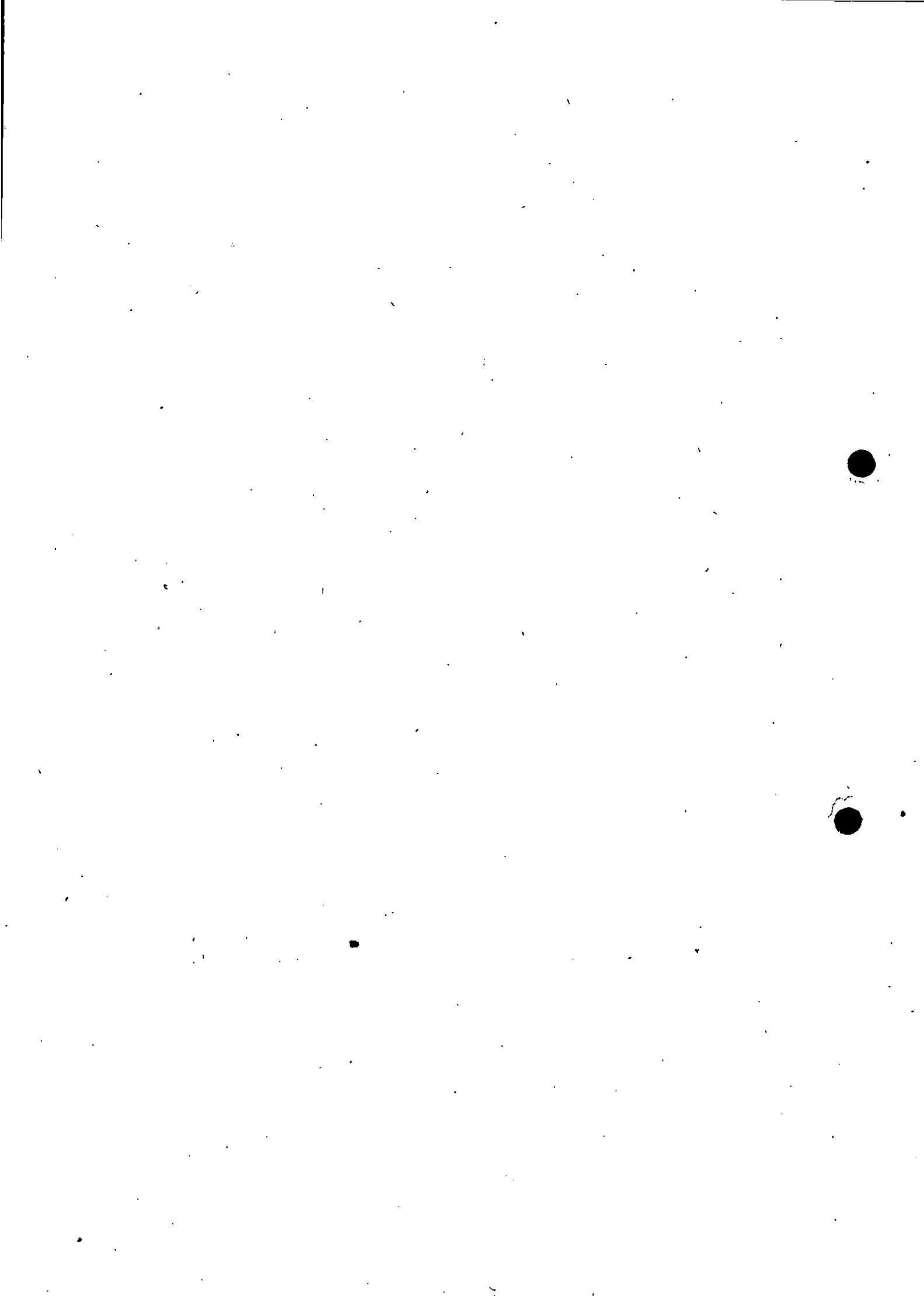
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PREAMBLE

Acknowledging the supremacy of God, and recognising our diversity,

We the people of Zimbabwe,

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

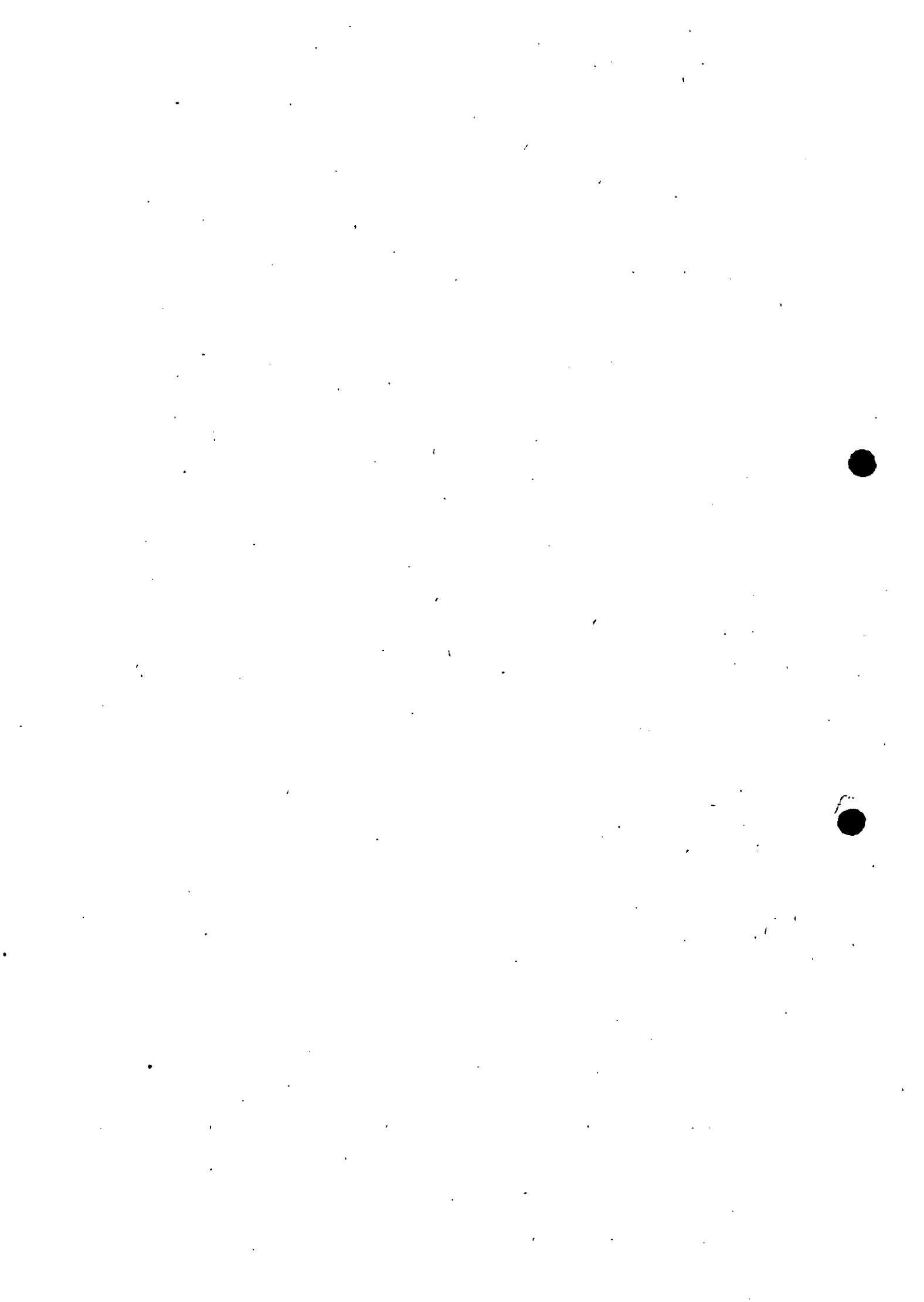
*Exalt and extol the brave men and women who sacrificed their lives during the
Chimurenga/Imfazwe and national liberation struggles,*

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

*Celebrate our natural resources and the richness of our various traditions and cultures
bequeathed to us by our forebears and Providence,*

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

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



CHAPTER I

THE REPUBLIC AND THE CONSTITUTION

1 The Republic

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

2 National flag

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

3 National anthem

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

4 Coat of arms

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

5 Public seal

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

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

6 Languages

(1) All indigenous languages spoken in Zimbabwe are recognised.

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

(3) English is the language of record.

7 Supremacy of Constitution

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

8 Promotion of public awareness of Constitution

The State must promote public awareness of this Constitution by—

(a) translating it into the languages that are used by substantial numbers of people in Zimbabwe and disseminating it as widely as possible;

(b) requiring the teaching of the Constitution in educational institutions and as part of the training of members of the Defence Forces, the Police Service, the Prison Service, the Public Service and members and employees of public authorities; and

(c) encouraging civic organisations to disseminate awareness and knowledge of this Constitution throughout society.

CHAPTER II

FUNDAMENTAL CONSTITUTIONAL PRINCIPLES AND NATIONAL OBJECTIVES

PART I

FUNDAMENTAL CONSTITUTIONAL PRINCIPLES

9 Authority of the people

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

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

10 National unity, peace and stability

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

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

- (a) to integrate all the peoples of Zimbabwe while recognising their ethnic, religious, political and cultural diversity; and
- (b) to promote a culture of co-operation, understanding, appreciation and tolerance of and respect for the customs, traditions and beliefs of others.

11 Democratic principles

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

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

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

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

12 Rule of law

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

PART II

NATIONAL OBJECTIVES

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

The objectives set out in this Part guide all organs and agencies of the State and Government, including local government, in taking and implementing policy decisions that will lead to the establishment and promotion of a just, free and democratic society in which people can enjoy prosperous and fulfilled lives.

14 Nature of objectives

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

15 Good governance

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

(2) In particular, measures must be taken to expose, combat and eradicate corruption and abuse of power by those holding political and other public offices.

(3) The State must ensure that all Commissions and other bodies established by or under this Constitution are provided with adequate resources and facilities to enable them to carry out their functions effectively and efficiently as envisaged by this Constitution.

16 Development

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

- (a) to promote private initiative and self-reliance;
- (b) to stimulate agricultural, commercial, industrial, technological and scientific development;
- (c) to bring about balanced development of the different areas of Zimbabwe and a proper balance in the development of rural and urban areas; and
- (d) to redress imbalances resulting from past practices and policies.

(2) Measures referred to in this section must, where practicable, involve the people in the formulation and implementation of development plans and programmes that affect them.

(3) Measures referred to in this section must protect and enhance the right of the people to equal opportunities in development.

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

17 Food security

The State must—

- (a) encourage people to grow and store adequate food;
- (b) secure the establishment of adequate food reserves; and

- (c) encourage and promote adequate and proper nutrition through mass education and other appropriate means.

18 Environment

- (1) The State must take appropriate measures, within the resources available to it, to provide the people of Zimbabwe with a clean, safe and healthy environment.
- (2) The State must promote ecologically sustainable development and the management of natural resources in a balanced manner for the benefit of present and future generations.
- (3) In particular, the State must take all practical measures—
 - (a) to conserve natural resources;
 - (b) to prevent or minimise degradation and destruction of land, air and water resources arising from excessive use, pollution or other causes;
 - (c) to promote at all levels an efficient system for the storage of water and the management of water resources;
 - (d) to ensure that people have access to adequate supplies of clean potable water;
 - (e) to promote and implement energy policies that will ensure that people's basic needs and the needs of environmental protection are met; and
 - (f) to safeguard the bio-diversity of Zimbabwe.
- (4) The State must promote the creation, preservation and development of parks, nature reserves and recreation areas.
- (5) Provincial councils and local authorities, within the limits of their resources and powers, must ensure the adoption of measures to achieve the objectives set out in this section:

19 Cultural objectives

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

20 Foreign policy objectives

- (1) The foreign policy of Zimbabwe must be based on principles of—
 - (a) promotion and protection of the national interests of Zimbabwe;
 - (b) respect for international law and treaty obligations;
 - (c) peaceful co-existence with other nations; and
 - (d) the settlement of international disputes by peaceful means.
- (2) The State must promote regional and pan-African cultural, economic and political co-operation and integration and must participate in international and regional organisations that stand for peace and the well-being and progress of the region, the continent and humanity.

21 Gender balance and fair representation of marginalised groups

(1) The State must ensure gender balance and a fair representation of marginalised groups on all constitutional and other governmental bodies.

(2) The State must promote full participation of women in all spheres of Zimbabwean society on the basis of equality with men.

(3) The State must take all practical measures to ensure that women have access to land and other resources on the basis of equality with men.

22 Children

(1) The State must adopt reasonable policies and measures, within the resources available to it, to ensure that children—

- (a) have a nationality from birth;
- (b) enjoy family or parental care, or appropriate alternative care when removed from the family environment;
- (c) receive shelter and basic nutrition, health care and social services; and
- (d) are protected from maltreatment, neglect, abuse, exploitation, corruption or degradation.

(2) The State must take appropriate legislative and other measures—

- (a) to protect children from exploitative labour practices; and
- (b) to ensure that children are not required or permitted to perform work or provide services that—
 - (i) are inappropriate for the children's age; or
 - (ii) place at risk the children's well-being, education, physical or mental health or spiritual, moral or social development.

23 Elderly persons

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

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

- (a) to provide facilities, food and care for elderly persons who are unable to provide for themselves;
- (b) to develop programmes to give elderly persons the opportunity to engage in productive activity suited to their abilities and consistent with their vocations and desires; and
- (c) to foster social organisations aimed at improving the quality of life of elderly persons.

24 Persons with disabilities

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

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

(3) In particular, the State must endeavour—

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

25 Work and labour relations

(1) The State must adopt reasonable policies and measures, within the resources available to it, to provide everyone with an opportunity to work in a freely chosen activity, in order to secure a decent living for themselves and their families.

(2) In particular, the State must endeavour to secure—

- (a) full employment;
- (b) just, equitable and satisfactory conditions of work, particularly with respect to—
 - (i) adequate remuneration;
 - (ii) equitable opportunity for promotion;
 - (iii) safety at work;
 - (iv) maternity leave; and
 - (v) rest, leisure, limitation of working hours, periodic holidays with pay and remuneration for public holidays;
- (c) the removal of restrictions that unnecessarily inhibit or prevent people from working and otherwise engaging in gainful economic activities;
- (d) vocational guidance and the development of vocational and training programmes, including those for persons with disabilities;
- (e) the implementation of measures such as family care that enable women to enjoy a real opportunity to work; and
- (f) the rights of employers and employees to engage in collective bargaining and, where necessary, to engage in appropriate collective job action to enforce their rights.

26 Protection of the family

(1) The State must protect and foster the institution of the family as the natural and basic unit of society.

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

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

27 Marriage

The State must take appropriate measures to ensure that—

- (a) men and women of marriageable age are free to marry each other and found a family;
- (b) no marriage is entered into without the free and full consent of the intending spouses;
- (c) there is equality of rights and responsibilities of spouses during marriage and at its dissolution; and
- (d) in the event of dissolution of a marriage, provision is made for the necessary protection of any children and spouses.

28 Education

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

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

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

29 Shelter

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

30 Health services

(1) The State must take all practical measures to ensure the provision of basic, accessible and adequate health services to the population.

(2) The State must take appropriate measures to ensure that no one is refused emergency medical treatment at any health institution.

31 Social welfare

The State must take all practical measures, within the limits of the resources available to it, to provide social security and social care to those who are in need of it, in particular war veterans, as may be specified in an Act of Parliament.

32 Legal aid

The State must take all practical measures, within the limits of the resources available to it, to provide legal representation in civil and criminal cases for people who need it and are unable to afford legal practitioners of their choice.

CHAPTER III

FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

PART I

PRELIMINARY

33 Duty to respect fundamental human rights

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

34 Application of Chapter III

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

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

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

35 Interpretation of Chapter III

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

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

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

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

36 Chapter III does not preclude existence of other rights

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

PART II

INDIVIDUAL HUMAN RIGHTS AND FREEDOMS

37 Right to life

(1) Every human being has the right to life and may not be deprived of it intentionally.

(2) A law may permit the death penalty to be imposed on persons convicted of murder, but—

- (a) the penalty may be carried out only in accordance with a final judgment of a competent court;
- (b) the penalty must not be imposed on a person for an offence committed when he or she was less than eighteen years old;
- (c) the penalty must not be imposed or carried out on a pregnant woman;
- (d) the law must permit the court a discretion whether or not to impose the penalty;
- (e) the person sentenced must have a right to seek pardon or commutation of the penalty from the President.

38 Right to personal liberty

(1) Everyone has the right to personal liberty, which includes the right—

- (a) not to be detained without trial; and
- (b) not to be deprived of their liberty arbitrarily or without just cause.

(2) No one may be imprisoned merely on the ground of inability to fulfil a contractual obligation.

(3) Anyone who is arrested or detained—

- (a) must be informed promptly of the reason for the arrest or detention;
- (b) must be permitted, without delay—
 - (i) to contact their next of kin or close relative; and
 - (ii) at their own expense, to choose, contact and consult with a legal practitioner;
- (c) must be treated with humanity and with respect for their inherent dignity as human beings;
- (d) must be permitted to challenge the lawfulness of the arrest or detention in person before a court, and must be released promptly if the detention is unlawful.

(4) Anyone may challenge the lawfulness of another person's arrest or detention under subsection (3)(d) if there are reasonable grounds to believe that the arrested or detained person is unable to do so.

(5) Anyone who is arrested or detained—

- (a) for the purpose of bringing him or her before a court; or
- (b) for allegedly committing or being about to commit an offence;

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

(6) Anyone who is detained pending trial for an offence and is not tried within a reasonable time must be released from detention, either unconditionally or on reasonable conditions to ensure that after being released the person—

- (a) attends the trial;
- (b) does not interfere with the evidence to be given at the trial; and

(c) does not commit any other offence before the trial begins.

(7) Anyone who has been illegally arrested or detained is entitled to compensation from the person responsible for the arrest or detention, but a law may protect the following persons from liability under this section—

- (a) a judicial officer acting in a judicial capacity reasonably and in good faith;
- (b) any other public officer acting reasonably and in good faith and without culpable ignorance or negligence.

39 Right to personal security

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

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

40 Freedom from slavery and forced labour

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

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

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

41 Freedom from torture and inhuman or degrading treatment

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

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

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

- (a) reasonable measures taken to prevent the escape of persons who are legally detained;
- (b) moderate corporal punishment imposed in appropriate circumstances on children by their parents or by anyone else who is responsible for their upbringing or for any aspect of their upbringing;
- (c) moderate corporal punishment imposed by the State on male children in execution of a judgment or order of a court, where the children have been convicted of offences; or
- (d) the carrying out of the death penalty, no matter what the delay in carrying it out, where—
 - (i) the persons executed have been sentenced to death by a competent court on conviction for murder; and
 - (ii) the penalty is carried out in the manner prescribed by law immediately before the appointed day.

42 Right to dignity and reputation

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

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

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

43 Freedom from discrimination

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

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

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

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

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

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

44 Freedom of conscience

- (1) Everyone has the right to freedom of conscience, which includes—
 - (a) freedom of thought, opinion, religion or belief;
 - (b) freedom to change their thought, opinion, religion or belief; and
 - (c) freedom to practise and propagate and give expression to their thought, opinion, religion or belief, whether in public or in private and whether alone or together with others.
- (2) No one may be compelled to take an oath that is contrary to their religion or belief or to take an oath in a manner that is contrary to their religion or belief.
- (3) Religious observances may be conducted and religious instruction may be given at public institutions, including State or State-aided institutions, if—
 - (a) the observances follow reasonable rules made by the appropriate public authorities; and
 - (b) the observances are conducted on an equitable basis and with due regard to the rights and sensibilities of others.
- (4) Any religious community may ensure that religious instruction is given in educational courses or institutions provided by the community, even if the community receives a subsidy or other financial assistance from the State.

45 Freedom of speech and expression

- (1) Everyone has the right to freedom of speech and expression, which includes—
 - (a) freedom to hold opinions;
 - (b) freedom to seek, receive and communicate ideas and information regardless of frontiers;
 - (c) freedom of the press and other media of communication;
 - (d) freedom of artistic creativity; and
 - (e) freedom from interference with correspondence or other forms of communication, including electronic and telephonic communication.
- (2) Freedom of speech and expression does not include—
 - (a) incitement to violence;
 - (b) advocacy of hatred which is based on nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, culture, sex, gender, marital status, age, disability or natural difference or condition, and which amounts to incitement to discrimination, hostility or violence.

46 Right to language and cultural life

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

47 Freedom of assembly and association

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

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

48 Freedom of movement and residence

- (1) Every Zimbabwean citizen has—
 - (a) the right to enter Zimbabwe;
 - (b) immunity from expulsion from Zimbabwe; and
 - (c) the right to a passport or other travel document.
- (2) Every Zimbabwean citizen and everyone else who is legally in Zimbabwe has—
 - (a) the right to move freely within Zimbabwe;
 - (b) the right to reside in any part of Zimbabwe; and
 - (c) the right to leave Zimbabwe.

49 Protection of law: equality before the law

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

50 Protection of law: fairness in criminal cases

- (1) Everyone accused of an offence has the right to a fair trial within a reasonable time before an independent and impartial court established by law.
- (2) The right to a fair trial under subsection (1) includes the right—
 - (a) to be presumed innocent until the accused person has been proved guilty;
 - (b) to be informed promptly of the charge, in sufficient detail to enable the accused person to answer it;
 - (c) to be given adequate time to prepare a defence;
 - (d) to be present when being tried, unless the accused person's conduct makes it impracticable to continue the proceedings in his or her presence;
 - (e) to choose a legal practitioner and, at the accused person's own expense, to be represented by that legal practitioner;
 - (f) if the accused person is liable to be sentenced to death or to life imprisonment, to have a legal practitioner assigned by the State at State expense, and to be represented by that legal practitioner;
 - (g) to be informed of the rights conferred by paragraphs (e) and (f);
 - (h) to adduce and challenge evidence;
 - (i) to have the proceedings of the trial interpreted so that the accused person understands them;
 - (j) not to be compelled to give evidence;

- (k) not to be convicted on account of an act or omission that was not an offence when it took place;
- (l) not to be tried in respect of an act or omission for which the accused person has been pardoned or either acquitted or convicted on the merits in previous criminal proceedings, unless—
 - (i) a court has set aside those earlier proceedings on the grounds of a procedural irregularity or defect; or
 - (ii) for some other reason, a court has ordered a retrial;
- (m) to be sentenced to the lesser of the prescribed punishments if the prescribed punishment for the offence has been changed between the time the offence was committed and the time of sentencing.

(3) Where this section requires information to be given to a person—

- (a) the information must be given in a language the person understands; and
- (b) if the person cannot read or write, any document embodying the information must be explained in such a way that he or she understands it.

(4) In any criminal trial, evidence that has been obtained in a manner that violates any provision of this Chapter must be excluded if the admission of the evidence would render the trial unfair or otherwise be detrimental to the administration of justice or the public interest.

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

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

(7) Anyone who has been tried and convicted of an offence by a court has the right, subject to reasonable restrictions that may be prescribed by law—

- (a) to have the case reviewed by a higher court; or
- (b) to appeal to a higher court against the conviction and any sentence that may have been imposed.

(8) A law may impose on a person charged with an offence the burden of proving particular facts.

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

51 Protection of law: fairness in civil proceedings

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

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

52 Right to information

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

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

53 Right to just administrative action

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

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

54 Rights of children, their parents and guardians

(1) In this section—

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

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

(3) A child’s best interest is of paramount importance in every matter concerning the child.

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

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

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

55 Right to establish and maintain educational institutions

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

56 Right to property

(1) Everyone’s right to own property and to use and enjoy their property must be protected, although this right may be subordinated in the public interest.

(2) The State or an authority authorised by an Act of Parliament may acquire property compulsorily for public purposes or in the public interest—

(a) in accordance with fair procedures set out in an Act of Parliament; and

(b) subject to section *fifty-seven*, so long as compensation is paid that is just and equitable in regard to its amount, timing and manner of payment.

(3) A law that extinguishes or diminishes anyone's vested or contingent right to be paid a pension, gratuity or similar payment arising out of employment is to be regarded as a law that acquires or authorises the compulsory acquisition of that person's property.

57 Agricultural land acquired for resettlement

(1) In the assessment of any compensation that may be payable when agricultural land is compulsorily acquired for the resettlement of people in accordance with a programme of land reform, the following factors must be regarded as of ultimate and overriding importance—

- (a) before Independence the people of Zimbabwe were unjustifiably dispossessed of their land and other resources without compensation;
- (b) the people consequently took up arms in order to regain their land and political sovereignty, and this ultimately resulted in the Independence of Zimbabwe in 1980;
- (c) the former colonial power has effectively repudiated Zimbabwe's just claims for reparations;
- (d) the people of Zimbabwe must therefore be enabled to reassert their rights and regain ownership of their land.

(2) In view of the overriding considerations set out in subsection (1), where agricultural land is acquired compulsorily for the resettlement of people in accordance with a programme of land reform, any compensation payable must reflect an equitable balance between the public interest and the interests of those from whom the land is acquired.

(3) In the assessment of compensation for the compulsory acquisition of agricultural land, regard must be had to the following factors—

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

58 Freedom from arbitrary eviction

A law may not permit anyone to be evicted from their home, or to have their home demolished, unless an order of court, made after consideration of all the relevant circumstances, has authorised the eviction or demolition.

59 Right to privacy

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

- (a) their home entered without their permission;
- (b) their person, home or property searched;

- (c) their possessions seized; or
 - (d) the privacy of their communications, including electronic and telephonic communications, infringed.
- (2) A search of a person's body and the clothing he or she is wearing—
- (a) must be made by someone of the same sex; and
 - (b) must be conducted with strict regard to decency.

60 Political rights

- (1) Subject to this Constitution, every Zimbabwean citizen has the right to free, fair and regular elections for any legislative body, including a provincial council and a local authority, established under this Constitution or any Act of Parliament.
- (2) Subject to this Constitution, every adult Zimbabwe citizen has the right—
- (a) to vote in referendums and elections for any legislative body established under this Constitution, and to do so in secret; and
 - (b) to stand for public office and, if elected, to hold office.

PART III

LIMITATIONS ON FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

61 Extent to which fundamental rights and freedoms may be limited

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

62 General limitations

- (1) The rights and freedoms set out in Part II must be exercised reasonably and with due regard for the rights and freedoms of other persons under that Part.
- (2) Subject to this Constitution, the rights and freedoms set out in Part II may be limited in terms of a law that is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.
- (3) In determining whether or not a law limiting a right or freedom is reasonable and justifiable for the purposes of subsection (1), all relevant factors must be taken into account, including—
- (a) the nature of the right or freedom;
 - (b) the purpose of the limitation, in particular whether it is imposed in the interests of defence, public safety, public order, public morality, public health, regional or town planning or the general public interest;
 - (c) the extent of the limitation, in particular whether it permits due recognition to be given to the rights and freedoms of others;
 - (d) the relation between the limitation and its purpose, in particular whether it imposes greater restrictions on the right or freedom concerned than are necessary to achieve its purpose; and
 - (e) whether there are any less restrictive means of achieving the purpose of the limitation.

63 Limitations during emergency

In addition to the limitations permitted by section *sixty-two*, the rights and freedoms set out in Part II may be further limited by a written law providing for measures to deal with situations arising during a period of public emergency, but only to the extent permitted by the Second Schedule.

PART IV

ENFORCEMENT OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

64 Application to Constitutional Court for redress

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

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

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

65 Reference of question to Constitutional Court

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

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

66 Jurisdiction of Constitutional Court

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

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

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

(4) A written law may—

- (a) confer additional powers on the Constitutional Court;

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

67 Saving of jurisdiction of other courts

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

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

- (1) If an issue arises in legal proceedings as to whether or not a law infringes a right or freedom set out in Part II, the Attorney-General is entitled—
 - (a) to be heard by the court on that issue; and
 - (b) to appeal against the court's decision, if the court decides that the law does infringe a right or freedom set out in Part II.
- (2) The Attorney-General may exercise his or her right of appeal under subsection (1)(b) even if he or she did not appear in the proceedings concerned.

69 Right of Minister to make representations in certain constitutional cases

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

70 Right of persons detained under law declared unconstitutional

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

CHAPTER IV

CITIZENSHIP

71 Zimbabwean Citizenship

- (1) There is a common Zimbabwean citizenship and all citizens are equal, that is to say citizens are entitled, subject to this Constitution, to the rights, privileges and benefits of citizenship and are subject to the duties and obligations of citizenship.
- (2) It is the duty of every Zimbabwean citizen to observe this Constitution and to respect its ideals and institutions, including the national flag and the national anthem.
- (3) Every Zimbabwean citizen is entitled to the protection of the State wherever he or she may be.
- (4) Zimbabwean citizenship may be acquired by birth, descent or registration.

72 Citizenship by birth

(1) Everyone born in Zimbabwe is a Zimbabwean citizen by birth if either of his or her parents was a Zimbabwean citizen when he or she was born.

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

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

73 Citizenship by descent

(1) Anyone born outside Zimbabwe is a Zimbabwean citizen by descent if—

- (a) when he or she was born, either of his or her parents was a Zimbabwean citizen by birth or registration; and
- (b) the birth is registered in accordance with the law relating to the registration of births.

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

74 Citizenship by registration

(1) An Act of Parliament may provide for—

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

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

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

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

75 Powers of Parliament in relation to citizenship

An Act of Parliament may provide for—

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

CHAPTER V
THE EXECUTIVE

PART I
EXECUTIVE AUTHORITY

76 Executive authority

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

PART II
THE PRESIDENT

77 The President

The President is the Head of State and the Commander-in-Chief of the Defence Forces.

78 Duty of President to uphold Constitution

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

79 Qualifications for election as President

- (1) A person qualifies for election as President if he or she—
 - (a) is a citizen of Zimbabwe by birth;
 - (b) is registered as a voter; and
 - (c) is at least forty years old.
- (2) A person is disqualified for election as President if—
 - (a) he or she has already held office as President for two terms; or
 - (b) within five years before the date of the election, he or she has been convicted inside or outside Zimbabwe of any offence and sentenced to imprisonment for twelve months or more, whether or not—
 - (i) the sentence was wholly or partly suspended; or
 - (ii) he or she was granted a pardon.

80 Election of President

- (1) The election of a President must take place not more than ninety days—
 - (a) before the expiry of a President's term of office; or
 - (b) after a President dies, resigns or is removed from office;

but the Electoral Law may make provision for an election to take place outside these periods in exceptional circumstances.

(2) The President is elected by registered voters throughout Zimbabwe and the procedure for the election is as prescribed in the Electoral Law.

81 Assumption of office by President

(1) A person elected as President assumes office—

- (a) on the day the previous President's term of office expires; or
- (b) if he or she has been elected following the death, resignation or removal from office of the previous President, on the day he or she is declared to be elected.

(2) Before taking office, a person elected as President must take the Presidential oath or affirmation in the form set out in the First Schedule.

82 Tenure of office of President

(1) In this section—

“term of office” includes part of a term of office.

(2) The term of office of the President is a period of five years and no one may hold office as President for more than two terms.

83 Resignation of President

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

84 Impeachment of President

(1) The Senate, sitting as a court, at the request of at least two-thirds of the Members of the National Assembly, may impeach and remove the President from office for—

- (a) treason or wilful violation of this Constitution;
- (b) failure to obey, uphold and defend this Constitution;
- (c) inability to exercise the functions of the office because of physical or mental incapacity; or
- (d) serious misconduct.

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

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

(4) The Senate may resolve that a person removed from office as President is not entitled to receive all or any of the benefits of that office, but the Senate must not pass such a resolution in relation to a person who has been removed from office on the ground of inability to exercise the functions of the office because of physical or mental incapacity.

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

85 Presidential immunity

(1) While in office, the President is not liable to civil or criminal proceedings in any court for things done or omitted to be done in his or her personal capacity.

(2) After a person has left office as President, civil or criminal proceedings may be instituted against that person for things done or omitted to be done—

(a) before he or she became President; or

(b) in his or her personal capacity while he or she was President.

(3) The running of prescription in relation to any debt or liability of the President arising before or during his or her term of office is suspended while he or she remains President.

86 Acting President

If the office of President is vacant or the President is absent from Zimbabwe or unable to exercise his or her functions as President, the Prime Minister acts as President or, if the Prime Minister is unable to do so, a Minister designated for such an eventuality by the President in consultation with the Prime Minister.

87 Remuneration of President and Acting President

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

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

(3) The salary, allowances and other benefits of the President and any Acting President must not be reduced during the period they hold office as such.

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

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

(2) A former President must not, directly or indirectly, hold any public office or be employed by any other person while he or she is receiving a pension from the State as former President.

PART III

THE GOVERNMENT

89 Prime Minister

The Prime Minister is the Head of Government.

90 Appointment of Prime Minister

(1) The President appoints as Prime Minister a person who—

(a) is a Member of the National Assembly; and

(b) is best able to command a majority in Parliament.

(2) Before taking office, the Prime Minister must take the Prime Ministerial oath or affirmation in the form set out in the First Schedule.

91 Prime Minister not to hold other office or employment

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

92 Functions of Prime Minister

It is the function of the Prime Minister to—

- (a) direct the operations of Government;
- (b) conduct Government business in Parliament; and
- (c) exercise any other function, including the administration of any Act of Parliament or of any Ministry or department, that the President may assign to him or her.

93 Acting Prime Minister

If a Prime Minister is absent from Zimbabwe or is unable to exercise his or her functions, the President, acting on the advice of the Prime Minister, may appoint a Minister to act as Prime Minister.

94 Tenure of office of Prime Minister

The office of Prime Minister becomes vacant—

- (a) if the President removes him or her from office—
 - (i) on the ground that he or she is no longer able to command a majority in Parliament; or
 - (ii) following a vote of no confidence in the Government passed by the National Assembly;
- (b) if he or she resigns from office by notice in writing to the President; or
- (c) upon the assumption of office by a new President.

95 Appointment of Ministers

(1) The President, acting on the advice of the Prime Minister, appoints Ministers and assigns functions to them, including the administration of any Act of Parliament or of any Ministry or department.

(2) Not more than twenty Ministers may be appointed or hold office at any one time unless the National Assembly and the Senate, by resolutions passed by at least two-thirds of all their members, resolve that the number of Ministers may be increased.

(3) Ministers are appointed from among Senators or Members of the National Assembly, but up to three may be appointed from outside Parliament if their appointment is approved by the Senate.

(4) Ministers who are not Members of Parliament may sit and speak, but not vote, in the Senate or the National Assembly.

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

96 Minister not to hold other office or employment

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

97 Tenure of office of Ministers

- (1) The office of a Minister becomes vacant—
 - (a) if, on the advice of the Prime Minister, the President removes him or her from office;
 - (b) if he or she resigns from office by notice in writing to the President;
 - (c) if the Prime Minister resigns or is removed from office; or
 - (d) upon the assumption of office by a new President.
- (2) A Minister who was a Member of Parliament on appointment as Minister vacates his or her office as Minister upon ceasing to be a Member of Parliament, unless—
 - (a) there are fewer than three other Ministers who are not Members of Parliament, and the Senate has approved his or her continuing in office as Minister; or
 - (b) he or she ceased to be a Member of Parliament as a result of a dissolution of Parliament, in which event he or she may continue to hold office as Minister until Parliament first meets after the dissolution.
- (3) A Minister who was not a Member of Parliament on appointment as Minister ceases to be a Minister if circumstances arise that would result in his or her seat becoming vacant were he or she a Member of Parliament, except that in the event of a dissolution of Parliament he or she may continue to hold office as Minister until Parliament first meets after the dissolution.

98 Cabinet

- (1) There must be a Cabinet consisting of the President, the Prime Minister and such Ministers as the President may determine with the approval of the Prime Minister.
- (2) A Minister holds office as a member of the Cabinet during the pleasure of the Prime Minister but a Minister—
 - (a) ceases to hold office as a member of the Cabinet if he or she ceases to be a Minister;
 - (b) may, by notice in writing to the President, resign from Cabinet.
- (3) Cabinet meetings are presided over by the President.

99 Vote of no confidence in Government

- (1) Parliament may, by resolution passed by at least two-thirds of all its members at a joint sitting, pass a vote of no confidence in the Government.
- (2) A motion for the resolution for a vote of no confidence may be moved only if—
 - (a) at least seven days' notice of the motion has been given to the Speaker; and
 - (b) the notice of motion has been signed by at least one-third of all the Members of the National Assembly.
- (3) A motion for a vote of no confidence—
 - (a) must be debated in a joint sitting of the two Houses of Parliament within twenty-one days after the Speaker received the notice of the motion; and

- (b) must be voted on within seven consecutive sittings after it was moved, otherwise it is regarded as lost.
- (4) Where Parliament passes a vote of no confidence in the Government, the President must, within fourteen days, either—
 - (a) remove the Prime Minister and every Minister from office, unless they have already resigned as a result of the resolution, and appoint a Prime Minister; or
 - (b) dissolve Parliament.
- (5) If the President does not act in accordance with subsection (4), he or she must resign.

PART IV

EXECUTIVE FUNCTIONS

100 Executive functions of President

- (1) The President has the powers conferred by this Constitution and by any Act of Parliament or other law, including those necessary to exercise the functions of Head of State.
- (2) The President may act in his or her own deliberate judgement with respect to—
 - (a) the prorogation or dissolution of Parliament; and
 - (b) the appointment or removal of the Prime Minister.
- (3) The President, acting in consultation with the Prime Minister and with the approval of the Senate, has power to—
 - (a) make appointments to public offices that this Constitution or any Act of Parliament requires or permits the President to make;
 - (b) appoint, accredit, receive and recognise diplomatic agents and consular officers; and
 - (c) conclude or execute conventions, treaties and agreements with foreign states and governments and international organisations.
- (4) The President, acting on the advice of the Prime Minister, has power to—
 - (a) appoint Ministers;
 - (b) assign or reassign functions to any Minister;
 - (c) call a referendum on any issue; and
 - (d) deploy the Defence Forces outside Zimbabwe in accordance with Chapter X; and
 - (e) declare war and make peace, subject to subsection (5).
- (5) A declaration of war or peace must be revoked unless it is approved by a resolution passed within seven sittings of the declaration by at least two-thirds of all the Members of Parliament at a joint sitting of the Senate and the National Assembly.
- (6) Except as otherwise provided in this Constitution, the President must act on the advice of the Cabinet in the exercise of any function other than those specified in this section

101 Prerogative of mercy

- (1) The President may exercise the prerogative of mercy, that is to say, may—
 - (a) grant a pardon to anyone concerned in or convicted of an offence against any law;

- (b) grant a respite from the execution of a sentence for any offence for an indefinite or specified period;
- (c) substitute a less severe punishment for that imposed for any offence; or
- (d) suspend for a specified period or remit the whole or part of a sentence for any offence or any forfeiture imposed in respect of any offence;

and may impose conditions on any such pardon, respite, remission or suspension.

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

102 Public emergencies

(1) The President, in consultation with the Prime Minister, may by proclamation in the *Gazette* declare that a state of public emergency exists in the whole or any part of Zimbabwe.

(2) A declaration of a state of public emergency ceases to have effect after seven days beginning with the day of publication of the proclamation in the *Gazette* unless, before the end of that period, the declaration is approved by at least two-thirds of all the Members of Parliament at a joint sitting of the Senate and the National Assembly.

(3) If Parliament is dissolved during the period of seven days after a state of public emergency has been declared, the declaration ceases to have effect after fourteen days beginning with the day of publication of the proclamation in the *Gazette* unless, before the end of that period, the declaration is approved by at least two-thirds of all the Members of Parliament at a joint sitting of the Senate and the National Assembly.

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

(5) If the Senate and the National Assembly resolve by a majority of all their members that a declaration of a state of public emergency should be continued for a further period not exceeding three months, the President must without delay, by proclamation in the *Gazette*, extend the declaration for that further period.

(6) If the Senate and the National Assembly both resolve that a declaration of a state of public emergency should be revoked or that it should apply within a smaller area, the President must without delay, by proclamation in the *Gazette*, revoke the declaration or provide that the declaration shall relate to that smaller area.

CHAPTER VI

THE LEGISLATURE

PART I

LEGISLATURE AND PARLIAMENT

103 Legislative authority

(1) The legislative authority of Zimbabwe vests in the Legislature, which consists of the President and Parliament.

(2) In exercising legislative authority—

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

104 Powers of legislature

Subject to this Constitution, the Legislature has power to originate and pass legislation with regard to any matter and may confer legislative functions on any person or authority.

105 Parliament

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

PART II

THE SENATE

106 Composition of Senate

(1) The Senate consists of sixty Senators, of whom—

- (a) five are elected in accordance with the Electoral Law, by secret ballot and under a system of proportional representation, from each of the ten provinces into which Zimbabwe is divided; and
- (b) ten are chiefs elected in accordance with the Electoral Law.

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

107 Election of President of Senate

(1) At its first sitting after a general election and before proceeding to any other business, the Senate must elect a presiding officer to be known as the President of the Senate.

(2) Whenever there is a vacancy in the office of President of the Senate, the Senate must without delay elect a person to fill the vacancy.

(3) A person is qualified for election as President of the Senate if he or she is a Senator or is qualified to be elected to the Senate.

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

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

108 President of Senate not a Senator

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

109 Resignation and vacation of office by President of Senate

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

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

(a) at the beginning of the day on which the Senate first meets after a general election;

(b) upon accepting any other public office or upon entering employment with any other person;

(c) upon becoming a Member of Parliament or the Speaker;

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

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

110 Deputy President of Senate

(1) As soon as practicable after electing a President of the Senate following a general election, the Senate must elect a Senator to be the Deputy President of the Senate.

(2) Whenever there is a vacancy in the office of Deputy President of the Senate, the Senate must without delay elect a person to fill the vacancy.

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

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

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

(a) upon ceasing to be a Senator;

(b) upon becoming a Member of the National Assembly or the Speaker;

(c) upon becoming the Prime Minister or a Minister;

(d) upon becoming a chairperson of a provincial council; or

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

PART III

THE NATIONAL ASSEMBLY

111 Composition of National Assembly

(1) The National Assembly consists of—

- (a) one hundred and fifty members who are elected in accordance with the Electoral Law, by secret ballot, from the one hundred and fifty constituencies into which Zimbabwe is divided; and
- (b) fifty members who are elected in accordance with the Electoral Law under a system of proportional representation based on the votes cast at a general election for the members referred to in paragraph (a).

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

112 Election of Speaker

(1) At its first sitting after a general election, and before proceeding to any other business, the National Assembly must elect a presiding officer to be known as the Speaker.

(2) Whenever there is a vacancy in the office of Speaker, the National Assembly must without delay elect a person to fill the vacancy.

(3) A person is qualified for election as Speaker if he or she is a Member of the National Assembly or is qualified to be elected to that House.

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

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

113 Speaker not a member of National Assembly

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

114 Resignation and vacation of office by Speaker

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

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

- (a) at the beginning of the day on which the National Assembly first meets after a general election;
- (b) upon accepting any other public office or upon entering employment with any other person;
- (c) upon becoming a Member of Parliament or the President of the Senate;
- (d) if circumstances arise that would require him or her to vacate his or her seat, if he or she were a Member of the National Assembly; or
- (e) if a resolution for his or her removal from office is passed by at least two-thirds of the total membership of the National Assembly.

115 Deputy Speaker

(1) As soon as practicable after electing a Speaker following a general election, the National Assembly must elect one of its Members to be the Deputy Speaker.

(2) Whenever there is a vacancy in the office of Deputy Speaker, the National Assembly must without delay elect a person to fill the vacancy.

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

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

(5) The Deputy Speaker must vacate his or her office—

(a) upon ceasing to be a Member of the National Assembly;

(b) upon becoming a Senator or the President of the Senate;

(c) upon becoming the Prime Minister or a Minister; or

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

PART IV

GENERAL MATTERS RELATING TO PARLIAMENT

116 Privileges and immunities of Parliament

(1) The President of the Senate, the Speaker, Senators and Members of the National Assembly have freedom of speech in the Senate and the National Assembly and in any committees of the Senate or the National Assembly and, while they must obey the rules and orders of the House concerned, they are not liable to civil or criminal proceedings, arrest or imprisonment or damages for anything they say in, produce before or submit to or for anything revealed as a result of anything they say, produce before or submit to, the Senate or the National Assembly.

(2) An Act of Parliament may prescribe—

(a) other privileges and immunities of Members of Parliament;

(b) the privileges, immunities and powers of the President of the Senate, the Speaker, the Clerk of Parliament and other officers of Parliament;

(c) penalties for persons who sit or vote in Parliament knowing or having reasonable grounds for knowing that they are not entitled to do so;

(d) a right of reply, through the President of the Senate or the Speaker, as the case may be, for persons who are unjustly injured by what is said about them in Parliament.

117 Oath or affirmation of Member of Parliament

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

118 Tenure of seat of Member of Parliament

(1) The seat of a Member of Parliament becomes vacant—

(a) on the dissolution of Parliament;

- (b) upon the Member resigning his or her seat by notice in writing to the President of the Senate or Speaker, as the case may be, or to the Clerk of Parliament;
- (c) upon the Member becoming President;
- (d) upon the Member becoming President of the Senate or Speaker or a member of the other House;
- (e) if the Member is absent from twenty-one consecutive sittings of any session without leave of the President of the Senate or the Speaker, as the case may be, and the Senate or the National Assembly, as the case may be, resolves by a vote of at least half of all its members that the seat should become vacant;
- (f) if the Member accepts public office or office as a member of a statutory body, provincial council or local authority or employment as an employee of a statutory body, provincial council or local authority;
- (g) if the Member was a public officer or a member or employee of a statutory body, a provincial council or a local authority when he or she became a Member of Parliament, and he or she fails to relinquish that office, membership or employment within fourteen days after becoming a Member of Parliament;
- (h) if the Member is convicted—
 - (i) in Zimbabwe of an offence; or
 - (ii) outside Zimbabwe of conduct which, if committed in Zimbabwe, would be an offence;

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

- A. the Member has received a free pardon; or
 - B. on appeal the Member's conviction is set aside or the sentence of imprisonment is reduced to less than six months or a punishment other than imprisonment is substituted;
- (i) if the Member has been declared insolvent under a law in force in Zimbabwe and has not been rehabilitated or discharged, or if the Member has made an assignment under such a law with his or her creditors which has not been rescinded or set aside;
 - (j) if the Member has ceased to belong to the political party of which he or she was a member when elected to Parliament and the political party concerned, by written notice to the President of the Senate or the Speaker, as the case may be, has declared that the Member ceased to represent its interests in Parliament;
 - (k) if the Member is certified to be mentally disordered or intellectually handicapped under any law in force in Zimbabwe; or
 - (l) if the Member has been convicted of an offence under the Electoral Law and has been declared by a court to be disqualified for registration as a voter or from voting at any election.

119 Expulsion or suspension of Member of Parliament

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

- (a) that the Member is unfit to continue as a Member of that House, the Member must immediately vacate his or her seat;
- (b) that the Member should be suspended from the service of that House for a period not exceeding six months, the Member is suspended for the period specified in the resolution.

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

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

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

- (a) must be prescribed in an Act of Parliament and is a charge upon the Consolidated Revenue Fund;
- (b) must not be reduced while they hold office; and
- (c) must continue to be paid to them after a dissolution until Parliament first meets or until they cease to hold office, whichever occurs the sooner.

(2) The remuneration paid to Members of Parliament must be prescribed in an Act of Parliament.

121 Clerk of Parliament and other staff

(1) In this section—

“Committee on Standing Rules and Orders of Parliament” means the committee of that name appointed for both Houses jointly under Standing Orders of the Senate and the National Assembly.

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

(3) The Clerk of Parliament must vacate his or her office if more than half of all the Members of the National Assembly resolve that he or she should be removed.

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

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

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

(6) An Act of Parliament may provide for the establishment and functions of a Parliamentary Service Commission to appoint and regulate the terms of service of members of the staff of Parliament, and if such a Commission is established any reference in this section to

the Committee on Standing Rules and Orders of Parliament must be construed as a reference to that Commission.

122 Parliamentary Legal Committee

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

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

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

123 Functions of Parliamentary Legal Committee

(1) The Parliamentary Legal Committee must examine—

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

and must report to Parliament or the Minister or authority, as the case may be, whether it considers any provision in the Bill, instrument or draft contravenes or, if enacted, would contravene any provision of this Constitution.

(2) When examining any statutory instrument or draft statutory instrument the Parliamentary Legal Committee may report to Parliament or to the Minister or authority concerned whether it considers any provision in the instrument is or, if enacted, would be *ultra vires* the enabling Act of Parliament.

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

PART V

PROCEDURE IN PARLIAMENT

124 Person presiding in Senate

The person presiding at any sitting of the Senate must be—

- (a) the President of the Senate or, in his or her absence, the Deputy President of the Senate; or
- (b) in the absence of the President or Deputy President of the Senate, a Senator elected for the purpose by the Senate, but that Senator must not be a Minister or chairperson of a provincial council.

125 Person presiding in National Assembly

The person presiding at any sitting of the National Assembly must be—

- (a) the Speaker or, in his or her absence, the Deputy Speaker, or
- (b) in the absence of the Speaker or Deputy Speaker, a Member of the National Assembly elected for the purpose by the National Assembly, but that Member must not be the Prime Minister or a Minister.

126 Person presiding at joint sittings of Parliament

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

127 Quorum in Parliament

(1) The Senate and the National Assembly must prescribe in Standing Orders the minimum number of members who must be present for the conduct of business.

(2) The quorum prescribed in Standing Orders for the final reading of Bills must not be less than one-quarter of the membership of the House concerned.

128 Decisions of Parliament

Except where this Constitution provides otherwise—

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

129 Right of Prime Minister, Ministers and Attorney-General to sit and speak in either House

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

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

130 Presidential addresses and messages to Parliament

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

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

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

131 Standing Orders

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

- (a) the appointment of committees and the delegation of functions to them;
- (b) the order and conduct of business and proceedings in and between the Houses;

- (c) the passing of Bills; and
- (d) the manner in which the powers, privileges and immunities of the Houses may be exercised and upheld.

132 Validity of proceedings in Parliament

(1) A vacancy in the membership of the Senate or the National Assembly, or the suspension of a Member of Parliament, does not prevent the Senate or the National Assembly from transacting its business.

(2) The fact that a person who was not entitled to do so sat and voted in the Senate or the National Assembly or otherwise took part in the proceedings of the Senate or the National Assembly does not invalidate the proceedings.

PART VI

LEGISLATIVE POWERS

133 Bills

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

134 Procedure for passing Bills

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

135 Presidential assent to Bills

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

(2) If the President withholds his or her assent to a Bill, the Bill must be returned to the House from which it originated without delay, and in any event within fourteen days after the President withheld his assent, and it must not be presented to the President again unless, within six months, at least two-thirds of all the members of the Senate and the National Assembly, at a joint sitting, have resolved that the Bill should be presented to the President for assent.

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

(4) If a Bill is presented to the President for assent and it is not accompanied by a certificate which is required by any provision of this Constitution, the President must not assent to the Bill until the certificate is produced.

136 Acts of Parliament and their commencement

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

(2) An Act of Parliament comes into operation at the beginning of the day on which it is published in the *Gazette*, or at the beginning of any other day that may be specified in the Act or some other enactment.

137 Enrolment of Acts

(1) When an Act of Parliament has been assented to by the President, the Clerk of Parliament must transmit a fair copy of it, authenticated by the President's signature and the public seal of Zimbabwe, to be enrolled in the office of the Registrar of the High Court, and that copy is conclusive evidence of the provisions of the Act unless the Act is revised under an Act of Parliament referred to in subsection (2).

(2) An Act of Parliament may provide for the statute law, or any part of it, to be published in revised form and may further provide that—

- (a) upon being published, the revision is the sole authentic version of the statutes contained in it;
- (b) a copy of the revision must be deposited in the office of the Registrar of the High Court; and
- (c) the copy that is deposited in the office of the Registrar of the High Court is conclusive evidence of the provisions of the statutes contained in it.

(3) The validity of an Act of Parliament or a revision of the statute law does not depend on its enrolment or deposit under this section.

138 Amendment of Constitution

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

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

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

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

- (a) section *one*, which deals with the Republic;
- (b) section *seven*, which deals with the supremacy of this Constitution;
- (c) any provision of Chapter II, dealing with fundamental constitutional principles and national objectives;
- (d) any provision of Chapter III, dealing with fundamental human rights and freedoms and their enforcement;
- (e) section *seventy-six*, which deals with the executive authority of Zimbabwe;
- (f) section *eighty-two*, which deals with the tenure of office of the President;
- (g) section *one hundred and three*, which deals with the legislative authority of Zimbabwe;
- (h) section *one hundred and five*, which deals with the composition of Parliament;
- (i) this section;
- (j) section *one hundred and forty-eight*, which deals with the judicial authority of Zimbabwe;
- (k) section *one hundred and fifty*, which deals with the independence of the judiciary;

- (1) section *two hundred and fifty-three*, which deals with the independence of Commissions established by this Constitution;

is not regarded as having been passed by Parliament unless, at the final vote on the Bill in each House of Parliament, it receives the affirmative votes of at least three-quarters of the total membership of the House.

(5) A Constitutional Bill to which subsection (4) applies must not be presented to the President for assent unless every amendment that it will make to a provision specified in that subsection has been approved by a majority of persons voting at a referendum.

(6) Registered voters and Zimbabwean citizens who are qualified to be registered as voters are entitled to vote at a referendum referred to in subsection (5).

(7) A Constitutional Bill that amends any provision of this Constitution, other than one specified in subsection (4), is not regarded as having been passed by Parliament unless, at the final vote on the Bill in each House of Parliament, it receives the affirmative votes of at least two-thirds of the total membership of the House.

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

- (a) certificates from the President of the Senate and the Speaker stating the number of affirmative votes the Bill received at the final vote on it in the Senate or the National Assembly, as the case may be; and
 - (b) in the case of a Constitutional Bill to which subsection (4) applies, a certificate from the chairperson of the Independent Electoral Commission stating that the amendments that will be made by the Bill have been approved by a majority of persons voting at a referendum.
- (9) An Act of Parliament that provides for the revision of the statute law may permit—
- (a) the renumbering of the provisions of this Constitution to reflect amendments that have been made to them; and
 - (b) the amendment of references in this Constitution to provisions that have been renumbered;

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

PART VII

SUMMONING, PROROGATION AND DISSOLUTION OF PARLIAMENT

139 Sessions

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

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

(3) The interval between the last sitting of Parliament in any one session and the first sitting of Parliament in the next session must never exceed one hundred and eighty days.

140 First and special sittings of Parliament

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

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

141 Power of Parliament to determine its sittings

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

142 Life of Parliament

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

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

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

143 Prorogation or dissolution of Parliament

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

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

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

PART VIII

ELECTIONS

144 General elections

A general election must be held not later than four months after Parliament has been dissolved.

145 Qualifications of voters

(1) The qualifications for registration as a voter and for voting at elections are set out in the Third Schedule.

(2) The Electoral Law may provide additional qualifications and disqualifications for voters and voting, but they must not be inconsistent with the Third Schedule.

146 Electoral Law

An Act of Parliament must provide for—

- (a) the registration of voters;

- (b) the election of Senators and Members of the National Assembly, including elections for the purpose of filling casual vacancies in Parliament;
- (c) the conduct of referendums.

147 Delimitation of constituencies

(1) For the purpose of elections to the National Assembly, Zimbabwe must be divided into one hundred and fifty constituencies.

(2) Subject to this section, the Independent Electoral Commission must fix the boundaries of the constituencies and must revise the boundaries from time to time whenever the Commission considers it necessary to do so.

(3) The boundaries of constituencies must be fixed with due consideration to—

- (a) physical features;
- (b) means of communication;
- (c) the geographical distribution of registered voters;
- (d) any community of interest between registered voters in any area; and
- (e) any existing electoral boundaries.

(4) The Independent Electoral Commission must endeavour to ensure that the number of registered voters in each constituency is as nearly as possible equal to the number of registered voters in each of the other constituencies, but if necessary the Commission may permit the number of registered voters in any constituency to be twenty *per centum* more or less than the average number of registered voters in the other constituencies.

CHAPTER VII

THE JUDICIARY

PART I

THE JUDICIARY AND THE COURTS

148 Judicial authority

(1) The judicial authority of Zimbabwe vests in the courts which comprise—

- (a) the Constitutional Court;
- (b) the Supreme Court;
- (c) the High Court;
- (d) the Magistrates Courts;
- (e) Customary-law Courts; and
- (f) any other courts established by Act of Parliament.

(2) An Act of Parliament may vest—

- (a) adjudicating functions in any other person or authority; or
- (b) other functions in any court or in a member of the judiciary.

149 The judiciary

The judiciary of Zimbabwe consists of—

- (a) the Chief Justice, who is the head of the judiciary;
- (b) the judges of the Constitutional Court;
- (c) the judges of the Supreme Court;
- (d) the Judge President, who is in charge of the High Court;
- (e) the judges of the High Court;
- (f) persons presiding over other courts which may be established by an Act of Parliament;
- (g) magistrates; and
- (h) traditional leaders and other persons presiding over Customary-law Courts.

150 Independence of judiciary

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

151 Constitutional Court

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

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

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

(3) The Constitutional Court consists of—

- (a) the Chief Justice, the judges of the Supreme Court and the Judge President; and
- (b) other judges of the Constitutional Court who may be appointed in accordance with an Act of Parliament.

(4) An Act of Parliament may specify the number of judges of the Supreme Court and other judges who constitute the Constitutional Court when it sits to determine any matter, but whenever it sits the number of judges appointed to the Court under paragraph (b) of subsection (3) must be one less than the number of judges referred to in paragraph (a) of that subsection.

(5) Any persons, other than judges, who are appointed to the Constitutional Court must be qualified to be judges and must be chosen for their knowledge of constitutional law, and their appointment must be approved by the Senate.

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

152 Supreme Court

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

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

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

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

153 High Court

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

(2) The High Court consists of—

(a) the Chief Justice;

(b) the Judge President, who is in charge of the High Court but is subject to the directions of the Chief Justice; and

(c) the other judges of the High Court.

(3) The Judicial Service Commission may determine from time to time the number of judges that constitute the High Court.

(4) After consultation with the Judge President, the Chief Justice may appoint a judge of the Supreme Court to act as a judge of the High Court.

154 Magistrates Courts

An Act of Parliament must provide for the establishment, composition and jurisdiction of Magistrates Courts

155 Customary-law Courts

An Act of Parliament must provide for the establishment, composition and jurisdiction of Customary-law Courts, that is to say, courts whose jurisdiction consists primarily in the application of customary law.

156 Other courts

Acts of Parliament may provide for the establishment, composition and jurisdiction of other courts.

157 Criminal jurisdiction of courts

No one except the following courts may exercise or be given jurisdiction in criminal matters—

- (a) the Constitutional Court, the Supreme Court, the High Court, Magistrates Courts and Customary-law Courts;
- (b) a court or tribunal that deals with cases under a disciplinary law, to the extent that the jurisdiction is necessary for the enforcement of discipline in the disciplined force concerned; and
- (c) any other court or tribunal, provided that the jurisdiction does not permit the court to impose the death penalty or sentences of imprisonment or corporal punishment.

PART II

APPOINTMENT AND TENURE OF JUDGES

158 Qualifications of judges

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

- (a) has been entitled to practise as a legal practitioner for at least seven years—
 - (i) in Zimbabwe; or
 - (ii) if he or she is a citizen of Zimbabwe, in a country whose common law is Roman-Dutch or English and English is an official language;
- or
- (b) has been a judge of a court with unlimited jurisdiction in civil or criminal matters in a country whose common law is Roman-Dutch or English, and English is an official language.

159 Appointment of judges

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

(2) Judges other than the Chief Justice are appointed by the President from a list of names submitted to him or her by the Judicial Service Commission.

(3) The appointment of the Chief Justice and other judges must be approved by the Senate.

160 Acting judges

(1) If the office of the Chief Justice is vacant or the Chief Justice is unable to exercise the functions of his or her office, the most senior judge of the Supreme Court must act as Chief Justice.

(2) The President may appoint a person as an acting judge from a list of names submitted to him or her by the Judicial Service Commission.

(3) The appointment of an acting judge must be approved by the Senate.

161 Tenure of office of judges

(1) A judge must retire at the age of sixty-five years unless, before attaining that age, he or she—

- (a) gives written notice to the President and the Judicial Service Commission of election to retire at the age of seventy years; and
- (b) submits to the President and the Judicial Service Commission a satisfactory medical report showing that he or she is mentally and physically fit to continue in office as a judge;

and in that event the judge must be permitted to continue in office.

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

162 Removal of judges from office

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

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

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

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

- (a) one must be a person who—
 - (i) has served as a judge in Zimbabwe; or
 - (ii) holds or has held office as a judge of a court with unlimited jurisdiction in civil or criminal matters in a country whose common law is Roman-Dutch or English, and English is an official language;
- (b) one must be chosen from a panel of at least three legal practitioners of at least seven years' standing who have been nominated by the association, constituted under an Act of Parliament, which represents legal practitioners in Zimbabwe; and
- (c) the remainder must be persons referred to in paragraph (a) or (b).

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

(6) A tribunal appointed under this section has the same rights and powers as commissioners under the Commissions of Inquiry Act [*Chapter 10:07*], or any law that replaces that Act.

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

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

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

PART III

PROVISIONS APPLICABLE TO MEMBERS OF JUDICIARY GENERALLY

163 Appointment of members of judiciary to be approved by Senate

Unless an Act of Parliament specifically provides to the contrary, members of the judiciary, including judges, must not enter upon their office until their appointments have been approved by the Senate.

164 Appointments of judicial officers other than judges

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

165 Oath of office

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

166 Remuneration of members of judiciary

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

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

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

167 Security of tenure of members of judiciary

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

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

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

PART IV

JUDICIAL SERVICE COMMISSION

169 Judicial Service Commission

- (1) There is a Judicial Service Commission consisting of—
 - (a) the Chief Justice, who is the chairperson of the Commission;
 - (b) the Judge President;
 - (c) the Attorney-General;
 - (d) a member of the Public Service Commission nominated by the Commission; and
 - (e) five other members appointed by the President with the approval of the Senate.
- (2) Of the persons appointed to the Judicial Service Commission by the President—
 - (a) two must be legal practitioners, of whom—
 - (i) one must be nominated by the association, constituted under an Act of Parliament, which represents legal practitioners in Zimbabwe; and
 - (ii) one must be a lecturer in law at an institution of higher learning in Zimbabwe;
 - (b) two must be chosen for their ability and experience in administration or their professional qualifications or their general suitability for appointment; and
 - (c) one must be a traditional leader.

170 Functions of Judicial Service Commission

The Judicial Service Commission has the functions that are conferred or imposed on it by this Constitution or an Act of Parliament.

CHAPTER VIII

ATTORNEY-GENERAL

171 Appointment of Attorney-General

- (1) There must be an Attorney-General, whose office is a public office but does not form part of the Public Service.
- (2) The Attorney-General is appointed by the President in consultation with the Prime Minister and the Judicial Service Commission and with the approval of the Senate.
- (3) A person is qualified for appointment as Attorney-General if he or she is qualified for appointment as a judge.
- (4) Before commencing the duties of office, the Attorney-General must take the oath of office in the form set out in the First Schedule.

172 Functions and powers of Attorney-General

- (1) The Attorney-General is the principal legal adviser to the Government.
- (2) By virtue of office, the Attorney-General is—
 - (a) a member of the Cabinet, but does not have the right to vote; and

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

(3) The Attorney-General has power—

(a) to undertake criminal prosecutions on behalf of the State in any court, other than a court established by a disciplinary law;

(b) to prosecute or defend appeals from decisions in criminal proceedings undertaken on behalf of the State;

(c) to take over and continue criminal proceedings that have been instituted by other persons or authorities in courts, other than courts established by a disciplinary law;

(d) to prosecute or defend appeals from decisions in proceedings taken over by him or her; and

(e) at any stage before judgment is delivered, to discontinue—

(i) criminal proceedings he or she has undertaken or taken over; or

(ii) any appeal from a decision in criminal proceedings he or she has taken over;

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

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

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

(a) providing the Government with legal advice and legal services;

(b) drawing up contracts, treaties and other documents for the Government; and

(c) providing the Government with legal representation in courts in Zimbabwe.

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

(7) An Act of Parliament may confer or impose additional functions on the Attorney-General.

173 Independence of Attorney-General

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

174 Conditions of service of Attorney-General

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

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

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

175 Removal from office of Attorney-General

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

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

176 Staff of Attorney-General

An Act of Parliament may provide for the appointment, functions and conditions of service of persons to assist the Attorney-General in the exercise of his or her functions and responsibilities.

177 Independent prosecutor

(1) If the Attorney-General considers it necessary to investigate the conduct of any public officer or to institute criminal proceedings against any public officer, the Attorney-General may appoint an independent prosecutor for the purpose.

(2) In appointing an independent prosecutor, the Attorney-General must act on the advice of the Judicial Service Commission.

(3) The appointment of an independent prosecutor is subject to approval by the Senate.

(4) In the exercise of his or her functions, an independent prosecutor appointed under this section has the same powers in relation to criminal proceedings as the Attorney-General.

CHAPTER IX

PUBLIC SERVICE

178 Public Service

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

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

(a) members of the Defence Forces, the Police Service or the Prison Service;

(b) judges;

(c) members of Commissions established by this Constitution; and

(d) anyone else whose office or post is stated, by this Constitution or an Act of Parliament, not to form part of the Public Service.

179 Organisation and administration of Public Service

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

180 Public Service Commission

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

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

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

181 Functions of Public Service Commission

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

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

182 Permanent Secretaries

(1) The Secretary to the President, the Secretary to the Prime Minister, the Secretary to the Cabinet and Permanent Secretaries of Ministries must be appointed by the President on the advice of the Public Service Commission and with the approval of the Senate.

(2) Before appointing a person to a post referred to in subsection (1), the President must consult the Prime Minister.

(3) An Act of Parliament may provide for the removal from office of the Secretary to the President, the Secretary to the Prime Minister, the Secretary to the Cabinet and Permanent Secretaries of Ministries.

183 Ambassadors and other principal representatives of Zimbabwe abroad

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

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

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

(4) An Act of Parliament may require the appointment of diplomatic staff, in addition to ambassadors and principal representatives, to be approved by the Senate.

CHAPTER X
DEFENCE FORCES

184 Defence Forces

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

185 Primary function of Defence Forces

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

186 Deployment of Defence Forces

(1) With the authority of the President, given in consultation with the Prime Minister, the Defence Forces may be deployed in Zimbabwe—

- (a) in defence of Zimbabwe;
- (b) to co-operate with the Police Service in the maintenance of public order; or
- (c) to co-operate with the Police Service and other civilian authorities in the event of an emergency or disaster.

(2) With the authority of the President, given in consultation with the Prime Minister, the Defence Forces may be deployed outside Zimbabwe in fulfilment of an international commitment or in defence of Zimbabwe's national security or national interests.

(3) A deployment of the Defence Forces outside Zimbabwe, otherwise than in fulfilment of an international commitment, must be rescinded unless it is approved by a resolution passed within seven sittings of the deployment by at least two-thirds of all the Members of Parliament at a joint sitting of the Senate and the National Assembly.

187 Political accountability for deployment of Defence Forces

When the Defence Forces are deployed—

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

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

- (i) the reasons for the deployment of the Defence Forces;
- (ii) the place where the Defence Forces are deployed; and
- (iii) the period for which the Defence Forces are expected to be deployed.

188 Command of Defence Forces

(1) The President, as Commander-in-Chief of the Defence Forces, has power to determine their operational use, but must consult the Prime Minister whenever he or she does so.

(2) An Act of Parliament may provide that—

- (a) the Defence Forces are to be under the command of a single Commander; or

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

(3) Every Commander of the Defence Forces, and every Commander of a branch of the Defence Forces, must be appointed by the President in consultation with the Defence Forces Service Commission.

(4) Every Commander of the Defence Forces, and every Commander of a branch of the Defence Forces, must exercise his or her command in accordance with the general directions of the Minister responsible for defence acting under the authority of the President.

189 Organisation and administration of Defence Forces

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

190 Defence Forces Service Commission

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

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

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

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

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

CHAPTER XI

POLICE SERVICE

191 Police Service and its functions

(1) There is a Police Service of Zimbabwe, which is responsible for—

- (a) detecting, preventing and investigating crime;
- (b) preserving internal security;

- (c) maintaining public order;
 - (d) protecting and securing the inhabitants of Zimbabwe and their property; and
 - (e) upholding and enforcing this Constitution and the law without fear or favour.
- (2) The Police Service must exercise its functions in co-operation with—
- (a) any intelligence service that may be established by law;
 - (b) any body that may be established by law for the purpose of detecting, preventing or investigating particular classes of offences; and
 - (c) regional and international bodies formed to combat crime.

192 Commissioner of Police

(1) The Police Service is under the command of a Commissioner of Police appointed by the President on the advice of the Police Service Commission.

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

193 Organisation and administration of Police Service

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

194 Police Service Commission

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

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

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

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

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

CHAPTER XII

PRISON SERVICE

195 Prison Service and its function

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

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

196 Commissioner of Prisons

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

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

197 Organisation and administration of Prison Service

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

198 Prison Service Commission

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

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

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

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

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

CHAPTER XIII

INDEPENDENT COMMISSIONS

PART I

INDEPENDENT ELECTORAL COMMISSION

199 Establishment and composition of Independent Electoral Commission

(1) There is an Independent Electoral Commission consisting of a chairperson and at least three and not more than six other members appointed by the President.

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

(3) The appointment of the chairperson and the other members of the Independent Electoral Commission must be approved by the Senate.

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

200 Functions of Independent Electoral Commission

The Independent Electoral Commission has the following functions—

(a) to organise, conduct and supervise—

(i) Presidential and Parliamentary elections;

(ii) elections to the governing bodies of provincial councils and local authorities;
and

(iii) referendums;

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

(b) to register voters and to ensure the proper maintenance of voters' rolls;

(c) to determine the boundaries of constituencies;

(d) to consider and advise on all proposals to alter the boundaries of wards or other electoral divisions of provincial council or local authority areas;

(e) to formulate and implement civic educational programmes relating to elections;

(f) to exercise any other functions that may be conferred or imposed on the Commission by this Constitution or an Act of Parliament.

201 Disqualification for appointment to Independent Electoral Commission

A person is not qualified for appointment to the Independent Electoral Commission if he or she is a public officer, other than a judge, or a member or employee of a statutory body, a provincial council or a local authority.

202 Members of Independent Electoral Commission not to be members of political parties

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

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

203 Remuneration, allowances and benefits of members of Independent Electoral Commission

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

204 Removal of member of Independent Electoral Commission from office

A member of the Commission may be removed from office by the President with the approval of the Senate—

- (a) for inability to exercise the functions of his or her office arising out of physical or mental incapacity;
- (b) for misconduct;
- (c) for incompetence; or
- (d) if he or she becomes disqualified for appointment to the Commission.

205 Provisions to ensure independence of Independent Electoral Commission

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

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

206 Reports of Independent Electoral Commission

In addition to any other report the Independent Electoral Commission is required to make under this Constitution or any other law, the Commission must without delay submit a report to Parliament on—

- (a) the conduct of every Presidential and Parliamentary election;
- (b) every delimitation of constituencies;
- (c) every referendum; and
- (d) such provincial council or local authority elections as Parliament may require to be reported on.

PART II

HUMAN RIGHTS AND SOCIAL JUSTICE COMMISSION

207 Establishment and composition of Human Rights and Social Justice Commission

- (1) There is a Human Rights and Social Justice Commission consisting of—
 - (a) a chairperson and at least two other members who have been qualified for at least five years to practise as legal practitioners and who are appointed by the President on the advice of the Judicial Service Commission; and
 - (c) at least two and not more than seven other members appointed by the President.
- (2) Persons appointed to the Human Rights and Social Justice Commission must be chosen for their knowledge of and experience in the promotion of social justice or the protection of human rights and freedoms.
- (3) The appointment of the chairperson and the other members of the Human Rights and Social Justice Commission must be approved by the Senate.

208 Functions of Human Rights and Social Justice Commission

The Human Rights and Social Justice Commission has the following functions—

- (a) to promote awareness of and respect for human rights and freedoms at all levels of society;
- (b) to promote the development of human rights and freedoms and social justice;
- (c) to monitor and assess the observance of human rights in Zimbabwe;
- (d) to recommend to Parliament effective measures to promote human rights and social justice; and
- (e) to investigate the conduct of any authority or person, where it is alleged that any provision of Chapter III has been violated by that authority or person.

209 Powers of Human Rights and Social Justice Commission

(1) The Human Rights and Social Justice Commission may require any organs or agencies of the State or Government, including local government, to provide the Commission annually with information on the measures they have taken towards the realisation of the rights in Chapters II and III.

(2) An Act of Parliament may confer power on the Human Rights and Social Justice Commission—

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

those persons are kept there, and to make recommendations regarding those conditions to the Minister responsible for administering the law; and

- (d) to secure or provide appropriate redress for violations of human rights and for injustice.

PART III

ANTI-CORRUPTION COMMISSION

210 Establishment and composition of Anti-Corruption Commission

(1) There is an Anti-Corruption Commission consisting of at least four and not more than nine members appointed by the President.

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

- (a) at least one must be entitled to practise as a legal practitioner; and
- (b) at least one must be entitled to practise as an auditor or public accountant in Zimbabwe; and
- (c) at least one must have had not less than ten years' experience in the investigation of crime.

(3) The appointment of the members of the Anti-Corruption Commission must be approved by the Senate.

211 Functions of Anti-Corruption Commission

The Anti-Corruption Commission has the following functions—

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

212 Powers of Anti-Corruption Commission

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

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

PART IV

MEDIA COMMISSION

213 Establishment and functions of Media Commission

An Act of Parliament must establish a Media Commission to exercise the following functions—

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

214 Powers of Media Commission

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

- (a) to conduct investigations and inquiries into—
 - (i) any conduct or circumstance that appears to threaten freedom of the press; and
 - (ii) the conduct of the press, news media and broadcasting;and
- (b) to take disciplinary action against journalists and other persons employed in the press, news media or broadcasting who are found to have breached any law or any code of conduct applicable to them.

PART V

LAND COMMISSION

215 Establishment and functions of Land Commission

(1) An Act of Parliament must establish a Land Commission to exercise the following functions—

- (a) to monitor the operations of Government in matters relating to land and to report on those operations to the Government and Parliament;
- (b) to make recommendations to the Government for a national policy on the tenure, acquisition, use and distribution of land with a view to developing an open and equitable policy;
- (c) to make recommendations to the Government for a policy for the beneficial exploitation of natural resources by local communities;
- (d) to advise the Government on measures to protect and preserve land and other natural resources from abuse, pollution and degradation; and

(e) generally, to advise the Government on all issues relating to the tenure, distribution and use of land.

(2) An Act of Parliament may confer additional functions and powers on the Land Commission.

CHAPTER XIV

PUBLIC PROTECTOR

216 Public Protector

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

(2) The Public Protector is appointed by the President on the advice of the Judicial Service Commission and with the approval of the Senate.

(3) To be qualified for appointment as Public Protector, a person must—

(a) have knowledge of and experience in administration; and

(b) possess such other qualifications as may be prescribed by or under an Act of Parliament.

217 Functions of Public Protector

(1) The functions of the Public Protector are—

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

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

218 Conditions of service of Public Protector

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

219 Removal from office of Public Protector

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

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

220 Staff of Public Protector

An Act of Parliament may provide for the appointment, functions and conditions of service of persons to assist the Public Protector in the exercise of his or her functions and responsibilities.

CHAPTER XV

FINANCE

PART I

PARLIAMENTARY CONTROL OVER TAXATION, EXPENDITURE AND BORROWING

221 Parliamentary control over taxation

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

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

222 Parliament to monitor and control government expenditure

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

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

223 Limits of State borrowings, public debt and State guarantees

An Act of Parliament must set limits on—

- (a) borrowings by the State;
- (b) the public debt; and
- (c) debts and obligations whose payment or repayment may be guaranteed by the State.

PART II

CONSOLIDATED REVENUE FUND

224 Consolidated Revenue Fund

All fees, taxes and revenues of Zimbabwe, whatever their source, must be paid into a single Consolidated Revenue Fund unless an Act of Parliament—

- (a) requires or permits them to be paid into some other fund established for a specific purpose; or
- (b) permits the authority that received them to retain them in order to meet the authority's expenses.

225 Withdrawals from Consolidated Revenue Fund and other public funds

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

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

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

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

(4) An Act of Parliament may prescribe the way in which—

- (a) withdrawals are to be made from the Consolidated Revenue Fund and any other public fund; and
- (b) money in the Consolidated Revenue Fund and any other public fund is to be invested.

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

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

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

(3) For the purposes of this section—

“debt charges” includes interest, sinking fund charges, the repayment or amortisation of debt and all expenditure related to the raising of loans on the security of the Consolidated Revenue Fund and the service and redemption of debt created by those loans.

PART III

AUTHORISATION OF EXPENDITURE FROM CONSOLIDATED REVENUE FUND

227 Estimates of revenue and expenditure

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

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

(3) The estimated revenue and expenditure of each of the following bodies must be listed separately in the estimates laid before the National Assembly under this section—

- (a) every Commission established by this Constitution;
- (b) the Constitutional Court, the Supreme Court and the High Court;

- (c) the Attorney-General's Office; and
- (d) the Auditor-General's Office.

228 Information to be provided to Parliament

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

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

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

229 Appropriation Bills

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

- (a) provide for money to be issued from the Consolidated Revenue Fund to meet the approved expenditure; and
- (b) appropriate the money to the purposes specified in the estimates, under separate votes for the different heads of expenditure that have been approved.

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

230 Additional or supplementary appropriations

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

(2) If the National Assembly approves additional or supplementary estimates, an additional or supplementary Appropriation Bill must be introduced into the Assembly, providing for the necessary money to be issued from the Consolidated Revenue Fund to meet

the expenditure concerned and appropriating the money to the purposes specified in the estimates, under separate votes for the different heads of expenditure that have been approved.

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

231 Authorisation of expenditure in advance of appropriation

(1) An Act of Parliament may allow the President to authorise the withdrawal of money from the Consolidated Revenue Fund to meet expenditure which was unforeseen or whose extent was unforeseen and for which no provision has been made under any other law, but—

- (a) the Act must not allow the withdrawal of money in excess of one and one-half *per centum* of the total amount appropriated in the last main Appropriation Act;
- (b) any money withdrawn under the Act must be included in additional or supplementary estimates of expenditure laid without delay before the National Assembly and, if the Assembly approves the estimates, the money must be charged upon the Consolidated Revenue Fund by an additional or supplementary Appropriation Act.

(2) If the Appropriation Act for a financial year has not come into operation by the beginning of that financial year, an Act of Parliament may allow the President to authorise the withdrawal of money from the Consolidated Revenue Fund to meet expenditure necessary to carry on the services of the Government for the first four months of the financial year, but—

- (a) the Act must not allow the withdrawal of money in excess of one-third of the amounts included in the estimates of expenditure for the previous financial year;
- (b) any money withdrawn under the Act must be included in an Appropriation Act for the financial year concerned, under separate votes for the different heads of expenditure.

(3) If Parliament is dissolved before adequate financial provision for carrying on the services of the Government, an Act of Parliament may allow the President to authorise the withdrawal of money from the Consolidated Revenue Fund to meet expenditure needed to carry on those services until three months after the National Assembly first meets after the dissolution, but any money withdrawn under the Act must be included in an Appropriation Act under separate votes for the different heads of expenditure.

232 Excess or unauthorised expenditure

If it is found that more money has been expended on a purpose than was appropriated to it under this Part, or that money has been expended on a purpose for which no money was appropriated under this Part, the Minister responsible for finance must without delay introduce a Bill into the National Assembly condoning the unauthorised expenditure.

PART IV

SAFEGUARDING OF PUBLIC PROPERTY AND AUDIT OF ACCOUNTS

233 Duty of custodians of public funds and property

(1) In this section—

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

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

(2) It is the duty of everyone who is responsible for the expenditure of public funds to safeguard the funds and ensure that they are spent only on legally authorised purposes and in legally authorised amounts.

(3) It is the duty of everyone who has custody or control of public property to safeguard the property and ensure that it is not lost, destroyed, damaged, misapplied or misused.

(4) An Act of Parliament must provide for the speedy detection of breaches of subsections (2) and (3) and the disciplining and punishment of persons responsible for any such breaches.

234 Auditor-General

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

(2) The Auditor-General is appointed by the President with the approval of the Senate.

(3) The President may remove the Auditor-General from office for inability to discharge his or her functions or for misbehaviour, but only if the Senate, by a resolution passed by more than half its total membership, has resolved that the Auditor-General should be removed on one of those grounds.

235 Functions of Auditor-General

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

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

(i) all Ministries and departments of the State;

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

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

(iv) any other organisations that may be specified in an Act of Parliament;

(b) without delay to report on the results of those audits to the National Assembly and the Minister responsible for finance;

(c) to direct the taking of measures to rectify any defects in the safeguarding of public funds or public property; and

(d) to exercise any other function that may be conferred or imposed on the Auditor-General by or under an Act of Parliament.

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

236 Matters to be provided for in Act of Parliament

An Act of Parliament may provide for—

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

237 Procurement

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

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

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

PART V

RESERVE BANK OF ZIMBABWE

238 Establishment and object of Reserve Bank of Zimbabwe

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

239 Structure and functions of Reserve Bank of Zimbabwe

(1) An Act of Parliament must provide for the structure and organisation of the Reserve Bank of Zimbabwe and in particular must provide for the responsibilities and functions of a Governor of the Reserve Bank, who is to be appointed by the President with the approval of the Senate.

(2) An Act of Parliament must provide for the functions of the Reserve Bank of Zimbabwe, in particular the following—

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

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

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

CHAPTER XVI

LOCAL GOVERNMENT

PART I

PRELIMINARY

240 Tiers of government

The tiers of government in Zimbabwe are—

- (a) the national Government;
- (b) provincial councils; and
- (c) local authorities.

241 Principles of local government

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

- (a) provincial councils and local authorities must be democratically elected;
- (b) provincial councils and local authorities must be given as much autonomy as is compatible with good governance;
- (c) functions and responsibilities must be decentralised and transferred from the central Government to provincial councils and local authorities in a co-ordinated manner;
- (d) decentralisation must be a principle applying to all levels of local government so that there is participation by the people and democratic control in decision-making;
- (e) each provincial council and local authority should have a sound financial base with reliable sources of revenue;
- (f) provincial councils and local authorities must be enabled to plan, initiate and execute policies in respect of all matters affecting their communities;
- (g) co-operation between provincial councils and local authorities and co-ordination of their activities must be encouraged; and
- (h) incorporation of traditional leaders in local government structures.

242 Local government finances

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

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

PART II

PROVINCIAL COUNCILS

243 Provinces

- (1) Zimbabwe must be divided into ten provinces.
- (2) An Act of Parliament may provide for the alteration of the boundaries of provinces, but—
 - (a) the number of provinces in Zimbabwe must remain fixed at ten;
 - (b) the boundaries of a province must not be altered unless the Independent Electoral Commission has been consulted.

244 Provincial councils

- (1) An Act of Parliament must establish a provincial council for every province, other than a province that consists wholly or mainly of one or more urban areas.
- (2) A provincial council consists of such representatives of local authorities in the province and other persons as are provided for in the Act of Parliament establishing the council.
- (3) A provincial council is responsible for—
 - (a) co-ordinating governmental activities in its province; and
 - (b) exercising any other functions that may be conferred or imposed on the council by or under an Act of Parliament.

245 Chairpersons of provincial councils

- (1) The chairperson of a provincial council must be elected as one of the five Senators elected for that province in accordance with the Electoral Law.
- (3) Chairpersons of provincial councils have the functions conferred or imposed on them by this Constitution or an Act of Parliament.

PART III

LOCAL AUTHORITIES

246 Urban councils

- (1) An Act of Parliament must provide for the establishment of councils, by whatever name called, to represent and manage the affairs of people in urban areas throughout Zimbabwe.
- (2) Different classes of councils may be established for different urban areas.

247 Districts and district councils

- (1) An Act of Parliament must provide for the division of provinces into districts and for the establishment of councils, by whatever name called, to represent and manage the affairs of people in rural areas within those districts.
- (2) Different classes of councils may be established for districts and subdivisions of districts, and two or more different districts or areas may be placed under the management of a single council.

248 Powers of urban and district councils

An Act of Parliament may confer powers on councils, including—

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

CHAPTER XVII

TRADITIONAL LEADERS

249 Recognition of traditional leadership

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

(2) The functions of traditional leaders are—

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

250 Recognition and appointment of Chiefs

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

251 Houses of Chiefs

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

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

(3) So far as practicable the various traditional communities within the area for which a House of Chiefs is established must be equitably represented on the council.

(4) Houses of Chiefs are entitled to elect Chiefs to the Senate in accordance with the Electoral Law.

(5) An Act of Parliament may provide for—

- (a) the election of chiefs to a House of Chiefs, and the qualifications and disqualifications of candidates for election;

- (b) the tenure of office of members of a House of Chiefs;
- (c) the remuneration of members of a House of Chiefs;
- (d) additional functions of a House of Chiefs; and
- (e) the procedure to be followed at meetings of a House of Chiefs.

CHAPTER XVIII

GENERAL AND SUPPLEMENTARY PROVISIONS

PART I

GENERAL PROVISIONS AS TO COMMISSIONS

252 Interpretation in Part I

In this Part, unless inconsistent with the context—

“Commission” means a Commission established by this Constitution.

253 Commissions to be independent

Subject to this Constitution, the Commissions—

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

254 Membership of Commissions and conditions of service of members

(1) When selecting persons for appointment to Commissions, the President must ensure that, wherever practicable, at least one member of each Commission is not connected with the Government and has achieved prominence or success in commerce, industry, agriculture or a profession in a field related to the responsibilities of that Commission.

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

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

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

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

255 Functions and procedure of Commissions

(1) Any decision of a Commission requires the concurrence of a majority of the Commission's members who are present when the decision is taken.

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

(3) An Act of Parliament referred to in subsection (1) may permit a Commission to delegate its functions, but a Commission must not delegate its power to make appointments to, or to make recommendations or give advice on, any office established by this Constitution.

256 Commissions to report annually to Parliament

Every Commission must submit a report to the Senate and the National Assembly, not later than the 30th June in any year, on the Commission's operations and activities during the previous year.

PART II

INTERNATIONAL LAW

257 Application of international law

(1) Customary international law is part of the law of Zimbabwe, unless it is inconsistent with this Constitution or an Act of Parliament or any subordinate legislation.

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

258 Effect of international treaties, etc.

(1) In this section—

“international organisation” means an organisation whose membership consists of two or more independent states or in which two or more independent states are officially represented;

“international treaty” means a convention, treaty or agreement with one or more foreign states or governments or international organisations.

(2) Whenever an international treaty is executed by the President or under the President's authority, the Prime Minister must cause the Senate to be informed without delay.

(3) An international treaty which has been concluded or executed by the President or under the President's authority—

(a) does not bind Zimbabwe until it has been approved by the Senate; and

(b) does not form part of the law of Zimbabwe unless it has been incorporated into the law through an Act of Parliament.

(4) An agreement which is not an international treaty but which—

(a) has been concluded or executed by the President or under the President's authority with one or more foreign organisations or entities; and

(b) imposes fiscal obligations on Zimbabwe;

does not bind Zimbabwe until it has been approved by the Senate.

(5) An Act of Parliament may provide that subsections (3)(a) and (4)—

(a) do not apply to any particular international treaty or agreement; or

(b) apply with modifications in relation to any particular international treaty or agreement.

(6) The Senate may by resolution declare that any particular international treaty or class of international treaties does not require its approval under subsection (3), but such a resolution does not apply to treaties whose application or operation requires—

- (a) the withdrawal or appropriation of funds from the Consolidated Revenue Fund; or
- (b) any modification of the law of Zimbabwe.

PART III

CONDITIONS OF SERVICE OF STATE EMPLOYEES AND OTHER PUBLIC OFFICERS

259 Alteration in conditions of service of State employees

(1) In this section—

“State employee” includes—

- (a) a member of the Defence Forces, the Judicial Service, the Police Service, the Prison Service or the Public Service;
 - (b) a person employed in the office of the Attorney-General or the Auditor-General; and
 - (c) a person employed on the staff of any Commission established by this Constitution.
- (2) A law must not increase or permit an increase in—
- (a) the number or level of posts that may be occupied by State employees;
 - (b) the fixed salary or salary scale applicable to any post, grade or rank held or to be held by a State employee;
 - (c) the bonuses, allowances or similar benefits that may be paid or granted to State employees; or
 - (d) the rate of pensions, gratuities or similar benefits that may be paid to or in respect of State employees;

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

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

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

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

260 Alteration in retirement ages of public officers

A law or rule that alters the age at which a person holding public office must retire or vacate the office does not apply to anyone who held that office before the law or rule took effect, unless he or she consents.

261 Conditions of service of certain State employees and public officers

(1) An Act of Parliament must establish an independent commission or other body to make recommendations regarding the salaries, allowances and benefits and other conditions of service of State employees and public officers whose salaries, allowances, benefits and conditions of service are not fixed by any other Commission established by this Constitution.

(2) The person or authority responsible for fixing the salaries, allowances, benefits and conditions of service of persons referred to in subsection (1) must do so only after considering any recommendations of the commission or body referred to in that subsection.

PART IV

INTERPRETATION

262 Application of Part IV

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

263 Definitions

In this Constitution—

“Act of Parliament” includes—

- (a) any law included in the revised edition of the statute law of Zimbabwe prepared in 1996 under the authority of the Statute Law Compilation and Revision Act [*Chapter 1:03*]; and
- (b) any other Act;

which was in force immediately before the appointed day;

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

“appointed day” means the day appointed for the commencement of this Constitution;

“Chief” means a Chief referred to in section *two hundred and fifty*;

“Communal Land” means land set aside under an Act of Parliament and held in accordance with customary law by members of a community under the leadership of a Chief or other traditional leader;

“Constitutional Bill” means a Bill which, if enacted, would have the effect of amending any of the provisions of this Constitution;

“Constitutional Court” means the Constitutional Court of Zimbabwe;

“customary law” means the customary law of the indigenous people of Zimbabwe or of any section or community of Zimbabwe’s indigenous people;

“disciplinary law” means a written law that regulates the discipline of members of a disciplined force, including part-time members, while they are rendering service in the force or in respect of their failure to render service in the force;

“disciplined force” means—

- (a) a naval, military or air force;

- (b) a police service or force;
- (c) a prison service; or
- (d) any other body established for public purposes by or under an Act of Parliament and declared by that Act to be a disciplined force;

“Electoral Law” means the Act of Parliament that regulates the election of the President and Members of Parliament;

“financial year” means the twelve-month period ending on the 31st December;

“functions” includes powers and duties;

“*Gazette*” means the official Gazette of the Government and includes any supplement to that Gazette;

“general election” means a general election of Members of Parliament;

“Government” means the Government of Zimbabwe;

“House”, unless otherwise qualified, means the Senate or the National Assembly;

“House of Chiefs” means a House of Chiefs referred to in section *two hundred and fifty-one*;

“law” means—

- (a) any provision of this Constitution or of an Act of Parliament;
 - (b) any provision of a statutory instrument; or
 - (c) any unwritten law in force in Zimbabwe, including customary law;
- and “lawful”, “lawfully”, “legal” and “legally” are to be construed accordingly;

“legal practitioner” means a person who is permitted to practise the profession of law in Zimbabwe and who has the right to represent other persons before all courts in which the right to be legally represented is permitted;

“local authority” means a council or similar body established by law to regulate the affairs of a local community;

“member”, in relation to a statutory body, provincial council or local authority, means a person who is appointed or elected to a council, board or other authority which—

- (a) is a statutory body, provincial council or local authority; or
- (b) is responsible for administering the affairs of the statutory body, provincial council or local authority;

“Member of Parliament” means a Senator or a Member of the National Assembly;

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

“Money Bill” means a Bill that contains provisions dealing with—

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

“oath” includes affirmation;

- “period of public emergency” means a period when a declaration of a state of public emergency under section *one hundred and two* is in effect;
- “person” means an individual or a body of persons, whether corporate or unincorporated;
- “President” means the President of Zimbabwe;
- “provincial council” means a provincial council established under an Act of Parliament referred to in section *two hundred and forty-four*;
- “public office” means a paid office in the service of the State;
- “public officer” means a person holding or acting in a public office;
- “Public Service” has the meaning given to it by section *one hundred and seventy-eight*;
- “session” means the sittings of Parliament beginning when Parliament first meets after a prorogation or dissolution and ending when Parliament is next prorogued or is dissolved without having been prorogued;
- “sitting” means a period during which the Senate or the National Assembly is sitting continuously, including any period during which the Senate or the National Assembly, as the case may be, is in committee;
- “sitting day” means any weekday which is prescribed in the Standing Orders of the National Assembly or the Senate, as the case may be, to be a sitting day, whether or not the Assembly meets on that day;
- “Speaker” means the Speaker of the National Assembly elected in terms of section *one hundred and twelve*;
- “statutory body” means—
- (a) a Commission established by this Constitution; or
 - (b) a body corporate established directly by or under an Act of Parliament for special purposes specified in that Act, whose membership consists wholly or mainly of persons appointed by the President, a Minister, another statutory body or by a Commission established by this Constitution;
- “statutory instrument” means any instrument that has the force of law and that is made by the President, a Minister or any other person or authority under this Constitution or any Act of Parliament;
- “tax” includes a duty, rate, levy or due;
- “traditional leader” includes a Chief, headperson or village head;
- “Zimbabwe” means the Republic of Zimbabwe.

264 References to Chapters, sections, etc.

Any reference in this Constitution, without qualification, to—

- (a) a Chapter, section or Schedule, is to be construed as a reference to a Chapter or section of or Schedule to this Constitution;
- (b) a subsection, is to be construed as a reference to a subsection of the section in which the reference is made;

- (c) a paragraph, is to be construed as a reference to a paragraph of the Schedule, subsection or definition in which the reference is made;
- (d) a subparagraph, is to be construed as a reference to a subparagraph of the paragraph or subparagraph in which the reference is made.

265 Words in singular to include plural, and vice versa

In this Constitution, words in the singular include the plural and words in the plural include the singular.

266 Tables and headings

Tables of contents and headings to Chapters, Parts, sections and other provisions of this Constitution do not form part of the Constitution and are inserted for ease of reference only.

267 References to time

- (1) In this Constitution, whenever a period of time is expressed—
 - (a) to begin on or to be reckoned from a particular day, that day is not to be included in the period;
 - (b) to end on or to be reckoned to a particular day, that day is to be included in the period.
- (2) Whenever the time for doing anything in terms of this Constitution ends or falls on a Saturday, Sunday or public holiday, the time extends to and the thing may be done on the next day that is not a Saturday, Sunday or public holiday.
- (3) A reference in this Constitution to a month is to be construed as a reference to a calendar month.
- (4) A reference in this Constitution without qualification to a year is to be construed as a reference to a period of twelve months.

268 Calculation of person's age

For the purposes of this Constitution, a person is not regarded as having attained a given age until the commencement of the relevant anniversary of the day on which that person was born.

269 References to holders of office

Whenever this Constitution refers to the holder of an office by a term designating the office, the reference includes a reference to anyone who is lawfully acting in or exercising the functions of that office.

270 Appointments

- (1) A power under this Constitution to appoint a person to an office includes a similar power—
 - (a) to reappoint the person to that office;
 - (b) to appoint a person on promotion or transfer to that office;
 - (c) to appoint a person to act in that office;
 - (d) to appoint a person to that office while it is held by someone else who is on leave of absence pending relinquishment of the office;

(e) to fix and vary the person's conditions of service in that office, including the person's remuneration and period of appointment and any benefits on termination of service; and

(f) subject to this Constitution, to suspend or remove the person from office.

(2) Where two or more persons hold the same office as a result of a person being appointed to it while the incumbent is on leave of absence pending relinquishment of the office, the person last appointed must be regarded as the sole holder of the office.

(3) An Act of Parliament may provide for the appointment of one or more deputies to anyone holding an office under this Constitution and may provide for their functions and conditions of service, but this subsection must not be construed as authorising the appointment of a deputy to the President or a Deputy Minister.

(4) Subject to any provision of this Constitution that may limit the period or number of terms that anyone may serve in a particular office, a person who has vacated an office established by this Constitution may, if qualified, be re-appointed or re-elected to the office.

(5) Where the approval of the Senate is required for a person's appointment to any office or post, that person cannot exercise any of the functions of the office until the Senate has approved the appointment.

271 Resignations

(1) Anyone who is appointed or elected to an office established by this Constitution may resign from that office by written notice addressed to the person that appointed or elected the office-holder concerned, but in the case of—

(a) the President, the notice must be addressed to the President of the Senate;

(b) the President of the Senate or his deputy, the notice must be addressed to the Senate or to the Clerk of Parliament;

(c) the Speaker or Deputy Speaker of the National Assembly, the notice must be addressed to the National Assembly or to the Clerk of Parliament;

(d) a Senator, the notice must be addressed to the president of the Senate;

(e) a Member of the National Assembly, the notice must be addressed to the Speaker.

(2) A person's resignation from an office established by this Constitution takes effect on the date or at the time indicated in the notice of resignation or, if no date or time is indicated, when the notice is received by the person to whom it is addressed or by anyone else who is authorised by that person to receive it.

272 Exercise of functions, etc.

(1) A power, jurisdiction or right conferred by this Constitution may be exercised, and a duty imposed by this Constitution must be performed, whenever it is appropriate to do so.

(2) Where a power, jurisdiction or right is conferred by this Constitution, any other powers or rights that are reasonably necessary or incidental to its exercise are impliedly conferred as well.

273 When person not regarded as holding public office

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

274 Quorum and provisions regarding membership of constitutional bodies

(1) A body established by or under this Constitution may act even if there are one or more vacancies in its membership, provided that the members of the body who authorise or perform the act are a quorum.

(2) Unless this Constitution or a law regulating the proceedings of the body concerned makes some different provision, half the total membership of any body established by or under this Constitution constitutes a quorum.

(3) Any reference in this Constitution to the votes of—

- (a) half of the membership of a body whose membership is not a multiple of two; or
- (b) two-thirds of the membership of a body whose membership is not a multiple of three; or
- (c) three-quarters of the membership of a body whose membership is not a multiple of four;

is to be interpreted to mean that the number of votes must be not less than the whole number next above one-half, two-thirds or three-quarters, as the case may be, of the body's membership.

275 Interpretation of regulations, etc., made under Constitution

The Interpretation Act currently in force in Zimbabwe, and any other law that governs the interpretation of statutory instruments generally, applies to the interpretation of any statutory instrument made under this Constitution and to the interpretation of the extent of the power to make such a statutory instrument.

276 Power to make Acts of Parliament for matters dealt with under Constitution

Where this Constitution states that an Act of Parliament may provide for any matter—

- (a) the power to enact that Act of Parliament must be exercised subject to this Constitution; and
- (b) the Act of Parliament cannot derogate from any right conferred by this Constitution, unless this Constitution expressly or by necessary implication permits the Act to do so.

277 Inconsistencies between different texts of Constitution

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

PART V

GENERAL PROVISIONS

278 Diligent performance of constitutional obligations

All Constitutional obligations must be performed diligently and without delay.

279 Appointments to statutory bodies to be approved by Senate

Every appointment of a member to a statutory body is subject to approval by the Senate, unless the Act of Parliament under which the appointment is made specifically provides that the Senate's approval is not required.

280 Disclosure of assets by public officers

An Act of Parliament—

- (a) must provide for the periodical disclosure of income and assets by public officers; and
- (b) may provide for penalties, including forfeiture of property, for a failure or refusal to make full disclosure under the Act.

281 Funding for political parties

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

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

282 Transitional provisions

The Fifth Schedule applies to transitional provisions to enable this Constitution to have effect on and after the appointed day.

FIRST SCHEDULE (Sections 81, 90, 95, 107, 112, 117, 165 and 171)

OATHS AND AFFIRMATIONS

PART I

OATH OR AFFIRMATION OF PRESIDENT

I, swear [*or solemnly affirm*] that as President of the Republic of Zimbabwe I will be faithful to Zimbabwe and will obey, uphold and defend the Constitution and all other laws of Zimbabwe, and that I will endeavour to—

- promote whatever will advance, and oppose whatever may harm, Zimbabwe;
- protect and promote the rights of the people of Zimbabwe;
- discharge my duties with all my strength to the best of my knowledge and ability and true to the dictates of my conscience; and
- devote myself to the well-being of Zimbabwe and its people.

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

This oath or affirmation is to be taken before the Chief Justice or, in his absence, before the next most senior judge available.

PART II

OATH OR AFFIRMATION OF PRIME MINISTER

I, swear [*or solemnly affirm*] that I will be faithful to Zimbabwe and, in the office of Prime Minister, will uphold the Constitution and all other laws of Zimbabwe; that I will give my advice to the President of Zimbabwe freely and to the best of my judgment whenever I am required to do so, for the good management of the public affairs of Zimbabwe; that I will not disclose, directly or indirectly, any secret that is entrusted to me in the course of my duties as Prime Minister; and that in all respects I will perform the duties of my office conscientiously and to the best of my ability.

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

This oath or affirmation is to be taken before the Chief Justice or, in his absence, before the next most senior judge available.

PART III

OATH OR AFFIRMATION OF MINISTER

I, swear [*or solemnly affirm*] that I will be faithful to Zimbabwe and, in the office of Minister, will uphold the Constitution and all other laws of Zimbabwe; that I will give my advice to the President and Prime Minister of Zimbabwe freely and to the best of my judgment whenever I am required to do so, for the good management of the public affairs of Zimbabwe; that I will not disclose, directly or indirectly, any secret that is entrusted to me in the course of my duties as Minister; and that in all respects I will perform the duties of my office conscientiously and to the best of my ability.

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

This oath or affirmation is to be taken before a judge.

PART IV

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

I, swear [*or solemnly affirm*] that I will be faithful to Zimbabwe, that I will uphold the Constitution and all other laws of Zimbabwe, and that I will serve Zimbabwe well and truly in the office of

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

This oath or affirmation is to be taken before a judge.

PART V

JUDICIAL OATH OR AFFIRMATION

I, swear [*or solemnly affirm*] that I will be faithful to Zimbabwe and that in the office of I will uphold and protect the

Constitution and will administer justice to all persons alike without fear, favour or prejudice in accordance with the Constitution and the law.

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

This oath or affirmation is to be taken before the President or, in his absence, before the Chief Justice, where the person taking the oath or affirmation is a judge. In all other cases it is to be taken before the person specified in the appropriate legislation.

PART VI

GENERAL OATH OR AFFIRMATION OF LOYALTY

I, swear *[or solemnly affirm]* that I will be faithful to Zimbabwe and observe the laws of Zimbabwe.

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

This oath or affirmation is to be taken before the person specified in the appropriate legislation.

PART VII

GENERAL OATH OR AFFIRMATION OF OFFICE

I, swear *[or solemnly affirm]* that I will serve Zimbabwe well and truly in the office of.....

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

This oath or affirmation is to be taken before the person specified in the appropriate legislation.

SECOND SCHEDULE (Section 63)

LIMITATIONS ON RIGHTS DURING EMERGENCIES

PART I

PRELIMINARY

Interpretation in Second Schedule

1. In this Schedule—

“detainee” means a person who is detained under an emergency law that provides for preventive detention;

“emergency law” means a written law that provides for action to be taken to deal with any situation arising during a period of public emergency;

“fundamental human right or freedom” means a right or freedom set out in Part II of Chapter III;

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

PART II

LIMITATIONS ON FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS DURING EMERGENCIES

Rights that may not be limited

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

- (a) the right to life set out in section *thirty-seven*;
- (b) the rights, set out in section *thirty-eight*—
 - (i) to be treated with humanity and respect for inherent human dignity;
 - (ii) to challenge the lawfulness of arrest or detention;
- (c) the right not to be subjected to medical or scientific experiments, set out in section *thirty-nine*;
- (d) the right not to be held in slavery or servitude, set out in section *forty*;
- (e) the right to human dignity and reputation set out in section *forty-two*;
- (f) the right, set out in section *forty-three*, not to be treated in an unfairly discriminatory manner on the ground of race, colour, tribe, place of birth, ethnic or social origin, language, class, culture, sex, gender, marital status, disability or natural difference or condition;
- (g) the right to a fair trial, set out in section *fifty*.

Extent of limitations permitted

3. (1) Any limitation on a fundamental human right or freedom under this Schedule—
- (a) must be no greater than is strictly required by the emergency; and
 - (b) must be consistent with Zimbabwe's obligations under international law; and
- (2) If a state of public emergency is declared under section *one hundred and two* in relation to only a part of Zimbabwe, an emergency law may not limit fundamental human rights or freedoms under this Schedule in any other part of Zimbabwe.

PART III

PREVENTIVE DETENTION

Detainees Review Tribunal

4. (1) An emergency law that permits preventive detention must provide for the establishment of a tribunal to review the cases of detainees.

- (2) The review tribunal must consist of—
- (a) a chairman, who is or has been a judge or is qualified to be appointed as such; and
 - (b) two other members, one of whom—
 - (i) is or has been a judge or is qualified to be appointed as such;
 - (ii) has been a magistrate in Zimbabwe for at least seven years;
 - (iii) has been qualified for at least seven years to practise as a legal practitioner.

Basic rights of detainees

5. (1) All detainees—

- (a) must be informed as soon as reasonably practicable, and in any case within seven days, of the reasons for their detention;
- (b) must be permitted without delay—
 - (i) at their own expense, to choose and consult with a legal practitioner; or
 - (ii) if they wish, to consult with a legal practitioner assigned to them by the State at State expense;

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

- (c) must be treated with humanity and with respect for their inherent dignity as human beings.
- (2) Where this paragraph requires information to be given to a detainee—
- (a) the information must be given in a language that the detainee understands; and
 - (b) if the detainee cannot read or write, any document embodying the information must be explained in such a way that he or she understands it.

Review of detainees' cases

6. (1) Every detainee's case must be submitted to the review tribunal within thirty days after his or her initial detention.

(2) Every detainee's case must be resubmitted to the review tribunal at intervals of ninety days from the date on which the case was last reviewed, or at shorter intervals if the tribunal so orders.

(3) The review tribunal must proceed without delay to review all cases submitted to it.

(4) At all hearings by the review tribunal, the detainees whose cases are being reviewed must be allowed to present their cases in person or, if they wish—

- (a) through legal practitioners assigned to them by the State at State expense; or
- (b) at their own expense, through legal practitioners of their choice.

(5) The reference in subparagraph (1) to a thirty-day period includes a reference to lesser periods of detention that amount to thirty days, in the case of a detainee who is released within thirty days after being initially detained and is then re-detained within thirty days after that release.

Recommendations of review tribunal

7. After reviewing a detainee's case, the review tribunal may make recommendations to the authority that ordered the detention as to whether or not the detainee should continue to be detained, and the authority must act in accordance with the tribunal's recommendation.

Released detainees not to be re-detained on same grounds

8. (1) A detainee who has been released from detention as a result of a report of the review tribunal that there is insufficient cause for the detention must not be detained again on the same grounds as those on which he or she was originally detained.

(2) For the purposes of this paragraph, a person is deemed to have been detained on the same grounds as those on which he or she was originally detained unless the review tribunal has reported that, in its opinion, there appear to be new and reasonable grounds for the detention.

THIRD SCHEDULE (Sections 106, 111 and 145)

QUALIFICATIONS FOR SENATORS, MEMBERS OF NATIONAL ASSEMBLY AND VOTERS

PART I

QUALIFICATIONS FOR SENATORS AND MEMBERS OF NATIONAL ASSEMBLY

Qualifications for election as Senator

1.(1) A person is qualified for election as a Senator referred to in section 106(1)(a) if he or she—

- (a) is registered as a voter; and
- (b) is of or over the age of forty years;

unless he or she is disqualified under paragraph 3.

(2) A person who holds the office of Chief is qualified for election as a Senator under section 106(1)(b), unless he or she is disqualified under paragraph 3.

Qualifications for election as Member of National Assembly

2. A person is qualified for election as a Member of the National Assembly if he or she—

- (a) is registered as a voter; and
- (b) is of or over the age of eighteen years;

unless he or she is disqualified under paragraph 3.

Disqualification for election to Parliament

3.(1) A person is disqualified for election as a Senator or Member of the National Assembly if he or she is disqualified under paragraph 5 for registration as a voter, whether or not he or she is actually registered.

(2) A person is disqualified for election at an election for filling a casual vacancy in the Senate or the National Assembly if he or she is already a Senator or Member of the National Assembly.

PART II

QUALIFICATIONS AND DISQUALIFICATIONS OF VOTERS

Qualifications for registration as voter

4. Subject to paragraph 5, a person is qualified to be registered as a voter on the voters roll of a constituency if he or she—

- (a) is of or over the age of eighteen years;
- (b) is a Zimbabwean citizen; and

- (c) meets any requirements as to residence in the constituency that may be prescribed in the Electoral Law.

Disqualifications for registration as voter

- 5.(1) A person is disqualified to be registered as a voter—
 - (a) while he or she is detained as mentally disordered or intellectually handicapped under an Act of Parliament relating to mental health;
 - (b) if he or she has been declared by order of a court to be incapable of managing his or her affairs, for so long as the order remains in force;
 - (c) while he or she is serving a sentence of imprisonment of six months or more imposed as a result of a conviction of—
 - (i) an offence in Zimbabwe; or
 - (ii) any conduct which, if committed in Zimbabwe, would have constituted an offence;
 - (d) if he or she has been convicted of an offence under the Electoral Law and declared by a court to be disqualified for registration as a voter or from voting, for the period he has been declared disqualified.
- (2) For the purposes of this paragraph—
 - (a) two or more terms of imprisonment that are required to be served consecutively are to be regarded as a single term for the aggregate period of the terms;
 - (b) two or more terms of imprisonment that are required to be served concurrently are to be regarded as a single term of imprisonment for the period of the longest of the terms;
 - (c) a person is regarded as sentenced even though the execution of the sentence or any part of it has been suspended;
 - (d) no account must be taken of a sentence of imprisonment imposed as an alternative to or in default of—
 - (i) the payment of a fine; or
 - (ii) the undergoing of any other form of non-custodial punishment.

Right of registered voters to vote

- 6. Anyone registered on the voters roll of a constituency is entitled to vote at an election held for that constituency unless he or she—
 - (a) has ceased to be a Zimbabwean citizen; or
 - (b) has become disqualified for registration as a voter under paragraph 5.

FOURTH SCHEDULE (Section 134)

PROCEDURE AS TO BILLS AND OTHER MATTERS IN PARLIAMENT

PART I

INTRODUCTION OF BILLS, MOTIONS AND PETITIONS

House of origin of Bills

1. (1) Any Bill may originate in the National Assembly.
- (2) Any Bill, other than a Money Bill, may originate in the Senate.

Members who may move Bills and motions

2. Subject to this Constitution and Standing Orders—
 - (a) any Senator may introduce any Bill into the Senate or move any motion for debate in the Senate or present any petition to the Senate;
 - (b) any Member of the National Assembly may introduce any Bill into the Assembly or move any motion for debate in the Assembly or present any petition to the Assembly;
 - (b) any Minister may introduce any Bill into or move any motion for debate in or present any petition to either the Senate or the National Assembly.

*Parliament not to deal with fiscal Bills, motions or petitions
except on recommendation of Minister*

3. (1) Except on the recommendation of a Minister, neither House may—
 - (a) proceed upon any Bill, including an amendment to a Bill, which, in the opinion of the President of the Senate or the Speaker, as the case may be, deals with any of the following matters—
 - (i) imposing or increasing a tax;
 - (ii) imposing or increasing a charge on the Consolidated Revenue Fund or other public fund of the State, or varying such a charge in any other way than by reducing it;
 - (iii) compounding or remitting any debt due to the State or condoning any failure to collect taxes;
 - (iv) authorising the making or raising of a loan by the State;
 - (v) condoning unauthorised expenditure;
 - (b) proceed upon any motion, including an amendment to a motion, the effect of which, in the opinion of the President of the Senate or the Speaker, as the case may be, is that provision should be made for anything that is specified in subparagraph (a); or
 - (c) receive any petition which, in the opinion of the President of the Senate or the Speaker, as the case may be, requests that provision be made for anything that is specified in subparagraph (a).
- (2) Subparagraph (1) does not apply to a Bill introduced, motion or amendment moved or petition presented by a Minister.

PART II

PROCEDURE REGARDING BILLS

Transmission of Bills between Houses

4. (1) A Bill which originated in one House and has been passed by that House must be transmitted to the other House without delay, and the date of its transmission must be recorded in the journal of the House from which it is transmitted.

(2) A Bill that has been transmitted to a House must be introduced into that House without delay, and the House may reject the Bill or pass it with or without amendment.

(3) A Bill which, having been transmitted to a House in accordance with this paragraph, is passed by that House with amendments must be returned to the House where it originated with the amendments duly certified by the Clerk of Parliament, and the House to which it is returned may reject, agree to or amend any of those amendments.

(4) If, after a Bill has been returned to its originating House in terms of subparagraph (3), any amendment made to it by the other House is rejected or amended by the originating House, the other House may, by message to the originating House pursuant to a resolution, withdraw the amendment or agree to its being amended.

Disagreement between Houses

5. (1) If one House passes a Bill and the other House rejects the Bill or fails to introduce it within the time specified in Standing Orders or passes it with amendments to which the House where it originated does not agree, the Bill must be referred without delay to a joint sitting of both Houses.

(2) Before the joint sitting, the Clerk of Parliament must prepare and distribute to all Members of Parliament a copy of any amendments which one House has made to the Bill concerned and to which the other House does not agree.

(3) When a Bill is referred to it under this paragraph, a joint sitting of both Houses may pass the Bill by the affirmative votes of at least half of the total combined membership of the Houses.

(4) A Bill that has been passed at a joint sitting of both Houses in terms of this paragraph—

(a) is regarded as having been passed by Parliament in the form in which it was passed by the joint sitting; and

(b) when it is presented to the President for assent, must be accompanied by a certificate from the President of the Senate stating that the Bill was passed in terms of this paragraph.

(5) This paragraph does not apply to Constitutional Bills.

Money Bills

6. (1) In this paragraph—

“Money Bill” means a Bill which the Speaker has certified to be a Money Bill.

(2) The Senate does not have power to amend a Money Bill but may recommend that the National Assembly make amendments to it.

(2) The Clerk of Parliament must certify every amendment which the Senate has recommended should be made to a Money Bill and must transmit the certified amendment to the National Assembly.

(3) The National Assembly must consider any amendments transmitted to it under this paragraph and may incorporate them into the Money Bill concerned.

(4) If the Senate does not pass a Money Bill within eight sitting days counted from the day the Bill was introduced into the Senate, the National Assembly may resolve that the Bill should be presented to the President, and the Bill may then be presented to the President in the form in which it was passed by the National Assembly.

(5) A Money Bill that has been presented to the President pursuant to a resolution under subparagraph (4)—

- (a) is regarded as having been passed by Parliament in the form in which it was passed by the National Assembly; and
- (b) when it is presented to the President for assent, must be accompanied by a certificate from the Speaker stating that the Bill was passed in terms of this paragraph.

PART III

REPORTS OF PARLIAMENTARY LEGAL COMMITTEE

Reports of Parliamentary Legal Committee on Bills

7. (1) Subject to this paragraph, neither House may give a Bill its final reading unless a report of the Parliamentary Legal Committee on the Bill has been presented to the House.

(2) Subparagraph (1) does not apply to—

- (a) a Constitutional Bill; or
- (b) any Bill on which the Parliamentary Legal Committee has already reported unless the Bill has been amended since that report.

(3) If the Parliamentary Legal Committee has not reported on a Bill within the period specified in Standing Orders, or within any extension of that period granted in accordance with Standing Orders, the Committee must be presumed to be of the opinion that no provision of the Bill, if enacted, would contravene this Constitution, and the House concerned may proceed with the Bill as if the Committee had reported accordingly.

(4) If the Parliamentary Legal Committee reports that a provision of a Bill, if enacted, would contravene this Constitution, the House concerned must consider the report and, if the House resolves that the provision concerned would contravene this Constitution, the House must not pass the Bill containing that provision.

Reports of Parliamentary Legal Committee on statutory instruments

8. (1) If, after considering a report of the Parliamentary Legal Committee that a provision of a statutory instrument contravenes this Constitution, the Senate or the National Assembly resolves that the provision does contravene this Constitution, the Clerk of Parliament must report the resolution to the President and the President must as soon as possible, by notice in the *Gazette*, repeal the provision.

(2) Before the Senate or the National Assembly considers a report of the Parliamentary Legal Committee that a provision of a statutory instrument contravenes this Constitution, the Committee may withdraw the report if the Committee is satisfied that the provision has been repealed or amended in such a way as to remove the contravention.

(3) A provision of a statutory instrument which has been repealed by the President in terms of this paragraph ceases to have effect from the date of the repeal.

FIFTH SCHEDULE (Section 282)

SAVINGS AND SUPPLEMENTARY PROVISIONS

Interpretation in Fifth Schedule

1. In this Schedule—

“existing enactments” means written laws that were in force in Zimbabwe as Acts of Parliament and statutory instruments immediately before the appointed day;

“existing laws” means existing enactments and other laws, whatever their nature, that were in force in Zimbabwe immediately before the appointed day;

“former Constitution” means the Constitution of Zimbabwe that came into operation on the 18th April, 1980;

Continuation of existing laws

2. All existing laws continue in force but must be construed with whatever modifications, adaptations, qualifications and exceptions are necessary to bring them into conformity with this Constitution.

Interpretation of existing enactments

3.(1) Subject to this Schedule, unless inconsistent with the context, a reference in any existing enactment to—

(a) the President must be construed as a reference to—

(i) the Prime Minister, where it relates to a function that is to be exercised by the Prime Minister under this Constitution;

(ii) the President acting in accordance with this Constitution, in any other case;

(b) a Minister or a Deputy Minister must be construed as a reference to a Minister appointed under this Constitution;

(c) Parliament must be construed as a reference to—

(i) the Senate, where the reference relates to appointments to or removals from any public office or any other function that is to be exercised by the Senate alone under this Constitution;

(ii) the National Assembly, where the reference relates to any function other than the enactment of legislation;

(d) the Defence Forces Service Commission, the Judicial Service Commission, the Police Service Commission, the Prison Service Commission or the Public Service Commission must be construed as a reference to the Commission of that name established under this Constitution;

- (e) the Delimitation Commission, the Electoral Supervisory Commission or the Election Directorate must be construed as a reference to the Independent Electoral Commission;
- (2) Where this Constitution vests power in a particular person or authority to enact legislation on any matter, and that matter is provided for in an existing enactment made by some other person or authority, the existing enactment has effect as if it had been made by the person or authority with the power to make it under this Constitution.

Amendment of existing enactments

4.(1) Subject to this paragraph, the Law Reviser appointed in terms of the Statute Law Compilation and Revision Act [*Chapter 1:03*] may publish notices in the *Gazette* making whatever amendments he or she considers should be made to the existing enactments in order to bring them into conformity with this Constitution.

- (2) An order made under this paragraph—
 - (a) must be approved by the Minister responsible for justice before it is published; and
 - (b) must be amended or repealed if the Senate or the National Assembly, by resolution, requires the Law Reviser to do so.
- (3) The Law Reviser's power under this paragraph ceases one year after the appointed day but may be extended by an Act of Parliament.

First President

5. The person who held office as President immediately before the appointed day continues in office as President under this Constitution until the end of the term for which he was elected under the former Constitution, unless he resigns or otherwise ceases to hold office earlier.

First Parliament

6.(1) The first members of the Senate and the National Assembly must be elected before the appointed day in accordance with a timetable specified in the Act of Parliament that provides for the coming into force of this Constitution.

(2) The President must summon Parliament for its first session as soon as practicable after the appointed day.

(3) Anyone who was a member of the staff of Parliament immediately before the appointed day continues in office under the same terms and conditions as if he had been appointed under this Constitution.

(4) The Standing Orders of Parliament that were in force immediately before the appointed day continue in force as standing orders of the Senate and the National Assembly until they are replaced or amended in accordance with this Constitution.

(5) The provisions of this Constitution relating to the election of a president and deputy president of the Senate and a Speaker and deputy Speaker of the National Assembly apply to the first meetings of the Senate and the National Assembly after the appointed day as if they were meeting for the first time after a dissolution of Parliament.

Existing officers

7.(1) The person who held office immediately before the appointed day as Ombudsman continues in office as Public Protector under the same conditions of service as were applicable

to him or her immediately before the appointed day, as if he or she had been appointed in terms of section *two hundred and sixteen*.

(2) The person who held office immediately before the appointed day as Comptroller and Auditor-General continues in office as Auditor-General under the same conditions of service as were applicable to him or her immediately before the appointed day, as if he or she had been appointed in terms of section *two hundred and thirty-four*.

(3) The persons who held office immediately before the appointed day as Deputy Attorney-General and Deputy Ombudsman continue in office as the Deputy Attorney-General and the Deputy Public Protector respectively, under the same conditions of service as were applicable to them immediately before the appointed day, as if they had been appointed in terms of an Act of Parliament referred to in subsection (3) of section *two hundred and seventy*.

(4) Anyone who, immediately before the appointed day, held or acted in a public office, other than an office referred to in subsections (1) to (3), continues to hold or act in that office, on the same conditions of service, as if—

- (a) he had been appointed to it according to the law in force on the appointed day;
- (b) his appointment had received any necessary approval under this Constitution; and
- (c) he had taken any necessary oath under this Constitution.

(5) For the sake of clarity, it is declared that subsection (4) extends to—

- (a) judges; and
- (b) chiefs; and
- (c) members of the Defence Forces Service Commission, the Judicial Service Commission, the Police Service Commission, the Prison Service Commission and the Public Service Commission.

(6) Any existing enactment or other document which, immediately before the appointed day, regulated the conditions of service of members of the Public Service applies to—

- (a) members of the judicial service, other than judges; and
 - (b) persons employed in the offices of the Attorney-General and the Auditor-General; and
- and may be amended or replaced by the authority vested with power under this Constitution to regulate the conditions of service of members of the judicial service, the Attorney-General's office or the Auditor-General's office.

Courts and legal proceedings

8.(1) The Supreme Court of Zimbabwe and the High Court of Zimbabwe, as established immediately before the appointed date, are constituted as the Supreme Court and the High Court respectively under this Constitution, and any decision of those courts given before the appointed day has effect accordingly.

(2) All proceedings that were pending before a court immediately before the appointed day may be continued and concluded before the corresponding court established by this Constitution.

(3) The Supreme Court has jurisdiction to hear and determine any application or reference which, immediately before the appointed day, was pending before it in terms of

section 24 of the former Constitution, and that section continues to apply in regard to any such pending application or reference.

Nationality

9.(1) Anyone who was a citizen of Zimbabwe immediately before the appointed day continues to be a citizen of Zimbabwe subject to this Constitution.

(2) Anyone who, immediately before the appointed day, had a vested right to become a citizen of Zimbabwe may exercise that right at any time on or after the appointed day.

Boundaries of provinces

10. The boundaries of the provinces into which Zimbabwe was divided immediately before the appointed day continue in force for the purposes of this Constitution until they are amended by an Act of Parliament referred to in section *two hundred and forty-three*.

Rights to pension benefits

11. A vested or contingent right in regard to a pension benefit which existed immediately before the appointed day and was protected by the former Constitution continues to exist and enjoy the same protection under this Constitution.

